

NEW  
ZEALAND.

with all the clergy and lay officers of the Church in this Colony, by all the rules adopted by the General Synod. And further, that this compact, so entered into by all the bishops in New Zealand before the receipt of the Judgment of the Judicial Committee of the Privy Council on petition of the Bishop of Natal, was afterwards found to be in agreement with the following words of that judgment:—

“The United Church of England and Ireland is not a part of the constitution in any colonial settlement, nor can its authorities, or those who bear office in it, claim to be recognized by the law of the Colony otherwise than as the members of a voluntary association.”

7. That this constitution of the Church in New Zealand was framed after careful consideration of a despatch of the Right Honourable H. Labouchere to Governor-General Sir Edmund Head, Bart., and in accordance with the following suggestion in that despatch:—

“I am aware of the advantages which might belong to a scheme under which the binding force of such regulations should be simply voluntary.”

8. That Your Majesty's petitioners have accepted and acquiesce in the decision of the Judicial Committee of the Privy Council that the Church of England in this Colony “is in the same situation with any other religious body, in no better, but in no worse, position; and the members may adopt, as the members of any other communion may adopt, rules for enforcing discipline within their body, which will be binding on those who expressly or by implication have assented to them.”

And they therefore humbly submit that the judgment of Lord Lyndhurst in the case of Dr. Warren points out the course of procedure in all questions which may arise between any of the members of the Anglican church in New Zealand, whether bishops, clergy, or laity, who have bound themselves by voluntary compact under the authority of the General Synod, viz.:—

- (1.) That the question be tried and decided according to the rules of the Synod, as agreed to by the bishops, clergy, and laity.
- (2.) That on the petition of either party the Supreme Court of the Colony has authority to inquire into “the regularity of the proceedings and the authority of the tribunal, and on those grounds merely” to affirm or annul the decision.
- (3.) That from any such decision of the Supreme Court of the Colony an appeal would lie to the Privy Council upon the same grounds.

And therefore that the Anglican Church in New Zealand is effectually guarded against the danger apprehended by the Lords of the Judicial Committee; viz, that cases might occur in “which there would be a denial of justice, and no remedy for great public inconvenience and mischief,” without having recourse to a direct appeal to the Crown in the case of any controversy such as that which is presented by the petition of the Bishop of Natal.

9. That the above-recited principle of the civil equality of all religious bodies has been affirmed by a resolution passed by the House of Representatives in New Zealand.

10. That your Majesty's petitioners humbly express their conviction that the right of appointment of bishops in New Zealand is not part of the prerogative of the Crown, inasmuch as all the bishoprics were founded by private efforts, and endowed from private resources; and further that the assertion of any such claim may operate as a most serious discouragement to the clergy already in New Zealand, and tend to prevent other clergymen from coming out from England, by cutting them off from all hope of election to the highest offices of the Church in this Colony.

11. That Your Majesty's petitioners, therefore, humbly pray that all doubts may be removed as to their status, both ecclesiastical and temporal:—

- (1.) By the acceptance of the surrender of their Letters Patent now declared to be null and void.
- (2.) By declaring the royal mandate under which Your Majesty's petitioners were consecrated to be merely an authority given by the Crown for the act of consecration, and to have no further effect or legal consequence.
- (3.) By recognizing the inherent right of the bishops in New Zealand to fill up vacancies in their own order by the consecration of persons elected in conformity with the regulations of the General Synod, without Letters Patent and without royal mandate, in the same manner as they have already consecrated a missionary bishop for the islands in the Western Pacific, after communication with Your Majesty's Principal Secretary of State for the Colonies, and with the Attorney General of New Zealand.

And Your Majesty's humble and loyal petitioners, as in duty bound, will ever pray

(Signed)

G. A. NEW ZEALAND,  
June 13, 1865.  
H. J. C. CHRISTCHURCH,  
July 6, 1865.  
EDMUND NELSON,  
June 21, 1865.  
C. J. WELLINGTON,  
June 23, 1865.  
WILLIAM WAIAPU,  
June 13, 1865.

Downing  
Street, Feb-  
ruary 15,  
1856.

Judgment of  
Judicial Com-  
mittee of the  
Privy Council,  
Long v. Bishop  
of Capetown.

Ibid.

Judgment of  
Lord Lynd-  
hurst in the  
case of  
Dr. Warren.

Judgment on  
Petition of the  
Bishop of  
Natal.

August 28,  
1855.

25 Edw. III.  
Stat. 6.