

Catholic and Apostolic Church of Christ.

The Judicial Committee of the Privy Council as the Final Court of Appeal in Ecclesiastical Cases.

[Continued from last month.]

The Judicial Committee cannot even claim to be the legitimate successor of the Court of Delegates. Not only did it never receive the sanction of the Church, but what recognition it received from Parliament as an ecclesiastical court was by a mistake. Lord Brougham, the chief author of the Act of 1833, admitted in the House of Lords that—

He could not help feeling that the Judicial Committee of Privy Council had been framed without the expectation of ecclesiastical questions being brought before it. It was created for the consideration of a totally different class of cases, and he had no doubt but that if it had been constituted with a view to such cases as the present (Gorham case), some other arrangement would have been made.

Bishop Blomfield, too, who was on the Commission of 1831-2, said that—

The contingency of such an appeal came into no one's mind.

A Court for which its authors can say no more than this cannot expect to receive much respect from those who maintain that its originators had no authority to create a Court for the purpose at all.

But as a matter of fact, the Judicial Committee is not a Court strictly speaking at all, but merely a body to advise the Crown, with none of that personal responsibility which is one of the chief safeguards of the subject in a court of justice. It is, in fact, the lineal descendant of the Star Chamber, and its methods are similar to those of

that odious body. An Act of Parliament in the reign of Charles I. (16 Car. I. x. 5) restrained the Privy Council from disposing of the property of English subjects, and put them under the protection of the ordinary courts of law. It is scarcely to be expected that such a court should be permitted unchallenged to deal with spiritual matters.

We have shown that the Court has no spiritual jurisdiction. It must be added that from past experience we cannot accept its deliverances as even the learned and impartial opinions of persons qualified to form such opinions. Besides want of jurisdiction, the Judicial Committee has shown itself wanting in competence and good faith. Amongst other blunders it has declared in the Gorham case that the Catholic doctrine of Baptism is an open question; it has given utterance to the extraordinarily false statement that there was no Prayer of Consecration in the Second Prayer Book of Edward VI., in the case of Liddell v. Westerton; it stated in *Martin v. Mackonochie* that the words "before the table" in the rubric before the Prayer of Consecration, applied to the whole sentence, and yet it condemned Mr. Purchas for standing before the table; it has given contradictory rulings in regard to the Ornaments Rubric; it assigned certain visitation articles to Bishop Cosin, as issued in 1687, fifteen years after his death. So much for its competence.

In regard to its good faith, we have it on the authority of one of its members, Sir Fitzroy Kelly, who occupied the distinguished position of Lord Chief Baron, that