

## COLONIAL BISHOPS—QUIETING TITLES.

rights and authority the colony could be required to recognise."

Secondly, that, assuming the letters patent to have been sufficient to confer upon Dr. Gray the *ecclesiastical office* of Metropolitan, the clauses contained in them which gave him a *coercive legal jurisdiction* were void.

Thirdly, with reference to the oath taken by Dr. Colenso, by which, it was contended, he submitted himself, by way of contract, to the jurisdiction of his Metropolitan, that even if the parties intended to enter into an agreement to create such a jurisdiction, of which, however, there was no evidence, it was not legally competent for the appellant to give, or for Dr. Gray to accept, or exercise any such jurisdiction.

Fourthly, that the letters patent had no power to confer upon the Archbishop of Canterbury the appellate jurisdiction which they purported to create; and that the decision of Dr. Gray, although he had no jurisdiction, might be set aside in the first instance by appeal to Her Majesty in Council.

The apparent result of the case is that, with the exception of the Indian Bishops, who were appointed by letters patent under the authority of the Imperial Legislature, and the Bishop of Jamaica, whose appointment by letters patent was confirmed by an act of the Colonial Legislature, the Colonial Bishops are exempt from ecclesiastical jurisdiction and legal censure, and even that the clergy who have submitted themselves to the authority of such Bishops are free to disobey them at their pleasure.

It is argued, however, by some legal writers in England, that these deductions are incorrect, and that there is still a means of bringing a contumacious or heretical bishop before a proper and a legally organised ecclesiastical tribunal, namely, a special commission to be obtained upon an application to the Crown as supreme ordinary and visitor of the Church.

But however this may be, it is eminently important that those most interested should take some immediate steps to remedy the evil that is said to exist. Good sometimes comes out of evil, and the effect may be to place the ecclesiastical and episcopal authority of the Church of England in the colonies on a more certain and useful basis.

## QUIETING TITLES.

A Bill was introduced some time since by the present Vice-Chancellor Mowat, when a member of the present Government, under the title of "An Act for Quieting Titles to Real Estate in Upper Canada."

This bill did not, however, become law, and remained in abeyance until again introduced last session by the Attorney-General. It again had to lie over, with many other bills, but will probably again be brought up next session.

The bill, as mentioned by its original introducer, is "an adaptation of laws in force in other countries to the circumstances and requirements of this section of our own Province." The Encumbered Estates Act of Ireland was, we believe, the first step in the direction of obtaining an indefeasible title to real estate. This act was found to work well, and an act with a somewhat similar object in view was, on the 29th February, 1862, entered upon the Imperial statute book (25 & 26 Vic. cap. 67).

This statute is intitled, "An Act for obtaining a Declaration of Title." From this, the proposed enactment for Upper Canada is principally, in fact almost entirely taken. It bears, however, evident marks of careful study, and a thorough knowledge of the evils intended to be obviated. Indeed nothing less could be expected from the learned gentleman who first took up the matter in this country.

If the bill becomes law, it must rest with the Judges of the Court of Chancery so to work out and interpret it that it may become *practically* useful for carrying out its objects, and not be a pretty thing on paper, a beautiful but impracticable theory. And whilst speaking on this head, it may not be out of place to say that the provisions of the act will be none the less beneficial from the fact that its compiler now occupies a position where his knowledge of, and interest in the subject will be eminently serviceable.

In February last, Mr. Mowat addressed a letter to the Attorney-General on the subject of the bill, which has found its way into print, and a copy of which has been sent us. It may be interesting to many to hear the views of Mr. Mowat with reference to the evils which the bill was designed to meet, and of the method by which the bill proposes to remove them.