Church and State

LORD FISHER OF LAMBETH

I

FROM THE BEGINNINGS of our nationhood three majesties have dwelt together in this country, that of the Sovereign, that of the Church, that of the Law, all entitled to call themselves 'of England'. Of these the Sovereign was and is supreme in political power; but both Church and Law have always had an identity and integrity of their own beyond the reach of political power. Until the Reformation the Pope claimed and exercised supreme power over King, Bishops and Judges. At the Reformation his claims and his powers were dismissed, although he continues to this day to exercise a certain power in this country through the members of the Church of Rome living here and through the Bishops who govern them. Through the centuries the sovereignty of the King has developed into rule by the King in Council and with his Parliaments. The Judges have power only when they sit in their courts administering the Law which they have not made. The Church has a life and a constitution of its own as part of the Church of Christ, militant here on earth, As such it is subject to the civil powers while as part of the mystical Church of Christ it has no Head but Christ himself. *Ecclesia Anglicana libera est*; free and therefore free to serve the Sovereign of England and the nation and people of this country as best it can, even if in the exercise of this ministry it has to suffer indignities and is guilty of faulty witness.

While the Bishops played their part in service to the Crown in the House of Lords and the Privy Council, they took their part as governors of the Church in the Convocations along with the representatives of the Clergy. The King often had to fight rough battles with his Parliaments and with his Judges and Bishops in order to get his own way. He did not hesitate, when necessary, to ignore the Convocations. Indeed from the year 1717 to the year 1850 they were totally suppressed, continuing only in a shadowy and powerless existence. When they

were restored to active life, it was with only limited powers. They could discuss Church affairs; they could not legislate for the Church except by preparing Canons and submitting them to the Crown which would approve them only if they did not conflict with Statute Law, not unnaturally since the Canons became part of the Law of the Land binding the Clergy legally. For the rest Parliament alone could legislate for the Church in its ordinary affairs. The Church had its own system of ecclesiastical law and its own ecclesiastical courts with the Dean of Arches at their head, but there was appeal from the ecclesiastical court to the Judicial Committee of the Privy Council. That was the general situation at the beginning of this century.

II

IN 1904 a Royal Commission on Ecclesiastical Discipline was appointed because of grave disorders in the Church, especially connected with the conduct of the services of the Church and with the ideas of Lawful Authority in the Church. Neither the Bishops nor the Courts could control the situation. The Royal Commission's chief recommendation was that the Church should revise the Book of Common Prayer and that there should be some legal reforms, but it did nothing to clarify the meaning of Lawful Authority. The Church laboured through many years to produce a revised Prayer Book. When presented to Parliament it was twice rejected, first in 1927 and again in a slightly altered form in 1928. This seemed and indeed was a shocking example of State tyranny over the Church. A royal commission had told the Church to revise the Prayer Book: the Church had diligently done so: and the result was rejection by Parliament. But reflection showed that rejection was really a blessing in disguise. At either end of the Church were strong bodies of clergymen who detested the new book. If it had been passed, it would not have cured the disorders. Failure to cure them would only have intensified them. But the need for revision remained to be undertaken anew at some later date.

Meanwhile a new stage in the Church's powers of self-government had been opened by the Enabling Act of 1919. While the Convocations with their limited but real powers of legislating by canon remained, the newly created Church Assembly consisting of a representative House of Laity on an equality with the House of Bishops and the House of Clergy was now entrusted with a very important legislative function. It could prepare and present to Parliament measures to govern the Church in its ecclesiastical affairs which if approved by Parliament then became part of the statute law of England. No doubt Parliament was willing to give these powers to the Church Assembly because it contained a House of Laity to balance the two clerical Houses. It remained to be seen how Parliament would deal with its powers of

scrutiny over Church measures with the right to approve or reject. As we have seen, in 1927 and 1928 Parliament in a matter of the greatest spiritual significance rejected the Church's Measures. This seemed to demand disestablishment from Parliamentary control. In fact, as we shall see, both Church and State learned very important and valuable lessons from that rejection.

In 1963 the Ecclesiastical Jurisdiction Measure was passed which put an end to Privy Council Jurisdiction. There is still an appeal to a final Queen's Court from the Ecclesiastical Courts, but it is to a court authorised by the Church and accepted by the Crown, no longer to one imposed by the Crown. In the preparation of this Measure there was a strain at one point. It was proposed that, following precedent, this final crown court should consist of three Judges, members of the Church of England, and two Bishops. There were some in the Church, jealous for the 'rights' of the Church, who wanted the court to consist of three Bishops and two Judges, thus giving the Church an episcopal majority. But as soon as it was recognised that this final Court was there only to hear appeals on matters of law and that the law is always in this country the Queen's Law, it was clear that the Judges must form the majority. The great thing is that the Church has a system of ecclesiastical courts up to and including the appeal court which is of its own designing and approved by the Crown.

In 1970 another important re-ordering of the Church's self-governing system took place. The General Synod, then inaugurated in place of the Church Assembly, absorbed into itself the Convocations and their powers of Canon making. The great significance of this change is that it puts the House of Laity on a level with the two clerical Houses in all respects, by removing from the Convocations (though they still exist in an advisory capacity) all their lawmaking powers. This does in effect reduce the powers of Bishops and Clergy and so diminish their independent standing and influence. This diminution carries with it, no doubt, both gain and loss for the good government of the Church.

As a result of all these Measures and of the revision of Canon Law now brought to a conclusion, all doubts about the meaning of Lawful Authority have been finally resolved. It means the final authority of the General Synod, but still only in things lawful and honest, lawful both by the Law of the Land including Parliament's cooperation and by the Law of the Church as part of the Church Militant which the General Synod cannot dictate.

III

THE Chadwick Commission on Church and State does not propose any basic alteration in the present status of the Church of England as the 'established' Church. It raises certain questions for consideration and decision by the General Synod. One concerns Crown appoint-

ments to Bishoprics and other offices. I do not propose to say anything on that subject. The most important of the questions that it raises is whether the Church should claim absolute authority over its own doctrinal and spiritual affairs without any supervisory powers remaining to Crown or Parliament.

It is to be remembered that things have greatly changed as between Parliament and the Church since the shocks of 1927 and 1928. The Church took to heart that it must never again present a Measure to Parliament about which there was substantial disagreement in the Church itself; and it must be remembered that as a result of the introduction of Synodical Government, the opinion of the House of Laity counts for as much as that of the Houses of Bishops and Clergy, and on certain matters of great importance the General Synod has to seek the advice of all the Diocesan Synods before deciding to present a Measure to Parliament. Parliament on its side began to realize that it had no right to refuse to the Church a Measure concerning the Church's doctrinal and spiritual affairs which the Church itself clearly and responsibly wished to have. This change of opinion took place while I was Archbishop: and while there is nothing on record of a formal kind to show that it has taken place, I am quite sure that it has happened and that in all normal circumstances it can be relied on. Parliament with its ecclesiastical Committee still performs two necessary functions when a Measure is presented to it. It scrutinizes the drafting of the Measure and if necessary gets it corrected. This is a very valuable safeguard for the Church against mistakes of its own making. And it scrutinizes the Measure to make sure that it does not deprive citizens of any of their existing liberties nor impose restraints upon the exercise of those liberties. That means that it saves the Church from any misuse, whether by inadvertance or of intent, of its position as the 'Established' Church.

Then why should anyone want to alter this sensible relationship? Once it was by no means so sensible, and there have been for a long time those who, jealous for the spiritual dignity of the Church of England as part of the Church Militant and for its practical health, wanted the Church to claim and to gain complete freedom to manage its own spiritual and doctrinal affairs. There was a group in the Church Assembly throughout my time there who at fairly frequent intervals pressed for reform. At fairly frequent intervals the Church set up a Committee or Commission to look into the Church-State relationship. Nothing more than small points of administration ever resulted, leaving the dissatisfied group dissatisfied still. Has the time now come, in this period of general change, for the Church to be given by Parliament sole charge of its spiritual and doctrinal affairs? Those who make jealousy for the sovereign rights of the Church their sole guide will think so; but in my view they would be ill-advised, and that for two reasons:

In the first place it would be wrong to suppose that the General Synod will always be a trustworthy instrument of the will of the Church of England. There will always be occasions when the three Houses of Bishops, Clergy and Laity differ between themselves and it cannot safely be assumed that if then they come to agree upon a Measure it will be for the best reasons or for the reason most faithful to the doctrine of the Church of England. It is unfortunately true that question of Church politics and party attitudes will always come in to cloud the issues; and inevitably both the Bishops and the representatives of the Clergy will be affected to some extent by recollection of the distinctive authority attached to their respective Orders, and the House of Laity while very conscious of the independent authority of the Laity will always be influenced by the proper feeling that as laymen they owe a special respect and deference to the ordained ministry represented by the clerical Houses. It would not be possible to give examples here to illustrate what I have in mind of threats to wise conclusions, but plenty of examples exist. It has been in the past a restraining influence on all the Houses to remember that the Measures which they finally agree upon will have to be presented to Parliament and must appear to be reasonable. In my judgment it would be unwise to remove that restraining influence until there has been longer trial of the new system of Synodical Government.

The second reason against removing the element of Parliamentary supervision has only come into existence in recent times when the doctrine of the Church of England is being discussed, debated and in a measure determined in numerous commissions, and councils and committees inside the Church of England, inside the Anglican Communion and outside both. Bishops and clergymen who represent the Church of England may allow themselves to give their consent to doctrines which have never been adequately discussed in the General Synod and are to some degree in conflict with the doctrine of the Church of England. The reports and resolutions to which they have assented may then come before the General Synod with the implication that doctrines approved by the bodies sponsoring them ought not to be rejected by the General Synod; and it may even be that the Bishops or some other prominent clerics will have already made it clear that in their opinion it is the duty of the General Synod and diocesan Synods to endorse the doctrines thus proposed. One can perhaps illustrate the position in which the Church of England now stands from a single example taken from the record of the Lambeth Conference of 1968. Resolutions of Lambeth Conferences have no binding power of themselves, but only if and when they are adopted by the General Synod; yet if brought before the Synod, they come with a great weight behind them as being the voice of the assembled diocesan bishops (as it used to be) of the Anglican Communion, while if not brought before the Synod they are quoted as representing the general opinion of the

Anglican Communion. A recent Archbishops' Commission on Intercommunion in its report proposed (by a majority vote only) a procedure, involving doctrine, which it called Reciprocal Intercommunion. Shortly afterwards the Lambeth Conference of 1968 adopted an almost identical resolution called 'Reciprocal Acts of Intercommunion'. At a meeting of the Anglican and Roman Catholic International Commission, meeting at Venice in 1970, this Conference was quoted as having recognised that there is a place for 'reciprocal intercommunion' between Churches which have not yet achieved full unity but are working towards that end. So far as I know this resolution of the 1968 Conference has never been before the old Church Assembly or the new General Synod; yet here it is gathering momentum in oecumenical circles as time goes on. Fortunately this matter was brought before the two Convocations of the Church of England in 1969 by the Chairman of the Archbishops' Commission himself. He was expecting for it, I imagine, an easy acceptance in principle. It led in fact to unhappy debates as a result of which York rejected the idea and Canterbury vigorously failed to find a place for it. This episode is a vivid illustration of a new danger in this oecumenical age whereby the General Synod may find itself overwhelmed by doctrinal decisions made by its own committees or by outside groups or bodies with less authority in matters of Church of England doctrine than itself. This seems to me another reason for thinking that this is not the time in which to rob the Church of England of its duty of looking to the supervisory power of Parliament. It may be noted that the scheme of Anglican-Methodist Union actually contained a draft Parliamentary Bill designed to further the proposal that the two Churches should be unified in one new Church, a proposal which if carried through, would lead to the exclusion of the Church of England from the Anglican Communion and also in a way which would affect every citizen make the Church of England ineligible for its present duties in the Coronation Service as the historic Church of this country.

So I conclude that there is nothing to be said for the idea of excluding Parliament from its present share in the passing of General Synod Measures, even though they may deal with doctrinal matters; and I doubt whether there are very many members of the Church of England who have any positive desire for this to be done. There was a time when the Church of Scotland pitied us for an 'enslavement' to the Crown and when the Free Churches resented our privileged position. I believe that there is little such pity and little such resentment to be found now, for the simple and sufficient reasons that the Church of England no longer regards itself as in any sense superior to its fellow Churches in this land, grows daily in the fellowships and activities of Intercommunion with them, searches with them for the further blessings of Full Communion, joins with them in all attempts to defend and promote the moral values of Christianity in the nation, and in all this

still remains faithful to that tradition of the Christian Faith and of Church Order which it has inherited as its contribution to the Church Militant here on earth. So they are able to feel that they are themselves honoured allies of the Church of England for the benefit of the whole nation and to derive strength and encouragement from the alliance.