

plaintiffs, then, have had every opportunity to obtain their rights, and I am consequently of opinion that the discharge is valid and that the action of plaintiffs ought to be dismissed.

The defendant has submitted besides that the action of the plaintiffs was prescribed, not having been instituted within a year after the nomination of the plaintiffs, and he invokes article 1040 of the Civil Code. The defendant evidently makes an erroneous application of this article of the Code, because it applies to the prescription of an action *revocatoire* brought at the suit of an assignee in order to revoke an act which an insolvent has done with a third party in fraud of creditors. But it does not apply to the present suit. The action is, however, for the above reasons dismissed with costs.

*Church, Chapleau, Hall & Atwater* for plaintiffs.

*Macmaster, Hutchinson, Knapp & Weir* for defendant.

#### THE ECCLESIASTICAL COMMISSION.

The London *Times* (Aug. 16) publishes an abstract of the report of the Royal Commission appointed to enquire into the constitution and working of the Ecclesiastical Courts. For more than two years the commissioners have been busily engaged taking evidence, listening to complaints, enquiring into the past history of the Church Courts in England and into the successive changes which have made them what they have now become, and framing suggestions as to their constitution and powers and methods of procedure. The *Times* observes that the subjects with which the commissioners have dealt are thus of very grave interest to all parties in the Church. Their report comes with the weight of an almost unanimous expression of opinion from a body of ecclesiastics and laymen well qualified to pronounce upon the important questions submitted to them. It remains for the Legislature to give effect to such parts as it may approve, and to establish with the minimum of change a system which it may be hoped will work better and more smoothly than the existing system has been found to do, and may better command the confidence and respect which have been somewhat ostentatiously refused to Church Courts as they are now constituted. The formal recommendations of the report are the part to which chief attention will

be given. They are arranged into three groups, dealing first with procedure in cases of clerical misconduct and neglect of duty; next, with procedure in cases of heresy and breach of ritual; and, lastly, with general and miscellaneous matters. The methods by which clerical offences of any sort are to be brought under cognizance of the law, and the tribunals by which judgment is to be pronounced upon them, are to be much the same in every case. A complaint, whether of misconduct or of heresy, or of breach of ritual, is to be laid before the bishop of the diocese, and it rests with the bishop to put an end to the suit at once or to allow it to proceed. If he determines that it is to proceed, he may, with the consent of the parties, pronounce a final judgment about it. If this consent is not given, the matter will come before the Diocesan Court, in the first instance—that is to say, before the bishop and his legal assessor, with the addition, in cases of alleged heresy or breach of ritual, of a theological assessor. From the decision of this court an appeal lies to the Provincial Court, or official principal of the province. In judging cases of misconduct, this functionary will sit alone. In cases of heresy or breach of ritual, the archbishop of the province may sit with him, or the court may be further strengthened by the presence of theological assessors. In every case the final appeal is to the Crown, and the court of final appeal will be a permanent body of lay judges, of whom five at least are to be summoned in rotation by the Lord Chancellor for each case. The general miscellaneous recommendations are mostly framed with the view of curing proved and admitted defects in the law as it is at present administered. The scandal of a clergyman refusing to obey the sentence of a Church Court is to be provided against, not by his imprisonment, but by the more appropriate method of temporary suspension from his ecclesiastical post. If he disobeys a third time, he may be suspended until he has satisfied the court, and he may be deprived by summary process. In order further to guard against every possible form of clerical perversity, the report suggests that disobedience to a sentence of suspension may be visited, after three months' notice, with deprivation; and that if during suspension or after deprivation a clergyman attempts to perform Divine service in a church forbidden to him, the offence is to be visited as a "disturbance of public worship." The report also recommends that the two archbishops may, if they so choose, continue to appoint the same person as Official Principal of the two provinces. Their choice is to be made subject to certain stated conditions, and the official chosen is to be bound to take the oaths prescribed by canon 127, and to sign the Thirty-nine Articles, or, in other words, to do what Lord Penzance has not done—an omission which has given grave offence to the High