Mabel's asking the pompous Sir George to tie up her sister's boot-lace is a charming picture.

A second edition of *Diet for the Sick*, by Dr. RIDGE (J. & A. Churchill), has been called for. It contains many valuable hints. A little book and cheap.

ON "THE CLAIMS OF THE CONVOCATIONS OF THE CLERGY."

To the Editor of THE CHURCHMAN.

SIR,—Being allowed by your courtesy a few pages in which to examine the learned arguments of Mr. Craig, Q.C., on "The Claims of the Convocations as to the Prayer Book,"[1] I fear I must limit myself to the discussion of his view of the Elizabethan Act of Uniformity, the limits of space forbid more.

I will, in the first instance, assume the version given of the proceedings of the Parliament 1 Eliz. to be correct; then test its constitutional character; then show what consequences flow from it. I will then inquire what grounds of historical evidence exist for questioning its correctness. We are told, p. 440:—

> *It is neither necessary nor constitutional to go back beyond the Elizabethan Act of Uniformity.* The great principle of that Act was, that, *then and for the future, the nation, by its Parliament, undertook the duty* of prescribing the manner, the forms, and the terms, in which the public worship of the Almighty should be conducted, in opposition to the notion of allowing the ecclesiastical servants of the nation . . . . to prescribe to the nation how Divine worship should be conducted, and how all other Divine offices should be performed.

We are further told that, "*upon this Elizabethan settlement everything since has depended;*" and an argument is maintained against the necessity of the concurrence of the Convocations to "legislation affecting the order of Divine service, or to the means of enforcing the existing national rights as to the conduct of it," on the ground that this would give them a veto, and that such veto would "practically amount to the whole legislative power;" by which "*the whole Reformation might be undone.*" This is stated with the air of a *reductio ad absurdum*. The italics are not mine in the passages cited.

I. Let me, then, test the character of this alleged "Elizabethan settlement," by comparing it with other documents of unquestionable authority, from the standpoint of constitutional law. Henry VIII. bears generally in our history the character of the most arbitrary of our monarchs since King John. In this arbitrariness he was allowed, or rather invested, with the fullest license by his Parliament, 31 Hen. VIII. c. 3, giving his proclamations the force of Statute; but it never presumed to give them the force of Canons, nor to arm him with any power of encroaching on the spiritualty of the realm. A report of the Convocation of the Lower House of Canterbury,[2] which I shall have occasion further to quote, says of him that:—

> He never passed any important Act, or published any important document affecting the religious mind of his people, without, at least, declaring himself in harmony with the clergy in their Convocations, and with the Catholic Church.

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[1] Contained in the July, August, and September numbers of THE CHURCHMAN, 1882.

[2] July, 1879.

I will give a few extracts which show what the royal declarations on this behalf were.

The preamble[1] of 24 Hen. VIII. c. 12, declares that—

> the king has full power to give justice in all causes . . . . without restraint or appeal to any foreign prince or potentate; the body spiritual of the realm having power, so that when any cause of the law divine happened to come in question, or of spiritual learning, it was declared and interpreted by that part of the body politic called the Spiritualty, now being usually called the English Church, which hath always been and is for knowledge, integrity and number, sufficient to declare and determine all doubts without the intermeddling of any exterior person.

Now this preamble leaves the Spiritualty to determine "causes of the law divine, or of spiritual learning," including, necessarily, those which arise out of the "manner, forms and terms of Divine worship." But if "the nation by its Parliament undertakes the duty of prescribing that manner, &c.," then the right of deciding those causes becomes nugatory, because the Parliament might constantly remodel that "manner, &c.," of the subjects presented for such decisions, and we should reach the absurdity of courts in perpetual conflict with the law which they had to administer. In other words, the acknowledged right of the Spiritualty in respect to "causes" is futile and illusory, unless the right be allowed of framing the rules on which those decisions are to proceed. It remains, of course, with the Legislature to give those rules the force of temporal authority.

Further, the Act known as "The Submission of the Clergy," by the concessions which it makes of assembling only by royal writ, and not enacting canons without royal consent (25 Hen. VIII. c. 19) the more clearly establishes what it reserves—viz., the constitutional right of the Spiritualty, with such royal writ and consent, to legislate for the Church. The restraints thus imposed on the exercise of the power prove the inherency of the power itself. King Henry was not such a dotard as to seek to restrain the excesses of a power which was non-existent, or which belonged not to the body which he was restraining, but to a totally different body, external to it. If the power alleged had existed in the Parliament, these Statutes of Henry VIII. were simply the greatest nonsense that ever wasted the time of a deliberative body.

That no such notion as that of investing Parliament with the absolute power of Church legislation was present to the mind of Henry VIII. and his advisers, is further manifest from the same Act, sec. 7, which recognizes existing Church law, so far as not contrary to existing statutes or prerogative, as still in force, subject to a Commission of Review then appointed, consisting of thirty-two members, of whom one-half were bishops and clergy. This branch of the Reformation—that of Church law—engaged the labours of those reverend and learned persons during the remaining years of that monarch; and was, on the express petition of the Lower House of Canterbury, in 1547, resumed under Statute 3 and 4 Edward VI., 11, by a precisely similar commission, acting under the supervision of Archbishop Cranmer. Their labours issued in the *Reformatio Legum Ecclesiasticarum*, of which Strype says, that it would certainly have become law had King Edward VI.'s life been spared. The whole had originated in the consent of the clergy to the plan of revision of Church law in 1532, was, as I have said, revived by the clergy in 1547—that is, as soon as ever Edward came to the throne, and had thus the full consent and concurrence of the Spiritualty. By 1552 the project only

[1] I have somewhat abridged and modernized the phraseology, but with o substantial difference.

waited for the assent of the Crown, for which it has waited ever since. Now if the absolutism of Parliament is a true doctrine, here were twenty years of learned labour, protracted through several successive Convocations and Parliaments, utterly wasted. These Church laws would, with the royal assent, have obtained the force of law at once, and needed no Statute of the realm to confer their proper validity upon them. But if the doctrine which I am controverting be true, the whole proceedings, alike on the part of the Crown, its Commissioners and the Convocation, becomes a tedious absurdity. The facts prove, as plainly as facts can speak, that Parliament then, and up to the end of King Edward's reign, claimed no such power; and that the claim would not have been conceded, had it been made. I pass over the Philip and Mary period, as founding its Acts virtually on the assumption of the Pope's spiritual authority over the realm, and therefore out of the present question.

It remains, then, that the Elizabethan Statute, on which this novel theory is wholly built, was, if enacted without the consent of Convocation, utterly without justification in precedent; and so far from striking the key-note of the constitutional doctrine on the subject, was, if passed under the conditions represented, wholly unconstitutional.

I will cite some other *dicta* of King Henry VIII. on the same subject which confirm the same view. He himself explained to the Convocation of York his own sense of the Supreme Headship of the Church which he claimed, as follows :—

> As to spiritual things . . . . forasmuch as they be no worldly or temporal things, they have no worldly or temporal head; but only Christ, that did institute them; by whose ordinances they be ministered here by mortal men, elect, chosen and ordained, as God hath willed for that purpose, who be the clergy.

"Spiritual things," then, in this monarch's view, were ministered by the "ordinances" of "the clergy." This is quite consistent with the concurrence of Statute being necessary to give them the force of temporal law, fortified by temporal penalties; but quite inconsistent with the power of Parliament to supersede them and substitute at will its own "ordinances" for theirs. The former is my view, and in the latter, I believe, I have not mis-stated Mr. Craig's.

Again, in propounding to the clergy in their Convocation the question of his divorce from Anne of Cleves, the same monarch says, 1540:—

> We who are wont to abide by your judgment in all other weightier matters concerning this Church of England, which affect Ecclesiastical government and religion . . . . have thought it meet . . . . that explanation and communication should be made to you, ... so that we may lawfully venture under the authority of our whole Church . . . . to do and effect that . . . . which you may decree to be lawful according to the laws of God.

According to the view which I impugn, King Henry was wholly wrong in his rule of "abiding by the judgment" of the Spiritualty "in weightier matters which affect ecclesiastical government and religion." He ought on that view to have gone straight to Parliament on all such questions, and told the Spiritualty that the matter was to be settled there. On the contrary, in the Act for declaring void his marriage with Anne of Cleves, 1540, it is expressly recited that the clergy in "a Synod universal of this Realm" had so decided.[1] Similarly, the "Ten Articles" of 1536, the "Institution

[1] "What is the sacred Synod of this nation?" Mr. Craig asks on p. 441. "This nation," he adds, "has had no such Synod since the days when Papal legates were allowed to hold councils here. The English constitution, since the Papal power in England ceased, knows only one national Synod—namely

of a Christian Man," 1537, and the "Act of the Six Articles" of 1539, bear indelible marks of the action or authority of Convocation. The preamble of this last recites the "consent of the King's Highness," the "assent of the Lords spiritual and temporal, and other learned men of the clergy in their Convocation," and the "consent of the Commons in Parliament," as concurring in its enactment. The Act 32 Hen. VIII., c. 26, says that—

> All decrees and ordinances, which, according to God's Word and Christ's Gospel, by the king's advice and confirmation by his letters patent, shall be made and ordained by . . . . the whole clergy of England, in and upon the matter of Christian Religion and Christian Faith, and the lawful Rites, Ceremonies, and Observations of the same shall be in every point thereof believed, obeyed and performed . . . . upon the pains therein comprised;

with a reservation of anything repugnant to existing Statute. Now, since this right of the Spiritualty, here so plainly set forth, remained intact up to 1540, as this Act shows, it is incumbent on the opponent to show when they lost it, so as to create a totally new point of departure in 1559. This has not been done, and I believe cannot be done. And this strong antecedent presumption would suffice to rebut any contrary presumption arising from the later Act of Elizabeth, even if there were nothing to carry the presumption further in the intervening twenty years, and if that Elizabethan Statute were correctly represented. But, on the contrary, the Edwardian Statutes of 1547 (Communion in both kinds) and 1548–9 (c. 1, First Prayer Book, and c. 21, Marriage of Priests) tell precisely the same story. In 1549–50 (Ordinal), a Commission of Bishops and clergy, all members of Convocation, have their acts legalized beforehand. In 1551–2 (Second Prayer Book) the concurrence of Convocation is not expressed, but Heylin ("Hist. Ref.," p. 107) says, they had considered the matter, and Wilkins, iv. 68, states that they were sitting during the debates in Parliament on this Act. In our present Act of Uniformity (14 Car. II. c. 4,) it is recited that the Prayer Book of Elizabeth, which was this same "Second" book, with a few changes (the most important taken from the "First" book), was compiled by the "reverend bishops and clergy;" and the journals of the Convocation of Canterbury, which perished a few years later, were extant when that recital was made. We are therefore entitled to assume its truth.

Now, if instead of the liberties of the Church, those, say of the City of London had been in question, and such a catena of authorities had existed in their favour, I am persuaded that no lawyer would have thought for a moment of disputing the weight of evidence in their favour. It is only that the Church is politically weak, whereas a great city is strong, which opens the door to controversy on the subject. Hallam[1] records that, "In almost every reign (up to the Revolution) the innate tone of arbitrary power had produced more or less of oppression;" but the Church has been oppressed throughout; and, except during the great Civil War, more since the Revolution than before. But throughout the whole of the Reformation struggle, the action of the Crown was arbitrary and oppressive to the Church. Let me notice a few of the graver instances of tyranny. I am not sure that I have the numbers exact; but the following will be found to be a fair approximation to those of the bishops deprived in three successive reigns.

It is more convenient to begin at Elizabeth and work backward. She found fifteen (some say sixteen) bishops in possession of their Sees. All

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Parliament." That Papal power ceased in England by the successive Statutes of 1529–34. This was six years later, 1540. Thus Mr. Craig, I take it, flatly contradicts 32 Hen. VIII. c. 25, as cited above.

[1] "Constitutional History," William III. ch. xv.

but one rejected the oath of supremacy, and were ejected. Her sister had previously (including four who were burnt as heretics) deprived fourteen, not reckoning I know not how many who fled to the Continent. Edward VI.'s council had deprived at least four, chiefly on some plea of disobedience to arbitrary power; and each of the Tudor queens reinstated a balance of those ejected by her predecessor.[1] It reminds one of the wanton violence of a child, who, ignorant of the laws of the game, places chessmen on the board only to sweep them off in batches by a literal *coup-de-main*. It should almost seem as if the object of the Executive had been to degrade the episcopal office by putting a direct premium upon time-serving and hypocrisy. Next to setting the office to sale, nothing could more effectually discredit it; and the unhappy results of this violence have left their mark on the Church ever since, in a popular disesteem which the *congé d'élire* perpetuates. And it is one of the results of this violent exercise of the prerogative which is not only claimed as normal, but exalted into an overruling precedent. The Elizabethan Statute was passed when the episcopal bench had been thus wrecked by royal power. The Crown by its own violence deprives the Spiritualty of its constituted leaders, and then turns round and takes advantage of its own wrong, by regarding the Spiritualty as incompetent to its normal function for want of them; and so procures the passing of a Statute which is doubly invalid; once as a temporal Statute, because it had not the consent of the spiritual peers, and again, because it deals with matter with which it was, by every precedent, unconstitutional to meddle, without the Convocations having previously advised.

Indeed, the more violent the strain of the prerogative which is apparent in any Tudor Act, the better material it seems to furnish to forge an ecclesiastical precedent. The Statute of Elizabeth stands between a long chain of earlier enactments on the one side, and the noteworthy later enactment of 1661 on the other, which alike flatly contradict its alleged principle; and yet we are told that it virtually overrules them both, and is the real corner-stone of the national establishment; and that it is needless to look either behind it or before.

II. I pass on to test the position which I assail by the consequences which practically flow from it. That view is, virtually, the supremacy of Parliament for spiritual purposes; not such a supremacy as was vested of old in the Crown—corrective and visitatorial—but absolute, initiative, and directive. If Parliament has constitutionally done what we are told it has once, it may do it again, and repeat it any number of times. It may enact any new test, or any number of tests, for the spiritual allegiance of its "ecclesiastical servants." It may erect the Lord Mayor of London or the Coroner of Middlesex into a supreme ecclesiastical officer, and when the "ecclesiastical servants" demur to obey, it may cashier and displace them. It may melt down beliefs, liturgy and ritual into a featureless mass, for or against which there is nothing to be said, save that it expresses the popular whim. The sagacious reader will perceive that some of these consequences are extravagant;[2] but they are, therefore, the better illustrations of an extravagant assumption. The more extreme the divergence from what is traditional and accepted, the better it exemplifies the absolute omnipotence of Parliament. I defy any man to show that such consequences do not follow legitimately

[1] Thus, Bishops Barlow, Coverdale and Scory assisted at the consecration of Archbishop Parker.

[2] Still, this is distinctly the tendency of our modern Parliament (which is not *repente turpissimus*, any more than an individual) as shown in Mr. Albert Grey's Parish Boards Bill.

from the theory which I impugn, or that any remedy exists by which they may on this theory be averted. On the contrary, the seeming *reductio ad absurdum*, referred to above—that if you give the Spiritualty a concurrent voice you give them a veto, which is practically equivalent to the whole legislative power, is obviously incorrect.[1] Had the Crown practically the "whole legislative power," when it vetoed—*i.e.*, refused assent to a Bill presented by Parliament? On any but a religious subject such an argument would never be advanced. Still less admissible is the apparent assumption that by this means "the whole Reformation might be undone." Whenever that is in danger, the Legislature have the remedy in their own hands, by disestablishing the Church. As against the claim which I am controverting, the Church has no remedy whatever if it be once admitted.

III. I must briefly show the real nature of the Act of Elizabeth's Parliament. Fuller states ("Church History," v. p. 188):—

> Upon serious consideration it will appear, that there was nothing done in the reformation of religion save what was acted by the clergy in their Convocations or grounded upon some act of theirs precedent to it, with the advice, counsel and consent of the bishops and most eminent Churchmen, confirmed on the post-fact, and not otherwise, by the civil sanction, according to the usage of the best and happiest times of Christianity.

I have already shown that the testimony of 14 Car. II., c. 4, expressly extends this comprehensive statement of Fuller's to the Prayer Book of Elizabeth in particular; and in whatever sense that recital is to be understood it is sufficient for my purpose.

The Rev. J. W. Joyce, to whom I am indebted for the above quotation in his book, "The Sword and the Keys," second edition, p. 25, cites a remarkable confirmation of this view, in a document from the State Paper Office in a known handwriting, which dates it approximately 1608. He says: "If genuine and authentic,"[2] it "tends directly to corroborate" his position; but suggests no suspicion of its genuineness &c. Some of its terms are:—

> The Book of Common Prayer, published primo Elizᵃᵉ . . . . was re-examined with some small alterations by the Convocation, consisting of the same bishops (the list of whom is hereinbefore given) and the rest of the clergy in primo Elizᵃᵉ, which being done by the Convocation, and published under the Great Seal of England, there was an Act of Parliament for the same book. . . . . Not that the book was ever subjected to the censure of the Parliament, but being agreed upon and published as aforesaid, a law was made by the Parliament, for the inflicting of a penalty upon all such as should refuse to use and observe the same.

Thus, if the statement of the Restoration Parliament is trustworthy, the above-cited view of the Elizabethan Statute falls to the ground. I must leave your readers to judge which of the two they prefer to accept. According to the same view, "nothing could be more honourable than the . . . . relations" in which the "ecclesiastical servants" are placed; only I suppose they are to be taught to know their place, and not presume to question the high prerogative of their Parliamentary taskmasters. Magna Carta knows nothing of "ecclesiastical servants." Its first clause is "Ecclesia libera sit;" and I venture the opinion that, on the

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[1] So there is a veto, either of the Crown or the Imperial Legislature, on the Legislature of the Dominion of Canada, and perhaps others; but no one could say that such veto was equal to a power of legislation, much less to the whole of that power.

[2] I understand Mr. Joyce to draw attention by this phrase to an authority, *prima facie* of great weight, not previously adduced; and therefore open to hallenge, if any challenge can be sustained against it.

contrary, nothing is more likely to lead to a strike among those ill-used underlings than an attempt to enforce those "relations" as stated on pp. 440–1. The standard of candidates for Holy Orders has lamentably fallen since a time that I can remember; and nothing is so likely as this to accelerate its fall and perpetuate its prostration.

I am, Sir, your obedient Servant,

HENRY HAYMAN, D.D.

THE MONTH.

SIR Stafford Northcote has been cordially received in Scotland: he urged that the Egyptian expedition was unnecessary. The Prime Minister at Penmaenmawr argued that the war had been waged from a love of peace; for a military anarchy had been pulled down. This argument Mr. Gibson at a Conservative meeting compared to a man's justification for beating his wife.

The Irish Land League seems to be dying of starvation.

The Bishop of Manchester, without waiting for official intimation that the three years have expired since the monition was first issued, with regard to Mr. Green, has informed Sir Percival Heywood, the patron, that the incumbency of Miles Platting is vacant. Mr. Green's supporters have pledged themselves yet further to resist the law.

At Bristol an address was presented to the Congregational Union, signed by the Dean, and a large number of leading Clergymen and Laymen.

The Rev. G. Arthur Connor, Rector of Newport, Isle of Wight, has been appointed Domestic Chaplain to the Queen, in place of Dean Wellesley, and also Dean of Windsor.

The Rev. John Reeve, Canon of Bristol, has entered into rest. The canonry left vacant has been conferred upon the Rev. J. Percival, President of Trinity College, Oxford, and formerly head master of Clifton College. Another "Liberal" head of a College, Dr. Jowett, has been appointed Vice-Chancellor of the University of Oxford.

The Rev. Randall T. Davidson, the esteemed and able Chaplain of the Archbishop of Canterbury, writes in the papers concerning the Church Deaconesses Home, conducted under his Grace's sanction at Maidstone. (See the CHURCHMAN for August, 1882, p. 393.)

At the Oxford Diocesan Conference, six representatives were elected (with the cumulative vote, we gladly add) for the Central Council, an amendment being rejected by 182 to 109. Mr. Henry Wilson moved that "it appears to this Conference desirable, in the interests of the Church, to promote the dissolution of the Church Association and the English Church Union," which was carried by a large majority.