









# CHURCH AND STATE.

---

REPRINTED FROM THE LAST NUMBER

(No. LXVIII. FOR APRIL 1850)

OF

**The Christian Remembrancer.**

---

LONDON :

PUBLISHED BY J. AND C. MOZLEY,

6, PATERNOSTER ROW.

---

1850.

LONDON :

R. CLAY, PRINTER, BREAD STREET HILL.

## CHURCH AND STATE.

---

1. *Church Matters in MDCCCL. No. 1.—Trial of Doctrine.* By the Rev. JOHN KEBLE, M.A. London: J. H. Parker.
2. *A First Letter on the present Position of the High Church Party in the Church of England.* By the Rev. W. MASKELL. London: Pickering.
3. *The present Crisis in the Church of England: illustrated by a brief Inquiry as to the Royal Supremacy.* By the Rev. W. J. IRONS, B.D. London: Masters.
4. *A Letter to the Rev. W. Maskell.* By the Rev. MAYOW WYNELL MAYOW, A.M. London: Pickering.
5. *The Church, the Crown, and the State. Two Sermons, by the Rev. W. J. E. BENNETT, M.A.* London: Cleaver.
6. *A few Words of Hope on the present Crisis of the English Church.* By the Rev. J. M. NEALE, M.A. London: Masters.

THE pamphlets, the titles of which we have here quoted, are sufficient evidence that matters of no ordinary interest and anxiety are occupying the thoughts of Churchmen. It would be superfluous to draw attention to them; they are sure to be read. We trust that we shall not be thought wanting in respect due to their writers, if, instead of commenting directly upon them, we make use, in our own way, of the facts and thoughts for which we are indebted to them.

The present are days of reform, and claiming of rights. The principle is universally acknowledged, that every real interest and substantial power in England may justly ask, in its due place, and according to its importance, for whatever is necessary to enable it to do its own proper work. If it is allowed to exist, it ought to be allowed to perform its functions; it is a contradiction in a well-ordered State, that a body, or a class, or a religion should be recognised, and yet hindered from realizing the objects of its existence. The State may ignore or disallow it, but not impede what it owns. Further, interests clash and powers conflict; and in reconciling these, the general power of the State is not bound to accept in their full extent the claims of either party; but though both may over-state their claims, none can judge as well as themselves what they require for their own efficiency. And accordingly, one after another, various interests have submitted their claims to the arbitrage of the general power of the State, have gained a hearing, and further have gained, if not all they wished for, yet much that was necessary or important to them. Roman Catholics, Dis-

senters, the great towns, the manufacturing interests, have asked and obtained, not privileges, but release from disabilities and impediments; such a fair field as was due to them as important elements and real powers in England.

There is no reason why the Church of England should not have her reform, and claim her rights, as well as the dissenting, or the manufacturing, or the colonial interest. Church reform, indeed, has been long talked about; and some specimens of it we have already seen. We are not now going to complain of the way in which Parliament has dealt with Church property or Church privileges. It may have had reason for thinking the one ill-administered or ill-applied, and the other out of date and inconsistent with the present state of things; and may have wished in each case to apply a just remedy, and at the same time to deal fairly and honourably with the Church. But though it be very proper to prevent the Church from wasting her money, or bearing hard on the social and political position of other Englishmen, this is not the same thing as removing the possible hindrances to her efficiency, much less it is restoring or strengthening her powers according to her own constitutional system. She has objects and wants, she has also difficulties and embarrassments, to her of the most real and serious kind, which are impalpable and intangible to the most benevolent Parliament. There are innumerable things which she may wish to do and put right, for which no one is competent but herself. There is no reason why she should be considered tied to an obsolete state of things, more than the nation at large, or separate interests of it. There is no reason why Parliament should consider itself capable of discharging all necessary functions of Church administration or legislation, any more than administering or legislating for the internal affairs of the Great Western Railway Company, or the Baptist body. There is no reason why the Church should find more difficulty in gaining Parliamentary sanction to the exercise in a restored form of her own intrinsic and constitutional powers, or even of new and hitherto unknown ones, than other religious or secular bodies. There is no reason why she should not be allowed, under Parliamentary sanction and guarantee, to carry on reforms of her own, to adjust her position to altered circumstances, to administer her own laws, to take counsel for her own interests. There is no reason why in her case all these important matters should be kept out of her own hands, and left in those which are not her own. There is no reason why Parliament should be strict—justly and rightly strict—with her in the use of her revenues, and look with jealousy, not merely on her exemptions, but on her influence on general legislation; and should insist, on the

either hand, on keeping up a formal system of which the reality has passed away, and which shackles without protecting her. The State, which has granted the Reform Bill and Free Trade, has no ground to deny the Church a more free and consistent position.

There never has been a reason why the Church alone should not be listened to in the universal cry for rights. But the event which has happened during the past month, has changed the state of the question, and made it imperative on her to claim at once, and labour without remission for, that which it would have been prudent and wise in her to have claimed long ago. If it was right always that she should have a distinct voice in her own concerns, it is indispensable now, at whatever cost, and whatever inconvenience;—and the cost may be great, the inconveniences certainly will be many.

It cannot be dissembled that Churchmen must now take a new and a very important position; a very important one, both to themselves personally, to their own consciences and their peace, to the Church, and to the English State and nation. Reform has long been going on within the Church, in such ways as individuals and private efforts could carry it on; changes for the better, spontaneous and self-originated, in matters of private competence, though of the highest public interest. But Churchmen must become reformers in another and far less agreeable and safe way. They must take up the position of reformers towards the State. There is no help for it that we can see, except by allowing the insensible but most important political alterations of the last half-century to alter the hitherto recognised basis of the Church, and to control and extinguish the ideas which the majority of her members have hitherto held of her constitution and organic laws. The English Church of George III., Charles II., Charles I., James, Elizabeth, and even of Henry VIII., however closely connected with the State,—or rather with the Crown,—however far it admitted its control, never for a moment lost sight of the principle, that if it held one set of powers from the Crown, it held another set of powers which no Crown or State on earth could, or pretended to, confer; powers which it held as a Church, powers which it inherited through a line distinct from that of a royal or a national succession. It never, we say, for a moment forgot that, however connected with the State, it was still a self-subsistent, even if not independent body, which would exist to-morrow, if the State broke up into anarchy, or cast off the Church. Unless this basis is changed, and the Church, once co-extensive with the nation, but now no longer so, is nevertheless, in consequence of her union with the Crown, to share, so to speak, the neutrality

of the Crown, and to lose all her distinctive characters of tradition, of doctrine, of maxims, and practice, in order to fit her once more, if that were possible, for comprehending the nation, —unless she has passed from being a Church with an origin and powers of her own, into a great organ of the national government, to be disposed of at the discretion of the national government, —she may rightfully claim, not as an institution issuing out of the State, but as a contracting party with the State, to be secured from whatever endangers her organic basis, and threatens to fuse her with the State. And such a case has distinctly arisen. Much as she has trusted the Crown, and indisposed as she has been to be jealous of Governments, they never asked of her, and she never gave them, the sole and final interpretation of her articles of faith. And to allow them to have it, to consent that officers of State and judgment, simply as such, may by a side wind settle a fundamental question of theology, which the Church herself has not yet interfered in, and that without her having an opportunity of authoritatively expressing her dissent or concurrence, would certainly be to abdicate the distinct existence which she has hitherto claimed and been supposed to possess.

She has a good and reasonable case; she has power more than she knows of—more, probably, than her opponents, who know more of her power than she does herself, suspect; and she must be determined, steady, and unflinching. It is thus that victories are gained in England. Nor is there any reason why her position should be one of hostility, because it is one of determination. The Dissenters did not affront the State, but they pressed their grievances resolutely, and made themselves heard. The Roman Catholics did not quarrel with it, though they had to meet strong opposition from it, and to push their claims in spite of it. The reformers of representation, and of commercial and colonial policy, have taken the offensive in the most unremitting and uncompromising manner, yet without showing themselves hostile to the State. No cause, however clear and reasonable, will succeed in England without steadiness and without temper; and few causes, even if wanting in reason, will fail with them.

On the eve of a great struggle, to which we stand committed, and from which we see no escape, it behoves us to recollect ourselves. The issues are not in our hands; yet we shall be deeply responsible for them, for in part they depend upon us. We shall be responsible for indecision, for carelessness, for ignorance, for mismanagement, for all that sows the seeds of future difficulty and endangers future perseverance and steadiness, as well as for indifference and want of zeal. We are called to

battle, to battle in a name not our own ; but to battle, not merely as brave men, but as wise. We have to do with an age of cool heads, of large knowledge, of practised dexterity, of resolution and firmness—with an age of strong and deeply-rooted law, an age incredulous of what is extreme, shocked by what is violent, jealous of what is one-sided, impatient of what is unfair,—an age hard to persuade, yet hard from its wish to be reasonable,—an age in which boldness and courage are more than ever indispensable, and perhaps more than ever respected ; yet in which they are too ordinarily found in different parties, and too equally opposed, to be of avail by themselves. We must not look to succeed, humanly speaking, by other means than success is ordinarily gained by, in our own time. The daring, and main strength of will and arm which won Crecy and Agincourt, were but elements, in that concourse of power and wisdom, which triumphed in the Peninsula.

We must know our ground, and our difficulties ; and if we are wise, we shall take account, not merely of the peculiar difficulties of our own case, but of those which surround and seem inherent in the general question of the relations between the Church and the Civil Government. For if we may speak our minds freely, we cannot look back with much satisfaction, either to the conduct, or the issue of most Church contests. It is hard to find one in which the Church was ultimately and really successful ; harder still, in which the ground taken by her advocates was altogether unexceptionable and clear. They show off individual virtues, rather than command our full sympathy for a cause, or our admiration of the wisdom with which it was maintained. We have to make the same reserves that we make in political history ; reserves where we least wish to make them, yet reserves which nothing but a deliberate ignoring of facts will dispense us from. And so with the results. What is represented as a triumph, is often but a varnishing over of concession ; the maintenance of a principle ends in the guarantee of a salvo ; what can no longer be retained in reality, is surrendered under the form of a grant of privilege ; compromise is content to save what it can ; what is called policy is at best but management ; a struggle for important rights expires in a Concordat. We are not speaking now of the intrinsic power and action of the Church on her members and mankind ; for these set contests are no measure or trustworthy criterion of her true efficiency and strength. But in these set contests, unless we read history entirely wrong, she has not been fortunate, except in the occasional example she has thereby gained of saintly or heroic fortitude ; and, with the great lesson have ordinarily come warnings equally great.

But our fathers' failures, as they are no excuse for our inaction and despair, furnish no argument against our better success. We shall, doubtless, leave behind us abundant materials for the criticism of our posterity, who in their turn must not look in this respect to be more fortunate than ourselves. But we may hope—at any rate we must try—to turn to full account what is for the better in our training, what is more complete in our knowledge and experience. We should be miserable as men and faithless as Christians, unworthy of the place and time and country in which God's providence has called us to work, if we could not look forward, in cases of difficulty, to acting a part fully proportionable to our age of the world—of availing ourselves to the full of everything, in which we see that society has really made improvement; of whatever good thing is rendered more easy, more natural, more influential among our cotemporaries. That we possess, as we trust, the faith of the fourth or the fourteenth centuries, is no reason why we should make no use of our education of the nineteenth,—why we should import into it without discrimination their ideas and methods, and limit ourselves to their precedents.

We trust that these remarks will not be thought unmeaning, because necessarily general. Something like them must, we think, have come more or less strongly across the mind of any one, who in our day, and with our ordinary habits of judging, rises from the study of any of the controversies or conflicts which have tried the Church, and looks forward to the approach of a similar struggle. We doubt whether the highest admiration and heartiest sympathy have not been somewhat abated or tempered by regrets; and whether with the full recognition of earnestness to be copied, there went not along also a sense, perhaps unacknowledged or repressed, of mistakes to be avoided. And in the hasty remarks which we are about to make on one special point bearing on our present and our impending difficulties, we hope that we shall not be taken to doubt of the rights of the English Church, or to despair of her cause or that of the Church universal, if we attempt to look fairly in the face what appears to be the state of the facts which relate to the subject. That point is, the position of the Crown and the civil power towards the ecclesiastical power, viewed as a matter of history and practice.

We are not thinking at this moment of any complete or systematic account of the question, historically or theoretically. We write in haste, under the pressure of an emergency which we feel to be serious, and with a present and temporary object in view. A great question has been opened, and has to be settled; we shall all of us contribute more or less to settle it. It is of the highest importance that in taking their ground, Churchmen

should, as accurately and comprehensively as they can, take in and review, not merely their own principles, but along with them, the real state of things with which these principles have been connected and have worked, whether in conflict or harmony. It is also of high importance that they should not act under any untrue or unfair impression as to the actual realizing of Church independence, in our own, as compared with other Christian nations. To master fully the nature of the ground open to them, to choose their position carefully, and make it as unexceptionable as possible, is the first business now of Churchmen; and, if even they have to narrow it, they need not be afraid of weakening it. And then, since danger undoubtedly exists, let them see to it that their sense of the danger be such as becomes men; without blindness to it, and without exaggeration. With these points in view, we shall proceed to suggest a few considerations.

The English Church in the middle of the nineteenth century, suddenly, and certainly to her own surprise, finds herself caught as it were, and brought to a stand still, by an effect—the unintended, apparently, and unexpected effect—of what is called the royal supremacy. It can hardly be called a stretch of that supremacy, for the act in question is a perfectly legal, and, as far as the officials and ministers concerned in it, involuntary result and exercise of it; but in Parliament and the Council itself, it was felt to be an unnatural and undesirable, indeed, a hazardous, exercise. And it raises the question, What is the nature of that power, which has led, in such a perfectly legal way, to results so anomalous and perplexing; and how ought Churchmen to view it?

How is this question to be met and answered fairly and truly? *Easy* ways of answering it there are many. It may be answered by theory, or by law-texts, or by historical argument or induction. ‘The supremacy is absolute and right; it is absolute and wrong:—it has practically no limits; it is practically as well as theoretically limited by Church law and Church power:—historically, the Church has been subservient to the Crown; historically, the Church has kept her own line and had her own way very much:—good, sufficient at least to reconcile us to such an arrangement has resulted from it; evil has followed from it, and worse is at hand.’ And none of these contradictory answers are made without strong grounds of one sort or another; if we will but *choose* on what grounds to put the question, we shall have no difficulty in getting an answer.

We cannot, however, but hope, for our own part, that Churchmen will prefer feeling and facing *the difficulty of giving an answer*, to giving it, on arbitrary and limited grounds. It may be very troublesome to collect and take in the aggregate of con-

siderations bearing on it—legal, historical, constitutional, moral, social, theological—to balance and compare them with one another. But the difficulties, great as they may be, are not out of proportion with the greatness of the question, the variety and complication of the interests it involves, the length of time it has agitated men's minds. Fifteen hundred years have not been enough to settle it, in the Church universal. And those who have been trained in the school of Bishop Butler, and who have seen how his method is but the reflection and application of what is the natural procedure of thoughtful men in the matters of ordinary life, will not be surprised to be told that, on a matter of ecclesiastical polity, their convictions ought to be the result of that same sort of combination of various evidences, and of that careful, and, it may be, laborious bringing in of many distinct particulars, which they have been taught to be the legitimate way of bringing home to sound and practical reason the verity of the faith itself.

And this is the more necessary, if the system of things under which we live is not simple, but complicated; governed not by one, but a great variety of distinct powers: and has further, while going through great alterations, tenaciously kept, as much as possible, to unchanged forms. And such is the case with us in England. Our whole social frame is kept in work by a number of powers, of which it is much more easy to say what limits them, than on what they depend, and from whence they derive their rights. That favourite foreign idea of one central and final power, from which all others hold in delegation, and which animates and controls them all as its organs, though not unknown to our legal language, is not in practice and reality an English one. We say, generally, a foreign one, for it is not confined to one class of writers; the necessity of one, sole, all-powerful authority, is as much a postulate of Louis Blanc as of De Maistre or Bellarmine, for the solution of all problems, and as the only real condition of the effective working of a society. But in England, it has been practically contradicted. Men have learned to live together, held in one by many powers, none of which are *really* supreme, though they are of various degrees, and though one or other of them may be for the moment *final*. But it is only for the moment. There may be no legal mode of appeal, and the power may continue; but the tendency to resist the absorption of one power by another is irresistible. And the way in which this tendency has usually acted, has been not by dethroning or destroying the dangerous power, but by strengthening, or adding on another. Nor do powers cease to be really effective ones, because not only under the necessity of working with others, but liable to be interfered with and con-

trolled, not less by the higher authority, than by the mere concurrent action of others. Whether theoretically right or wrong, it is on this law that English society has gone on, not in modern days only, but, as all historical inquiries show, more and more clearly, even in what appear, at first sight, the despotic days of the Tudors and Plantagenets ;—a law of composition of forces, partly independent in origin, and all separate in function, and with no supremacy among them but in their result and direction.

In judging, therefore, of the present or past supremacy of the Crown, it will be well to keep in mind, that in reality no power is supreme in England ; and also, in laying down a line of action for the future, that nothing which is a real power in England can expect to be uncontrolled. The more considerable it is—the more it makes itself felt,—the more does it naturally, in the progress of things, find itself obliged to admit restrictions and limits. It will be well to keep this principle in view, when examining and comparing, whether to reconcile them, or to make one refute the other, the very conflicting documents and precedents of our history ;—on one side a set of statutes, on the other a set of articles and canons ; the statutes, without noticing the articles, setting forth without qualification the king's power—the articles, themselves of equal authority, without noticing the statutes, limiting it ; disclaimers contradicted by acts, pretensions given up in effect ; a long series of connected proceedings, intelligible only on the theory of the absolute domination of the crown, confronted and accompanied by another, equally long and equally connected, involving necessarily the distinct existence and independent powers of the Church ; and along with each of these, a corresponding line of traditions, ideas, maxims, customs, doctrines, a school, and a party. With such authorities, so heedless of uniformity, there is always the temptation to construct a case. The text of Acts of Parliament, illustrated by admissions and concessions of Church authorities, would supply ample materials for a clear and consistent proof of the unlimited plenitude of royal power in the Church. But it is obvious to remark, that it would not be more difficult to produce authentic and irrefragable evidence from the language of law and the usages of parliament, in behalf of a theory which should represent the various powers of the English constitution as expressly recognising in the crown of Queen Victoria, a prerogative not less ample and magnificent than that claimed by the Stuarts and exercised by the Tudors ; and as acknowledging no origin and no right to continue but her good pleasure.

But without professing to answer fully or finally the question,

What is the nature of the Royal Supremacy? we shall venture to offer a few remarks on it to our readers. The primary idea of the power of the Crown in the Church—the idea which first came in, and is clearly discernible, though not the only one, in the acts of the Reformation—seems to be what may be called a visitatorial power. It was a power which *presupposed* other powers, and laws to which they were bound—powers derived from a divine source, and laws having a divine sanction; and its peculiar function was to keep those powers to their duty according to their own laws. It was a power of supervising and inspecting; not of creating, but of keeping up. It did not profess to supersede other powers by its own, but it watched that those powers were duly and lawfully used. Its interference might be very wide and very strict, but, in form at least, it regulated itself by already existing laws—laws, whose independent origin and sanction it respectfully owned, while conferring on them its own sanction besides. But this visitatorial power was itself also claimed by divine right, and as of divine origin; not as a delegated but an independent authority, inherent in the royal function and office.

The real extent of such a power, in terms so undefined and unlimited, must necessarily vary indefinitely. A college visitor and the Court of Queen's Bench, are, in idea, the same sort of powers, though the one is the most dormant, and the other the most sleepless authority in England; and unquestionably this visitatorial power of kings has been very various in extent, and very variously used. But to the admission of the power itself, and the admission of it in exceedingly large and unstinted measure, the Church has committed herself over and over again; not in England alone, but elsewhere, from Constantine's 'appointment by God to be Bishop (*ἐπίσκοπος*, overseer) over the external things of the Church,' to the *appels comme d'abus*, and the corresponding maxims and usages of the Church of Louis XIV, by which lawyers in France assert that the modern French Church is still bound, in spite of the protests of her Bishops.

We are speaking at present simply of the general and leading idea on which, as it seems to us, all exercise of regal power in the Church, however usurping and extravagant in its actual claims and interference, has ever gone: the right claimed by the Crown as a divine power, to see that the Church, also a divine power and institution, does the work appointed her by God; and to interfere if she does not. Of course it is clear that this idea is perfectly compatible with the separate origin of Church powers, and may be compatible with their real freedom. It is also equally clear, what inordinate pretensions may be founded on it,

and to what very difficult complications it may lead. And, as we all know, these possibilities have been realized, here and elsewhere. But what we wish to remark here is, that the Church, while admitting the principle of such a visitatorial power in kings, as she cannot fairly be denied to have done, did so, when from the character of the period, as well as from the explicit language of both parties, it is clear that two important conditions were understood. One was, that the king who claimed to rule, was also able and willing to befriend and protect her. She contemplated a person, not a mere state, or government—a person, having a conscience, owning personal responsibility, and one with her in faith, in practice, in sentiment, in purpose, acknowledging her laws, sympathising with her objects; and further, as the real depositary of power, really able to aid as well as to govern. No one probably would deny, that as a matter of fact, when the Church admitted the Crown to a share in her concerns, whether it was in Constantine's day, or Charlemagne's, or at the Reformation, or under Louis XIV, it was to a real king, understood to be both a Christian and Churchman, that she consented to yield this power. The other condition was, that her own laws and canons were to be the rule of her government, the rule which the king was to see observed. The existence both of Church powers and Church laws,—sanctioned, authorized, enforced, it may be, by the king, and on his responsibility, but yet separately and distinctly subsisting,—is everywhere taken for granted. None of the Western nations acknowledged, in form at least, *any* royal power, except exercised according to their own laws, and protecting them. Much less would the Church of those nations admit a king to be paramount in her concerns, without his recognising her spiritual claims and original constitution. Even the violence of Henry VIII. did not ask this.

These two conditions accompany all interference of the Crown with Church matters, in former times. They were very variously interpreted, and very strangely stretched: but they were uncontested by any one, and their acknowledgment really influenced the working of things. A real king, really acknowledging and exclusively maintaining the spiritual power as of divine origin and authority, is what the Church has always understood by 'the Crown,' whenever she has acknowledged its place among her powers of government. If proof of this were wanting, it might be found, in the way in which the idea of the personal power of the Crown, so faint and extenuated in all matters political, survives with anomalous and inconsistent force in matters ecclesiastical; and we see hoary liberals, who have all their life been sneering at kings, and scoffing at Churches, gravely

rise up in their place in Parliament, to interrogate the Prime Minister, whether he has done his duty in upholding the endangered prerogative of her gracious Majesty, as the 'Supreme Head of the Church.'

It may be useful to cite, in detail, some illustrations of this early view of the royal power.<sup>1</sup>

No legislation of any single nation can compare for importance and authority with the Code of Justinian. It has been the authentic and universally acknowledged text of the civil law of Christendom; and it represents the law of the empire, as it stood when first the Church was recognised by the State. It was acquiesced in then by the Church—it has ever since been received by all Christian nations, by some as their practical rule, by all as a great legislative document. And never, that we know of, has the Church protested against it, though, at times, both popes and kings have discouraged its study. It favours the Church and her authority in the largest and most generous manner; and it bears very important witness to the pre-eminence, in Justinian's day, of the Roman See.

In this earliest and most august monument of civil legislation in a state acknowledging the Church, we find precisely such a power as we have spoken of ascribed to the Emperor,—a power of universal visitation;—and under the same limitations, that is, it pre-supposes in the Church powers and laws which the Emperor is to watch over. But the amplitude and peremptoriness of the authority which he professes to claim, have never, probably, in terms, been exceeded.

To quote all that might be quoted in proof of this would be to transcribe law after law, out of the huge collection of the Pandects. We can only cite a few passages, and refer our readers to the collection itself, if they would have a full impression of the actual state of the case.

The office of a Christian emperor is thus stated:—

'The greatest things among men are those gifts of God, bestowed by heavenly goodness, the Priesthood and the Imperial power (*"sacerdotium et imperium"*); the former ministering in things divine, the latter presiding and giving diligence in things human; but both proceeding from one and the same origin, (*principio*), and adorning human life. And therefore nothing will be of such concern to the emperors, as the honest behaviour of the priests; since the priests ever offer up prayers to God for the emperors. . . . We therefore feel the greatest care concerning God's true doctrines, and concerning the honest carriage of the priests; which if they maintain, we believe that through it the greatest good will be given us of God. . . . But things are in every case done well and duly, if the beginning of the matter

---

<sup>1</sup> The view is that of Bramhall, who also appeals for confirmation of it to the early specimens of Christian legislation, the Pandects, and the Capitularies.

be proper and pleasing to God. And this we believe will be the case, if the observance of the holy rules be kept up, which the apostles handed down, and the holy fathers kept and explained.'—*Novell. 6. 'Quomodo oporteat Episcopos et reliquos clericos ad ordinationem adduci.' Præf.*

Still more distinctly in the following:—

*'De ordinatione Episcoporum et clericorum.'*

'The Emperor Justinian Aug. to Peter, Master of the Offices.

'If in regard to civil laws, the power whereof God, of His goodness towards men, has entrusted to us, we are careful that they shall be firmly kept, for the security of the obedient; how much more care ought we to exercise, touching the observance of the sacred canons and the divine laws which have been laid down for the salvation of our souls? For they who keep the sacred canons are worthy of the help of the Lord God; but they who transgress them make themselves liable to judgment. The greater therefore is the condemnation under which the most holy bishops lie, to whom it is committed both to search out and to maintain the canons, if they leave the transgression of them uncondemned and unpunished. In truth, since up to this time the canons have not been rightly observed, we have in consequence received various appeals against clerics and monks and some bishops, as not living according to the divine canons; and others have been found who did not so much as know the prayers of the holy oblation, or of holy baptism.'—*Novell. 137. Præf.*

Accordingly, he proceeds to give directions to the 'Master of the Offices,' a great civil officer, for the restoration of discipline, according to the canons. The qualifications for the episcopal office required by the canons and the imperial laws are to be strictly required—'but if any one be ordained Bishop contrary to the above mentioned rule, we order that both he by all means be deprived of the Episcopate (*episcopatu dejici*), and he also, who has dared to ordain him contrary to such rule'—synods are to be held at the times appointed; discipline is to be exercised in them; special rules are enjoined for the due performance of divine service. And the observance of these injunctions is thus to be secured:—

'And we command also the presidents of the provinces, if they find anything neglected of the things which we have decreed, that first they compel the metropolitan and other bishops to assemble the said synods, and to fulfil all that we have commanded by the present law about synods. But if they find them backward and remiss, then they inform us; that we may forthwith proceed to due correction against those who decline to celebrate synods. And let the presidents and their officers know that if they observe not this, they shall be subjected to extreme punishment. But we also confirm by the present law all things enjoined by us in various laws concerning bishops, and presbyters, and other clergy, and besides concerning hospitals and orphan asylums, and all who are set over sacred places.'—*Novell. 137. fin.*

He lays down laws about the authority of the four councils, the order of the principal sees, &c.; addressing a civil officer:—

*' De ecclesiasticis titulis.*

*' Imp. Justin. Aug. Petro gloriosiss. præfecto sacr. prætor.*

' Concerning ecclesiastical rules and privileges, and other heads relating to the holy churches, &c., we promulgate the present law.

*' c. 1. De quatuor sanctis Ecclesiis.*

' We therefore order that the sacred ecclesiastical rules, which have been set forth or confirmed by the sacred four councils, Nice, Constantinople, Ephesus and Chalcedon, shall have the place of law. And we receive the doctrines of the aforesaid four synods as Holy Scriptures, and observe their rules as laws.

*' c. 2. De ordine sedendi Patriarcharum.*

' Therefore we order according to their decision that the most holy Pope of old Rome be the first of all priests; but the most blessed Archbishop of Constantinople, which is new Rome, have the second place after the holy apostolic see of old Rome.

*' c. 3. De episcopo primæ Justinianæ.*

*' c. 4. De episcopo Carthaginensi,' &c.—Novell. 131.*

With respect to bishops, the form and mode of their election, their qualifications, their canonical age and condition, their property, their disabilities—no purely ecclesiastical laws could speak more authoritatively or peremptorily, or more in detail. The ordinances on the subject are numerous. The following, addressed, as usual, to a civil officer, may serve as a specimen of his style.

*The Emperor, to John Prætor. Præf.*

' We decree, that no one be ordained to the episcopate, unless useful and excellent otherwise: one who lives not with a wife, and who is not the father of a family; but who for a wife will cleave to the most holy Church, and has in the place of children the whole Christian and orthodox people, knowing that from the beginning we have thus disposed concerning the succession of bishops, and that with this intent our law has proceeded; and that those who have done or do contrary to it are altogether unworthy of the Episcopate. For they, who after this our constitution shall dare either to make or to be made bishops, against its purport, shall neither be numbered among bishops, or continue in the sacred ministry, but being expelled from it, shall give room for an ordination, which shall be regular and altogether pleasing to God.'—*Cod. lib. i. tit. iii. 48.*

But this is no fair specimen of the minuteness with which he regulates everything relating to the election and qualifications of the bishops. It may be seen fully in the Novell. vi. and cxxiii., which are complete bodies of law relating to the ministers of the Church. He thus concludes the former :—

' The things therefore which have been decreed by us, and which maintain the sacred order and state according to the observance and form of the sacred rules, let the most holy Patriarchs of each diocese for the future keep perpetually inviolate, and the Metropolitans, and the rest of the most reverend bishops and clergy; everywhere maintaining undisturbed the worship of God and sacred discipline: since this penalty awaits the offender, —to be alienated from God and the office of the priesthood; for he shall be expelled from it as unworthy. And we give licence to all, of whatsoever

office or conversation they be, who observe any transgression in this behalf, to inform us and the Imperial power for the time being; that we who have established these things according to the explanation of the sacred rules and the tradition of the Apostles, may visit the offender with our due indignation,' &c.

'But let the most holy Patriarchs of each diocese set forth these things in the churches which are under them, and make known what has been established by us to the Metropolitans; and they in their turn let them set forth these things in the most holy metropolitan church, and make them known to the Bishops under them. And let each one of them set them forth in his own church; that no member of our State may be ignorant of what we have ordained for the honour and magnifying of the great God and our Saviour Jesus Christ. . . . Copies of this were written to the most holy Archbishop of Alexandria, to Ephrem, Archbishop of Theopolis, to Peter, Bishop of Jerusalem, John, the Prætorian Præfect, &c.'—*Novell. 6. Epilog.*

He lays down, with the same authority and detail, the order of proceeding, and the order of appeal, in ecclesiastical trials.<sup>1</sup> His language is that of an absolute legislator; but it is used to maintain the strict observance of the canons. It would be endless and superfluous to quote all his ordinances on matters of purely spiritual interest; as, for instance, the regulation of the monastic life. We find him decreeing at once ecclesiastical and civil punishments against perjured clerks; fixing the age of deaconesses, of priests, deacons, and bishops; forbidding bishops to excommunicate except for a just and proven cause, and ordering them, if offending, to be themselves excommunicated; (*Cod. lib. i. tit. iii. 30*;) providing for the due attention of the Clergy to the office of the Church; forbidding bishops to leave their Sees. The appointment of the penalty in this last case is curious:—

'If any one knowingly transgress, and break this regulation, piously and rightly introduced by us for the honour of the most holy Churches, he shall feel our no small indignation; and moreover he shall be placed under excommunication—if he be a Metropolitan, by your Blessedness; [he is addressing the Patriarch of Constantinople;] but if he be a Bishop of a city subject to a Metropolitan, by the Metropolitan. For we have not thought it necessary to fix a pecuniary penalty against the despisers of our divine ordinance, lest the loss should fall on the most holy Churches, whose property we wish to remain free from all diminution.'—*Cod. lib. i. tit. iii. 43, § 2.*

We will quote another ordinance on a point of Church discipline. It will be noticed on what grounds, and with what authority the emperor speaks, and the punishment which he decrees. It is an ordinance addressed to the Patriarch of Constantinople against gambling, play-going, horse-racing, and betting clergymen. After stating in the preamble the importance, both for the honour of God and the good of the state, of piety in the clergy, and the grievous scandals which have come to his knowledge, he proceeds:—

<sup>1</sup> *Cod. lib. i. tit. iv. 29. 'De foro clerici et episcopi accusati.'*

‘We have often exhorted them to observe these [rules]; but seeing that this information has reached us about such offences, we are under the necessity of having recourse to the present law, as well on account of our zeal for religion, as also for the benefit both of the priesthood itself, and of the State.

‘And we decree that no deacon, priest, bishop,’ or other cleric, play at dice, &c.

‘But if any one in future be detected doing any of these things, and be informed against, either in this happy city to your Holiness, or in the provinces to the Metropolitans or Bishops,’ a fair and strict trial by evidence is to be instituted by the Patriarch or Bishops, as the case may be; if the clerk be convicted, ‘he is to be separated from the sacred Liturgy, and a canonical penance imposed upon him, and a time is to be fixed, during which it may be convenient that, using fastings and prayer, he implore the great God’s mercy for such a transgression. And if he continue for the time appointed in tears and penance, and beseeching the Lord God in prayer for the remission of his fault, then he, who is his superior, having diligently ascertained this, and made careful inquiry, shall cause common prayer to be made for him, and shall with all diligence impress upon him that for the future he abstain from such dishonour to the priesthood; and if he deems him sufficiently penitent, then let him deign to extend to him the priestly clemency. But if after excommunication he be found neither to have exercised true penance, and otherwise to have contemned it, and to be manifestly ensnared by the devil, then let the priest under whom he lives, remove him from the sacred rolls, deposing him for good; and let not the offender ever again have licence under any circumstances, of coming to the priestly degree.’ (And then follow provisions for his maintenance, and civil condition; and threats if any Bishop or magistrate, from weakness or corruption, fail in his duty.)

‘And these things we have done in the way of legislation. . . . But as these things have been decreed by us for no other reason than for God’s service, we add this further, that inquiries be made with the utmost diligence, and that no one arise to accuse any falsely, or bear false witness. For, like as for the priests who have committed such things we have appointed civil punishment, so on those who venture to accuse them, we will that punishment abide them, both from heaven and from our laws, if, the charge once made, they refuse to follow it up, or cannot go on with it.’—*Cod. lib. i. tit. iv. 34.*

The religion of the empire is thus fixed by the emperors before Justinian:—

‘*De Summā Trinitate et Fide Catholicā et ut nemo de eā publice contendere audeat.*

‘We will that all people, whom the power of our clemency rules, should live in that religion which was given by S. Peter the Apostle to the Romans; as the religion, by him introduced, witnesses to this day; and which it is clear that Pope Damasus follows, and Peter, Bishop of Alexandria, a man of apostolical sanctity:—that is, that according to apostolic discipline and evangelic doctrine, we believe one Godhead of the Father, Son, and Holy Ghost, in an Equal Majesty, and in a merciful Trinity. We command that, following this law, they take the name of Catholic Christians; adjudging the rest, senseless and mad, to bear the infamy of heretical doctrine, and to be punished.’—*Cod. lib. i. tit. i. 1, Law of Gratian and Theodos. a. 380.*

The Nicene Creed is made the test of orthodox belief, and heresy and heretics are proscribed; as, for instance, in the fol-

lowing injunction, addressed for execution to the Prætorian Præfect :—

‘ Further we decree, that those, who abet the impious opinion of Nestorius, or follow his abominable doctrine, if they are bishops or clerks, be cast forth from the Churches ; if laymen, be anathematized, according to what has been already established by our Divinity.’

\* \* \* \* \*

‘ But whereas it has come to our pious ears, that certain have composed certain doctrines, and have published such, being ambiguous, and not in all things and exactly agreeing with the orthodox faith propounded by the holy synod of those holy Fathers who assembled at Nicæa and Ephesus, and by Cyril of pious memory, who was bishop of the great city of Alexandria, we order that all such writings, whether composed before or now, be burnt and utterly destroyed,’ &c. . . . ‘ And henceforth no one is at liberty either to say or to teach any thing beyond the faith set forth as well at Nicæa as at Ephesus ; and the transgressors of this our divine precept shall be subject to the same penalty decreed against the impious faith of Nestorius. But that all may learn in very deed, how much our Divinity abhors those who follow the impious faith of Nestorius, we command, that Irenæus, formerly under our displeasure for this cause, and afterwards, after second marriage, (as we have learnt,) contrary to the apostolic canons made bishop of Tyre, be deprived (*dejici*) of the Church of Tyre, and do abide in his own country in quiet, divested of the character and name of a priest.

‘ Your Magnificence, therefore, following the object of our Religion, will take care to observe this, and give it effect.’—*Cod. lib. i. tit. i. iii. Theodos. and Valentin. to the Prætorian Præfect*, 419.

Public disputation about the faith is forbidden ; the edict is also addressed to the Prætorian Præfect :—

‘ *Imp. Marcian. Palladio præfect. præf.*’

‘ No one, cleric, or military, or of any other condition, is henceforth to venture, before crowds publicly assembled and listening, to treat of the Christian faith, seeking occasion for tumult and disloyalty. For, besides, he does injury to the judgment of the most reverend synod who attempts to re-open and discuss publicly things decided once for all, and set in right order ; since those things, which have been now decreed concerning the Christian faith by the priests who came together by our order at Chalcedon,<sup>1</sup> are known to have been defined according to the apostolic expositions, and the laws of the 318 holy fathers at Nicæa, and the 150 in this royal city. Against the despisers of this law punishment shall not be wanting. . . . If therefore it be a cleric who has dared publicly to treat of religion, he shall be removed from the fellowship of the clergy ; if military, shall be deprived of his belt.’—*Cod. lib. i. tit. i. iv.*

Nor was Justinian’s interference confined to discipline. There are various edicts in which he lays down and declares, on the authority of the Church and the four Councils, what is the true Faith. And he thus communicates his measures to the Patriarch of Constantinople :—

‘ We wish your Holiness to know everything which relates to the state of the Church. We have, therefore, thought it necessary to address these Divine words to your Holiness, and thereby explain to you the measures

<sup>1</sup> ‘ *Ea que . . . a sacerdotibus qui Chalcedone convenerunt per nostra præcepta statuta sunt.*’

which have been set on foot, though we are persuaded that you are acquainted with them. Finding, therefore, some who were aliens from the Holy and Apostolic Church following the deception of the impious Nestorius and Eutyches, we before promulgated a Divine edict, as your Holiness knows, by which we restrained the madness of the heretics; yet without having changed, or changing anything whatsoever, or having gone beyond the constitution of the Church, which has been, by God's help hitherto preserved; but having kept in all things the state of unity of the most holy Churches, with the most holy Pope and Patriarch of old Rome, to whom we have written to the same effect. For we suffer not that anything that pertains to the state of the Church should fail to be referred to his Blessedness, seeing that he is the head of all the most holy priests of God; and the more so, because whenever heretics have sprung up in these parts, they have been restrained by the sentence and right judgment of that venerable throne' . . . .

He then proceeds to explain further the meaning of his edict concerning the faith:—

'These, then, are the points, in which, by our Divine edict, we convicted the heretics; to which Divine edict all the most holy Bishops who were here, and the most reverend Archimandrites, together with your Holiness, subscribed' . . . .

He then proceeds to declare his adherence to the Four Councils, and speaks of the necessity of making them the test of orthodoxy, and he thus concludes:—

'Let no one, therefore, vainly trouble us, relying on a vain hope, as if we ever had done anything contrary to the Four Councils, or should do, or should allow to be done by any, or should suffer the holy memory of the same holy Four Councils to be removed from the aforesaid diptychs of the Church. For all who by them have been condemned and anathematized, and the doctrine of those condemned, and those who have thought, or think with them, we anathematize.'—*Cod. lib. i. tit. i. 7.*

We quote these passages simply as facts; they show very large claims of interference. Yet the spirit of Justinian's legislation was supposed to be in the highest degree favourable to the Church. 'His Code, and more especially his Novels,' says Gibbon, 'confirm and enlarge the privileges of the clergy.' And there is nothing to show that the clergy of his day, or even the Pope, looked upon this interference as anything strange or dangerous; while the precedents then created were incorporated into the code which has been erected into the text-book of civil legislation. But while they show interference, they carry on their face its conditions.

After the legislation of Justinian comes that of Charlemagne. The Capitularies of the French kings are the next example we meet with of legislation for a Christian state. They are to the empire of Charlemagne, what the Pandects were to that of Justinian; a very miscellaneous collection of laws, edicts, canons, injunctions, from very various sources, and on all subjects, from the highest matters of religion and government, down to the herbs to be cultivated in the emperor's gardens.

The emperor speaks always in his own person ; but many of the Capitularies are stated to have had the consent of the clergy and nobility, and probably all of them were worded and put into form by the emperor's ecclesiastical advisers. And they breathe throughout an ecclesiastical spirit, and prove a deep interest in the welfare of the Church.

In the Carolingian legislation, the same authority and office is attributed in the emperor, as was ascribed to him in that of Justinian, and with the same understanding and limitations. He is viewed as God's minister, not only to guard, but also generally to oversee the Church ; to take care, in conjunction with her pastors, that she observes her own laws.

' Ever since the renovation of the Frank Church under Carloman and Pepin, it had continued to flourish under the Carolingian kings, and to be the most important Church of the West. In the new Church the Metropolitans had been reinstated in their ancient rights ; the kings retaining, however, *the general superintendence of the Church, the right of arbitration in Church matters, as also the direction and confirmation of all ecclesiastical decrees.* Though Charlemagne wished to introduce again the election of Bishops by the Clergy, they still continued for the most part to be appointed by the king. The Carolingians continued also to dispose as they pleased of the Church lands. . . . The ecclesiastical supremacy of the Pope was acknowledged, the kings often applying to him for advice in ecclesiastical matters, and allowing the right of appeal to him, as fixed at the Council of Sardica. In the affairs of their own Church, however, they allowed no interference but by argument and persuasion.'

Such is Gieseler's account, in which no one who has looked into the Capitularies will think that he overstates the extent of the king's interference. And this interference was not confined to external matters, or even to Church discipline or judicature. It extended to doctrine ; and Charlemagne, in his own name, disputed the decision of a professedly œcumenical Council, sanctioned, confirmed, and defended by a Pope ; and caused its condemnation in a Council of his own.

' In the year 790, a formal refutation of the decrees of the second Council of Nice [on image worship] was drawn up under the direction of Charlemagne ; the "*Libri Carolini*." . . . In these books Charlemagne alone is the speaker, *e.g.* "*Ecclesiæ in sinu regni gubernacula suscepimus—nobis, quibus Ecclesia ad regendum commissa est.*" It is not probable that the emperor prepared these books without assistance, but there seems to be no good reason for thinking that Alcuin assisted him. . . . Though Pope Hadrian attempted to answer this exposition, the worship of pictures was formally condemned at a Synod held in Frankfort, A D. 794.'—(Gieseler).<sup>1</sup>

We will quote a few passages from the Capitularies, to show

<sup>1</sup> Cf. Lorenz's *Life of Alcuin* (Eng. Trans.) pp. 109—127. Yet these books are said to recognise in very ample terms the authority of the Roman See. Charlemagne sent the acts of the Council of Frankfort to the Pope, requiring him to confirm them. The Pope argued for the decrees of Nice, but without persuading Charles. The Acts of Frankfort were confirmed in a Synod at Paris, 825. (Lorenz.)

the terms in which this authority was expressed, and the kind of subjects of which it took cognizance.<sup>1</sup> These Capitularies, or collections of laws, are, many of them, preserved in the original form in which they were drawn up in the Emperor's Council. There is also an arrangement of their enactments, distributed according to their subjects. The first four books of this arrangement were compiled by Ansegisus, Abbot of Fontenelle, one of Charlemagne's counsellors; three more were added by the deacon Benedict, at the request of the Archbishop of Mayence, in the middle of the ninth century; and there are four supplements by unknown authors.—(Guizot.)

The compiler, Ansegisus, thus speaks of the contents of his collection :—

‘The “Capitula,” which have been from time to time published by the said princes, I have arranged in four books. I have collected, in the first book, those which the Lord Emperor Charles made, relating to the ecclesiastical order; and in the second, the ecclesiastical ordinances published by the most religious Lord Emperor Louis. I have united in the third those which Lord Charles made from time to time, pertaining to the secular law; and I have collected, in the fourth, those which Lord Louis, the noble emperor, made, relating to the improvement of worldly law.’

Charlemagne's view of the kingly office is expressed in the following circular to ‘all orders of Ecclesiastical piety, and dignities of Secular power,’ which Ansegisus prefixes as a preface to the ecclesiastical laws. After exhorting the pastors to keep their flocks within the bounds of ‘the canonical sanctions and the paternal traditions of the universal councils,’ the Emperor proceeds :—

‘In this work, let your Holiness know assuredly, that our diligence works with you. Therefore we have sent to you our Commissioners (*Missos*), who, by the authority of our name, might with you correct what wanted correction. And further, we have subjoined some “capitula,” out of the

<sup>1</sup> We insert, from Guizot's “*Hist. de la Civil. en France*,” an analysis of the subjects of the Capitularies. He distributes the subjects under eight heads. The proportion of the religious and canonical legislation to the political, under Charlemagne, is observable.

	Capitulares.	Articles.	Législation Morale.	Politique.	Pénale.	Civile.	Religieuse.	Canonique.	Domestique.	De Circonsance.
Charlemagne .....	65	1,151	87	293	130	110	85	305	73	12
Louis le Debonn. ....	26	362	16	136	36	24	1	129	—	20
Charles le Chauve ....	51	529	2	259	17	4	2	51	1	193
Louis le Bègue.....	3	22	—	6	1	—	—	4	—	11
Carloiman .....	3	19	—	12	7	—	—	—	—	2
Eudes .....	1	1	—	—	—	—	—	—	—	1
Charles le Simple ....	3	10	—	—	—	—	—	—	—	10
	152	2,094	105	706	191	138	88	489	74	249

canonical ordinances, which seemed most necessary for you. Nor let any one, I pray, think this admonition of piety presumptuous, whereby we study to amend what is faulty, to cut off what is superfluous, to keep what is right within bounds; but rather let him receive it with the well-disposed mind of charity. For we read in the books of Kings, how holy Josias, by visiting, by correcting, by admonishing, endeavoured to bring back the kingdom committed to him by God to the worship of the true God. Not that I count myself comparable to his holiness, but because the example of the saints ought ever to be followed by us; and whomsoever we can, we are bound to bring to the desire of a good life, to the praise and glory of our Lord Jesus Christ. Wherefore, as we have said, we have caused to be noted down certain laws, that you may endeavour to recommend both them, and whatsoever else you judge to be necessary," &c. (*Præf. D. Karoli R. ad Capit. Aquisgranense*; (Aix-la-Chapelle,) a. 789.)

The Capitulary of Aix-la-Chapelle contains eighty articles, addressed variously, according to their subjects, '*To all*;' '*To the Priests*;' '*To the Bishops*.' They are such as these:—

1. De his qui ab Episcopo proprio excommunicantur.
2. De his qui ad ordinandum veniunt.
3. De clericis fugitivis et peregrinis.
4. De Presbyteris, Diaconis, vel his qui in clero sunt.
5. De usuris.
6. De Presbyteris Missas cantantibus et non communicantibus.
7. De his qui a Synodo vel a suo Episcopo damnati sunt.
8. De Suffraganeis Episcopis.
9. De Chorepiscopis.
10. De Episcopis vel quibuslibet ex clero.
11. De ordinationibus vel quibuslibet negotiis.
12. De cura Episcoporum.
16. De ignotis angelorum nominibus.
19. De Episcopis ubi non oporteat eos constitui.
20. De libris canonicis.
24. De Presbyteris non absolute ordinandis.
31. De fide S. Trinitatis prædicanda.
35. De his qui excommunicato communicaverint.
80. De prædicatione Episcoporum et Presbyterorum.

The collection of Ansegisus contains 162 ecclesiastical laws of Charlemagne, and 48 of Louis. They are, like those already noticed, on every subject of Church interest,—many of them taken from the older Church canons, others original enactments.

The objects, sanction, and authority of the kingly office is thus stated by the emperor Louis le Débonnaire. After saying that it 'had pleased Divine providence to appoint him to take care of holy Church and this kingdom,' and mentioning the great objects for which he was bound to labour,—'the defence 'and exaltation or honour of the holy Church of God, and of 'His servants, and the preservation of peace and justice in the 'people at large,' he goes on to describe his relation to the various orders of his kingdom:—

‘But though the *sum of this ministry appears to reside in our person*, yet we know that by *divine authority and human order* it is so divided into parts, that each one of you in his place and order may be known to possess part of our ministry. Whence it appears that I am bound to be the admonisher of you all, and all you are bound to be our helpers. For neither are we ignorant of what is suitable for each one of you, in that portion committed to him. And therefore we cannot omit to admonish each one according to his order.’—*Capit. Lud. Pii*, a. 823, § 3. *Coll. Anseg.* l. ii. c. 3.

Accordingly, he proceeds to use this authority—the following are the headings of the succeeding chapters:—

‘Of the sacred ministry of the Bishops, and of the admonition of our Lord Emperor to the Bishops.

‘Of the admonition of our Lord Emperor to the Bishops, concerning the priests appertaining to their care; and concerning schools.

‘Of the admonition to the Counts, for the utility of God’s holy Church.

‘Of the admonition to the laity, for maintaining the honour of the Church.

‘Of the admonition to the Abbots and laymen, on behalf of monasteries, of royal bounty committed to them.

‘Of the admonition to Bishops, Abbots, and all the faithful, for their assistance to the Counts.

‘Of the admonition to the Bishops, or even to all, touching concord between themselves, and with the rest of the faithful.

‘Of the admonition to all in general, touching mutual peace and charity.

‘Of this, namely; that each Bishop or Count has part of the royal office (*partem ministerii regalis habeat*), and of their testimony of one another: (i.e. to know from the witness of the Bishops whether the Counts love and do justice, and from the witness of the Counts, whether the Bishops behave and preach religiously.)’

What is expressed here in general terms, is, as we have said, exemplified in most minute and ample detail in the mass of heterogeneous acts which are collected together in the ‘*Capitularies of the Frank Kings*.’ The king, by Divine Providence constituted, holding of God only, and entrusted in the largest terms with the charge of the Church, is the one source and fountain of law and justice to Church and State. As a Christian king, he acknowledges the ancient laws of the Church; he takes counsel of his Bishops, and places them in honour before his Counts. But for everything he is finally responsible to God, and therefore everything belongs to his charge, and is to be ordered according to his discretion—all authority and power in Church and State is from him, is ‘part of his ministry.’

We will add but one extract more. It is from a Synod under Carloman, 742, at which S. Boniface was present.

‘In the name of our Lord Jesus Christ. I, Carloman, Duke and Prince of the Franks, in the year from the incarnation of Christ 742, the 11th day before the Calends of May, with the counsel of the servants of God and my nobles, have, for the fear of Christ, assembled the Bishops who are in my kingdom, with the Priests, to a council and synod; that is, Boniface the Archbishop, and Burchard, and Regemfrid, and Wiztan, and Willibald, and Dadan, and Eddan, and the rest of the bishops, with their priests, that

they might give me counsel, how the law of God and ecclesiastical religion may be restored, which in the days of former princes has been overthrown, and how the Christian people may attain to the salvation of their souls, and may not perish by the deceit of false priests. *And by the counsel of my Priests and nobles we have appointed Bishops to the cities, and have set over them (constituimus super eos,) the Archbishop Boniface, who is the legate (Missus) of S. Peter.* And we have ordered that a synod should be assembled every year, that in our presence the decrees of the canons and the rights of the Church may be restored, and Christian religion amended,' &c.—*Capitular. Karlom. a. 742. Bened. Levit. l. v. c. 2.*

The following remarks of Guizot may show that our extracts give no unfair representation of the spirit of the Carlovingian policy and system. Our readers will not, we think, complain of us for declining to weaken the writer's language by translation.

'Puérile ou grave, monastique ou séculière, toute cette réforme de l'église Gallo-franque s'accomplissait sous l'impulsion et avec le concours du pouvoir temporel. A vrai dire, de Pepin le Bref à Louis le Débonnaire, c'est le pouvoir temporel, roi ou empereur, qui gouverne l'église, et fait tout ce que je viens de mettre sous vos yeux. Les preuves en sont évidentes.

'1°. Tous les canons, toutes les mesures relatives à l'église, à cette époque, sont publiés au nom du pouvoir temporel; c'est lui qui parle, qui ordonne, qui agit. Il suffit d'ouvrir les actes des conciles pour s'en convaincre.

'2°. Ces actes, et beaucoup d'autres monuments, proclament même formellement que c'est au pouvoir civil qu'il appartient d'ordonner de telles choses, et que l'église vit et agit sous son autorité. Les canons du Concile d'Arles, tenu sous Charlemagne en 813, se terminent ainsi :—

'Nous avons brièvement énuméré les choses qui nous semblent avoir besoin de réforme, et nous avons décidé que nous les présenterions au Seigneur Empereur, en invoquant sa clémence, afin que, si quelque chose manque à ce travail, sa prudence y supplée; si quelque chose est autrement que ne veut la raison, son jugement le corrige; si quelque chose est sagement ordonné, son appui, avec l'aide de la bonté divine, le fasse exécuter.'

'On lit également dans le préface des actes du Concile de Mayence, tenu aussi en 813 :—

'Sur toutes ces choses, nous avons besoin de votre appui et de votre saine doctrine, afin qu'elle nous avertisse et nous instruisse avec bienveillance; et si ce que nous avons rédigé ci-dessous, en quelques articles, vous en paraît digne, que votre autorité le confirme; si quelque chose vous y semble à corriger, que votre grandeur impériale en ordonne la correction.'

'Quels textes pourraient être plus formels?

'3°. Les Capitulaires de Charlemagne prouvent également à chaque pas que le gouvernement de l'église était une de ses principales affaires: quelques articles pris au hasard vous montreront avec quelle attention il s'en occupait :—

'Nos *missi* doivent rechercher s'il s'élève quelque plainte contre un évêque, un abbé, une abbesse, un comte, ou tout autre magistrat, quel qu'il soit, et nous en instruire.'

'Qu'ils examinent si les évêques et les autres prêtres vivent selon l'institution

<sup>1</sup> Conc. Labbe, t. vii. col. 1238.

<sup>2</sup> Ibid. col. 1241.

<sup>3</sup> 3<sup>e</sup> Cap. a. 789, § 11; Bal. t. i. col. 244.

canonique, et s'ils connaissent et observent bien les canons ; si les abbés vivent selon la règle et canoniquement, et s'ils connaissent bien les canons ; si dans les monastères d'hommes, les moines vivent selon la règle ; si, dans les monastères de filles, elles vivent selon la règle, et quelle en est la clôture.<sup>1</sup>

‘ Qu'ils examinent dans chaque cité les monastères d'hommes et de filles ; qu'ils voient comment les églises sont entretenues ou réparées, soit quand aux édifices, soit quand aux ornements ; qu'ils s'informent soigneusement des mœurs de chacun, et de ce qui a été fait quand à ce que nous avons ordonné sur les lectures, le chant, et tout ce qui concerne la discipline ecclésiastique.<sup>2</sup>

‘ Si quelqu'un des abbés, prêtres, diacres, &c., n'obéit pas à son évêque, qu'ils aillent devant le métropolitain, et que celui-ci juge l'affaire avec ses suffragants. Et, s'il y a quelque chose que l'évêque métropolitain ne puisse réformer ou apaiser, que les accusateurs avec l'accusé viennent à nous, avec des lettres du métropolitain, pour que nous sachions la vérité de la chose.<sup>3</sup>

‘ Que les évêques, les abbés, les comtes, et tous les puissants, s'ils ont entre eux quelque débat et ne se peuvent concilier, viennent en notre présence.<sup>4</sup>

‘ C'est là à coup sûr, une intervention bien directe et active. Charlemagne ne gouvernait pas les affaires civiles de plus près.

4°. ‘ Il exerçait d'ailleurs une influence très-efficace, bien qu'indirecte ; il nommait les évêques. On lit, à la vérité, dans les Capitulaires, le rétablissement de l'élection des évêques par le clergé et le peuple, selon l'usage primitif et le droit légal de l'église. . . . Mais le fait continua d'être peu en accord avec le droit : après comme avant ce Capitulaire, (1<sup>er</sup> Cap. a. 803, § 2, t. i. col. 379,) Charlemagne nomma presque toujours les évêques ; et même après sa mort, sous ses plus faibles successeurs, l'intervention de la royauté en pareille matière fut avouée par ses plus jaloux rivaux. En 853, le pape Léon IV. écrit à Lothaire, Empereur :—

‘ Nous supplions votre mansuétude de donner cette église à gouverner à Colonne, humble diacre, afin qu'en ayant reçu permission de vous, nous puissions, avec l'aide de Dieu, le consacrer évêque. Si vous ne voulez pas qu'il soit évêque dans la dite église, que votre Sérénité daigne lui conférer celle de Tusculum, veuve aussi de son pasteur.’

\* \* \* \* \*

6°. ‘ Ce n'était pas seulement de l'administration et de la discipline ecclésiastique que s'occupait à cette époque le pouvoir temporel ; il intervenait même dans les matières de dogme, et celles-là aussi étaient gouvernées en son nom. Trois questions de ce genre se sont élevées sous le règne de Charlemagne ; je ne ferai que les indiquer. 1. La question du culte des images . . . . L'église Gallo-franque repoussa ce culte et tout ce qui paraissait y tendre . . . . La faveur qu'accordaient les papes à cette doctrine n'ébranla point les évêques francs, ni leur maître, et, en 794, le Concile de Francfort le condamna formellement. 2. L'hérésie des Adoptiens . . . . que Charlemagne fit condamner dans trois conciles successifs. 3. La question d'une addition au symbole sur la procession du Saint-Esprit. C'étaient là à coup sûr des matières bien étrangères au gouvernement extérieur de l'église, bien purement dogmatiques. Elles n'en furent pas moins réglées, sinon par le pouvoir civil lui-même, du moins sous son autorité, et avec son intervention.

‘ On peut donc, sans traiter la question de droit, sans examiner s'il est bon ou mauvais qu'il en soit ainsi, affirmer en fait qu'à cette époque, directement ou indirectement, le pouvoir temporel gouvernait l'église. La situation de Charlemagne à cet égard était, à peu de chose près, la même que celle du roi d'Angleterre dans l'église Anglicane. En Angleterre, aussi, l'assemblée civile, ou parlement, et l'assemblée ecclésiastique, ou *convocation*,

<sup>1</sup> 2<sup>e</sup> Cap. a. 802, § 2—5 ; t. i. col. 375.

<sup>2</sup> 5<sup>e</sup> Cap. a. 806, § 4 ; t. i. col. 453.

<sup>3</sup> Cap. a. 794, § 4 ; t. i. col. 264.

<sup>4</sup> 3<sup>e</sup> Cap. a. 812, § 2.

ont été long-temps distinctes ; et ni l'un ni l'autre ne décidait rien, ne pouvait rien, sans la sanction de la royauté. Qu'il s'agit d'un concile ou d'un champ de mai, ou d'un dogme ou d'une guerre à proclamer, Charlemagne y présidait également : ni dans l'un, ni dans l'autre cas, on ne songeait à se passer de lui.<sup>1</sup>

But he goes on to observe that the 'early Carolingians, ' while thus governing absolutely, conferred on the Church immense advantages, and laid the most solid foundations of its ' future power.' He specifies, 1. The final establishment of the payment of tithes : 2. The extension by Charlemagne of the jurisdiction of the Clergy : 3. The increase of the power of the Clergy in civil matters, particularly in questions of marriages and wills : 4. The appropriation to each Church of a glebe, *mansus ecclesiasticus*. He continues—' Malgré sa servitude momentanée, l'église avait là, à coup sûr, de nombreux et féconds ' principes d'indépendance et de puissance. Ils ne tardèrent ' pas à se développer.'

Now this theory is the foundation of European royalty ; after all our revolutions we have not yet finally abandoned it. We are not speaking of the effect of it, which of course must vary according to the state of things in which it works, and with which it is linked. Doubtless, if Charlemagne or Louis speak to Bishops and upon spiritual matters, in terms as authoritative and peremptory as those of a Pope's brief, we know that they are fully agreed with their Bishops, and are probably using the words which their Bishops have drawn up for them. Nevertheless, with the terms and language of this supremacy, the Church is not offended. The supremacy thus claimed and used, is not looked on as a profanation ; not even as a grievance. Not a protest, not a warning is heard ; not an expostulation, not a suspicion, not a misgiving, even from Rome. It is accepted and embraced as perfectly natural and right. It breaks no canon, it trenches on no jurisdiction, it invalidates no power, it wounds no feeling. It appeared as legitimate a consequence of Charlemagne's power, as the authority exercised by the Jewish kings did to the Jews, and does still to the reader of the Old Testament. And yet the Church at this time, however different from that of later times, was very far from being insensible to its own claims and powers, or, as an impartial observer attests, to its duties.<sup>2</sup>

<sup>1</sup> *Civilisation en France*, Leçon 26.

<sup>2</sup> V. Guizot, *Hist. de la Civilis. en France*, Leçon 26. He notices especially the number of councils. 'Twenty councils only had been held in the seventh century, and seven only in the first half of the eighth.' From Pepin to the accession of Hugh Capet, (752—987,) in 235 years, 201 councils were held, of which 33 in the 46 years of Charlemagne, 29 in the 26 years of Louis le Debonnaire, and 69 in the 37 years of Charles le Chauve.

It does not, of course, the least follow, that because this supremacy suited the days when it arose, it should be satisfactory now, or under Henry VIII. When it led to bad consequences, the Church opposed it; if she could not get rid of it, she checked and balanced it; as she ought to do, when necessary, and may do still. But as a fact in her history, it cannot be overlooked. She was not forced or surprised into it; she did not view it as a tyranny submitted to under protest. It grew up while she was on the best terms with the powers of this world, when she was their instructress and guide, under her auspices and sanction, in the councils of her bishops, whose knowledge and learning determined its form, whose literary superiority furnished its language, who were its spokesmen, scribes, law-makers, codifiers, interpreters, ministers, judges. They certainly cannot be accused of being insensible to the prerogatives of the spiritual order; yet they fell into the system of Charlemagne or of Justinian, naturally and as a matter of course, without misgiving or reluctance. Doubtless, it *was* natural for the Church to be liberal and unsuspicious to her friends: and she is not bound to continue to a hostile or indifferent government, powers of interference which were judged safe in the hands of a religious king. But the supremacy of the Carlovingian and Eastern emperors shows that the Church was willing to go very far in consolidating the ecclesiastical and civil powers, in order to secure real efficiency and strength. It shows that at that period she was not very nice in settling accurately their relations and subordination; that she trusted to their broad and essential distinctions, for preventing any fatal confusion of authority or function; that in her view then, her intrinsic powers were not brought into abeyance or suspension, much less extinguished, by being associated with those of a temporal crown. And further, she is committed, not to the permanence, but to the lawfulness in itself of such an arrangement; for she fully acquiesced in it under Justinian; and in the case of Charlemagne, it was of her own authorship. The material force was the king's; but to her he owed the idea, which gave it the character of a legitimate authority and a reasonable power: it was her learning and cultivation which supplied its maxims, and devised its formulæ. She grew and strengthened by it; and the theory, which she had developed and fostered, gained force and currency among the nations which looked up to her, as much in consequence of her authority, as from the interest and influence of kings and emperors, who found *their* account also in it. This must not be forgotten. With such a precedent, it would be at least unpersuasive for her to argue in defence of her independence or freedom, on the broad ground of the unlawfulness of such a

supremacy, as she herself shaped out for Charlemagne. If she is wise, she will fight her battle on the more troublesome, but more real question, of special circumstances. And in judging of the acts of the later Church, it must be remembered, not merely that precedents are of force in argument, but that the policy of one age really abridges the liberty of action of another; and that the later Church found itself shackled and embarrassed by an idea and tradition left behind by the earlier Church, which the earlier Church had not merely submitted to, but originated, when perfectly free to choose, holding the highest position of command, and fully impressed with the sacredness and divine origin of her own mission and powers.

To come to England. The visitatorial power of the Crown, of which Henry VIII. made such violent and bad use, is yet, in itself, one of the very earliest facts which meet us in English history. It was not his invention, nor the invention of his counsellors and bishops; the idea of it was familiar both to the jurisprudence and to the common opinion of England. It had come into Anglo-Saxon England as a matter of course, with the beginnings of royalty and the Church, as inherent in the first and obvious idea of a religious king, the idea suggested by the examples of the Old Testament, realized in the instance of Charlemagne, and by his legislation and his renown stamped on the mind of Christian Europe. This power had been used broadly and unsuspectingly, with the full concurrence and co-operation of the Clergy, used legislatively, administratively, judicially, within no definite limits, yet without being supposed to usurp, invalidate, or supersede the joint and parallel action of the Church. In the more energetic times, indeed, which followed the Saxon kingdom, it was no longer the undisputed prerogative which had dealt, in its rude and simple fashion, with a rude and simple time. Kings found new secrets in it; the Church had to be jealously on its guard against its early ally. But though, as all know, fierce contests followed, and as circumstances or individual character varied, limitations were fixed by compromise, carried forward by victory, pushed back by defeat, silently altered by custom, the idea of monarchy derived from the Saxon times continued from William the Conqueror to Henry VIII, as it continues to this day, the invariable tradition of England, respected and acknowledged, however interpreted by the Church, as it was acknowledged, and also interpreted, by the law.

How completely this Anglo-Saxon notion of the royal power coincided with that which is shown in the legislation of Justinian and Charlemagne, may be seen in the following passages from the collections of Anglo-Saxon laws. The royal power is thus

stated, vaguely enough, yet broadly, in the 'Laws of Edward the Confessor':—

‘*De multiplici Potestate Regia.*

‘But the king, who is the Vicar of the most high King, (*Vicarius summi Regis*), is set for this, that he may rule and defend from wrong-doers the kingdom and the people of the Lord, and above all, holy Church; (*ut regnum et populum Domini, et super omnia, sanctam Ecclesiam, regat et defendat ab injuriis*;) but that the wicked he may overthrow and root out. Otherwise he loses the name of king, as Pope John witnesses, to whom Pepin and Charles his son, when not yet kings but princes, under the foolish king of the Franks, wrote, asking, “Whether the kings of the Franks ought to continue thus content with the bare name of king?” By whom it was answered, “That it is fitting that *they* be called kings, who watchfully defend and rule the Church of God and His people, following the royal Psalmist, who says, ‘He who doeth pride shall not dwell in the midst of my house,’” &c.’—*Thorpe*, vol. i. p. 449.

The state of things shown in these laws is that of a union of powers for practical effects. The directive and coercive powers of the whole body are joined and centralised, that they may speak and act with force. The king is the overseer, the chief minister, and the spokesman of the body; he orders justice to be done, whether in Church or State, and sees that it is done. But he is not the only power. His bishops and his thanes have their own functions and powers; and both have their part in his councils. Thus Wihtræd, with the Archbishop and other great men of Kent, issues a variety of injunctions, partly civil, partly ecclesiastical, and threatening ecclesiastical as well as civil punishments—injunctions of so mixed a character, that they are placed both among the laws of England and the collections of English canons.<sup>1</sup> They command excommunication of evil livers, suspension of priests for ecclesiastical offences till the judgment of the Bishop, forbid Sunday labour, enjoin fasting. The same miscellaneous character belongs to the laws in general. In one collection of ordinances, we have an order, ‘that fifty psalms shall be sung every Friday, at every monastery, for the king, and all who will what he wills,’ interposed between a law about tracking cattle, and another about compensation for theft. (*Thorpe*, i. 222, 223.)

The collection of the laws of King Edmund begins thus:—

‘King Edmund assembled a great synod at London, during the holy Easter tide, as well of ecclesiastical as of secular degree. There was Oda Archbishop, and Wulfstan Archbishop, and many other Bishops, meditating concerning the condition of their souls, and of those who were subject to them.’

Then follow the laws, in two divisions, one ecclesiastical, the other secular. The same authority enacts both.<sup>2</sup>

<sup>1</sup> Thorpe, i. 36. Bruns, *Canones*, &c. *Concilium Berghamstedense*, ii. 311.

<sup>2</sup> Thorpe, i. 340, 341.

The laws of Ethelred are numerous and varied, and extending to ecclesiastical as well as civil matters. 'A Christian king,' he says, 'is accounted Christ's Vicegerent among Christian people, and it is his duty to avenge offence to Christ very severely.' Again, the religious character of his legislation is expressed in the following :—

'It is very justly incumbent on Christian men that they very diligently avenge any offence against God. And wise were those secular "*witan*," who to the Divine laws of right added secular laws for the people's government; and directed the "*bot*" ("amends") to Christ and the king, that many should thus of necessity be compelled to right.

'But in those assemblies, though deliberately held in places of note, after Edgar's lifetime, the laws of Christ waned, and the king's laws were impaired.

'And then was separated what was before in common to Christ and the king in secular government; and it has ever been the worse before God and the world; let it now come to an amendment, if God will it.'—*Thorpe*, i. 348, 349.

Again :—

'And he who holds an outlaw of God in his power over the term that the king may have appointed, he acts at peril of himself and all his property, against Christ's vicegerent, who preserves and sways over Christianity and kingdom [*'Cristendom & Cynedom'*] as long as God grants it.'—*Thorpe*, i. 350, 351.

The guardianship of religion, and the rights which this gave him, in conjunction with his '*witan*,' to watch over and take cognisance of ecclesiastical discipline, are expressed in the following :—

'This is the ordinance which the King of the English, and both the ecclesiastical and lay counsellors, have chosen and advised.

'1. This then is first: that we all love and worship one God, and zealously hold one Christianity . . . and this we all have, both with word and promise, confirmed, that, under one Kingship we will observe one Christianity. . . .

'4. And the ordinance of our Lord and his "*witan*" is, that men of every order readily submit, before God and before the world, each to that law which is appropriate to him; and above all, let all the servants of God, bishops and abbots, monks and mynchens, priests and nuns, submit to the law and live according to their rule, and fervently intercede for all Christian people.

'5. And the ordinance of our Lord and of his "*witan*" is, that every monk who is out of minster, and heeds no rule, do as it behoves him; let him willingly retire into a minster, with all humility, and abstain from misdeeds, and make amends ("*bot*") very strictly for that which he may have broken; let him be mindful of the word and promise which he gave to God.

'6. And let the monk who has no minster come to the bishop of the diocese, and engage himself to God and to men, that he therefore will specially observe three things; that is, his chastity, and monastic habit, and to serve his Lord, as well as he best can; and if he perform that, then he is worthy of being the better respected, let him dwell where he may.

'7. And let canons, where their benefice is, so that they may have a refectory and a dormitory, keep their minster rightly and with purity, as

their rule may teach; or it is right that he forfeit the benefice who will not do so.

'8. And we pray and instruct all mass-priests, that they secure themselves against the wrath of God.

'9. . . . And let him that will preserve his chastity, have God's mercy . . . and he who will not do that which is befitting his order, let his honour wane before God and before the world.

'If a monk or a mass-priest become altogether an apostate, let him be for ever excommunicated, unless he the more readily submit to his duty.'—*Thorpe, Laws of King Ethelred*, i. 304—307, 348, 349.

The same laws regulate ecclesiastical payments, and the observance of festivals and fasts:—

'13. Let Sunday's festival be rightly kept, as is thereto becoming.

'14. And let all S. Mary's feast-tides be strictly honoured; first with fasting, and afterwards with feasting. And at the celebration of every Apostle, let there be fasting and feasting; except that on the festival of SS. Philip and James, we enjoin no fast on account of the Easter festival.

'16. And the "*witan*" have chosen, that S. Edward's mass-day shall be celebrated all over England on xv. Kal. April.

'17. And to fast every Friday, unless it be a festival.

'18. And ordeals and oaths are forbidden on festival days, and on the regular Ember-days, and from Adventum Domini till the octaves of the Epiphany; and from Septuagesima till xv. days after Easter.'—*Thorpe*, i. 306—309.

And so with the laws of King Canute.<sup>1</sup> He makes laws for the general direction of his subjects both in Church and State, 'with the counsel of his *witan*, and to the praise of God, and the honour and behoof of himself.' And he goes even to matters of private conscience. He speaks by his own authority, though with the concurrence of his ecclesiastical as well as temporal counsellors. He prescribes duties, in their own sphere, to his Bishops. He regulates ecclesiastical ordinances, such as fasts and holidays. He enjoins Christian worship; he prescribes the form of trial and purgation of ecclesiastics, regular and secular, and orders great offenders to be excommunicated; he orders Churchmen to live each according to his proper rule: 'We will that men of every order readily submit, each to that law which is becoming to him; and above all, let the servants of God, bishops and abbots, monks and mynchens, canons and nuns, submit to law, and live according to rule, and by day and night, oft and frequently, call to Christ, and fervently intercede for all Christian people.' He speaks as one bound to preserve the faith, and to make his people obedient to the law of the Church; he bids them go to Confession, communicate at least thrice a-year, study and hold fast Christian doctrine, learn at least to say the Lord's Prayer and Creed, and keep from evil works. The vagueness which pervades all the

<sup>1</sup> *Thorpe, Laws of King Cnut; Ecclesiastical*, (i. 358—375;) *Secular*, (i. 376—425.)

Anglo-Saxon laws, (except in the matter of fines,) and the mixture of moral exhortation with legal command, give the Anglo-Saxon royalty a sort of domestic character, at least in outward appearance. But the claim to interfere in all matters relating to Christianity, and to correct all abuses, is not less clear. And in England, as abroad, it went side by side with a strong spirit of ecclesiastical independence.

The history of the English Church from the Conquest to the Reformation, would illustrate this with as much force as its history afterwards. It would show how difficult it was for the Church, even after such contests as those of Anselm and Becket, we say not to shake off, for that was never done, but to restrain, the supremacy traditionally belonging to the English Crown, and practically exercised by powerful kings. The sort of supremacy claimed by William the Conqueror, and in his case not disputed, in the face of the great contest which Gregory VII. was carrying on upon the Continent, is, considering the period, one of the most startling instances of royal prerogative. And though this was checked in his successors, by what we must consider the saintly heroism of two individual Archbishops, unaided and almost alone in their struggle, the principles for which both had suffered, and one had died,—principles, then the plain admitted foundations of ecclesiastical law, and deemed essential to the welfare of the Church,—were in every reign, sometimes more, and sometimes less, contradicted, ignored, put aside, overruled by the King's authority. The Pope was then the acknowledged chief depositary of Church jurisdiction, the organ of Church authority, and representative of the public rights of the Church—whether rightly or wrongly makes no difference: but being so accounted, both by Church and King, his action was continually and arbitrarily limited or overridden; or he was forced to condescend to compromise matters of the highest importance to the influence and interests of the Church. The idea of a supreme visitatorial power, a power of determining finally, on his own responsibility and at his discretion, the ecclesiastical relations of his subjects, was never parted with by the King, was often acted on, and but seldom and faintly protested against by the body of the national Clergy. The Church was even reminded that it was of the King's grace and goodness that she held her liberties, and was allowed to use those powers which she could not but consider her inalienable right.<sup>1</sup>

To take one instance. It is difficult to imagine, in a polity like that of the Church before the Reformation, a clearer and more intelligible right, than that of free intercourse between the Head of the Church and its members. Where the Pope was

<sup>1</sup> For instance, the *Articuli Cleri*, 1316. Collier, iii. 42—46; cf. pp. 100—103. (Svo.)

viewed as by Divine right the Chief Shepherd of the Universal Church, its governor, watchman and refuge, and the living and final interpreter of its law, it seems in theory a tyranny the most intolerable, to fetter or impede, by human regulations and for political objects, the appeal to such a judge, or the communication of his decisions or his counsels. Yet the right to control this intercourse was systematically claimed by the English kings; and when claimed by a strong king, submitted to. William the Conqueror assumed it without scruple. In later times, it became the subject of a chain of statutes of famous import and name, the statutes of Provisors and Præmunire. And these statutes, sometimes with a faint saving clause on the Pope's behalf, were not thought anything strange by the English Bishops. We will quote the account of the statute of Præmunire of 16 Rich. II.—

“ To our dread sovereign lord the king in this present parliament, his humble chaplain, William, archbishop of Canterbury, gives in his answer to the petition brought into the parliament by the commons of the realm, in which petition are contained certain articles.

“ That is to say, first. Whereas our sovereign lord the king and all his liege subjects ought of right to be, and had been always accustomed to sue in the king's court, to recover their presentations to churches, to maintain their titles to prebendaries and other benefices of holy Church, to which they have a right to present. The cognizance of which plea belongs solely to the court of our sovereign lord the king by virtue of his ancient prerogative, maintained and practised in the reigns of all his predecessors, kings of England. And when judgment is given in his highness's said court upon any such plea, the archbishops, bishops, and other spiritual persons, who have the right of giving institution to such benefices within their jurisdiction, are bound to execute such judgments, and used always to make execution of them at the king's command, (since no lay person can make any such execution,) and are also bound to make execution of many other commands of our lord the king: of which right, the crown of England has been all along peaceably possessed: but now of late, divers processes have been made by the holy father the pope, and excommunications published against several English bishops for making such executions, and acting in pursuance to the king's commands in the cases above-mentioned, and that such censures of his holiness are inflicted in open disherison of the crown and subversive of the prerogative royal, of the king's laws, and his whole realm, unless prevented by proper remedies.”

“ To this article the archbishop promising his protestation, “ that it was none of his intention to affirm our holy father the pope has no authority to excommunicate a bishop, pursuant to the laws of holy Church, declares and answers, that if any executions of processes are made or shall be made by any person; if any censures of excommunication shall be published, and served upon any English bishops, or any other of the king's subjects, for their having made execution of any such commands, he maintains such censures to be prejudicial to the king's prerogative, as it is set forth in the commons' petition: and that so far forth he is resolved to stand with our lord the king, and support his crown in the matters above-mentioned, to his power.

“ And likewise, whereas it is said in the petition, that complaint has been made that the said holy father the pope had designed to translate some English prelates to sees out of the realm, and some from one bishopric

to another, without the knowledge and consent of our lord the king, and without the assent of the prelates so translated, (prelates who are very serviceable and necessary to our lord the king, and his whole realm,) which translations, if they should be suffered, the statutes of the realm would be defeated, and made in a great measure insignificant, and the said lieges of his highness's council would be removed out of his kingdom without their assent and against their inclination, and the treasure of the said realm would be exported: by which means, the country would become destitute both of wealth and council, to the utter destruction of the said realm: *and thus, the crown of England, which has always been so free and independent, as not to have any earthly sovereign, but to be immediately subject to God in all things touching the prerogatives and royalty of the said crown, should be made subject to the pope, and the laws and statutes of the realm defeated and set aside by him at pleasure, to the utter destruction of the sovereignty of our lord the king, his crown and royalty, and his whole kingdom, which God forbid.*

“The said archbishop, first protesting that it is not his intention to affirm that our holy father aforesaid cannot make translations of prelates according to the laws of holy Church, answers and declares, that if any English prelates, who by their capacity and qualifications were very serviceable and necessary to our lord the king and his realm, if any such prelates were translated to any sees in foreign dominions or the sage lieges of his council were forced out of the kingdom against their will, and that, by this means, the wealth and treasure of the kingdom should be exported; in this case, the archbishop declares that such translations would be prejudicial to the king and his crown: for which reason, if anything of this should happen, he resolves to adhere loyally to the king, and endeavour, as he is bound by his allegiance, to support his highness in this and all other instances, in which the rights of his crown are concerned; and lastly, he prayed the king this schedule might be made a record, and entered upon the parliament-roll: which the king granted.” . . .

‘We may observe farther, that this schedule of the archbishop’s seems to have led the way to the statute of ‘*præmunire*,’ passed in this parliament: for the preamble and introductory part of the act is but a copy, as it were, of this declaration. The bill, it is true, was brought in by the commons by way of petition, who prayed the king to examine the opinions of the lords spiritual and temporal upon the contents. The question being put, the lords temporal promised to stand by the king against the pope’s encroachments: neither were the engagements of the lords spiritual less loyal and satisfactory; for they concurred in all points with the common petition, and renounced the pope in all his attempts upon the crown.’—*Collier*, vol. iii. pp. 208—210.

And now let us hear how these statutes, acquiesced in so easily by English Bishops, were viewed by the Pope. Martin V. thus characterises one of the statutes of *Præmunire*, in a strong letter of rebuke to Archbishop Chicheley.

“Now, what abominable violence has been let loose upon your province, I leave it to yourself to consider. Pray peruse that ‘royal law,’ if there is any thing that is either ‘law’ or ‘royal’ belongs to it: for how can that be called a statute which repeals the laws of God and the Church? How can it deserve the name of ‘royal’ when it destroys the ancient usages of the kingdom? when it is so counter to that sentence in Holy Scripture, ‘The king’s honour loveth judgment?’ I desire therefore to know, reverend brother, whether you, who are a Catholic bishop, can think it reasonable such an act as this should be in force in a Christian country?

“For, in the first place, under colour of this execrable statute, the king

of England reaches into the spiritual jurisdiction, and governs as fully in ecclesiastical matters as if our Saviour had constituted him His vicar. He makes laws for the Church, and order of the clergy; draws the cognizance of ecclesiastical causes to his temporal courts; and, in short, makes so many provisions about clerks, benefices, and the concerns of the hierarchy, as if the keys of the kingdom of heaven were put into his hands, and the superintendency of these affairs had been entrusted with his highness and not with S. Peter.

“ Besides this hideous encroachment, he has enacted several terrible penalties against the clergy. So unaccountable a rigour this, that the English constitution does not treat Jews nor Turks with this severe usage. People of all persuasions and countries have the liberty of coming into England: and only those who have cures bestowed upon them by the supreme bishop, by the vicar of Christ Jesus,—only those, I say,—are banished, seized, imprisoned, and stripped of their fortunes. And if any proctors, notaries, or others, charged with the execution of the mandates and censures of the apostolic see,—if any of these happen to set foot upon English ground, and proceed in the business of their commission, they are treated like enemies, thrown out of the king’s protection, and exposed to extremities of hardship.

“ Can that be styled a Catholic kingdom where such profane laws are made and practised, where application to the vicar of Christ is prohibited, where the successor of S. Peter is not allowed to execute our Saviour’s commission? Christ said to Peter, and, in him, to his successors, ‘Feed my sheep;’ but this statute will not suffer him to feed them, but transfers this office to the king, and pretends to give him apostolical authority in several cases. Christ built his Church upon S. Peter; but this act of parliament hinders the effect of this disposition: for it will not allow S. Peter’s see to proceed in the functions of government, nor make provisions suitable to the necessities of the Church. Our Saviour has ordered, that whatever his high priest ‘shall bind or loose upon earth, shall be bound or loosed in heaven;’ but this statute ventures to overrule the divine pleasure: for if the immediate representative of our Saviour thinks fit to delegate any priest to execute the power of ‘the keys’ against the intendment of the statute, this act not only refuses to admit them, but forces them out of the kingdom, seizes their effects, and makes them liable to farther penalties: and, if any discipline and apostolic censure appears against this usage, it is punished as a capital offence.” —*Collier*, vol. iii. pp. 341, 342.

He goes on to require the Archbishop, under pain of excommunication, to use all his efforts to get it repealed; and makes excommunication the penalty of obedience to it. He proceeds to steps of greater vigour; he makes void the statutes of Provisors, and of Præmunire, of Edward III. and Richard II., and excommunicates all who obey them; he orders his monitory letter to be published to the whole nation; he writes to the King, to the Duke of Bedford, to the Parliament, telling them ‘that they cannot be saved without giving their votes to repeal this ‘statute.’ Yet the Archbishop *ignores* the Pope’s censure, and excuses himself to the Pope, ‘that he could not be farther informed’ on the censure, ‘because he was commanded by the ‘king to bring those instruments with the seals whole, and lodge ‘them in the paper office till the Parliament sate;’ and the

Parliament, after hearing the Pope's letter, and an exhortation of the Archbishop to attend to it, simply does nothing, and leaves the statute as it stands.

We cannot then, in spite of the abuses of Henry VIII., deny that the Church had, long before his time, admitted the King's visitatorial power. Henry may have used it to her hurt, others for her benefit. He may have asserted it in extreme cases, and worded his claim in the most extravagant terms—terms which his successors shrunk from and gave up. But, unless terms and phrases are all that is to guide us in judging of a case, he can only be said to have misused a power, which the Church had allowed, when used in her favour. The principle which was finally laid down and agreed to by the English Church and the Crown in the 37th Article, cannot be said to be a new or unknown or peculiarly English principle. The principle of visitatorial power in the Crown, of keeping all things in their place, and all persons to their duty, of seeing to the due execution of all law,—with all that such a principle involves of final responsibility, and final discretion, governs, as we have seen, some of the most important and largest developments of Church influence. It governs the earliest specimens and the most august models of European legislation—that of the Christian Roman empire, and that of the Christian Frank empire. It is equally shown in the homely and common sense arrangements of the Anglo-Saxons; and it is not more distinctly asserted in the uncontradicted and tranquil prerogative of Justinian or Edward the Confessor, than in the contested and balanced royalty of Henry II. or Richard II. Even in the presence of an antagonist power to which, in the imposing form which it at last assumed, Justinian was a stranger, the royal authority maintained its claims obstinately and tenaciously.

The words of the 37th Article are almost the very words of Edward the Confessor's law, based on a pope's rescript. But Justinian and Charlemagne went beyond what would be a fair though large interpretation of those somewhat vague terms. We do not see how it can fairly be denied that they were 'Supreme Heads in Earth' of the Church within their realms, in whatever sense the title was claimed by Henry VIII. Not to speak of two very important points, which rested with them, whenever they pleased to interpose,—the appointment of Bishops and the calling of Synods,—the eastern and the Carlovingian Emperors interfered, without scruple and without remonstrance, in any ecclesiastical matter which they judged to require either their sanction or their correction. 'For the increase of virtue in Christ's religion within their realms, and to repress and extirpate all errors, heresies, and other enormities and abuses here-

‘tofore used in the same,’ they of their own authority decreed the acceptance of the faith, interfered with and confirmed councils, repressed errors, condemned heresies, ordered the degradation or excommunication of heretics. Henry VIII. claimed ‘full power and authority from time to time to visit, repress, ‘redress, reform, order, correct, restrain, and amend all such ‘errors, heresies, abuses, offences, contempts, and enormities, ‘whatsoever they may be, which by any manner spiritual ‘authority or jurisdiction ought or may lawfully be reformed, ‘repressed, ordered, redressed, corrected, restrained, or amended, ‘most to the pleasure of Almighty God, the increase of virtue ‘in Christ’s religion, and for the conservation of the peace, ‘unity, and tranquillity of the realm.’ The early emperors, as we have seen, took on them to sanction and give authority to Church canons, not merely in the State, but in the Church; they watched over the due observance of these canons; they issued injunctions of their own, having in view the same objects as the canons, but framed by themselves and resting on their authority, to regulate the mode of election of Bishops, their qualifications, duties, liabilities, manner of life; the forms of ecclesiastical proceedings; the interior economy of the monastic system: they addressed these injunctions to Patriarchs, Metropolitans, and Bishops; they threatened them with ecclesiastical penalties for negligence or disobedience; they empowered civil commissioners to visit for the maintenance of ecclesiastical discipline, to restore its decay, ‘redress’ its ‘abuses,’ and ‘correct’ its ‘enormities.’ Surely, between the claim of Henry VIII. and that of sovereigns who professed to judge between what was right and what was wrong in doctrine, and to see that right doctrine was alone taught—whose ordinances embraced indifferently both purely ecclesiastical and civil matters, who directed spiritual punishments, who enforced ecclesiastical discipline by civil officers, who asserted the right to stop the ordinary course of ecclesiastical proceedings, for reasons of which they were judges—it is not very easy, in principle, to draw a line.

The real difference is in the understanding on which such interference was accepted. It was accepted when the sovereign was not only on good terms with the Church, but sympathised heartily with her faith, her system, her discipline, and her objects. Neither party stood on forms or etiquette; they trusted and understood one another. The Clergy knew that their spiritual powers were as fully believed in and recognised by the King as by themselves; they had no need to seek even the disclaimers asked for and given in more suspicious days; and at a time when, if ever, they were alive to the greatness, incommunicable by human power, of their function, they freely admitted the association of

that power with their own, even in their own peculiar province.

Things had altered greatly at the time of the Reformation. But, as has been often said, the idea of a Christian and responsible king, embarked in the cause of the Church, and identified with her interests, still existed even under Henry VIII.—to revive with greater force at subsequent periods. And further, it is plain that the idea of the essential distinctness of the spirituality, drawing its peculiar power from more than earthly sources, was still a clear and strong one; and as plain, that the spirituality was a real and acknowledged complement and co-efficient of the Crown, in the government of the Church. Whether synods were in theory said to be dependent on the Crown, as a matter of fact they sate; whether articles and formularies required the consent of the Crown, the Clergy made them. The proof of this depends, not on the formal disclaimers of spiritual functions contained in injunctions and articles, but in the records of the time, and the books it has left behind it.<sup>1</sup> But what is the case now?

We have not disguised or understated the strength of the case for the Supremacy. We have not, as we are aware, even stated its full strength. We have left out, for instance, the whole history of the French Church, from the time of the great Western schism to Napoleon: a history whose characteristic features the modern French Church, so differently situated, seems disposed partly to lament, partly to extenuate, on special grounds and fine distinctions; but which exhibits as a fact, a practical and energetic supremacy on the part of the Crown, resisted by the Pope as irreconcilable with Catholic truth and law, yet accepted and defended in principle, and submitted to in practice, by the great body of the French Church, when it was the most illustrious branch of Christendom. We do not disguise, we say, the amount of precedent which may be alleged for the supremacy, whatever be the true way of dealing with precedents, as bearing on *right* in ecclesiastical polity. On the contrary, we wish it to be distinctly ascertained and understood how the facts stand, that time and other precious

<sup>1</sup> The distinction of the 37th Article was used in the discussions in France, during the great schism, on the king's right to withdraw his kingdom from the Pope's obedience while the schism lasted. In the council held at Paris, in 1406, Pierre Plaoul, speaking in the name of the University of Paris, says: '*Je ne dis pas que la puissance temporelle administre les sacremens, ni qu'elle s'entremette de conférer les ordres. Mais quand elle voit tel schisme, de quoy il luy conviendra un fois rendre compte, pourquoy ne se conseileroit-elle pour savoir quel remède est convenable? C'est très grand mérite et vertu au prince temporel, quand il fait ce que doit faire le prince spirituel; et fait très grand plaisir à la puissance spirituelle, posé qu'il déplaie à celuy qui préside en telle puissance.*'—*Crevier, Hist. de l'Univ. de Paris*, iii. 350.

things may not be thrown away in maintaining untenable ground. But we say this,—that the facts which prove the supremacy, prove also, and with exactly the same force, that it existed on an understanding; and that understanding was one which not only recognised the independent existence of the Church, of her powers, and laws, but recognised them as the rule, and as the first and highest care, of civil government.

But now this understanding no longer exists. The conditions on which the Church accepted, and, it may be, courted the supremacy, are evidently changed. We are not speaking of rights of control generally, which the nation and its Parliament may claim over the Church, as over other bodies, as the correlative to advantages conceded. We are speaking of the ecclesiastical supremacy of the Crown.

Legally, the position of the Crown in the civil government is not much changed from the days of Edward the Confessor; politically and constitutionally, it is altogether changed. As a power, it is a ministry or a government, constitutionally limited by and dependent on Parliament; as a person, the Crown stands at the head of a nation, like all other free nations broken up into recognised and tolerated parties—and is bound to neutrality. Such is the position of the Crown in temporal matters, though acts of Parliament as well as articles of religion, attribute to it the supreme government of its imperial realm, in temporal matters as well as in spiritual, and in terms as absolute and unrestricted in one province as in the other. But in temporal matters this position, fixed by many conflicts and compromises, and ascertained by usage, is unambiguous and understood by all—the Crown is still a power, but it acts only concurrently with other powers, who are interested in the same great objects with itself,—whose rights to influence government have been proved and established, and whose sense is clearly and constitutionally ascertainable. But as to ecclesiastical matters, the minds even of keen statesmen are, or seem to be, under a singular confusion. They cling, with inconsistent tenacity, to a notion of ecclesiastical supremacy entirely different from that which they entertain of temporal; and are taken aback at the idea of limitations on the one, which they have all their lives assumed as first principles in the case of the other.

It is natural that the nation should have outstripped the Church—that the Crown should still, at this day, be holding towards the Church the same sort of position which it held towards the nation under James I.—acting concurrently with free legislation in one case, without it in the other. But though natural that this should have happened, it is not reasonable that it should continue; not more reasonable in one case than in the

other, on grounds common to both cases; still more unreasonable under the special circumstances of the Church.

Whether the Crown be regarded personally or constitutionally, the grievance of the Church, arising out of the anomalies of the present received view of the royal prerogative, is the same. Personally, the Crown is the defender of the faith, and protector of the Church; personally it is supposed to be, as it was in other times, in intimate relation and in full sympathy with the Church; but things are altered from the original understanding, if, what the Church asks, the Crown *cannot* grant, except its ministers advise it. But if the Supremacy is no longer to be viewed in this personal light, then there is no reason why it should not be subject to the same constitutional system which it acknowledges in civil government. The Church is, of itself, a substantive and organized body, and has hitherto been always supposed to be so—supposed not only in the theories of divines, but by the law of England. But if, when a question of doctrine deeply interesting to the Church is decided in such a way as to change her position as to that doctrine, she have no opportunity—the opportunity be denied her—of expressing her sense on this change in her position, this is not acknowledging her substantive existence and laws; it is a valid and just proceeding only on the assumption that she has been transformed, or has melted away, from a Church, which she once was, into a phase, a peculiar aspect or *sidé*, of the nation of England, for which the Parliament and Courts of England are the only rightful authorities, as they fully and fairly represent its mind, in the making and execution of laws. And those, to whom such an assumption comes as a contradiction of those principles on which they have hitherto held the Christian faith, have but one course left them. They must get it overthrown. They must not rest till an assumption so insidious and so fatal be negatived in fact, as it is contradicted by all previous theory, by all existing law, and by the doctrine of the Supremacy itself; negatived by the unequivocal and unambiguous exhibition of her distinct functions by the Church herself.

To invoke the doctrine of the Supremacy, as a reason for letting things remain as they are, is as irrelevant in argument, as it is insulting to the Church in policy. The Supremacy in its palmiest days implied joint powers; the effect of it as urged now, is to extinguish one of these powers altogether. The Supremacy was, and is still, in its formal terms, granted to the Crown; not to whomsoever the Crown might transfer its responsibility and assign its authority. The understanding never was that the ecclesiastical power should be transferred to a body of men, neither representing the Church nor identified

with her in feeling, in purpose, in belief, into whose hands, by the effect of political changes, had passed in reality the old civil and temporal functions of the Crown. No mass of precedents for the Supremacy touches this point; much more do they cease to be of force, as soon as it is understood, that by transferring the ecclesiastical authority of the Crown to the Parliament, the Ministers, and the Civil Courts, she thereby surrenders for good all claim and right to a separate and distinct authority of her own. She never did this to 'godly emperors,' and certainly cannot be expected to do it to a liberal Parliament.

There is no ground in reason to be alleged against the distinct action of the Church by her Bishops and Synods, except the most general conservative ones—very respectable ones, yet not conclusive. Yet, it cannot be dissembled that in practice they are likely to be far from inoperative; especially when that which is sought to be maintained intact, has a remote and possible importance, beyond itself. Among the strange spectacles which may be reserved for us in time to come, is that, possibly, of a liberal Minister, maintaining with a grave face in a modern House of Commons the doctrines of Thomas Cromwell and Lord Burleigh on the rights of the Crown, and recommending to the consciences of the Clergy an interpretation of the Oath of Supremacy even more rigid than that of Queen Elizabeth; and then interpreting an absolute submission to the Crown to mean, a recognition of the sole and supreme authority of Parliament in the legislation of the Church, and of himself, the minister, in its administration. But the opposition of a Cabinet is a difficulty which men in these days have ceased to regard as insuperable, though for the moment formidable. Reason reaches even ministers in time; and they, too, as well as others, maintain at their peril, even though with temporary success, a hollow theory or a masked falsehood. There are more important points to occupy the attention of Churchmen than the repugnance of ministers to disturb a *status quo*,—matters which, whatever be their moral, must not be overlooked by those who may be called upon to think and act in behalf of the English Church in times of difficulty and change. A clear understanding of our whole position is as necessary as a keen and true sense of the grievance of which we complain.

The battle which we seem called upon to fight is not confined to one time or one branch of the Church. We misjudge it when we isolate it. We are tempted to exaggerate,—not its importance to ourselves,—but its singularity, and its conclusiveness. Important as it is to us, it is but a repetition of what has happened to our fathers. Every age thinks that questions raised in former times, are at last to be settled for good in its

own; that doubts are to be cleared up, limits fixed, the great crisis to be decided once for all, so that posterity shall be able to see its way and choose its side. And every age has hitherto proved to be mistaken. A contest is but a step in a deeper, wider, more enduring strife; its settlement one way or the other ends nothing necessarily but the particular dispute. It neither establishes securely, nor finally overthrows, the principles which seemed to be at stake in it. They may survive it: whether they do or not, whether the war may still be hopefully carried on, is seen in history to have depended very little indeed on the issue of solemn arbitraments, and apparently conclusive terminations. In our own case we say that the struggle between the political and ecclesiastical powers has been going on since the Reformation, and seems now at last likely to be decided. Let us take a wider view. Let us consider whether it has not been going on since the Conquest, since the conversion of England, since the conversion of the empire. Let us think whether it is not sure to go on, whatever may happen now, for ages to come; as long as Christian belief and Christian principles work in men's minds. Doubtless we may, by our cowardice, our concessions, or our rashness, indefinitely prejudice the cause of those who come after us. But it may give steadiness and calmness to our minds to recollect, that matters, probably, will not end with our settlements; and that if we act in faith and earnestness, even our mistakes may not be more fatal than our fathers' have been to us.

Again, seeing the struggle from so near, we come insensibly to look on it as a peculiarly English struggle; that the gradual loss of Church power, and narrowing of Church influence, is a peculiar note against the English Church. It may not be consolatory, but it is at least wise and fair, to see how matters stand with the Church in general. Is this circumscription of sphere, and loss of rights, and surrender of principles, confined to England, or confined to the English Church, since the Reformation? What was the prominence and extent of ecclesiastical jurisdiction in France, Italy, or Germany, in the 5th, the 10th, the 15th centuries, compared with what it is now? What has become, in countries of the Roman obedience, of the Church claim to draw to its own tribunals, matters where religious duty and conscience were involved—marriage, oaths, wills, the care of the poor, of widows and orphans, the crimes of ecclesiastical persons? What has become of those exemptions, claimed once, not as privilege, but as rights given by the Christian law, guarded so jealously, protected by excommunication? Where are all those causes decided now, which gave occasion to that vast and

imposing mass of canonical law, once the living rule of Christendom, which attracted to its study, not less the ambition than the subtlety and learning of many centuries? What were the penances which the Church appointed and enforced in the 3d century—what were they in the Frank and Anglo-Saxon penitential canons—and what are the penances which the Roman Church now thinks her people able to bear? What is now, we do not say the spiritual effect of excommunication, or the increased discretion in using so awful an instrument, but the practical feeling of society about it, which gave it its force as a weapon of the Church in former ages? How was a pope's interdict felt under King John, in England? How was it received in Catholic and devout Venice in the 17th century, where, after a total disregard of it for a whole year, by the whole body of the clergy, except three of the orders, the Pope was obliged to content himself with a diplomatic compromise; and his legate's tact was tried in imposing on the reluctant Venetians, not a penance, but an absolution, so private and so informal, that they continued to deny that they had either wanted or received it? What was the feeling of the Church about her property in earlier times, and what were her real powers of guarding it; powers of course dependent on the extent to which her feeling was shared by society at large? And what have been in later times—in Austria, in Tuscany, in Naples, in France, in Spain—we do not say the encroachments of greedy nobles, but the sweeping confiscations of Catholic kings or Catholic governments—and how has the Church judged it expedient to meet it? Has she spoken of excommunication? or, if she has spoken of it, has it not been in a whisper; very unlike, either for dignity or effect, to her awful voice of old? The theory of the deposing power is written in the pages of Bellarmine, and Bellarmine is still one of the greatest doctors of the Roman See—is the case conceivable, in which that power would now be used, to vindicate a right, even to avenge an outrage? Who would have deemed it credible or probable beforehand, that any circumstances should arise, which should make it a question with a pope, whether or no he should endure such a system as that which imposed the 'Organic Articles' on a Church of his obedience? and, it may be added, who could have said, that after such a step, by such an authority, it would be possible ever to retrieve it?

It is not in England only that the Church has withdrawn from ground which she once claimed, that her hold on society has been loosened. In fact, the English Church has retained far more of her ancient position and power than any other of the Western Churches. And let it not be said that the explanation

of this is in *her* spirit of compromise and *their* spirit of independence. It has not been by pressing their spiritual claims, and protesting against the world, that they have been deprived of their temporal power. The charge of compromise comes hard from them. Surely the principle of condescension and compromise has been accepted and acted on by the Roman Churches in the most varied forms; in privileges, in indulgences, in dispensations, particular and general, in concordats. It does not follow, because their difficulties are different from ours, that they are entitled to the monopoly of rightful compromise. They have yielded, to avoid breaking with the powers of the world, to secure their concurrence, to retain the means of power. They have yielded, when they could not avoid it, by making *that* the formally free act of the spiritual power which in reality it was forced to submit to, or risk a schism or a persecution. Acquiescence, guarded by refined reservations, has been the rule; resistance the exception. It has been so, because it seemed to thoughtful and well-intentioned men the best way at the moment of preserving the influence of the Church. And yet, notwithstanding Roman prudence, Roman losses have not been small.

If then we have to bear up against the discouragement of an apparent diminution, steadily and uniformly progressive, of Church influence, it is not our trial only. And if so, there is no wisdom,—even in order to strengthen an argument, or enforce an appeal,—in claiming a monopoly of grievance, or the lowest depth of degradation. But perhaps we misinterpret altogether the apparent law of Divine Providence. Perhaps the right way to look at former liberties and powers of the Church is to view them, not as things sacred in themselves, and meant to be held fast for ever, but as having laid a ground for us, without which we should not now be able to do our work in furthering God's kingdom; and their gradual disappearance, not as significant of the weakening of the Church, but as pointing to the line on which henceforth the Church is to be mainly thrown for its influence; that moral superiority which seems still to have an irresistible hold even on a sceptical and self-relying age,—‘by pureness, by knowledge, by long-suffering, by kindness, by the Holy Ghost, by love unfeigned, by the word of truth, by the power of God, by the armour of righteousness on the right hand and on the left.’ In this respect, and in others also, she seems being thrown back on her earlier days.

To keep in view, practically and vividly, both what is moral and spiritual, and what is political, in that mixed system which upholds and strengthens the Church, is the necessity and the

difficulty of those who have to work for her. It is not so easy to adjust these two lines of thought and action ; not so easy for the same mind to follow both, for they naturally attract the interest and sympathy of different classes of minds. In exclusive attention to either there is the danger, on the one hand, of a vague and dreamy hopefulness, or an equally dreamy despair, ruinous to all thought, all effort, all practical truth ; and on the other, of a stiff attachment to special points or measures, and a forgetfulness in the bustle and conflict of ecclesiastical business, and the necessary technicalities of theological debates, of the inscrutable mysteries of nature and grace on which they bear. To be dogmatic and not to be verbal—to feel that a remedy or a safeguard may in itself be temporary, and yet for the time indispensable—to appreciate in their full extent the evils and the perils of the day, without losing sight of its real good and its grounds of hope—to bear without flinching, and without glossing them over, uncomfortable facts—to be able to endure the humiliation of an unanswerable retort, or the still greater humiliation of apparent temporising or conniving at evil—to be earnest for a principle, without being the slave of a watchword—finally, to be able, without ceasing to be zealous for the work of to-day, to consider it in the light in which in years to come we shall look back on it,—this has been necessary for the defenders of the Church in all former ages, and cannot be less necessary now.

It would be weakness to disguise from ourselves that we have a serious prospect before us. What is now proposed and looked forward to by Churchmen is a change—a change startling to the minds of most men, an anxious one, probably, to all. To bring it about, the usual obstacles to change must be encountered—political suspicion, political dislike, political indolence, political caution ; strong adverse precedents understood in the most adverse sense. Still the claim—that what the English Church would have a right to, *were she but a sect*, she has a right to, as a power in the English State, as *the Church*, recognised by the English nation,—namely, the right to be really represented, as a Church,—is so strong and so reasonable, that when she makes it in earnest she must be heard. And the change, though great, is in entire harmony with that principle of improvement which has worked so long and widely in England ; which does not destroy, but add on ; which alters with as little visible change and break as possible ; which, leaving what it finds, reinforces what appears too weak,—a principle of compensation and remedy, not of substitution and obliteration. But in making the change, technical difficulties, perhaps great ones, must be anticipated ; and difficulties would

not be over with the restoration of the English Synod. Then would come the difficulties of government. And what they have been in the active and influential periods of Church history, as in the days of the Councils, the Schisms, or the Reformation, we, accustomed only to paper controversy, know little.

Doubtless, great difficulties await us, for we have a great duty to perform, and a great stake to win. To expect that a Church, claiming the position, and exercising the power and influence which the English Church does, is to go quietly through an age of thought, and boldness, and jealous watchfulness, without having to meet real difficulties at every step, is to expect what is contrary to that course of things in which the Church, though divine, has to take her part—is contradicted by all her history. It is impossible, without shutting our eyes, that we should not feel the seriousness of the prospect: it is impossible that such a prospect should not raise misgiving and anxiety.

But misgiving is not always so ominous as confidence. 'It is, indeed, a season of trial and uncertainty; but the most glorious days of history have dawned in doubt; and it is only what every conquering host has suffered on the morning of victory, if England is now spent with exertion, harassed by perplexity, and saddened with the recollection of many reverses'—so speaks a politician, looking forward, after a discouraging past, to a future no less replete with fear than with promise,—full of perilous risk, and of the chances of failure,—a new era of colonization. It would indeed be a painful contrast if Churchmen should meet their seasons of anxiety with less high and firm a heart, with less steadiness and faith; and that, with such a history as the Church has had. We are sure that we express the feelings of many minds, when we say, that of all the wonders of history, the history of the Church is the strangest. How it has lasted—how ever seeming to fail, it has never failed—how strangely it has seemed to change, yet has remained in spirit and substance the same—how, not through ages like those of Egypt or China, but exposed to the most changeeful centuries of history, it has still kept its own faith,—kept it, out of all analogy with that principle of change which seems a law of European society, and with those human changes which the Church underwent itself,—how, we say, this faith, which to human eye seems but opinion or prejudice, has resisted that fluctuation which no opinion or prejudice has been exempt from, and how, again, it has survived trials enough to destroy the firmest belief that was *but opinion*, trials brought upon it by the evil elements which had gathered round it, and provoked a retribution which threatened more than themselves,—with

what strange security both the Church and its doctrine have taken up without hurt, principles apparently destructive,—this may make a philosopher marvel, and a Christian believe and give thanks. And what is true of the Church Universal, is not less true of the last three centuries of the English Church.

But, in spite of all this, there is one contingency which, in the present state of the world, comes unbidden into our thoughts. It may be the fate of the Church throughout the world, to sink again, as regards the State, into the condition of a *sect*, as she began—to sink from being the associate—honoured, or disliked, or reluctantly acknowledged—of Governments,—to be ignored by them as a mere school of thought, or watched as a secret society, or legalised as a harmless or even an useful association. Something like it has happened abroad; and it may follow here. But do not let us use words lightly about it. If it comes we may turn it to account, as it has been turned to account abroad. But before it came, the Church abroad shruok from no sacrifice, which she could consider lawful, to avert it; she well knew what she would lose by it, whatever might be its compensations. And surely the Church here would be inexcusable if she courted it or needlessly let it come to pass. This great nation of Englishmen is committed to her trust; if she cannot influence them, what other body has a more reasonable hope? If they will break away from her, or cast her off, let it be clearly their fault, not hers, or that of her clergy. She and her clergy have much to answer for; but the heaviest of their former sins will be in comparison light, if from impatience, from want of due consideration of the signs and changes of the time, from scruples, from theory, from fear of being taunted with inconsistency, or want of logic, or love of quiet, or insensibility to high views, or indifference to the maxims of saints—or any other of those faults of feeling or intellect, which are common at once to the noble and the feeble, the sensitive and the timid—she, or they, throw up that trust.











