

stitution, induction, or license, shall sign a declaration that they will subscribe to all the rules and constitutions enacted by the Synod of the diocese of Capetown (Judgment p. 8,) and any other rules (if there are any) of a like nature should be rescinded.

"In place of the resolutions as to the Consistorial Court, deemed objectionable by the Judicial Committee, I am advised that it would be competent to the Synod to pass resolutions recommending for the adoption of their Bishop suitable forms of proceeding (*as in foro domestico*) for the investigation, trial, and decision of offences against the laws of the Church, before the Bishop himself, or before persons appointed by him, upon principles similar to those which prevail, for the necessary preservation of good order and discipline in all voluntary religious bodies; and I apprehend that all persons who had assented to such resolutions would be bound by what the Bishop, from time to time, might reasonably do in accordance with the forms so recommended. Upon this point I again refer to the words of the Judgment:—

"It may be further laid down that where any religious or other lawful association has not only agreed on the terms of its union, but has also constituted a tribunal to determine whether the rules of the association have been violated by any of its members or not; and what shall be the consequences of such violation, then the decision of such tribunal will be binding when it has acted within the scope of its authority, has observed such forms as the rules require, if any forms be prescribed, and if not, has proceeded in a manner consonant with the principles of justice.

"In such cases, the tribunals so constituted are not in any sense Courts; they derive no authority from the Crown; they have no power of their own to enforce their sentence; they must apply for that purpose to the Courts established by law; and such Courts will give effect to their decision, as they give effect to the decisions of arbitrators, whose jurisdiction rests entirely upon the agreement of the parties.

"Having expressed the opinion, that the Synod should repeal that resolution of their body which requires all Presbyters and Deacons before institution or induction, or before receiving a license from the Bishop, to subscribe all their rules and constitutions; it is proper for me to state further, to what extent the Executive Government could recognise the right of the Bishop to enforce practically, on his own authority, the resolution which, in its present form, the Synod is called upon to cancel.

"I am informed that it would be competent to the Bishop to adopt the course prescribed by that resolution, with respect to matters as to which he has by law a free and unfettered discretion.

"Thus he may decline to confer holy orders on persons unwilling to be bound by the resolutions passed at such meetings, without being liable to any interference on the part of any Civil Court. But with respect to the power of the Bishop to make assent to such resolutions the condition