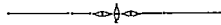


thought, codification being the one element absolutely wanting.

If two-thirds of the legislation had been of Babylonian device, who can doubt that the priestly conclave would have smoothed away the inconsistencies, etc., noticed above, and given us a work harmonized and adjusted in all its parts? On the other hand, suppose the laws delivered at first *pro re nata*, a new occasion of fact making a call for a new departure on the legislator's part every month or even week; suppose that, as in Lev. xxiv. 10 foll., the case of an actual blasphemer called forth the law thereto relating, and, as in Num. xv. 32 foll., the case of an actual Sabbath-breaker drew down the capital sentence; so, generally, the unforeseen always happening, the legislation followed the facts and grew with the miscellaneous inequality of a community's requirements; and then suppose later legislators introducing their own provisions to limit, alter, modify, develop, and supplement, as aforesaid, and we can account, I think, for all the non-codistic features of the Mosaic Law. But the notion of a council of legislative priests during the Exile, or at the Return, producing *de novo* such a tangled mass, shot through in every direction with perpetual new departures, bids defiance to all reasonable probability. Let the venerable books tell their own simple story and show legislation springing from occasion and circumstance, and then, with the due allowance for after-growth, all this difficulty seems explicable. It is here, as in regard to the historical features above noticed, the theory of the critics which not solves but starts the gravest difficulty of all. Those who will have a "Priestly Code" in the Middle Pentateuch, formulated during the Exile, and sprung upon the people at the Return, must not only explode history to make way for their theory, but must suppose subverted the primary instincts of order which govern the human mind, precisely at the time when it was most necessary that they should be present and paramount.

HENRY HAYMAN, D.D.



ART. IV.—NOTES AND COMMENTS ON JOHN XX.

No. V.

OUR last study brought us to the close of the account of the interview of Mary Magdalene with the risen Lord. In a passage so conspicuously rich in treasures of grace and truth, I make no apology for leaving some points quite untouched. But on two main points, which were touched

in some sort last month, so little was said that I offer some additional words upon them now, and at some length.

I refer to two topics given us by the utterance of the Lord Jesus in ver. 17: "*Do not touch Me, for I have not yet gone up to My Father. Go to My brethren, and say to them, I go up to My Father and your Father, and My God and your God.*"

I. The prohibition and command to Mary. I need not explain to my readers what difficulty this has presented to expositors. What was the touching? Why was it forbidden? What was the connection (observe the "for") between the "Touch Me not" and the "I have not yet gone up to My Father"? These questions have been very variously answered.

Yet we must be sure that the first meaning, however, must have been meant to be quite simple. Addressed to that loving disciple, in that moment of supreme emotion, the logic cannot have been recondite or involved in the blessed Speaker's purpose. In view of this, I incline to that explanation of the passage which connects as closely as possible the prohibition "Touch Me not," with the commission "Go to My brethren." We observe that the Greek verb is in the present, or continuing, imperative, not in the aorist subjunctive; μή μου ἅπτου, not μή μου ἄψη. Accordingly, by familiar laws of Greek usage, it conveys an order not to forbear touching Him *at all*, but to forbear a longer, a prolonged, touching. She is not to linger over it; it is enough; remove the hand which feels the sacred limb.

The verb ἅπτομαι occurs only here in St. John. But its general usage assures us that it indicates here nothing like clasping or clinging, as when the women (Matt. xxviii. 9) "held Him by the feet." It means no more than simple touching. It occurs, for example, where the Lord (Mark viii. 22) is asked to "touch" a blind man's eyes; and where the suffering woman (Matt. ix. 21) plans to "touch" just the fringe of His garment. Here Mary Magdalene may have just laid her hand, in felt contact and no more, on His foot, or on His hand; not clinging, not embracing, only *feeling*, as if to make certain that no vision, but the living LORD, was there. And it is this, then, which He thus gently checked. We cannot see in the prohibition, accordingly, anything like a reproof, as if she had taken a liberty, as if she had not been reverent enough. The thoughts familiarly associated with *noli me tangere*, as a quoted phrase, are quite out of place here.

May we not paraphrase the purport of the words of Jesus somewhat thus? "Do not linger here, touching Me, to ascertain My bodily reality, in the incredulity of your exceeding joy. I *am* in very fact before you, standing quite literally and

locally on this garden ground, not yet ascended to the heavens; you need not doubt, and ask, and test. And, moreover, there is another reason why not to linger thus; I have an errand for you, Mary. I desire you to go hence, and at once, for Me; to go to My brethren, and to tell them that I *am* about to go up thither; that I am in glorious fact risen, and therefore on My way to the throne; going to My Father and their Father, and My God and their God."

She might be sure that He was literally, and still, on earth; so she need not any longer touch Him. She was to carry the tidings to the disciples; so she must not any longer linger at His side.

Here, then, we may further trace, with thanksgiving, a lesson for all believers, for all and sundry who (Rom. x. 9; Heb. xiii. 20) "believe in the heart that the God of peace hath brought again from the dead our Lord Jesus, the great Shepherd of the sheep." The lesson is, not to be too constantly and too anxiously tracing and retracing the evidence of the glorious fact of the Resurrection, vitally precious as that evidence is, and not to stay pondering and enjoying that fact for one's self only, and so, inevitably, with an imperfect realization; but to carry on to others the light and blessedness of the fact, of the truth, that He is "risen indeed," and ascended, too; saying to them (as He shall give occasion to the glad and ready messenger) both with lips and yet more with a life full of His resurrection-life: "I have seen the Lord; He is risen, He is ascended, and our life is hid with Him in God."

Beautiful it is to observe, in the Gospel narratives of Easter, this instant commission to *all* the newly enlightened disciples to tell to the rest, "as they mourned and wept," their glorious cause of joy, in simplicity, confidence, and love.

II. And now what *was* the message which Mary was to carry, and for which she was thus to leave the tangible presence of her risen Lord? Strange to say, it is the message of His approaching departure again. Not "I am come back," but "I am going away, I am going up."

Here is, indeed, a deeply spiritual aspect of the resurrection message. The return of the Lord Jesus bodily, for a season, to His people on earth, was much, unspeakably much, but it was not all; the Resurrection was the avenue to the Ascension. Or, to put it otherwise and perhaps in a safer way, as the blessed Death is seen in its comfort and glory only in the light of the Resurrection, so the Resurrection is fully seen in all its precious import only in the light of the Ascension. The Risen One is hastening on to His true place, the place of Rev. v. (where we are permitted

to see the Ascension, as it were, from its heavenly side); He is going to be the Lamb *upon the throne*. The finished work of His death and rising, what was it but the beginning of His continuing work of intercession? Let us not forget this in all our daily contemplation of, and intercourse with, our Lord; in our life in and on Him, who is at once our pardon, our power, and our holiness. After all, we are not so much to look back, as to look up, on Him who was crucified for us and rose again. His atonement is in one supreme aspect absolute, complete, never to be repeated. We rest on it as on "fact accomplished." We know that He did once, and now no more for ever, bear for us the unknown burthen of our guilt. But the application of His atonement, in some of its most precious aspects, is a thing incessant. Momentarily needed (for sin's prevention, as well as cure), it is momentarily applied to the believer's soul; it is free and efficacious each day and hour and moment, for our reception and possession and enjoyment:

His love intense, His merit fresh,  
As if but newly slain.

Our safety under that shelter, once given in covenant, is ever being given in actual mercy and truth; and so, too, is our fruition of the once-pledged gift of His Holy Spirit, that gift so profoundly connected (see Gal. iii. 13, 14) with our justification through the merits of the Crucified Jesus. And how do we joyfully know that this giving is thus continuous? We know it because Jesus Christ is not only risen, but ascended also. "It is Christ that died, yea, rather, that is risen again, who is even at the right hand of God, who also maketh intercession for us." "He, by the right hand of God exalted, hath shed forth this."

The Epistle to the Hebrews, in its great picture of the Lord Jesus as the great High Priest, emphasizes this in a very remarkable way. The death, the precious blood, is everywhere in the Epistle; but it mentions the Resurrection only once (xiii. 20). The Resurrection, in the main argument, is merged in the Ascension; and this because the intercession of our Aaron-Melchizedek is essentially bound up with His Ascension. He intercedes "for ever" as "a Priest upon *His throne*." "When He had by Himself purged our sins, He *sat down* on the right hand of the Majesty on high" (i. 3; cp. iv. 14; vi. 20; vii. 25, 26; viii. 1; ix. 11, 12, 24; x. 12, 13; xii. 2, 24).

Thus the Ascension is, in deepest spiritual truth, the sum and crown of the work of Jesus Christ. Looking at it through the lens of Scripture, we see, gathered into one, the rays of the Cross and of the Resurrection, the atoning Work once and

for ever done, and the ceaseless Result, in the power of the Lord's endless life, ever flowing out, flowing down from Him who, as our Mediator and as our Head, ever liveth to make intercession for us; to receive for us, to give to us.

Thus, although that very evening He is going to visit His brethren, and fill them with the mingled natural and spiritual joys of His Resurrection, He sends on to them in advance the message of the coming joy, greater and wholly spiritual, of his Ascension. And note well the terms of the message: it is an Ascension not merely to heaven, but to a God and Father. And to what a God, what a Father! No mere Absolute or Supreme, no mere First Cause, unknown, perhaps, and unknowable, except as an antecedent Somewhat demanded by the logic of phenomena. Jesus Christ is going into the depths of the unseen universe; yet whither He goes we know, for we know to whom He goes. We have a double, nay, a quadruple description of *Him*, to fix and to fill our thought. *He* is Father, He is God, and He is each in two respects: first, in each case in relation to Jesus Christ, then in relation to His brethren. Here is a fourfold chain of truth, light and love by which the believing sinner, coming to the sinner's Friend, lays hold of nothing less than the throne, and of Him who sits thereon.

We observe, of course, and have all done so a hundred times, the fact that the chain is not double but quadruple: not "our Father and our God" (the Lord Jesus never speaks so; His nearest approach to it, and that is not really the same thing, occurs John iv. 22: "*we* know what *we* worship") but "Mine and yours" in each case. It is the same relation but predicated in different respects, when the Saviour and the disciple are respectively in view. Can we fail, in the whole light of Scripture, to see what the difference is? "*My* Father, as by eternal generation, ἀρχονος γέννησις; *your* Father, by adopting and regenerating grace in Me; *My* God, as by Paternal Deity, by relations within the Godhead, and also in the bright mystery of Incarnation; *your* God, as in covenant through Me; Mine, and so therefore yours, yours because Mine."

I cannot but touch, with reverence, on a truth implied in this passage, though not directly taught in it, the Filial aspect of the Godhead of Christ. I humbly conceive that the words, "My Father and My God," have as much to do with the Divine as with the Human nature of the Son. Christ is God; yes, in all the fulness of the word. He is eternal, necessary, uncreated, absolute in every sacred attribute; co-equal with the Father in "majesty, power and

eternity," blessed for ever. Yet He is the SON. He is, while God, Filial. Unbeginning, He is yet eternally of the Father, and His blessed Being is in just such a sense subordinate that He is—with the "is" of eternity—the Son. Thought is lost, or rather silenced, when we come really in face of the revealed glory of the Godhead. But when we have just spelt out the revelation of It as it stands, we see in that light two truths most bright of all for us—the Godhead and the Sonship of the Lord our Saviour. And in the light of that view it is surely safe and Scriptural to see, in a passage like this, words which befit the voice of Jesus Christ, speaking, not as Son of Man only, but as God the Son.

But if the doctrinal value of these words is thus large and precious, how great is their practical power and sweetness in personal application to the Christian's soul! Do we really take in, to some degree, what it is to know God the Father as the God and Father of our Lord Jesus Christ, and *in this respect* our God and Father too? To know the Father in beholding (*θεωροῦντες*) the Son? To love the Father in loving the Son? To rest on the Father in resting on the Son, on God the Son, on "the only begotten Son who is in the bosom of the Father"?

A very different view of God is this from that of the mere Theist. "The Absolute God," says Martin Luther,<sup>1</sup> "all men, who do not wish to perish, should fly from, because human nature and God Absolute are irreconcilable enemies (*infestissimi inimici*). From the Name of God we dare not shut out Christ. Not naked Deity but God robed and revealed in His word and promises we must lay hold upon, or inevitable despair must crush us. This God we can embrace, and behold, with joy and confidence; but Absolute Deity is as a wall of brass, on which we cannot strike without ruin."

How precious is that ancient, that old-fashioned faith, too often slighted under the unpopular designation "*orthodox*"—how precious, to the heart which craves, and discovers, a Saviour! In it the Lord is seen as not only God and Man, but God *the Son* and Man. He is revealed, He is believed in, as God the Son; not that we may worship Him less truly than we worship the Father, or trust Him less, or love Him less, but that we may all the more truly worship, trust, and love Him and His Father, who are One. He is the Eternal Son: who shall measure the love of Paternal Godhead for Filial? And—the Father "spared not His own (*ἑδίου*) Son, but

<sup>1</sup> On Ps. li. 1; quoted by Professor Stanley Leathes, "Witness of the Old Testament to Christ," p. 244. Professor Leathes says that Luther's "invaluable works were never more worthy of study than at the present crisis of the Church."

delivered Him up for us all" (Rom. viii. 32); "so loving the world that He gave His only-begotten Son." In the rapturous *Te Deum* we address our Redeemer as the Everlasting Son of the Father; and in that title we adore at once the love of the Giver and the love of the Given; and we feel that a subordination, not of essence, but of relation, a relationship just so far subordinate that it is filial, only intensifies our adoration of the Godhead of our Saviour. It shows us, through the fact of His Filial Godhead, something of the ocean of love within the Eternal Nature of the Triune; love in the Divine relationships within It; love in the outgoings towards us of such a salvation from It.

Is this too much of a digression? I knew not how to avoid it, for the very attraction of the blessed theme. The meditation of Him, the Lord Christ the Son, is sweet; joy in the Lord is kindled at it. In gazing on Him as the Son we understand *a little*, as in a glimpse, of what the Father meant when, from the heavens, He called Him "My Beloved." And if by Divine mercy we have been drawn to love the Beloved of the Father, shall we not be glad? Shall we not take home for ourselves the joy of this message which He sent on the Easter morning to the bewildered beings whom yet He was not ashamed to call His brethren—"I ascend unto My Father and your Father, and unto My God and your God"? It is the voice of the Beloved.

With such an errand, then, does Mary leave the garden.

She first, all-happy Magdalena, bore  
From Joseph's grot the bliss unheard before,  
And still her tidings was the broken tomb;  
And still, though ages roll,  
That message from the soul,  
And that alone must chase the enfolding gloom.  
Jesus, our Lord, the First and Last,  
Thy rising work is past;  
Then present is our strength and rest,  
And all our future blest.

*"She comes, reporting to the disciples that she has seen the Lord, and that He said these things to her."*

She obeyed at once. Quietly, with the joy of love (we seem to see her), she gives up her literal contact with His presence, and goes from the company of the risen Jesus Christ to the very different company of His mistaken and troubled disciples, all of them, save Peter and John (and they, perhaps, were still apart), still in the clouds of their awful disappointment, and not greatly disposed to see light through them. St. Luke tells us of the report of the women (and probably Mary's special message-bearing is included in that brief summary) as seeming to the disciples *λῆρος*, nonsense; and of

course they said so to the messengers. Perhaps the first theory of James, and Philip, and Andrew was what long after was the theory of Renan, that the report was the product of illusion, and the illusion the product of feminine emotion. However, Mary went, in that spirit of meek but mighty confidence which is given to the soul now, as well as then, by the certainty in itself of the life and the love of Jesus. "He that believeth shall not make haste"; "they which have believed do enter into rest," a rest full of power. All through that forenoon, probably, she saw her Lord no more; nor through that afternoon, which He spent upon the Emmaus road. And perhaps from time to time that day she heard much to distress her in the refusal of His followers, His brethren, many of them, at least, to believe Him risen. Yet we are quite sure that it was a day of unimaginable joy for Mary Magdalene. Her own load of hopeless grief was gone. If He had dismissed her from His side, if He remained hour by hour out of sight, what did it matter, beside the gladness of knowing that He was risen, and alive for evermore? An hour, a few hours, ago she had loved Him with a love full of despair; now, with a love full of immortality. Then it was comparatively a blind affection, now she had a sunrise-view of what He really was, and what He had done, and would for ever do, for her. Then the past seemed all failure, the present solitude and ruin, the future a cruel gloom. Now past, present, and future were all filled with the work, the love, the triumph of her dear risen Lord. Then she could go to the others only to mingle her fears and tears with theirs, now she went as her Saviour's own commanded messenger to them, to constrain them to believe and be glad because of Him, and she bore witness to Him by her own joy. Her own burthen was now gone; how much better now she could bear theirs! Her own perplexities were passed away now for ever; how gently and tenderly, while with confidence, she could now wait for the time when He should be pleased (as, of course, He would be pleased) either to open their hearts to her message, or in some other way to reveal Himself to them!

I do not apologize for thus dwelling on some of the possibilities of that day, as spent by the first messenger of the Resurrection. Our own hearts, surely, see in them more than possibilities, and they carry lessons of living power to ourselves as believers, not in ourselves, but in a risen Redeemer.

Throughout that day of joy and trial there must have been, for Mary, a wonderful conquest of joy over trial. She would be "at leisure from herself," and very full of Jesus Christ. She would be specially softened and sanctified, cut off delight-



fully from sinning in word or spirit, by the unselfish, adoring sense of His triumph, simply *as His*. It was not only that *she* was personally relieved, rescued, I might almost say immortalized already, by what she knew for herself; she knew now also something of the glory, the victory, the joy into which *He* had entered who had once expelled seven devils from her. And this would more than fill the blank which *nature* might feel when His visible presence was left behind her in the garden. *He*, she knew, was safe in His own blood-bought victory, and was on His way to His own Father's throne. He had suffered; it had pleased the Lord, the Father, to bruise Him; He had died, going through all that death is, and more than death can ever be to His followers; He had had to bear it all; His agony and death were now irrevocable facts. But so now also was His triumph. "The joy set before Him" had come. He was in the infinite repose of conquest over sin and death; He would need to die no more. And soon He would be receiving the eternal tribute of the praises of heaven, for He was going to the Father.

If all men disbelieved, yet was it all true *for Him*. And, though they disbelieved, they, too, would soon be worshipping with joy like hers—for He who had sent that message would not linger long behind it.

Nor did He do so. The Evangelist who dismissed Peter and John now, in turn, dismisses Mary, never to name her again, for she has done her work for us. He brings us face to face once more with the Lord.

The day has drawn to its evening. Many have been its alarms and surprises, and half-hopes, and troubled rumours, and obstinate reasonings of unbelief. And, now, as the shadows fall, the group of the Apostles, ten of the twelve, and others (Luke xxiv. 33) with them, are together. There they are, gathered after scattering, and with some glad awakenings of faith and hope in their souls, for by that time the rumours of the Resurrection had begun to tell, and Peter and John were now with them (see Luke xxiv. 34).

They were assembled, perhaps in John's lodgings, perhaps in the chamber of the Last Supper. The Evangelist takes no pains to tell us, nor does he give us a single extraneous detail; for instance, the manner of entrance of St. Luke's two travellers to Emmaus, who came in a little while before Jesus appeared. St. John gives the scene just so as best to show us the risen Lord Himself. And we will close this paper with the mere translation of the wonderful record.

Ver. 19: "*So when it was late evening, on that day, the first day of the week, and when the doors of the place where they*

were gathered had been shut because of their dread of the Jews, Jesus came and took His stand in (*ἔστη εἰς*) their midst, and says to them, Peace be to you." Ver 20: "And as He said so He showed them His hands and His side. So the disciples rejoiced (*ἔχαρήσαν*), seeing the Lord." Ver. 21: "So Jesus said to them again, Peace be to you. Even as the Father has sent Me out, I, too, send you." Ver. 22: "And as He said so He breathed a breath towards them, and says to them, Take (the) Holy Spirit." Ver. 23: "If you remit the sins of any, they are remitted to them; if you retain the sins of any, they are retained."

Of course all study of details must be deferred. But let us at once carry away the fact of that scene and its blessing. In the hush of the deep evening, in that broad, dimly-lighted chamber, where the anxious group are listening for the tread of the enemy, heavy or stealthy, upon the stairs, and preparing, perhaps, for such defence as Galilean courage even then might try, on a sudden the Holy One Himself is there. And we are there to see Him, and to be glad with them in Him. It is our privilege, our right, our possession. For us He has died and risen; He is about to ascend for us; He brings for us the gift of the Spirit.

To us He shows His hands and His side, and we read there our salvation, as truly as Peter and John and James, and all the once fugitive disciples, read theirs there that evening. Like them, we receive it wholly from Him. Like them, we behold the Lamb of God, sacrificed, risen, ascending to the heavens, and in that view we, like them, looking on Him whom we have pierced, step off from the unrest, the languor, the cowardice, of Christless self into the rest and joy of Jesus Christ.

One of the witnesses of that evening, many years later, wrote as follows to all the sharers of his faith: "Blessed be the God and Father of our Lord Jesus Christ, who, according to His abundant mercy, hath begotten us again to a living hope by the resurrection of Jesus Christ from the dead."

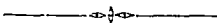
Why walk in darkness? Has the dear light vanish'd  
That gave us joy to-day?

Has the great Sun departed? Has sin banish'd  
His life-begetting ray?

Lord, Thou art risen; but Thou descendest never;  
To-day shines as the past;

All that Thou wast Thou art, and shalt be ever—  
Brightness from first to last.—*Bonar.*

H. C. G. MOULE.



ART. V.—THE DISCIPLINE BILL AND CANON LAW.<sup>1</sup>

THE Clergy Discipline Bill now before Parliament is an attempt to deal with an admitted evil in the Church of England, viz., the difficulty and the delay hitherto involved in the task of removing a clergyman guilty of grave crime from the benefice which he has disgraced by his misdoing. A statute was passed in 1870 which altered the law as to all persons guilty of felony or treason, and under which clergymen convicted of offences of that character are *ipso facto* deprived of their preferments without any process in the Ecclesiastical Court or any sentence by the Bishop. The Discipline Bill of last year (amongst other provisions), proposed to extend this enactment of *ipso facto* deprivation to certain other crimes which, although not less grave than many felonies, are, according to the artificial distinctions of English Criminal Law, classed under the minor category of misdemeanours. Serious objection was taken by a large section of the High Church clergy, on the ground that the cure of souls, being a spiritual thing conferred by the Bishop in his spiritual capacity, ought not to be, and, indeed, cannot be, taken away, even from an evildoer, except by the Bishop's sentence. The former Act applying to felonies was, it was said, passed without its defect being noticed, and ought now to be repealed rather than extended. There is much to be said on the other side.

The history of *ipso facto* deprivation may be very briefly stated. The old English Canon Law provides for *ipso facto* deprivation and *ipso jure* suspension in certain cases, but Lyndwood, in his notes, seems to indicate that a declaratory sentence was required, notwithstanding the apparently opposite statements in the text ("*Lynd*," p. 15, p. 137; "*Athon*," p. 46, ed. 1679).

The expression is not, it is believed, used in any pre-Reformation statute. It first occurs in Edward VI.'s Act of Uniformity (2 & 3 Ed. VI., ch. 1), and subsequently in seven later statutes, ending with the Act already referred to as to felonies (33 & 34 Vict., ch. 23, sec. 2). Dr. Burn, in his "*Ecclesiastical Law*," vol. ii., p. 144, writes: "When an Act of Parliament creates an avoidance, no declaratory sentence is necessary. Otherwise, when the avoidance is created by a lesser authority, as an ecclesiastical constitution." He is supported in, and, in fact, founds, both branches of his

<sup>1</sup> This paper contains, in an extended form, the substance of a speech delivered by the writer in the House of Laymen on February 24, 1892. It is, in the main, a reproduction of an article signed "L. T. D." printed in the *Record* of February 26, 1892.

statement, one on Coke, and the other on Bishop Gibson. The former says definitely that "an avoidance by Act of Parliament need not have any sentence declaratory" (*Green's Case*, 6 Coke, 29 b). Bishop Gibson (Codex ii., 1,049) says: "When the Canonists speak of excommunication *ipso facto*, they are, I think, unanimous that a declaratory sentence is necessary." This year's Bill, however, does not provide for *ipso facto* deprivation, but requires the Bishop, on conviction of an incumbent, to issue a declaratory sentence vacating the benefice.

To some minds the fact of an Act of Parliament commanding a Bishop to use his spiritual jurisdiction and to pronounce a sentence of deprivation, in obedience to, and in order to carry out the verdict of a Common Law jury, seems not less anomalous, and even more difficult to defend, than the proposal contained in the former Bill. But this difficulty would, in the opinion of a large class, be surmounted if a Canon were made giving Ecclesiastical sanction to the proposed enactment, and it is understood that an attempt will be made to obtain leave to pass such a canon. Any innovation in procedure which this course would involve is not worth considering in view of the immense importance of unanimity amongst Churchmen of all opinions and parties in getting rid of a scandal which is oppressing the life of the Church. But, unfortunately, it has recently become apparent that the concession described above is not likely to have its designed effect. Either the objections of the opponents have been misunderstood, or these objections have changed, and have become so much more fundamental as to make the proposed modification quite inadequate. A few weeks ago the Council of the English Church Union issued what was termed a "Statement of Canonical Principles concerning Clergy Discipline." It consists of a series of propositions of a very remarkable character, dealing with a great number of points, the due discussion of which would fill a large volume. But the substance of the "Statement," at any rate for the purpose of the Discipline Bill, is that the Church has inherent power to make laws and to administer laws in the spiritual domain with regard to clergy discipline; that the law to be administered is the Canon Law, which binds intrinsically in conscience; that any scheme for the alteration or regulation of procedure in the matter of discipline must be embodied in canons enacted in Convocation; that Acts of Parliament dealing with discipline are "mere temporal"; and that the proceedings of Ecclesiastical Courts acting under statute are in spiritual matters, *e.g.*, the deprivation of a criminous clerk, null and void. In other words, it is claimed—

- (i.) That an accused clerk shall be tried by Canon Law in an Ecclesiastical Court instead of by the secular law in the Civil Court. This is, of course, a very different matter from a sentence in the Church Court following necessarily, and as it were formally, after a trial and verdict before judge and jury.
- (ii.) That any new procedure that may be necessary must be by canon, amending the Canon Law, the statute (if any) following as only supplemental and incidental.

This "Statement" of the English Church Union has attracted much notice, and has startled many Churchmen. Lord Selborne referred to it pointedly in the House of Laymen during its recent session, and said that the propositions enunciated were inconsistent with the present relations of Church and State, and could lead to but one result—Dis-establishment.

It is proper to speak with respect of this manifesto, not only because it has considerable representative importance, but also because much care and erudition have evidently been bestowed upon its preparation. It is fair, also, to add that those who have the best opportunity of knowing what its compilers intended to say repudiate the meaning given to it not only by its critics, but also by very many of its supporters. But in the absence of any public and authoritative explanation of the hidden signification which we are told lies buried in the document, it must be dealt with like any other document as meaning what it says, or, at least, what to the ordinary reader it seems to say.

The underlying idea of what is really a new position, far in advance of any hitherto occupied by even the extreme High Church party, is the sacredness of Canon Law. It is assumed all through the "Statement" that there exists in the English Church a system of law and procedure formulated by the Church without the interference of the State, and that this system of law and procedure is a holy thing, binding on the consciences of Christian men and women. But Canon Law in reality, and certainly in England, is something very different from this.

When an Englishman talks about Canon Law, everyone will understand him to refer to one of two things—either (1) the *Corpus Juris Canonici*, i.e., Roman Canon Law, or (2) the English Law. It has been said<sup>1</sup> on behalf of the English Church Union that the "Statement" does not refer to either of these, but to the "universal principles of ecclesiastical jurisprudence," "the essential conditions of purely spiritual jurisdiction," and, again, "the fundamental and universal principles of spiritual

<sup>1</sup> See Rev. T. A. Lacey's letter to the *Record* of March 18, 1892.

jurisdiction." But I am unable to understand this disclaimer because no "principles," apart from their embodiment in some code, can try crimmious clerks, or fill the position claimed for "the Canon Law" in the "Statement," as the substitute for Acts of Parliament. Speaking with all respect, and with certainly the fullest desire to appreciate the real intention and meaning of the "Statement," it seems to me impossible that its language can point, so far as the Discipline Bill is concerned, to anything except English Canon Law. Roman Canon Law is out of the question. First, because a claim on behalf of Roman Canon Law would be inconsistent with history to a startling degree, and would be a claim which both the State and Church of England have continuously and ostentatiously repudiated for the last 600 years. Secondly, because the Roman Canon Law involves in every part of it the supreme jurisdiction of the Pope so unmistakably that no member of the Church of England could without absurdity accept the one and still belong to the other.

English Canon Law, as is well known, consists of (i.) such parts of the Roman Canon Law as, not being contrary to statutes, have been accepted and acted on in England so long as to have become part of the customary or Common Law; and (ii.) all such Provincial and Legatine Canons made in England as have received proper sanction and fulfil certain conditions. It is mainly a code of law—that is, a collection of commands and of penalties for disobedience. Of procedure, which the E.C.U. document speaks of—that is to say, machinery of litigation, pleadings, rules of trial, and so on—the traces are fragmentary. As a matter of fact, the Spiritual Courts in England have always used the Roman *Civil* Law to regulate their practice. It need scarcely be said that the Civil Law is pagan in its origin and altogether secular in its development.

When the established methods of the Ecclesiastical Courts are remembered, it surely requires some courage to claim for them any peculiar sanctity. The oath *ex officio*—a term once well-known and hated in England—had nothing, despite Bishop Gibson's opinion to the contrary, to recommend it to modern ideas of justice and fair play. A man suspected of crime was cited, and without being proved guilty was required to swear to his own innocence. He was then required to find a prescribed number of "compurgators" from amongst his neighbours who would swear that they believed him to have spoken the truth. If he could not find "compurgators," as might easily occur with an innocent man who happened to be little known or unpopular, he was condemned and punished as having been guilty. On the other hand, as

Archdeacon Hale ("*Ecclesiastical Precedents*," p. lx.) writes, "Many a hypocrite was enabled by his own perjury and by the ignorance of his compurgators to escape unpunished." This system was one of the national grievances abolished by statute on the eve of the great Civil War; and even at the Restoration its abolition was confirmed, so strong was the public feeling of abhorrence at it. No canon was ever made to confirm the statute. Parliament acted alone in effecting its abolition. Again, evidence was formerly taken in the Church Courts according to an utterly vicious though strictly canonical plan. The present system, by which a witness gives his evidence *vivâ voce* in open Court, is a quite modern reform, effected by the late Sir Robert Phillimore, and carried through by statute without canon.

But the matter which it is most important to make clear is the real nature of English Canon Law. It is a mistake to suppose that English Canon Law is of purely spiritual or even ecclesiastical manufacture. The State has had nearly as much to do in directing its growth as the Church. The Saxon Canons were made in assemblies in which the State and the Church were alike present and alike active. Until the Conquest the Bishop and the earldorman sat side by side in the same court, and, according to the Bishop of Oxford, "the character of the procedure" (in Church cases) "differed in nothing materially from the lay procedure." William the Conqueror divided the Civil and Spiritual Courts, and established the latter without the aid of any canon or synod. Again, as has already been stated, no part of the foreign Canon Law (which itself, be it remembered, has elements so undeniably human as the Forged Decretals) was at any time received as binding in England because it was Canon Law. But certain of the provisions of the Canon Law, having been used and observed for a long time with the consent of the people and the sufferance of the prince, became binding, not as "the laws of any foreign prince, potentate, or prelate, but as the accustomed and ancient laws of this realm." The Roman Canon Law was thus absolutely subordinate to the State in England; the secular power took what it liked, and rejected what it did not like. What it took it stamped as its own and enforced as national law. There is a ready illustration of this in the old story of the Barons of Henry III. declining to accept the Canon Law as to legitimacy because *nolumus leges Angliæ mutari*.

But if the State has had the controlling voice as to the introduction of the general Canon Law into England, it has had as much or more to do with the production of the collection of canons and constitutions made by Archbishops and

their synods and by Papal Legates, which make up our home-grown or specially English Canon Law. It will be sufficient to quote a sentence from the Bishop of Oxford's "*Constitutional History of England*," vol. iii., p. 349:

"The calling of the assemblies in which such legislation could be transacted was, as a matter of fact, subject to Royal permission or approval, and the right of the King to forbid such a Council or to limit its legislative powers was, during the Norman reigns, both claimed and admitted. William the Conqueror did not allow the Archbishop in a General Council of the Bishops to 'ordain or forbid anything that was not agreeable to his Royal will, or had not been previously ordained by him.'"

This refers to the period after the Conquest. Becket's feuds with Henry II. and the long series of Acts on Provisors and Statutes of Præmunire carry on the story. The contention of the State, no doubt, was more with Rome than with internal ecclesiastical power. The actual amount of interference by the State with the action of Convocation varied from age to age, but the right to interfere and the subordination of Church law to Statute law were never doubted. The effect of Henry VIII.'s legislation is well known. By 25 Henry VIII., ch. 19, secs. 1, 3, and 7, it was, in substance, enacted:

(i.) That such canons, constitutions, ordinances, and synodals provincial being already made which were not contrariant nor repugnant to the laws, statutes, and customs of this realm, nor to the damage or hurt of the King's prerogative royal, should still be used and executed as they were before the making of the Act until their revision provided for by the Act, but never in fact accomplished.

(ii.) That no canons, constitutions, or ordinances should in future be made or put in execution without the assent and licence of the Crown, and none were to be made which should be contrary or repugnant to the King's prerogative, or the customs, laws, or statutes of the realm.

Under this second enactment all binding canons since 1534, and especially what are popularly called *the Canons* (of 1603), have been made. The Crown has first to authorize convocation to meet and to act, and after it has acted to approve its decisions; and finally, its resolutions only become canons by being published under the Great Seal. It was long ago decided that even then such canons are not part of English Law, do not bind the laity at all, and only bind the clergy so far as they are internal regulations or bye-laws within the power of the Sovereign, as Visitor of the clergy, to lay upon them.



For the last 350 years, therefore, Canon Law in England has been, perhaps, not more thoroughly than before, but yet more definitely, under the control of the State. No new canon can be made without the initiation of the Crown at the start and the sanction of the Crown at the end. Existing canons are only recognised in England so far as they are not contrary to the statute and common law of England for the time being. There is an absolute subordination of the Canon Law to Acts of Parliament, which renders it impossible that there can be any competition or conflict between the two. If, at any time, a statute is passed which is inconsistent with any previously received canon, from that moment the Canon cases to be acknowledged in English law. To get rid of the Canon it is enough to prove its inconsistency with statute law. It would be impossible to express more pointedly the absolute dependence of Canon Law on the secular power than by this simple statement of an elementary fact in English law, the substantial accuracy of which can hardly be matter of controversy. Nevertheless, that the true state of the case is being forgotten by some well-informed and zealous Churchmen is plain from the "Statement of Canonical Principles" of the E.C.U., and also from the terms of a petition from the same body presented the other day to both Houses of Convocation. The petitioners deplore (with very good reason) the ever-increasing scandals of the Divorce Court. But the remedy they propose is curiously significant. After reciting that English Canon Law allows no divorce; that Parliament, first by private Acts in separate cases, and in 1857 by the general Divorce Act, has provided for divorce; and that the Canon and Statute Law are thus in conflict, the petitioners "pray your reverend House in your wisdom to take such steps in the premisses as may best serve to secure obedience to the Canon Law." In no century since the Conquest would this petition have been accurate in its argument. No such thing as a conflict between Canon Law and Statute Law in England has at any time been possible, because, wherever such a conflict would exist, that very fact prevents the Canon Law, in that particular, from being law at all. If it were not certain that the petitioners are very much in earnest, one would be tempted to suspect they were poking fun at Convocation.

To return to the "Statement." It asserts that the Catholic Church is the visible Kingdom of Christ upon earth, and as such is possessed of an inherent power of ruling and governing its subjects in matters of positive discipline as well as of doctrine; and, further, has, by its own inherent authority, power to make and to administer laws, *i.e.* the

Canon Law which binds intrinsically in conscience. It is singular that this notion of the Church being a Kingdom was expressly repudiated by Archbishop Laud in his conference with the Jesuit Fisher (p. 133, ed. 1673). "The Church militant is no kingdom, and therefore not to be compared or judged by one. The resemblance will not hold."

But if the "Statement" is accurate, it must be apparent that the Catholic Church has never (to put it mildly) been in full working order in England, for it is an indisputable matter of history that the Church has never exercised these independent powers of making and administering laws of discipline and doctrine. On the contrary, the Canon Law has been the work of the Church and State together, in which the latter has had a final and preponderating voice. Either the Canon Law was never intended to be—and the Church does not profess that it is—a purely spiritual code independent of the State, or else the Church as it has existed in England for more than eight centuries has acquiesced in a state of things utterly inconsistent with its spiritual constitution. There is simply no escape from this alternative, and it is because, when the question is fairly faced, the dilemma must make itself obvious to honest minds that the exaggeration of the claims of the Canon Law seems full of elements of the gravest danger. On the assumption that the true Church must have its own self-made and spiritual law for external application in Ecclesiastical Courts, it is not only hard to recognise the notes of orthodoxy in our communion, but it becomes difficult to find anywhere in the world a body really fulfilling the necessary condition. The assumption is attractive enough to many minds, but, once brought to the test of history, it becomes transformed into a virtual menace to belief in the existence of a visible Church as an actual fact.

Canon Law is a system of rules for the exercise of spiritual jurisdiction in the external *forum* of the Ecclesiastical Courts. It ought not to be confounded with Spiritual Jurisdiction itself. No one who pays regard to the opinions of the great Church writers, from Hooker downwards, can doubt that the teaching of the Church of England is that our Lord conferred on the apostles a power, now vested in the Bishops, of punishing sin by exclusion from the visible communion of the saints, and of again admitting the repentant sinner to fellowship. As the Church grew into an organized and complex body, the simple acts of excluding from and admitting to participation in the Holy Communion developed into a more elaborate system of censures. The Bishop's list of penalties came to include (1) monition or mere rebuke and caution;

(2) suspension of a clergyman from his spiritual office and from his benefice; (3) deprivation of a clergyman from his benefice; (4) degradation from Holy Orders; (5) excommunication, applicable to laymen as well as clergy. All these are called spiritual censures, and the authority to inflict them is what is meant by Spiritual Jurisdiction. It is certainly in agreement with the teaching of the Church of England that this jurisdiction can neither be conferred, nor modified, nor taken away by the State, but is purely spiritual. But, as Sir Matthew Hale, speaking of external discipline, says, "Christianity entered into the world without it." Our Lord when He conferred the power of the Keys (as it is often called) on the Church, gave no rules for its exercise. Speaking with all reverence, the reason seems clear enough. Except in the most elementary form, that of simple exclusion from the religious rites of a minute and unknown sect, jurisdiction cannot be exercised without the acquiescence and assistance of the State. Coercion must support the sentence of the spiritual judge, or it is useless. But the Church of Christ has no coercive power of its own. Hence the Christian State came to have an important share in ecclesiastical jurisprudence. That share is twofold. (1) The spiritual or inner jurisdiction cannot be used without the permission of the State. In other words, every Church Court exists by leave of the State, without which it could not be held. (2) The State gives the coercive power by which the spiritual judge is able to summon witnesses and try causes, and finally enforce his sentences.

Now Canon Law is the code, which this exercise of spiritual jurisdiction, with the permission and help of the State in external Ecclesiastical Courts was certain to develop, and which, under the circumstances, was a necessity. It is ecclesiastical rather than spiritual. The external Court, because it is external, is dependent on the State's support, and is largely controlled by the secular power. Although it deals with spiritual matters and wields spiritual power, it is in the world, and cannot escape mundane conditions. Canon Law exhibits, as we have seen, precisely the same mixed character. The State controls it, modifies it, keeps jealous guard over it. This is all quite natural, so long as we remember that Canon Law has (so far as judicature is concerned) sole and exclusive application to external Ecclesiastical Courts, which only exist by the permission of the State, and in some countries, England amongst them, were created by the State. For although William the Conqueror did not create the spiritual jurisdiction of his Bishops, he did establish the Courts in which they exercised it.

It is not of course denied that portions of the Canon Law

are of the very highest spiritual obligation. For instance, there are large extracts from Holy Scripture incorporated, and also the decisions of those General Councils, the authority of which is admitted by the Church of England. But the sanction of these is independent of their place in the Canon Law, and is neither lessened nor increased because they form a part of it.

In deprecating an exaggerated and, it must be added, an ill-informed view of the nature and obligation of Canon Law, there is, perhaps, danger of seeming to underrate its importance. The truth is, that such a petition as that of the E.C.U. on the Divorce Law does harm chiefly because it creates an impression that there is something grotesque and unpractical in the whole subject. Canon Law is certainly not a Divine code; neither is it so sacred in its nature and growth as to make it Erastian for the State to override or supersede it. But, nevertheless, the law of the Church of England for the time being is binding on Churchmen. The members of every Society are morally bound to obey its laws or to leave it. Members of the Church are not less bound to obey its laws, because the Church is the greatest of all Societies, and membership of it the most valuable of all privileges. If the present writer may express his own profound conviction, it is that the most urgent need of the Church of England now is, and for some time past has been, a more dutiful regard to every branch of Church law by clergy and laity alike. In other words, we want better discipline. It is not simply in one context, as, for example, the conduct of public worship, but in every department and on all sides, that there exists a tendency, it might almost be called a habit, of self-will, which seems remote enough from the spirit of the New Testament and is surely full of menace for the future. For disorder and weakness are the inevitable results of loss of control. The success which has attended the recent attempt to get students at one of the universities intending to take Holy Orders to attend elementary lectures in Church Law seems to show that a better state of things is possible. The utter neglect of Canon Law, as applicable to the circumstances and modified by the changes of modern times, has done great mischief. The clergy are blamed for their lawlessness and derided for their unbusinesslike ways, but never since the Reformation has any machinery existed for instructing them in the Ecclesiastical Laws, which, on the one hand, they are bound to obey, and, on the other, as benefited incumbents, they are required to administer. Sober, practical training in necessary knowledge will do much to make Canon Law a living reality, but mere attempts to magnify its claims and exaggerate its

importance will detach the sympathy of sensible Churchmen and excite the ridicule of the world outside.

The Discipline Bill is an attempt in the right direction. Either the Civil Court or the Church Court must try a delinquent clergyman. Both cannot. Common sense revolts against two independent trials, which might result in a man being sent to penal servitude by the State, and retained in his cure of souls by the Church. On the other hand, the country will never consent to a clergyman being exempt from the ordinary criminal law which governs lay people. In fighting for trial by Canon Law in an Ecclesiastical Court Churchmen are making a demand which no Parliament will ever concede, and are thus rendering an urgent Church reform impossible, to the joy and satisfaction of the Liberationists. And for what? For the sake of preserving for the Church imaginary rights which never existed, and of vindicating for the Canon Law a spiritual character which it never possessed.

LEWIS T. DIBDIN.

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ART. VI.—“THE LAW IN THE PROPHETS.”

*The Law in the Prophets.* By the Rev. STANLEY LEATHES, D.D. Eyre and Spottiswoode, 1891.

A WELL-KNOWN critic of the “advanced” school—I think it is Wellhausen himself—has somewhere described the delight with which he arrived at the conclusion that the prophets preceded the law, and not the law the prophets. Before this he found the history of Israel an unexplained riddle. The law forbade high places, but Samuel and Solomon sacrificed in them without incurring censure, and Jehoiada the high-priest and Jotham the king did not remove the high places. Hence arose the dilemma: either this part of the law existed and was broken by the best men of Israel, or these men were blameless because no law existed to blame what they did. It was this second solution which our critic accepted with so much joy.

But if there was no special law existing even as late as Jotham (the grandfather of Hezekiah) against high places, was there, therefore, at that time no Pentateuch, no book or books of Moses at all? There was at least, says the newer criticism, no Book of Deuteronomy, neither was there a book beginning with the story of six days of creation, and including the account of the construction of the tabernacle and the list of laws touching the rights and duties of the priesthood. There may well have been, however, according to the newer critics, a historical work, or, at least, the materials of one, beginning