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THE FREEDOM OF THE CHURCH AND ESTABLISHMENT.

BY THE REV. C. H. K. BOUGHTON, B.D., Vicar of Calverley.

IT is a wise rule of interpretation that a text must always be studied in the light of its context. Probably few would be found among us to dispute the wisdom of this rule, and yet probably equally few have not at times succumbed to the temptation to break it. No doubt sometimes we have broken it consciously and playfully to score an easy debating point against an opponent. Sometimes, however, there is a deeper reason for the breakage. A text is something short, definite, easy to handle. A context is a larger thing, and much more difficult to grasp. To handle it truly requires in a reader a more determined effort of the will and a more delicate sympathy with what an author is trying to say through words which may be proving only half adequate to his meaning ; and there are few authors who have not suffered much from critics who would not rise to the effort which the context demanded.

I venture to suggest to you that my subject stands to the one which has just been discussed somewhat in the same relation as a context to its text. The proposals for Reform which make up the substance of the Enabling Bill now before Parliament are definite enough, and they have been discussed in the last twelve months with such persistent vigour that it is difficult to say anything fresh about them. Not so much has been said about Freedom and Establishment. These are larger words, much less well-defined, much more open to the danger of being used in different senses by different speakers, with the inevitable result of mere darkening of counsel. But yet it remains true that the scheme for the self-government of the Church cannot be fairly judged unless it is looked at in the light both of certain fundamental principles and also of that historical background which goes by the name of the Establishment ; and it is for that reason, I presume, that I have been asked to recall to your minds in such definite and simple terms as I can the meaning and consequences of Freedom and Establishment.

Let us look first at the meanings of Church and State in the abstract.

We must go back to the very beginnings of Church history as recorded in the Gospels. "Verily¹ I say unto you, Whatsoever ye shall bind on earth shall be bound in heaven; and whatsoever ye shall loose on earth shall be loosed in heaven." Read in the light of Rabbinic phraseology, this saying of Christ means nothing if it does not mean that a power of self-determination and of self-government was meant by the Master to be possessed by the Church which He founded. Taken in conjunction with other relevant passages in the New Testament, it amply justifies the statement of the Selborne Committee. "It² does not seem to be open to question that the authority to bind or loose, with which the Church believed itself to be endowed from the beginning of its history, was interpreted as involving the possession of the full legislative and administrative and judicial powers which the effective realization of such an authority demanded. Behind such questions as those of the relations of the different elements of the Church to one another, of the relation of local churches to the whole Church, or of the limitation of the authority of even the whole Church in matters of doctrine, lay the idea of the Church as a self-governing Society, having authority over its members with divine sanction, having a divine claim to govern itself."

This Society was sent forth to be Christ's agent in the world, and was equipped for its work by the presence of the Holy Spirit. Among the many problems which speedily clamoured for solution was that of determining the right relationship between the Church and the world, between the Church as a Society and that other fundamental human society which we call the State. Two guiding principles are laid down in the New Testament towards a correct solution.

On the one hand the State itself can claim a certain Divine authority. St. Paul's³ saying, "Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God. Whosoever therefore resisteth the power resisteth the ordinance of God"; and St. Peter's echo⁴ of it, "Submit yourselves to every ordinance of man for the Lord's sake . . . for so is the will of God," are both based upon the example of Christ when He paid His temple tax⁵ and upon His precept when He bade

¹ St. Matt. xviii. 18.

² S.P.C.K. Report, p. 32.

³ Rom. xiii. 1.

⁴ 1 Pet. ii. 13, 15.

⁵ Matt. xvii. 24.

men "render ¹ therefore unto Cæsar the things which are Cæsar's."

On the other hand, Christ intended the Church to be essentially an unworldly Society. "I pray ² not that Thou shouldest take them out of the world, but that Thou shouldest keep them from the evil. They are not of the world, even as I am not of the world." This unworldliness has at least two consequences. It means that sometimes there will be conflict between Church law and State law. The earliest illustration is St. Peter's bold answer to the veto of the Jewish rulers upon Christian preaching, "Whether it be right ³ in the sight of God to hearken unto you more than unto God, judge ye," and Church history is replete with others from the days of Roman imperial edicts down to the present time. The other consequence is that the sanctions of law in Church and State are different. The State relies ultimately upon physical force to secure that the will of the majority be carried out by the minority. The Church can properly secure its will by moral suasion alone: its only punishment for the brother who persists in defiance is excommunication. "Let him ⁴ be unto thee as an heathen man and a publican." This principle has been almost forgotten through wide reaches of Church history, yet it has not been without its witnesses here and there. Tertullian was expressing what was probably the general view in his day when he ⁵ wrote, "It does not belong to religion to compel religion, which should be accepted voluntarily, not by force." Bishop William Warburton was to some extent a prophet of a new era when in the eighteenth century, in his book on *The Alliance between Church and State*, he reminded his contemporaries that the Church may not "engage the State to propagate the established religion by force," because Church and State are strictly different and independent powers. "Admit the religious society to be independent, and you invincibly destroy all pretence to coercive power, because coercive power introduces an *imperium in imperio*, which is removed only by destroying the independency. Admit again, that religious society has no coercive power, and you supersede all the State's claim of dependency, a claim solely founded on the evil of an *imperium in imperio*, which evil can arise no otherwise than by the Church's exercise of an inherent coercive power."⁶

¹ Matt. xxii. 21.

² St. John xvii. 15.

³ Acts iv. 19.

⁴ Matt. xviii. 17.

⁵ Quoted in S.P.C.K. Report, p. 246.

⁶ See Henson's *Church Problems*, 48.

Such being the natures of Church and State in themselves, it is obvious that the problem of conduct for individuals who happen to belong to both is a very intricate one, and that the problem of the due adjustment of their rival claims is one which requires the exercise of the very highest wisdom. Bishop Stubbs¹ once said: "It may be taken for granted that between the extreme claims made by the advocates of the two there can never be even an approximate reconciliation." But in a world which is only a little way on the road to becoming a Kingdom of Heaven extreme claims cannot be pressed. The practical statesman does not attempt to realize the ideal immediately. He is content if he can raise the actual but a step or two nearer the ideal without the risk of a later fall. His supreme aim is to obtain the most perfect accommodation of the highest forms of Church and State which the conditions of place and time allow.

At this point, then, we pass on to notice briefly three types of relationship between Church and State which have emerged in the course of history, and which I will venture to describe from the side of the State as respectively identification, toleration and preference. A consideration of these with their respective merits and demerits will put us into a position to understand more correctly the precise issue of the present day.

1. *Identification of Church and State.* The most perfect example of this that I know is the constitution established at Geneva by Calvin in the years immediately following 1536, of which John Knox wrote: "I neither fear nor shame to say that this is the most perfect school of Christ that ever was since the days of the Apostles." Here the Church was first to do its part by instruction and admonition and censure: in the background was to be the secular arm to suppress vice and produce uniformity by pains and penalties. The key to the position was the famous Consistory of six ministers and twelve elders which met every Thursday and regulated the whole public and private lives of the citizens.

It is to be feared that John Knox's opinion was coloured by the idea dominant in his age that religious persecution was perfectly lawful. To a modern mind, which on this point is surely truer to Christ's ideal, the Genevan system stands condemned because it confounded the civil and religious sanctions, and employed the secular arm in the wrong place. The public burning of Servetus for

¹ *Constitutional History* (1878), III. 288.

his scientific and theological opinions reminds one of the still more celebrated case of Galileo. Calvin did but make the mistake which practically the whole Church made from the age of Constantine the Great down to nearly modern times. Mr. Hobhouse's Bampton Lectures in 1909 on *The Church and the World in Idea and History* are a most illuminating collection of proofs of that statement. He shows us by abundant illustrations from the evangelistic work of the Church among the Barbarians and from its disciplinary proceedings among the heretics and schismatics of its own members that it was simply putting into practice in its turn that theory of State religion enforceable by law from which it had itself suffered so bitterly during the age of the Roman persecutions. The danger of persecution is a sufficient condemnation of any attempt to identify Church and State.

In England there is a still further reason against such identification. Hooker¹ indeed says: "With us one society is both the Church and the Commonwealth. . . . In a word, our estate is according to the pattern of God's own ancient elect people, which people was not part of them the Commonwealth and part of them the Church of God, but the self-same people whole and entire were both under one chief governor, on whose supreme authority they did all depend." There was probably a good deal of truth in this in those pre-Norman times when Church and State were practically one, and when Bishops and Ealdermen sat side by side in assemblies and tribunals and administered indiscriminately Canon and Civil Law. There was much less truth in it in Hooker's day; and in modern times when Nonconformity and Rationalism are firmly established among us it is only necessary to state the proposition to show its absurdity. Identification is impossible on numerical grounds.

The only other line of defence open to the advocate of identification is the philosophic one adopted by Gladstone in his early book (1838) on *The State in its Relations with the Church*, wherein he argued that the State is a moral personality, cognizant of religion and with a duty to propagate it. This view, though in some respects an ideal one, leads straight to persecution and was soon abandoned by its author.

2. *Toleration of all Churches by the State.* Constantine's Edict of Milan foreshadowed modern policy when it suggested that the Empire "should give to the Christians and to all a free power of

¹ *Ecc. Pol.* VIII. 1, 7.

following whatever religion any one has chosen." Broadly speaking, this is the position to-day in Ireland, the Colonies and the United States. In these countries no religious body is treated differently from the rest. They are all corporations within the State. Subject to certain limitations they possess powers of self-government. They may make their own laws, appoint their own officials and set up their own courts.

What it is important for us to notice about them is not so much their independence as their limitations, for this is the side to which too little heed is sometimes paid. These corporations are in many ways restricted by the State. No other alternative is conceivable. Back in the days of Henry VIII when agitation was on foot for the revision of the mediaeval Canon Law, a proviso was inserted in the Act of 1534 that the old Canons might still be deemed valid provided they were not "contraryaunt nor repugnant to the lawes, statutes and customes of this Realme nor to the damage or hurte of the Kynges prerogatyve Royall." In this respect the Church of England is in no whit less favourable a position than any corporation ecclesiastical or municipal in any country. Clearly all corporations must avoid opposition to State law or be prepared to take the consequences.

It is well to remind ourselves how closely the authority of the State sometimes presses. The State takes cognizance of matters affecting property and of relations of contract between the members of the Societies; it may even deal in doctrine. For instance, the doctrines of the Primitive Methodists are all detailed in a schedule to an Act of Parliament 34 and 35 Vict. c. 40 in just the same way as the Prayer Book is attached to the Act of Uniformity of 1662. As Mr. Montague Barlow¹ expressed it: "Every such voluntary religious society is certain to formulate its doctrines, to require rules of ritual and procedure. Times of trouble will come, various interpretations will be put on the rules, and back we must come to the secular courts again to interpret them. The secular courts protect rights to property, and property rights will and must be involved. Chapels are built, endowments left, lectureships founded, to maintain a certain type of doctrine; years will pass, and times change, a younger generation would emphasize some doctrines and dispense with others, the older members resist the innovation, and an action in Chancery becomes inevitable, and while directly deciding questions

¹ *Church and Faith*, p. 349.

of property the courts will be compelled to pronounce on matters of doctrine and faith. In a case debated for more than ten years in the courts during the early part of this [nineteenth] century, the point involved was whether the doctrine of the Trinity was an essential part of the Presbyterian creed, and Her Majesty's judges had to critically examine and pronounce on the first fourteen verses of the first chapter of Hebrews, and the effect of the Apostles' and Nicene Creeds." Since Mr. Barlow wrote those words, we have seen other cases of the same kind.

It is worth while to notice also that the term Establishment is sometimes so defined that it covers the so-called Free Churches of this country. "Lord Mansfield,¹ in *Chamberlain of London v. Allen Edwards*, laid it down as the law of England that by the Toleration Act 'the Dissenter's way of worship was not only rendered innocent and lawful, but was established: it was put under the protection of the law.'" It is even open to argument whether the Free Churches are not established by the famous definition of Lord Selborne.² You will remember that he says: "The Establishment of the Church by law consists essentially in the incorporation of the law of the Church into that of the realm, as a branch of the general law of the realm, though limited as to the causes to which, and the persons to whom it applies; in the public recognition of its Courts and judges, as having proper legal jurisdiction: and in the enforcement of the sentences of those Courts, when duly pronounced according to law, by the civil power."

3. *Preference by the State for one Church.* Lord Selborne's definition forms a convenient transition to a brief consideration of the position of the Church of England. That position is well expressed in general terms by Bishop Collins in the *Encyclopaedia Britannica*.³ "Establishment implies the existence of some definite and distinctive relation between the State and a religious society . . . other than that which is shared in by other societies of the same general character. Of course, a certain relationship must needs exist between the State and every society, religious or secular, by virtue of the sovereignty of the State over each and all of its members. . . . With all this establishment has nothing to do. It is not concerned with what pertains to the religious society *quâ* society, or with what

¹ See *P. B. Dict.*, p. 318. ² *Defence of the Church of England*, p. 10.

³ Vol. IX. 787, Edit. 1911.

is common to all religious societies, but with what is exceptional. It denotes any special connection with the State, or privileges and responsibilities before the law, possessed by one religious society to the exclusion of others ; in a word, establishment is of the nature of a monopoly." There is no need to detail to this audience wherein exactly the Establishment of the Church of England consists. The facts are very lucidly set out in the well-known essays of Mr. Montague Barlow,¹ or the Bishop of Hereford,² or in the S.P.C.K. Selborne Report, Section 2 and Appendix 6. It is sufficient to say that there is a closer relationship between the State and the Church of England than between the State and any similar religious body, partly because the Prayer Book is a schedule to an Act of Parliament, but mainly because the Crown controls the executive of the Church by appointing to its higher offices, the legislation of the Church by dominating Convocation at every stage, and the Courts of the Church by the possession of the Privy Council Committee as the final Court of Appeal.

We have now reviewed, however roughly and hastily, three types of relationship between Church and State which have emerged in the course of history. We have also seen something of the ideal nature of the two organizations which have thus in less than their ideal form been combined. The actualities of the past, the possibilities of rising nearer to the ideal in the future, these must form the context of all our present-day discussions if they are to be fruitful of good. Those discussions turn mainly on the question of possible gain or loss in making any change in the present relations of the Church of England to the State. There are at any rate three points which need the most careful consideration.

First and foremost, what does the State gain by its close connection with us ? It was William Warburton³ who laid it down that "the Church shall apply its utmost influence in the service of the State." It was Lord Selborne⁴ who wrote : "The reasons for, and the advantages of, the Establishment (as distinguished from the endowments) of the Church have always appeared to me (as I believe they do to most Churchmen at the present day) to be stronger and greater on the side of the State than on that of the Church." What are these advantages ? Clearly they must be connected with the

¹ *Church and Faith*, 325 ff.

³ *Alliance*, Chapter iii.

² *Church Problems*, 32 ff.

⁴ *Defence*, p. 72.

Church's work in the formation of that high character in its citizens without which no State can long endure. We must not take too much comfort to ourselves from the fact that the Church has a territorial organization, and owns a responsibility towards all the inhabitants of the country. That is a great good, but it belongs rather to the sphere of Endowment than of Establishment, and I am trying to keep the two things separate. We must ask rather such questions as, What is the exact value to the State of the possession of an official religious organ, which has its Bishops in the House of Lords and crowns the King? What would England lose if she became in this respect similar to the United States? Was Archbishop Temple¹ right when he said, "I think Disestablishment will be a step down for the whole nation"?

The second point for consideration is the gain to the Church from its State control. How far, for instance, is it true that (to quote Lord Selborne² again) "it may, to say the least, be doubted whether a system of free election by capitular bodies, or even by all the clergy of a diocese, would work as smoothly and well, in the general run, and upon a large scale, as the system of nomination by the Crown does under the existing law." The appeal to the experience of the Irish Church is obvious, but the result of that appeal is much more obscure. I have several times tried to find out from Irishmen the effect of Irish Church Disestablishment, but have only succeeded in getting conflicting answers. Again, how much truth is there in the statement sometimes made that State control secures a wider liberty of thought, and delivers minorities from fear of oppression by a tyrannical majority?

On the other hand, we have to consider what the Church loses by its State connection. There is an impressive account of Church Bills which have been held up in Parliament in the Selborne Report. How many of them were worth passing? How much does it really matter that Convocation cannot pass any canon without tremendous difficulty, and that its legislation when enacted has no binding force at all upon the laity? Is it a weighty grievance that Convocation has been called with some justice "a noun of multitude, signifying many, but not signifying much"? How much should we gain if we were disestablished, or if the bonds of our Establishment were loosened so that we were put into a position analogous to that of the

¹ *Life*, II. 662.

² *Defence*, p. 77.

Established Church of Scotland? There is surely much food for reflection in the fact that Scotland can have all the advantages of an Established Church, whatsoever they may be, and yet that Church can put out the impressive declaration of spiritual liberty which is quoted on page 36 of the Selborne Report, from which I extract just one sentence, "The Church affirms that recognition by civil authority" . . . (does not give it) "any right of interference with the proceedings or judgments of the Church within the sphere of its spiritual government and jurisdiction."

These are the questions we have to answer, and it has been the purpose of this paper to prepare the way for that answer rather than to attempt the answer itself. But if I may close with an expression of personal opinion, I will admit that I cast envious eyes in the direction of Scotland; and though I know full well that Scotland is not England and that the constitution of one country cannot be simply transferred to the other, yet I do feel that the Established Church of Scotland affords a model we should do well to copy, and it is because the present Enabling Bill seeks to make our relations with the State somewhat more like the Scotch in their blending of freedom with control that I am prepared to give it my support.

C. H. K. BOUGHTON.

BOOK NOTICES.

SOME MORAL DIFFICULTIES OF THE BIBLE. By H. E. Guillebaud, M.A.
London: *Robert Scott*. 2s. net.

The Bishop of Durham contributes a commendatory Introduction to this useful little manual, which, as he says, deals with "questions of gravest importance, alike to the thoughtful believer and to the candid enquirer." At the outset, the author discusses the subject of Inspiration. He states the difficulties that confront those who hold the theory of Verbal Inspiration and which make it exceedingly difficult to believe, but his remarks are characterized by a discreet moderation and he concludes by saying of this theory,—"I do not utterly exclude it; but I cannot pin myself to it here and now." In our present lectionary certain Old Testament chapters are read year by year that undoubtedly present difficulties to thoughtful minds and Mr. Guillebaud faces these without finching. How many of our people have been puzzled about the hardening of Pharaoh's heart, the lying spirit, and the words "I, Jehovah have deceived that Prophet"? These are among the difficulties dealt with, and while recognizing that there are many others, the writer confines himself to those which seem to be gravest, namely, passages which seem to attribute evil to God; but, as Dr. Moule says, he so uses the lamp of sanctified reason as to suggest to the reader how, in other cases, to use it for himself.