The process of Church–State separation began 90 years before the 1919 Enabling Act, which gave the Church Assembly legislative powers. The Assembly was conceived not by William Temple’s Life and Liberty movement but by aristocratic Conservative politicians, motivated by practical efficiency and High Church principles. With Church lawyers, they dominated it for 40 years. The Church’s response to Parliament’s rejection of the 1928 Prayer Book, to the Matrimonial Causes Act 1937 and, in the 1950s, to the impossibility of fully articulating in the Church of England’s canon law its doctrine on marriage discipline and the seal of the confessional, was united, confident and defiant. The Worship and Doctrine Measure 1974 largely completed efforts to achieve legislative autonomy without disestablishment. The General Synod era has seen changes in both Church and State. The traditions that eclipsed the Church’s former ‘Centre-High’ consensus have been less concerned to underline the Church’s distinctive identity and doctrines, about which the Synod has been less united. Among MPs, Conservative High Churchmanship and concern for minorities have waned, while expectation that the Church’s practice will reflect contemporary social attitudes has increased, placing the long-term survival of the 1919 settlement in question.

Keywords: Parliament, establishment, self-government, High Churchmanship, Church Assembly, General Synod, legislation, liturgy, doctrine

BACKGROUND, 1809–1919

The Church of England Assembly (Powers) Act 1919 (commonly called the ‘Enabling Act’) was not a sudden departure from a settled status quo but a stage in the journey from a confessional state, which had begun 90 years earlier and still continues. Between 1809 and 1824 Parliament had approved payments to the Church totalling £2.6 million (more than £280 million today) for improving the value of poor livings and building new churches. (Grants for both purposes were also made to the Irish and Scottish established churches.)² By 1919 such payments had long been unthinkable. The chasm separating those two worlds opened up between 1828 and 1832 – most notably with Roman

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Catholic emancipation in 1829. Parliament now no longer comprised only members of the established churches of England, Ireland and Scotland: the ancien régime confessional state was a thing of the past. It was this that prompted the Oxford or Tractarian Movement, launched by John Keble's 1833 Assize Sermon, in which he protested not against reform of the Church of Ireland but against its dioceses and provinces being merged by State rather than Church action. John Henry Newman's Tract One held up the apostolic succession of the episcopate – rather than the sanction of the Crown in Parliament – as the true basis for the Church of England's authority.

The Welsh Church Act 1914 and the Enabling Act were the latest in a series of developments that drew the consequences of the end of the confessional state. On the one hand, the Colonial Church, the Church of Ireland and the Church in Wales were disestablished and partially dis-endowed, which probably made continued establishment in England possible. (Disestablishment of the Colonial Church was the work of the Tractarian Frederic Rogers, Lord Blachford, Permanent Secretary at the Colonial Office from 1860 to 1871.) On the other hand, legislative and deliberative bodies were developed for the Provinces of Canterbury and York. The Convocation of Canterbury was re-activated in 1852, that of York in 1861. The convocations established advisory houses of laymen in 1886 and 1892 respectively; from 1898 these could meet jointly. A Representative Church Council ('RCC'), consisting of both convocations and both houses of laymen, was formed in 1903. The culmination of these developments, almost 70 years after they began, was the Enabling Act.

CREATION OF THE CHURCH ASSEMBLY, 1913–1919

Since the Reformation, most Church legislation had been enacted by Parliament, so (as a canon cannot amend a statute) most Church reform required parliamentary legislation. Between 1820 and 1870 Parliament had passed an average of 25 statutes concerning ecclesiastical matters each year, but thereafter legislation became very difficult to secure. Of 217 Church bills introduced into the House of Commons between 1880 and 1913, only 33 became law (an average of one per year). Of these, 13 were sponsored by a member of the Government; the rest probably owed their passage to Government assistance. Only one bill was defeated, but 183 were dropped, 162 of which were never debated at all. Indifference and lack of parliamentary time were greater problems than outright hostility.3

In June 1913 this situation prompted a group of Church-supporting Conservative MPs (nicknamed the ‘Church Lads Brigade’) to conceive the idea

of Parliament devolving legislative power in Church matters to ‘a Body strictly representative of the Church’, as their leader Viscount Wolmer put it in a letter to Archbishop Davidson. In July the RCC passed a motion, seconded by Wolmer, calling for an archbishops’ committee to report on how to ‘secure in the relations of Church and State a fuller expression of the spiritual independence of the Church as well as of the national recognition of religion’: the goal was, and always remained, self-government without disestablishment. As early as August 1913 Wolmer’s uncle, the MP Lord Hugh Cecil, spoke of achieving this by ‘a general Enabling Bill’.4

The Archbishops’ Committee was chaired by Wolmer’s father, the second Earl of Selborne, who was a vice-chairman of the Church Reform League (founded in 1895). Its 26 members included 9 Conservative parliamentarians, among them 4 members of the Cecil family (Selborne, Wolmer, Hugh Cecil and Arthur Balfour – respectively son-in-law, grandson, son and nephew of the third Marquess of Salisbury) and Edward Wood (later the first Earl of Halifax), son of the veteran Church Union president Viscount Halifax. There were three bishops, including Charles Gore, while Walter Frere and William Temple were among five future bishops.

Reporting in July 1916, the committee proposed that measures passed by a ‘Church Council’ based on the RCC should be laid before Parliament for 40 days, together with a report from an ecclesiastical committee of the Privy Council. A measure with a positive report would receive royal assent, and thus the force of an Act of Parliament, unless either house passed a negative resolution, but a measure with a negative report would require an affirmative resolution of both houses. Crucially, the Church Council’s constitution would be approved by the convocations, not by Parliament. The Council would be created by the Church: the Enabling Act would merely recognise it and confer powers on it.5

The committee, which had many High Church members, commented:

> The State has the fullest right to give, or not to give, its recognition and approval to the institutions that the Church may set up. But it has not the right to impose a government upon the Church, nor even to share with the Church the task of building up such a government.6

John Keble could not have put it better. The committee’s proposals were thus motivated not just by practical efficiency but also by High Church principle.

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5 See the long title: ‘An Act to confer powers on the National Assembly of the Church of England constituted in accordance with the constitution attached as an Appendix to the Addresses presented to His Majesty by the Convocations of Canterbury and York on the tenth day of May nineteen hundred and nineteen, and for other purposes connected therewith’.
Furthermore, they expressed what one of its members criticised as – and the rest of the Committee effectively accepted was – ‘prudent conservatism’.\textsuperscript{7} That a project initiated and brought to fruition by Lord Salisbury’s family should be characterized by High Church conservatism is hardly surprising.

In February 1917 Wolmer formed the Church Self-Government Association to promote the proposals.\textsuperscript{8} A bishops’ meeting gave general assent in May. On 4 July the Canterbury Upper House unanimously called for ‘speedy action’.\textsuperscript{9} The Enabling Act is often said to have resulted from the Great War and William Temple’s Life and Liberty movement, whose first public meeting was held on 16 July 1917, but, as Jeremy Morris has pointed out, ‘The final scheme was pre-war in origin . . . By the time Life and Liberty was formed, the main outlines . . . had already been formulated and received episcopal approval.’\textsuperscript{10} Life and Liberty demanded ‘full power [for the Church] to manage its own life’, and that Parliament be consulted about this ‘without delay’: it achieved neither of those aims.\textsuperscript{11}

When the RCC finally debated the Selborne report in November 1917 it set up a ‘grand committee’ with power to prepare a scheme. Its report, published in October 1918, amended the Selborne Committee’s proposals. The ‘Church Council’ would now be called the ‘National Assembly of the Church of England’; the qualification for lay electors would not be confirmation but baptism (with a declaration of not being a member of any religious body not in communion with the Church of England); women would be eligible as members of ruri-decanal and diocesan conferences (not just parochial church councils); and seats would not be reserved for working-class members (‘weekly, daily or occasional wage-earners’).\textsuperscript{12} Importantly, the single transferable vote would be used to elect lay members.\textsuperscript{13} (It had been advocated for parliamentary elections by the 1916–1917 Speaker’s Conference but vetoed by the Commons – other than for the university constituencies, for which it was used from 1918 until their abolition in 1950.) The RCC debated this report in February, adopting the scheme and bill on 28 February 1919. By a considerable majority, it opened what now became the House of Laity to women. (Women had become eligible as MPs three months earlier.) An attempt to revert to the confirmation franchise generally used for lay elections hitherto was defeated in

\textsuperscript{7} Ibid, pp 66, 69.
\textsuperscript{8} J Peart-Binns, \textit{Herbert Hensley Henson: a biography} (Cambridge, 2013), p 82.
\textsuperscript{9} Bell, \textit{Randall Davidson}, p 960; \textit{Chronicle of Convocation}, 1917, p 542.
\textsuperscript{10} J Morris, \textit{The High Church Revival in the Church of England: arguments and identities} (Leiden, 2016), p 247.
all three houses – most narrowly by the laymen, 45 per cent of whom voted for confirmation.14

Prominent in Life and Liberty were disciples of Charles Gore – ‘liberal catholics’ (though not in the modern sense of that term). When the Creed was said at its inaugural meeting, Hensley Henson was ‘quite startled’ when ‘the crowded platform seemed to make the Sign of the Cross unanimously’ – as he pointed out, an ‘unusual … phenomenon’ in 1917.15 Initially, therefore, Life and Liberty had supported the confirmation franchise;16 its more catholic members were committed not only to the Tractarians’ belief that the Church’s authority derives from the apostolic succession of its bishops rather than from the State (and hence to Church self-government), but also to the vision that was at the heart of the Tractarians’ pastoral strategy – a parochial eucharistic community formed by episcopal confirmation (and hence to confirmation defining the self-governing Church community).17 In November 1917, however, Life and Liberty changed its stance to win support from the liberal Churchmen’s Union (now Modern Church), which had pointed out that working-class people tended not to be confirmed. Having done so, it felt able to drop the proposal – advocated in the Selborne Committee by members who were later prominent in Life and Liberty, but unpopular in other quarters – for special working-class seats.18

Life and Liberty’s abandonment of Tractarian principle lost it much catholic support. Dr B J Kidd, Vicar of St Paul’s, Oxford, and later Warden of Keble College, commented:

If it be said, in order to keep the Church ‘national and not sectarian’, that Baptism without Confirmation is sufficient, then I reply, inter alia, that a local Church does not become a sect by ceasing to be co-extensive with the nation. A sect is a body of Christians which has departed from the Faith, or the Order, of the Catholic Church.19

Gore took rejection of the confirmation franchise as the signal for him to resign the See of Oxford.20 Jeremy Morris’ suggestion that this vote marked the beginning of the end of Anglo-Catholic influence in the Church of

14 Iremonger, William Temple, p 257f; Morris, High Church Revival, p 245f; Bell, Randall Davidson, p 969 (bishops 7–17, clergy 37–62, laymen 65–80).
16 Thompson, Bureaucracy and Church Reform, p 172.
18 Thompson, Bureaucracy and Church Reform, pp 170–173; see also Iremonger, William Temple, p 260.
19 B Kidd, letter to the clergy of the Oxford Diocese (extract) in ‘Notes and Criticisms’, (1918) 9 English Church Review, 1–12 at 7–8, quoted by Thompson, Bureaucracy and Church Reform, p 177.
20 Bell, Randall Davidson, p 970f.
England seems overstated: such influence grew after 1919. For most of the next 50 years Tractarian-influenced ‘Centre-High’ churchmanship, as John Maiden has called it, was dominant and the Church of England’s frame of reference was fundamentally catholic. Though baptismal ecclesiology has become popular (as Morris notes), it has been embraced neither canonically nor liturgically: in the Church of England, confirmation remains an initiation rite not a pastoral office, albeit one now rarely celebrated in many dioceses and churches. However, after the 1919 decision Anglo-Catholics would be unable to re-shape the Church on Tractarian lines; in that sense it probably was a watershed.

In the House of Lords, attempts to defeat or radically alter the bill won little support, but Archbishop Davidson did accept two significant amendments. Each Ecclesiastical Committee report would be required to state ‘the nature and legal effect of the Measure, and their views as to its expediency, especially with relation to the constitutional rights of all His Majesty’s subjects’; and to receive royal assent all measures would require a positive vote of each house. In November 1919 the Commons, too, gave the bill overwhelming support. They made some small amendments and one of significance: the Ecclesiastical Committee would be a committee not of the Privy Council but of both houses, the Lord Chancellor nominating 15 peers and the Speaker 15 MPs. Royal assent was given on 23 December 1919.

To persuade Parliament to delegate the formulation of statute law to an external body whose composition it did not determine was a remarkable achievement. George Bell attributed it to ‘Randall Davidson more than to any other single person’. As Davidson’s chaplain, Bell was far from neutral, but he was right. Life and Liberty sought precipitate action: one member told Davidson, ‘We want you to scream.’ But Davidson’s deliberate approach enabled the proposals to be refined to a point where the RCC supported them almost nem con. He also understood the need to downplay Life and Liberty’s loudly trumpeted expectations of radical change. He told the RCC:

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21 Morris, High Church Revival, p 250.
24 Bell, Randall Davidson, p 969.
25 Ibid, p 980.
27 Bell, Randall Davidson, p 966.
A great many enthusiastic supporters of this scheme seem to me to expect from its adoption much more inevitable results, much more far-reaching results, and much more immediate results than I believe would follow if the change were made. ‘Life’ and ‘Liberty’ are large and splendid words. I believe in both. I believe that by what we are now doing, if we go on with our plan, we shall gain more of both of them, and that they will increase and grow. But it will not be by the waving of a wand or by the mere adoption of a scheme.28

Wolmer and Cecil had made the plan and got the bill through the Commons, but what of Life and Liberty? In a letter signed and largely drafted by Temple, they had railed against the delay caused by appointing a grand committee, yet that further process enabled them to achieve significant changes. Their support for the baptismal franchise was influential, as was Temple’s speech seconding the opening of Assembly membership to women.29 Bell acknowledged their – and Wolmer’s – part:

It was also the enthusiasm of the younger men – even, it may be, their pressure upon the Archbishop and the driving force which they applied – that made the achievement possible. And among the younger men stand, on an eminence of their own, William Temple … and Viscount Wolmer …30

Views differ as to whether Davidson would have driven the proposals through without the pressure from Life and Liberty’s campaign.31 Though it seems unlikely that the recommendations of an archbishops’ committee with such weighty membership would have been shelved, Bell’s comments imply that that could have happened.32

THE CHURCH ASSEMBLY AND THE CONVOCATIONS, 1920–1945

The Assembly met for the first time on 30 June 1920. Its leadership was overwhelmingly aristocratic. In its first years the elected chairman of the House of Laity was almost always a member of the House of Lords (the exception, from 1945 to 1946, being the barrister and former Conservative cabinet minister Sir Anderson Montague-Barlow PC, Bt, KBE). The second Earl of Selbourne, whose father had chaired the Canterbury House of Laymen, was chairman

28 Ibid, p 968.
29 Iremonger, William Temple, pp 244–246, 257f.
30 Bell, Randall Davidson, p 980 and see also p 966f.
31 See Morris, High Church Revival, p 247.
32 See Bell, Randall Davidson, p 966f.
from 1924 until his death in 1942, and five of his closest relatives were members of the house, his brother-in-law Lord Hugh Cecil and his son-in-law Earl Grey also serving on the standing committee. The first standing committee’s ten lay members comprised a duke, a marquess, an earl, a viscount, a baron, a baronet, a knight and a privy counsellor, the only plain ‘Mr’ and ‘Mrs’ being T W Inskip KC MP, who was knighted in 1922, and Mrs Louise Creighton, widow of a bishop of London. Working-class members were treated as an exotic minority: one York proctor commented in 1928, ‘The working class members ... are always heard with evident pleasure. The speeches of Lancashire members, however, delivered in the dialect of their county, are treated a little unfairly, as a comic interlude.’

Aristocratic leadership was supported by legal staffing. The Assembly’s first secretary was the Vicar-General of York, Sir Philip Baker Wilbraham (sixth Baronet). He was assisted by another barrister, Guy Guillum Scott, who succeeded him in 1939. Wilbraham and Lord Hugh Cecil established the Assembly’s procedures, their combined legal and political expertise symbolising the dominance of lawyers and a dozen Conservative MPs, who together set the Assembly’s tone. Adrian Hastings remarked that the Church in the 1930s ‘was controlled less by Lang and Temple in tandem, than by Lang and Hugh Cecil’. In the Assembly, Lang wrote, Cecil was ‘the power behind the throne’.

As moderately High Church Tory parliamentarians, the Cecils’ aspiration was for a legislative body enacting sensible administrative reform and, as Adrian Hastings put it, ‘never ventur[ing] beyond the legislative and financial’. Life and Liberty, which has been characterised as ‘a mixed bag of enthusiasts, socialists, feminists and pacifists’, had had very different hopes. Temple’s biographer Frederic Iremonger commented in 1948:

At the outset there was a sharp and fateful struggle between two groups in the National Church Assembly who differed widely in their conception of its policy and its purpose and may be called, roughly, the legalists and the moralists. The struggle was a brief one. The legalists ... were soon in control; the voice of the Assembly is now the voice of the administrator, not of the prophet.

33 The Marquis of Salisbury, Lord Hugh Cecil, Lady Florence Cecil (brothers- and sister-in-law), Viscount Wolmer (son) and Earl Grey (son-in-law).
37 Hastings, History of English Christianity, p 64.
Iremonger conceded, however, that ‘a case can be made out for the contention that the Assembly was never intended to provide a platform for the prophet’ and had achieved ‘many useful reforms which it might have taken two generations to effect under the old system of passing church bills through Parliament’.  

The first Church Assembly measure resulted in parish clergy forming the majority in the convocations’ lower houses. In good Tractarian fashion it neither enacted this reform nor gave the convocations power to do so, but simply ‘declared’ that they (already) had power to amend their lower houses’ constitution. On average the Assembly devoted three days in each of its three groups of sessions a year to legislation. It passed 89 measures in its first 25 years. (The General Synod has taken twice as long to pass that number.) The focus was on reforming church structures and adding new ones (statutory parochial church councils, diocesan boards of finance and education committees – and six new dioceses), and on practical matters such as the appointment, housing, stipends and pensions of the clergy.

Of the 102 measures passed before 1950, Parliament rejected just 4. The House of Lords vetoed the sixth new diocese, Shrewsbury, by 61 to 60 in March 1926. Hensley Henson ably represented the virtually unanimous opposition in his former diocese of Hereford, the long-term viability of which would have been seriously impaired. Local opposition similarly explains the defeat of a measure for disposing of London churches: opposed by the City Corporation, it was defeated in the Commons by 121 to 27 in November 1926. Arguably, Parliament fulfilled its function in preventing the national Church from overriding local sentiment and was later vindicated: no new smaller dioceses have been proposed since 1926, and the 1952 Guild Churches Act embodied a better way forward for the City churches. With the Prayer Book Measures rejected by the Commons in 1927 and 1928 the case was different, however. The new book, which would have supplemented but not replaced that of 1662, had been approved by overwhelming majorities in the Assembly (bishops 89 per cent, clergy 87 per cent, laity 72 per cent) and by more than 80 per cent of the diocesan conferences’ lay members. (John Maiden adduces very little evidence in support of his contention that the latter were unrepresentative of those whom they had been elected to represent.) If MPs for non-English constituencies had abstained, both Measures would have been approved.

39 Iremonger, William Temple, p 281. Kenneth Thompson called the two forces ‘autonomist’ and ‘instrumentalist’: Bureaucracy and Church Reform, p 165.
40 Convocations of the Clergy Measure 1920, s 1.
41 Thompson, Bureaucracy and Church Reform, p 201.
42 O Chadwick, Hensley Henson: a study in the friction between Church and State (second edition, Norwich, 1994), p 188f.
44 Ibid, p 161.
The bishops’ response to defeat was not submission but defiance. Speaking explicitly on their behalf and with their concurrence, Davidson told the Church Assembly:

It is a fundamental principle that the Church . . . must, in the last resort, . . . retain its inalienable right, in loyalty to our Lord and Saviour Jesus Christ, to formulate its faith in Him and to arrange the expression of that holy faith in its forms of worship.46

Securing that principle in law was to be a major pre-occupation for the next 45 years. Under Davidson’s successor, Cosmo Lang, defiance continued. The 1928 Prayer Book was published, with a note stating, ‘The publication of this Book does not directly or indirectly imply that it can be regarded as authorised for use in churches’ – precisely what publication was intended to facilitate. In July 1929 the upper houses of the convocations resolved:

That during the present emergency and until further order be taken the Bishops, having in view the fact that the Convocations of Canterbury and York gave their assent to the proposals for deviations from and additions to the Book of 1662, as set forth in the Book of 1928, . . . and that the National Assembly voted Final Approval to these proposals, cannot regard as inconsistent with loyalty to the principles of the Church of England the use of such additions or deviations as fall within the limits of these proposals.47

The decision was effectively, as Robert Beaken has put it, ‘to carry on as though Parliament had sanctioned the 1928 Prayer Book’. Careful diplomacy by Lang resulted in only 19 votes in the Canterbury Lower House against concurring with the resolution.48 Significant elements of the 1928 material entered the Church of England’s bloodstream, not least through the green Shorter Prayer Book commissioned by the bishops in 1943 and published in 1947. After the 1928 defeat it was nearly 40 years before alternative liturgies received legal authorisation; on the other hand, as Matthew Grimley has pointed out, that defeat was ‘really a last gesture of defiance’ by those who ‘cleaved to the Parliament-governed Church of Hooker’. They had won the votes but ‘had already lost the argument with the passing of the Enabling Act in 1919, and

46 Church Times, 6 July 1928, p 5.
47 Bell, Randall Davidson, p 135f.
their irrelevance was underlined by the bishops’ decision to ignore Parliament’s veto and press on regardless with the Prayer Book’. 49

Archbishops Lang and Temple appointed a Church–State commission, chaired of course by a Cecil: Lord Hugh Cecil’s brother Robert, Viscount Cecil of Chelwood. Its task was to consider ‘what legal and constitutional changes, if any’ were needed for effective application of the principle that Davidson had enunciated. 50 Lang summarised the aim as ‘securing some reasonable autonomy for the Church concerning doctrine and worship’. 51 Matthew Grimley has commented:

Anglo-Catholics and moderates (among whom were the overwhelming majority of the bishops) insisted that the Church was a divine society, and that only its own members, constituted since 1919 in the Church Assembly, could decide its worship. But . . . it was striking how few . . ., even among Anglo-Catholics, were prepared to countenance disestablishment. The vast majority wanted a national Church which enjoyed autonomy on matters of doctrine and ritual. 52

Indeed, ‘No senior Anglo-Catholic clergyman or association advocated disestablishment to the commission.’ 53 The way forward proposed in the commission’s 1936 report eventually ran into the sand.

In order to secure Anglo-Catholic support for the Church Assembly, its constitution specified that a Measure touching doctrine or worship could only be approved in terms proposed by the House of Bishops, that defining doctrine was not one of the Assembly’s functions and that nothing in the constitution should diminish or derogate from the powers of the convocations or the bishops. 54 When tension arose with the State over doctrinal issues, it therefore fell to the convocations to respond. Archbishop Cyril Garbett singled out the Matrimonial Causes Act 1937, which permitted divorce on grounds other than adultery, as standing ‘in a category of its own’ among twentieth-century laws that adversely affected Church–State relations, because it ‘made deeper the cleavage between Church and State’ and ‘made it clear beyond all misunderstanding that the laws of Church and State are not identical’, since ‘what is allowed by the State is condemned by the Church’. 55 The convocations responded to the act by resolving that marriage is ‘indissoluble save by death’

49 Grimley, Citizenship, Community and the Church of England, p 170.

50 Bell, Randall Davidson, p 1360.

51 Beaken, Cosmo Lang, p 157f.

52 Grimley, Citizenship, Community and the Church of England, p 146 (emphasis in original).


54 Thompson, Bureaucracy and Church Reform, p 182.

and that the marriage service should not be used where a former partner was still alive.\textsuperscript{56} (The Canterbury Convocation was unable to reach agreement about re-admitting remarried divorcees to communion.)


Under Geoffrey Fisher, Archbishop of Canterbury from 1945, the convocations engaged in the massive task of completely replacing the canons of 1604, working through draft canons proposed by the Canon Law Commission that Lang and Temple had appointed in 1939.\textsuperscript{57} Some, both at the time and since, saw this as a wasteful distraction,\textsuperscript{58} but how would the Church of England have fared, in a context that now looks for clarity of regulation, without a modern body of canons? Moreover, in many places the canons offer a succinct and authoritative statement of catholic doctrine as received by the Church of England. It is important to note that under Fisher the Church Assembly remained focused on practical reform, passing 43 Measures in 15 years.

At two points canonical revision threatened tensions with the State. A draft canon prohibiting the remarriage in church of divorcees with a previous partner still alive (except where the bishop was satisfied that the first marriage could have been declared null) was inconsistent with the Divorce Act: for it to gain royal assent, the Act would have needed an amendment that it was clear Parliament would not pass.\textsuperscript{59} The new provision was therefore dropped, and instead the Convocation of Canterbury passed resolutions re-affirming those of 1938. In October 1957 Archbishop Fisher declared them to be an Act of Convocation, and the Lower House passed with one dissentient a motion calling on the clergy to give that Act of Convocation ‘their loyal and unstinted allegiance in word and deed’.\textsuperscript{60} Something similar happened over a proposed re-enactment, in more absolute terms, of the proviso to Canon 113 of the Canons of 1604 embodying the seal of the confessional. Government lawyers indicated that the royal licence and assent would not be granted, so it was proposed to drop the new provision and instead leave the 1604 proviso unrepealed. The York Convocation initially refused to drop the canon. In the Canterbury debate the future archdeacon and hymnwriter George Timms commented that dropping the canon without doing anything else


would come perilously close to picking up their pinch of incense and offering it to the imperial image, performing an act which they knew in their hearts was absolutely disloyal to their ministry and therefore disloyal to their Lord from whom they had received their commission.

He suggested waiting until the convocations had passed a resolution setting out the Church’s teaching on the seal. A resolution reaffirming the seal as ‘an essential principle of Church doctrine’ was therefore passed by both convocations in 1959. In Canterbury it was passed without dissent in either house and was declared an Act of Convocation. Eventually the relevant clause of the new canon was dropped and the 1604 proviso was left in force.

In the 1960s the Church Assembly passed another 30 Measures, bringing the total to 157. Most notable was the Synodical Government Measure 1969, which reconstituted and renamed the Assembly as the General Synod, enabled the convocations to vest their powers in it and provided for diocesan and deanery synods. The structure of legislation by measure and canon was unchanged, so the impact on Church–State relations was limited. More significant in that regard was the Prayer Book (Alternative and Other Services) Measure 1965, passed with only one cleric and 11 laity voting against. Under it the convocations and the House of Laity could approve experimental alternative services by two-thirds majorities for up to 14 years, and the convocations and individual diocesan bishops could approve rites for occasions not covered by the Prayer Book.

In November 1965 the Church Assembly approved the terms of reference for another archbishops’ commission on Church–State relations. Chaired by Professor Owen Chadwick, its 1970 report *Church and State* focused principally on the choosing of diocesan bishops and on securing what Archbishop Davidson had described in 1928 as the Church’s ‘inalienable right . . . to formulate its Faith in [Christ] and to arrange the expression of that holy faith in its forms of worship’. That aim was achieved by the Worship and Doctrine Measure 1974, passed by the General Synod but really the last fruit of the Church Assembly. It gave the Synod power to order the Church’s worship, subject to continued availability of the Prayer Book for use and to certain other safeguards, finally exorcising the ghost of the 1928 defeat.

The Worship and Doctrine Measure involved some sleight of hand. Despite its name, on the surface it did not give the Synod final authority over the Church of England’s doctrine, but only over the Declaration of Assent. Indeed it entrenched in statute law the definition of doctrine set out in Canon A 5,
which refers to Scripture, the Fathers and the Councils and to the 39 Articles, the Book of Common Prayer and the Ordinal. But the effect of section 4 is significant. It does not require that every canon and liturgy approved under the Measure should be consistent with the Church’s doctrine as defined in the Measure, but only that the Synod should believe it to be consistent, and adds that final approval ‘shall conclusively determine that the Synod is of such opinion’. For example, final approval of a rite for marrying same-sex couples would conclusively determine that, in the Synod’s view, same-sex marriage accorded with the doctrine found in Scripture, in patristic and conciliar teaching and in the Church of England’s historic formularies, thus meeting the Measure’s doctrinal test. Section 4 is headed ‘Safeguarding of doctrine’, but does it really ‘do what it says on the tin’? Be that as it may, the Worship and Doctrine Measure 1974 marked the conclusion of the efforts over 60 years to make the Church self-governing while leaving it still established.

THE GENERAL SYNOD ERA

In the General Synod era, both Church and State have changed significantly. The dominant view of Church–State relations from the Church’s side in the Centre-High era of Davidson, Lang and Temple, Fisher, Garbett and Ramsey was summarized, in lay language, by Lord Hugh Cecil in an officially published book of essays which appeared in 1930:

The Methodist and Evangelical movements revived the spiritual life of the people; but it was left to the Tractarians to bring forward once again the claim of the English Church to belong to the whole Catholic body and to minister by divine commission the grace of the word and the sacraments. This teaching restored more and more among Churchmen the sense of the distinction between Church and State and the claim of the Church to independence in spiritual things . . .

A practical regard for the efficiency of the Church was a main cause of the setting up of the Church Assembly. The incompetence of Parliament to pass necessary Church legislation had been abundantly proved by experience. But there was also expressed in the Church Assembly the recovered conviction that the Church was distinct from the State, and partook of the divine life of the whole Catholic Church of Christ. 64

Parliament had rejected the new Prayer Book in 1928. In 1937 it departed from the Church’s teaching on marriage, and in the 1950s the Church was not

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permitted to enunciate in its new canons its teaching on remarriage after divorce or on the seal of the confessional. In each case the Church’s response, led by its archbishops, was defiance: the 1928 Prayer Book was published and its use encouraged; resolutions and Acts of Convocation exhorted the clergy to uphold Christian doctrine rather than bow to current secular opinion as expressed in Parliament.

From the 1960s onwards the Centre-High consensus was eclipsed first by a new type of liberalism and then by a particular form of evangelicalism. The frame of reference of both has tended to be the general beliefs of contemporary English society rather than what Hugh Cecil called ‘the claim of the English Church to belong to the whole Catholic body’. Consequently, ‘the distinction between Church and State’ that he highlighted has seemed of less importance. Furthermore, the House of Clergy, formerly elected by college-trained male stipendiary clergy, is now chosen by stipendiary and non-stipendiary clergy, male and female, trained in colleges, courses and schemes. However desirable any of these changes may have been, they have surely not been without effect on the Synod’s response to doctrinal questions.

Comparing the Church’s response to two recent changes in marriage law with its response to the Matrimonial Causes Act 1937 is instructive. The Gender Recognition Act 2004 provided that a cleric is not obliged to solemnise marriages where one party’s gender has been ‘acquired’.\(^{65}\) The effect was to permit the marriage in church of certain couples of the same biological sex. The new provision echoed the 1937 provision regarding remarriage after divorce,\(^{66}\) but there was no unanimously passed Act of Synod, exhorting the clergy in ringing terms not to conduct such weddings, to match those passed in the 1930s and 1950s. The Marriage (Same Sex Couples) Act 2013 did comprehensively safeguard the Church’s position, but archiepiscopal defence of this has seemed to rest not on the high ground of the Church’s doctrine of marriage but on the rather lower ground that abandoning it would upset people in Africa. The Synod’s support has not been sought, because there is no synodical consensus: the Church side of the Church–State equation is not now united, confident and defiant, as it was in the 1930s and 1950s.

In England there are now two legal institutions of marriage: ‘equal marriage’ (open to both same-sex and opposite-sex couples) and Church of England marriage (necessarily involving a man and a woman).\(^{67}\) It was one thing for the State to solemnise marriages that the Church thought should not happen; it is another for the State to solemnise marriages that the Church teaches are not marriages.

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\(^{65}\) Marriage Act 1959, s 5B, inserted by the Gender Recognition Act 2004.

\(^{66}\) Re-enacted in the Matrimonial Causes Act 1965, s 8(2).

\(^{67}\) See Canon B 30(i).
Turning to Parliament, in the 1980s and 1990s there were still in the House of Commons Tory churchmen whose stance was arguably closer to the Church Assembly tradition than that of the Synod’s leadership. In 1984 the draft Appointment of Bishops Measure was found expedient only very narrowly and then rejected by the Commons by 32 votes to 17. It would have abolished the ancient Church process of electing bishops and confirming their election in favour of appointment by letters patent – replacing Church action with State action, something that the Church Assembly’s founders would have resisted. In 1989 the Clergy Ordination Measure, permitting the ordination of remarried divorcees with previous spouses still alive and those married to them (which Archbishop Runcie assured the House of Lords would occur only ‘in exceptional circumstances’), was found expedient by only 10 votes to 9 and subsequently rejected by the Commons by 51 votes to 45. Amended by the Synod, it was approved in 1990. There were 228 MPs who voted in favour, but 106 MPs still voted – less than 30 years ago – against remarried divorcees being ordained in any circumstances.

Parliamentary attitudes to the Church are now very different, reflecting the profound changes in wider social attitudes in the Blair–Cameron era. The change can best be illustrated by contrasting Parliament’s treatment of the Priests (Ordination of Women) Measure 1993 with its responses to the defeat of the first Women Bishops Measure in 2012 and to the 2014 package that enabled women to become bishops. In 1993 the Ecclesiastical Committee met 11 times, including 5 meetings with Synod representatives, before finding the Measure expedient by 16 votes to 11. Its focus was on protecting the rights of those of ‘Her Majesty’s subjects’ who formed the minority, and this had some influence on the drafting and acceptance of the Episcopal Ministry Act of Synod. Two decades later, the scene had changed out of all recognition. David Cameron’s response in the House of Commons to the defeat of the first Women Bishops Measure – ‘The Church needs to get on with it, as it were, and get with the programme’ – was telling and, for anyone mindful of twentieth-century European history, chilling. There was talk – in Church as well as parliamentary circles – of Parliament legislating by bill, overturning the 1919 settlement. After the Archbishops’ Council met, such suggestions were heard no more, in the Church at least. There were those passionately committed to the

69 HL Deb 3 July 1989, vol 509, col 1012.
71 HC Deb 21 November 2012, vol 553, col 578.
ordination of women as bishops for whom any suggestion of parliamentary legislation on a matter touching doctrine, orders and worship was unacceptable: the ecclesiology that had produced the 1919 Enabling Act had not been completely forgotten.

When the second Measure came before the Ecclesiastical Committee in 2014, the contrast with 1993 could not have been starker: then the questioning had been about the adequacy of provision for the minority; now it was about how such provision could be justified at all. This *volte face* was exemplified by the contributions of Frank Field MP. In 1993 he had taken a lead in questioning Synod representatives about ‘how the position of minorities is protected’, but in 2014 his only question at the committee’s sole meeting was hostile to the minority:

To what extent are just good old differences of opinion now dressed up as great theological questions when some people do not want to accept the logical outcome of the decision Synod took yonks ago to ordain women as priests?73

Archbishop Welby’s attempts to explain the provisions as ‘an expression of love and concern’ seem, judging by the transcript, to have been met with benign bafflement.

Many within the apparatus of the State, except perhaps at its highest levels, seem now to regard the Church of England for most purposes as merely one ‘faith community’ among many, which should not be privileged in any way. And yet – paradoxically – they expect it to conform its teachings and practices to prevailing attitudes in English society to an extent that would not be required of other ‘faith communities’. For how long the 1919 settlement can survive in such a changed climate is open to question.

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72 Reports of the Ecclesiastical Committee, p 64 and passim.