"That the grace may be granted before, or after Baptism"

"The grace" as it stands in the judgment, we [illegible] to be "the grace of regeneration" [illegible] Gorham's case, as [illegible] of justification." Now, [illegible] have been manifestly [illegible] grace of the Sacrament or in the [illegible] deny that Almighty God [illegible] His own part, but by His sovereign will, unknown and unrevealed to us, make the grace of regeneration coincide with the act of regeneration. But used of justification (with which it stands grammatically connected in Mr Gorham's statement), it might, as an abstract statement of what in the nature of things is possible, have a second sense. It is at least so explained, that Jeremiah and St John Baptist were sanctified from the womb, and "the Holy Ghost fell upon Cornelius" *before* he was baptized, those who come to Baptism rightly receive remission of sins in Baptism; and adults who come to Baptism feignedly, without faith, or from worldly motives, receive only the Sacrament then, and of God gives them repentance, the Sacrament which they had received unworthily profits them *after* Baptism. A sound sense might thus be given to the passage, if restrained to an abstract statement how justification *has been* wrought and applying in part to extraordinary, and even miraculous cases. For as a practical statement as to God's present workings it would be self-contradictory. Justification, if understood of God's first acceptance of one unbaptized, who turns to God in true faith with the desire of Baptism, would in an adult be unfailingly *before* Baptism; if understood of that act whereby God washes away his sins, it would be in Baptism. "Those which actually do sin *after* their Baptism, when they convert and turn to God unfeignedly, are washed from their sins by the Sacrifice of Christ," as our homily saith. And so these are *never* justified *after* Baptism. Justification, then, in those who, "after they have received the Holy Ghost, depart from grace given," and by the grace of God, arise again, is both in and *after* Baptism. But it cannot, ever in the same sense, be according to God's revelation and promise, both *before* and *in* Baptism.

However, this one vague sentence is selected; and that just before it, in the same answer of Mr. Gorham, in which he declares that "justification *precedes beneficial* Baptism," as also all the other emphatic statements in which he asserts the same "regeneration" and "adoption" are *ignored*.

The judgment proceeds:—

"That Baptism is an effectual sign *of grace*, by which God works invisibly in us, but only in such as worthily receive it; in them alone it has a wholesome effect"

This is, of course, true in itself, being in fact the words of different parts of Art. 25—"of the Sacraments." It is true as to adults, to whose case my examination had no reference, since adults are but seldom baptized now. But the judgment again ignored the fact that the only graces which Mr. Gorham supposes God to "work invisibly," in Baptism, are graces which, according to our Church, infants cannot have. That "*faith* is confirmed," which our Church says infants "cannot" have, and "*grace* increased," which infants, before Baptism, have not, "being by nature children of wrath". Mr. Gorham states one other thing, which "God works invisibly in us by this external pledge, an assurance that he has adopted us," (Art. 27,) of which, again, infants are manifestly incapable. But those graces of which infants, by God's mercy, are capable, and which our Church teaches that God does "work invisibly" in them, "remission of sins by spiritual regeneration," "sanctification by the Holy Ghost," "regeneration with the Holy Spirit," "adoption as his children," "a death unto sin, and a new birth unto righteousness,"—these Mr. Gorham states to have taken place *before*, wherever Baptism is "rightly received." The judgment, however, uses the general term, "by which God works invisibly in us," omitting to state that Mr. Gorham supposes God to work by it, what our Church says infants have not or cannot have, and denies that He works *then* what our Church teaches that He *then always* works. This, *again*, may be very natural in Common Law Judges. I regret that it escaped your Grace.

The judgment continues:—

"And that without reference to the qualification of the recipient, it is not in itself an effectual sign of grace."

Most true, as it has ever been held by the whole Catholic Church, and must be held, of all those *capable* of "qualification."

But when, as in infants, there can be neither faith nor repentance, then God requireth not what He did not give. "Though," says St. Augustine, "the little one have not yet faith formed in his mind, yet at least he puts no bar of any thought opposed to it; whence he receives the Sacrament beneficially."—*Ep.* 99, § 10.

And then, at last, mention is made in the judgment of that upon which the whole does turn—the case of infants; and, first, the words of the Rubric to which Mr. Gorham expressed his assent are repeated. "That infants baptized, and dying before (they commit) actual sin, are certainly saved;" and so, at the close, all that is said of Mr. Gorham's unsound doctrine is wrapped up and veiled in the few words, "but in no case is regeneration in Baptism unconditional." And in this statement, meagre as it is, Mr. Gorham's special error is not simply omitted; it is, by implication, denied. The judgment states that Mr. Gorham's doctrine "is no case is regeneration in Baptism unconditional." Mr. Gorham's doctrine is, in no case is regeneration in Baptism, but when Baptism is rightly received, *before it*.

So much suppression of the truth converts a formal absolution of Mr. Gorham into a virtual condemnation of his doctrine. Grave charges thus glossed over are tacitly acknowledged, while the individual is acquitted. My Lord, truth does not usually thus shun the light.

My Lord, after this (which may by many be thought tedious and minute) inquiry into Mr. Gorham's heresies, and the manner in which the judgment deals with them, I turn to other matters. And here it is impossible not to be struck with the absence of certain things, which it were natural to expect in such a document. We find no statement—or very little—of the arguments of counsel, and, what is still more extraordinary, absolutely no notice whatever taken of the grounds of the judgment of the Court below. The fact that there was such a judgment, and that it was appealed from, is, indeed, mentioned, but that is all. Now, with every possible feeling of respect for the learning, the acuteness, and the other high qualities of the Judicial Committee, I must say that when both judgments are read and compared, few will be disposed to think that the learned persons who pronounced the final judgment had any right to treat the judgment of Sir Herbert Jenner Fust with disrespect.

But these omissions are of far less moment than that on which I must next remark.

What needs be observed—as it to the honour of the Judges that it can be said—that two main laws, one of the Charles, a canon of 16[illegible], the other no less a statute than "the Act of Uniformity"—though they have most direct, palpable, aye, and I will add, *conclusive*, bearing on the matter in issue—were passed over by the Judges as if no such laws were in existence? But was the attention of the Court called to them by the counsel? My Lord, even if were not so, I must think that such a law as the Act of Uniformity one of the fundamental laws of the land (so we have a right to call it, for it is so called in the Articles of Union with Scotland), ought not, in such a case as this to have been, as it was, absolutely ignored.

But the truth is, that both those laws had been *pressed* on the Court's attention by the counsel for the respondent—the canon by Mr. Badely, the Act of Uniformity by Dr. Addams. Of their importance in the decisions of the cause, we shall be better able to judge if we first look at the grounds taken by the Court on which its judgment was founded:—

"If there be any doctrine on which the Articles are silent or such generally expressed, as to be capable of two meanings we must suppose that it was intended to leave that doctrine to private judgment, unless the Rubrics and Formularies clearly and distinctly decide it. If they do, we must conclude that the doctrine, so decided, is the doctrine of the Church. But, on the other hand, if the expressions used in the Rubrics and Formularies are ambiguous, it is not to be concluded that the Church meant to establish, indirectly, as a doctrine, that which it did not establish directly, as such, by the Articles—the code avowedly made 'for the avoiding diversities of opinions, and for the establishing of consent touching true religion.'"

My Lord, no one will dispute the soundness of the principles here laid down. Let us look to the manner in which it was carried out.

In examining the Articles, the Court does not apply itself to the consideration of the terms in which they are expressed, but does little more than institute a comparison between them and the Articles of 1536, and King Henry the Eighth's Book, entitled a *Necessary Doctrine*, &c.

Now this is not a very usual, nor, I must take leave to say, a very satisfactory way of dealing with such matters. The ordinary course, of first examining the document itself which is to be construed, and afterwards, if its language be ambiguous, having recourse to other documents to explain, would, I submit, have been more likely to lead the Court to a right interpretation. But such was not the method adopted in the present instance. The Judicial Committee, caught apparently by the sound of "*Articles* of 1536," jump to the conclusion that this was the document which must afford them the best means of ascertaining the meaning of what may be doubtful in the *Articles* of 1552 and 1562 because, as they were pressed to assume, the Articles of 1536 were the foundation of those of the *latter date*.

My Lord, I must express my astonishment that neither your Grace, nor either of the Prelates associated with you, corrected so very unfounded an assumption of the learned Judges. It is unfortunate that you did not tell them that the Articles, so called, of 1536, were named altogether *alia intuita* from those of 1562. The former were of a pacific character, drawn up, as is distinctly expressed, for that purpose.

The latter were merely for the clergy—conceived in language of a technical, theological character—well known

[illegible] Sacramentum," in the Confession of Augsburg is connected with [illegible] of Sacraments instituted and ordained not only to be marks of profession among men, but rather to be signs and testimonies of the will of God towards us, set forth to stir up the faith of those that use them, and indeed to confirm it." Now, this is the doctrine, not of the Reformers only, but of the whole fourth century. Sacraments are not merely "signa et testimonia," as described by the Article of Augsburg; but they are "certa quædam testificationes *efficaces* signa *Gratiæ atque bonæ in nos voluntatis, per quæ invisibiliter ipse in nobis operatur* proinde igitur non ne nos nostram erga [illegible] veram etiam *confirmat*".

The same great truth is set forth in our Catechism, which, being an expression of our Church's teaching, equally authoritative with the articles, and *of a later date*, was the most obvious, and would, I submit, have been incomparably the fittest document to explain what might be doubtful to the Judges in the Articles themselves. In that Catechism, the same great truth, I repeat, which discriminates our teaching in the Article of "Sacraments," is thus still more closely expressed. A Sacrament is "an outward and visible sign of an inward and spiritual grace given unto us." (*i. e.* it is not a *natural* sign,) "ordained by Christ himself, as a means whereby we receive the same" (invisible grace), "and a pledge to assure us thereof" (that is, of our receiving it)

This, my Lord (as your Grace well knows), is the doctrine of the Church of England, expressed in her twenty-fifth Article and in her Catechism, respecting the Sacraments. This is the doctrine which, as your Grace well knows, Mr. Gorham expressly contradicted in respect to Baptism. By saying that the grace of that Sacrament, "a death unto sin, and a new birth unto righteousness," is not received in or through that Sacrament, but must be received previously through a *prevenient* act of grace on God's part, he affirmed an awful heresy, distinctly pronounced by the Church to be such; for which I rejected him as unfit—for which, had I not rejected him, I should have abandoned my duty, not merely to the Church, but to its Divine Head. Will your Grace deny any one single portion of what I here say? If you will, deny it openly before the Church. If you will not, tell the Church, whose highest functionary you are, why you did not exhort, at least, to correct the Lay Judges, whom you were summoned by your Queen to advise, in matters of spiritual learning—tell us why you permitted them to deceive themselves so grossly,—tell us, above all, why you joined them in giving such judgment to the world!

My Lord, much remains to be said; but I have not time to say all. Some things I must notice.

I have charged the Judges with having wantonly, and in spite of warning, omitted to give attention to a conclusive Canon of the Church on this matter; it is the fifty-seventh Canon of 1603. They were bound to notice it; they were bound to submit their own private opinions to it; they were bound to regulate their judgment by it; for they sate as an Ecclesiastical Court to administer the Ecclesiastical Law, of which this Canon is, in this case, a material part. For neglecting it—for deciding in contempt of it—I scruple not to say, whatever may be the legal consequences of so saying of such men, that they were guilty of grievous violation of their plain duty.

The Canon says, "The *doctrine* of Baptism is sufficiently set down in the Book of Common Prayer to be used at the administration of the said Sacrament, as nothing can be added to it that is material or necessary." The Judges virtually say that there is no doctrine of Baptism in those offices by which it is administered. Till they can erase that Canon from the code of the Church, they must be content to hear that they have given a judgment on grounds directly contrary to the law of the Church.

My Lord, I have heard it said that although this judgment is not absolutely conclusive, yet it is a precedent, which every inferior Court will be bound to follow, and which even the highest Court will be bound to respect, and not, except on the plainest grounds, hereafter to supersede.

I deny that it is a precedent; technically it may be called so, but morally it is not a precedent, but a warning to future Judges to be content with doing their duty as *Judges*, which duty is to administer, not to make, laws; to beware of listening to clamour from without, or timid caution from within, that the consequences of a strictly right decision would be to introduce confusion into the Church, and it may be into the State; to draw hundreds of conscientious men out of the Ministry—to shock the feelings and oppose the prejudices of a large and valuable portion of the laity of the Church.

My Lord, the Judges had no right to be moved by any such considerations. But, in truth, the danger was visionary; the cry, if honest, was unfounded. There are not, I venture to believe—for some has, I understand, been publicly declared by one who was, at first, the loudest and most prominent in raising the cry—there are not probably six men, calling themselves Churchmen, who partake of Mr. Gorham's special heresy.

But I must return to the consideration of one or two remaining points.

The first which I will notice is the following—I will not say contemptible, but (considering whence it proceeded) most amazing specimen of, I cannot call it, reasoning. After remarking that the Article of "Baptism," in 1536, says, that infants receiving Baptism are saved *thereby*, it cites the first Rubric at the close of the office of Baptism:—"It is certain, *by God's word*, that children which are baptized, dying before they commit actual sin, are undoubtedly saved;" and the judgment thereupon gravely pronounces:—"But this Rubric does not, like the article of 1536, say that such children are saved *by Baptism*."

My Lord, where is this Rubric found? Immediately after the office, in which several portions of *God's word* had been cited: "Except a man be born of water, and of the Spirit, he cannot enter into the kingdom of God." "Almighty God of his great mercy did save Noah and his family in the ark from perishing by water, and also did safely lead the children of Israel, His people, through the Red Sea, figuring thereby his Holy *Baptism*; and by the baptism of his well beloved Son Jesus Christ, in the river Jordan, did sanctify water to the mystical washing away of sin." Again, "Suffer the little children to come unto me, and forbid them not, for of such is the kingdom of God; verily I say unto you, whosoever shall not receive the kingdom of God as a little child, he shall not enter therein." It is, I say, after these citations of God's word, and after the office itself had declared that the baptized child *was regenerate*—after, in the same office, the thanks of the Church are given to God, that it had *pleased him to regenerate this infant* with his Holy Spirit, to receive him for His own child by adoption, and to incorporate him into His Holy Church—it is *immediately* after these words that the Rubric declares, "It is certain by God's word, that children," which have received such mighty promises and blessings, in other words, "which have been *baptized*, dying before they commit actual sin, are undoubtedly saved." And upon this Rubric this judgment remarks, that it does not say that children which are baptized, dying in their infancy, though undoubtedly saved, are saved *by Baptism*. How, then, and by what, are they saved? But I cannot argue this matter. Suffice it to say, and I say it with a bitterness of feeling which I will not dissemble, that such is "the *judgment*" of the Lord Chief Justice of England, of the Master of the Rolls, of one of the most eminent Barons of Her Majesty's Court of Exchequer, of the Chancellor of the Diocese of London, and of a Right Hon. and learned man, whose name is more exalted than any title of office or dignity could make it; and that this judgment has been accepted by the Lord Archbishop of Canterbury and the Lord Archbishop of York.

I turn to something else; be it what it may, it must be a relief. It shall be the *charitable hypothesis*, on which we are told, that all the declarations of the blessed efficacy of Baptism in the Church's offices must be construed.

Then, my Lord, permit me to ask, what are the declarations in those offices on which the Rubric we have just read are founded? It is a mere charitable figure, what is it to which you subscribe your "assent and consent" in that Rubric?—on what, I repeat, do you found it?

Time it is, as I have said already, all Common Prayer must be framed on the principle that those who join in it are in a state of acceptance with God. And why? Because Common Prayer is part of the Communion of Saints. Because the congregation, be it large or small, is "gathered together in Christ's name"—that is, as members of Him. And when and how were they made members? When and how were they restored to admission to the Communion of Saints? In and by Baptism. And are we then to be gravely told, that the phrases which declare in the most absolute terms which the wit of man can devise, that infants so made members of Christ, so born anew by spiritual regeneration, are mere words of charity and hope, and not of fact? This, too, I will not here argue, but I will refer to the argument the courtesy requires us to call it by such a name) of the Judicial Committee. It seems from a part of the Book of Common Prayer can be read in a sense which will agree with the Church system in the case of children dying in the arms of the dead. True my Lord, but there is one single distinction in the two cases. In the office of Baptism of Infants the Church speaks in absolute, categorical, direct terms, in that of Burial [illegible] In the one case [illegible] In the other [illegible] [illegible] understood to be the same. In other words, what the

[illegible] Grace [illegible] them [illegible] [illegible] [illegible]