





LIBRARY
OF THE
UNIVERSITY
OF ILLINOIS

3.
THE

POLICY OF THE CHURCH OF ROME

PROMOTED BY THE

ABUSE OF THE ROYAL SUPREMACY,

AND THE

Remedy in Convocation:

A LETTER

TO THE

REV. DR. JEREMIE,

SUB-DEAN OF LINCOLN,

AND REGIUS PROFESSOR OF DIVINITY IN THE UNIVERSITY OF CAMBRIDGE,

IN REFERENCE TO THE

APPROACHING ELECTION OF PROCTORS.

BY

F. C. MASSINGBERD, M.A.

PREBENDARY OF LINCOLN,

AND RECTOR OF ORMSBY.

LONDON:

FRANCIS & JOHN RIVINGTON,

ST. PAUL'S CHURCH YARD, AND WATERLOO PLACE.

1852.

LONDON :
GILBERT AND RIVINGTON, PRINTERS,
ST. JOHN'S SQUARE.

A

LETTER,

&c.

MY DEAR SIR,

I AM thankful for your obliging permission to address you on a subject of deep importance, entitled as you are by your position, and qualified by your learning, to be a judge of such a question. And as you have a voice in the election of a Proctor from the Chapter with which, by the kind favour of the Bishop, I am also, however slightly, connected, if not also from the diocese, I beg leave to submit to your consideration some of the reasons which have led me to think that some important step ought to be taken on the meeting of the next Convocation.

On that occasion the new Convocation will be called upon, according to immemorial custom, to address the Crown; and it seems reasonable that we should prepare ourselves, in the mean time, for the course to be then adopted. It is probably now pretty well understood that it is competent to any body of Churchmen to petition the Convocation; and if so, it seems peculiarly important to do so in reference to this, the only act over which that body possesses as yet an unfettered liberty of action. And since we must be convened under the joint authority of the Crown and the Archbishop, by the writ of our own Bishop, for the purpose of sending to Convocation those who shall represent our own opinions, we are unques-

tionably bound to consider what opinions we wish them to represent.

I am not going to dwell upon the common objections to the revival of synods, arising from the fears of dissension and the like. Not that I think that such apprehensions are not deserving of respectful consideration, but because it appears to me that the time is come when they must be overborne by the overwhelming necessity of the case. And, believing as I do, that the Royal Supremacy has, of late years, not only been abused, but the very purpose for which it was restored at the Reformation perverted to the contrary, I would invite your especial attention to this particular fact.

It has always been contended by all constitutional lawyers, as well as by all Churchmen of any learning, that the Royal Supremacy is the inherent privilege of our princes, and the natural defence of the Church against the encroachments of Rome. What I wish to shew is, that this Supremacy had been used in defence of the independence of the Church of England long before the Reformation; that it was so used during the progress of that great movement, and that its use is defended on that very ground. Next, that controversialists of the Church of Rome were accustomed to allege certain particular instances, in proof that this Supremacy had been pushed beyond its due bounds to the extent of enslaving the Church; and that our own controversialists met this imputation by denying the fact in the particular instances alleged. Lastly, that *in these very instances* thus alleged against us, the Government has now of late years assumed, and the courts of law have solemnly declared, that we are, and always have been, subject to its absolute control.

If this can be shewn, one of two conclusions must inevitably follow. Either our own controversialists, our reformers, and their successors, were dishonest men, defending a system which they knew to be hollow, by arguments which they knew to be false; or, the State has

usurped, since the Reformation, a power which it neither had before nor then obtained, and such a power as destroys the very foundation of one main part of our defence against Rome, by shewing the truth of her premisses in this part of her controversy against us.

That the Royal Supremacy was used before the Reformation in defence of the independence of the Church, may be shewn by so many instances, that the difficulty consists in selecting them. It may suffice to mention the Statutes of Provisors¹, and of Præmunire²; by the former of which the Papal court was restricted from giving or selling the *reversion* of livings beforehand; while by the latter it was solemnly declared by the Clergy, as well as the Parliament, that “the Crown of England, which hath been so free at all times that it hath been in no earthly subjection, but immediately subject to God only,” should not “be submitted to the Pope, and the laws and statutes of the realm by him avoided at his will,” &c. Under the operation of this law, which is unrepealed, no bull or other papal document could be executed in England by any spiritual person without the royal licence. And there are numerous instances on record of Bishops and Clergy being forbidden to execute such documents, and of persons charged with them being forbidden to enter the kingdom³.

To shew the way in which the Royal Supremacy came in aid of the independence of the Church in regard to the

¹ 25 Ed. III. st. 2, A.D. 1350. 13 R. II. st. 2. § 2, 1389.

² 27 Ed. III. st. 1. c. 1. 16 R. II. c. 5.

³ A great number of instances of the exercise of the Royal Supremacy in these earlier times are adduced by Sir Roger Twisden (*Historical Vindication*, ed. 1675, p. 108, seq.). One of these may be especially worthy of note at the present moment. He says that the kings sometimes “placed by a lay-hand Clerks in Prebendary or Parochial Churches, *Ordinariis penitus irrequisitis*.” He quotes Matt. Paris, *Additament*, p. 200, n. 6. And says that Lindwood was forced to account for it by *supposing* a Papal privilege. It is not contended that such is a rightful exercise of the supremacy. Yet on the other hand, we certainly have never heard that the Church of England in those times was said to have *forfeited Catholic Communion*, by submitting to such encroachments of the Civil Government. Why should it be said so now?

election of Bishops. We often hear it said that the "liberties of the Church" are guaranteed by Magna Charta; and in words they are so. But at a time when the Church itself was absolutely subject to the Pope, the liberty of the Church, in regard to exemption from tyranny at home, was very soon found to be nothing else than the dominion of the Pope. And we find accordingly, that within half a century from the time when that great statute had been ratified by Edward I.⁴, the sagacity of his grandson found a way to guard himself against this result, by reverting to the original practice of the kings his predecessors. For in the Statute of Provisors⁵, after reciting that "the free elections of Archbishops, &c., shall hold from henceforth, in the manner as they were granted by the king's progenitors," &c., he proceeds to enact that in case of Provision by the Court of Rome, "our Lord, the King, shall enjoy the collations, &c., *such as his progenitors had before that free election was granted*, since that the election was first granted by the king's progenitors upon a certain form and condition, as to demand licence of the king to choose, and after the election to have his royal assent, and not otherwise, which conditions not kept, the thing ought by reason to revert to his first nature."

Now, it is certain that no such conditions were contained in Magna Charta, which granted free elections; and the inference is, that the condition was understood, on the ground of the impossibility of alienating an inherent right of the Crown, the natural defender of the liberty of the English Church. And it was precisely on this same ground, of defending the true liberty of the English Church, that Henry VIII. proceeded when he enacted,⁶ that on every vacancy of a see, not only should the king as usual grant a *cong e d' lire*, with a letter bearing the name of the person whom he desired to nominate, but *that the Chapter should be bound to elect such nominee under the penalty of*

⁴ Magna Charta of Hen. III. 1225, recited by Edw. I. an. regni 28, 1300.

⁵ 25 Edw. III. st. 2, an. 1350.

⁶ 25 Hen. VIII. c. 19.

præmunire. For since the time of Edward III., when the so-called "liberty" of Magna Charta had been restricted, as we have seen, not as against the Church of England, but against the Pope, the Popes had still contrived to carry their point in the elections, by setting aside the person elected, whether nominated by the Crown, or freely chosen by the Chapter. But from the time that the Chapter were compelled to elect the king's nominee, this course became no longer practicable. Nothing is here said about the expediency or propriety of adopting such a course. The fact is what I contend for, that the constitutional view of this law is, that it was the only effectual way of restoring the true independence of the Church of England, by annihilating the influence of the Pope over the election of her Bishops⁷.

But if so, on what ground can such a law be maintained; and not maintained only, but carried out to the most exaggerated results, when it has become no longer possible for the Pope to pretend to such an influence? As a temporary measure it succeeded in separating the Church of England from its former dependence on the Pope. This accomplished, so violent a remedy ought to have been reduced to its original conditions, by which the king might indeed *give leave* to elect and *nominate* whom he would recommend, but leaving the actual election free as it was before, and as it is guaranteed by Magna Charta. And if this ought to have been the case, even while some seeming acknowledgment of the existence of the Church of England was still continued at Rome, *how much more when the fact of setting up a rival hierarchy has rendered the future interference of the Pope in our elections a simple impossibility!* That event has destroyed even the vestige of a reason for the continuance of restrictions imposed for the purpose of obviating an interference which it places beyond the bounds of possibility. From the time that the Pope has pretended to wipe out the Church of England from the map of Christendom, and to

⁷ See Coke, Inst. Pt. iii. c. 54, p. 121.

set up a new Church in its place, he has precluded himself for ever from the pretence of interfering with her elections.

And what are the steps which are taken at this same moment by the State of England, and by those who consider themselves the strongest opponents of papal influence and supremacy?

First, we are told that an address has lately been presented to the Archbishop, signed by above three thousand clergymen, emphatically declaring their adherence to the Royal Supremacy in its present enlarged and exaggerated aspect. Believing, as I do, that the Royal Supremacy, rightly defined, is still the proper safeguard of the Church, I can entertain no feeling but that of respect for those whom I believe, nevertheless, to have chosen a peculiarly inappropriate occasion for expressing such an opinion. But as regards the exercise of this power itself. If it be true, as I contend, that the act in question has put the finishing stroke to any remaining pretext for the retention of such a law, much more may it be expected that at least the law, if continued, would be executed with moderation and forbearance. And here, therefore, I venture to call, Sir, your especial attention to the discrepancy between the modern glosses of our legal courts on the operation of that law, and the grounds on which it was originally defended by our best writers in their controversy with Rome.

It was natural that controversialists of the Church of Rome should seize upon this restriction upon the free election of our Bishops as a strong point in their charge against us, of having yielded up the independence of our Church to the State.

Accordingly, in the concluding part of the controversial work of Abraham Woodhead, printed at Oxford in 1767,⁸ he thus complains of this part of the Royal Supremacy.

⁸ "Church Government, Part v. A relation of the English Reformation, and the lawfulness thereof examined by the theses delivered in the four former Parts. (No name.) Printed at Oxford, 1687."

“By virtue of such Supremacy King Henry took away the just authority of the Patriarch, established by Councils, for Confirmation of Metropolitans in this Church, subject to his Patriarchate; and necessitated also his own clergy, under the penalty of incurring a premunire, to consecrate and invest into bishoprics void, any person whatever whom he should nominate and present⁹.”

This book was answered, among others, by Dean Aldrich, who replies, in explanation of some admissions quoted by his opponent from Bishop Carlton¹. “But this apostolical institution and collation, by the Bishop alluded to, doth also involve in it ordination, But the *collation* challenged by our Princes is of another nature, and signifies no more than the nominating a person to be ordained to such an office, or presenting a person already ordained to such a benefice. And the right of investitures (which is the same with such collation) is by this Bishop asserted to Emperors².” But, as if on purpose to exemplify the tendency of the present state of things, we have the best defence of this state of the law in the celebrated book of Francis Mason on English Orders³. In reply to the objection of the Romanists, that we had surrendered all liberty in regard to the appointment of our Bishops, Mason first describes⁴ the course of proceeding at an election, as follows: “In the vacancy, the King granteth to the Dean and Chapter a licence, as of old time, &c. . . . and which (election) being duly certified, the King giveth his royal assent, and signifying and presenting the person elected to the Archbishop and Bishops, as the law requireth, he giveth them commission, and withal requireth them to confirm the said election.”

⁹ Church Government. Part v. p. 99.

¹ “Animadversions on the eight Theses, &c. Oxford: Printed at the Theater. Anno 1687.” (No name.)

² Ibid. p. 47.

³ “Of the consecration of the Bishops of the Church of England, against Bellarmine, Saunders, Harding, Allen, &c., by Francis Mason, of Merton College, 1613.”

⁴ Ibid. p. 121.

And then, after some further observations, the same writer proceeds as follows: "Whereupon the Archbishop and Bishops proceeding according to the ancient form in those cases used, *do cause all such as can object, or take exception, either in general or in particular, either against the manner of the election or the person elected, to be cited publicly and peremptorily to make their appearance. When the validity of the election and the sufficiency of the person are by public acts and due proceedings judicially approved, then followeth consecration,*" &c.

This, then, is the first of those instances on which I rely, in proof of the assertion that the Royal Supremacy, intended as the defence of the Church against the encroachments of the Roman See, has been pushed to the extent of shewing that the accusations of our bitterest enemies against us are true, and our own defence untenable. In reply to Bellarmine or Sanders, asserting that we have lost all voice, not in the election only, but in the confirmation of our Bishops, we find that our own controversialists were accustomed to point to the legal process still observed in the confirmation of every Bishop before he could be consecrated. Need I relate that this process has now been declared by the highest tribunal in England to be an obsolete form; and that the first law officer of the Crown, now himself a judge, in asserting that such is the law, thought it not inappropriate to exemplify the case, by asserting that if the Crown should nominate the most unworthy person, he must be not elected only, but consecrated, as a matter of course?

Sic nos in scepra reponis? Is it thus that the State vindicates the liberty of the Church against the encroachments of Rome? Is it thus that the Royal Supremacy is invoked *in aid of the Church of England?*

Let us pass on to other matters. Nothing gave so much offence to Romanists as the assumption of the title of Head of the Church; and they grounded their objections to it on the assertion that we had given a *spiritual* headship to our kings of which they are inca-

pable. They objected to the name as a novelty, and as belonging only to Christ; and to the thing, especially in regard to three particulars, the convoking of synods, the promulgation of canons, and the trial of doctrine.

It will be convenient first to produce some instances of these objections, and then to shew in what way they were answered on our side. We shall then be in a condition to inquire how far such answers are supported by the existing state of things.

The writer who assumed the name Alanus Copus, and whose work is dated early in the reign of Queen Elizabeth, A.D. 1566, denies that Charlemagne had claimed the ratification of all synodical acts⁵; asserts that Cranmer was the first Archbishop of Canterbury who had ever denied the supremacy of the Pope⁶; denies that Henry VIII., much less Edward VI., a minor, or Elizabeth, a woman, were capable of the headship of the Church; and reproaches us with being alone in this particular, since Lutherans, Zwinglians, and Calvinists equally deny it with Romanists themselves⁷.

Cardinal Bellarmine, in his controversy with King James, writing under the assumed name of Mattheus Tortus, argues at great length, that kings cannot have any supremacy in spirituals⁸; admits that they had some share in convoking councils, but contends that this power was subject always to the will of the Pope⁹; and in regard to doctrine, declares that even the Pope himself has no power to make new articles of faith¹. Again, in his defence of the same work, the same writer argues that the heresy of the English Church began with the attribution of the title of Supreme Head, as well in spirituals as in temporals to the king², and quotes Calvin to the same effect³: admits that Bishops formerly received

⁵ Alanus Copus, p. 651.

⁶ *Ibid.* p. 985.

⁷ *Ibid.* pp. 989, 990.

⁸ Bellarm. Op. t. vii. pp. 698—700 (Matt. Tort.).

⁹ *Ibid.* p. 692.

¹ *Ibid.* p. 667.

² *Ibid.* Apolog. t. vii. p. 708.

³ *Ibid.* p. 709.

investiture from kings, but contends that Gregory VII. had restored the ancient laws of the Church⁴; and, admitting also several instances of independence of English sovereigns in the government of the Church of England, contends that such sovereigns were usurping a power which did not belong to them⁵.

If we turn from the Cardinal to the tract on "Church Government" before referred to, we find in the next sentence to that already quoted the following assertion: "He also (namely, King Henry) took away the Patriarch's authority, for the receiving of appeals, and exercising final judicature in spiritual controversies. And also took away the final judging and decision of such controversies, not only from the Patriarch in particular (meaning, the Pope), but also from all the clergy in general; not making the Archbishop of Canterbury, or Convocation, but himself or his substitutes, the ultimate judges thereof⁶." Much more might be added from the same treatise, especially respecting the authorization of the liturgy; but these specimens may suffice.

We are now to see how these imputations were answered, and on what grounds the advocates of our English Reformation proceeded in their defence of what had been done. And, first, it is asserted by Lord Coke that the act of Henry VIII. for prohibiting appeals to Rome⁷ is declaratory of the ancient laws of the realm, as is asserted in the statute, which is said to be "For restoring to the Crown the ancient right and jurisdiction of the same⁸." So that if we could find what was the ancient practice, we might know what was intended to be restored. With a view to shew what this practice was understood to have been, Dean Aldrich quotes the laws of King Edgar styling himself "Head of the Church," of Edward the Confessor, of Alfred, of Henry IV., and refers to the practice of the

⁴ Bellarm. Apolog. p. 741.

⁵ Ibid. p. 743.

⁶ Church Government. Pt. v. p. 99.

⁷ 25 H. VIII. c. 19.

⁸ Institutes, l. iv. c. 14. (Aldrich, p. 24.)

kings of Spain in Sicily, and the kings of France within their own dominions. And with reference especially to the "reforming errors and heresies *by proper delegates*; this, he says, is a necessary consequence from the supremacy they challenged⁹." And having referred to the power given by Queen Mary to Bonner to do the like, "whence it is," he adds, "that we find a commission from Henry IV., as Defender of the Catholic Faith, for heretics to be called and examined before two commissioners, *who were of the clergy*."

In regard to the assertion of the Romanist, "that the clergy have power to determine controversies in pure matters of religion, and to judge what is Divine truth, what are errors; and that they cannot alienate this power to the secular prince," the same writer replies "that the clergy neither do deny that they have a power to determine controversies in pure matters of religion, which is what the first thesis (laid down by the Romanist) would prove; nor do they transfer such a power on the king, which might be against the tenor of the second¹:" and still more distinctly, in reply to the accusation of "taking away the Patriarch's authority for receiving of appeals, &c., as also the taking away the final judging and deciding of such controversies not only from the Patriarch in particular, but also from all the clergy in general, *not making the Archbishop or Convocation*, but himself (*i. e.* the king) or his substitutes the judges thereof," Dean Aldrich thus proceeds: In that statute, 25 H. VIII., c. 19., I find no mention of a Patriarch or *spiritual controversies*, but only that in causes of contention having their commencement within the courts of this realm, no appeal shall be made out of it to the Bishop of Rome, but to the Archbishop of Canterbury, and, for want of justice in his courts, to the king in Chancery; upon which a commission shall be directed to such persons as shall be appointed by the king definitively to determine such appeals. Here is nothing of *determining controversies in pure matters of reli-*

⁹ Animadversions, p. 29.

¹ Ibid. p. 35.

gion, of deciding what is God's word, and Divine truth; what are errors in the faith or in the practice of God's worship and service², nor any of the other spiritual powers by him enumerated. Or, if any such questions should be involved in the causes to be tried, why may not the commissioners, if secular, judge according to what has been predetermined by the clergy? Or let us suppose a case never yet determined, How doth he prove a power of judging in such causes transferred on secular persons, since, if occasion required, the delegates might be persons ecclesiastical³?

The great opponent of Bellarmine was Bishop Andrews, who answered him in a book which he called *Tortura Torti*, in reference to the assumed name of *Tortus*, under which his first answer to the king was published. He claims for Christian kings, and for our own kings in particular, whatever authority in religion had been assigned to kings either in the Old or New Testament. "First," he says, "under the name of Primacy, the king does not introduce a new Papacy upon the Church, for he lays down that, as neither Aaron the priest, nor Jeroboam the king, had any right to set up a calf of their own making for the people to worship, so he has no right to strike out either new articles of faith or new forms of Divine worship. . . . He has no right to *burn incense* with Uzziah, nor to *touch the ark* with Uzzah, which you so often (and) so invidiously impute (to him). That *office* of yours (which you say belongs peculiarly to the Pontifical Primacy) of teaching or of explaining what is doubtful in the Law, he does not assume. . . . In a word, he thinks nothing permitted to him, and we permit nothing to him, to touch, of those things which belong to the sacerdotal function. This is wholly your calumny, feigned to bring odium on our king and us. But in things which belong to external polity, these he claims, in his own right, to prescribe, and these we are willing justly to concede to him. . . .

² The Italics here are the Author's—not those below.

³ Animadversions, pp. 41, 42.

Would you have me enumerate them? Whatever the kings of Israel did, and did unblamed, in matters of religion, that he also has the right and the power to do; in short, concerning all those things concerning which we read, of laws being enacted by Constantine, by Theodosius, by Justinian, by Charlemagne. . . . Also, of *delegating those who shall judge of the laws thus enacted*, as did Jehoshaphat; also, of binding his subjects by an oath not to break such law, as did Asa and Josias." "He will take to his counsels, in making sacred laws, those whom it is fitting to take, and whom reason shews to be best able to answer concerning them, as being most skilled in such things; and in things which belong to God *will command Amaziah the priest to preside, not Zebadiah the ruler*⁴."

A little later, Bishop Jeremy Taylor lays down as follows: "The supreme civil power hath jurisdiction in causes not only ecclesiastical, but internal and civil⁵;" "hath authority to convene and to dissolve all synods ecclesiastical," under which head he says, § 16, "*I do not intend by this, that whatsoever article is by princes allowed, is therefore to be accounted a part of true religion*, for that is more than we can justify of a definition made by a synod of Bishops; but that they are to take care that true doctrine be established . . . : that the Prince may be deceived in an article of religion, is as true as that he may be deceived in a question of right, and a point of law; yet his determination hath authority, even when a better proposition wants it: that error must serve the ends of peace, *till by the doctrines of the wiser ecclesiastics the Prince being better informed, can by truth serve it better*."

The next rule he lays down is, that "The supreme civil power is to govern in causes ecclesiastical by the

⁴ 2 Chron. xix. 11. Any who will turn to the history in this chapter, will see the meaning to be that the Delegates in matters of religion shall always be spiritual persons.

⁵ Ductor Dubitant. b. iii. c. 3, rule vii.

means and measures of Christ's institution ; that is, by the assistance and ministeries of ecclesiastical persons ⁶, which he illustrates by the case of Phinehas and Jephthah, both punished, according to Jewish tradition, the one, because he would not consult the priest about being released from his vow ; the other, because he did not go, of his own accord, to give religious counsel to the ruler. He quotes the declaration of Theodosius the younger. "*The doctrine that is in question we will not suffer to escape examination, but those shall be presidents of the judgment who in every nation are the appointed Bishops,*" &c. ; and he then adds, "*When the supreme power hath called in the aid and office of the ecclesiastic, good princes use to verify their acts accordingly, to establish their sentences, to punish the convict, to extirpate heretics, and suppress their doctrines.*" He quotes numerous instances of laws and acts of Roman emperors to this effect, and illustrates his meaning by Cicero's story ⁷ of Gellius the prætor, offering *himself* as umpire in the quarrels of the sects of philosophy at Athens ; "but the scholars laughed at his confident offer to be a moderator in things he understood no more than his spurs did."

Sir Roger Twisden tells us, that it was "the course in the primitive times, that in the proceedings against heretics, the ecclesiastick did conclude what tenets were heresie, and the temporal whether the party accused were guilty of the imputation," and "did so remain at least eight hundred years after Christ ; but about that time, Bishops did begin to claim as matters ecclesiastical, and only proper for their courts, the acting in those causes, which in some sort might be, *so far as the determination what is heresy did extend* ⁸."

Lastly, Archbishop Laud, in his controversy with Fisher, declares that the Church of England believes that our Saviour Christ hath left in his Church, besides

⁶ Ductor Dubitant. b. iii. c. 3, rule viii.

⁷ Cic. de Leg. l. i.

⁸ Sir R. Twisden, Hist. Vind. of Church of England, chap. viii. p. 141.

his law-book the Scriptures, visible magistrates and judges, that is Archbishops and Bishops, under a gracious king, to govern both for truth and peace, according to the Scripture, *and her own Canons and Constitutions*, as also those of the Catholic Church, which cross not the Scripture, *and the just laws of the realm*. But she doth not believe there is any necessity to have one Pope or Bishop over the whole Christian world, more than to have one emperor over the whole world⁹.

From all which places, to which many more might be added, I think we may conclude thus much; that while our great divines earnestly vindicate to the prince as the supreme ruler of all estates within his realms, and natural defender of the independence of his Church and country, the right to originate all actions ecclesiastical as well as civil, and to give effect to all conclusions to the like extent, they no less clearly affirm, and even assume as incontrovertible, the right of the Church, that those who shall make ecclesiastical laws, and those who shall be called in by the Crown to judge in spiritual matters shall always be spiritual persons. And, therefore, when Romanist writers contended against them, as if they had surrendered the just liberties of the Church in this respect, they did not merely deny the fact, *but they treated the imputation as a "calumny"*¹.

And they agreed, therefore, with Hooker, when he says, "When, therefore, Christian kings are said to have spiritual dominion or supreme power in ecclesiastical affairs and causes, the meaning is, that within their own precincts and territories they have authority and power to command even in matters of Christian religion, and that there is no higher nor greater that can in those causes over-command them, where they are placed to reign as kings. But withal we must likewise note that their power is termed Supremacy, as being the highest, *not simply without exception of any thing*. For what man is

⁹ Laud against Fisher, § 26, p. 138.

¹ See Bishop Andrews, as quoted above, p. 31.

there so brainsick as not to except in such speeches God himself, the King of all the kings of the earth? Besides, where the law doth give him dominion, who doubteth but that the king who receiveth it must hold it *of and under the law*³ ?”

In the above extracts it did not seem necessary to dwell at any length either on the *word* “Head” of the Church, or on the power of convoking of synods, or promulgation of canons. The name was discontinued by Queen Elizabeth, out of deference to any reasonable scruple which may exist in regard to Him who is alone Head of his Church, and that title is not now legally assigned to our sovereigns. But as for the thing, the Royal Supremacy in its true and proper sense, that is sufficiently defined by these writers, and is a most important and salutary principle by which we attribute to our princes the right to be the fountain of all law, and to originate and ratify all legal proceedings, ecclesiastical as well as civil, subject to the law of the Church in the former, as to that of the State in the latter.

As to the convoking of synods and promulgation of canons, it needs no shewing that all such acts have now been denied to the Church of England for one hundred and thirty years. And it is equally plain that those who defended us against the accusation of having surrendered up these rights to the Crown, never once entertained the most remote suspicion of such a possibility, and would have reckoned it among the chief of those *calumnies* of which Bishop Andrews complains.

Here, therefore, again we arrive at the same conclusion as before. The Romanist party imputed to us, at and after the Reformation, that we had surrendered the independence of our Church in regard to the holding of councils and promulgation of canons; to which we answered by denying the fact. But we have now been withheld for a century and a quarter from meeting in

² Eccl. Polity, book viii. ch. ii. § 3, ed. Keble.

provincial council, and by consequence, from enacting or deliberating upon canons. Can we endure that the inference should be drawn? *Ergo*, the accusation of the Romanist is TRUE.

The question of the trial of doctrine, and the ultimate appeal in cases of heresy, will demand some further consideration. We know full well what we have lately witnessed. We know that a fundamental point of doctrine, never before contested in any of our courts since the Reformation, has been referred on appeal, by royal authority, to a court consisting exclusively of laymen, some of them actually not members of the Church, and only one necessarily required to be so. We know that to this court three Bishops were joined, not as judges, but as advisers only, without a voice, and that they were not agreed in their advice. And we know that this court, disclaiming indeed any power to lay down new articles of faith, has, nevertheless, proceeded to adjudicate in the cause, and that this their judgment is now the law of the land.

And first with regard to the disclaimer of making new articles of faith. Under correction of these learned judges, it seems to have escaped their notice, that this is just such a disclaimer as would be made by the Pope himself, or even by a general council. It was actually made by Cardinal Bellarmine, in the case of the Pope, as we have already seen³; and it rests upon the obvious truth that since our blessed Lord has once for all delivered the faith to the Church, the Church can do no more than declare what that faith is. And our own Bishop Taylor speaks to the same effect of the Catholic Church: "All her sermons, and all her explications of doctrine, must be by that measure. If it be agreeable to Scripture, it is that which she hath received: but if she hath not received it, *she cannot make a doctrine*, nor deliver a proposition with authority, nor oblige the conscience⁴." And this is precisely that which, as regards the faith of our own branch

³ See before, p. 22.

⁴ Duct. Dub. b. iii. c. 4, r. 21, § 2.

of the Church, these secular judges have undertaken to do.

And were our Reformers therefore accessory to this state of things? Or has our Church willingly acquiesced in it? Happily we are able as yet to deny either imputation. But it seems to me that it must depend upon this next Convocation, whether we shall continue to deny the last. For if we shall meet by our Proctors and be silent on the subject, we shall have at least entered upon the course of silent acquiescence. But it seems to have been thought that the state of the law in regard to appeals in spiritual causes, which existed from the Reformation down to a recent period, had not any more Church authority than that which was introduced by a recent act of Parliament, which abolished the Court of Delegates, and substituted a Committee of Privy Council in its place. That this is not so will appear from the following considerations:—First, It is asserted on the highest authority⁵, “that the very act by which appeals to Rome were forbidden, and transferred to the courts of the realm, is declaratory of the ancient laws of the realm.” Next, the act itself recites⁶ the “submission of the clergy” in their Convocation, as the ground on which it rests; and, lastly, before the act was passed, empowering the king to nominate thirty-two persons, sixteen of the laity, and sixteen of the clergy, to revise the ecclesiastical laws, the clergy in Convocation “besought the king’s highness” to that effect.

The provisions of this act were as follows:—“That in causes of contention, having their commencement within the courts of this realm, no appeal shall be made out of it to the Bishop of Rome, but to the Archbishop of Canterbury, and for want of justice in his courts, to the king in Chancery; upon which a commission shall be directed to such persons as shall be appointed by the king definitively to determine such appeals.” Against this law, we have already seen how violent were the objections of the

⁵ Sir Edw. Coke, *Inst.* l. 4, c. 14.

⁶ 25 Hen. VIII. c. 19.

Romanist party. We have seen too, that in every one of the answers of our greatest divines, Andrews, Taylor, and others, it is distinctly assumed *that the delegates in spiritual causes will always be spiritual persons.*

Further yet, we are able to shew that even this state of the law was not intended to be permanent; for it was provided by the *Reformatio Legum*, which only wanted the royal signature to become the law of the land, that “any grave cause, devolving to the Crown, should be settled by *Provincial Synod*’.”

That the court, which has been substituted for the Court of Delegates, has no shadow of pretence to any Church authority, needs no shewing, since no Convocation had sat for one hundred and twenty years when the new law was passed. And thus every conceivable condition is fulfilled towards the verification of those accusations which Romanists brought against us in this particular. The trial of doctrine in purely spiritual matters, is wholly removed from spiritual persons. It is so removed without the consent of the Church having been either asked or thought of. And it is transferred to a court consisting of persons, not one of whom has any authority from Christ to meddle in spiritual matters.

I respectfully ask the Regius Professor of Divinity in the great University of Cambridge, the University of Cranmer, of Ridley, and of Andrews, to tell me by what new arguments we are to meet the Romanist in controversy, now that the facts on which our own defenders formerly relied have crumbled away beneath our feet.

But, Sir, I am thankful to say that I see no cause for despair, no ground whatever for abating one jot of hope. Nay, I would still say this even if all the hopes which we now cherish from the revival of Convocation, should be doomed to disappointment. Still we are no worse off than our Church was of old, when King John kept bishoprics in his hands for ten or twelve years—our own see in par-

⁷ Reform. Legum. De Apellat. c. xi.

ticular—that he might squander their revenues himself; or when the Crown conspired with the Papacy to heap bishoprics together *in commendam*, and pluralities by fifties in the hands of a single person. And when, on the other hand, we consider the manifold blessings which our Reformed Church has conveyed to us, and the still greater, which only our sins have intercepted, it is neither reasonable nor right to allow our affections to be shaken because our governors have erred through inadvertence in the administration of the laws of our Church.

I disclaim all intention of assuming here what may be the right or wrong in the great controversy to which I allude. And I wish to shew that it is neither necessary nor expedient that Convocation should decide it, *as far as concerns what is past*. What Convocation ought to do is to agree upon a proper tribunal for the decision of such controversies in future, and in the mean time *to accept and adopt the disclaimer of the judges* as to the decision of articles of faith, and declare accordingly, that whatever were the doctrines of the Church of England on the subject in question, before that judgment was delivered, such they still remain. And there are precedents for this course in the conduct of Convocation on some former occasions. It seems that the Canons of 1603 were first published before they had been submitted to the York Convocation. But that body, very properly, took occasion, immediately afterwards, to give to them their formal ratification. In like manner, the Convocation of Queen Mary—no bad authority in such matters—ratified the confiscation of the abbey lands. I am far indeed from suggesting that Convocation should now ratify this judgment; but I quote these instances to shew that the course of adopting and ratifying this disclaimer of the judges, may be very properly and consistently adopted.

What I therefore contend that we should do in this case, is not that we should attempt either to rescind or to contradict this judgment. And it is important to shew this, as the suspicion of our being actuated in desiring a

session of Convocation, by the wish to do so, is one of the strongest motives with many persons for dreading and opposing it. I believe, on the contrary, that we are fully justified in not seeking to revoke or rescind what is done, provided we clear ourselves from adopting it, and take measures to prevent the repetition of such acts for the future. For to this effect is that of Jeremy Taylor that “when it is said that princes are to govern their Churches by the consent and advice of their Bishops, it is meant not *de jure stricto*, but *de bono et laudabili*. It is fit they do so; it is the way of Christ’s ordinary appointment⁸.” From which I infer that in case, through inadvertence and wrong advice, they should ever depart from this principle, their act is binding in conscience, as well as law, just as much as the judgment of an ordinary tribunal is binding, until it be overruled.

Nor need we even seek to have it overruled, if only we can be so happy as to exempt our Church from adopting it by some such course as that which I venture to suggest. Let us but get a proper tribunal restored, let us have a court of appeal established, with consent of Convocation, which shall meet the conditions laid down by our own writers in regard to spiritual authority; and then, if we can also carry in Convocation some resolution which shall adopt and appropriate the disclaimer of the Committee of Privy Council as to matters of faith, it seems to me that we may fairly say that our doctrine is unimpaired, and that our Church is not subject to the imputation of having forfeited her inherent right of teaching and discerning the truth by means of her own Bishops and pastors.

In order to this, I shall subjoin a form of petition

⁸ Ductor Dub. b. iii. c. 3, r. viii. § 6. See also the quotation at p. 15, antea. “The prince’s determination hath authority, even when a better proposition wants it; that error must serve the ends of peace, till by the doctrines of the wiser ecclesiastics the prince, being better informed, can by truth serve it better.”

which might be presented to the Convocation itself on its meeting, from the Clergy assembled in their respective dioceses for the election of their Proctors. It has been now made apparent that the Convocation, even after its ordinary prorogations, is competent to receive petitions, much more when it meets for the first time after a new election, and proceeds to address the Crown. Such address must either be silent on the subjects to which your attention has here been drawn, (and such silence will signify consent,) or it must protest against them. It must remain for others to decide whether the case is made out which I have undertaken to prove. But as the question between ourselves and Rome is of the last importance, I venture to think that the inference must be admitted, unless the facts can be contradicted. And if the facts be as I suppose, I do not see with what conscience we can profess our opposition to Rome, if we submit without remonstrance to such a state of things.

One thing more I would add on this part of the subject. It may be that the comparison of these arguments of Romanists on the one hand and English Churchmen on the other, important as they seem to me to be, may to some be less conclusive than the simple statement of the case upon its own merits. And I sincerely wish it had not fallen within my own actual knowledge, small as my acquaintance with such cases has been, that nothing has so tended to unsettle the minds of English Churchmen, as the galling sense of subjection to the State in spiritual matters with which we are taunted on every side, by the Romanist on the one hand and the Dissenter on the other. Parliament *seems* to be the legislature of the Church, and the idea is so monstrous, and to a religious mind, loving and clinging with affection to the Church, so nearly intolerable, of being subject in spiritual matters to the dominion of such a body, that some remedy is absolutely required. Even while I write, a celebrated member of the Lower House is reported to

describe the laity as constituting the "Church of England⁹." The Canons say indeed that the sacred synod of the Church is the Church by representation. The clergy of almost all shades of opinion have laboured, however, to persuade the laity to consider themselves a part of the Church; and this legislator is so apt a scholar, that he affirms that the laity alone, *without the clergy*, are the Church. If so, of course, they can make canons by act of Parliament, try matters of doctrine, compose liturgies, and do all those other matters of ecclesiastical concern which Parliament has of late years affected to do. But to those who believe *in* the holy Catholic Church as a Divine society, and believe their own branch of it to be a living member of that society, this assumption becomes intolerable. And while they would gladly assign to the laity of the Church their full share in Church legislation, and even invoke their aid in its counsels, they regard the acquiescence in a system of Church government in which Romanists and Dissenters are admitted to take part, while her own clergy are alone excluded, as absolutely suicidal. To such an extent has this feeling gone that, I regret to say, it has come within my personal knowledge that men of noble talents and devoted piety—I am not afraid to speak of them thus, notwithstanding the step they have taken—have abandoned the Church of England, even while they acknowledged that the Reformation was justified, and that we were still a real branch of the Catholic Church after that event as before. "But," say they, and I quote actual sentiments if not actual words, "we have so long acquiesced in Erastian government, we have so often and so willingly allowed ourselves to be dragged at the chariot-wheels of the State, our energies are so crippled by State appointments and act of Parliament governors, our Bishoprics bartered for political considerations, or bestowed at the absolute will of a minister whose object may be, and sometimes has actually

⁹ See Mr. Horsman's Speech on the case of Mr. Bennett, as reported in "The Times" of April 21, 1852.

been, to undermine all that teaching which our great divines have most anxiously inculcated, and our whole system, thus poisoned at the source, has resulted in so much of secularity, on the one hand, and of internal dissension on the other, that we are as when this planet is supposed to have deviated from its axis, and in consequence of such deviation, to have been overwhelmed by the flood.”

Non meus hic sermo. Even if I did not think the statement exaggerated—even if I did not see many bright spots in the prospect notwithstanding, still my convictions would rest on deeper, and, I trust, therefore, on more firm foundations. But knowing as I do that such things are said, and, alas! that there is too much of truth in them,—knowing also that those who have said them have had their confidence in this Church first shaken by such considerations, I think my case would have been incomplete had I omitted this additional proof that *the cause of the Church of Rome is promoted by the abuse of the Royal Supremacy*. Since this supremacy has been usurped by the House of Commons, we may rely upon it that more converts date the first doubts that have arisen in their minds from such debates about Church affairs as now so often occur in that House, than from all the Tracts that were ever written.

But there is yet another point which I desire to submit to your judgment, and to that of my clerical brethren in regard to our controversy with Rome. When Henry VIII. and Cranmer were excommunicated by the Pope, they appealed to the next general council, and this appeal was afterwards solemnly confirmed by the signature of all the clergy and great part of the laity of England, in the name of the English Church. They continued under this appeal during the rest of the reign of Henry, and during that of Edward VI.; but when the Church of England was “reconciled” to the Roman See, under Mary, the excommunication being withdrawn, the appeal ceased of course; and when the excommunication was renewed,

under Elizabeth, a different course was rendered necessary on her part by the aspect of the times.

The appeal, therefore, of the Church of England against Rome has not since been renewed. But is it not worthy of grave consideration whether some such step should not now be taken, when the Court of Rome has proceeded to the last extremity of setting aside our Church altogether, and constituting a new Church in its place, as if in a heathen country? For it is unquestionable that, according to their own principles as well as ours, there cannot be two Churches in the same country, nor two Bishops in the same see.

It is probably quite true that there is hardly any the remotest prospect of a free general council; but the object of such a step is not so much to obtain that point, much as it might be desired, if attainable, as it is to enter a solemn protest in the face of Christendom against the injustice that has been done us. And I would contend that it is a highly *practical* question. What we want is to exhibit ourselves, or rather our Church, in the eyes of our own nation and of other Christian communities, in an attitude of life and independence. Above all, we require to meet this aggression in our capacity *as a Church*, not merely as a nation or a State. It may have been quite right that the State should resent the act as an invasion of the independence of the Crown; but we should remember that it was on this ground alone that the act of Parliament was placed by all its advocates. Universally it was said that the question was not to be treated as a religious question, but merely as a political one.

But *is it not a religious question?* Nay, is it not a question which concerns the very foundations of religion, whether the religious society now said to be "established" by the State, and possessing the funds and inheriting the position of the old Catholic Church in England, be or be not a Church at all? That is the question; and although the full effect may not be apparent just at present, it will become more and more apparent as time goes on, and

generations arise, familiar from childhood with the idea of diocesan Bishops and parish priests claiming jurisdiction over them as alone "the Catholic Church." How shall we meet that assertion, if we have nothing to shew, on the other hand, beyond a penal act of Parliament, assuming, how truly soever, that it was an infringement of the prerogative of the Crown to grant *episcopal titles*?

And this course may recommend itself to some who were unable to acquiesce in the act of Parliament, precisely because it carries no penalties, and inflicts no social disabilities. The weapons of our warfare are not carnal. But if they are used temperately and in a righteous cause, they will be so much the more "mighty" on that very account. And such an act, emanating from the Provincial Councils of both the provinces in England, would surely be the only true and effectual protest which the Church of England could make against this last and most grievous injury inflicted or attempted by Rome. In such a case, we could point to this appeal in vindication of our own position, when assailed by enemies without, or harassed by misgivings within. It would be a standing memorial to our children's children of our true position—a beacon to guide them, if they should need to be guided, towards the true Church among them. Whereas, if they find nothing but an act of Parliament avowedly treating it as a merely political question, what else can they do than conclude that the "established religion" rests its claims on other grounds than catholic descent and Divine authority?

Cardinal Bellarmine long ago extracted from the book of King James the conclusion that the Church of England was not "Catholic," because the king had described his opponents under the name of "Catholics," and thus seemed to abandon that title for himself and his Church. And Bishop Andrews, in reply, was forced to say that the king had done it out of courtesy. But he contended that we are more truly catholic than they, since we do not limit the words of the Creed to that part of the Catholic Church

which is in communion with Rome. And concluded by assuring him that thenceforth the king and his Church will call them what they are—Romanists and not Catholics¹. In like manner, it seems to me, that we shall wrong ourselves if we allow them to carry off unchallenged not the name only, but the assumption of the authority of the Catholic Church. We shall seem to rely on our State establishment alone, not on our Divine commission. And in proportion as we do so, we need not wonder if men learn to treat us as if we had no other claim.

In conclusion, I beg to draw your attention to a form of petition embodying these opinions, which I respectfully submit to the consideration of my brethren, to be adopted when they meet for the election of their Proctors, and presented to Convocation.

I remain, my dear Sir,

Your very faithful Servant,

F. C. M.

April 23, 1852.

¹ Tortura Torti, pp. 401, 402.

PROPOSED FORM
OF
PETITION TO CONVOCATION.

To the Most Reverend the Archbishop and the Right
Reverend the Bishops of the Province of Canterbury in
the Upper House of Convocation assembled,

[And to the Reverend the Clergy of the Province of Can-
terbury in the Lower House of Convocation assembled.]

The Humble Petition of the Clergy of the Diocese of _____
assembled by the writ of their Bishop for the election of Proctors
to serve in the next Convocation, sheweth ;

That your Petitioners, being convened for the purpose of
sending Proctors to represent their opinions in the Synod of this
Province, and feeling that they shall not discharge the duty im-
posed upon them by the summons of their Bishop and the Con-
stitution of this branch of the Church, if they forbear to express
the grievances which they feel, beg leave to express to your
Venerable House as follows ;

That the Royal Supremacy was intended to be used in defence
of the Church against the encroachments of the See of Rome.

That it was mainly objected by Romanist controversialists
against our Reformation, in this particular, that we had sur-
rendered our liberty to the State in regard to the election and
confirmation of Bishops, and in regard to the trial of Doctrine.

That the answer of our own controversialists was and is by
alleging

1. That no alteration took place, at the Reformation, in the
form of election of our Bishops.

2. That the constraint as to the election of the nominee of the
Crown was necessary as a defence against the constant interfer-
ence of Rome in such elections.

3. That the Church had still the right of having the fitness of
the person elected lawfully tried before confirmation.

4. That no more was granted to our Kings, in regard to the
trial of doctrine, than had always belonged to the Christian
Emperors, namely, the power to delegate, such delegation being
still confined to ecclesiastical persons.

That in the two last of these cases the fact has now been shewn, in our Courts of Law, to be the very opposite to that which was uniformly assumed in our defence against Rome ; thus destroying the grounds on which the two former were always maintained, and leaving us the disgraceful alternative of either admitting that the grounds of our defence were untenable from the first, or that we have acquiesced in the usurpation by the State, since the Reformation, of a degree of power never conceded at the time of that event.

That these grievances are infinitely enhanced by the fact that the government of the State has passed out of the hands of Churchmen, so that all these powers may be, and some are already to some extent, exercised by those who are aliens, and more than aliens to the Church.

That your Petitioners, therefore, earnestly pray your Venerable House to lay these facts before our gracious Queen, humbly praying that her Majesty will be pleased to issue her royal licence in order that your Venerable House may immediately proceed to consider the fitting remedy for the same.

That since the Lay Judges, constituted by Act of Parliament, without any Church authority, have disclaimed the right to define anew or alter the doctrine of the Church, while they have decided a case dependent upon doctrine, your Petitioners humbly pray your Venerable House to take the earliest opportunity, according to former precedent, of adopting this disclaimer of the Lay Tribunal, and without seeking to alter the legal effect of their sentence, to affirm that whatever the doctrine of the Church of England was before that sentence was delivered, such it still remains.

That at the beginning of the Reformation, the King, with the whole of the Bishops and Church of England, appealed to a future Council against the excommunication of the Pope.

That this appeal was withdrawn when this Church was "reconciled" to the See of Rome under Queen Mary and Cardinal Pole, and has not since been renewed.

That the Bishop of Rome having now of late presumed to set up a new hierarchy, and, as far as in him lies, to found a new Church of England, in manifest disparagement and contempt of the original Catholic Church of these Realms ;

Your Petitioners further pray your Venerable House to take the earliest opportunity to draw up an Appeal to a future General Council against this unwarrantable assumption of the See of Rome ; such Appeal to be communicated to every Court in Christendom, and to the Archbishop of every Province, in vindication of the rightful authority of this ancient and Reformed branch of Christ's Universal Church.

And your Petitioners will ever pray.

A shorter Form, as follows :

The Humble Petition of, &c.

Sheweth,

That your Petitioners, being convened under the writ of their Bishop for the election of Proctors to represent them in the ensuing Convocation, humbly beg leave to submit to your Venerable House as follows :

That the proper use and intention of the Royal Supremacy has always been understood to be as a Defence of the Church of England against the encroachments of the Court of Rome.

That it has been constantly denied by our own controversialists that we have surrendered our liberty to the State, either in regard to the Confirmation of our Bishops, or the trial of Doctrine.

That nevertheless we have recently seen that in both these particulars the very power has been assigned to the State, which, when it was imputed to us by writers of the Church of Rome, was constantly denied by those of the Church of England.

That the Lay Delegates appointed under an Act of Parliament to try an Appeal in a fundamental point of doctrine, having disclaimed the right to define anew or alter the doctrines of the Church, it is important that this Disclaimer should be adopted and ratified by the Church.

That at the beginning of our Reformation the Church of England solemnly appealed to a future General Council against the excommunication of the Pope.

That such Appeal having been withdrawn when this Church was "reconciled" under Queen Mary to the See of Rome, has not since been renewed.

But that now, when the Bishop of Rome has arrogated to himself the power to found a new Church of England, on the ground that the original Catholic Church of England has ceased to exist by virtue of his excommunication, it is become necessary that this Church should enter some solemn Protest against such an Act.

That your Petitioners, therefore, earnestly pray your Venerable House to concur in representing this state of the Church to our gracious Queen, in your Address to the Throne, praying that Her Majesty will be graciously pleased to issue her royal licence empowering you to proceed to consider the fitting remedies for the same.

And your Petitioners will ever pray.





