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THE

FORMATION SETTLEMENT

AN OFFICE OF THE STATUTE
AND COMMON LAW THERON

FRANCIS J. MULLAN

Author of

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LONDON

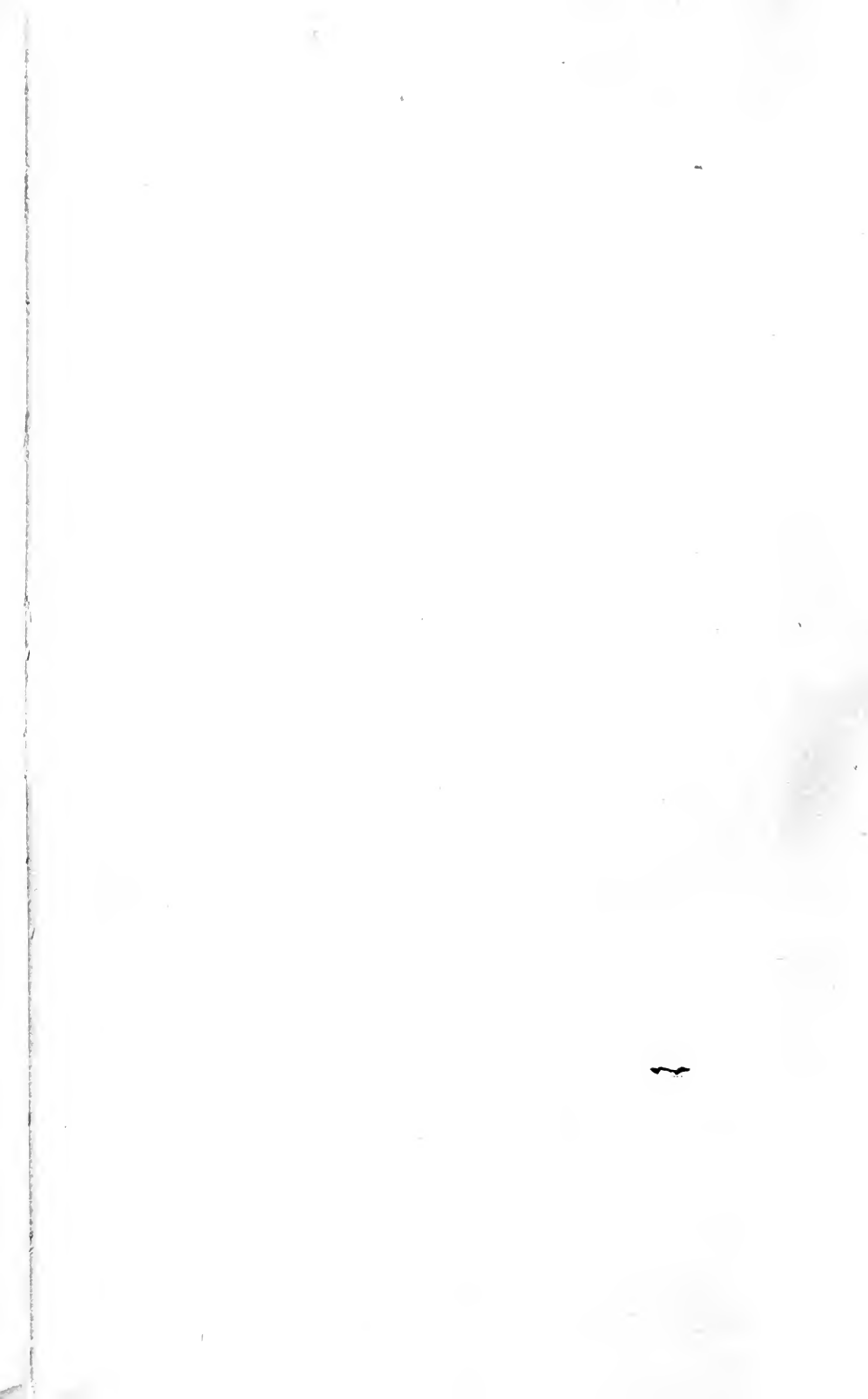
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THE
REFORMATION SETTLEMENT

AN EPITOME OF THE STATUTE
AND CANON LAW THEREON

BY

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OBSERVATIONS.

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THE object of the compilers of this epitome has been to set forth shortly but accurately the Statute Law which effected the religious changes in England usually called the Reformation Settlement, a knowledge of which is only to be obtained in the ordinary way by a tedious perusal of the Statutes at large.

In most other countries in Europe the changes in religion in the sixteenth century were effected in a turbulent and revolutionary manner.

In England the proceedings of the Reformers were more methodical, and the changes were made not by Royal proclamation or order of the Privy Council, but by enactments of the Statute Law. It was thus that Henry VIII. assumed the title of Supreme Head of the Church of England; the Papal jurisdiction was

destroyed, and the Book of Common Prayer, and the New Ordinal, were forced upon the Church.

Such was the respect shown for constitutional precedent that until the Statute conferring the Ecclesiastical Supremacy on the Crown had been repealed, Queen Mary is styled Supreme Head of the Church, like her Royal father. This shows the great importance of the Statute Law, and how well worthy of close examination; indeed, a much clearer understanding of the English Reformation can be obtained by considering it, before consulting the expositions of historians and pamphleteers, most of whom argue for a case, and some of whom stupefy themselves and their readers by commenting on the wording of the equivocating Thirty-Nine Articles in order to elucidate the intentions of their composers; whereas the promoters of the change in religion show much less evasiveness in their legislative activity.

What is further specially remarkable about the Reformation in England is the fact that the jurisdiction of the Pope was not simply swept away, but was transferred entire to the Crown. The question of supremacy, and the

substitution of the Sacrament of the Lord's Supper for the Sacrifice of the Mass were the essential points at issue between the advocates of the old and new systems. The other changes were as garnish to the dish. The Statutes here epitomized show the mechanism of the drastic changes thus effected.

"*Res ipsa loquitur.*" The Acts are the equipoise of the balance beam. In one scale were peace and preferment, in the other death, fine, and imprisonment. The two sides are not difficult to contrast. Those who contend that the Church of England though thereby made autocephalous, was not thereby severed from Catholic Unity, will be able to search in this record of the change for support of their arguments with confidence that corroboration, there found, will be far more convincing than "views," whether traditional or excogitated, from less trustworthy sources.

As the essential changes were completed during the reign of Elizabeth, the Statutes of subsequent reigns, except as regards the Oath of Supremacy, are not given, partly for want of space, and partly because they merely confirmed changes already made or added to, or

varied the penalties for recusancy, and are of little historical importance, beyond showing the ingenuity of their framers in designing apt instruments of destruction for nonconformity. The territorial Church theory of "Sic vexillum sic religio" is curiously exemplified by the imposition of the Book of Common Prayer on the inhabitants of Calais and the marches,* in defiance; it may be fairly presumed, of the Bishop of Boulogne or other local Ordinary. At any rate, we have no record of the approbation of the "Church of France," nor of the views of the inhabitants on the subject.

There was no penal legislation on religious grounds during the reign of Queen Mary.

At the end of the epitome of the Statutes will be found some extracts from the Canons promulgated in 1603. These record how the Church of England herself ratified the changes, accepted and fitted on the yoke, and describes herself as established by law. They also give ceremonial directions in reference to the Communion Table, and the rite thereon celebrated.

The compilers have found it impossible to

* *Note.*—The marches comprised the adjacent territory within the English Pale.

give, in a short space, exact information as to the repeal of the epitomized Statutes, as some have been repealed, re-enacted, and again wholly or in part repealed, either for the abolition of penalties for the relief of Catholics, or as having become obsolete owing to the crystallisation during three centuries, of the Constitution of the Church of England. The legislative fortunes of any particular enactment can, however, be easily traced, by consulting "The Chronological Table and Index of the Statutes," published by Messrs. Eyre and Spottiswoode. The Epitome has been made from Danby Pickering's Edition of the Statutes at Large, published in 1763, and from an edition of the Book of Common Prayer, which comprises the Canons of 1603, Printed by John Baskett, the King's Printer, London, in 1724, and from other editions of that Book. Other references are given in the text.

CHRONOLOGICAL KEY TO STATUTES.

Henry VIII. reigned	1509-1547.
Edward VI.	„ 1547-1553.
Mary	„ 1553-1558.
Elizabeth	„ 1558-1603.

THE
EPITOME OF STATUTES.

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23 HENRY VIII. CAP. 20. After reciting the burden of the payment of Annates or first fruits by Archbishops or Bishops to the See of Rome for confirmation or other things necessary for attaining promotion ; and that the King and all his subjects, spiritual and temporal, as obedient and devout Catholic children of God and Holy Church as any people within any realm, find them intolerable : enacts :—

That such payments shall cease, and no person shall pay them upon pain of forfeiture of goods to the King.

That if consecration of any person presented by the King to be a Bishop be delayed or

denied for want of Apostolic Bulls requisite therefor, such person shall be consecrated by the Archbishop; and an Archbishop so presented, shall be consecrated by two Bishops named by the King, and shall yield to the King all such duties as have been accustomed to be paid for any such Archbishop or Bishoprick (Sec. 3). That our Holy Father the Pope shall not think that the expediting of Bulls shall be unremunerated, directs payment of a percentage on the income of the See.

Parliament commits the matter to the King to compromise with the Pope, and to declare by Letters Patent whether there shall be a Statute or not.

Should our Holy Father the Pope procure these payments by excommunication or interdict, the King shall notwithstanding cause to be ministered all Sacraments and other divine services of Holy Church.

24 HENRY VIII. CAP. 12. After reciting that this Realm of England is an Empire governed by one supreme head and King to whom a body politic of spirituality and temporality owes next to God obedience,

Enacts: That all causes relating to spiritual jurisdiction shall be determined within the King's jurisdiction, abolishes all appeals to Rome, and restricts them to the Archbishop of Canterbury or York as the case may be.

25 HENRY VIII. CAP. 19. *Recites*: that the Clergy of the realm of England have not only acknowledged that their Convocations have been and ought to be effected only by the King's writ, but also submitting themselves to the King's Majesty have promised "in verbo sacerdotii" that they will never presume to claim, promulgate or execute any new canons or ordinances in Convocation, unless the King's assent and license may be had therefor, *Enacts* that:—

None shall presume to enact any constitutions or canons in Convocation unless the clergy have the King's Royal assent and license.

Sec. 3. Abolishes all appeals to the Bishop of Rome, and directs that contentions shall be settled within the realm.

Sec. 4. Provides that appeals shall lie from the Archbishop's Court to the King's Court of Chancery, and then upon such appeal a Commission shall be directed under the Great Seal to hear and determine such appeals, and that such judgment as the Commissioners shall decree shall be final, and no further appeal allowed.

Such canons (Sec. 7) as are not repugnant to the laws, statutes and customs of the realm, or to the damage of the King's Prerogative, shall still be in force till otherwise ordered, as mentioned in this Statute.

25 HENRY VIII. CAP. 20. *Recites* 24 HENRY VIII. CAP. 12, and that the Bishop of Rome, otherwise called the Pope, has been informed of the contents of that Act, yet hath made no answer nor made any terms with the King, wherefore the King hath confirmed the said Act, and as in the said Act it is not clearly expressed in what manner Archbishops and Bishops shall be elected and consecrated within this realm, and all the King's dominions, Enacts (Sec. 3) that :—

No person shall be hereafter presented or commended to the Bishop of Rome for Archbishop or Bishop.

Sec. 4. On every avoidance of every Archbishoprick or Bishoprick the King may grant to the Dean and Chapter of the Cathedral a license to proceed to election with a Letter Missive containing the name of the person whom they shall elect. By virtue of which license the said Dean and Chapter shall with all convenient celerity elect and choose the same person named in the said Letters Missive and none other. And in default of such election the King shall nominate and present the Bishop by Letters Patent.

Sec. 5. On such nomination every Archbishop or Bishop to whose hands such presentation shall be directed shall with all convenient celerity invest and consecrate the person presented by the King, and give and use the pall, and all benedictions, ceremonies and things requisite, without obtaining any Bull at the See of Rome.

25 HENRY VIII. CAP. 21. *Recites*: That

the people of this realm have suffered from the exactions of the Bishop of Rome for Peter's Pence, dispensations, etc., and the Bishop of Rome's pretended power to dispense from human laws in spiritual causes. And that this realm recognises no Superior under God but the King. And that the King and Parliament have power to dispense from and make new laws in all matters.

Enacts: That payment of Peter's Pence, etc., shall be abolished and prohibits application to the Bishop of Rome for dispensations, licenses, etc., and transfers to the King and the Archbishop of Canterbury the power to grant dispensations, licenses, etc., formerly obtained from Rome.

Declares: That the King and this realm do not mean to vary from the Catholic faith of Christendom.

25 HENRY VIII. CAP. 22. *Declares* void the King's Marriage with Queen Catherine, and establishes his Marriage with Anne Boleyn.

26 HENRY VIII. CAP. I. *Enacts*: That

the King our Sovereign Lord, his heirs and successors, shall be taken accepted and reputed the only Supreme Head on earth of the Church of England called Anglicana Ecclesia, and shall have and enjoy annexed and united to the Imperial Crown of this realm as well the title and style thereof as all honours, dignities, pre-eminences, jurisdictions, privileges, and profits, to the said dignity of Supreme Head of the said Church belonging. And that our said Sovereign Lord, his heirs and successors, Kings of this realm, shall have full power and authority to visit, reform and amend all such errors, heresies and abuses which by any spiritual authority or jurisdiction may be reformed, repressed or amended most to the pleasure of Almighty God and the increase of virtue in Christ's religion, any usage, foreign law or authority to the contrary notwithstanding.

26 HENRY VIII. CAP. 3. *Transfers* the first fruits and profits for one year of every spiritual living to the King.

26 HENRY VIII. CAP. 14. *Regulates* the

appointment of such persons as shall please the King as Suffragan Bishops.

(Amended by 51 & 52 Vict. c. 56.)

27 HENRY VIII. CAP. 20. *For* enforcing payment of tithes due to God and Holy Church.

27 HENRY VIII. CAP. 28.* *Recites (inter alia)*: That divers great solemn monasteries wherein religion is right well kept and observed are short of subjects, and enacts that all religious houses not having lands above £200 a year be dissolved and given to the King "on account of the manifest vicious, carnal and abominable living" of their inmates.

Provision by pensions for well disposed heads of religious houses, and some convenient charity for other inmates, from the King.

28 HENRY VIII. CAP. 7. *Enacts*: That the Marriage between the King and Anne Boleyn was illegal, and that the Princesses

* *Note*—This is the Act for the destruction of the lesser Monasteries.

Mary and Elizabeth are illegitimate, and no capable of inheriting the Crown.

28 HENRY VIII. CAP. 10. *Enacts*: That every ecclesiastical and lay officer shall be sworn to renounce the Pope's Authority and makes it high treason to refuse the oath.

28 HENRY VIII. CAP. 16. *Abolishes* all Bulls and dispensations from Rome. Confirms all marriages prior to 1534 dependent on dispensations from Rome.

31 HENRY VIII. CAP. 9. *An Act* authorising the King to make Bishops by his Letters Patent.

31 HENRY VIII. CAP. 10. *Recites*: That as the King's Majesty is Supreme Head in earth under God of the Church of England, and hath made Thomas Lord Cromwel his Viceregent in all cases and causes touching the Ecclesiastical jurisdiction, and for the godly reformation and redress of all errors, heresies and abuses in the said Church.

Enacts: That the said Viceregent and all other persons hereafter taking the said office, shall sit in all Parliaments on the same form as the Archbishop of Canterbury sitteth, and above the said Archbishop and his successors.

31 HENRY VIII. CAP. 13.* *Recites*: That divers abbots priors abbesses and prioresses and other Ecclesiastical governors of religious houses and hospitals, of their own free and voluntary minds without constraint or compulsion, have since the [4th Feb. 1535] given the said houses and hospitals and all [property] appertaining thereto to the King, and the same have renounced and forsaken ;

Enacts: That the King shall enjoy the same and all other monasteries abbies priories nunneries colleges hospitals and other religious houses, which hereafter shall happen to be dissolved suppressed renounced forfeited, or by other means shall come to the King's hands.

31 HENRY VIII. CAP. 14. *Recites*: That

* *Note*.—This is the Act for the destruction of the greater Monasteries.

the King is, by God's law, Supreme Head of the whole Church of England, and having summoned Parliament and also a Synod and Convocation of all the Archbishops, Bishops, and other learned men of the Clergy, enacts penalties for breach of the six Articles, *i.e.*, (1) denying the real presence; (2) affirming the necessity for communion in both kinds; (3) affirming the lawfulness of priests' marriages; (4) affirming that vows of chastity need not be observed; (5) denying the lawfulness of private masses; (6) denying the expediency and necessity of auricular confession.

(Repealed by 1 Edward VI. c. 12.)

32 HENRY VIII. CAP. 24. *For* the suppression of the Order of St. John of Jerusalem for having maintained the usurped power and authority of the Bishop of Rome lately used within this realm.

32 HENRY VIII. CAP. 25. The marriage between the King and Anne of Cleves by the Judgment of Convocation is pronounced void, and that the King be at liberty to marry any other woman, and she any other man.

34 & 35 HENRY VIII. CAP. I. *Declares* that recourse must be had to the Catholic and Apostolic Church in the decision of controversies, therefore Tindel's false translation of the Bible contrary to the doctrine set forth by the King since June, 1540, shall be abolished.

No person shall retain any English book against the holy and Blessed Sacrament of the Altar.

The Bible shall not be read in English in any Church.

If any spiritual person shall preach or teach anything contrary to the King's instructions he shall (for the third offence) be burnt and lose all his goods.

(Repealed by 1 Edward VI. c. 12.)

37 HENRY VIII. CAP. 4. For the suppression of Colleges, Chantries, Hospitals, fraternities, guilds, etc.

37 HENRY VIII. CAP. 17. Recites that the Bishop of Rome and his adherents, minding to obscure and delete power given by God to

Princes, have in their Councils and Synods decreed that no lay or married man shall exercise any jurisdiction Ecclesiastical lest their false and usurped power in Christ's Church should decay, and which decrees remaining not abolished make greatly for the said usurped power of the said Bishop of Rome, and are directly repugnant to the King's Majesty as Supreme Head of the Church; that the Clergy have no Ecclesiastical jurisdiction, but by and under the King, who is the only Supreme Head of the Church of England, to whom all authority and power is wholly given to hear and determine all causes Ecclesiastical.

Enacts: That all persons, as well lay, as those then or afterwards married, Doctors of the Civil Law, constituted Chancellor, Vicar, General or Register, by the King or any Archbishop or other person having authority under the King, may lawfully exercise all Ecclesiastical jurisdiction, any law, constitution or ordinance to the contrary notwithstanding.

Note.—This is the Act which placed Diocesan Chancellors above their Bishops.

The Act was repealed by Mary, re-enacted by Elizabeth, and again repealed in 1863. Chancellors, however, still claim superiority over Bishops, to judge by recent controversy as to Marriage Licenses for the re-marriage of persons divorced.

I EDWARD VI. CAP. 1. *This Act* provides penalties for speaking against "the Blessed Sacrament of the Altar, which of late hath been marvellously abused," and *Enacts that* Communion shall be received under both kinds of bread and wine, after a Godly exhortation.

I EDWARD VI. CAP. 2. *Establishes* the election of Bishops by the King alone, and that the King alone shall collate to a Bishoprick.

I EDWARD VI. CAP. 12. *Enacts* (see 6) : That it shall be high treason to assert by writing, etc., that the King is not, or that any other person is, Supreme Head of the Church of England.

1 EDWARD VI. CAP. 14. For the suppression of Chantries and Foundations for obits, perpetual lamps, etc., due to superstition and vain opinions of purgatory and masses satisfactory ; and for their assurance, as also of all Guilds, etc., to the King.

2 & 3 EDWARD VI. CAP. 1. (Called an Act for Uniformity of service and administration of the Sacraments within the realm.) *Recites* : That the King having directed the Archbishop of Canterbury and certain of the most learned and discreet Bishops to consider the diversity of Uses of Sarum, York, Bangor, and Lincoln, and to stay innovations, that they, by aid of the Holy Ghost, have prepared the Book of Common Prayer, and *Enacts that* :—

All Ministers within this realm of England, Wales, Calais and the Marches of the same or other the King's Dominions, shall be bound to use the Matins, Evensong, Celebration of the Lord's Supper, commonly called the Mass, and administration of the Sacraments (as there set forth) and none other or otherwise.

The penalties are made enforceable both in the Secular and Ecclesiastical Courts.

2 & 3 EDWARD VI. CAP. 19. A Repeal of all laws against Fasting and Abstinence.

2 & 3 EDWARD VI. CAP. 21. *To* take away all laws against the Marriage of Priests.

3 & 4 EDWARD VI. CAP. 10. (Called an Act for abolishing divers books and images.) *Recites* that the Book of Common Prayer agreeable to the order of the primitive Church having been lately established by order of Parliament and that the old books contain things corrupt, untrue and superstitious,

Enacts that all books called Antiphoners, Missals, Processionals, Primers, Ordinals or others heretofore used for service of the Church in English or Latin shall be abolished and forbidden to be kept or read in the King's Dominions. And (Sec. 2.)

That all images in Churches or Chapels be defaced and destroyed and the said books be

delivered to the Archbishop or Bishops to be burnt or defaced or destroyed.

Primers set forth by Henry VIII. may be retained if all invocations of Saints be blotted out.

3 & 4 EDWARD VI. CAP. 12. *An Act* as to the form and manner of making and consecrating Archbishops, Bishops, Priests, Deacons and other Ministers of the Church set forth under the Great Seal.

Note.—This is the Act which established the new Ordinal which remained in use until 1662, when, in deference to criticism of its efficacy by Catholics and Puritans it was altered by 13 & 14 Charles II. c. 4, [Act of Uniformity], called “An Act * * * for establishing the form of making, ordaining and consecrating Bishops, Priests and Deacons in the Church of England.”

Like 8 Elizabeth c. 1 it contains (Sec. 30) a declaration (reciting the resolution of Convocation in 1562) that the Ordinal of Edward VI. contains all things necessary for its purpose,

and that whosoever are consecrated and ordered according thereto, are rightly, orderly and lawfully consecrated and ordered. The 36th Article and the 8th Canon contain similar declarations. It is curious that it should have been supposed that any original defect in such Orders could have been cured or affected by subsequent declarations of validity.

5 & 6 EDWARD VI. CAP. 1. (The Second Act of Uniformity.) To compel those who abstain and refuse to come to their parish churches on Sundays and Holy-days for common prayer and administration of the Sacraments in the Mother tongue agreeable to the Word of God and the primitive Church, under penalties therein detailed.

Section 5. After reciting that the Book of Common Prayer had been perused, explained and made perfect by the Authority of the King with the assent of Parliament; annexes it with the new Ordinal to the Statute, and establishes and imposes it in upon the Church of England.

5 & 6 EDWARD VI. CAP. 3. *An Act for*

keeping of Holy-days and fasting days therein specified.

5 & 6 EDWARD VI. CAP. 4. *An Act* against quarrelling and fighting in Churches and Church-yards.

5 & 6 EDWARD VI. CAP. 12. *An Act* relating to the Marriage of Priests and for the legitimation of their children.

1 MARY CAPS. 1 & 2. *Declare* the Queen to have been born in lawful wedlock, and repeal all the Anti-Catholic legislation of Edward VI., and restore the Catholic worship.

1 & 2 PHILIP and MARY CAP. 8. *Recites* the supplication of Parliament as representing the realm of England to the King and Queen as persons undefiled in the offence towards the See Apostolic of Rome to intercede on their behalf with Cardinal Pole, the Legate, to bring them back into the bosom and

unity of Christ's Church, and repeals all the Anti-Catholic legislation of Henry VIII.

Recites the submission, and petition for restoration of the abrogated Ecclesiastical jurisdiction, the dispensation of Cardinal Pole, and the reconciliation of the realm to God and to Christ's Church and to His Vicar on earth.

Abolishes the title of Supreme Head of the Church, and ratifies the expropriation of Monastic and Church property.

Restores (Sec. 52) the Pope and the See Apostolic to the same authority and jurisdiction as was used and exercised before the twentieth year of Henry VIII. and the jurisdiction of the Archbishops and Bishops replaced as they then were.

I ELIZABETH CAP. I. (Called an Act to restore to the Crown the ancient jurisdiction over the estate Ecclesiastical and Spiritual, and abolishing all foreign powers repugnant to the same.) *Repeals* all the legislation of the previous reign for the restoration of the Catholic religion [*which religion the Queen had in her*

coronation sworn to maintain and uphold—
 Compilers' Note] and re-enacts the Protestant legislation of Henry VIII. and Edward VI. The Act does not, however, expressly restore the title of "Supreme Head of the Church"; it abolishes all foreign authority and annexes to the Crown all the spiritual and ecclesiastical jurisdiction (Secs. 16 & 17) and (by Sec. 18) empowers the Queen and her successors to appoint Commissioners to exercise spiritual and ecclesiastical jurisdiction. By Sec. 19 the oath to be taken by all Archbishops, Bishops and others is set forth:—

I, A. B., testify and declare in my conscience that the Queen's Highness is the only Supreme Governor of this realm as well in all Spiritual or Ecclesiastical things as Temporal, and that no foreign prince, prelate, or potentate hath, or ought to have, any jurisdiction, superiority, or authority, Ecclesiastical or Spiritual, within this realm, and therefore I renounce," etc.

(Penalties for refusal, forfeiture of office, imprisonment, and death as for High Treason.)

(Penalties repealed 9 & 10 Vict. c. 59.)

Note.—A short statement of the history of this oath will be found at the end.

1 ELIZABETH CAP. 2.* (Called an Act for the Uniformity of Common Prayer and Service in the Church, and administration of the Sacraments.) *Re-enacts that* Edward VI.'s Second Book of Common Prayer, with certain minor alterations (*i.e.*, in the Lessons, the litany and sentences in the delivery of the Sacrament to communicants), shall be the only book used. Sec. 2 disallows any other form of prayer or celebration of the Lord's Supper. Sec. 14 obliges all persons to attend worship on Sundays and Holy-days. Secs. 16 and 17 allows the Bishop to punish by Ecclesiastical censures, and to associate himself with the Justices of Assize on trial of offences under the Act. Sec. 25 provides that the Ornaments of the Church, and of the Ministers thereof in use by the authority of Parliament in the Second year of Edward VI. shall be retained until further

* *Note.*—This is the Statutory Liturgical Charter of the Church of England, and, with the later Act of Uniformity (13 & 14 Charles II. Cap. 4), used to figure as part of the Preface in the Prayer Book.

order by authority of the Queen's Majesty with the advice of her Commissioners appointed under the Great Seal for causes Ecclesiastical, or of the Metropolitan of this realm.

Sec. 27 Declares that all laws and ordinances wherein any other service, administration of sacraments or common prayer is set forth within the Queen's dominions shall be utterly void.

1 ELIZABETH CAP. 4.—*An Act* for restitution of First Fruits to the Crown.

5 ELIZABETH CAP. 1. makes it (Sec. 2) an offence (penalties præmunire and treason) to attribute any manner of jurisdiction, authority, or pre-eminence to the See of Rome and (by Sec. 5) obliges all persons to take the oath set forth in 1 Elizabeth, Cap. 1.

8 ELIZABETH CAP. 1. *Enacts*: (Sec. 5) *That* all persons who have been ordained or consecrated as Archbishops, Bishops, Priests,

Ministers of God's Holy Word and Sacraments or Deacons, after the form prescribed in the Book of Common Prayer, be in very deed and shall be Archbishops, Bishops, Priests, Ministers and Deacons, and rightly made, ordained and consecrated, any law canon or other thing to the contrary notwithstanding.

13 ELIZABETH Cap. 2. *Provides* penalties (death as for high treason, etc.) for bringing into the realm any Bull from Rome, agnus dei, crosses, pictures, beads, or such like superstitious things from the Bishop of Rome or persons authorised by him ; and for absolving or reconciling any person.

By Sec. 8 Offenders are to be denounced to the Bishop of the Diocese or a Justice of the Peace.

Sec. 9 provides a pardon for those reconciled to the Bishop of Rome who within three months come before the Bishop and confess and humbly desire to be received, restored and admitted to the Church of England.

13 ELIZABETH CAP. 12. An Act for the Ministers of the Church to be of sound religion. *Enacts: That* every ecclesiastical person shall subscribe the Articles of Religion.

23 ELIZABETH CAP. 1. *Enacts (Sec. 2)* the penalties of high treason against any person who withdraws from the religion now by Her Highness's authority established within her dominions, to the Romish religion.

Sec. 4. Every person which shall sing or say Mass shall forfeit 200 marks or be committed to gaol there to remain for one year and till the fine is paid, and every person who shall willingly hear Mass shall forfeit 200 marks and be imprisoned for a year.*

Sec. 5 Provides a penalty for any person above 16 who shall not repair to some Church or Chapel or other usual place of Common Prayer of £20 for every month's default.

Sec. 6 Provides that every person who keeps a School Master, who does not repair

* NOTE.—The identity of the New Communion Service and the Mass seems to have been then unsuspected.

to Church, or be allowed by the Bishop of the Diocese; shall forfeit £10.

Sec. 8 Provides that all matters touching the Service of Almighty God, coming to Church, or the establishment of true religion in this realm, shall be enquirable before a Justice of the Peace.

Sec. 10 Provides that a guilty person may submit and conform himself before the Bishop of the Diocese.

27 ELIZABETH CAP. 2. *Enacts: That* any Jesuit, Seminary Priest, and other Priest ordained within or without the Queen's realm by any authority derived from the See of Rome since the first year of Her Majesty's reign shall depart out of her dominions, or (Sec. 2) if they come into or be or remain in her dominions, they shall be liable to be adjudged traitors.

By Sec. 4 any person relieving or maintaining such Jesuit, Seminary Priest, etc., shall suffer death as a felon.

Sec. 6 Enacts: That to send relief to such person or any College abroad involves the penalties of præmunire.

Sec. 7. To send a child beyond the seas involves the parent in a penalty of £100.

Sec. 13 Provides a penalty of fine or imprisonment during pleasure for everyone who, knowing such person as aforesaid to be staying within the realm, conceals his knowledge.

35 ELIZABETH CAP. I. *Entitled* an Act to retain the Queen's subjects in their due obedience, contains further enactments to "enforce attendance at Church to hear divine service established by Her Majesty's Laws and Statutes."

Sec. 8 Provides a penalty of £10 a month for keeping a Recusant in one's house after notice from the Bishop of the Diocese or Justice of the Peace.

35 ELIZABETH CAP. 2. *Entitled* an Act

“for the better discovery of wicked and seditious persons terming themselves Catholics but being rebellious and traitorous subjects,” requires all Recusants under penalties therein specified not to remove more than five miles from their place of abode. Those who have none are to return to their native place, and notify the Minister or Curate of the place of their arrival.

Sec. 11 Enacts: That anyone suspected to be a Jesuit, Seminary, or Massing Priest, and who on examination shall not answer satisfactorily, shall be imprisoned till he does so.

By Secs. 15 and 16 an offender making the following submissions may be discharged:—

I, A. B., humbly confess that I have grievously offended God in contemning Her Majesty's Godly and lawful Government and authority by absenting myself from Church and from hearing divine service, and I am heartily sorry for the same and acknowledge in my conscience that the Bishop or See of Rome, hath

not, nor ought to have any power or authority over Her Majesty or within her dominions; and I promise that I will repair to Church to hear Divine Service and do my utmost to maintain and defend the same.

By Sec. 17 every Minister or Curate shall enter such submission in a book and within ten days certify the same to the Bishop.

CONSTITUTIONS AND CANONS ECCLESIASTICAL OF 1603.

—o—

(1) Provides that the King's supremacy over the Church of England in causes Ecclesiastical is to be maintained.

(2) Censures impugners of the King's supremacy.

(3) Declares that the Church of England, by law established under the King's Majesty, is a true and Apostolic Church, teaching and maintaining the Doctrine of the Apostles.

(5) Censures impugners of the Articles of Religion as superstitious or erroneous.

(8) Censures impugners of the form of consecrating and ordering Bishops, Priests and Deacons in the Church of England.

(20) Churchwardens shall provide a sufficient quantity of fine white bread, and good wholesome wine to be brought to the Com-

munion Table in a clean and sweet standing pot or stoop of pewter, if not of purer metal.

(21) The Communion to be received thrice a year. No bread or wine newly brought shall be used, but first the words of institution shall be rehearsed, when the bread and wine be present upon the Communion Table. The Minister as often as he administers the Communion shall first receive that Sacrament himself, and shall deliver both the bread and the wine to every communicant severally.

(22) Warning to be given beforehand for the Communion. Communion to be received by every lay person thrice a year, and parishioners enjoined to accept and obey under penalty and danger of the law.

(31) Deacons or Ministers to be ordained only on the Sundays following the Ember weeks.

(36) Such as are to be made Ministers are required to subscribe willingly and ex animo the following articles :—

That the King's Majesty under God is the only supreme Governor of this realm and of all other His Highness's dominions, as well in all Spiritual or Ecclesiastical things as

Temporal; and that no foreign prince, person, prelate, state or potentate hath or ought to have any jurisdiction, power, superiority, pre-eminence or authority Ecclesiastical or Spiritual within His Majesty's realms.

That the Book of Common Prayer [shall be used] and none other.

That the Articles of Religion agreed upon by the Archbishops and Bishops and the whole Clergy in Convocation in 1562, 39 in number, be agreeable to the Word of God.

(37) Declaration (as above) to be required before a Minister is licensed.

(38) Revolters after subscription to be excommunicated and deposed from the Ministry.

(40) As to Declaration against Simony.

(65) Ministers are required to denounce Recusants and Excommunicates in the Parish Church that others may be excited to procure a writ of "de excommunicato capiendo."

(66) Every Minister being a preacher, and having any Popish Recusant in his parish, shall labour diligently with him to reclaim him from his errors; and if he be no preacher, shall procure some that are preachers, to take pains with him for the purpose.

(82) Directs provision of a decent Communion Table to be kept and repaired in a sufficient and seemly manner, and covered in time of Divine Service with a carpet of silk or other decent stuff; and with a fair linen cloth at the time of the ministration, as becometh that table. At which time the same shall be placed in so good sort within the church or chancel as thereby the Minister may be more conveniently heard of the communicants in his prayer and ministration.

(114) Every Parson, Vicar or Curate shall inform themselves how many Popish Recusants, men, women and children above 13, and how many Popishly given (who though they come to church refuse to receive the communion) abide in the parish, and shall set out their names, distinguishing the absolute Recusants from the Half Recusants, and present the same to the Ordinary under pain of suspension.

(139) Whoever shall affirm that the sacred Synod of this nation, in the name of Christ and by the King's authority assembled, is not the true Church of England by representation; let him be excommunicated.

(140) Whoever shall affirm that any person either of the Clergy or Laity not themselves present at the Synod, are not subject to the decrees thereof (made and ratified by the King's supreme authority) as not having given their voices unto them; let them be excommunicated.

The King (James I.) of his princely inclination and care for the Church of England having with great contentment and comfort considered these Canons and Constitutions and finding the same profitable to the Church and given His Royal Assent thereto; by His Supreme Authority in Causes Ecclesiastical ratified and established the same by Letters Patent, and commanded them to be observed and executed by all his loving subjects within the Provinces of Canterbury and York.

In 1866 a Royal license was granted to Convocation to alter certain of the Canons of 1603. The license recites 25 Henry VIII. c. 19, which restrained the Meetings of Convocation.

The Canons thus altered were 36, 37, 38 and 40, to adapt them to the provisions of the Clerical Subscription Act 1865. *See post.*

THE OATH OF ROYAL SUPREMACY.

—o—

THE Oath provided by the Statute 1 Elizabeth c. 1 was incorporated with the Ordinal, and taken by all Deacons, Priests and Bishops on ordination and consecration until 1688.

Its substance was ratified and confirmed by the Church of England in the 36th Canon in 1603. Another form of Oath was substituted in 1688 by the Statute of 1 William & Mary c. 8, and it afterwards appeared in the Liturgy, though the old Elizabethan form has been found in an Edition of the Book of Common Prayer printed in 1703.

The Oath which was substituted by 1 William & Mary c. 8 is as follows:—"I, A. B.,

do swear that I do from my heart abhor, detest and abjure as impious and heretical that damnable doctrine and position *That Princes excommunicated or deprived by the Pope, or any authority of the See of Rome, may be deposed or murdered by their subjects, or any other whatsoever.* And I do declare that no foreign Princes, Person, Prelate, State or Potentate hath or ought to have any jurisdiction, power, superiority, pre-eminence or authority, Ecclesiastical or Spiritual, within this realm."

Both forms of Oath made impossible all belief in the Pope as "Patriarch of the West," or a "Primacy of Honour," and such like modifications of the ancient belief of Christendom.

The Rubric in the Ordinal for the Consecration of Bishops then stood as follows:— "Then shall the Archbishop demand the King's Mandate for the Consecration, and cause it to be read. And the Oath touching the acknowledgment of the King's Supremacy [as above] shall be ministered to the persons elected."

Before the Reformation the Apostolic Man-

date was demanded, and instead of the oath of Royal Supremacy, the oath which is shortly as follows was administered:—

I, A., Bishop (or Abbot) of B., shall be faithful and obedient to St. Peter and to the Holy Church of Rome, and to my Lord the Pope and his successors canonically entering The Papacy of Rome, the rules of Holy Fathers and the Regality of St. Peter I shall help maintain and defend The threshold of the Apostles I shall visit yearly, personally or by my deputy, etc. (Codex juris Ecclesiastici Anglicani, Oxford, 1761, page 116.)

As regards the Clergy, the Clerical Subscription Act 1865 substituted for an Oath on Ordination a Declaration of Assent to the Thirty-Nine Articles, the Book of Common Prayer, and the Ordinal; that the doctrine of the Church of England as therein set forth is agreeable to the Word of God; and that in Public Prayer and Administration of the Sacraments the form thereby prescribed shall be used, and none other, except as prescribed by Authority. The Act, however, retained

the Oath of Allegiance and Supremacy required by 21 & 22 Vict. c. 48, and which was shortly as follows :—

I, A. B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, and faithfully promise to maintain, support and defend the succession of the Crown, as limited to the Princess Sophia, Electress of Hanover, and the heirs of her body being Protestants; and I declare that no foreign Prince, Person, Prelate, State or Potentate hath or ought to have any jurisdiction, power, superiority, pre-eminence or authority, Ecclesiastical or Spiritual, within this realm.

By the Promissory Oaths Act 1868 this Oath (which was very long) was reduced to a simple Oath of Allegiance, as there set forth. But the Act expressly declared that it should not affect "The Oath of Homage taken by Archbishops and Bishops in the presence of Her Majesty."

The Oath now taken by Bishops of the Church of England when doing homage to the Sovereign is as follows :—

I do verily testify and declare that your Majesty is the only Supreme Governor of this your realm in Spiritual and Ecclesiastical things as well as Temporal, and that no foreign prelate or potentate has any jurisdiction within this realm ; and I do acknowledge and confess to have and to hold the Bishopric of N. and the possessions of the same entirely as well the Spiritualities as the Temporalities thereof, only of your Majesty and of the Imperial Crown of this your Majesty's realm. And for the same possessions I do homage presently to your Majesty. So help me God and by the Holy Contents of this Book. (The Anglican Ministry, Hutton, page 504.)

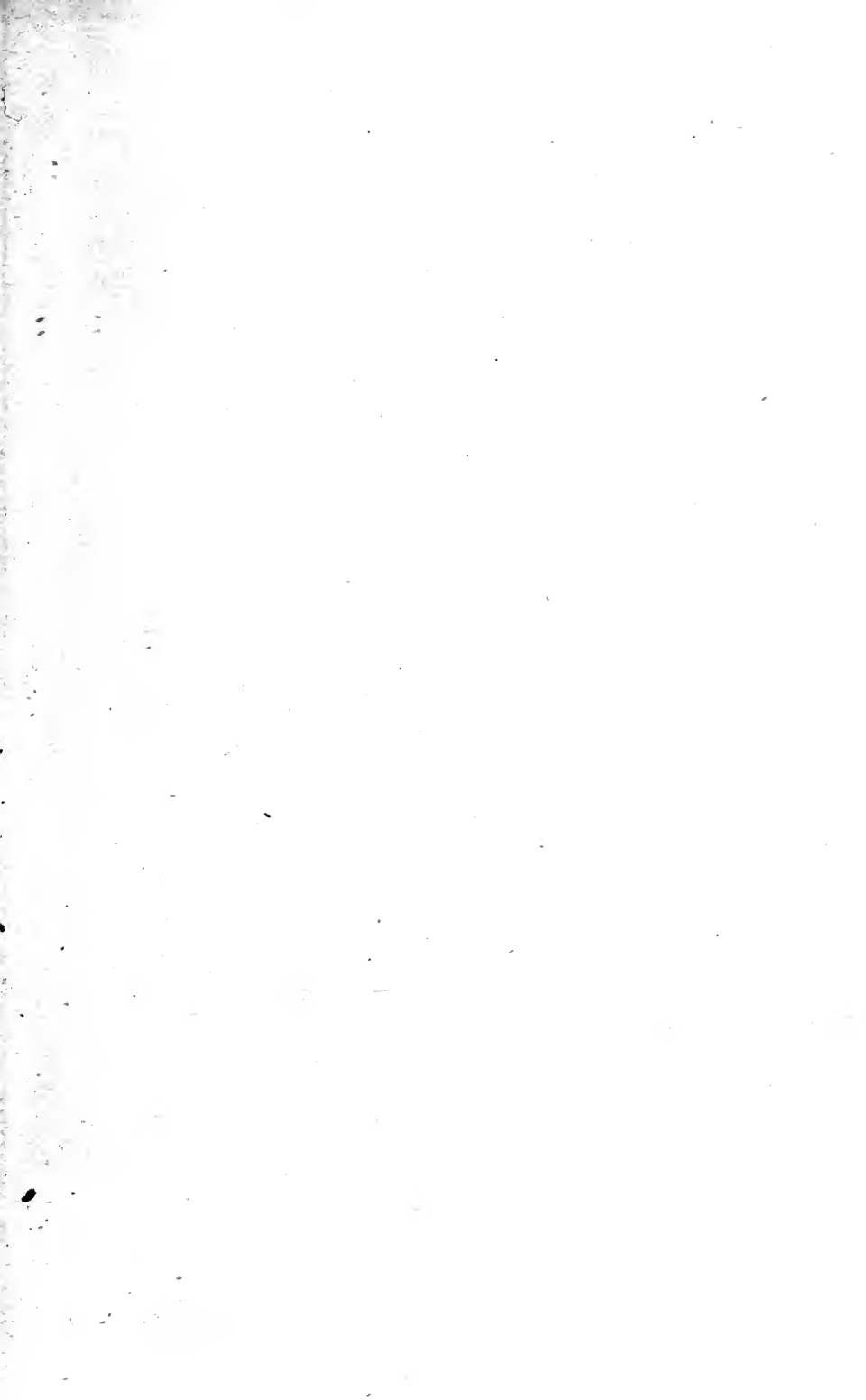
The Pre-Reformation Oath of Homage began as follows :—

I, A., Bishop of N., utterly renounce and clearly forsake all such clauses, words, sentences and grants which I have or shall have hereafter of the Pope's Holiness, for the Bishopric of N. that in anywise hath been, is, or hereafter may be, hurtful or prejudicial to your Highness, your heirs, successors, dignity, privilege or estate royal.

The remainder is an Oath of Obedience to the King in temporal matters. (Codex juris Ecclesiastici Anglicani, page 117.)



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