## THE CARDROSS CASE.

It is of the utmost importance that the present position of this case, now exciting so much interest, should be clearly understood. Many were, till recently, of opinion that the Free Church had hitherto withheld from the Court of Sessions all access to the documents which embody the constitution of their Church, and from which the nature of the relation in which a minister of that Church stands to the body, may be ascertained. But this, according to the report adopted by the Commission, was a mistake. They had, previously to the late decision, furnished to the Court, their Claim of Rights and their protest, together with their Ordination Formula. All that they had withheld, was the sentences of suspension, in the first instance, and of deposition, in the second, which the General Assembly had passed upon the pursuer. These they had considered themselves justified in withholding, on the ground that they seemed to be required for the express purpose of being judged of by the Civil Court, and set aside by that Court if it should see cause to do so. This was what the pursuer demanded; and it seemed to the Free Church that to yield this, in the circumstances, would be to concede the whole question of the authority of their Church Courts over their members. In making this declinature they lodged preliminary defences—that is to say, a statement of the grounds on which they hesitated to concede this point. These grounds were twofold: first, that as a Church they claimed an authority in spiritual matters, with which authority such a yielding up of their spiritual decisions was incompatible; and secondly, that the mutual relation and agreement between the defender and the Free Church bound him, by his own voluntary act, to submit to the mind of the Church as embodied in the decisions of its Supreme Court; and that, consequently, he was violating his ordination vow in carrying an appeal from such decisions to any court whatever. On these two grounds, the one embodying a claim of spiritual independence, the other pointing to the agreement or "contract" between the parties, they declined to satisfy production in so far as the contract was concerned; for, as just stated, they put the Court in possession of the documents embodying their constitution as a Church, and the relation in which their ministers individually stand to the body. Having gone thus far, they imagined that the Court would have sufficient data from which to perceive that this was strictly a spiritual matter, over which the civil tribunals had no control, and that they would dismiss the appeal of the defender accordingly.

Instead of doing this, however, the Court of Session, by its late interlocutor, demanded that they should satisfy production in the matter of the sentences as well as in that of the contract. They said they must have the former—that is, the sentences—produced as well as the latter. And the great question with the Free Church came to be, Ought this demand to be complied with or, no? There was another point here, however, of essential importance; and that point was, that the interlocutor of the judges affirmed that the Court repelled the defences only as defences against satisfying production,—that is, they gave no judgment on these defences in themselves considered; they neither approved nor condemned any principle or plea which they might be supposed to embody, so that they might be fallen back upon and pleaded at a subsequent stage by the defenders, the same as if no judgment had been given at all. Such, then, was the state of the case as left by the late decision of the Court of Session; and the question now came, What was the duty of the defenders at this point? Should they satisfy production to the extent required, or should they at once carry their appeal from the Court of Session to a higher tribunal?

There was a difference of opinion for some time upon this point, even among Free Churchmen themselves. There was some who said that they should appeal at once to a higher court; because, from the indications of the speeches of the Lords of Session, it was evident that it must come to that at last, when they would have made a concession, and when consequently their appeal would have to be made from lower ground. Because, secondly, the Court of Session was already in possession of the sentences,—these being the very matters complained