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eternally irreconcilable—but as represented in her own authorized formularies, and in the writings of her greatest divines. We doubtless want administrative reforms, but our greatest and most urgent need is a spiritual revival, and a due appreciation of our position as a reformed Church.

DAVID JONES.

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ART. VI.—DECLARATORY ACTS AND THE REFORM  
OF CONVOCATION.<sup>1</sup>

**I**N inviting members of the National Church to consider once more the conditions of the Convocations of Canterbury and York, I would first of all ask them to remember that these Convocations are already in existence. Whether we like them or not, there they are; and it is unwise to ignore them. And next, I hope that they will also bear in mind that all Churches that ever were heard of have an opportunity for discussing their own affairs. Not to speak of the countless Synods of the early Churches in all their branches, I would remind them of the important and vigorous annual Synod of the Scots Episcopal Church, of the Irish Reformed Church, of the American Episcopal Church, of the Churches of the Colonies; the General Assembly of the Established Church of Scotland, that of the Free Church of Scotland, of the United Presbyterians, and other bodies in that country; and the annual meetings of the Wesleyans, the Congregationalists, the Baptists, and others in our own country. I am not discussing whether these are all Churches in the true sense of the word; I am quoting their example as that of contemporary Christian organizations within our own observation, all showing one and the same tendency to central councils more or less representative.

The Convocations of Canterbury and York have for many centuries acted as Synods for these two provinces. We must remember that there is a nominal distinction between a Convocation and a Synod. A Provincial Synod consists of the bishops of a province, together with some of their presbyters, summoned by the Metropolitan, for purposes of deliberation and action in matters ecclesiastical. A Convocation consists of a representation of bishops and clergy summoned by the Metropolitan at the command of the King, for advice and action in affairs of State. The two gatherings may co-exist. There

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<sup>1</sup> I desire to express my direct obligations to Dr. Cutts's "Dictionary of the Church of England," Article "Convocation" (London S.P.C.R., 1889); and to two articles in the *CHURCHMAN*, "The Reform of Convocation," by Mr. Philip Vernon Smith. I think it desirable to reprint this article at the present time, as Church Reforms will probably be much discussed in the next few years.

are in both a large number of *ex-officio* members. The Synod and Convocation may meet separately on different occasions for their different objects. They may be summoned together and fused. Both courses have been adopted.

In Saxon times, bishops, abbots, and other chief ecclesiastics were often summoned to the Witenagemôt on affairs of State. On such occasions it was also often found convenient by the Metropolitan to convert these assemblies into Synods.

After the Conquest, bishops and abbots still formed part of the King's Great Council, but ecclesiastical Synods were also held separately for ecclesiastical matters.

In the time of Edward I. there grew up, as is well known, the idea of the representation of the people in the King's Great Council. To this council, therefore, there were also added knights of the shire, burgesses, proctors from the cathedral, and collegiate chapters, and proctors from the archdeaconries. The Great Council was divided into three houses: (1) the bishops and nobles, (2) the knights and burgesses, and (3) the proctors. The ecclesiastical portion of this great national assembly received the name of Convocation. As in Saxon times, the Metropolitans of Canterbury and York often summoned purely ecclesiastical Synods when there was no meeting of Parliament and Convocation.

Since the Reformation, in consequence of the Act of Surrender to King Henry VIII., the Metropolitans cannot summon Synods without the King's licence. Accordingly, the Convocations summoned by the Crown, with the Parliament, have, as far as circumstance would allow, acted as Provincial Synods. The Convocations being summoned, like Parliament, primarily for purposes of taxation, which was collected separately in the form of subsidies from counties, cities, dioceses, chapters, the monastic orders, and other bodies, found organization a natural consequence, and, like Parliament, used every opportunity of meeting for the discussion of grievances. With the extraordinary pertinacity of ecclesiastical customs, these discussions still retain the name of gravamen in the immovable forms of the Convocations.

Owing to the unhappy and unchristian jealousy which existed for so many centuries between the Metropolitans of Canterbury and York, especially after the independence of the Province of York had been vindicated by Archbishop Thurstan, National Synods, to the great loss of the National Church, became almost impossible.

The Convocations of 1415 present the earliest instance of bishops and clergy sitting apart.

In the fourteenth century several Convocations were held about Wickliffe; but till the time of Henry VIII. they met

irregularly, and transacted little business except the granting of subsidies.

After the failure, in the fifteenth century, of the Councils of Constance and Basel to reform the growing and notorious abuses of the Church, the question was taken up by various sovereigns in different countries. In France we have the Pragmatic Sanction, in Germany the Concordat of Vienna, in Spain the efforts of Cardinal Ximenes, and in England Wolsey summoned a National Synod. Unfortunately, the clergy had no desire to be reformed, and the assembly was dissolved.

King Henry VIII. had allowed this National Synod, but when Wolsey fell into disgrace he employed Thomas Cromwell to proceed against the whole clergy of England for having attended, laying them under the sentence of the Act known by its initial word as *Præmunire*. The clergy compounded with their tyrant for the enormous sum of £120,000, equal in the present time to one million and a half sterling, and surrendered their ancient constitutional liberties to the Crown. The results as to Convocation have been principally four :

1. It can only be summoned by the King's writ.
2. When assembled it can only make canons by the King's licence.
3. Its canons are of no force without the King's sanction.
4. None of its canons are valid against the laws and customs of the land, or the King's prerogative.

Since that time the Convocations have remained unchanged. They still consist of two—Canterbury and York. Their members are still bishops, deans, archdeacons, proctors for chapters and for archdeaconries. In the case of York there is a difference from Canterbury, in the fact that since, at least as early as 1279, two proctors have been summoned for each archdeaconry, maintaining thereby a fairer representation of the parochial clergy. York also, like Canterbury, has been modified, though only on fixed and strict principles, by the addition of the new dioceses of Ripon, Manchester, Liverpool, Newcastle and Wakefield. Till the present century the Northern Province only contained five dioceses—York, Durham, Carlisle, Chester, and Sodor and Man. The practice of summons is that whenever Parliament is called together the Crown sends the mandate to the Archbishop. In the case of Canterbury the Archbishop sends it on to the Dean of the Province, the Bishop of London. In the case of York the Archbishop sends it straight to his suffragans, the other bishops. There are also some little differences in the selection of proctors. In the diocese of London we have the extremely cumbrous form of the two archdeaconries, each sending up two names, out of which four the bishop selects two according to

his pleasure. In the diocese of Salisbury the three arch-deaconries choose six electors, and these six finally select two from their own number.

If anyone asks what share did the Convocations take in the Reformation, he may be answered in the words of Fuller ("Ch. Hist.," v. 188): "Upon serious examination, it will appear that there was nothing done in the reformation of religion save what was asked by the clergy in their Convocation, or grounded on some act of theirs precedent to it, with the advice, counsel, and consent of the bishops and most eminent Churchmen (ecclesiastics), confirmed upon the past fact, and not otherwise, by the civil sanction, according to the usage of the best and happiest times of Christianity."

Or he may read in Joyce's "Acts of the Church" (p. 86): "At this epoch of our history, Acts of Parliament, Royal Proclamations, and Civil Ratifications, did not precede, but followed in point of time, the decisions of the Spirituality, and were merely auxiliary of the Acts of Convocation."

In his history of English Synods, Joyce gives us a list of some of the principal measures taken by the Convocations:

- (1) 1534. The declaration that the Pope has no greater authority in England than any other foreign prelate.
- (2) 1536. Forty-nine popular errors complained of, and ten Articles of Religion carried.
- (3) 1542. The first Book of Homilies introduced and authorized. (They were published in 1547.)
- (4) 1543. "The Necessary Doctrine and Erudition of a Christian Man" confirmed.
- (5) 1544. The Litany, nearly as at present, authorized.
- (6) 1547. Communion ordered in both kinds.  
Repeal of the prohibition of the marriage of the clergy.  
Edward VI.'s first Prayer-Book.
- (9) 1550. Revision of the Litany considered.
- (10) 1552. Cranmer's Forty-two Articles ratified.  
Edward VI.'s Catechism authorized by delegates of the Convocations.
- (12) 1559. Alteration of the Prayer-book under Elizabeth by an Episcopal Synod.
- (13) 1562. The Thirty-nine Articles revised and reduced from a larger number.
- (14) 1603. The canons, as collected and arranged by Bancroft, agreed upon with the King's licence.  
The Hampton Court alterations received Synodical sanction in these canons.
- (16) 1661. Occasional services drawn up.

Form of adult baptism.

Forms for January 30 and May 29.

(19) 1640. Seventeen canons made by Charles I.'s licence, including view as to Divine Right. These were repealed 13 Charles II.

(20) 1661. The Convocation of York sent deputies, and thus composed a National Synod under King Charles II.

The Prayer-book was reduced to its present form.

It was signed and sanctioned by the united Convocations, and appended by Parliament to the Act of Uniformity.

In 1664, Archbishop Sheldon and Lord Chancellor Hyde arranged that the clergy should cease taxing themselves, and be included in the money bills of the House of Commons.

King James II., as a Roman Catholic, did not allow the Convocations to do any business.

In the reign of William and Mary, when the Convention Parliament met, the Convocations were not summoned. Finally, a subsequent Parliament itself petitioned the Crown to summon the ecclesiastical bodies. From these, Sancroft and the non-juring bishops were absent. The Lower House was in an angry frame of mind, and entered on a contest with the Upper. The result was that in 1690 the Convocations were silenced for ten years.

Under Queen Anne the Convocations met again, and received letters of business; but the squabbles continued. In the reign of George I. the Lower House of Canterbury vehemently attacked Hoadley, Bishop of Bangor. The Crown pro-argued it, and it and that of York remained silent for 134 years.

As to this century and a half of prorogation the weighty words of Sir Robert Phillimore ("Eccl. Law," p. 1933), should never be forgotten: "It may well be questioned whether this discontinuance has not worked mischief to the State as well as to the Church. Probably, if Convocation had been allowed to sit to make the reforms, both in its own constitution and generally in the administration of spiritual matters, which time had rendered necessary, the apathy and Erastianism, which at one time ate into the very life of our Church, the spiritual neglect of our large cities at home in England, and of our Colonies abroad, and the fruit of these things, the schism created by the followers of Wesley, would not have occurred, and the State would have escaped the evil of those religious divisions which have largely influenced, hampered, and perplexed the legislation of her Parliaments and the policy of her statesmen.'

After 134 years, efforts were made to revive the synodical action of the two Provinces of the National Church of England under the forms of the ancient Convocations, in which Bishop Samuel Wilberforce and Mr. Henry Hoare took a leading part. On November 5, 1852, the Convocation of Canterbury resumed its sittings; in 1861 it was followed by that of York.

Among the subsequent Acts of Convocation may be mentioned these. If it is not a very important list, we must remember the hampering circumstances under which Convocation acts.

- (1) 1859-1865. Preparation of a Harvest Thanksgiving Service.
- (2) 1863. Repudiation of the opinions of Bishop Colenso.
- (3) 1864. Repudiation of erroneous opinions contained in some of the articles in "Essays and Reviews."
- (4) 1865. Modification of the oaths taken before Ordination and Institution to a Benefice, and of the oath against Simony.
- (5) 1860-1868. Important debates on Ritualism and on events in South Africa.
- (6) 1868-1874. Proposed revision of the Translations of the Old and New Testaments. The Committee appointed in 1870.
- (7) 1871. Protest against the Vatican Council. Declaration on the Athanasian Creed.
- (8) The new Lectionary.

Other measures proposed and carried are such as the provision of a Burial Service in cases where the Rubric forbids the present forms, the subdivision of the morning Sunday Service, the shortening of the first or of the second Communion on any particular day, the permission that parents may be sponsors at baptism. But in the present state of the House of Commons it has not been thought desirable to submit these proposals to Parliament. The actual achievements of the Convocations, however, by no means represent the value of their services. Their reports on all kinds of subjects, notably on that of intemperance, have been of lasting importance and great practical effect; and their discussions, always conducted on a very high level, have given uninterrupted opportunities for the ventilation of the opinions and feelings of the clergy.

The history of the Convocations may be divided into eight distinct epochs:

- (1) The sitting of the bishops and dignitaries with the temporal magnates in council.
- (2) The "Præmunientes" clause of Edward I., summoning proctors of the clergy to Parliament.

- (3) 1515. The division of the clergy into two Houses.
- (4) 1534. The Act of Submission.
- (5) 1664. The abandonment of self-taxation.
- (6) 1689. The accession of William and Mary, and their attitude to the Church.
- (7) 1717. Prorogation to prevent the Lower House from censuring Bishop Hoadley.
- (8) 1852. Revival.

It cannot be said that the Convocations as they exist command the confidence of the whole Church. This is particularly true of the southern Convocation; the fact that each archdeaconry only returns one proctor renders it not only possible, but probable, that, as different waves of thought and feeling pass over the Church, the minority may in each case be wholly unrepresented, just as is the case in the parliamentary representation of Wales. The fact of the two proctors for each archdeaconry in the Northern Convocation makes the representation far more just, satisfactory, and acceptable. All that we want to secure by the reform of the Convocations is such a measure of the general confidence of the Church as will enable those ancient Synods to discharge those occasional duties of administration which are discharged by the General Assembly of the Kirk of Scotland.

I may here give details of the exact composition of the Lower Houses of the two Provinces as at present constituted. The Lower House of Canterbury has 161 members. Of these, 113, or seven-tenths, owe their nomination to the Crown or to the bishops. There are only 48 proctors of the clergy. There are 24 deans, the Provost of Eton, 64 archdeacons, and 24 proctors for chapters. I would only point out how enormously the cathedral chapters are over-represented. They not only send 24 deans and 24 proctors, but for the most part they are also represented by the 64 archdeacons. In the Lower House of York the proportion is very different. It consists of 77 members. Of these, 36, or not one-half, owe their nomination to the Crown or to the bishops. There are 6 deans, 21 archdeacons, 42 proctors of the clergy, and 9 proctors for cathedral chapters.

The Lower House of the Province of Canterbury has not been unaware of its ancient and cumbrous composition. In the year 1855, three years after its revival, a case for reform was submitted to Lord Westbury and Sir Robert Phillimore which led to no result. In 1865, and again in 1868, the Lower House presented an address to the Queen, praying for licence to alter its constitution. But the question of authority was so obscure that Ministers were unable to grant the petition. In 1866 a committee was appointed by the Lower House to report



on the whole subject. At different intervals they presented no less than four reports. And in 1889 the question received the earnest consideration of the House of Laymen.

The difficulty which none of these attempts have been able to overcome is the great question, Where resides the authority for the reform of the Convocations? This can be only decided from a strictly legal point of view; and in offering a solution I have the advantage of two very clear and able articles on the subject in the *CHURCHMAN* magazine, by an eminent lawyer who takes a keen interest in all matters affecting the National Church—Mr. Philip Vernon Smith. There has been a misapprehension that Mr. Smith is not of the same opinion as when he wrote those articles; but I put the question to him not long ago, and he assured me that the misapprehension was entirely groundless, and that he held the solution with which I am to conclude my paper to be the only one possible.

There are four possible sources of authority for the reform of Convocation :

1. Convocation itself.
2. The Archbishop of the Province.
3. The Crown, in virtue of royal supremacy.
4. Parliament, as the governing legislative body of the whole realm.

First, then, can the Convocations reform themselves? Here we are met at the outset by a weighty point of ecclesiastical law: Did King Edward I. and King Edward II., in summoning the Convocations to meet Parliament, create a new body for taxing purposes, instead of the ancient Synods? Lord Selborne, in a conference which was held between himself, Archbishop Tait, and Mr. Gladstone when First Minister of the Crown, on this subject, held that in the legal sense it must be considered a new body. The only unquestionable basis of the existing representation of the presbyters of the Church in the Convocations is, according to that high authority, the *Præmunientes* clause of 1293, Edward I., followed always after 1315 in the composition of these assemblies. We must remember the fourth of the principles established by the arrangement between Henry VIII. and the Church in the Act of the Submission of the clergy: "None of the canons of the Convocations are valid against the laws and customs of the land, or the King's prerogative." Lord Selborne points out that no custom can be alleged in favour of Convocation on its own authority altering its own constitution. The custom is adverse.

Secondly, cannot the authorization be given by the Archbishop of the Province? Nobody can deny, at any rate, that he has the absolute and uncontroverted right of determining

all disputed elections. Nobody can deny that he summons, without challenge, proctors for new archdeaconries as they are created. In the Southern Province we have the new dioceses of Truro, Southwell, and St. Albans, with the new archdeaconries of Oakham, Kingston-on-Thames, Southwark, Bodmin, Cirencester, and the Isle of Wight. It is true, also, that the writ sent by the Crown to the Archbishop does not prescribe the mode of summoning. But the understanding of the year 1315, and the unaltered custom of six hundred years, would, according to the highest legal authorities, make it perilous in the extreme for the Archbishop to deviate. No harm could happen to himself, but the composition and acts of the assembly so reformed might be open to endless dispute.

Thirdly, why should not the Crown, which gave the original order in 1298, revise that order six hundred years later? The answer is, that six hundred years bring many changes. The Crown has not the same power that it had six hundred years ago. The power of the Crown is now shared by the House of Commons. In the time of Edward I. the Crown, which created the House of Commons, could alter its constitution at pleasure. The Crown could not alter the constitution of the House of Commons now. And it is held that the Crown, unassisted, could no more alter the constitution of the Convocations than it could alter the constitution of the House of Commons.

We are thus brought to the fourth alternative, the authority of Parliament. Here we come to an irreconcilable difference of opinion. Lord Selborne says that the power of the Crown having passed to Parliament—or, rather, to the House of Commons—Parliament could give the necessary initiative. But this proposal has been met by the strenuous opposition of the Convocation of Canterbury itself. It is replied by the Convocation that there is absolutely no precedent for Parliament interfering, and that such interference they never would accept, much less invite. Of course, as a matter of abstract fact, nobody doubts that Parliament has the power to interfere with everything that it pleases in the United Kingdom. But it is more to the point, at the same time, to remind ourselves that, on the one hand, Parliament would never use that power except at the desire of the Convocations; and, on the other hand, that the Convocations would never demand its exercise. It has been declared by the highest judicial authority of his day, Lord Coleridge, the late Lord Chief Justice of England, that the Convocations are as old as Parliament, and as independent.

Here, then, is a fourfold dilemma, out of which there is apparently no escape. What is to be done? Are we actually reduced to an *impasse*, and must we remain in our present situation for ever? A happy solution of the difficulty has been

provided by Mr. Philip Vernon Smith in a recourse to the principle of a Declaratory Act. Blackstone says that statutes are either declaratory of common law, or remedial of some defects therein: declaratory, where the old custom of the kingdom is almost fallen into disuse or become disputable, in which case the Parliament has thought proper *in perpetuum rei testimonium*, as a perpetual guide-post of the matter in hand, and for avoiding all doubts and difficulties, to declare what the common law is and ever has been.

Declaratory Acts are rare, and only for great occasions. They have cleared up doubts as to the marriage law. In 1766 such an Act declared the subordination of the Colonies in America to the Imperial Crown and Parliament of Great Britain. In 1783 such an Act declared the right of the Irish people to be bound only by the laws of Grattan's Parliament. In 1865 such an Act declared the resolution of doubts as to the validity of laws passed by the Colonial Legislatures. Here, then, in the doubt as to the authority for the reform of the Convocations, is an exact case in point for a Declaratory Act. In the words of Blackstone: "The old custom of the kingdom has become disputable." The old custom was for the King to determine who was to attend the Convocations; that ancient royal prerogative is now obviously a matter of dispute. What we have to do is to persuade Parliament, in justice to the National Church, to pass a Declaratory Act authorizing the Convocations, with the consent of the Crown, to amend their own composition in accordance with the requirements of the age. Mr. Smith has given a sketch of such an Act:

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

This would obviously be no interference with the independence of the Convocations, or claim of Parliament to control their measures for reconstitution, but a distinct disclaim of any desire so to interfere or control. It is difficult to see why either the Convocations or Parliament should object to so happy an arrangement. Here are combined all the four possible sources of authority for such a reconstitution.

It is with the question of a possibility of a reconstruction, that I am in this paper concerned, and not with the course which the reconstruction would pursue when found to be possible. There are, however, two main objects of reconstitu-

tion which have my hearty sympathy. The first is the redress of the balance between the nominated and elected members of the Convocations, including probably the abolition of the cathedral proctors. The second is the appointment of representation to dioceses with some regard to size and population. For instance, the representation of the Diocese of London and the Diocese of Bangor is at present the same; whereas the Diocese of Bangor has 141 benefices and less than a quarter of a million of souls, and the Diocese of London 511 benefices and nearly four millions of souls; the Diocese of Bangor has 80 curates, the Diocese of London about 650. Such irregularities are a reduction to absurdity of the principle of representation. A third point is that some kind of representation must be devised for the unbeneficed clergy. In London they outnumber the incumbents by more than 100, so that the subject will require careful consideration.

A resolution in favour of the proposed Declaratory Act was passed this year by the London Diocesan Conference. A like resolution was adopted by the President and Fellows of Sion College, and presented during the February sittings to both Houses of the Convocation of Canterbury. I should be hopeful for the future if such a resolution should be carried at every important meeting of the clergy or of Churchmen in general. The reconstitution we desire is no slight matter. It is one thing that the clergy should be able to make their voice heard; it is a far more important thing that that voice should be the true, real, genuine voice of the clergy, and not a counterfeit or accidental phantasm. And we must remember that it is not without the united and repeated expression of the whole National Church, clergy and laity alike, that we shall prevail upon Parliament to give us the Declaratory Act for reconstitution. The reconstitution would be so useful to the National Church that the political Nonconformists are sure to oppose it on that very ground. We must be united and persistent, and decline to be discouraged. And may God Almighty grant that in this and all our other desires we may seek only His honour and glory, and in subordination to that the good of His Church, and the well-being of every class and section of our fellow-subjects! May He, of His great goodness and in His own good time, grant us relief from the opposition, obstruction, and persecution from which we are suffering, and enable us to go calmly on our course of well-doing, following in all things the example of His Son, and devoting all our energies to the conquest of sin, the relief of suffering, and the lifting up of the lot of all mankind, that they may know the riches of their inheritance in the Gospel of Immortal Life.

WILLIAM SINCLAIR.