

Theology on the Web.org.uk

Making Biblical Scholarship Accessible

This document was supplied for free educational purposes. Unless it is in the public domain, it may not be sold for profit or hosted on a webserver without the permission of the copyright holder.

If you find it of help to you and would like to support the ministry of Theology on the Web, please consider using the links below:



Buy me a coffee

<https://www.buymeacoffee.com/theology>



PATREON

<https://patreon.com/theologyontheweb>

[PayPal](#)

<https://paypal.me/robbradshaw>

A table of contents for *The Churchman* can be found here:

https://biblicalstudies.org.uk/articles_churchman_os.php

THE RESTORATION SETTLEMENT OF THE CHURCH.

BY THE REV. HAROLD SMITH, D.D.

THE importance of the settlement of the Church at the Restoration, with its modifications at the Revolution, is only second to that at the Reformation. In fact, in speaking of the Reformation Settlement we must take into account the important codicil added at the Restoration. It was then that the Prayer Book underwent its last revision until the present day, in fact the only systematic revision since Edward VI; and it was then that various acts of legislation determined the limits of the Church, so establishing modern Nonconformity.

The Restoration had been brought about by a combination of two parties: (1) the old Cavaliers, whether Laudians or not; and (2) the Presbyterians, who had as a body strongly opposed the execution of Charles I, and had in many cases suffered in 1650 for refusing to take the "Engagement," a pledge "to be true and faithful to the Commonwealth of England as it is now established without a King or House of Lords." Thus they were quite consistent in supporting the Restoration. In the Convention Parliament of 1660 they were very strong, if not predominant.

In April, 1660, Charles issued from Breda in Holland a declaration whereby among other things he promised liberty to tender consciences, and that no man should be disquieted or called in question for differences of opinion on matters of religion which do not disturb the peace of the kingdom. He would accept an Act of Parliament for the free granting of this indulgence. Several leading Presbyterians interviewed him at Breda; he replied to them kindly on the lines of his Declaration, but at once refused to give up the use of the Book of Common Prayer or of the surplice in his own chapel. When he arrived in London, the Prayer Book was at once used in the Chapel Royal; many churches followed this example. Patrick, Rector of Battersea, tells us that he was pressed by some in his parish to do the same, but thought it best to preach a few sermons on the matter first. He, however, started it on July 22, and no one objected.

The general legal position taken up at the Restoration was that all the measures of the Long Parliament which had received the Royal Assent were valid and still held good ; all the rest, passed without the King's consent, during the course of the war, were invalid. Thus the ordinances abolishing the use of the Prayer Book were of no force, and its disuse was in strictness illegal ; some ministers were molested for this. But the King's Declaration granted that the matter must be newly settled by Parliament.

The Presbyterians now presented an address and proposals, expressing assent to a limited episcopacy balanced by a due commixture of presbyters, and to the lawfulness of a liturgy ; but not to the Prayer Book as it stood. They desired that learned, godly and moderate divines should be employed to compile a new form, as much as possible in Scripture words ; or at least to revise the old with alternatives in Scripture phrase ; and that ceremonies should be left optional. The Bishops' reply was not very conciliatory ; but on October 25 the King issued a declaration largely acceding to these proposals. (A draft was shown the ministers and suggestions and criticisms invited ; these were considered in the final form.) No bishop should ordain or exercise any part of jurisdiction appertaining to the censures of the Church without the advice and assistance of the presbyters. (The Presbyterians had suggested " and consent," but the King would not accept this.) The archdeacon should exercise no jurisdiction without the advice and assistance of six ministers of the archdeaconry, three nominated by the Bishop and three elected. An equal number of learned divines of both persuasions was to be appointed to revise the Prayer Book, to make such alterations as should be thought most necessary, and some additional forms, in Scripture phrase if possible. The King wished that those who objected to some parts of the Prayer Book would use the parts against which there was no exception ; yet none were to be punished or troubled for not using it until it were revised. Ceremonies were to be left optional for the present.

This declaration was so much in favour of the Puritan contentions that it is doubtful whether the King was sincere, or only wished to gain time to substitute a new Parliament, probably less Presbyterian.

It may be remarked incidentally that in present proposals for

Reunion under a system of episcopacy it is never clearly stated how far episcopacy is to be modified, how far, e.g., a bishop could be vetoed by his synod or conference. Mention of "primitive episcopacy" does not help; some of the bishops of the Early Church were very autocratic, and would never have allowed interference by mere presbyters. If the Church is to be democratized—for it is generally held nowadays that unlimited democracy is far and away the best form of government, though this involves a great triumph of faith over sight—this should begin with the bishops, not with the parochial clergy. Episcopacy is consistent with bishops having no more authority than in the ancient Irish Church; but this is perhaps going too far.

Not till March 25, 1661, did the King issue a warrant for a conference to be held at the *Savoy*; and then its scope was much less than that laid down in the Declaration, though the Puritans do not seem to have noticed the difference. The Conference began April 15; I pass over details of this, because readily accessible in all books on the Prayer Book. It is a most depressing and disheartening story of a great opportunity wasted. Neither side was willing to make any real concession, or endeavoured to understand the position of the other. The only difference was that the Bishops rightly estimated the feeling of the country, and especially that of the new Parliament, while the Puritans seemed unconscious of this. Two further things should be remembered: (1) the Puritans were represented only by the Presbyterians, who had nominally been in possession for nearly twenty years; the Independents were not represented, much less the Baptists and Quakers; (2) the common impression that the changes in the new Prayer Book were due to this Conference is quite wrong; it was an absolute failure; the revision was due to the independent action of Convocation.

On November 21, 1661, a committee of eight bishops, including Wren, Cosin and Sanderson, was appointed to revise the book. But this was clearly just a ratification of work already done. The whole House set to work at once, sending each part as soon as done to the Lower House for amendment or approval. The new book was subscribed December 21, 1661; it was for some time in the hands of the King and Privy Council before submission to Parliament.

The alterations are said to number six hundred, but many were

only verbal or hardly more. The principles of the revision are clearly set forth in our present Preface, by Sanderson, Bishop of Lincoln, no extreme man, who though deprived of his Oxford professorship had kept his living of Boothby Pagnell throughout the Troubles. The general tendency was to promote clearness and avoid obscurity ; hence come many minor changes and new rubrics ; there are also many additions. There is some slight anti-Puritan element, but very little considering the occasion. On the other hand some changes meet Puritan objections at the *Savoy* Conference.

The centre of interest is now Parliament. The Cavalier Parliament of 1661 was vehemently Anglican and anti-Presbyterian. The chief ecclesiastical Act of the Convention Parliament had been that for "Confirming and Restoring of Ministers." By it all ministers presented since 1642 to a benefice legally void, whether by death or resignation, were to be adjudged lawful ministers ; but also those ejected were to be restored, unless they had declared for the King's execution, or against Infant Baptism. This meant (1) all sequestered and ejected Royalists were restored, the intruders being ejected ; but (2) all ministers appointed during the Troubles to benefices actually void were recognized as legal incumbents whatever their orders or ecclesiastical opinions (except Baptists). But in practice a fair number were ejected from livings in the patronage of the Crown or Bishops, because appointed by a usurping patron, e.g., "Oliver, Lord Protector."

The spirit of the new Parliament which met May 8, 1661, was very different ; this was shown almost at once by its order, May 22, for the Solemn League and Covenant to be burnt by the common hangman ! There is grim irony in the very people who had magnified the authority of Parliament against the King now suffering oppression by Parliament in spite of the King's declaration. They had insisted that the King must act in harmony with Parliament ; they now learnt that he could not interfere in their favour, whatever his professions had been.

The Corporation Act was now passed, ordering that no one should hold any office or be a member of any Corporation without taking not only the Oaths of Allegiance and Supremacy, but also a new one, "that it is not lawful under any pretence whatever to take arms against the King ; and that I do abhor that traitorous position of taking arms by his authority against his person or against them

that are commissioned by him." A declaration was also to be subscribed declaring that no obligation lay on the subscriber or any other person from the Solemn League and Covenant, which was an unlawful oath imposed against the known laws and liberties of the Kingdom. In future no one was to hold office until having taken the Sacrament of the Lord's Supper according to the rites of the Church of England. This last requirement was at the time of passing, before the limits of the Church were fixed, less narrow than it became later. The unlawfulness of resistance, or at most of anything more than passive resistance, to the King, was an accepted Anglican tenet throughout this period so long as the King was on their side; when James II turned against them, they reconsidered the matter, and only the Nonjurors adhered to this doctrine, which they called "the doctrine of the Cross." But James had been warned long before by Bishop Morley that the devotion of most Englishmen to it was not very deep and could not be relied upon. The position of taking up arms against the King in the King's name had been the regular one of the Parliamentarians in the Civil War. Thus when the King summoned Gloucester to surrender the answer was that it "was held for the King and they were always ready to obey his commands, *as notified by Parliament.*"

The Commons were keen on Uniformity. They thought at first of exacting conformity to the book of 1552, but finally sent up their Bill to the Lords with the book of 1604 annexed, on July 9, 1661. But the Lords, who knew the Bishops were revising the book, did not read the Bill till January, 1662. On February 25 the new book was brought in, and the Bill was made to refer to it. In April the Bill was sent down to the Commons, who considered it carefully. On the 16th they decided by a majority of nine that no debate should be allowed on the amendments to the book made by Convocation; but a motion was carried that they had the right to have discussed them. The Bill received the Royal Assent May 19, 1662, and came into force August 24 (St. Bartholomew's Day). It enacted that the new book (annexed to the Act) was to be used in all churches, chapels, places of public worship; all clergy were on some Sunday before St. Bartholomew's Day to read Morning and Evening Prayer publicly, and openly and publicly before the congregation declare their unfeigned assent and consent to all and everything therein contained and prescribed. All those neglecting

to do so (except for some lawful impediment to be allowed and approved by the Ordinary) were to be deprived. All clergy and schoolmasters and tutors were also to take the oath of non-resistance, and to declare the Covenant an unlawful oath. From St. Bartholomew's Day no one could hold any living or ecclesiastical promotion without having been episcopally ordained; any one now holding a living was to be deprived unless he obtained episcopal ordination. (There are many other clauses in the Act.)

A very large number of ministers refused to conform, and were therefore ejected or at least silenced. This was the establishment of present-day Nonconformity, the final separation from the Church of a large body of the Puritans, though by no means all. The moderate Puritans who conformed formed the beginning of the Latitudinarian or Low Church Party.

There is a popular idea that all those ejected were really intruders. This is far from true; the intruders into sequestered livings had been ejected in 1660. Many of those now ejected for refusal to conform had been ordained by Laud and his suffragans before the Troubles; in some cases, e.g., in Essex, John Stalham of Terling, John Beadel of Barnston, John Willis of Ingatestone, Thomas Peck of Prittlewell, they were ejected from livings to which they had been instituted by Laud himself when Bishop of London. Many younger men no doubt refused to be re-ordained; but many had received orders by episcopal ordination. Thus Nonconformity might spring from various causes—inability to assent and consent to everything in the Prayer Book; refusal to be re-ordained; inability to take the non-resistance oath, or even (in the case of John Ray, the naturalist) to declare the Covenant to have been intrinsically an unlawful oath. As regards episcopal ordination, we read of a number of private ordinations during the Troubles, e.g., by Bishops Skinner of Oxford (who ordained Bull), Hall of Norwich (who ordained Patrick), Duppa of Salisbury, King of Chichester, Warner of Rochester. After Cromwell's death, when far-sighted men expected the restoration of the Monarchy, ordinations increased; and after the Restoration many incumbents sought ordination from bishops, especially from Bishop Sydserf of Galloway, who made things very easy, and Bishop Fulwar of Ardfert and Aghadoe, who probably did the same.

In 1664 the first Conventicle Act was passed, forbidding attend-

ance at any assembly, conventicle or meeting under colour or pretence of any exercise of religion other than that allowed by the Liturgy or practice of the Church of England, when five or more persons should be present beyond the household. The penalty for the first offence was imprisonment for not more than three months or a fine not exceeding £5, to go to the relief of the poor ; for the second offence, imprisonment up to six months or a fine up to £10 ; for the third, transportation for seven years to the plantations, other than Virginia or New England (where they might find sympathizers) or a fine of £100. The wheel had come full circle. In 1645 the ordinance of the Long Parliament substituting the Directory for the Prayer Book had enacted similar penalties against the use of the latter—first offence £5, second £10, third a year's imprisonment ; for failure to use the Directory, 40s. each time ; for assailing it by speech or writing, a fine not less than £5, or more than £50. In the original draft the penalty for doing this a third time was loss of goods and perpetual imprisonment. Thus there is little to choose in point of severity between this ordinance and this Conventicle Act, though the Act was enforced more than the ordinance actually was, as far as infliction of penalties went.

In 1665 followed the Five Mile Act. All clergy and persons in Holy Orders or pretended Holy Orders or pretending to Holy Orders, who had not declared their unfeigned assent and consent to the Prayer Book, and who would not take and subscribe the non-resistance oath, or should preach at any conventicle, were forbidden to be (except in course of travelling) within five miles of any corporation, town or borough, or of any place where they had held cure since the Act of Oblivion, or had held a conventicle. The penalty was £40, which applied also to any such persons keeping a school. The non-resistance oath was now strengthened by a clause " that I will not at any time endeavour any alteration of government, either in Church or State." Only by taking this oath could exemption be gained. This Act was enforced for only a short time, during which, however, it produced great hardships ; ministers had either to leave their families and visit them only by stealth, or else to remove altogether to a new place. In Essex there are several cases of removal to the bare minimum distance.

In 1670 came the second Conventicle Act, said by some to be worse than its predecessor, which was only a temporary measure.

But this applies not to its penalties which were very much lighter—in theory at least—but to the severity with which it was enforced. It said nothing about imprisonment or transportation, and imposed fines on a much lower scale ; but encouraged informers to inform, and magistrates to convict, by dividing the fines into three parts : (1) the King, (2) the poor of the parish, i.e. relief of the rates, (3) the informer or informers, or others diligent in discovering or suppressing the conventicle. Some informers made a very good living. The fines were : for a first offence five shillings, and for its repetition ten shillings ; only, in case of the poverty of some offenders, their share might be exacted from others, provided that no one had to pay more than £10. The penalty for preaching was £20 for the first offence, £40 for its repetition ; if the preacher could not be caught, or could not pay, his fine might be levied from any of his hearers. The penalty for allowing a conventicle in any one's house or premises was £20. Slackness on the part of parochial officers was punishable by a fine of £5 ; on the part of a magistrate, by that of £100.

The Test Act, 1673, was directed primarily against Romanists, but struck also at Nonconformity. It enacted that all persons holding any office or any place of trust under the King, or receiving any pay from him, must qualify by receiving the Sacrament of the Lord's Supper in some public church on a Sunday. The penalty for refusal was incapacity of prosecuting any suit, of acting as guardian of a child, or as executor of a will, and of receiving any legacy, as well as a fine of £100.

This was the last of this series of penal acts, if we except two passed about forty years later, and in force for only a few years—the Occasional Conformity Act, and the Schism Act ; the former dealt with those Nonconformists who were willing to receive the Sacrament in their parish church as a qualification for office, but still attended their own places of worship. The advocates of the measure, which subjected such to dismissal and a heavy fine, maintained that they were all time-serving hypocrites ; its opponents (e.g. Patrick) held that it struck at the best of the Nonconformists, who acknowledged Anglicans as Christian brethren, and had no objection to worshipping occasionally in their churches, though preferring their own. The question of the requirement of Confirmation does not seem to have been raised. This Bill passed the Commons early in Anne's reign, but was stopped by the Lords, who all along

showed themselves the more tolerant and liberal of the two Houses. It was finally carried there only as the terms of a party deal. At the close of the reign the Schism Act forbade Nonconformists keeping schools or acting as tutors. Both were repealed by 1720. Both these Acts were only temporarily successful efforts to alter the state of things permanently established in 1689 by the Toleration Act.

The line taken by this Act was not to repeal the existing statutes, but to exempt freely from the application and penalties. Various Elizabethan and later statutes, especially those requiring attendance at church, were not to apply to persons dissenting from the Church of England who should take certain oaths and declarations ; in particular, the Conventicle Act should not apply to them, nor should they be presented in any ecclesiastical court for nonconformity. No person dissenting from the Church of England in Holy Orders or pretended Holy Orders, or any preacher or teacher of any congregation of dissenting protestants who should make a certain declaration and take the oath, and also subscribe to the Articles of Religion, except XXXIV, XXXV, XXXVI, and part of XX, should be liable to the penalties of the Uniformity, Five Mile and Conventicle Acts. Baptists might subscribe with the further omission of part of Article XXVII, Quakers might substitute a declaration for the oaths, but were also to subscribe a profession of their Christian faith. But all the laws for the frequenting of divine service on the Lord's Day, commonly called Sunday, were to be still in force, except against such persons as come to some congregation or assembly of religious worship allowed by the Act. No such congregation or assembly was to be allowed until the place of meeting had been notified to the Bishop, or to the Archdeacon, or to the Justices in Quarter Sessions, and duly registered.

This remained the legal settlement till the nineteenth century. The Test and Corporation Acts were not repealed till 1828, though for many years an annual act had usually been passed exempting from penalties all who had inadvertently failed to comply with the tests ; and in practice this was interpreted very widely.

Records of Quarter Sessions show the practical working of some of these acts even at the end of the eighteenth century. They contain many notices of officers, magistrates or excisemen, bringing certificates of having received the Sacrament. In those of the Liberty of Havering-atte-Bower (Romford) we find notice of a conviction

under the Conventicle Act in 1776, when Robert Haskins was convicted of "preaching or teaching in a certain assembly, conventicle or meeting in the public highway, the place of such meeting not having been certified to the Bishop of the Diocese or to the Archdeacon or to the Justices." He was fined twenty pounds, and two of his hearers five shillings each; they paid the preacher's fine between them. The total fine, £20 10s., was divided, according to the Act, into three equal parts of £6 16s. 8d., each part being given to the right person. At the very Quarter Sessions where this was reported, notice was given (under the Toleration Act) that a room in a certain dwelling-house was intended to be used for a meeting-place of a congregation of Protestant Dissenters from the Church of England under the denomination of Independents; a certificate of the registration and record was given. There are several other instances of the kind.

Upon the whole history two remarks may be allowed: (1) The Laity have persecuted quite as much as the Clergy. It is only in purely doctrinal matters that the clergy have been the worst persecutors; wherever political or social interests are at all involved, the laity have far out-run the clergy. The number of deprivations by Bancroft and Laud was far exceeded by the sequestrations or ejections by the Long Parliament. The ejection of nonconformists in 1662, and the punishments for holding and attending conventicles, was the work, not of the Bishops, but of the Cavalier Parliament, especially the House of Commons, from which clergy were even then practically excluded; though we find very occasional instances till over a century later, when in order to keep out a troublesome radical parson, Horne Tooke, the Act was passed definitely excluding them.

(2) Politicians seldom see the ultimate outcome of their actions. All these Acts of the Cavalier Parliament aimed at promoting the interests of the Church; but some of them proved ultimately injurious to it; not only by filling Dissenters with a sense of grievance, but in other ways. The Act of Uniformity was for many years a check to development and enlargement of the Church's worship. It was not amended till 1872. Since then, however, it is largely a dead letter; the Bishops have recently discovered that it cannot possibly have taken from them their inherent *Jus Liturgicum*; and the parochial clergy have in practice assumed that the same

right is possessed by themselves, probably on equally substantial grounds.

The Test and Corporation Acts involved a profanation of the Sacrament. Cowper's words were not too strong :

“Hast thou by statute shoved from its design
The Saviour's feast, His own blest bread and wine,
And made the symbols of atoning grace
An office key, a picklock to a place,
That infidels may prove their title good
By an oath dipped in sacramental blood ? ”

But apart from this, it meant the end of all discipline of the Church. If notorious evil livers, e.g., Bolingbroke, must receive the Sacrament, none could well be excluded. Any attempt to exclude such would have been suspected of political animus.

The Conventicle Act as modified by the Toleration Act was one great cause of the gradual withdrawal of the Methodists from the Church. Freedom of such congregations from pressure by incumbents of parishes could be most easily gained by registering the place of worship as one of Protestant Dissenters from the Church of England. Hence Lady Huntingdon, pressed by the Rector of Clerkenwell, got her chapel in Spa Fields so registered ; and later on, Wesley acted similarly. One wonders how it was that the Conventicle Act was not more frequently put in exercise against the Methodists ; they could hardly have escaped. One can only suppose that the enforcement of this Act would often have run counter to public opinion, or that the informer would not have been sufficiently rewarded.

The Conventicle Act was modified in 1812. But as late as 1854 it was illegal for any religious meeting to be held in an unlicensed place or for twenty persons outside the family to pray together in a private house. Hence the earlier meetings of the great religious societies were not opened with prayer. Even after Lord Shaftesbury had carried the Religious Worship Bill in 1855 it was possible for the Vicar of St. Michael's, Burleigh Street, to prohibit evangelistic meetings in Exeter Hall. A subsequent Act enabled the Bishop to over-ride an Incumbent's veto. (See Dr. Stock, *History of the Church Missionary Society*, I, 280, II, 26-28.)

Thus in practice, after the passing of the Toleration Act, the Conventicle Act tended simply to hinder irregular Church work, and to drive those who engaged in it to formal separation.

On the tomb of Sir Thomas Smith, a leading statesman of Elizabeth's reign, the words are repeated, "See the end ; see the end." A good motto for all statesmen ; to look not simply at immediate gains or popularity, or even fine ideals, but at the natural and probable ultimate results of the proposals, human nature being what it is. Less desire to put down Puritanism after the Restoration and real alteration of these Acts at the Revolution, not merely exemption of certain people from them, might have saved much mischief. But to condemn our predecessors may be no better than the Pharisees' condemnation of their fathers for killing the prophets ; while to make too much of our own spiritual ancestors is open to the criticism that, like potatoes, the best part of us is underground ! We need men of insight and foresight to-day, and need ourselves to avoid being misled by fine phrases and popular catchwords. We need to "see the end."

HAROLD SMITH.

[The bulk of the Acts of Parliament and other documents mentioned are to be found in *Documents Illustrating the Act of Uniformity* ; many of them also in Gee and Hardy, *Documents Illustrative of English Church History*, or Cardwell's *Conferences*.]

Mr. Le Fanu, Secretary of Queen Anne's Bounty, gives a short account of its history and work. The booklet costs a shilling, and is published by Messrs. Macmillan. We confess that until we read its pages we had no idea of the extent and variety of the work done by this well-administered Corporation.

Messrs. Macmillan sends us *The Suggested Syllabus of Religious Instruction used in the Diocese of Manchester* (1s. 6d.) When it originally appeared in the form of an Appendix to Mr. Grigg Smith's *The Child's Knowledge of God*, we were impressed by the ability shown in its compilation, and are glad to welcome it in its new form.

The S.P.C.K. sends us two sixpenny pamphlets on *Synodical Government*, by the late Archbishop of Melbourne, and *The Anglican Deaconess*, by the Rev. Oscar Hardman. Both contain information not easily obtained elsewhere. Mr. E. H. Blakeney gives us through the same publishers an excellent translation with Text, Introduction and Notes of *The Hymn of Cleanthes*, which has been called by Lightfoot "the noblest expression of heathen devotion which Greek literature has preserved to us." This little book is a model of what a Students' Text should be, and is well worth sixpence.