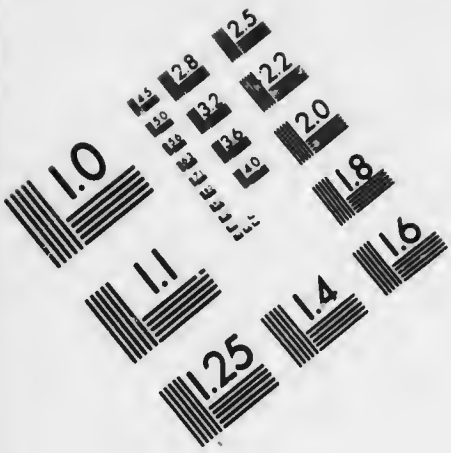


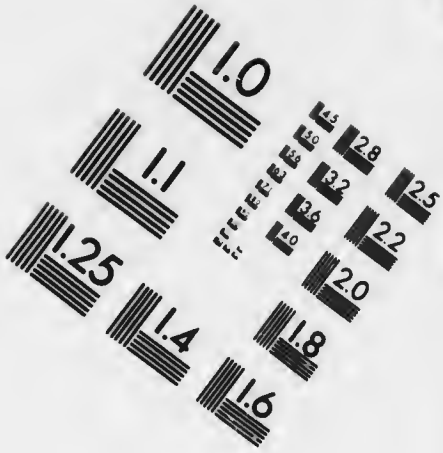
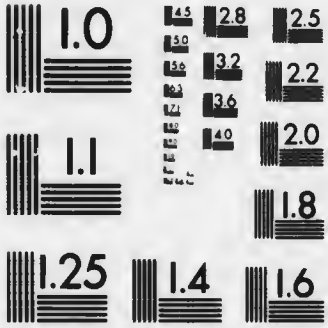
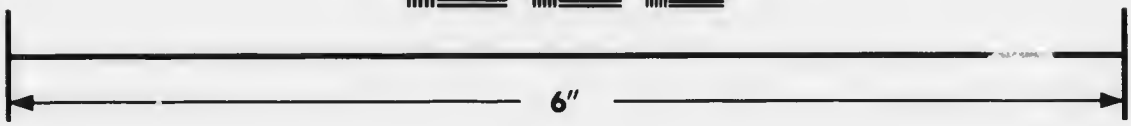
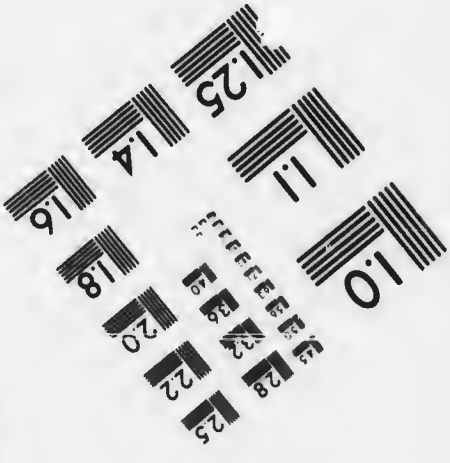


IMAGE EVALUATION TEST TARGET (MT-3)







Photographic Sciences Corporation

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

Technical and Bibliographic Notes/Notes techniques et bibliographiques

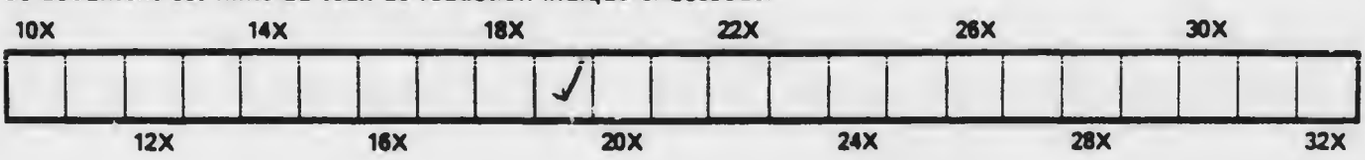
The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming, are checked below.

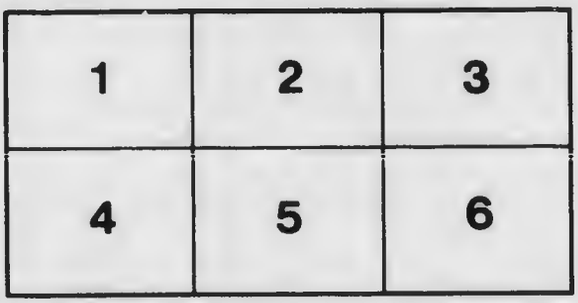
L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- ☐ Coloured covers/ Couverture de couleur
- ☐ Covers damaged/ Couverture endommagée
- ☐ Covers restored and/or lamineted/ Couverture resteurée et/ou pelliculée
- ☐ Cover title missing/ Le titre de couverture manque
- ☐ Coloured maps/ Cartes géographiques en couleur
- ☐ Coloured ink (i.e. other then blue or black)/ Encre de couleur (i.e. autre que bleue ou noire)
- ☐ Coloured plates and/or illustrations/ Planches et/ou illustrations en couleur
- ☐ Bound with other material/ Relié avec d'autres documents
- ☐ Tight binding may cause shadows or distortion along interior margin/ La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure
- ☐ Blank leaves added during restoretion may appear within the text. Whenever possible, these have been omitted from filming/ Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela éteit possible, ces pages n'ont pes été filmées.
- ☐ Additionel comments:/ Commenteires supplémentaires:

- ☐ Coloured peges/ Pages de couleur
- ☐ Pages damaged/ Peges endommagées
- ☐ Pages restored and/or laminated/ Pages restaurées et/ou pelliculées
- ☑ Pages discoloured, stained or foxed/ Pages décolorées, tachetées ou piquées
- ☐ Pages detached/ Peges détachées
- ☑ Showthrough/ Transperence
- ☐ Quality of print varies/ Qualité inégele de l'impression
- ☐ Includes supplementary material/ Comprend du matériel supplémentaire
- ☐ Only edition eveilable/ Seule édition disponible
- ☐ Peges wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image/ Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below/
Ce document est filmé au teux de réduction indiqué ci-dessous.





PROCEEDINGS AND DISCUSSIONS

CONNECTED WITH THE INTRODUCTION OF

A BILL

INTO THE LEGISLATURE OF THIS PROVINCE, BY BISHOP BINNEY, FOR THE ESTABLISHMENT OF

A Church of England Synod,

IN THE DIOCESE OF NOVA SCOTIA,

AND

OTHER PAPERS RELATING THERETO.

HALIFAX, N. S.
PRINTED BY JAMES BOWES AND SONS.
1864.

1634

TO THE READER.

THE undersigned having been requested, by a number of Churchmen to have the discussion on the Synod Bill before the Committee of the Legislative Council, reported and published, with such other papers connected therewith as would be necessary and interesting, after much delay he is now enabled to present the following pages for the perusal of Churchmen in particular, and the public generally.

The delay in the publication has been caused by circumstances over which he had no control.

HALIFAX, March 31, 1864. WILLIAM T. TOWNSEND.

EXPLANATORY.

From the interest taken by Churchmen, and especially by the Churchmen of this city, in the Bill introduced into the Legislature by Bishop Binney, for the formation of a Church Synod in this Diocese, and from the fact of his Lordship having requested to be heard in support of his Bill before committees of both houses of the Legislature, it was decided by a number of Churchmen to employ Counsel to support the petition of St. George's Parish against the Bill, and on general grounds on behalf of the Churchmen of the Province to oppose the Bill; and also to have the arguments on both sides fully reported and printed in pamphlet form, for the information of Churchmen.

It was intended that the Parishioners of St. Paul's should also petition against the Bill; but it was decided that the petition of St. George's Parish would be sufficient to test its merits. The Rector, Church-wardens and vestry of the Parish of Wilmot also petitioned against the Bill, and other parishes would have done the same had there been time to have done so.

The Bill was introduced into the Lower House on the 23rd of February, 1863, and after considerable discussion and some amending, was passed on the 17th March by a large majority, all the Churchmen voting for it. The Bill was passed in Committee; and the names and numbers were not recorded. This is to be regretted, as the names of the gentlemen who had the independence to vote against the Bill ought to be generally known.

The arguments before the committee of the Lower House were not reported, as the subject was not fully discussed there, it being generally understood for reasons hereafter explained, that the passage of the Bill through the Lower House was a foregone conclusion.

The Bill on being sent to the Legislative Council was referred to a select Committee, consisting of the Hon. M. B. Almon, Hon. John Creighton, and the Hon. H. G. Pineo, all Churchmen, who reported unanimously against the Bill.

That an argument was to take place before a committee of the Legislative Council, was generally known, some time before it occurred. It was attended by a large number of citizens, and, as the speeches on both sides will testify, the subject was fully debated. The discussion commenced on March 23rd.

The record of the debate before the Committee of Council is not kept for any factious or improper motives, but as a record of the arguments used on both sides, for the information of the whole body of Churchmen in the Province.

Facts were elicited in that discussion that every Churchman ought to know, whether they tell in favor of or against his own peculiar views. By full, fair, and open discussion only, can we arrive at the truth, and facts once elicited ought not to be lost.

After the conclusion of the discussion before the Committee of Council, the Bill was put before the House, when, after speeches from several members, the Bill was lost,—sixteen voting against it, including all the Churchmen,—and four voting for it, three of whom were dissenters, and one a Roman Catholic. The vote was taken on the 28th March, and the division was as follows:

AGAINST THE BILL.

Hon. James McNab, *Presbyterian.*	Hon. A. Patterson, *Presbyterian*
" J. H. Anderson, *Methodist.*	" F. Tupper, *Congregationalist.*
" T. D. Archibald, *Presbyterian.*	" C. Dickie, *Presbyterian.*
" H. G. Pineo, *Churchman.*	" Wm. A. Black, *Methodist.*
" A. F. Comeau, *Rom. Catholic.*	" Alex. Keith, *Presbyterian.*
" W. C. Whitman, *Methodist.*	" R. M. Cutler, *Churchman.*
" R. B Dickey, *Churchman.*	" Wm. McKeen, *Presbyterian.*
" M. B. Almon, *Do.*	" John Holmes, *Do.*

FOR THE BILL.

Hon. Jon. McCully, *Baptist.*	Hon. S. Brown, *Congregationalist.*
" R. A. McHeffey, *Presbyterian.*	" E. Kenny, *Roman Catholic.*

Hon. John Creighton, one of the Committee that reported against the Bill, was absent at the time of the division. His vote would make seventeen against the Bill, instead of sixteen, as reported.

The division in the Lower House was of course taken before the discussion before the committee of Council took place, and a general election was before their eyes, and, as was generally believed, many were influenced in their votes by expected support in the elections, shortly to take place. The members of the Council were not influenced by any electioneering considerations, and were, therefore, in a position to give an independent vote.

It is but fair to state here, that several members of the Lower House asserted, after they had heard the arguments before the Committee of Council, that they would not have supported the Bill had they heard the arguments before voting. They admitted that they had not comprehended the scope of the Bill, nor the power it gave.

Comparisons having been drawn of the manner in which the subject was handled by Bishop Binney and Mr. Ritchie, (the arguments will speak for

themselves,) it is but just to the latter gentleman to state, that the Bishop admitted that he had made the subject his study for the last *ten years*, whereas Mr. Ritchie had not as many days to prepare for the discussion.

The documents and discussions are arranged in the order they came to hand and took place, as follows:

Bill presented to the Legislature by Bishop Binney.
Bill as amended and passed in the Lower House and sent to the Council.
Petition of St. George's parish against the Bill.
Speeches of J. W. Ritchie, Esq., and Bishop Binney, before the Committee of Council, in the order in which they were delivered.
Speeches of Legislative Councillors in the same order.
Bill that was introduced by mutual consent, and that passed without opposition.
Resolutions and discussions at the Easter meeting, St. Paul's parish, March, 1856, and Bishop Binney's letter to the majority of that meeting.
Anonymous and contemporary opinions.

The judgment of the Privy Council in the case of the Rev. Mr. Long, *vs.* the Bishop of Cape Town, is added, as bearing directly on the subject of Synods.

The opinions of two celebrated English lawyers on an order issued by the Bishop of Oxford to the Clergy of his Diocese, to make a slight and transient alteration in the service, is added, as it conclusively proves that Bishops cannot legally order or direct any alteration whatever in the service of the Church, not sanctioned by the Acts that govern it.

It may not be out of place here to state one of the principal reasons for delay in the publication of this pamphlet.

After the amended Bill sent to the Council from the Lower House had been defeated, the Bill that did pass was introduced at Bishop Binney's request, and passed without opposition, it being understood by all parties that that Bill was accepted as a *compromise* for the sake of peace, and to put the Synod question at rest. On those grounds many of the advocates for publishing the discussion were averse to doing so, fearing that it would tend to keep alive feelings that ought to be allowed to die out with the discussion on the Synod question, which they supposed was to end with the passage of what they understood to be a compromise bill.

A short time since, however, Bishop Binney issued a pamphlet, by which it appears the Synod Bill agitation is to be kept up until the Bill, the whole Bill, and nothing but the Bill, is secured.

Since the Bishop's pamphlet has appeared all objections to the publishing of this have disappeared, and those who were foremost in delaying its publication are now most anxious for its appearance.

It is quite probable that if the Bishop's pamphlet had not appeared, these "Proceedings and Discussions" would not have been published.

BILL

INTRODUCED BY BISHOP BINNEY INTO THE LEGISLATURE.

BILL FOR THE INCORPORATION OF THE DIOCESAN SYNOD.

AN ACT to remove doubts concerning the Synod of the United Church of England and Ireland in Nova Scotia, and to incorporate the same.

Whereas doubts exist as to the extent to which the members of the United Church of England and Ireland in this Province, have the power of regulating the affairs of their Church, in matters relating to discipline and necessary to order and good government, and it is just that such doubts should be removed, in order that they may enjoy the same rights of self-government that are exercised by other religious communities:

Therefore be it enacted, &c. &c.

I.—The Bishop, Clergy, and Laity, members of the United Church of England and Ireland in this Province, may meet, and in such manner and by such proceedings as they shall adopt, frame a constitution, and make regulations for enforcing discipline in the Church, for the appointment, deprivation, or removal of any person bearing office therein, of whatever order or degree, any rights of the Crown to the contrary notwithstanding, and for the convenient and orderly management of the property, affairs, and interests of the Church, in matters relating to, and affecting only the said Church, and the officers and members thereof, and not in any manner interfering with the rights, privileges, or interests, of any person or persons not being a member or members of the said United Church of England and Ireland; Provided that nothing in the said constitution or regulations, or any of them, shall be contrary to any law or statute which is now or hereafter shall be in force in this Province.

II.—For the purposes of this Act the Laity shall meet by representation, and until it shall be otherwise determined by the Synod, two delegates, being communicants of the Church of England, may be elected at the annual Easter Meetings in each Parish, Mission, or Cure within this Province, or at meetings to be specially called for the purpose by each Clergyman having a separate Cure of souls. And all Laymen within such Parish, Mission, or Cure, of the full age of twenty-one years, who shall declare themselves in writing at such meeting, if required so to do by the chairman thereof, to be

members of the United Church of England and Ireland, and to belong to no other religious denomination, shall have the right to vote at such election.

The first meeting of the Synod to be held under this Act shall be called by the Bishop, at such time and place as he shall think fit, provided that notice of his intention shall have been given to each Clergyman having a separate Cure within this Province, not less than three calendar months previous to the day appointed for the meeting, in order that there may be sufficient time for the election of lay representatives.

III.—The Synod constituted as aforesaid, consisting of the Bishop, Clergy, and Representatives of the laity, of the United Church of England and Ireland within this Province, shall be a body politic and corporate, having perpetual succession by the name of the "Diocesan Synod of Nova Scotia."

AMENDED BILL,

AS PASSED IN THE LOWER HOUSE, BUT THROWN OUT BY THE COUNCIL.

AN ACT to remove doubts concerning the Synod of the United Church of England and Ireland in Nova Scotia, and to incorporate such Synod.

Whereas doubts exist as to the extent to which the members of the United Church of England and Ireland in this Province, have the power of regulating the affairs of their Church in matters relating to discipline, and necessary to order and good government; and it is just that such doubts should be removed, in order that they may enjoy the same rights of self-government that are exercised by other religious communities.

Be it therefore enacted by the Governor, Council, and Assembly, as follows:

1. The Bishop, Clergy, and Laity, members of the United Church of England and Ireland in this Province, may meet, and in such manner, and by such proceedings as they shall adopt, frame a constitution and make regulations for enforcing discipline in the Church, for the appointment, deprivation, or removal of any person bearing office therein, of whatever order or degree, any rights of the Crown to the contrary notwithstanding, and for the convenient and orderly management of the property, affairs and interests of the Church in matters relating to and affecting only the said Church and the officers and members thereof, and not in any manner interfering with the rights, privileges, or interests of any person or persons not being a member or members of the said United Church of England and Ireland; provided that nothing in the said constitution or regulations or any of them shall be contrary to any law or statute which is now or hereafter shall be in force in this Province, (or shall affect or control any property now or hereafter vested in the Church wardens and vestry of any Parish for parochial purposes, or interfere with the rights or privileges now vested by law in the parishioners of the several parishes of nominating or presenting the persons whom they may choose for their Minister or Rector.)

2. For the purposes of this Act the Laity shall meet by representation, and until it shall be otherwise determined, one or two delegates, being communicants of the Church of England, may be elected at the annual Easter meetings in each Parish, Mission or Cure within this Pro-

vince, or at meetings to be specially called for the purpose by each clergyman having a separate cure of souls; and all laymen within such Parish, Mission, or Cure, of the full age of twenty-one years, who shall declare themselves in writing at such meeting, if required so to do by the Chairman thereof, to be members of the United Church of England and Ireland, and to belong to no other religious denomination, shall have the right to vote at such election. The first meeting of the Synod to be held under this Act shall be called by the Bishop, at such time and place as he shall think fit, provided that notice of his intention shall have been given to each clergyman having a separate Cure within this Province not less than three calendar months previous to the day appointed for the meeting, in order that there may be sufficient time for the election of the lay representatives.

3. The Synod constituted as aforesaid, consisting of the Bishop, Clergy, and representatives of the Laity, of the United Church of England and Ireland within this Province, shall be a body politic and corporate, having perpetual succession by the name of "The Diocesan Synod of Nova Scotia."

(4. This Act shall not apply to any parish hitherto unrepresented in the Synod, of which the parishioners at the first meeting for the election of delegates under this Act, or at their Easter meeting in the year one thousand eight hundred and sixty-four, if no such meeting shall have been previously held, shall pass a resolution declaring their desire to be excluded from its operation.)

N. B.—The clauses in parentheses show the amendments made in the Assembly.

PETITION

OF

ST. GEORGE'S PARISH, AGAINST THE BILL.

To the Honorable the House of Representatives of the Province of Nova Scotia, in General Assembly now convened:

The humble petition of the Rector, Church Wardens, and Vestry of the Parish of St. George, in the city of Halifax, in behalf of themselves and the congregation whom they represent.—

Respectfully Sheweth,—

That your petitioners understand that an Act has been introduced into your Honorable House for the purpose of giving the sanction of law to the proceedings of the Bishop, Clergy, and a portion of the Laity of the Church of England, in this Province, who have constituted themselves a Synod, or Church Assembly, for the government of the Church; and have for several years past met in such Assembly, and framed Rules and Regulations respecting Church affairs.

Your petitioners beg respectfully to bring to the notice of your Honorable House, that in the year 1855 this Assembly was first convened, when the parishioners of the two metropolitan parishes of St. Paul's and St. George's refused to unite in such Synod, or Assembly, and passed resolutions at their parish meetings on several occasions, to that effect, claiming exemption for themselves and their parish property from its authority. These parishes still hold the same views, and have at no time been represented in that Assembly, or in any way connected with it. That several parishes in the country likewise refused to send delegates to its meetings, or to recognize its acts, and some of the leading Clergy of the Diocese expressed their disapproval of its proceedings.

That your petitioners while they do not desire to prevent their brethren from forming themselves into an Assembly for Church purposes, beg respectfully to claim exemption for themselves and their property and privileges from the control of such an Assembly; and believe that the powers and authority of this Synod or Assembly (if sanctioned at all) should be so *modified and defined*, as to preserve inviolate the individual rights of parishes, in respect to their property and privileges.

That in petitioning against the adoption of this law, your petitioners feel bound to state, as clearly as possible, their reasons for so doing, to your Honorable House.

First—They believe that the Bishop, by the authority conferred upon him as Bishop of the Anglican Church, has full power to regulate and manage the order and discipline of the Church over which he presides, and has sufficient authority vested in himself, for the government of his Clergy, so far as at any time may be necessary; while the Clergy themselves have for their general guidance the Constitution and Laws of the Church, which have existed since the Reformation.

That the power to regulate their own internal affairs, is fully recognized to exist among all denominations of Christians in this country. But we believe that none of them have asked at the hands of the Legislature the sanction to form Courts, and compel obedience to the acts of such Courts, *by the strong arm of the law*. No such power is enjoyed by any denomination of Christians in England, and the introduction of Ecclesiastical Courts, *sanctioned by law*, for the trial of ministers and other officers of the Church in the Colonies, would, in the opinion of your petitioners, lead to much trouble and suffering, and have always been resisted on this side of the Atlantic by the representatives of the people.

Second—Because by the 9th Bye-Law of this Church Assembly, passed in 1855 an unqualified *veto* on all proceedings of such Assembly, was conferred upon the Bishop, who, under the regulations then established by that Body, was to sit as Chairman in the same room with both the Clergy and Lay delegates, and have the privilege of answering every speaker successively, and thus control the proceedings of the meeting. And should any measure receive the unanimous sanction of both Clergy and Laity present, he, as Bishop might *veto* such measure: A power not conferred by the Diocesan Assemblies of the Episcopal Church in the United States upon any of their Bishops, except in one case, and that on limited conditions.

Third—Because the law now introduced, is so vaguely and openly worded as to permit a Church Assembly, constituted under its sanction, to assume authority, not only over order and discipline, and the general pecuniary affairs of the Diocese, but also over the property now vested in the parishes as local corporations. Now by the laws of this Province, each parish is a legal corporate body as regards its own temporalities, holding its own property, and managing its own pecuniary affairs, and having the power and privilege of nominating its own Minister—a privilege of great value and importance to the independence of the Church in this country, and one which they have enjoyed conjointly with their dissenting brethren since the year 1758, when the Legislature of this Province was first convened.

That your petitioners have accumulated a small property in this parish—the savings of many years—for the support of their Ministers, and the keeping up of their churches: and they feel that it would be unjust to permit this property to be interfered with, in the slightest degree, by any other Body. They by no means wish to assert that the Bishop and Clergy have any such design: quite the contrary, but, they think it possible, that under the large powers to be conferred by this Act, such proceedings might, at any time hereafter, be taken by the Church Assembly, which might be found to militate against or conflict with parochial privileges.

Fourth.—That as has been before stated, the privilege of nominating or presenting their own Ministers, is in the hands of the parishioners of each parish, by the laws of this Province. And the Bishop cannot refuse to license and institute the person so nominated without giving his reasons in writing for such refusal. That this very important privilege might be swept away from the people of the several parishes by the law now before the House: which in permitting a Synod or Church Assembly "*to regulate all matters connected with the property, affairs, and interests of the Church*" might lay the foundation for proceedings which would eventually interfere with the control of incomes derivable from local sources, and upon which the support of the Clergymen of the different parishes would mainly depend, and would also enable them to force a Minister upon a parish wholly distasteful to the people.

This your petitioners consider to be a matter of the very highest concern to the interests of the Church of England in this Province, because under the specious pretext of a Diocesan Synod or Assembly, in which the Laity are represented by delegates, the Bishop and Clergy might obtain to a very great extent the patronage of the Church now claimed by the people. And your petitioners feel some apprehension on this score, having been informed that a Church Assembly in Upper Canada, constituted under a law somewhat similar to that now before your Honorable House, have lately assumed this power, and by a deliberate vote handed over the whole patronage of the Diocese (Ontario) to their Bishop, who soon after forced upon the Church people of Kingston, a large and influential parish, a Clergyman, in direct opposition to the wishes of the parishioners.

Fifth.—That the fact of the Bishop sitting as Chairman in the same chamber with the Clergy and Lay delegates, and having the power not only of replying to any speaker who addresses the chair, but also of placing his *veto* upon any proceedings which might pass the Assembly, does, in the opinion of your petitioners, render this Church Assembly a less independent body than it should be, and was one of the many reasons adduced by the metropolitan parishes for refusing to join in its deliberations.

That the establishment of a legal Ecclesiastical Court, to enable the Bishop, and Clergy, and such portion of the Laity as may there be represented, to carry their decrees in force by the *strong arm of the law*, would be too much authority to place in the hands of any Denomination, and is a power not asked for or enjoyed by any other body of Christians in Nova Scotia.

In making this strong remonstrance, we do not wish to cast any improper or unworthy suspicions upon our Bishop and his Clergy, for whom we entertain the greatest respect and esteem. But we feel bound on the part of the laity to lift up our voice against placing such power in the hands of any body of men, however honorable, high-minded or good-intentioned. And we feel persuaded that when *the full scope* of this Bill is understood by the House, those influential and leading members who have favored its introduction under the impression that it was conferring a boon upon the people, will hesitate in permitting it to go into a law, without the most mature consideration, and such necessary restrictions and saving clauses by which the vested rights of property and other privileges already referred to, now enjoyed by the people, may not be put in jeopardy.

Your petitioners feel that their individual rights, and those of the Laity of Nova Scotia at large, are safe in the hands of their Representatives, and beg most respectfully that your Honorable House will be pleased to permit them to be heard by Counsel at your bar, on this subject, as well for themselves as for those country parishes, who your memorialists understand, also intend petitioning your Honorable House on this subject. And that your Honorable House will not pass this Bill in its present form; or at least exempt the parish and congregation, whom we, in our corporate capacity represent, from the operation of said Act.

And your petitioners, as in duty bound, will ever pray.

PHONOGRAPHIC REPORT OF SPEECHES,

BEFORE THE

SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL,

ON

THE CHURCH SYNOD BILL.

MONDAY, March 23, 1863.

The Committee met at the Council Chamber at 10½ A.M.

Hon. Mr. Almon, Chairman of the Committee, stated that he had received a note from his Lordship the Bishop (Binney) requesting that the Committee would not report until he had an opportunity of appearing before them.

His Lordship the Bishop appeared for the advocates of the bill,—John W. Ritchie, Esq., Q.C., for the petitioners against it.

The Bishop objected to Mr. Ritchie being heard at all, but the Committee decided that he should be heard *first*, to which the Bishop consented under protest.

MR. RITCHIE'S FIRST SPEECH.

Mr. Ritchie then addressed the Committee at considerable length. He charged the Bishop and advocates of the Bill with an attempt to make important changes in the Church of England in this Province, in opposition to the wishes of those whose views he represented, and many other members throughout the country who were content with it as it now exists.

The Bishop not long since opposed the parishioners of St. Paul's, when they applied for an Act to declare their right to elect their own Chairman of Parish Meetings, and his argument then was, "These people are members of the Church of England; do not change the rules of it to suit them; if they do not like it as it is, let them leave it." He (Mr. R.) would now say the same to his lordship, and those acting with him. The same reasoning would apply as well to a Bishop as a Layman, for a Layman was as much a member of the Church, and ought to feel as deep an interest in it, as a Bishop, Priest, or Deacon.

The bill would enable this Synod to expel from the Church as many as they choose. It would give them the power to say who should remain in, and who should go out of it.

It was said in the paper put forth by the advocates of the bill, that misrepresentation had been made by the opponents to it. Such was not the case, but gross misrepresentations had been made by the friends of

the Bill, though he would not say they were knowingly made. It stated that the object of the Bill was to take away power from the Bishop. This was a mistake: the Bill would give him great additional power. The Bishop referred often to his patent from the Queen, as if that conferred on him great and special powers over the members of the Church.

The Queen had power to appoint a Bishop, but she was utterly unable to give him a particle of power, more than that of a Bishop, whatever that might be. And if his lordship's patent contained more than this, it was so far inoperative, for her Majesty's own power in Church and State was limited by the law. As she could appoint a Bishop, so she could appoint a Judge, but to neither of them could she give more power than the office conferred.

When his lordship tells us he wants to limit his power, we must be excused if we are slow to accept the statement. Men are not so apt to give up power, and Bishops as a class were not the most likely to do it.

The power the Bishop now had was under control; but give him the Bill and that control is gone. The Church of England did not recognize the doctrine that because a man was a Bishop, therefore he should have unlimited power. It did not follow that a Bishop was necessarily superior in sanctity to other members of the Church, or in soundness of doctrine. It did not follow that a private member of the Church might not be a *better man* than a Bishop. The Bishop was simply a priest of the Church, and an overseer, and no one desired to take from him the authority which the office conferred on him. He might say to the petitioner, the Rev. Mr. Uniacke, "I do not like your doctrines, and I will suspend you." Would Mr. Uniacke therefore go out of the Church, or leave his Rectory? No, he had rights as clear and defined as the Bishop himself. If he deemed the doctrines he held sound and consistent with those of the Church, he could refuse to go out, and the question would then be decided by the Courts of the country. The Court would not declare which in the opinion of the Judges were sound doctrines, but they would decide what were the doctrines of the Church of England, and whether those found fault with were consistent or not with them.

The Bishop of Exeter declared that the doctrines of the Rev. Mr. Goreham were erroneous, and refused to license him in his diocese. Mr. Goreham appealed, and the Courts decided that the Bishop was wrong.

The Church people of Nova Scotia did not want a Bishop with greater or other powers than a Bishop possessed in England. The Synod to be legalized by this Bill would be under the control of the Bishop, and subject to none of the restraints which limit the power of the Bishops in England. There would be no appeal as there, and there would be no escape from its decisions but one—that of retiring from the Church. The Committee should remember that they were not asked to legislate with reference to the present Bishop, nor the present condition of

of the Church, but for all time to come, and no one knew what kind of men might hereafter hold the office.

When the Bishop talked of the majority for the Bill in the other Branch of the Legislature, and said that that majority would increase, and that therefore this House would eventually have to pass it, he (Mr. R.) told him that he was mistaken. If the people of Nova Scotia were pressing for a Bill in which they felt a deep interest, and thought their rights involved, he (Mr. R.) believed that a majority of the Council would not obstruct them, but it would not be so when to obtain this majority, his Lordship went to A, B and C and said, "Do vote for my Bill," and a majority of the House not being Churchmen, who cared little whether it passed or not, yielded to his request, which they could hardly refuse, especially when he would impress upon them that he was so overburdened with power that unless relieved of some of it the consequences might be fatal!

It was proposed that *all* the parishes should have an opportunity of saying whether they wished the Bill and would consent to be bound by its provisions. But, "No," said the Bishop to the parishes hitherto represented in the Synod, "I have got the yoke round your necks, and I intend to keep it there." A number of clergymen had been got together, who were subservient to the Bishop, and a number of individuals (styled lay delegates) subservient to the clergymen, and these constituted the present Synod. Now, how had these delegates been appointed? They were chosen at the Easter meetings, and at some of these meetings there were not enough persons present to move and second the resolution. This, or something like it, had been the case even at Windsor, where it was said they had to go out into the streets to get an additional man to enable them to effect their object. That was the expression of sentiment which was said to be overwhelming in favor of this Bill! At one of these meetings, though a resolution in favor of the Synod was passed, it was on the distinct understanding that the delegates were not to attend its meetings. But it might be asked, what evidence was there of the subserviency in the clerical and lay members of the Synod? Let reference be had to the extraordinary control given to the Bishop over all its proceedings, and the question would be fully answered.

If the friends of the Bill would comprize in it the Constitution under which they intended to act, he (Mr. R.) would be satisfied. He was willing to trust himself to the Legislature of Nova Scotia, for he knew that they would not infringe his religious more than his civil rights. There were many persons connected with this Synod, he feared, who did not tell his Lordship the truth,—they did not tell him what they told other people, or he would not press the measure as he did. He saw appended to the petition in favor of the Bill the signature of one gentleman who must have signed it without having read it, for as a lawyer he must have

known that the statement that similar bills had passed the Legislature was not correct, and referring to the Acts mentioned in the petition as similar in character was simply deception. (Mr. R. then referred to those Acts, and pointed out the dissimilarity.)

It was said that Synods and Church Councils had existed through all ages. But was there ever such a Council as this, in which one man could sway the whole body, and while possessing all the power, could throw all the responsibility on the many? When a resolution was proposed which was distasteful to the Bishop, there could be no debate, for having by the constitution of the Synod the power of putting his veto on any measure, by however large a majority carried, all his Lordship had to do to stop discussion was to intimate his opinion, for no men would be so foolish as to waste their time in discussing a measure, which they knew he would *veto*, and which therefore could not be passed.

It was said that a new constitution might be framed for the Synod. No doubt, but it would be framed by the same men who had framed the last, and under the same influences. The Bishop was always to be in the chair, and always in order, as it was expressed, so as to have the power of answering every person who addressed him, for the constitution provided that the Bishop or his commissary was to be the sole Chairman. He could leave the Chair at any time, and having left it the Synod ceased to exist, it was then denuded of power altogether. All that the Bishop had to do was to say: "Gentlemen, I do not like this debate which is going on," and if it should then continue, leave the chair, and thus shut out discussion on any subject not agreeable to himself. But suppose he remained, and nine-tenths of the Clergy, and nine-tenths of the Laity agreed to a measure, he could still say, "No, I will not assent to this," and thus defeat their united action. He did not believe that the present Bishop would exercise his control in that offensive manner, but one could soon find Bishops who would ride on the very top of their commissions, men who believed that they were always right, and every body else who differed from them was always wrong.

He might be asked, could this have been done by the present Synod? He turned to the present constitution and he found that it said in the eighth clause, "No vote of the Assembly shall be taken unless in the presence of at least three-fourths of those forming the quorum, *with the Bishop or his commissary presiding*,"—in the ninth clause: "No act or resolution shall be valid which shall not have received the concurrent assent *of the Bishop*, the clergy, and the laity,"—in the thirteenth clause: "That any proposition for an alteration of the constitution, &c., if a second time approved by majorities consisting of not less than two-thirds of the Clergy and Lay Delegates, and *by the Bishop*, shall be adopted." It had been said in answer to objections, that this Synod was in the Church what the Parliament was in the State,—there was the Queen.

Lords, and Commons, but what would be thought of the liberty of Great Britain if the Sovereign sat on the Throne throughout all the debates of Parliament, and was always in order in debate, so as to reply to each member as he spoke, could shut out all discussion when she pleased, and after all nullify their acts? It should be remembered that there are people to whom *religious* liberty was as dear, as *civil* liberty was to others.

It was true there were Church Councils in by-gone ages, but the best result did not always follow their deliberations, and for non-compliance with some of their iniquitous decrees, martyrs had suffered at the stake. A certain class in England and not the most Protestant portion were pressing for Synods and Convocations there, without success. The people of England knew enough of Synods to determine to do without them, and we had better follow their example. But no Bishop or Archbishop there in his wildest moments ever asked for such power as our Synod had given to our Bishop; and was this yoke to be placed on the necks of the Church people in Nova Scotia for ever? This constitution once adopted could never be altered without the consent of the Bishop,—that was one of its provisions. It must remain established for ever, unless a Bishop was found who was *really* willing to dispossess himself of power. Power is sweet to most men, and certainly not less so to ecclesiastics than to others. He was now speaking on general principles, and not pointing at the present Bishop. He did feel this to be a matter of great importance. He was not content to put his civil or religious privileges in the power of any living man, Bishop or Layman. There were in the Church of England persons who held peculiarly Protestant views,—others whose opinions verged to the other extreme. This Bill would give the majority the power of expelling the minority. There might be a minority of Church people in this Province, holding what were called evangelical views,—for though it did not follow that those who held those views were necessarily religious, yet they professed to value more highly *personal religion* than those who held opposite views, and laid great stress on outward forms and ceremonies,—pass the Bill and assuming the latter to have a majority in the Synod, the others could all be expelled. The Committee might say, "How is that? This Bill does not give any control over doctrines." Did it not? Not only was an Ecclesiastical Court in contemplation of the Synod, but it was actually in process of formation. A Committee had already gone out to frame a Constitution for a Court for the trial of ecclesiastical offenders. When the House was told that there was no intention to establish a Court, they were *deceived, grossly deceived*. It was intended to form a Court, and his Lordship would not deny it. If this Bill were passed, a Court would be formed that could try laymen and clergymen, and it was said even the Bishop himself. The Synod would have the right to do this, and they would exercise it.

There was no necessity for the change now sought, and while Ecclesiastical Courts in England were subject to appeal, *this* was to be final and conclusive, that when sentence was passed there, that sentence could never be appealed from. A large body—he would not say the best, but certainly not the worst portion of the Church of England—the English Non-conformists—were forced out of the Church in times gone by, by means not half so powerful as this. There would be Non-conformists in Nova Scotia before long if this measure passed. However good Churchmen they might be, forms and ceremonies, and novelties of all kinds could be sanctioned by it, and all made to conform, or be compelled to leave, and clergymen to suffer deprivation, if nothing worse.

In the paper published by the party who advocate the Bill—which they call a Church paper—he had seen a series of letters on the dress of the Clergy. It was said that it was absurd that a Clergyman should appear in the pulpit in a black gown, that he should always appear in white. Some might think this a small matter. But the importance of it was seen, when it was stated that while dressed in the white surplice the Clergyman was speaking the language of the Church, and that he put on the black gown when he went into the pulpit simply as one Christian exhorting his fellow Christians. Those who desired that the Clergyman should always wear the surplice, in fact said, Let the Clergyman in the pulpit speak authoritatively,—let him continue to speak there the language of the Church,—let him speak there with an authority that men must obey.

There was unfortunately enough to be seen in the Church of England to show not only that a man might be a minister and be a bad man, but that he might be a Bishop and be a bad man, and doctrines not always the same may be heard from the pulpit. Therefore the Church did not recognize as her language any thing that every preacher might say from the pulpit. The Synod might decree that we must have uniformity in our Church. As regards the Communion Service, it might be said that it was a small matter whether there were two tables or one: the petitioner (the Rev. Mr. Uniacke) might think otherwise. There were certain things in which the Church of England differed from the Roman Catholic Church. The Church of England holds that no change takes place in any of the elements,—that doctrine she adopted at the Reformation. But a party in the Church of England do consider that certain changes take place. Some call it transubstantiation,—others call it consubstantiation,—that on the one table the elements are *bread and wine*, when placed on the other table *something else*. Fancy Mr. Uniacke forced to have these two tables and recognize this doctrine, and be told that if he does not do so, he will be tried, and articles of impeachment preferred against him before an Ecclesiastical Court! At present the Bishop had no more authority to remove Mr. Uniacke, without good

cause, than Mr. Uniacke had to remove him. Suppose that a majority of the Synod considered Mr. Uniacke's views heretical, and assume his opinions to be those of Mr. Gorcham, and he was brought up on that account before an Ecclesiastical Court, who held views like the Bishop of Exeter. He would be convicted and deprived of his office in the Church, by a tribunal from which there would be no appeal, and the Council was asked as a favor to grant to his Lordship and his Synod this privilege! The Roman Catholics would not accept such a Constitution as this,—the Dissenters assuredly would not.

The Roman Catholics asked for corporate powers for their Bishop, —so did the Church of England for their parishes,—so did the Alumni of King's College, and they all obtained them. But no denomination that ever came before this House had asked to have a parliament of its own to enact laws and give decisions more binding than those of the Supreme Court of Judicature of the Province. It might be said that the Clergy would do what was *right* in this matter. On the contrary, they would probably do what was *wrong*. The present Constitution of the Synod would show what they could do. A worse constitution could not have been framed. There was nothing like liberality about it. The Laity were included in the Synod because use was to be made of them,—without them they could not effect their objects; but all actual power was taken from them.

His Lordship and others had said that the people of St. Paul's and St. George's were attempting to trample upon the rights of the Church people of Nova Scotia. He did not care from whom that assertion came,—he denied it. It was not true. The Churchmen in Halifax that opposed the Bill were acting for themselves. Whatever representations had been made by the opponents of the Bill, they had made them openly. He himself had never introduced the matter to any member of either branch of the Legislature, who had not first introduced the subject to him. At the same time he thought he would have had a perfect right to do so, and he did not find fault with those on the other side who had taken that course. The parish of St. Paul's was opposed to the Bill, but they did not call a parish meeting, because his Lordship had consented that a clause should be added exempting them from its operation. It was proposed that the parishes which had been hitherto represented in the Synod should have the opportunity of saying whether they desired to be bound by the Bill, or not. Why should they not have that right? Why should the Bill be forced upon the Church, when some of the most influential parishes were opposed to it? His Lordship himself once thought that was fair, as he (Mr. R.) could show by a letter under his Lordship's own hand. Now, however, he said, "Agreed or not agreed, they must submit, I will have the Bill." In 1856, he thought that the Bill should not be asked for until "the diocese was prepared to present

a *unanimous application* for it," and he (Mr. R.) would ask him if there was more unanimity now, with respect to the Synod, than there was then. Let his Lordship test it by inserting the proposed clause.

The parishioners of St. Paul's found—after they had resolved that they would not become parties to the Synod, or be bound by its acts—that their curates were attending the meetings, and, as they thought, compromising the parish. They accordingly said to those gentlemen: If you insist on attending the Synod, and carrying out its decrees in the parish, we will dispense with your services. The Bishop in the letter to which he (Mr. R.) had alluded, stated that every clergyman was "bound by a solemn oath to obey his Bishop in all things lawful and honest." The oath referred to will bear no such construction as that put upon it by his Lordship; but it is enough to show the want of independence in the clergy when he and some of them, such as the two he alluded to, considered that it did. We all took the oath of allegiance to the Queen, but that did not give her Majesty the right to implicit obedience in all things. That oath obviously meant obedience in those matters only *which the Queen has a right to command and the laws enjoin*. A Clergyman is bound to obey his Bishop when directed by him to perform the duties of his office and carry out the rules of the Church; but if he is bound under oath to do whatever his Bishop orders him, provided it is not unlawful and dishonest, he is nothing but a slave, for even a slave cannot be compelled to do what is unlawful or dishonest. Such a claim on the part of a Bishop would astound a Clergyman in England, and no such obedience had ever been exacted by any class of men, but the Society of the Jesuits,—a body which, though emanating from the Church of Rome, that Church had again and again been obliged to oppose.

The Bishop speaking of the Synod, said in this letter, "It will be a *deliberative* rather than a *legislative* assembly." Men were decoyed into this Synod by calling it not a *legislative* but a *deliberative* assembly, and then when it is proposed to make it a *legislative* body, they are refused permission to leave it! The Bishop went on to say: "The Home Government have recommended the Provincial Legislature to pass an Act of this kind for Canada, and doubtless we may obtain the same, *whenever the diocese is prepared to present a* UNANIMOUS *application for it, accompanied by the draft of a Bill previously discussed and* AGREED UPON AMONGST OURSELVES." He (Mr. R.) would ask, had this been done? Had the diocese presented a *unanimous application?* What did "amongst ourselves" mean in this connection? Did it not obviously include the parish of St. Paul's, to the parishioners of which the letter had been addressed?

There was the opinion of one who then regarded the rights of third parties. Now, there was something behind which caused him to alter that opinion.

The Bishop further says in this letter: "In the meantime the authority of the Synod is derived from the Bishop, who imparts to it a portion of his own legal power." Now, the Bishop had just as much *legislative* power in his diocese as this Committee, or the Bishop of London, or of Exeter,—and that was none at all. He (Mr. R.) was not content with any such Bill as that before the House. He did not want the Clergy to give up any of their rights. He did not want the Bishop to be able to attack the members of the Church through the Clergy.

(Mr. Ritchie here referred to the case of Dr. Hellmuth, an Evangelical Clergyman in the diocese of Huron, who had been traduced in the most violent manner, by the Bishop of Montreal, because he had stated at a public meeting in England, that in some of the dioceses in Canada, such influences were used against Evangelical Clergymen, that they could not remain there.) The untruthfulness of the Bishop's statements against Dr. Hellmuth, was soon made apparent, and at the same time the correctness of Dr. H's. statements, for whether by the Bishop's influence or that of the Synod, for they have a Synod there, they have but two or three Evangelical Clergymen in the diocese, for the Bishop on the statement being reiterated in Canada had retorted by pointing out *three* Evangelical Clergymen in the whole diocese who had not been excluded from it! It had been stated in the secular papers in Canada, that in the diocese of Ontario the Bishop was charged with having promised the best parish in the diocese to a clergyman who had been very active in canvassing for him in the contest for the Bishopric. The Bishop had accordingly given him the parish of Kingston, against the wishes—not simply of a *majority*, but, it would seem, of the *whole* parish. Charges were preferred against the clergyman by the parishioners, and a long controversy ensued. The Bishop finally gave the parties to understand,—he (Mr. R.) would not say he promised, but he led them to believe, in such terms that no suspicious man would doubt his meaning—that if they would withdraw the charge in which he himself was involved, he would have him removed, and another appointed in his place. They did so, and then the Bishop turned round and said, "The only real ground of objection you had to the Clergyman, you have given up, and now he shall remain!" This would show his Lordship what had been done in Canada, and what could be done by a Bishop.

Under all the circumstances he could not help feeling that if the House of Assembly had contained Churchmen that seriously considered the Bill, they would not so far have forgotten that they were Englishmen as well as Churchmen, as to have voted for it. He was not afraid that this Bill would gather strength, Session after Session. He trusted that the Bill would be defeated in this House now, and he thought that it would meet with the same fate in the other House, if again introduced there.

Some people seemed to think that there could be no Church without a Bishop, and that Episcopacy was the *only* form of Church government. That was not the opinion of many of the best Bishops of the Church of England, and had not been since the Reformation. They thought that Episcopacy was a form of Church government, authorized by the Scriptures, and they believed it to be the best. But some of our Clergy were disposed to go the length of holding that Churchmen were not entitled to be called such, unless they implicitly obeyed a Bishop and gave up all religious liberty. He was happy to be able to feel that he could be a Churchman without being a slave, and he well knew that some among the Clergy, and a good many among the Laity, entertained the same sentiment.

(Mr. Ritchie then referred to the Bishop of Capetown, who had suspended a Clergyman because he had refused to give notice of the meetings of the Synod. He also referred to Canadian papers shewing the action that had taken place with regard to the *veto* in the diocese of Quebec, where all kinds of unfair means had been used by the Bishop's party to elect delegates who would support the *veto* power.)

In conclusion he would ask the Committee,—on behalf of all the petitioners, on behalf of that portion of the Church who had never yet attended the Synod, and in that indirect manner had shown their disapproval of it—to refuse their assent to the Bill. He felt convinced that no man would vote for the Bill that understood the constitution of the Synod. The Church people in Halifax had read it and did understand it, and therefore opposed the bill. The Church people in the country, he believed, did not know its nature, and therefore did not oppose it, but when they did come to understand the question, they would join with their fellow Churchmen here in opposing it.

THE BISHOP'S FIRST SPEECH.

His Lordship the Bishop then addressed the Committee substantially as follows:—

Having heard the eloquent harangue of the learned Counsel on the other side, it now becomes my duty to address you. I appear before you at great disadvantage. I am called upon to address you as the representative of 50,000 people in this Province. It was only after sending in a protest against not being heard, that I secured this hearing. I heard everywhere, "The hon. gentleman who leads one side of this House is decidedly against you." I told you why I wanted this hearing. I said that I wished to put you in the position of *Judges*.

I objected to the other side being heard, not because I wished to silence them, but for a reason which I shall briefly explain. Suppose a party asks its opponents to come in and state their objections, and they do so, and those objections are removed, should they be allowed to come in and make further objections?

(His Lordship then referred to the petition from the parish of St. George's, read portions of it, and contended that everything that the petitioners asked had been granted in the Bill itself, the last clause, in his opinion, providing for it all, and being drawn, as he asserted, in the very words of the petitioners themselves.)

In conducting this argument, I occupy a very unpleasant position, and one which I should not have taken but from a strong sense of duty to the Churchmen over whom God has appointed me to preside. We ask, gentlemen, that our rights, as well as the rights of those two parishes, should be protected. The petitioners asked that the Bill should not pass in its then existing form. It has not so passed the House of Assembly, but has been modified exactly to meet the views of the petitioners; and therefore, I say, that they have no *locus standi* here. These gentlemen talk of Synods as if they were some new thing. Now I wish you to go back to primitive times. There was a Council at Jerusalem: that Council sent forth its decrees in the name of the "Apostles, elders, and brethren." From that time Synods have always been part of the constitution of the Church. Various Councils had to pass laws to compel Bishops to hold their Synods (His Lordship then referred to Burns' Ecclesiastical Law as authority for these positions, and observed that Burns stated that in Saxon times Bishops held their Synods

twice a year.) Some say that Synods are no part of the constitution of our Reformed Church. Now what did the Reformers do? Even in the time of Henry VIII. it was ordered that Synods should be held regularly, and it was recommended that they should be held in Lent. These acts were passed, and it was directed that thirty-two Commissioners should be appointed to consider the Canon Law, and frame one for the Reformed Church. An act was passed in the time of Edward VI., called the *Reformatio Legum*. The king's authority had been given to it, but the act itself was not signed by him in consequence of his premature death, and therefore did not become positive law. That act expressly provided that after the Commissioners appointed had reported, the laws which they recommended should become the laws of the Church of England. That was the order of the Reformed Church, and it only failed in consequence of the king's signature not being affixed to the act. We know what times came after this. The Parliament assumed power, &c.

Archbishop Dennison is not a High Churchman, and he gave £1000 that Synods might be held in the Colonies. One of the Bishops who holds very *Low* views, as they are called, crossed from Australia to obtain the sanction of the Crown to a Bill passed by the legislature for his Synod. It was then thought that the Colonies would go to destruction, if they were allowed to pass such acts entirely of themselves.

Now, what is a Bishop's authority? It is said that the Bishop seeks to have this Bill passed, because he wants more power. The Canon Law was confirmed by a statute of Henry VIII. I tell the Church people of Nova Scotia that very little that has passed since the Reformation binds them here,—all passed before that does bind them. (His Lordship here referred to *Gibson's Codex*, as authority for this position.) All the authorities agree that this act of Henry VIII. is still in force; the general principle of law being that Englishmen settling in a new Colony bring with them as much of the common law as is applicable to their state, and this not merely statute law, but what existed before the Canon law, for there is an *ecclesiastical* common law as well as a *civil* common law. All the acts of Parliament passed with reference to the Church of England do not apply here, save and except the Canons of 1603. Every lawyer will agree to this.

"A Bishop has always power to suspend his Presbyters." This is the decision of the Chief Justice of Cape Town, Judge Watermeyr. He held that Bishops were by law and custom the Judges of their own Courts, not only from Church law being the law of the land, but from the fact of Episcopal Churches having been acknowledged by the Legislature. This jurisdiction has been exercised since the seventh century. A Bishop possesses the powers of *admonition*, *suspension* and *deprivation*, and this must be admitted by all Clergymen who admit Episcopacy. Chief Justice Holt held that Clergymen who did not obey the Canons were subject to deprivation. (His Lordship then referred to Johnson's Eccles. Law, and Burns' Eccles.

Law, 2nd Vol.) Lord Denman held that the right to visit implies a Court. I rest nothing on the Letters Patent. That question is now before the Privy Council, in the case of Rev. Mr. Long,—which I think a very hard case. The Bishop had suspended, and then deprived him.

Take the case of a Colonial Bishop, it being acknowledged that his appointment is right, and that there is no question as to the prerogative of the Crown in making the appointment. What is the position of the Bishop here at the present moment? The learned Counsel says that I cannot proceed against the Rev. Mr. Uniacke, were I so disposed. I could, if I chose, require him to preach four times in the year, to the utmost of his ability, against all foreign powers within this realm. I could call on him to read the 141 Canons regularly in his church, every year. I could call on him, as things are now, to refuse even to receive a farther as sponsor for his child. A Synod might say that these rules ought not to be enforced. But under the existing law I have the power to enforce these rules, without a Synod. I would be very sorry to enforce these rules, but if I did my duty, I should call on every Clergyman in the Diocese to carry them out at the risk of suspension. Suppose that Mr. Uniacke refused to conform to these Canons, and I suspended him, and he appealed to the Supreme Court, the question would undoubtedly be decided against him there.

Mr. Ritchie has told us that though the *word* Court is not in this Bill, a Court must be intended by it. He leads your minds to something like the Supreme Court, a Court having power over all denominations, to compel attendance of witnesses, and so forth. There is no such power given by the Bill. Nothing we can do can affect any persons whomsoever, if they are not connected with our Church. The poorest man in the street, if he does not belong to our body, could say to us, where is your power over me?

This Bill is precisely like the act passed in Canada. The Synods there have applied for power to examine witnesses under oath, as the Crown undoubtedly exceeded its authority in giving this power in the Bishop's Patent. The Presbyterians have Synods—regular tribunals. Ask any gentleman belonging to the Wesleyan Methodists, who admit no laity at all to their assemblies, what is the power of their Conferences. I will tell you presently what they did with one of their own ecclesiastics at their Conference Courts. You must in every association, of whatever nature it may be, have rules and regulations to which all must be obliged to conform. Even as regards Freemasons, I am told that they have some very sharp practice which they can apply to refractory members. I do not say that it is a misrepresentation, when in that Petition it is stated that the object of the Bill is to give the Synod the power to enforce its decrees by the "strong-arm of the law." It is well known that we can frame no such ordinance.

Judge Hoffman, who is well known as a Churchman who has taken great pains in all Church matters, says in his work "If a minister of the Dutch Reformed Church were to appeal from the decision of the Courts of that

Church, I apprehend that the answer is plain that if such Courts have acted within their jurisdiction, their decision is final." That applies to all who take part in the Synod, to a Bishop as he stands without any Synod, or to the Synod standing as a *voluntary* association. I put it to any lawyer here, whether the Supreme Court has the power to examine any law passed by the Synod as a mere voluntary association without any Act, and to say whether it is unreasonable or not.

Dr. Warren, a minister among the Wesleyans, offended them by saying that the body was not altogether as good as it should be. I should have thought that a Clergyman of our Church should not be removed merely for making such a statement as that. Dr. Warren, however, was removed. He appealed, and the case was brought before Lord Lyndhurst. Lord Lyndhurst in giving his decision, said: "It is said that Dr. Warren has been harshly treated. With that we have nothing to do. Whether the power of the District Committee has been duly exercised or not is a question with which we have nothing to do. With respect to this I have no jurisdiction. A particular tribunal was established, and the question at issue was peculiarly for the decision of that tribunal—the District Committee. They have acted *legally*, whether they acted *wisely*, *discreetly*, *temperately*, or *harshly* is not for me to say."

This matter is now not a mere question of a Synod Bill, but a question as to whether *all* the parishes in the Diocese are to be controlled by *two* or *three* parishes.

I tell this Committee that of fourteen Churchmen in the Lower House, representing the popular feeling, not one voted against this Bill. It is said that they were *entreated* to vote. *I* did not entreat them. I asked them to meet together as Churchmen. One gentleman of this Council was present at that meeting. I read both the Petition and the Bill to them. I said to them, I wish that we should all be united in this matter. I said if there is any difference of opinion, it had better be settled among ourselves before the Bill is introduced into the House.

The learned Counsel referred to a Bill introduced by the parish of St. Paul's, to apply to the whole Province, and he says this is a similar case. In that case one parish asked for an Act to apply to the whole Province, without giving them time to consider it. In this case nearly fifty parishes, after eight years' consideration, and having had their attention particularly directed to the matter, ask for this Bill, and yet he tells us that the cases are similar.

Mr. Ritchie says that the Bishop has come and spoken to members here. I ask you whether it is quite correct that one of your own officers, who is always here and has every opportunity of influencing members, should be the person prominent in this opposition. I appear before you only once, but he, as your Law Clerk, has naturally greater opportunities of influencing members than I have.

In the Cardross case Lord Ivory declared that the Free Church in

Scotland was in the same position as any other Dissenting Church, that she might regulate the appointment and deposition of her own ministers, make her own judicatures, and, if the decisions of the latter do not exceed their powers, they are final. Lord Ivory further said that it was beyond the power of the Civil Court to review the decisions of these tribunals on their merits, that if temporal loss attached to the spiritual cure of souls, the sentence must still be looked at as a spiritual sentence.

In the Diocese of Natal, proceedings were taken against a Bishop for malice, and the Judges dismissed the case.

The remarks about Mr. Gorham and the Bishop of Exeter have all been answered. I would take up no questionable ground,—I would take the Canons and go on under them.

Now we are asked why Synods are necessary. In the first place I have shown you that they are no new thing. I will show you that our circumstances have changed. I believe, myself, that the Act of Uniformity does not apply here. While I have shown you that we are left almost entirely without authority, the Clergy are bound by their subscription. Fortunately they can be brought up by that. I say, again, that the most able lawyer cannot tell by what regulations the Clergy are bound. He can tell to a certain point, but he cannot tell where they can escape. The case of Mr. Long proves this. He, on his conscience, thought the Synod illegal, and refused to give notice of its meetings. The Bishop sentenced and deprived him, and that sentence was confirmed by the Supreme Court. The matter has now been referred to the Privy Council; but, suppose the Clergyman gains the case, is he not a ruined man after all? Is it right that the Clergy should be left in this position? In another case, at Sydney, the Bishop attempted to use the forms of law, and to give an offending Clergyman the protection of law; but it was held that he was wrong in doing this,—that he must go and sit by himself and decide the matter. I ask, are the Clergy in a position in which any large body of men should be left? I am much obliged to the learned Counsel for his complimentary remarks as regards myself. A violent man might keep his Clergy constantly in hot water.

We have been told that there is no manliness, no independence in the Clergymen who meet in this Synod. We are told that these Clergymen are dependent on the Bishop. Now, except a few of the older ones, they are mainly dependent on the people. Some of them are partly paid by Societies at home, but they cannot draw one sixpence of their salaries from home, unless the people pay their share. Some say that a Synod is a very good thing, but that the *time* for it has not yet arrived,—that we must wait until the Clergy are more independent. I should say that the danger is rather that the *people* should exercise pressure. I think I may claim for myself, probably, that I know more about this subject than most persons. Ever since 1854 I have carefully watched everything *pro* and *con* that has occurred with regard to it, and I am decidedly of opinion, and I speak to you as

Churchmen, that unless we have Synods in action, this Church will very soon be in a state in which neither you nor any other gentlemen would like to see it.

I have heard it stated, "some voted for your Bill because they are opposed to your Church, and they thought it would injure it." I believe that is a libel. At one time there was a very great prejudice in this Province against the Church of England, but I believe that has passed away. We are but a small body,—we can do nobody any harm,—we simply ask to have our *rights*. I believe that members of other denominations will be found voting for the Bill. I believe after the statements made in reference to the matter, nearly, if not every member of this honourable House will vote for us. I have now the difficulty of dealing with this Committee. That difficulty is got over by enabling me to call on them as *Judges*. The same objection as is made to this Bill has been made to progress of any kind. The same objection was made to constitutional government.

It has been said to me here, "The people in the country are asleep with regard to the interests of the Church, because they think that everything is managed by the Bishop." The Bishop is sure to be guided by some advisers, and the simple question is, "should he have a few persons in the city, or individuals representing the whole diocese." Under the present system, we have in truth the old Council over again. My grandfather was one of that Council, and no doubt they did very well, as well as they could, but the country was not satisfied. The Bishop here lives in Halifax, and the country is not satisfied—whether with reason or without reason—that the Bishop's Council should be composed merely of gentlemen residing in Halifax. Churchmen come here, just as this whole Province went to the British government, and ask to be represented.

Some say that they approve of Synods, but object to the *veto*. This is very plausible. The whole objection amounts to this, that they consider the Synod *too powerful*. If the Synod has any power at all, it will be to diminish the power of the Bishop. I was astonished when I heard the learned Counsel tell you that the Bishop might introduce a resolution without any seconder, and pass it by his own vote. He cannot of himself do one single act. The utmost that the Bishop can do is to say, "Gentlemen, you are proceeding too fast." Anybody can see that the *veto* is simply a *dragging* power,—not an *impelling* power. He can only check the power of the Synod.

The learned Counsel says that no man of any independence can sit in this Synod. These rules are precisely the rules and system under which the first men in the respective Colonies sit. In Australia,—in New Zealand,—in twelve dioceses, the first men in the land sit in these Synods. Go to Canada and you find Lord Aylwin and nine gentlemen with the prefix of *honourable* to their names, forming part of one of the Synods. I do not like to be personal, but look at the names of the gentlemen who take part in our own Synod, and can any one say that no man of independence can sit there?

Synods have become so much a part of the Constitution of the Church in the Colonial dioceses, that the Colony without a Synod is an exception. It is so also in the United States.

Synods are necessary where there is no Parliament to legislate for the Church. If this House will pass all the rules that we require, then we shall not need a Synod; but I consider that the wish here is that the Church should be separate as far as possible from the State. You will see that it was the opinion of the Secretary of State, that in order that the Church of England should be placed in the same position with other denominations, Acts should be passed by the Colonial Legislatures.

A pamphlet has been freely distributed here, by which the members of the Church are constantly reminded of the evils of Synods,—the main objection being that they are an infringement on the supremacy of the Crown.

It is supposed by many persons that Clergymen here are under disabilities. Take the case of a pious evangelical young Clergyman Suppose the Bishop to be a very High Churchman. The evangelical young man does not wear the right kind of a night cap, or something of that sort, and he is removed. This is what could easily be done *without* a Synod. I had myself to remove a Clergyman, and he will never forgive me for it. I induced him to resign, but it was very unsatisfactory both to him and myself. He was not satisfied because he had no trial.

Churchmen are merely asking for an Act which they think they require for the management of their own affairs. We are not fairly represented in this House. There are only four gentlemen here belonging to the Church, and I doubt whether they know the feelings of the people with regard to this Bill. More than one-fourth of the representatives of the people who do know their feelings,—all the Churchmen in that body voted for it. The Rector at Shelburne is strongly in favour of the Bill.

As regards the proposed clause, I may say in the first place, that the Committee appointed by the Synod to see to the passage of the Bill, have no power on behalf of the Church to accept any such clause. This amendment was moved in the lower House. The clause assumes that the Synod is a mere voluntary association, which members of the Church can join or not. I contend that it is part of the constitution of our Church, and that it is merely accidental that Synods have not been regularly held. The Bishop of Fredericton does not approve of giving the laity a voice in the Synod.

Mr. Ritchie.—He proposed a Synod to them in New Brunswick, but they rejected it.

The *Bishop.*—Though he proposed a Synod, he really disapproved of the Laity having a voice in it. He said: Meet together in your parishes,—come together and reject it, and then I shall be free. He really did not wish to have a Synod at all, and only wanted a plausible excuse to get rid of it. Now, I wish Churchmen to have a fair opportunity of giving their opinion on

all matters connected with the Church. I therefore took advantage of the Visitation year when every Member is obliged to attend. I sent circulars to the Clergy, in which I said to them, "I trust you will endeavour to make such arrangements as shall ensure a discussion of this matter in a fair and impartial manner." The Clergy and Representatives of the Laity came together, and it was carried by four-fifths of the Clergymen present, and by three-fourths of the Laymen, that we should have a Synod. Except from the parish of Wilmot, I have received no objections or reports against it. I thought that even the parishes in Halifax intended to come in.

We want an Act of Incorporation. I ask you to consider the consequences of rejecting this application. My difficulty in urging this question, is, that I have nothing substantial to deal with,—nothing but shadows. The objections on the other side amount, in fact, simply to this:—

> "The reason why, I cannot tell,
> But I don't like you, Doctor Bell."

There are about 4,800 Church people in the two parishes of St. Paul's and St. George's. The parishes of Liverpool, Shelburne, and Yarmouth, contain some 4,280 persons belonging to the Church. Why should two parishes in Halifax be heard rather than these three?

The *Church Witness* is not very favourable to Synods, and that accounts for every argument against them being found in that paper.

As regards the *veto*, the Bishop cannot exercise the right of *veto* for any length of time any more than the Queen can. This Synod is the most democratic assembly in the Provinces, for the representatives have to answer to their constituents at every meeting. It is true that there is no *veto* in the Synods in the United States, but there is a House of Bishops, which is in the same position as this Council was once.

The learned Counsel has told you that it is utterly impossible that a Bishop should wish to give up power. I reply that it is natural to every one to become very much interested in a work in which he is engaged. A Bishop having so much entrusted to him, and having heavy responsibilities, does take an interest in the real welfare of the Church. I believe that this is ordinarily the case,—and it certainly is so with me.

It may be said that a Bishop advocating popular rights is something new. We have heard, however, even of Kings granting constitutions. I do not think that I should be wise in taking the position which Sir Colin Campbell took. I have learned a lesson from the study of history at all events. I have treated the poorest members of the Church with as much courtesy and attention—not condescension, for that is a very different thing—as the richest. There is nothing strange in this, for I have been brought up to it. From my earliest days my father has been constantly appealed to by every oppressed man. I have known him to spend hours and days hunting up the oppressor. Because I am a Bishop I cannot throw off the feelings which I have thus inherited.

A pressure has been brought to bear on me. I have been told that if I had this Bill passed I should alienate the monied gentlemen who support the Church. I am ready to submit, and the Clergy say so with me, to any deprivation, rather than surrender what we believe to be our rights. *We will not sell our birthright for a mess of pottage.* I pledge myself that I would rather give up all comforts and superfluities than do this.

This question is no question now of a mere Synod Bill. It is now this: Shall the voice of these fifty parishes have no effect with you, because just around your neighbourhood a few wealthy gentlemen say they do not like this Bill, and they will contribute no longer to the Church if you pass it? I am ready to take my share of the consequent loss. Nothing but a sense of right and duty has prevented some of the Clergy from succumbing to this pressure. I hope that I have learned from my Divine Master the lesson that the poor man, depriving himself of almost all the necessaries of this life to support his Church, has really contributed more than the rich man who gives of his abundance, and I respect him accordingly.

The hour for the meeting of the Council having arrived, the Committee here adjourned.

THE BISHOP'S SECOND SPEECH.

WEDNESDAY, March 25, 1863.

THE Committee met at 10 o'clock, A.M.

His Lordship the Bishop enquired whom Mr. Ritchie represented.

Mr. Ritchie.—The parish of St. George's, the parish of Wilmot, and lastly, myself,—also influential persons in St. Paul's and St. Luke's.

His Lordship then addressed the Committee substantially as follows:

I regret that I had not employed Counsel to conduct this argument, but it is now too late to instruct them. I have had put into my hands a curious document with no name to it. (His Lordship here exhibited a printed paper, entitled "Remarks upon the statement of facts in favour of the Synod Incorporation Act.")

Rev. F. Uniacke.—I acknowledge it, my Lord.

The Bishop.—I never heard of this paper until very recently, and I am not at all surprised that it was not sent to me,—for it is certainly a most extraordinary document. I am very glad, however, that it has come up, for this paper being one specimen of the opposition to the Bill, I ask you from it, gentlemen, to judge the rest.

No. 1 of this paper says that the Endowment Committee is incorporated. I answer, it is *not* incorporated.

This paper comments on the statement that "other religious denominations have obtained such Acts as they required." I did not say that these Acts are exactly similar in all respects, either to one another, or to the Bill now before you. You, however, pass Acts for other religious bodies, giving them power to frame bye-laws, &c., and to enforce them with the strong arm of the law. Such Acts, then, are the same in principle as this, and those powers you invariably grant. This Bill contains a clause stating that the Synod shall not interfere with any person not belonging to the Church of England, and also a clause that it shall not interfere with any parish not represented. A lawyer belonging to the Wesleyan Methodists at once acknowledged to me that powers of the same kind were enjoyed by that body, as are sought for by this Bill. The Methodist Conference consists of ministers alone, and its constitution is based on a Deed in Chancery, enrolled by John Wesley. I trust

that no Churchman will be found to make objections, should they apply to have the laity represented in their Conferences.

Chapter 51 of the Revised Statutes is most similar to this Bill. The learned Counsel will not say that this Chapter does not enable congregations to frame rules to be enforced by the strong arm of the law. The fifth clause of this Chapter says: "The members of every such congregation may meet when they shall think proper, and at such meetings by the votes of the majority of the members present, may make and put in execution such regulations not being contrary to the laws of this Province, nor to any rule or regulation embodied in the Deed, under which the congregation or society may be constituted, as the majority shall deem necessary for the government of the congregation, and such regulations may change as they may think proper, &c." This clause differs from the Bill before you, in one respect. The clause considers every congregation as a separate Church. The only point, therefore, for your consideration is, will you allow us to meet *by representation?* In all other respects this clause is precisely similar to the Bill. I ask, is it possible to frame any clause giving greater power to the members of a religious body to enforce their regulations by the strong arm of the law, than you have here given to every religious body in the Province, except ourselves? We are exempted from it, first, because the last clause of the Chapter expressly exempts us, and secondly, because we do not agree to the principle of every congregation being a separate Church.

An addition was made to this law by Chap. 28 of the Acts of 1860, giving, if possible, still greater powers. I do trust that before you decide upon this matter you will look at these two Acts, and consider whether you can possibly refuse to the Church of England, a privilege which has been granted to every other religious body in the Province.

In the Act to incorporate the Educational Board of the Presbyterian Church, (Chap. 68 of the Acts of 1861,) the Legislature seem to give legal sanction to the tenets of the Presbyterian Church, for the seventh clause contains these words: "If at any time hereafter, the Synod shall unite with any *Orthodox* body of Christians * * provided that * * the united body shall profess and adhere to the constitution and principles of the Westminster standards, &c."

You have actually passed an Act to declare the tenets of the Presbyterian Church of Nova Scotia, Orthodox! This is rather extraordinary in these days, when there is no connection between Church and State. I do not ask the Legislature to express any opinion as to the doctrines of the Church of England,—I should be sorry to do so,—but I am merely showing you what you have already done.

The learned Counsel referred in very strong terms to a gentleman present, who is as respectable as any gentleman here.

I referred to the Acts incorporating other religious bodies, simply to

show that the principle of representation has been previously admitted. There is another Act to which I attach more importance, and to which I shall now call your attention. It is the Act based on the union between the Presbyterian Church of Nova Scotia and the Free Church (Chap. 68 of the Acts of 1862). That union was strongly opposed by one very leading member of one of these bodies. The Act deals in rather a high-handed way with all the property of these bodies. They were not unanimous in desiring this union or this Act, and the Act expressly states that they were not, and yet the Act was passed. I am told that many gentlemen object to the passage of this Bill because we are not unanimous in desiring it. Yet this Act was passed under just such circumstances, and the sixth clause declares that the provisions of the Ac shall not extend to the Church or the Church property of the Rev. John Gunn, of Broad Cove Intervale, in the county of Inverness, and other of his preaching stations, or to the Churches or Church property of any of the congregations formerly in connection with the Presbyterian Church of Nova Scotia, or with the Free Church of Nova Scotia, which, by the vote of a majority of such congregations, passed at a public meeting thereof duly convened within three months after thirty days' public notice given by hand-bills posted in at least five public places within the limits of the congregation, declare their desire to be excepted from its operation. This Bill contains a similar clause providing that no parishes but those which have asked for the Bill shall be subject to its operation, if they wish to be exempted. In fact, I have gone so far to meet the objections to the Bill, and to conciliate its opponents, that there is now really no petition against it. This answers the only objection which I have heard urged against the Bill with any pretence of reason. Let those who wish for this Act, who think it will be good for them, have their wishes granted. In Australia it has been held that there can be no Church of England out of England. Without an Act of this kind we are in great danger of separating from the Parent Church.

This paper says, "One of the chief and express objects of the Synod is avowed to be to appoint certain persons, and to frame rules and regulations, &c." Now I am sure that the learned Counsel will tell you that nothing that we can do, either with or without any Act, can deprive any man of his civil privileges before any Court in the Province. Every man has a right to appeal from any Court you choose to establish to the Supreme Court, and he has a right to his privileges as a citizen. We are not asking power to form a Court in any manner, except as enjoyed by every other denomination,—we are all in the one boat, we are all in the same position. All who now submit themselves to the Synod are now bound by the ordinances of the Synod, whether they are in accordance with the observances of the Church, or not.

I now come to the most surprising statement, and to which I hardly

like to apply the terms which it deserves. It is said that "at the last meeting of the Synod an amendment not to apply for a law was put. when there voted—Clergy, 9 for, 23 against; Laity, 1 for, 14 against." Now, instead of 23 Clergymen on one side, and 9 on the other, there were 28 on one side and 7 on the other.—and instead of 14 Laymen only voting in favour of the application for the Bill, 17 Laymen voted for it. I never expect to have two delegates from each parish,—I generally expect to have only one. I have taken extraordinary pains to collect the opinions of the people. with regard to the Synod. In 1856 I sent circulars to the Clergy, requesting them to issue notices with regard to it. In 1858 I wrote to them again, stating that I hoped that representatives would be elected able and willing to attend in October next, when the business of the next meeting would be transacted. In 1860 I called special attention to this application to the Legislature. I was not here in Easter, 1862, but in the notices for the election of delegates at the Easter meeting of that year, this application was specially mentioned. Some parishes have always elected delegates to the Synod. Some very poor parishes pay the expenses of their delegates,—many do not send delegates, but they elect them to show that they will be bound by the acts of the Synod. I therefore hold that these parishes knowing that a certain measure was to be discussed, and having had time and opportunity to oppose it, and not having done so, and having elected their delegates, the decision of the Synod must be regarded as the decision of the whole body of the people.

Give me a man of flesh and blood to contend with, and I know what I am doing, but these shadows fly about. I have not heard anything that can be called a real objection to the Bill. The whole substance of the opposition is:

> "I do not like you, Doctor Bell,
> But the reason why, I cannot tell."

In answer to the statement as to the Legislature of Canada having recognized the claims of the Synods for incorporation, it is said in this paper, "The case of Canada is not in point. When the proceeds of the sale of reserved Church lands in that Province was apportioned, it was decided that the amount belonging to the Church of England should be given over to the Church Society of each diocese; it was necessary in consequence that that body should be incorporated, in order to take charge of it." In all this there is not even an attempt to meet the statement that the respective Synods in Canada have been incorporated by Act of the Legislature. We are told something about the Acts of Incorporation of the Church Society. The whole opposition to the Bill is based upon just such absolute fallacies as this, which have nothing whatever to do with the point at issue. Of course you are not bound by the legislation of Canada, but when I show you that the Legislature of such a country as Canada—a large independent body not at all biassed in

favour of the Church of England—has passed, with an interval of two years, Acts incorporating Synods, it is a strong reason in favour of your granting this application. Both Houses of the Canadian Parliament passed an address to the Crown, requesting that a Bill might be introduced into the Imperial Parliament to remove the supposed disabilities of the Church in Canada. It was then supposed that only the Imperial Parliament could do this. The objection, however, was made in the British Parliament, that to pass such an Act there would be interfering with the privileges of the local Legislature. Mr. Labouchere wrote out then to the Governor-General, recommending that an Act should be introduced into the Canadian Legislature to accomplish the object for which that body had petitioned the Crown. This was done in 1856, and an Act was passed providing that the Bishop, Clergy, and Laity should meet in Synod. There was the difficulty, however, that the representatives of all the parishes in Canada could not conveniently meet together in one place. Another application was accordingly made to the local Legislature in 1858, and Acts were passed incorporating the Synods of the different dioceses into which Canada has been divided.

This paper commenting on the statement that "Restrictions apply to Colonial Branches, &c.," says: "No restrictions are specified, and Clergymen who have long officiated in the diocese have not experienced any." The restriction is that leading lawyers, even in England, until very lately, supposed that we were prevented from holding Synods by the Act of submission (25 Hen. VIII.), and it was supposed that only the Imperial Parliament could remove these disabilities. Now it is known that the local Legislatures have this power. Mr. Long states that the supremacy of the Crown is the doctrine of the Church, and while it is such, he believes that Synods are illegal until they receive the authority of the Crown, or the sanction of the Legislature. Grant us this Act which removes this difficulty, and we hope to induce the few who are still keeping aloof, to join us. The last observation in this paper is, with reference to the parishioners of St. George's. Commenting on the statement that "the parishioners of St. George's have stated that they have no desire to prevent their brethren, &c," it says: "They have no desire to interfere, so long as it remained a *voluntary assembly*, but protest against its Acts being made binding upon all over whom this Bill will give them power, without having the privilege of receiving or rejecting it, and upon future generations and new parishes, who will have no option to exempt themselves from its control." Well, the petitioners have certainly done their best to oppose the passage of the Bill. I have shown you that Synods are part of the constitution of the Church of England. The *Reformatio Legum* is constantly referred to, as, though not binding, showing the opinions of those whom we most respect in our Church. If the King's name had only been affixed to it,

we should have had Synods every year. The Parliament in England, in consequence of the Church of England there being an established Church, has always legislated for the Church, and consequently Synods fell into disuse, because the laws and regulations were made by Parliament, which otherwise would be made by the Synods.

It has been hinted, rather than said, by the learned Counsel, that this Synod movement is the act of a *party* in the Church. Now the Bishop of Melbourne went home for the express purpose of getting an Act passed to establish a Synod in his diocese, and he is not a High Churchman. (His Lordship here read from the circular letter of the Bishop of Melbourne on this subject.) As regards the legality of Synods, we have the opinions of such men as Sir Fitzroy Kelley, Mr. Bethell, and Mr. Stephens. The learned Counsel says that all kinds of tyranny can be exercised under the Bill. My answer is,—much more without it. This objection applies to all representative institutions. We find even in our Legislature that Acts are occasionally passed by the majority which bear a little hard on the minority. We cannot help this, if we are to have representative institutions at all. The question is, whether it is not better, as human nature is constituted, to trust to a body of people to make regulations for themselves, than to leave it to the arbitrary power of any one man. There are many cases in which the Bishop has the power to make regulations which might not be proper,—but you are now asked to give this assembly the power to legislate for themselves. The people who are to be under the rules are the people who are to make them. Synods have not been introduced into India, because other representative institutions would have to follow. There is no Synod in New Brunswick, because the Church paper there is opposed to the movement. I ask if my method—to let both sides be heard—is not fairer than that pursued there? The late Chief Justice and Mr. Cogswell were opposed to the establishment of the Synod. I asked them to go where they might hear the other side. The establishment of the Synod was then carried by a large majority, the opponents of the movement being in a minority of 1 to 4, or 1 to 5, and it is difficult to get people to attend these Easter meetings. Even in Halifax, I understand that it is difficult to do so, except on some very exciting occasion, such as the discussion of the question of opening the pews, on which, by the way, the learned Counsel and myself are both of one mind.

The learned Counsel has said: "The members of Synod do not tell the Bishop the truth,—they do not tell him what they really think." Your Chairman has taken an active part in all our Synods, and I appeal to the other members of this Committee, and I ask you to say when we have such men as your Chairman, Mr. Fairbanks, and the two Messrs. Hartshornes, whether they are persons who are so completely mesmer-

ized that they do not speak their minds, and not only so, but do not tell the Bishop the truth! I can only say that the Bishop is to be pitied if he cannot get men to speak the truth in his own Council. If he cannot get people there to tell the truth, what will he get out of it? Men in authority will have advisers. If the Bishop has not *recognized* advisers, he will have *unrecognized* ones,—therefore the Clergy wish to have an assembly where the Bishop can receive advice from those who, from their position, are competent to give it. The learned Counsel says: "Some Bishops think themselves bound to enforce things with a high hand." I admit that they do sometimes. My brother at Cape Town carries things with rather a higher hand than I should. The learned Counsel tells us what the Bishop of Newfoundland did. Could he have done that if he had had a Synod? To a man the Clergy and Laity would have exercised the veto. But there was no Synod, and hence the difficulty.

If the two Houses of Parliament will pass laws for us, as the Imperial Parliament does for the Church in England, I am quite ready to take the position of the Church in England; but if you will do nothing for us, give us the power to do something for ourselves.

The learned Counsel says: "Give me a Constitution that a man worthy of the name of a man can sit under, and I am with you." I point out to him, and I ask you to consider, who the gentlemen are that sit with us under the present Constitution. We have nearly all the Clergy, and such Laymen as I have mentioned.

The leading men not only of the Church, but of the State, in Canada, Australia, and New Zealand, sit in these Synods. In Canada, ten or eleven gentlemen with the prefix of "honourable" to their names, sit in the Synods there. The Governor of New Adelaide is a member of one of these Synods.

The learned Counsel has said: "The Bishop will, some day, be able to expel every evangelical Clergyman from the diocese, because they are the minority, and they are the most pious."

Mr. Ritchie.—I said that they professed to be guided more by personal piety than outward forms.

The Bishop.—I am very much inclined to call that *sheer nonsense*,—such nonsense that I cannot treat it as an argument at all,—but I will say this: that the power so much dreaded—the *veto*—must be exercised in favor of the minority. That appears to have been lost sight of. People fancy that the *veto* gives the Bishop power to *do* something. Mr. Ritchie has said: The Bishop can, without a seconder, introduce a resolution and pass it by his own *veto*. I am sure that the learned Counsel never meant to ask you to believe that. He must have meant something else which he did not express. I must repeat that the *veto* used in its most arbitrary form cannot enable the Bishop to do anything. It is simply a *check*, a *drag*, and can only hinder rash action. If a measure is passed by the Clergy and Laity, however distasteful it may be to the Bishop, all he can say is—Stop a little,

consider this matter a little more. My own feeling,—my own idea of the power of public opinion in these days is such that I care not who may be Bishop, if there is a very strong general feeling in favour of any measure, we may put it off once, but we cannot put it off long.

Speaking of a *veto*, see what the Colonial Secretary has done not very long ago. In February, 1860, the Legislature of New Brunswick passed an Act, and in April the Colonial Secretary writes: I have recommended Her Majesty to disallow the Act. Here is a gentleman sitting in London, knowing nothing of the Colonies, and very much influenced by what he may hear by public and private communications, coolly saying, after half a session has been spent in debating a measure: I must advise Her Majesty to disallow it!

Mr. Ritchie.—That was not an Act affecting their local affairs.

The Bishop.—The objection here is that it is referred to the United Kingdom.

That unhappy man—Bishop Colenso—cannot be dealt with in England. Lawyers give it as their opinion that he can be deprived by the Synod of Cape Town, and the Bishop of Cape Town has taken proceedings against him in his diocese.

Mr. Ritchie has objected to the wearing of the surplice on particular occasions. I should be happy to receive a letter from him on the subject, or any gentleman on the other side of the question. The letter to which he alluded was inserted in the *Church Record*, just for the purpose of eliciting discussion. I have no wish to force any Clergyman to use the surplice. I believe that it would be much more simple and convenient, when the communion is celebrated, to allow the Clergyman to wear the surplice throughout the whole service, as it would save him the trouble of going up and down the Church. As long, however, as I am allowed to wear the same dress all through the service, the Clergymen are perfectly welcome to change their dress twenty times if they choose, except that in some parts of the service, as the learned Counsel himself admits, they must wear it.

As to the Communion, the Privy Council has decided that a *second* table must be used. It was my duty to call attention to this, as the Privy Council is the highest Court of Appeal, *but I have never attempted to enforce it.* It is said, the Bishop has lent himself to a faction. I have nothing further to say to this than that the facts are as I have represented them.

I give the learned Counsel credit for a great deal of bravery, when he introduced a matter which I had rather have passed over in oblivion. He occupied some time in descanting on certain transactions in St. Paul's parish. Certain leading gentlemen of St. Paul's accepted at once the resolution which granted them all that they wished, and I am very reluctant to pass by his observations without some remark. I may, however, make some statements which may, perhaps, have some effect in showing what weight ought to be attached to the opinion of the learned Counsel in any matter in which he is

much interested. There is no man in this city, to whose opinion on a point of law, where he has no personal feeling, I would rather defer, than to Mr. Ritchie's; but I cannot say the same when he takes up any matter which touches his feelings. It is a good thing to be zealous in a good cause, but I must say that occasionally his judgment is a little influenced by his feelings. He noticed first the application made by St. Paul's parish to the Legislature, to change the law of the land for the whole Province, and he actually asked you to believe that this was a similar case to the whole Church coming together and asking you to pass an Act to which St. Paul's parish objected.

Mr. Ritchie.—I was referring to your Lordship's action in the matter.

The Bishop.—But I take it just the other way. We will take it in that way. The learned Counsel called your attention to the fact that St. Paul's parish had suddenly introduced a Bill to alter the system of holding Church meetings throughout this whole Province, which was interfering with the system throughout the whole world,—and to the fact that I handed in a paper containing what I had to say on the subject. I ask members to consider this whole matter. I may mention that the same gentleman who introduced this Bill was the Law Clerk, but here he was able to use every influence in his power. I wish to tell you what ground I had for asking the Legislature not to pass that Bill hurriedly. I applied to gentlemen whose authority may be considered as high as any.—the Hon. Mr. Johnston and S. P. Fairbanks, Esq., Q.C. They independently gave their opinion, and it is this. (His Lordship then read Messrs. Johnston and Fairbanks' opinion.—that the Rector was by law *ex officio* Chairman of all parish meetings.) I ask you with such opinions as these was I not right in coming personally to express my views, and asking that the country parishes should be allowed to express their wishes, for I believe there is not a single parish except St. Paul's that does not wish to have the Chair at these meetings occupied by their Clergymen. At the present moment St. Paul's is the only parish where the Rector is not allowed to take the Chair. I do think that when the Rector has not the confidence of the people, so far as to keep him as the Chairman of their meetings, it is high time that he should go somewhere else.

I must now come to a more painful matter,—the letter put in by the learned Counsel. I must tell you the origin of this letter. That letter was written on behalf of two men whom I considered to be hardly dealt with. It may, perhaps, savour a little too much of the character of an advocate. I say at once that what I felt I put in the strongest sense I could consistently with truth. The two Curates of that parish attended the first Synod that was held. The learned Counsel knows that they were required to say whether they meant to attend in future, and whether they intended to enforce the decisions of the Synod. These two gentlemen answered rather hurriedly, and upon the receipt of their letter came this resolution of the parish of St. Paul's:—

"On hearing the letters of the Rev. Mr. Bullock and the Rev. Mr. Maturin, in which they intimate to the parish that they will attend the Synod or Diocesan meeting of Nova Scotia, and that they will feel themselves authorized to carry out the canons and regulations of that body within this parish, notwithstanding that the parish has thrice resolved that they would not recognize the assembly, or send delegates, or be bound by its Acts:

Resolved,—That this parish cannot allow the canons or ordinances of the Synod to be carried out within it, against the consent of the parishioners, and therefore should the Curates adhere to their present determination, it becomes necessary for the parishioners, however painful to their feelings, to decide that the connection which has hitherto existed between the Rev. Mr. Bullock, the Rev. Mr. Maturin, and the parish, shall cease at the expiration of the present year, ending Easter 1857."

A resolution was moved in amendment, but was lost. It was supposed that the Curates would be dismissed for acting in this matter according to what they considered was in accordance with their consciences. I felt it to be my duty, when they had acted according to their consciences, to do what I best could for them. I had, therefore, to refer to the oath of canonical obedience which they had to take. I had never before mentioned to any Clergyman his obligations under that oath, and had I not been obliged to take up my pen on behalf of these gentlemen, I would not have referred to it. Whether I misinterpreted that oath or not, I can here say solemnly and publicly that I have never attempted to enforce its obligations on any man. I leave that between his conscience and his God. It is not for me to say what are the obligations of this oath. In defence of these gentlemen I stated my opinion. I may hold that a Clergyman is bound by that oath to carry out anything that is not unlawful, if directed by me to do so. I may be right or wrong, but I have never called upon any one to act upon my interpretation. I merely endeavoured in this letter to explain my impressions, and that was simply in reference to the determination of these men to carry out the wishes of the Bishop, and not with reference to anything that is done in the Synod. Whatever may be the force of my interpretation, of the oath of canonical obedience, it is very much in favour of the Synod, and not against it. If I were inclined to force my interpretation, when I place myself as a member of the Synod, I could not carry out my views. The learned Counsel, however, has insinuated that I have altered my opinion, and he has cited what he says I said. What I did say was this: "The Home Government have recommended the Provincial Legislature to pass an Act of this kind for Canada, and doubtless we may obtain the same, whenever the diocese is prepared to *present a unanimous application for it*, accompanied by the draft of a Bill previously discussed and agreed upon amongst ourselves." We have now this unanimous wish to all intents and purposes. That is one reason for my assenting at once to this exempting clause in this Bill. I may say that those who are affected by the Bill, as far as we can get any report of their opinions, are unanimous in applying for it. I will now merely

remind you that I have read numerous extracts, and cited opinions in favour of the Bill, and I am sorry that the opposition, so far, has been rather based on what is altogether irrelevant to it. I would also remind you that a great deal of what has been said does not apply, simply on this principle—that this Bill only affects those who are under it. I stand here, occupying a responsible position in the Church, and from the very nature of that position, I am bound to set before you an exposition of the whole case, and to state nothing but what can be borne out by the facts when they are examined into. The Counsel on the other side has all the license of an advocate who has to make the best of his case.

I have endeavoured to show you, first, that Synods are part of the Constitution of the primitive Church; secondly, that they work well in the United States; thirdly, that we require Legislative sanction merely because we are now under restrictions which require to be removed, in order to place us on the same footing as other denominations, and to give permanency to the Synod, instead of its being dependent on the caprice of any Bishop who may be at the head of the diocese; fourthly, that without Synods we would be unlike the rest of the Colonies; fifthly, that we are now without laws, except the old canon laws, and require power to provide for ourselves; lastly, that the old canon law may be enforced, and the Bishop may proceed without any form.

(His Lordship here read extracts from an Encyclopedia in support of his positions.)

I pray you to consider that the opposition to this Bill is not now justifiable,—it is not so on the merits of the case. The petitioners have already gained all that they demanded, and now when they have got all that they want, ought they to come to us and say, "you shall not have what you want?" I think it would have shown more respect for the Legislature, if having obtained all that they asked for, they had said, we will let our petition drop, and not ask for anything more.

An attempt was made by influential persons to get up a petition against this Bill, in the parish of St. Luke's, and it had to be abandoned because the effort was found to be hopeless. I could get up a minority petition in St. Paul's, for there are many gentlemen who would have been glad to express their opinions in favour of this Bill, but who considered that the proper petition should come from the legislative body of the Church. I was asked by several Parishes if they should send up petitions; and I told them no, that it was unnecessary, since the whole body was the proper body to petition. My own experience of the petition from Wilmot is this. A protest was instituted in Wilmot, and I found on enquiry that a large proportion of these persons who had signed it, had, properly speaking, no right to call themselves Churchmen. A petition was sent to her Majesty by the same people asking in effect that I should be Bishop no longer. My reply to the Lieut.-Governor, on being asked for an answer, was that the persons who signed the petition were

net Church people. I heard that a petition had been introduced in the Lower House, and that all the names to it were signed by one person. It is a rather curious fact that there are no petitions against this Bill, except from two Parishes. Though their attention was called especially to this matter last year, and though the notice of this application was repeated in the Church paper last July,—and though immediately after last November the Bill itself was published—you have one petition against it, and you have no petition in its favour, for this reason, that they thought it would be improper for the several Parishes to send up their petitions, when they had made this application from the legislative body. In the county of Halifax there are fourteen thousand persons who have enrolled themselves as members of the Church of England. If you had none but this county of Halifax, with its population of Churchpeople, you should consider well before you reject their application, because two Parishes, containing four thousand people, wish to have it rejected.

This is now the twelfth anniversary of my consecration, and I request your permission to speak of myself, and close my remarks. One great ground of objection to this Synod application, is the supposition that the Bishop has some underhanded design in it. Though we have shown what the object of this Synod will be, still it is said, "The Bishop knows very well he will get a great deal of power by it." How this is to be I do not know. I feel that I have a right to-day to take credit for acting for the benefit of the Church in this Province, according to the best of my ability. I came out to this country giving up a great deal in order to do so; for in the matter of emolument I was actually receiving, and should have continued to receive from offices in the University, more than I could get here. Not only so, but I must, although rather against one's feelings of delicacy, in order to show my motives, say that when I accepted this Bishopric, it was rather uncertain whether provision would be made for any Bishop at all. It is well known that the income of my predecessor had ceased, and not until I came out here was it settled by the Propagation Society that certain funds should be given to the Bishopric. There was another Bishopric vacant about the same time, —one of greater honour and emolument than this. I was asked whether I would be inclined to accept that. My answer was simply this: I do not want to leave England except to come to Nova Scotia. As you know well my grandfather was long here, and it is my native land. I had always this country before me, and I often dreamed that I would come back some time. When I was asked if I would labour in Nova Scotia, I put no question as to maintenance, but said I would give up my prospects in England, and go out to work for the good of the Church in that country. Now I ask you is it probable that, coming out under such circumstances, I can have any other than the most sincere desire for the benefit of those whom God has committed to my charge. These feelings come back to me on this, the anniversary of my consecration. I cannot, even at the risk of egotism, help saying this, after the suggestions that are so freely thrown out, that I must have some sinister

motive. Most thankful will I be to Him who sent me, if the result of the arguments which I have been able, so very imperfectly, to address to you this day, should be to obtain for the Church of this Province, a measure, which I am quite sure, if my judgment is worth anything at all, is essential to the welfare of the Church, and will greatly advance her prosperity, and the best interests of all her members in this country. If you say—we will wait until it is proved that you do well represent the feelings of the great body of the Clergy and Laity of this country, I ask you to consider this, that if you wait until you have found out that I am right, it will then be too late to amend the error. Reject this Bill, and you leave the rejection of their just request and application to rankle in the minds of the Churchmen of this Province, and whether it be right or wrong that any such feeling should be harboured, still, human nature being what it is (and Churchmen are no more perfect than other men), this rejection will rankle in the minds of the Laity and Clergy throughout the Province, and they will want to know, why, after all that was put before you, they have not received at the hands of the Legislature of this Province, the same consideration that has been extended to all other parties. It is a most painful thing for me to stand in my position here, yet I felt from the peculiar circumstances I could not secure a person that could put the matter properly before you, for it is a matter foreign to the reading and studies of any legal gentleman. The work on the other side is comparatively easy, but it requires a greater knowledge of the subject to refute the opposition and show the real position of the question.

I do sincerely believe that you could not at this moment inflict a more lasting injury upon the Church, than, after all that has passed, to reject the application which they have addressed to you, simply to be allowed to do what they will with their own. Let it not go abroad that Nova Scotians cannot get here what Churchmen can get in every other country. We ask for justice and impartiality. We ask you, gentlemen of this Committee, not to be led away by any irrelevant statements, not to be led away by my learned friend, but to weigh the solemn arguments, to separate the facts from his own views, and let them not have any undue effect.

I entreat you, gentlemen, upon whose report the fate of the Bill may depend, not to be alarmed by the loss of money with which we are threatened. I believe that if you report against this Bill, you will have the whole Church in a state of agitation. Let us know the worst. Let us settle down as soon as we can. If God be pleased to give good fisheries and harvests to the fishermen and farmers, they will be able to make up far more than all that may be taken away from them by those who propose to withdraw their money. As I told you the other day, referring to this matter, this is no mere matter of suspicion. It is known far and wide that this threat has been deliberately held out, that it has been made in the most formal way, that the sources from which we have hitherto derived our support for our Clergy will be closed up, if we presume to come forward to press our application for what we believe

to be our rights. We know that in the end we shall be successful, but we do look to you to see that we do not suffer under this infliction. When the people feel that they have the right granted to them to deal with their own affairs, and that they are called upon to depend more upon their own efforts, there will be a feeling of earnestness awakened that will have a very good influence, and stimulate the people to do far more than they have ever done yet. By whatever persons this money may be withheld, the feeling of earnestness in the Church will urge the people to do more than ever, and perhaps it may be a blessing to the Church in this Province. As is well known, whether well founded or not, there is a jealousy of city influence throughout the country. I have no reason to suppose that the five members of the one banking firm who held seats in this House allowed themselves to be influenced by their feelings as bankers, but the country was not satisfied. Just the same thing occurs now. The people in the country think that there is a family compact, and an influence amongst a certain number of persons that prevails with the Bishop, and prevents him doing what he would otherwise do. On this day on which I originally pledged myself to the diocese, I renew my pledge to do all that which I consider to be for the benefit of the whole Church.

(As the notes of the above speeches were not taken with a view to publication,—it being supposed that, as his Lordship had employed his own reporter, a full report by that gentleman of his Lordship's speeches would be published; the above report is therefore somewhat fragmentary and imperfect, but it is believed that it contains all the material parts of his Lordship's argument.)

MR RITCHIE'S SECOND SPEECH.

Mr. Ritchie.—It will be necessary to occupy a much longer time in my reply to his Lordship than I had intended. His Lordship laid down, when he last addressed you, some very extraordinary legal propositions, but to-day he has relieved me from all difficulty on that score, because he has introduced, as law, certain principles which are utterly inconsistent with what he enunciated as law on Monday. He told us then that we who are connected with the Church of England were, at this moment, without law of any kind,—that we were liable to be despotically governed by the Bishop, that whatever the Bishop chose to do he could do,—that he desired the Synod in order to limit the exorbitant power that he now possessed, that while in England there was a series of statutes which restrained the power of the Bishop,—that since the reign of Henry VIII. not one of those statutes was binding here. To-day his Lordship has given us more sound views on the subject. He has either read up since Monday or has obtained more correct information from some friend. He now says that when Englishmen go forth to form a new Colony, they take with them all the law of England suitable to their position, —that a Churchman coming to this Province is bound by the laws regulating the Church in England. His Lordship is altogether better advised to-day, for he read the statute of Elizabeth, and admits that this and other statutes passed after the reign of Henry VIII., and prior to our having a legislature are in force.

His Lordship commented on his anomalous position in having to oppose a lawyer. I would submit to the Committee whether I am not under a disadvantage in this respect; for, if I had a professional man opposed to me, there would have been certain principles of law which he would have conceded, and would not have one day propounded principles of law to support one branch of his argument, and on another day opposite principles to support another branch. No man could have conducted this argument so well as the Bishop has done. He addressed you at one time as an advocate representing the Synod, at another time representing himself;—at one time representing the Bishop here, at another time the Church over the whole world. He dwelt very much upon himself, and said *he* would not do anything which he thought injurious to the interests of the Church. You must remember, however, that you are not legislating solely for the present Bishop.

You are asked to establish by law, a Synod over which any Bishop may be appointed. There may be Bishops sent here who are no ornament whatever to the episcopal bench. I am sorry to say that we have Bishops committing acts which startle one. His Lordship has referred to one who has denied the inspiration of the sacred volume. I will not repeat what I have said about the Bishop of Ontario, but I will refer to another case,—that of a Bishop, who, a short time since, volunteered to join in an attack on a nest of pirates, and shot down thirty men with his own rifle. Writing of this achievement, he says: I did this with Mr. so and so's breech-loading rifle, if you want a good one take it, for I never missed my man, and shot thirty of them with it, and it never fouled a bit! (Laughter.)

Surely there can be no grounds for his Lordship's position, that there is now no limit to a Bishop's power in the Church. Can it be supposed that for the last sixty or seventy years we have been living under a Bishop whose power is supreme, and that such has been the case all over the British dominions? When the Bishoprie of Nova Scotia was created, the Bishop had all the rights of a Bishop of the Church of England, and Churchmen had all the rights of Churchmen in England. Before the first Bishop Inglis was appointed, the Bishop of London had episcopal jurisdiction over the Church here, and the doctrine seems novel that any Bishop is the head of the Church of England, and has supreme jurisdiction.

That the law in the United States on this point is similar to ours appears from the following American authority: "It was imported by our Colonial ancestors as far as applicable, and it is the established doctrine that English statutes passed before the emigration of our ancestors continue part of the common law of this country. Such was the case when we were Colonists, and it has continued to be so."

On what principle do we use our present Bible and common prayer book? They were not extant in the reign of Henry VIII., and of course could not then have been in force. This is enough to show that the statutes with regard to the Church of England, passed since the reign of Henry VIII., do not apply here. We are now using a translation of the Bible, made in the reign of James I. His Lordship, therefore, should have felt that in stating that the statutes I have just referred to, were not in force here, he was sinking his Church under his feet. I have brought here, for the perusal of the Bishop, and of the Committee, if they desire it, a collection of statutes, to show that a large class of English statutes, with reference to the Church of England, are in full force here. (Mr. Ritchie here referred to Evans' collection of statutes which he laid before the Committee.)

Good will result from this discussion. It will make Church people *think*, and if after they know the position they will place themselves in by such a Synod as is contemplated, they come here and ask for the Bill, let them have it.

The rule with regard to Imperial statutes is this: All statutes passed

before we had a legislature of our own, and applicable to our condition, are binding here, becoming in fact our common law; but statutes passed after that period are not binding here, unless the Colony is expressly named in the Act.

To show that this principle has been recognized by the imperial parliament, and that they exercised jurisdiction over the Church of England here, even after we had a parliament of our own, I may refer to an Act passed in the 59th year of the reign of George III., entitled, "An Act to permit the Archbishops of Canterbury and York, and the Bishop of London, for the time being, to admit persons into holy orders, specially for the Colonies." The third clause of this Act refers expressly to persons ordained by the Bishops of Quebec, Nova Scotia, and Calcutta; and the fourth clause provides that no person who, after the passing of this Act, shall have been ordained a deacon, or priest, by a *Colonial Bishop*, who, at the time of such ordination, *did not actually possess an episcopal jurisdiction over some diocese, district or place, or was not actually residing within such diocese, district, or place* shall be capable in any way, or on any pretence whatever, of, at any time, holding any parsonage or other ecclesiastical preferment within his Majesty's dominions, or of being a stipendiary curate or chaplain, or of officiating at any place, or in any manner, as a minister of the Church of England and Ireland."

The principle, however, is now conceded by his Lordship, and therefore I need not waste any further time on it.

The Bishop has persuaded himself that he is advocating liberal views. He says he belongs to the progressive party, and he would have you suppose that I am here to support irresponsible ecclesiastical power. If this be the case, it is strange that the tendency of all my arguments should be to protect the rights of Churchmen. As an episcopalian I recognize the lawful authority of the Bishop.

His Lordship says that Synods have always been part of the constitution of the Church. I am not arguing against Synods in the abstract. I say give me a free independent Synod,—a Synod in which the Bishop does not have all the power, and control all the proceedings, and individually I would have no objection to it, and I think no large portion of the Church people in Nova Scotia would object to it.

(Mr. Ritchie then commented on the conduct of the Bishop in refusing to allow parishes hitherto represented in the Synod an opportunity of saying whether they were still willing to have a Synod, and to be bound by it, now that it was proposed to make it a legislative body. They had been asked to send delegates to a Synod possessing *deliberative* but not legislative powers.)

I ask, do the Church people of this Province require such an Act as this? His Lordship has almost admitted to-day that they do not,—not in so many words, it is true, but I will show you how he has in point of fact admitted it. He says that Church people do not want this Act to legalize

their Synods, any more than the Presbyterians require an Act to legalize theirs. He says they can now have a voluntary Synod.

The Bishop tells you that in all banking, insurance, and other societies, they have laws by which the members are bound, and that the Courts take cognizance of these laws. The difference between those societies and the Synod is this: Persons joining those corporations know what their regulations are, but we are asked to join this Synod, without knowing what laws may be passed, and if once in, to submit to whatever laws may be passed, or be compelled to leave the Church.

The Bishop has referred to one Synod mentioned in the Bible—the Council held at Jerusalem. I have no objection to such a Synod as that. One of the Apostles presided over that Synod, and exercised no more power than the other members. I was once told, and by a Clergyman, that the Apostle James presided at this Council, and had the *veto*, and he attempted to prove this by saying that James asked Peter and others what their opinion was, and then said, "My *sentence* is so and so." There he said was the *veto*. Instead of giving the obvious meaning of *opinion* to the word translated sentence, he considered that it showed the absolute power of a presiding Bishop over the other members of the Synod. That was the kind of Synods which were held then; what sort of Synods were held afterwards? Consider the history of Synods and General Councils since, and then say whether evil may not result from such bodies, if not properly constituted.

The Episcopal Church in England was never in a sounder state than at present, nor was there ever a time when there was more piety among its clergy and people, and yet there are no Synods there, nor is their want felt. There are, doubtless, unsound men and irreligious men to be found among both Clergy and Laity, but do not let us be told that the Church of England is unsound, because there is a Bishop Colenso, while we remember that there was a Judas Iscariot among the Apostles.

The Bishop tells you that the Parliament in England makes laws for the Church, because the Church people of England would rather have this work done for them by the Parliament than by a Synod. I believe that the liberties of Churchmen would be better protected by Parliament than by a Synod, —certainly if the Synod were composed entirely of Clergymen, or if any one man could control their acts.

The Bishop says that the Synod does not intend to interfere with civil rights. Rights, however, would be affected by the Bill, which are dearer to a man than any civil rights. By passing the Bill you may give a Clergyman the power to withhold from an individual those religious ordinances which are his right, and which he may value above all price. Hundreds of men have suffered death rather than give up their religious liberties.

His Lordship says, will you not trust the representatives of the people? will you not trust the Clergy? will you not trust the Laity? Those are the very questions I put to him. I say to him, will you not trust them?

I confess I am not pleased with the course the Clergy and Laity, who have met in Synod, have taken ; but, untie their hands, and I think in time they will be educated up to the right point. But tie their hands, says the Bishop, the Laity may agree, the Clergy may agree in a matter, but I will retain the power of vetoing their proceedings, I must keep them in leading strings. I ask, then, who is it that will not trust them? I do mistrust them when they are placed in such a position. I will show you presently how the question of *veto* has been treated by the Bishop in an adjoining Colony.

The Bishop tells you that though there are no Synods in England, there are Synods in the United States. Will he learn a lesson from those Synods? In all those Synods the Bishop had at first the *veto* power. But now through the length and breadth of the land, every assembly, with one exception, has abolished the *veto*. The Bishop, however, practically tells the Clergy and Laity, meeting in Synod, that he does not intend that they should ever have the control of their own affairs.

The Bishop tells us that this Synod is one of the most democratic conventions in the world, and that it allows a new election of members every year. That is a capital arrangement to maintain the existence of the Synod, for men who came there once and ascertained that they possessed no power would not be likely to come there again.

There is one point of the case which his Lordship touched gently, and I must say that there is no man in Nova Scotia who could have done this with as much adroitness. I refer to the oath by which the Bishop is supposed to bind the Clergy ; because, if it is admitted that that oath bears the construction which his Lordship put upon it in the letter which I read, then he has under him, in that Synod, a class of men who are as far from being independent as any human beings can be. I do not know what other Bishops might do,—for they do such strange things sometimes,—but I do not believe the present Bishop would, if the Clergy voted contrary to his wishes, meet them with their oath and say--the guilt of perjury is on you, because you have not obeyed me. But if the Clergy believe that they are bound to do whatever the Bishop tells them, and that if they do not do so they are committing a grievous sin, then I say it is impossible for them to act independently. I told his Lordship on Monday that I felt sure that that could not be the meaning of the oath. I believe that there are hundreds of men ordained who would not be ordained if they believed that. I know that there is no such oath in the ordination service. The Church does not impose it,—the law does not impose it. The Bishop says that every Clergyman in this diocese takes this oath.

The Bishop.—They do so in every diocese.

Mr. Ritchie.—His Lordship says that Clergymen in every diocese takes this oath ; then the construction he would put upon it must be erroneous, for in England Clergymen continually disobey their Bishop, when he directs

them to do what he has no legal authority to require, and they contest his authority when they believe he exceeds it, and no sensible man dreams of charging them with perjury. Indeed the rights of Clergymen there are so clearly defined that hardly a year passes that some Rector does not say to his Bishop—you have no right to interfere with me in such and such a matter, and the case is submitted to a legal tribunal. The question at issue is not whether the Clergyman has been guilty of perjury, but whether the Bishop had the legal right to interfere.

His Lordship says there are canons of the Church, which he could put in force to the annoyance of the Clergy, if he chose. He says that these canons bind the Clergy, but not the Laity. I am not quite sure that they bind either in this Province, but if they do, I do not know that the Clergymen would have much right to complain, for when they took orders they knew that they would have to obey them. His Lordship tells you that these canons are not in use now, that they have gone into desuetude, and that he will not introduce them, because many of them are obsolete, and many absurd,—very good reasons these for letting them rest where they are; but none of these canons contain anything to touch any man's conscience.

I am not contending against the legitimate power of the Bishop, and he has vested in him by law much power; the sole power of admitting to holy orders is vested in him; and he has a control on the appointment of a Rector, so far as to prevent an improper person from being appointed; for the parishioners of a parish cannot appoint any one whom the Bishop refuses to license. The Bishop, however, in such a case is required to state his reasons in writing; that is only fair to the Clergyman, as well as to the parish, for otherwise without any cause whatever, the former might be deprived of the benefit of the appointment, and the latter of the right of selecting their own Rector; and we respect the right of the Bishop to interfere with any of the Clergy, who, in doctrine or practice, transgress the rites of the Church; but even in this he is not, and ought not to be supreme, but his decision may be called in question in the courts of the country, as the Bishop's of Cape Town has lately been, in the case of Mr. Long.

His Lordship says that various denominations have come before this House to ask for Acts of incorporation, and have never been refused. I ask him to show me the case in which such an Act has been granted, where there has been opposition from the denomination itself. His Lordship went through almost every denomination that has members in this House, and said to each one of these gentlemen—You are in the same boat with me. I ask these gentlemen, are they willing to be put in the same boat with us, and be governed by a Synod with such a constitution as his Lordship's Synod has conferred upon itself; if not, do not put us in it.

Chap. 51 of the Revised Statutes "Of Religious Congregations and Societies," has been referred to, and the Bishop says: "Here is an Act you gave the dissenters, and we are excluded from it, give us one like it." Surely his Lordship does not know the history of this Act. At the time (1851) when these Statutes were compiled, we, of the Church of England, asked to be relieved from this Act, because we wished to have an Act of our own. The Wesleyans also said: we want to be relieved, because we have statutes of our own. The Legislature said: Very well, we will give you Acts for yourselves. Chapter 50, Revised Statutes "Of the Church of England," was accordingly passed. But what was the nature of that Act? Was it an Act like this, enabling the Church to establish courts to form a parliament paramount to the Legislature of this Province?

The Wesleyans and Baptists obtained Acts for their congregations similar to that which the Church obtained for theirs. These Acts refer to matters connected with their respective congregations, but do not profess to regulate the discipline or membership of the Church. A Baptist would be astonished if he was told that membership in his Church was regulated by Act of Parliament. The constitutions of the various dissenting bodies—Baptists, Presbyterians, and Methodists, are settled. They have their written constitutions and confessions of faith, and would not be content to have the Legislature interfere with them.

The Bye-Laws to be made by the congregations incorporated under this Act (Chap. 51, R. S.) must not touch discipline or anything connected with the principles of the Church. Just fancy Presbyterian congregations incorporated under this Act establishing a form of Church government, inconsistent with Presbyterianism. Take the case of Baptist congregations. Could they make regulations allowing infant baptism? Both of these bodies have Synods, but they are not held under this Act. There would have been some analogy between this Bill and the Act (Chap. 51 R. S.), if the Synods, Conferences, and Associations, of these bodies were held under that Act. The fact is, a question of this kind has never been before the Legislature at all. This Act relates entirely to the management of the internal business affairs of these bodies.

The Bishop says that the Rector has a right to take his seat as Chairman at all parish meetings. How does he get that law? He can only obtain it by overturning the structure he erected on Monday. The Bishop says that he wants uniformity in all these matters. He says that St. Paul's wanted to have a law for the whole Province, giving the parishioners a right to elect their own Chairman. The parishioners of St. Paul's would have been glad to have this law for themselves alone, but the Bishop said, no, whatever law you have, they must have over the whole Province. That is not the case in England: some parishes

choose one of the Churchwardens: some both, and yet they all equally belong to the Church of England. It will hardly be contended that where we have ourselves legislated on a subject, that we are not under our own law alone. Shortly after the Province was colonized, the subject of the Church of England was taken into consideration by the Legislature. It was then provided that the parishioners should meet and transact their business. I contend, and I care not who holds the contrary doctrine, that where a statute gives parishioners the right to meet and transact their own business, it gives them the right to elect their own Chairman, and no Rector has a right to insist on presiding, because a Rector in England may have acquired a prescriptive right to preside at a vestry meeting there, which differs much from the meeting of parishioners constituted by our Act. Every now and then one hears of a new power asserted by a Bishop, and a day or two ago I noticed such a power exercised by one of them. His Royal Highness the Prince of Wales has been married before this. There was some difficulty about his being married in Lent, among some members of the Church. The Bishop of Oxford has been kind to a degree. He has found out that as the Church has created the fast of Lent, so the Church can suspend it. He has said to the Church people of England: Now I have a great boon for you, His Royal Highness is going to be married, and you will want to rejoice, and you may rejoice and be glad on that day, with a clear conscience. How thankful Churchmen ought to be that they have such gracious superiors! And his Lordship the Bishop of Nova Scotia dispenses with the Rector's being in the Chair at a parish meeting, and yet he says no such meeting can be legal unless he is in the Chair.

His Lordship says that the *veto* is only a drag,—that the Church is so apt to go down hill, that he wants a drag to keep her from going down too fast. If he would consent to have his *veto* limited to a period of ten years, even, I might be disposed to give it to him, but let us see some prospect of its terminating some day.

(Mr. Ritchie here referred to his Lordship's having studied the subject for ten years, whereas he (Mr. R.) had not been able to give much time to it.)

His Lordship says that no Bishop would ever venture to fly in the face of his Clergy. Now there are people in Canada in these Synods who feel that they have got their heads into a noose, and cannot get them out. The Bishop tells me that I must not say that independent men will not sit in his Synod, because there are independent men in the Synods in Canada. They may have been lured into them. If they had had the experience we now have, they might never have entered them.

The Bishop says to the parishes—Do come, send delegates to the Synod, and discuss the question there; but when he once gets them there,

there they must remain. He says he does not want to force parishes into the Synod, but when I ask him to give the parishes now the privilege of saying whether they will be bound by the Acts of the Synod, and are still willing to attend it,—when I ask him to give them the privilege of expressing their opinion, even should it be in six weeks' time, he says, no, those parishes that are represented in Synod now shall be bound. But, I ask you, gentlemen, should he not give them the option now? He tells us in *words*, that he is content; but *in acts* he says he will not accept the bill with a clause giving that power. He tells us that in the first assembly under the bill, there will be no *veto* power; but how can the Synod get on at all without him? If he chooses to remain away, where is the Synod?

The Bishop.—I did not think of that.

Mr. Ritchie.—In one of these Synods in Canada, they have two or three honorables and a judge. Now see what the honorables and the judge want, and what they get. I read from an account in a Canadian paper of the proceedings at a Synod in Toronto.

"The present constitution confers upon the Bishop the veto power, so called; and Mr. O. Farrel now proposed a resolution to the following effect:

"That in article No. 14, the following clause be added:—'But in the event of the Bishop refusing his assent to any measure adopted by the Clergy and Laity, such motion may be brought forward at the next meeting of the Synod, and if again adopted by the Clergy and Laity, the power of the Bishop to veto it, shall cease.' The mover required that the veto possessed by the Bishop should not exist under certain circumstances, and said he did so, without being actuated by any feeling on the subject; but, on the contrary, having the utmost confidence in the Bishop. He urged its adoption by the Synod."

Now I told you that the Bishop being always in order, having the power of controlling the proceedings, had the power to stop discussion. Now we will see whether I was right.

"Hon. Mr. De Blaquiere said, it would be in the recollection of some, that he had, for several years, brought the subject under the consideration of the Synod. He did not think the Church was as efficient as the Church of England ought to be in this diocese, as we principally relied on laws almost obsolete in this country. His observations led him to believe that the perfect unanimity which prevailed in the Church Synods in the United States, was due to the absence of the power of veto on the part of the Bishop. The belief, he confessed, he was confirmed in more and more, that we in Canada should adopt the system which prevailed in the United States. It might not be brought to bear so efficiently here, as the Church in Canada was comparatively in its infancy. He could not bring his mind, by any process of reasoning, to think that the Bishop's decisions should be regarded as final. On the subject of the propriety of taking precedents from the United States, he thought it was perfectly justifiable; and he was glad to find that reference

had been made to the system adopted by the Church in the United States; for there were laws in force in England, which would not bear in this country. Here they had the advantage of combining the laws in force in both countries.

The Hon. Mr. Cameron opposed, and Judge Armstrong supported Mr. Farrel's resolution."

The next speaker is the man who is always in order.

"The Bishop then rose and said—Before putting the motion, I should state to the Synod, that if it is passed, I shall consider myself no longer as the head of this Synod. (Cheers.)

That is, had I all the power possessed by the President of this house,—

"I should consider myself merely as the moderator of a Presbyterian assembly. (Great cheering.) Is it to be supposed that I would set myself against the united action of the Clergy and Laity."

It is strange how the man deceives himself. He says—do you suppose I could use the *veto*, and at the very time he was using it in the most effectual way, and stopping the discussion.

"I consider myself as co-equal with the other branches of the Synod."

Then, if he does, let him go out of their assembly, and not control their discussion.

His Lordship in his argument this morning is driven away from the Sovereign to the Secretary of State to find a precedent for this *veto* power.

The Bishop has told us of a Colonial Statute being disallowed by her Majesty. That Statute was disallowed on the avowed principle that the Legislature had undertaken to pass an Act to affect people out of the Province, and that therefore it was unconstitutional and could not be allowed by her Majesty. Is there a Colony in existence that could allow a man to sit in their Legislatures, join in their deliberations, control them by a veto power, and adjourn them whenever he pleased? Such a constitution would not exist any longer than the time necessary to pass an Act to destroy it.

The Bishop goes on to say, in the paper from which I read—"Are we to give ourselves a Presbyterian form of government? I shall never sit here as the moderator of a Presbyterian Synod." And the reporter significantly adds—"This appeared to have settled the question."

His Lordship tells us that the Church of England, the Church of Rome, and the Presbyterians, have their organization just as perfect in Nova Scotia as in England, Ireland, or Scotland, and that these Synods have proved to be consistent with Episcopacy, for they have been adopted, time after time, till nearly the whole Church has adopted them.

The veto question has again been under discussion in Quebec, for the members of the Synod do not sit quietly with their manacled hands,

but endeavour to shake off their fetters. I find in the *Church Witness* the following statement of what has lately taken place in the diocese of Quebec on this question:—

"The veto question has been again under discussion in the diocese of Quebec. A meeting of the Synod is about to be convened, for the purpose of adopting a Constitution; and the composition of this assembly is therefore justly considered to be a matter of great importance. Each parish possesses the right to send with the incumbent three lay delegates, as its representatives. The elections took place at Easter, and no unusual interest was taken in the matter, until it was discovered that the Bishop's party were exerting themselves to the utmost to influence the returns. Clergymen in favor of the Bishop's exclusive pretensions, openly canvassed for votes, and resorted to other means to secure their ends, which no cause would justify. The Rev. Armine Mountain—his name should be recorded—seems to have also distinguished, or rather degraded himself, by a low stratagem, which surely must be condemned by all right thinking men. The Quebec Gazette, in detailing the history of the proceedings, says:—

'During passion week, the incumbent of St. Michael's Chapel, the Rev. Armine Mountain, having heard that the Laity in his mission were preparing to bring forward their anti-veto candidates for the Easter election, and that with every prospect of returning them as delegates, very injudiciously to say the least of it, determined to thwart this attempt by a scheme unworthy of a minister of the Gospel. The Act provides for the election being held at the Easter meeting, or at meetings to be specially called by the Clergyman. The Laity in his mission considered that the election would therefore be on the Easter Monday, or that they would receive due notice when it would be. Now what does this incumbent do? On the Good Friday, having his *veto* friends in the Chapel, he gave notice that the election would take place immediately after service. Few attend Chapel on that day, and consequently his veto candidates having everything prepared, were duly elected without opposition. Now, was this a notice contemplated by the Act? Was Good Friday a day upon which it should be given? Certainly the Laity thought not, and considered the whole a combination resorted to, to defraud them of their franchise. As such it was regarded by the Laity in this city; and when it became known, which it was before the Monday of the elections, the feeling upon the subject became very warm. It was thought, if that incumbent would thus dare trifle with the rights of the Laity, what would not others do? what high-handed measure was next to be expected? Thus the minds of the Laity were kept in suspense and irritable; and with such emotions the lay members of the Cathedral, or Parish Church, met at the National School on Monday last to elect their delegates.

'The course pursued by the Chairman of that meeting did not tend to allay those feelings, but rather to excite and inflame them. He opened it by dictatorially, in his address, saying that he would conduct the election by receiving the vote in an open manner,—that he would admit none to vote who were not habitual attendants at the Cathedral,—and that he would carry out the instructions he had received from the Bishop, based upon legal advice. Upon this, Mr. Jeffrey Hale, in an exceedingly orderly manner, suggested that the mode in which the voting should be conducted ought to be left to

the meeting, and that the election should be made by ballot. Upon this, two gentlemen of the very first standing in our society, burst out against him, in a violent torrent of reproach, which was ably seconded by the veto supporters, who had congregated near and round the table at which the Chairman, the Rev. Mr. Honsman, sat. The Chairman said he would receive no motion, —he would listen to no discussion,—he was instructed by the Bishop to put down any who attempted to speak, and much to the same effect. The unusual mode and high-handed attempt to control the minds and wills of those present, was resisted, and a short war of words was the consequence; but the noise and confusion which then arose prevented any argument being heard, and no result attended this effort to curb the exorbitant pretensions of the Chairman. The meeting felt the unconstitutional power thus grasped by the Chairman, and became very much exasperated at it—the more so when the Chairman refused good votes, because the constituents had not been to Church for six weeks or so.

'The right of voting is founded as above-mentioned, on the simple declaration of "being a member of said Church, and belonging to no other." That was the only test required by law; yet the Chairman and many others called on the Sexton to be the arbiter of a man's rights—the Sexton, whose business it is to see to the preparation of graves and to assist in depositing the corpses, was called upon as the *veto* friend, to destroy the right of franchise, and then enshroud it in the tomb. A voter was openly called a liar by the same Chairman, and the Laity only responded to these insults by words justifiably warm. Such was the manner in which the Cathedral election was carried on, and notwithstanding all this two *anti-veto* delegates were elected.

'The results of the elections, so far, show a large majority against the veto. This is very gratifying when the amount of opposition is considered. There is now every prospect, we rejoice to say, that this objectionable feature of the proposed constitution of the Synod of the diocese will be struck out.'."

His Lordship is quite mistaken on one point. He says that the people holding evangelical views are in favour of this Synod movement. There may be some few of them in favour of it, but the movement originated with the other party. I view the question irrespective of party, and would have neither section of the Church domineer over the other. In the diocese of Huron the outcry against the veto is made by the High Church people, for in that diocese they are in a minority. There the Low Church people are disposed to coerce the High Churchmen, as in other dioceses the High Church people coerce the Low Churchmen.

There is one point in my former argument on which I was anxious to hear his Lordship, but on which he did not answer me. I stated that when the constitution of the Synod was framed, if the Synod contained a majority of High Churchmen, they could turn out every Churchman in the diocese, holding evangelical views. The only answer given to this is a very short one. It is just this: "Sheer nonsense." I ask, is it "sheer nonsense" if this Synod pass High Church rules and regulations relative to the mode of conducting the public worship? will, or will not, the evangelical Clergy be bound to obey and conform to them? Now

go into a Puseyite or Tractarian Church. and you need not hear a word said, but you know, not only how the services will be conducted, but what doctrines will be preached; you would know it by the mere form of the Church and its furniture. There would be on the Communion Table, or, as they always call it, the *Altar*, with its altar cloth for different seasons, candles burning, not to mention the flowers, and this thing here, and that thing there. I ask, if all these regulations might not be made by the Church Synod of Nova Scotia, and all Clergymen made to obey them.

Why does his Lordship say that the members of the Synod, and those who are represented there, will still belong to the Church of England, if the Bill is passed? It cannot be so. What is the meaning of belonging to a Church? Does it not mean being bound by the same rules and regulations? Therefore, if the Church of England has one set of rules, and the Church of Nova Scotia another, will they not be two Churches? That was just the difference between what was formerly called the Free Church, and the Presbyterian Church of Nova Scotia. They did not vary in doctrine a hair's breadth, and yet they were distinct Churches. We of St. Paul's and St. George's will belong to the Church of England, and his Lordship will be the first Bishop of the Church of Nova Scotia. When this Bill is passed, what more connection will there be between the Church in this country and the Church of England, than there is between the Church in the United States and the Church of England? One is the Episcopal Church of the United States, the other will be the Episcopal Church of Nova Scotia. The supremacy of the Queen is gone in the nature of things.

The Bishop.—I understood you to say, "Some day the Bishop will have the power by veto to turn out Evangelical Churchmen."

Mr. Ritchie.—No, no, I did not say that. My argument was, that the majority in the Synod would have the power of passing Synodical regulations to exclude a minority, or any class in the Church that might not agree with them.

I have referred to the power claimed by the Bishop over his Clergy, under their oath of obedience. Now see how English Clergymen differ from Nova Scotia Clergymen in their construction of this oath.

The Bishop of Oxford lately gave an order that there should be a pause during divine service, in order that prayer might be silently offered with reference to the unhappy divisions existing in the United States. One of the Clergymen in his diocese did not approve of this. He thought that if this order were carried out, the prayers would cease to be common prayer; that one man would be praying for the success of the South, another for that of the North. The opinion of Counsel was taken on the question, whether the Clergyman was bound to give the notice. The Clergyman has no scruples on account of his oath. He

wants to know first whether he is bound by law to do this, because if the law requires him to do it, then the oath binds him, but not otherwise.

The gentlemen who give this opinion, say, "We assume that the Bishop of Oxford issued the injunction in question under the rubric which immediately follows the Nicene Creed. That rubric is as follows: 'Then the curate shall declare unto the people what holy days or fasting days are in the week following to be observed. And then also (if occasion be) shall notice be given of the communion; and the banns of matrimony published; and briefs, citations and excommunications read. And nothing shall be proclaimed or published in the church during the time of Divine Service but by the minister; nor by him anything but what is prescribed in the rules of this book, or enjoined by the king or by the ordinary of the place.' This rubric does not qualify the express language of the 2nd and 17th sections of the Statute of Uniformity, nor of the 14th Canon; it does not enable the ordinary to alter, add to, or diminish the 'order' or 'form' of public prayer."

They go on further to state in substance that the Bishop is bound by the rules of the Church, that he has no power to order notice to be given of any matters except of certain things specified in the rubric, and *others of a like kind*. They say "the power attributed to the ordinary, of enjoining the minister to 'proclaim' or 'publish,' must be construed with reference to the preceding objects of publication, expressly enumerated, viz.: the observance of holy days or fast days, celebration of the communion, banns of matrimony, briefs, citations and excommunications; and applies to those objects or to other matters *ejusdem generis*."

I am happy to state, for the information of his Lordship, that this opinion is signed by no less a person than Mr. A. J. Stephens, of whom he has so high an opinion; the other gentleman who signed it is Mr. Richard Jebb.

I trust that I have dealt with this subject in a fair and open manner. I want the Clergy to feel that there are questions of great interest to them, as well as to the Laity, involved in this discussion. There are people, and I think that I may say that there are reverend gentlemen who heard me the other day, who, if they would not excommunicate me for the views I have thrown out, certainly would do something nearly as bad, if they had the power. One of these gentlemen has published that I used langnage towards his Lordship which was not fit to be used. I appeal to you, gentlemen, to say whether his Lordship was vilified by me. While I spoke openly and fearlessly, I did not abuse my position.

Hereafter, it seems, we are to elect our own Bishop, and this is to be done through the Synod. We may get better Bishops in this way, but I am not quite sure of that. The most prominent and influential statesman is not generally elected President of the United States; nor the most active and energetic Cardinal elected Pope.

In the late election of Bishop at Quebec; I find that the Laity wished to have the Bishop of Rupert's Land, a man of some standing; the Clergy, were unanimous in favour of another individual, and would not give way to the Laity. The result was that the two favourite candidates were dropped, and a third person taken by way of compromise.

If this Synod movement is adopted, and our Bishops are hereafter elected, we may have a weak-minded man chosen Bishop; he may not drive men out of the Church, but he will keep men from coming into it. It may be, however, that there are men who would rather have *absolute* power with a small Church, than *freedom* with a Church extended over the whole country,—some who desire *ecclesiastics* to be everything in the Church. It reminds me of an old Clergyman very many years ago, the Rector of Annapolis, who was very anxious to have a stately steeple on his church, and urging his views on his parishioners, he said, "Give me a handsome steeple, if I don't have a church bigger than my hat!" I do not think his Lordship holds these views; but I am not quite sure that some of his Clergy do not.

His Lordship has alluded to the Bishop of Fredericton. I think that the Bishop of Fredericton did all that mortal man could do to establish Synods: the evangelical party at once opposed the attempt, anticipating the difficulty which exists now. The Bishop of Fredericton was exceedingly annoyed that he did not carry his point, and he told the people that he intended to do them great service. If, as his Lordship tells you, they were blind in not accepting the offer then, their eyes have not been opened since.

His Lordship says, that whether you pass the Bill now, or not, it will pass hereafter. I told him that he was leaning on a broken reed. I told him that because the Bill had passed in the other House, it was not, for that reason alone, going to pass in this House. I told him that if the inhabitants of Nova Scotia really wanted the Bill, it would pass hereafter, and not because he had managed to have it carried by a large majority in the Lower House. I anticipate that year after year the Bill will find less favor. I told him that the Bill would not have carried in the Assembly, had they understood its real nature.

His Lordship has said that he did not ask the Churchmen in the Assembly for their votes. He told us afterwards what did take place. It shows that his Lordship understood human nature. He knows something of canvassing. One of the most effieient canvassers that I ever knew, who never left a man without knowing how he was going to vote, never asked the question at all.

His Lordship says, "I got the fourteen together,—I got them to my house. I did not ask them to vote for the Bill, but I told them I did not want to pass it unless they were unanimous in favor of it." They went to his Lordship's house unpledged men, but did they leave there

unpledged men? Every one left the house pledged to support the measure.

The Bishop.—No.

Mr. Ritchie.—No, not pledged, but saying that they would support the measure. Then what shall we say of their unanimity in their votes in the Assembly? Would there or would there not have been that unanimity, had the discussion of the Bill taken place first there? His Lordship may doubtless think highly of them, and he may say of those Churchmen here who are opposed to the Bill, "Pretty Churchmen they, indeed, to oppose their Bishop—they are in my way—but I have got a set of Churchmen that I do like: look at them and dress yourselves by them." I dare say his Lordship feels towards them as a mother does towards a child whom she loves particularly; they are almost too good to live; and his Lordship fears that if they do go back to the country, some of them may be lost. His Lordship says, "I have got a team, you may win this heat, but I am sure to win at last." Well, follow my leader may be very good in politics, but it does not answer in religious matters, and those who seem to *lead* may find that they are led at last.

The Bishop says that you must take the Bill as it is, that he cannot have any amendments. When the Bill was before the other House, his Lordship said that he would not stop at the present amendment, but that if there were any other parishes that were opposed to the Synod, he would exclude them. Will he put such a clause in the Bill now?

I am asked whom I represent here. I stand here to represent every Churchman who is opposed to such a Synod, as is asked for by the Bill. I know no man more ardent for the Bill than the Rector of St. Luke's, and yet I know that there are many in that parish opposed to it. I presume that in many of the parishes said to be in favour of the Synod, there is a considerable number opposed to it.

His Lordship has said that coercion has been used. He told you that very unreasonable conduct has been exercised by the parish of St. Paul's, towards their Curates. I will explain that case to you. St. Paul's has always been opposed to the Synod movement. The late Sir Brenton Halliburton and the late Mr. Cogswell protested against St. Paul's being governed by the Synod. Now, what was done by the Curates, not by the Rector, who, as Rector, is above the control of the Bishop, as he is above the control of the Laity? The parish has the power of appointing him, but neither the parishioners nor the Bishop have any power to remove him, except for such reasons as are recognized on legal grounds. He has assistants called Curates. The parishioners of St. Paul's, instead of putting the burden on the Rector, of supporting his Curates, say, we will support one of them entirely, and the other partly, but we must nominate them, and they must be under us as well as under you. What

do you think of these gentlemen insisting on attending the Synod, and compromising the parish? The parish passed a resolution in Easter 1856, to ask those gentlemen whether it was their intention to attend the Synod as members of that body, and if so, whether it was their intention to carry out, or assist in carrying out, within the parish, the resolutions or canons, or any of the regulations passed at any of the meetings of the Synod. To this the Rev. Mr. Maturin replied: "I perceive that the first subject of inquiry is, whether it is our intention to attend the Synod as members of that body; and I beg to say in reply, that as that assembly is convened by the highest ecclesiastical authority, *I feel myself bound, in conformity with the vows of my ordination*, to obey the *call of my diocesan*, by attending those meetings, and if it please God to spare me in life and health, I shall be happy to devote my humble abilities to the promotion of the best interests of the Church, by assisting in all its deliberations." Now, a man who believes he is thus bound by an oath to obey his diocesan is not a free agent. The Bishop says he would not tell the Clergy how to vote. I do not mean to say that his Lordship would, but I do not mean to say that there might not be a Bishop here some day that would do it, and then he must be obeyed, or the Clergymen be perjured. It is enough for me that there were Clergymen in the diocese who entertained such sentiments,—enough that Mr. Bullock held them,—that Mr. Maturin held them. Clergymen consider themselves always in the right. A young lad of twenty-three, who has been ordained, will actually assume that he knows more than the most aged and learned Christian knows, if the latter is but a layman. I suppose the habit of giving their sentiments from the pulpit, and never being contradicted, leads to this,—there they feel safe. When one of the old fathers asked another his opinion on a difficult question, the reply was, I will give my answer from the pulpit. There, of course, there would be no canvassing its correctness. Therefore, whenever a Clergyman differs from a Layman, be sure that the Clergyman is always right, at all events in his own estimation.

The Rev. Mr. Bullock in his reply says, "It is my decided purpose to observe and carry out all the canons and ordinances of the said assembly or Synod; always saving the understood rule of Christianity,—to obey God rather than man." Was it to be expected that the parishioners of St. Paul's were to submit to this? His Lordship says that this was done unadvisedly. Mr. Bullock, in fact, says that he will carry out in the parish, the regulations of the Synod, against the wishes of every man in the parish. Would any congregation of Christians consent to retain a man after he had told them that? Mr. Maturin's answer on this point is, that he will decide as the regulations are passed, whether he will carry them out or not. Now he had nothing to do with carrying out regulations in the parish. The Rector has all such power, and the

Curates have nothing to do with it. His Lordship now tells us himself that the Curates were wrong,—that it was never intended to carry out the regulations of the Synod in unrepresented parishes. I ask, then, had those gentlemen any ground of complaint, when the parish decided to dispense with their services, if they persisted in their expressed determination? Had either of these gentlemen been in the position of Bishop, he would have been carrying out similar high handed acts to those which they attempted to carry out as Curates.

I now come to a matter of most vital importance connected with this subject. His Lordship tells us that it matters not what his views are with regard to the oath. I think we need have no doubt what his Lordship's views are with regard to it. He says he never required such obedience. I do not know that he ever will. But let us ask whether, from the very nature of an oath, he can dispense with it? Does his silence dispense with it? No proceedings may be taken to make the Clergyman responsible in a Court of Justice, but the real sanctity of an oath is its binding nature, in the sight of God, and the Clergyman may violate it just as much, whether the Bishop punishes him or not. With that oath in his possession—and I take his Lordship's letter of May 12th, 1856, to the majority at the Easter meeting of parishioners of St. Paul's, as it was meant, no doubt it was dictated by the kindest motives,—but he does tell us of St. Paul's that there are certain things which he intends to do.

His Lordship says in this letter that the Synod was only a *deliberative* assembly. I therefore assume that it is still a *deliberative* assembly. I have therefore no objection to it, except with reference to this Bill. The parishioners of St. Paul's, therefore, and through them the parishioners of Nova Scotia, might have attended the meetings of this Synod, satisfied that there was no fear of any rules or regulations of the Synod being enforced on them, because they had the word of their diocesan that no Bill should be introduced until the Church was unanimous in favour of it.

The Bishop.—No, no.

Mr. Ritchie.—I will read to you what his Lordship said in this letter on that point, and you can draw your own inference.

(Mr. Ritchie then read as follows: "It will be a *deliberative* rather than a legislative assembly, until its proceedings are ratified by an Act of Parliament. The Home Government have recommended the Provincial Legislature to pass an Act of this kind for Canada, and doubtless, we may obtain the same, whenever the diocese is prepared to present a unanimous application for it.")

I ask, if the diocese is prepared to day to present a *unanimous application* for this Bill. Has the majority in favor of this Bill increased? That portion of my argument has not been answered.

His Lordship concludes the sentence, part of which I have just read,

as follows: "Accompanied by the draft of a Bill previously discussed and agreed upon amongst ourselves." He must, therefore, have meant a Bill prepared and assented to by those outside the Synod, as well as those in the Synod. His Lordship now tells us that the diocesan Synod have passed a resolution with reference to this Bill. He says that the Synod was never intended to be coercive on any body. I can read it in no other way.

His Lordship says that pressure has been exercised. I speak in the hearing of men connected with this House, and also with the other House. I ask them whether any pressure has been exercised, and if so, who has put it upon them. His Lordship tells you that he has put a gentle pressure on members of the Church in both Houses. He has put a pressure on members of other denominations, by telling them that they are in the same boat with him. He put a pressure on this House, when he talked of a body that had met within these walls, which had passed away,—talked of the ghost of a body which was now no more, and spoke as if you too might soon pass away and be no more, if you refused him this Bill. He puts a pressure on members of the Government,—they are told to take care how they behave. There is a gentle pressure on the Opposition,—they are all to bear in mind that an election is approaching; and to-day, he tells you, that if you do not mind what you are about, there may be an Elective Council, and you do not know where you may be twelve months hence. Then he tells us that there is a pressure put on the Bishop, by the people of Halifax, but that they are an insignificant set, always behaving badly, that there are only a very few of them, and that he does not care about their wealth! Then he tells you (as he should tell you, or he ought not to be in the ministry at all, if he did not) that, as Bishop, he knows no difference between the poorest man and the richest. I think he does recognize no such difference. But when I admit that, I also say that he ought not to have come here, and lent himself to foster an idea calculated to promote dissension among Church people. He is the last man that ought to have done it. The tendency of his whole speech was to create dissension. He is willing to cut off St. Paul's, Wilmot, everything that interferes with his darling measure. These three thousand men, he says, think they are going to conquer me,—they are putting a pressure on me. Now this forces me into a subject I would rather have avoided.

When the Bishop's letter of May, 1856, was written, the parishes of St. Paul's and St. George's comprised the whole of Halifax; for St. Luke's was then connected with St. Paul's; the letter, therefore, being addressed to the whole parish of St. Paul's, was addressed to the parishioners of St. Luke's also. There is not the shadow of a ground for the charge brought against the people of St. Paul's. The parish of St. Paul's is friendly to, and desirous of advancing the interests of every

parish in the diocese; nay, more, I would appeal to themselves, even to the ministers and those who have made this attack, and are now backed by the Bishop, and ask them if any appeal has been made from the remotest part of the diocese, that has not been responded to. Is that an indication of over-riding the diocese? The parish of St. Paul's contributed largely towards a fund, the whole of which goes to the parishes. In fifty parishes eight hundred and seventy pounds was raised for this fund,—of which, Halifax paid three hundred and thirty-six pounds, or more than one-third. In 1860, nine hundred and seventy pounds was so raised, of which Halifax paid four hundred and thirty pounds. In 1861, eight hundred and fifty pounds was so raised, of which, Halifax paid four hundred and twenty-five pounds. I am making these statements merely because I am coerced into it, and wish to show his Lordship how *unjust*, as well as, in my opinion, *injudicious*, his observations are.

There is the widow's and orphan's fund. I asked a question this morning about that, but I was told that I need not go into it, for almost all the widows and orphans resided in Halifax.

When the present Bishop first came here, the diocese determined to raise a fund towards the support of the Bishopric. The whole Province, consisting of some forty or fifty parishes, subscribed eighteen hundred pounds, Halifax thirteen hundred. As these facts crossed my mind during his Lordship's remarks on this point, I could not help thinking that he was making a most unfortunate reference. He told us, indignantly, that he would do what was right, and throw money to the dogs, —that he would not sell his birthright for a mess of pottage,—that is, that he would not give up that which he valued—his control over the Laity and Clergy—for money. Is he not in all respects like Esau? He has had his mess of pottage, and now he wants what he calls his birthright. Has he not had all the advantages of getting the money under those circumstances, with this paper (his letter of May, 1856,) in his hand, in which he says, "There, don't be afraid, this question will never be pressed on you."

Suppose that when these funds were spoken of, everybody had said, "There is that Synod, I want the Bishop's veto power withdrawn from it, and if that is done, another fund will be raised." Suppose somebody had said—you have been deluded, the Diocesan Society is going to be swallowed up in the Synod, and your Diocesan Society will be powerless. The answer would have been: there is no fear of that, for there is his Lordship's letter; the *veto* power may exist over the Synod now, but then it is only a *deliberative* assembly, and cannot become a *legislative* assembly, or have any *legislative power*, *until the diocese is unanimous in favour of it*, and, depend upon it, we will agree to no Bill unless the Bishop's *veto* power is withdrawn from the Synod.

A short time since, money was wanted for King's College. Out of

£7200 raised in the whole Province, £3800 were collected in Halifax, or more than one-half of the whole. Then there is the Endowment Fund. St. Paul's contributed £8554 towards this fund; the parish of St. George's, £1266; the parish of St. Luke's, £991; and Bishop Binney's Chapel, £61. The total sum raised is £21,925; of which, the Society for the propagation of the Gospel gave £1250; Miss Binney £550. Halifax has paid up to this date £5550, or more than all the parishes in the Province have paid in to the same time. The Endowment Fund is not for the benefit of Halifax, but for the country parishes. Thousands and thousands of pounds have been subscribed by Halifax, for the benefit of the country, and yet we are told that there is nothing but jealousy of the town parishes overriding the country parishes! I do not know whether there is any such feeling or not, I never saw any indication of it: but if there is, I ask was it his Lordship's place to say—I give the whole force of my Episcopal sanction to it, and I say that I think there is good cause for it? He should have said to the city parishes—I will not take your money.

The Bishop.—I did not say that of myself, but for the Church.

Mr. Ritchie.—The diocese has got all this money, and now you say you will not sell your birthright.

I am told that the press supports the promoters of this Synod movement. Do I understand his Lordship to say that the religious press supports him in this matter? Do you, gentlemen, say that there is any denomination of Christians, now that they know what this Synod really is, that would be favourable to it? There is good feeling enough among the different denominations, I should hope, not to desire to impose upon any other denomination that yoke which they would not impose on themselves. I dare say that the organs of some of the denominations may have said that they thought that the Synod was a good thing. The Methodists have their Conferences,—the Baptists their Associations,—the Presbyterians their Synods,—and they would, therefore, naturally say, the holding of a Synod by the Church of England is approximating somewhat to themselves. But will they now say that they would be content to live under a constitution such as that of this Synod? Is there any well-thinking man that would be likely to do so? If so, that man, dissenter or not, I care not to what denomination he belongs, says—I want to destroy my Church. He only wants this Synod to be fastened on the Church, because he wishes the Church to commit a suicidal act, and he is going to rejoice in its destruction. I think better of the religious press than that, and therefore I do not believe that they are favorable to this Synod, as at present constituted.

I trust, gentlemen, that you will report unfavorably to this Bill,—that you will withhold your assent until the various parishes are unanimous in its favour, or until the promoters of this Synod movement can show a platform, on which, men brought up under the principles of the

British constitution can meet. You, certainly, will not yield to that portion of the Church which now asks for this Bill. We are asked to place ourselves in the hands and under the control of the Bishop, to declare that we believe ourselves unfit to legislate for the Church, unless we have some one over us with power to control our actions.

His Lordship does not seem to me to relieve the Rectors of the parishes that he consents to exclude from the operation of the Bill. He says that he will relieve the *parishes*, but does he intend to hold the *Rector?* Does he intend to attack the parish through the Rector, and allow them a Tractarian Rector, or no Rector at all? Is it the intention to exclude from the operation of the Synod the Rector as well as the parishes?

The Bishop.—It is the intention.

Hon. Mr. Almon.—I understand that the promoters of the Bill would rather that it should be lost, than that any of the ministers should be excluded from its operation. I should like to know, if the Bill goes to Committee, whether such an amendment made there would be acceptable.

The Bishop.—My difficulty is this, that it is not easy to frame a clause that will not extend further than is intended. I should not like to have the Venerable Archdeacon excluded from the Synod, and if the ministers of unrepresented parishes are prevented from attending, he would be excluded. I should be very sorry to shut him out from having a proper voice in our deliberations.

Mr. Ritchie.—I am quite sure that I speak the sentiments of the parish of St. Paul's, when I say that they would be sorry to interfere with the rights of the Rev. Dr. Willis as *Archdeacon*.

His Lordship says that he wants this Bill, because there is a difficulty with the present Synod. I am struck with his argument to-day, because it overturns his argument of a previous day, and sustains the views I have taken. His argument was this, that he wants this Bill, because he cannot do without it. If his argument now is merely that he wants a Synod to be established, all we want him to do is to show us a platform on which men of independence can meet, and we are with him. But if, at this moment, the Church of England is as free to have a Synod as the Church of Scotland, or the Presbyterian Church of the Lower Provinces, then, I ask, what need is there for this legislation? Then, I ask, is there a pretence for it? Is there any reason why this should be the only Church that has ever desired to have placed on the Statute Book an Act specially authorising it to degrade its own Clergymen? Is there any reason for the Bill, if the Synod can sit without it? If it had been the case that there were Acts preventing this Synod from sitting, then the Bill would be necessary, otherwise it is not.

It is said that underhanded motives have been attributed to his Lordship. I do not consider them *underhanded* at all. I think it per-

fectly evident that the motive is to obtain positive power that does not exist at present, to operate on members of the Church, Clergy, and Laity, through a law passed with the sanction of the Legislature.

It is urged that dioeesan Synods are legal without an Aet.

The Bishop.—Quite so.

Mr. Ritchie.—We have, then, the deelaration of the Bishop, that the Bill is unneeessary,—this is one of the good effects of this diseussion. None of us thought that this was the Bishop's opinion. No one in the other House thought so. But, now the fact is brought out, that the Act is not necessary,—no more necessary than sueh an Act is for the Presbyterian Church of the Lower Provinees.

Let us now look at the eonstitution of this Synod. Subserviency, one would think, could hardly have gone much further than is indieated in those Rules; but, not satisfied with those, the Rev. Mr. White goes even further yet.

The Bishop.—Mr. White is a pretty independent man.

Mr. Ritchie.—His Lordship says that he is an independent man. If he is *independent*, I should like to know what those who are *subservient* would do. Mr. White proposed that all committees should be named and appointed by the Chairman of the Synod,—that is the Bishop!

The Bishop.—That is the general rule.

Mr. Ritchie.—What real power then is there out of the Bishop? He is the beginning and the end, and yet we are asked to believe that he is aetually over-burthened by his own power, and wishes to have the Synod, that he may be relieved of a portion of it! I ask you to give to the Church of England what other denominations enjoy, and nothing more. I ask you to give it to them when they ask for it unanimously.

His Lordship has referred to individuals who have sat in those Synods. I do not eare who they are, as long as the Synods were *voluntary* associations, and *deliberative* only,—so eonstituted the Bishop's veto is a matter of no eonsequence whatever. The moment, however, that the *deliberations* of the Synod end in *laws*, then the *veto* beeomes important. I am much mistaken if men will sit in this Synod, who know that no matter what they decide, it may be overruled. I shall be much astonished if men can be found, edueated in the prineiples of freedom, who will consent to take part in deliberations of that sort. With these observations I leave the case in your hands, and with many thanks for the patience you have exhibited in listening to this lengthy address.

The Bishop.—I merely wish to make a single observation. The Act is only wanted because doubts have existed as to the legality of the Synod. Nothing eould have been more gratifying to me than the temper and spirit in which Mr. Ritchie has eonducted this argument.

The Committee then (8¼ P.M.) adjourned.

SPEECHES OF LEGISLATIVE COUNCILLORS.

Hon. Mr. Almon, as chairman of the committee on this bill, reported as follows:

"The select committee to whom was referred the bill to remove doubts concerning the Synod of the United Church of England and Ireland in Nova Scotia, and to incorporate such Synod, have performed the duty assigned to them, and beg leave to report that they are of opinion that so long as the present want of unanimity on the subject exists among the members of the Church, it is not advisable to pass the Bill, and that the effect of doing so would be to cause discord and disunion where harmony now happily prevails."

Hon. Mr. Patterson asked if the members of the committee were *unanimous* in that report.

Hon. Mr. Almon was happy to state that they were.

HON. R. B. DICKEY'S SPEECH. *(Churchman.)*

FRIDAY, March 27, 1863.

Hon. Mr. Dickey moved that the report be received and adopted, and that the further consideration of the Bill be deferred to this day three months. The hon. gentleman stated that if he were to consult his own feelings, independent of the merits of the Bill, he should not oppose it. For his Lordship the Bishop, as a scholar and a gentleman, and as an able and energetic dignitary of the Church, he entertained a sincere respect; but he could not conscientiously vote for the Bill. For the first time in the history of this country, the Legislature was called upon to give the force of law to rules of the Church. Such a law had never before been asked for by any denomination of Christians in this Province. These Synods were not English. So far from being so, the Legislature of England, jealous of the liberties of Englishmen, for nearly 300 years prevented their meeting. It was true that convocations had been held, but they were mere voluntary assemblies, and the moment they had showed a disposition to do any thing more than mere formal business, or to go beyond a mere interchange of Christian courtesy, and a kindly expression of opinion, the Queen had exercised the power she possessed of proroguing them. In the last century, for a period of 50 years, not even these formal convocations had been allowed to be held. He was not a little surprised to hear it stated in this chamber that the ecclesiastical laws passed previous to the Reformation were binding here, and that those enacted since were not. This singular enunciation was

accompanied with the statement that the Bishop carried with him all this old ecclesiastical law. He was happy to say that that statement had been since abandoned, and it was now acknowledged that the old ecclesiastical laws were not binding in this Province. He was also surprised, and not a little amused, to hear it stated that the canons of 1603 extended to Nova Scotia. He was speaking in the presence of lawyers, and he was quite sure that no lawyer would dispute his assertion that they had no power whatever either in England or the colonies. Lord Coke and Sir William Blackstone had held that they were not binding on the people of England in any sense.

What was the constitution of the Church of England in Nova Scotia? There was a Bishop, and he had certain powers of an overseer, of visitation, consecration, ordination, and confirmation, which, according to the constitution of the Church, he alone should have. In matters of doctrine or discipline the Bishop himself, as well as all other members of the Church, was bound by the articles and rubrics in the book of Common prayer. As regards temporalities, the Church of England was in one sense congregational, each parish having a corporate authority to deal with its own property. There was another corporate body, the Diocesan Church Society, in whom was vested property given for the general benefit of the Church. That being the state of matters, he asked himself what necessity there was for this bill. In a paper having official sanction laid before the house it was not only admitted that there was no necessity for this legislation, but, it was contended that the Synod, as now constituted, is a voluntary association and has the same power over its members which other voluntary associations have over theirs. That was a proposition which he (Mr. D.) admitted. If by this bill the Synod sought only for power to regulate their own affairs within their own body, nobody would refuse it to them. But—and this was the worst feature in the bill—the Synod asked for power to deal with persons outside their own body.

The question was now narrowed down to this—What powers have the Legislature given to other denominations? The Bishop had said that he only asked for the powers given to other denominations; but yet, there was this strange inconsistency in his conduct, that although he made this statement, yet in another part of his argument he tells us he cannot agree to leave the Synod to the people to be adopted or not as they choose, because he says these Synods are not voluntary associations, but the inherent right of the Church. This would afford a little light on the real nature and object of the bill.

The House had been referred to two or three acts. As regards the Wesleyan Methodist Act, it rested on a contract originally entered into by the members of that body. Every member was supposed to become a party to that celebrated Deed in Chancery. The legislature had done nothing more than incorporate the denomination—they had not professed to validate that Deed.

(The hon. member here read from the private and local acts, pages 47 and 48, the 3rd and 4th sections of the Wesleyan Methodist Act to show that powers were only conferred to deal with property.)

All those acts to which reference had been made were *merely acts for the regulation of temporalities, and did not touch doctrine or discipline.*

It was said that the Church of England was under disabilities, and chap. 51 of the Revised Statutes, "Of Religious Congregations and Societies," was referred to in proof of this. The concluding section of that very chapter read as follows: "Nothing in this chapter shall extend to the Church of England or to the parishes thereof, or shall affect the rights of its clergymen, officers, and parishioners, nor shall interfere with the spiritual government and discipline of any church, further than may be provided for in the deed under which the society or congregation is constituted." Yet in the face of all this it was said that rights were withheld from the Church of England, and the Legislature was now asked to do what this act declared it should not do—enforce spiritual discipline.

(The hon. member then referred to the act to incorporate the Roman Catholic Bishop in Halifax, and showed from the 6th section that it conferred no spiritual jurisdiction or ecclesiastical right whatever on him, his successors, or any ecclesiastical person in his Church.)

It was said that the bill was precisely the same as the Canadian act. *It was not*, and the title of it had been changed since it came from the Synod. The act was then entitled, An Act to enable the members of the Church of England to meet in Synod—a mere enabling act; now it is a bill to remove doubts concerning the Synod, &c. Originally it said that two lay delegates should be chosen, without saying that they should be communicants; now the bill says that they must be communicants. Again, it appeared by the St. John *Church Witness* of the 18th March, that the following proviso is in the Canadian act:—"Nothing in this act contained shall authorize the imposition of any rate or tax upon any person or persons whatsoever, whether belonging to the said Church or not, or the infliction of any punishment, fine or penalty upon any person, other than his suspension or removal from office in the said Church, or exclusion from the meetings or proceedings of the diocesan or general Synod." It was rather significant that this clause should be left out of this bill. Originally the bill took away the power of nominating ministers, and also of controlling their temporalities from the parishes, and it was only by strenuous efforts that the present provisions had been introduced.

There was another peculiarity in the advocacy of the bill, which showed its dangerous scope. The Bishop was at last willing to take it in any shape. It was the duty of the House to deal with the bill as they found it. The agitation in favour of the bill commenced with the Bishop, had gone from him to the clergy, and from them reluctantly to the people. Only half the clergymen in the province were at the Synod meeting relative to the bill, and seven out of them voted against it,—only 23 out of 69 clergymen voting for it.

Less than one-third of the delegates allowed to vote at the Synod, voted for the bill; and yet it was said, forsooth! that the whole Church asked for it. Under these circumstances, he might well ask the House to postpone the bill. His objection, however, went much further. It was wrong to ask the sanction of the Legislature to laws made by any denomination of Christians.

For these reasons, he would ask the House not to assent to the second reading of the Bill.

HON. M. B. ALMON'S SPEECH. *(Churchman.)*

FRIDAY, March 27.

Hon. Mr. Almon stated that although the bill had been already so fully and ably discussed, he felt that it was a duty he owed to himself, not to give a silent vote. He feared that hon. gentlemen of other denominations would not give the bill grave consideration, because they would say that it affected the Church of England alone. He thought, however, that he could show them that it was calculated to attack, if it did not altogether subvert, religious freedom, and that it would also encroach on civil liberties. If this bill were granted to the Church of England, of course other religious bodies would ask for similar acts. No such law had ever before been asked for from the Legislature of Nova Scotia. In looking at this bill, the first question he put to himself was, What are the acts now governing the Church of England? Was there any necessity for further legislation? The acts already in existence relative to the Church of England were the act for the incorporation of the Diocesan Church Society, and chap. 50 of the Rev. Stat. Besides that, every parish was in itself a corporation—so was the Bishop himself. In addition to this the Bishop had told the house that he had a corporation act for himself—if it might be so termed—which was his patent.

(The hon. member then went on to refer to these acts in detail, to show that every purpose for which laws were needed by the Church was embraced in them.)

It was said that the bill was asked for because certain *doubts* existed. As a member of the Church of England, he confessed that he had never heard any doubts expressed as to the freedom of worship at her churches. It appeared that this bill related to discipline. He asked himself what discipline meant; and on further examination, he found that the object was to establish ecclesiastical courts. Those, therefore, who did not comport in

opinion with the Bishop and the members of the Synod, were to be called to account for any doctrines which they might entertain. The bill also contemplated that the Synod should have the power of appointment, deprivation, and removal of any person having office in the Church, any rights of the Crown to the contrary notwithstanding. As far as his (Mr. A.'s) knowledge of legislation, either here or elsewhere, extended, he had never heard of an act conferring that power—an act which was to give powers entirely independent of the rights of the Crown. This appeared to him monstrous in a Church in which he had always been taught that the Queen was at the head of all matters, both civil and ecclesiastical. By the bill, the Church here would be at once withdrawn from the authority of the Queen. He would ask, if, after the bill was passed, the Church here could be called the Church of England? It was self-evident, that the Church would be the Church of Nova Scotia. As had been said by the learned advocate who appeared before the select committee, there would then be two Churches here: one under the control of the Synod, which would be the Church of Nova Scotia; and one which would comprise those dissenting from the Synod, which would be the Church of England. He hoped and trusted that he should always belong to the Church of England, and should always acknowledge the Queen as the supreme head of his Church. He was surprised that his Lordship the Bishop should expect the bill to be passed here, without being referred to the Queen—for this House was particularly the body which should see that the rights of the Crown were not infringed. The mere fact of this clause, trenching on the rights of the Crown, being in it, should prevent this House from passing the bill.

This Act of the Bishop's was a piece of local legislation—it was also *bad* legislation, because it had an *ex post facto* operation—because it affected those who had been members of the Synod already existing. He (Mr. A) called it the Bishop's act,—the Bishop himself called it so.

The Bishop had repeatedly said that the Church people in the country were as one man in asking for the act,—that the opposition was only from Halifax. He (Mr. A.) had himself asked the Bishop, and he had been asked in other places to insert a clause in the bill to give the parishes in the country until Easter, 1864, to decide whether they would be bound by it. He (Mr. A.) was astonished that his Lordship would not consent to this, but said that he had nearly all the parishes now, and that he would keep them. Was not that sufficient to alarm any man's mind?

It was said that the Laity were represented in this Synod. He considered that the Laity would soon, under the operation of the Bill, be a mere *nullity*. He believed that the Laity were generally ignorant of the nature of the Bill.—They had not asked for it. The Bill had come from the Bishop himself, who had told the Clergy (they not knowing it before) that they were suffering for want of the Bill. Fearing that the Laity might hereafter understand the real nature of the Bill, the constitution of the Synod provided that they should be removed at the pleasure of a majority, as it said that the Laity

should meet by representation *until it should be otherwise determined by the Synod.*

He (Mr. A.) had been and still was a member of this Synod, having represented from its commencement one of the country parishes, and he, therefore, knew something of its operations.

His great fear with respect to the bill was expressed in the report of the select committee, which represented the unanimous opinion of himself and colleagues, that it would create disunion and divide the Church.

(The hon. gentleman then stated that his Lordship the Bishop, by way of compromise with the parish of St. Paul's, had inserted a clause in the bill which was not in it when passed by the Synod, and had thereby exceeded his powers. This clause exempted from the operation of the bill St. Paul's and St. George's, and any other parish hitherto unrepresented in the Synod, which should express its desire at or before Easter, 1864, to be excluded.

Hon. Sol. General interrupted to say that he understood that the bill had been introduced into the assembly exactly as prepared by the Synod, but that doubts and difficulties having arisen, this clause was suggested by members of the assembly, and acquiesced in by the Bishop.

Hon. Mr. Almon maintained that this was not correct, and repeated his former assertion.)

The Bishop had said that his Synod—voluntary as it had been —had all the force of law. If so, why did he ask for an act to legalize it?

He (Mr. A.) had attended the Synod, against the advice of some of his friends.—When the constitution was presented for adoption, and he found that by it the Bishop had a *veto*, he consulted with some of the Clergy, and intimated his intention of introducing a resolution to modify that power. This resolution allowed the Bishop his veto in the first instance, but provided that if the vetoed measure should be again voted for, not by a bare majority, but by *two-thirds* of the Synod, it should then pass without the concurrence of the Bishop. Some six or seven Clergymen had promised to support him (Mr. A.) in that resolution; but when the resolution came up for discussion, he was deserted by all the Clergy, and found himself in a glorious minority of *one!* He would ask if the mere presence of the Bishop in the chair did not largely control the Synod? It was to avoid similar influence that the Assembly and this Council occupied different Chambers, and that his Excellency did not occupy the chair of this house. The practical working of the *veto* would be, that every measure would be submitted to the Bishop, to know whether, if passed by the Synod, he would agree to it. The effect would be, that no measures would be introduced, but such as it was known beforehand would be assented to by the Bishop.

(The hon. member then referred to the case of the Bishop of Toronto, who scouted the idea of being reduced to the position of a moderator of a Presbyterian Assembly, by dispensing with his *veto*.)

As a Churchman, he asked nothing from the Legislature which was not

granted to other denominations, and he thought that the Church should not ask anything which was denied to other religious bodies.

In the diocese of Ontario the parishes had formerly. as they still have here, the privilege of nominating their own ministers. The first act of the Synod of Ontario was to deliver up all the Church patronage to the Bishop—and the first act of the Bishop was to give one of the best parishes, against the will of almost the whole of that parish, to a gentleman who had strenuously exerted himself in his favour in the canvas for the bishopric. This was another instance of the practical working of these Synods, and should cause the house to panse before they passed the Bill. (The hon. gentleman, then, alluded to the clause in the Canadian act, referred to by hon. Mr. Dickey which, he thought, should be in this bill.) He had already observed in the Synod something like an effort to dispense with the laity altogether. By the Constitution, as originally framed, a measure had first to be passed by a majority of the clergy, and then by a majority of the laity, but at the last meeting a resolution had been carried that the clergy and laity should vote in one body, and as the clergy quite outnumbered the laity, it was easy to see where the majority would be. If the bill were passed, the Synod would become a miniature Legislature, for there was no appeal from its decisions.

If the House were to take his Lordship's arguments at one time, and his arguments at another time in his address to the Committee, no better answer would be required to the application for the Bill.

It had been said that the Bill was required to free the Church of England here from state restrictions. He did not see that the Church was encumbered by any such restrictions. The Bishop had shown his cleverness and ability in his arguments before the Committee. Where his points were weak he had skimmed them over with great adroitness, and on his stronger points he dwelt with great force. He (the Bishop) had been told that the main thing to which the opponents of the bill objected was the *veto*. In his speech before the committee he said very little about it, except that it would be a *drag* upon hasty legislation. He (Mr. A.) was afraid that it would not be used in that way very often.

The Bishop (and he said it with all due respect) was not justified in saying that the wealthy men of Halifax were pressing on him to do that which was inimical to the interests of the country parishes, and that one of his chief reasons in asking for the Bill was, that he might be freed from the pressure of the monied aristocracy of the city. He (Mr. A.) felt a little hurt at that statement. Funds were raised by members of the Church for the Diocesan Church Society, and for the Church Endowment Fund—to the latter of which several gentlemen in Halifax had given £500 as their individual subscription. Every farthing of the money raised for the Diocesan Church Society had gone to the country parishes,—not a farthing of it had been retained for St. Paul's parish. There never had been a complaint from any one of the country parishes of undue influence. They had always been content with the division made, and

which was always made with great consideration. The clergymen's salaries were made up by the Diocesan Church Society. When the house was told that the Bishop was the President of that society, and that he occupied the chair at all their meetings, and concurred in every distribution of the money, he thought it would be said, "If the Society was acting unjustly towards the country parishes, where was the chairman?—why did he not tell the Society that there was undue pressure—that they were not doing right in certain matters?" Having received this money, the Bishop might have spared the feelings of the members of that Society, and not have said that because they had more money than some of their poorer brethren in the country, that therefore they were using their influence unfairly.

In conclusion he would ask the house not to pass an act which would curtail his religious freedom—which would besides create religious factions, which were the worst of all factions. Hitherto the members of the Church of England in Nova Scotia had worshipped together at the same altar, in unity and brotherly love,—would the House now throw the apple of discord among them? He had no fear of that. He knew the members of this House too well to believe that they would do any injustice to him or his fellow Churchmen —and to them he willingly left the decision of this question.

HON. MR. McCULLY'S SPEECH. *(Baptist.)*

SATURDAY, March 28.

Hon. Mr. McCully would briefly state the reasons which influenced him in voting, as he was about to vote, for the Bill. At a very early period of his legislative career, a Bill was introduced for the incorporation of the Roman Catholic Bishop, and after a good deal of consideration, seeing nothing dangerous in it, he had voted for the measure. Bills were subsequently asked for by the Wesleyan Methodists, and the Presbyterians, and those he had also supported. It was true, for he did not wish to do injustice to this question in any respect, these acts were more applicable to temporalities than otherwise. Now the Episcopalians were asking for an act, and it would be inconsistent for him to throw obstructions in their way, and to refuse them what they had a right to ask, and what the House in all fairness ought to concede.

The denomination to which he had the honour to belong, had stood in the fore front of the battle for religious liberty fought in the dark period of his-

tory, and it would be unworthy of him to impose restrictions on any religious body.

When any denomination asked for an act which did not interfere with the rights of others, he held that they were entitled to it. He believed, moreover, that the peace and prosperity of any denomination were largely bound up with the success which any application of that kind received. Where such an application was refused, it only excited those feelings which eventually brought a redoubled influence to bear on the Legislature—an influence which was almost certain to succeed in the end.

He was not going to enter into the controversy as between the persons advocating the Bill and those opposing it. That had been already done with more ability than he could do it. He could remember when denominational prejudices ran high in this province, but he congratulated the people of this country that the time had now arrived when such prejudices were dissipated, and kindly feelings prevailed among good men of all denominations. He from his heart regretted the spectacle now presented of one portion of a denomination being arrayed against another portion of the same body. He believed, however, that the Bill was in unison with the wishes of a large majority of that denomination. Had he come to the same conclusion as the select committee, that the passage of the Bill would cause discord and disunion, he should cordially have united with them in deferring it. [Hon. Mr. Dickey: Hear, hear.] But he believed there was not that want of unanimity which the committee seemed to imagine.

On the contrary, he thought there was rather a remarkable amount of unanimity on the subject among the Churchmen of Nova Scotia. On that point he would refer to the petition which had been laid on the table by the Chairman of the Select Committee. That petition had neither date nor locality; and although it had 140 names attached to it, it was evident that they were all in the hand writing of certainly not more than two individuals. He thought some explanation should be given of this fact. He need not argue the point that if the 47,000 Churchmen were unitedly in favor of the Bill nobody would object to it. If 40,000 or 45,000 were for it, and only a small section against it, ought the voice of the latter to prevail against so large a majority? In the Logislature how often did a majority of only one decide, perhaps, an important question, and influence the whole legislation of the country. He was informed that in convocation 28 Clergymen voted for the Bill, and but 7 against it, and that of the laity 29 voted for it, 1 against it, and one declined to vote because he would be called on to vote in another place. Provided that the convocation was such as he assumed it was, fairly representing the great body of the Church, he thought it showed a pretty unanimous expression of opinion.

Hon. Mr. Almon remarked that if the whole laity allowed to vote had been present, there would have been 90 of them.

Hon. Mr. McCully replied that if the laity that were not present had an op-

portunity of knowing what was to be done, by the laws regulating such matters their silence was their consent, unless they at once made some protest against it. He thought that law governed this body. He understood one of the hon. gentlemen who opposed the Bill yesterday to say that the Church people were ignorant of its nature. Was that so? He (Sol. Gen'l.) had been taught from his childhood to believe that the Church people were an intelligent and educated people. They had an organ, and as a body he believed that they knew perfectly well what was going on with respect to this measure, and understood it just as well as the Baptists of Nova Scotia would understand a measure touching their interests which had been published in their organ and discussed therein for three months. He was asked to rescue Churchmen from themselves. That was not his mission. He had been led to believe, until he saw the Bill, that the Synod was already organized, and that the object of the Bill was to legislate for an organization already in existence. That, however, was not the nature of the Bill. The Synod was to meet *after* the passage of the Bill, to frame a Constitution. Both hon. gentlemen who addressed the House yesterday had spoken of the *veto* as an objection to the Bill. The argument was a fallacy. The Bill authorized the Synod to organize for itself. The Constitution had yet to be framed. The Bill did for the Church people just what any incorporation act did for the members of the corporation,—enabled them to meet to form their own rules and regulations.

If the Bill had asked for legislation for a previous organization, he might have stayed his hand, but it did nothing of the kind. It appeared that those who opposed the Bill had not confidence enough in the members of their own body to believe that they would frame a suitable Constitution and Bye Laws. That, he thought, was a fair, legitimate sequence from the style of their argument. That was not very complimentary to themselves, and he assumed that in this age of enlightenment, and taking Churchmen sitting here as samples of their body, that Churchmen generally were perfectly able to take care of themselves, and that no unsuitable rules would be passed by the Synod. It might be said, "Judge them by what they have done already,—they have given the Bishop his *veto* before, and they will do so again." He was not prepared to say that they would not, nor was he prepared to say that it would not be a wise thing if they did so.

He would ask these Churchmen who opposed the Bill to answer this question. What is the juridical power of a Bishop in a colony? Was he in the same relation to the parishes, people, and communicants as a Bishop in England? If not, let the opponents of the Bill point out the difference. Did the Bishop here, where not interfered with by our Statutes, possess the same power as a Bishop in England? *If so*, then he was by this Bill giving up a large portion of his power. If so, he (Sol. Gen.) could not understand what there was in this measure which alarmed members of the Church of England. He would remind hon. gentlemen that churches were delicate pieces of ma-

chinery, and that these disputes generated where there was the least real religion. He was not going to say who was to blame. but it was unfortunate—it was deeply to be regretted by every Churchman—that this antagonism existed. It might be that a rejection of the Bill would induce the majority to withdraw this application, but he very much doubted it. He thought the result would be to bring down upon this Legislature a power which it would be impossible to resist.

But why should members of other denominations oppose the Bill? The fourth clause provided that the Bill should not apply to any parish hitherto unrepresented in the Synod, which would pass a resolution declaring its desire to be excluded. What more could have been done to conciliate the opponents of the Bill? The House should not assume that the clergymen did not understand what was beneficial to their own interests. He did not think that the Council should undertake to tell these gentlemen that they did not know what they were doing. Every member of the Church of England should concede certain rights to his Bishop, but the opponents of the Bill were trying to combine two things which could not be combined—independence of the parishes and Episcopal Church government.

The *veto* had been made a great *bugbear*, but he could not see the great danger of it, because the Bishop could pass no measure of himself, though he might refuse his assent to a *good* measure. Should not the house assume that the Bishop and Clergy had at heart an earnest desire for the spiritual welfare of their people? He believed in his heart that they thought that by the Bill they would promote the benefit of their people What motive could the Bishop have in placing himself in conflict with a large body of his own people? Higher than all temporal obligations were the solemn vows he had taken which would naturally restrain him.

(The hon. gentleman then went on to comment on the remarks of hon. Mr. Almon yesterday as to the insertion of a clause in the Bill by the Bishop after it had passed the Synod.

Some discussion took place between the hon. gentleman and hon. Mr Almon on this point. The following written memorandum was subsequently read by the Solicitor General, and acquiesced in by hon Mr. Almon, as being admitted by all parties to contain a true statement of the facts:—

The clause was introduced by the Select Committee of the House of Assembly on the understanding that the Bishop and the Committee of Synod would not object to it, and that the parish of St. Paul's would not call a parish meeting, though not approving the clause.)

[With reference to the Solicitor General's speech, it was generally thought strange that he should so strenuously advocate the passage of the Synod Bill,—his public life and opinions tending to benefit the power of Clergymen, rather than extend it. A key, however, to his advocacy may be found in the following fact:—

A member of the Legislative Council on the Liberal and then Government side, stated that the Bishop, in soliciting his vote for the Synod Bill, said to him that the Government was going to support the Bill. Mr. McCully being one of the Government, and, as it is generally believed, not doing much in any shape for nothing, it is quite probable that the Government was promised support at the approaching election, in return for their support of the Synod Bill.]

HON. H. G. PINEO'S SPEECH. *(Churchman.)*

Hon. Mr. Pineo observed that, having been one of the select committee on the Bill, he should make a few remarks to explain why he participated in their report. The Sol. General had spoken of the large majority of Church people in favor of the Bill. He (Mr. P.) could explain to him how that majority was obtained. At the vestry meetings the parishes had the opportunity of appointing two delegates to represent them in the Synod. In his parish it very often happened that a quorum could not be obtained at these meetings, and they had to go into the highways to find persons to constitute a meeting. He presumed that the same thing occurred in other parts of the province. Out of some fifty parishes said to be represented in the Synod, there might be some seven or eight that were actually and fairly represented there. Was it not well known that the Bishop had the clergy largely under his own control? On their arrival here to attend the Synod, the Bishop no doubt told them that it was necessary to have the Bill; and as a favor to him they would naturally vote for it. People in the country did not know what the Synod was, much less the practical operation of the Bill. That, at all events, was the case with a great many persons in his parish. If the Bill passed, the people would wake up bye and bye, and see to what they had bound themselves.

The Solicitor General had referred to the Presbyterian and Wesleyan Methodist Acts, and had tried to make it appear that the Bill contained nothing more than those acts contained. To show that such was not the case he would read two sentences referring to this Bill, from the St. John *Church Witness*

(The hon. gentleman then read as follows from the *Church Witness* of March 18, 1863—

"It binds all parishes thet have been represented under the first constitution to retain their connection with the Synod under this Bill of incorporation, whether approving of it or protesting against it. Instead therefore of its being a Bill of incorporation for the existing Synod, it is a Bill imperilling the civil rights of the clergy, the connection of the laity with the Assembly, and the liberties of the parishes to judge and determine for themselves.")

The Bill came here with a lamb-like appearance—very innocent. The Solicitor General told the house that there was nothing in it—only a simple Bill to remove doubts—doubts, which he (Mr P.) contended, never in fact existed. But when you examined, analyzed, and stripped the Bill of its covering, you found a ravenous wolf in sheep's clothing, calculated to destroy the freedom, diberty, and independence of 50,000 Churchmen in the Province of Nova Scotia.

His Lordship told the committee the other day that he had the Synod now, and had as much right now to hold his courts as any judge in England. If that was the case, where was the necessity for the Bill? His Lordship, however, was not satisfied with his present power, but pressed for this Bill?

Had not the house, then, a just right to suppose that something was to grow out of the Bill to give him additional power? A Bishop who had once obtained power had never been known voluntarily to relinquish it. Bishops were mortal as well as parishioners and they might, from the effect of an overtaxed brain, carried away by some fantastic notion or frenzy, do things of which their parishioners disapproved. If a man possessed real estate, either by purchase or inheritance, he seldom disposed of it without an equivalent. If he had privileges they might be more valuable than property; and when once transferred, he need never expect to recover them. It was therefore necessary to be cautious. Caution and prudence had been his guide hitherto, and he thought the house should be cautious how they passed a Bill which would deprive Churchmen in Nova Scotia of valuable privileges, not only now but for generations to come.

The Bishop had told the committee that this act was like the Canadian act. Now Churchmen in Canada formerly possessed the right of choosing their own minister; but when that act was passed, and a Synod was established in the diocese of Ontario, the patronage was handed over to the Bishop, and he said to the parish of Kingston, "The privilege of appointing your minister is mine, not yours; and I shall appoint a certain individual whether you like it or not." He would not say that the present Bishop would abuse the power he would obtain if the Bill were passed, but he had no lease of his life. Though he (Mr. P.) hoped that he would live long, it was possible that he might soon have a successor.

His Lordship had spoken of the canons of 1603. They were pretty rusty now, and he (Mr. P.) did not think the Church people of Nova Scotia need fear a shot from them, and even if his Lordship did fall back on them, he thought there were Church people in Nova Scotia who would march to the cannon's mouth and bid him defiance.—(Laughter.)

His Lordship had said that he had used no undue influence in pressing for the passage of the Bill. It appeared that he had been before the committee of the Lower House, and addressed them for two or three hours. That might not be called undue influence,—he (Mr. P.) would leave that question to the judgment of the house, but he thought it was descending beneath the dignity of a Bishop to do so.

His Lordship had compared this house to the old Council of Twelve, and had said that if this Bill were not passed now, he would it bring up year after year, if it was for 14 years, until it was passed. It should never pass with his (Mr. P.'s) consent, however often it might be brought up.

His Lordship had also reminded the committee that the old Council of Twelve had obstructed public opinion for a long time, until they were finally turned out; and hinted that if the present Council did not give the Bill a favorable consideration, they might meet the same fate, and have to give place to an elective body. This threat did not trouble him (Mr. P.) much.

He thought there was no more necessity for the Bill now, than there was

one hundred years ago; and that the Church people of Nova Scotia had laws enough already to enable them to manage their own affairs. He had made these observations in discharge of his duty, and he trusted that the house would consider the consequence of enslaving 50,000 Churchmen, robbing them of their birthright for less than a mess of pottage, by giving power to the Bishop equal to the autocrat of Russia, and beyond the power of legislative enactment. He could only say that he should record his vote against the Bill, even if every other member of this house voted for it, because he could plainly foresee the evils and difficulties it would entail on the Church people of this province.

HON. A. PATTERSON'S SPEECH. *(Presbyterian.)*

Hon. Mr. Patterson said that the first question he asked himself was, where was the necessity for this Bill? Had not the Church now the power of governing themselves? He had thought that the different denominations had full power and authority to control their own affairs without coming to the Legislature. In listening to this debate, however, he had heard it stated on high authority that they received this power by special acts, and that they were to a very great extent under the control of the Legislature. He was told that the Wesleyan body were in such a position that they could not make an important change in their constitution without consulting the Legislature. He had a right to suppose, after what had been said in debate, that this was so; but he thought it was a wrong position for any religious body to occupy. With regard to the Presbyterian body, with which he was best acquainted, he was told that they met under an act similar to this, and he was pointed to Chap 51 of the Revised Statutes, and told that that chapter applied to the Presbyterians as well as to other denominations. Now any person at all acquainted with Presbyterianism knew that the Presbyterian Church is governed by means of Church courts, and that those courts exercised all the powers of discipline. If that act applied to that denomination, then it subverted all the principles of Presbyterianism, because it made each congregation an independent body. It did not, therefore, apply to the Presbyterians. It was true that many Presbyterian congregations were incorporated under it, but only as far as property was concerned. He was satisfied that if the Presbyterian body thought themselves under the control of the Legislature by that act, they would as one man, ask for the act to be repealed and to be left to govern themselves. That was the position which he thought all religious bodies should occupy.

An Act passed last session with regard to the Presbyterian Church of the Lower Provinces had been referred to, and the Solicitor General had tried to make it appear that that act was similar to this. Before that act passed a radical change had occurred in the Presbyterian body in this Province. Two large bodies of Presbyterians hitherto separated had united in one body. Did they ask the Legislature to sanction that union? No, but simply to protect the property which now became vested in the united body, it was thought desirable to have an act. Was the object of that act to enforce discipline, to give Legislative authority to the removal of office-bearers? No, there was no similarity whatever between that act and this. Even in that act, so jealous had the Legislature been of interference with the rights of dissentients, that it provided that any who had dissented from the Union, or should hereafter dissent from it, should be excluded from the operation of the Act.

With reference more particularly to the bill under consideration, if there were any doubts as to how the Church was governed, and the Church unitedly asked for the bill,—(notwithstanding that he thought there was no necessity for it, for he believed it to be a bad principle to be legislating for the government of churches)—still he thought nobody would object to it. He did not think, however, that either of the conditions he had indicated existed.

The house had been told of the unanimity in favor of the bill, and the Solicitor General had attempted to show that unanimity. Where were the proofs of it? 28, or about one half of the Clergymen in the Province, had voted for the bill. and 7 against it. Presuming that those who were absent from the Synod were divided in sentiment in the same proportion as those present, there would be about 14, or one-fourth, which was a considerable proportion, of the whole body against it.

Another piece of evidence against the asserted unanimity was the report of the committee on the bill. That committee was composed of Churchmen, one from the city, one from the eastern, and one from the western part of the Province. Had not the House a right to suppose that those gentlemen, when they said there was a want of unanimity, had a better opportunity of judging than members belonging to other denominations?

A still further piece of evidence of the same character was the fact that this very question of Synods was agitating the Church of England elsewhere. Even Bishops were divided about it. The Bishop had told the committee that he wanted this bill passed, because another Bishop might want to do away with the Synod. Was the House to legislate to compel a Bishop to give up a Synod, when he did not want to do so, or to have him asking for a repeal of this act?

If there was to be agitation with regard to the bill, he thought it better that it should take place *before* the bill passed.

It was said that if this bill were rejected, injustice would be done to Churchmen. If he believed that that would be the case, he would be the

last man to vote against it. He did not enter into the question of whether the bill gave the Bishop more or less power. He knew that Episcopalians thought that the Bishop should have power. Some of them might oppose the bill, on the ground that it took power from the Bishop, others on the opposite ground. He did not think he was doing any injustice in allowing people to settle their own affairs; and it would be time enough to grant the bill when the Church made a united application for it.

He had arrived at these views dispassionately. He disclaimed in the strongest terms any hostility to the Church of England, either by word or deed. He regarded her with an affection second only to that he felt for his own denomination; and he could not do otherwise, when he considered the men of piety and intelligence formerly and still within her fold.

REMARKS OF HON. W. C. WHITMAN. *(Methodist.)*

Hon. Mr. Whitman observed that he should not perhaps have spoken at all, but for some observations made by the Sol. General, with regard to the petition presented by the hon. member from Halifax (hon. Mr. Almon). He was satisfied that by the present laws all denominations had the power to hold property, and to worship the Creator according to the dictates of their own conscience. "Equality to all denominations—ascendancy to none," was the order of the day in Nova Scotia. There did not appear to be any strong reason why the bill should be made a matter of so great importance. It was well known that the Church of England had managed their affairs well without the bill; and they could certainly do so a little longer. The petition alluded to by the Sol. General was a *twin brother* of one which he (Mr. W.) had presented from the Rector of Wilmot and the office-bearers of his Church. The former petition was signed by the same persons in their individual capacity, and also by many others. In order to make the petition appear more respectable, it had been transcribed; but he had no doubt that it had originally been signed by all the parties whose names were attached to it; and the fact of their having done so could not be disputed.

The hon. member from Cumberland (hon. Mr. Pineo) did not appear to be much frightened at the idea of an elective council. For himself, he would say that, having been requested by the Rector and Church Wardens of Wilmot to present a petition against the bill, and having heard nothing in favor of it from any of the Church people of his county, he should vote against it; and should on that ground, if the Council were made elective, claim the votes of all the Church people of Annapolis county.

REMARKS OF HON. JOHN HOLMES. *(Church of Scotland.)*

Hon. Mr. Holmes could remember the time when the ascendancy of the Church of England was a favorite theme throughout the length and breadth of the province, and when their property and institutions were assailed, and he had then defended the Church. Now, there was a pressure from within, which, if he could believe the evidence of his own senses, would, if the bill passed, prove very injurious, if not ruinous, to the Church. He was still disposed to protect the interests of the Church, and for that reason he would second the motion to defer the bill.

REMARKS OF HON. J. H. ANDERSON. *(Methodist.)*

Hon. J. H. Anderson felt reluctant to take any part in this discussion. He had expected that the select committee to whom the bill had been referred, would have taken a different course, and would have recommended such amendments to the bill as would have been acceptable to all parties. He was not a member of the Church of England, but he was a friend to her, and he would not withhold his assent from any bill which he believed would be conducive to her interests. If he could persuade himself that the opponents of the bill were a mere faction, he should not hesitate a moment in giving his assent to the measure; but when he found that a large and influential body were opposed to it, and that a committee of this house had unanimously reported against it, he felt it to be his duty to support the motion for deferring.

CLOSING SPEECH OF HON. R. B. DICKEY. *(Churchman.)*

Hon. Mr. Dickey stated that, as no other gentleman seemed to be desirous of addressing the House, he should close the discussion with a few observations in reply to the Solicitor General, the solitary supporter of the Bill. He (Mr. D.) was very much pleased that the personal matter imported into the discussion had been settled. He concurred with the Solicitor General in deeply deploring this dissension in the Church. It was but right, however, to say that the responsibility of this agitation did not rest with the opponents of the bill, but with those who initiated the Synod movement. The Sol. General had spoken, and

truly spoken, of the Baptists, as a body noted for their advocacy of religious liberty. He (Mr. D.) would ask him if he had ever heard of a bill being introduced to give legal efficacy to the decisions of their Church courts.

He (Mr. D.) could imagine the position which the learned gentleman would take, if a large body of Baptist ministers came to this House for an Act to enable them to enforce discipline on him. He (Mr. D.) could easily fancy the indignant tones with which he would reverse his position and say, "No, I am a Baptist; I am content to worship with you while unfettered by Legislative enactment; but the moment you say that you are going to govern the church by law, I am in my conscience no longer a free man."

The hon. gentleman had said, "what have other denominations to do with this matter?" In reply to this question, he (Mr. D.) could add very little to the observations of his hon. friend (hon. Mr. Patterson) who had made his maiden speech this evening. In the old times to which the hon. member from Pictou had alluded, so great had been the jealousy of the Church of England that the whole province, from its centre to its circumference, had been agitated by the celebrated parish bill, the object of which was simply to divide a parish, and the hon. Sol. General was himself one of the most violent opponents of that very reasonable measure. He need not say that had the Church of England then asked for legislation to enable her to create Church courts, to exercise discipline over all her members, the demand would not have been listened to for a moment. It might be very convenient for politicians and others now to take a different line.

The opposition to the bill rested on the broad ground (and this he, Mr. D., had stated when he made the motion to defer the bill) of the impolicy and impropriety of legislating so as to give legal sanction to the decisions of Church courts. No attempt of the kind had ever been made in this Province. He had called the attention of the House to this, and had pointed out the act respecting religious congregations, which stated on its face that it should not confer the power of exercising discipline. The act incorporating the Roman Catholic Bishop contained a similar proviso. Yet in the face of these acts the house was now asked to pass a bill to give this very power of enforcing discipline, and no answer had been given to the arguments on that head.

The hon. member from Halifax (hon. Mr. Almon) had asked, "If these Synods are now legal, why is an act sought for?" No answer had been given to that question; but he (Mr. D.) would give two answers. In the first place the decisions of the Synod at present had the same force as the decisions of the conferences or associations of other denominations; that was, they rested on mere *voluntary* consent. But as this bill created a tribunal which might remove office-bearers, it was necessary that the

power of law should be given to it, so as to give greater force to its decisions than was extended to those of other denominations. In the second place the Bishop at present had certain rights and certain duties. He (Mr. D.) was asked by the hon. gentleman on the other side to give a legal dissertation on the powers of a Bishop. He did not propose to do that this evening, but this act would give the legal machinery for enforcing his views.

Hon. Sol. General.—If the Synod has the power of law now, what more power will it have if the bill pass?

Hon. Mr. Dickey would answer the hon. gentleman. Without the bill the Synod was a mere voluntary association; and its decisions bound only those who met in Synod—but the bill extended its operation to those who were not members.

Hon. Sol. General.—Those persons are exempted.

Hon. Mr. Dickey replied that the bill exempted only certain parishes, but that it still affected the minorities in the represented parishes. He (Mr. D.) might retort the argument, and say, If the Synod can now legally meet, why ask the Legislature to stultify itself by passing a law which has never been conceded to other denominations?

The Sol. General had fallen into another mistake, when he said that the bill limited the power of the Bishop. There was not a word in the bill to limit the Bishop's episcopal power in the slightest degree. With regard to matters brought before the Synod, his power was qualified; but he still had his *veto*, and his episcopal power, as Bishop, was left untouched.

He was referred to the exemption clauses. That exemption was confined exclusively to parishes hitherto unrepresented; but what about the minority of 7 out of 35 parishes that were represented, for it appeared that that was the number of ministers who attended the Synod when the bill was voted for. They might very well say, "We met in *voluntary* Synod, but seven of us, representing seven parishes, objected to a bill which was to enforce by law the decisions of the Synod." Was the attendance of those seven ministers to be contorted into an admission by their parishes of their assent to be bound by the bill? If the bill were passed they would undoubtedly be bound by it.

The policy of the Legislature, with regard to the Church of England, as well as to other denominations, has ever been this, "Church matters and Church discipline we leave you to settle among yourselves, but in reference to property we give you the same rights as any other voluntary association, such as insurance companies, &c." There was the distinction of which the Sol. General had wholly lost sight of. The Legislature in fact, said, "With regard to matters of conscience we leave you entirely to yourself and your God." This distinction should always be borne in mind, and it was the guiding principle of all Legislation on our Statute book, with reference to religious denominations.

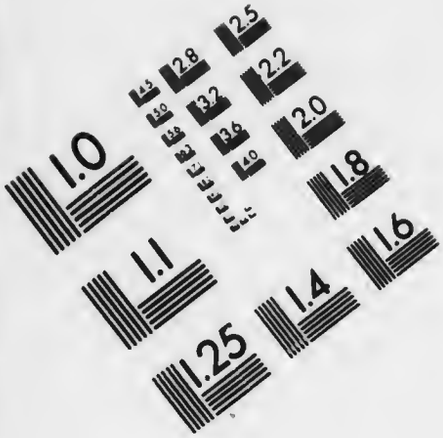
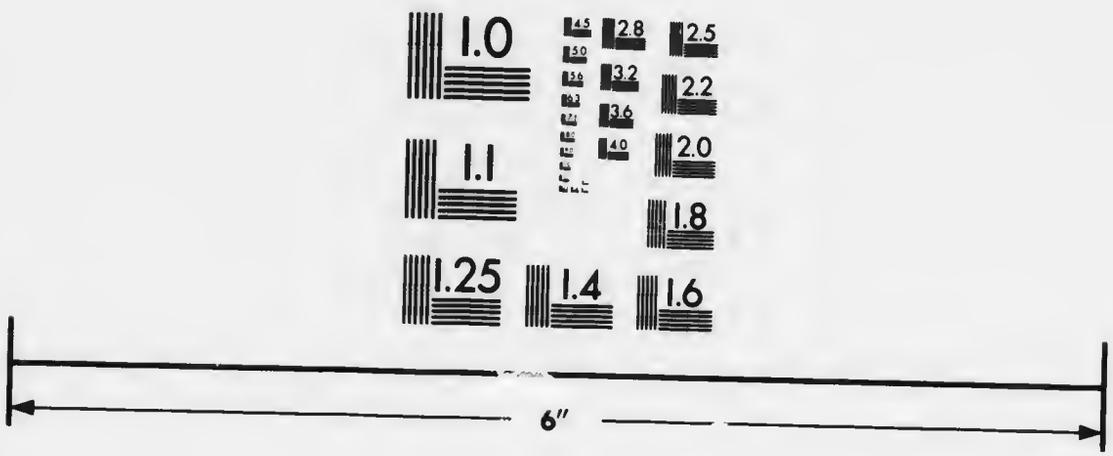
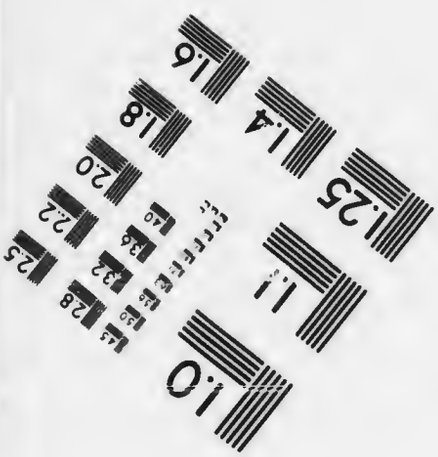
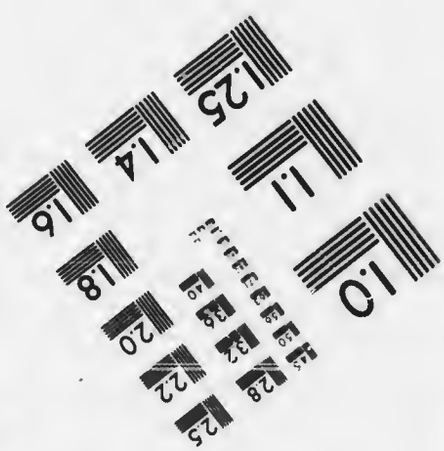


IMAGE EVALUATION TEST TARGET (MT-3)







Photographic Sciences Corporation

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

The report of the committee stated that the passage of the bill would lead to strife and disunion. He thought the experience of the last two or three weeks justified them in making that statement.

He congratulated hon. members on the almost unanimous feeling of the house to leave the Church of England people to manage their own affairs, and he hoped that the bill would be deferred in order that the members of the Church might have an opportunity of coming to some agreement among themselves.

The House then divided on the motion to defer, when there appeared—

For the motion—Hon. Messrs. McNab, Anderson, Archibald, Pineo, Comeau, Whitman, Dickie, Almon, Patterson, Tupper, Holmes, Dickey, Black, Keith, Cutler—15.

Against it—Hon. Messrs. McCully, McHeffey, Brown, Hon. President—4.

The bill was accordingly deferred.

(Hon. Mr. McKeen's name was subsequently added to the majority at his special request.)

Mr. Creighton one of the committee on the Bill was absent.

[The pith of the whole matter as regards the Legislature lies in the italicised paragraph of the Hon. R. B. Dickey's Speech.]

AN ACT

TO INCORPORATE THE

DIOCESAN SYNOD OF NOVA SCOTIA.

(Passed the 29th day of April, A.D. 1863.)

[After the former Bill was defeated, the following one was introduced into the Legislature, at Bishop Binney's request, and passed without opposition, it being understood to be a compromise to put the question of Synods at rest.]

Whereas it is deemed just and expedient to incorporate the Diocesan Synod of the United Church of England and Ireland of this Province, for the purpose of enabling them to hold, acquire, and manage real and personal estate for religious purposes,—

Be it therefore enacted by the Governor, Council, and Assembly, as follows:—

1. The Synod, consisting of the Bishop, Clergy, and Representatives of the Laity of the United Church of England and Ireland, in this Province, shall be a body politic and corporate, by the name of "The Diocesan Synod of Nova Scotia," and by that name may take, receive, and hold real and personal estate; and may let, sell, convey, or otherwise dispose of and manage the same, or any part thereof.

2. Nothing in this Act contained shall extend to abridge or affect in any way the rights or privileges of any person or persons not being members of the said Synod, nor of any corporation, nor shall extend in any manner to confer any spiritual jurisdiction or ecclesiastical rights whatsoever upon the said Synod or their successors.

PROCEEDINGS AT THE EASTER MEETINGS, PARISH OF ST. PAUL'S, IN MARCH, 1856.

The following are the resolutions passed by a large majority at the Easter meeting of St. Paul's parish, March 24, 1856, and the replies of the Curates to the first resolution, referred to by Mr. Ritchie. Also, the resolution passed at the adjourned meeting on the 28th March, after the replies of the Curates had been read.

Bishop Binney's letter to the majority referred to by Mr. Ritchie, is also added, it having special reference to the resolutions and replies of the Curates.

A careful reading of the Bishop's letter, and especially some of the italicised parts, cannot fail to convince the reader that the promises and assurances therein contained have not been strictly adhered to.

The following resolution was moved by J. W. Ritchie, and seconded by Dr. Jennings, viz.:—

Resolved, That application be made to the clergymen officiating in the Parish of St. Pauls, to ascertain whether it is their intention to attend the Synod as members of that body while so officiating, and if so, whether it is their intention to carry out, or assist in carrying out, within this parish, the resolutions, or canons, or any of the regulations passed at any of the meetings of the Synod.

The following resolution was then moved by A. M. Uniacke, and duly seconded, and passed by a majority of 18. Twenty-seven voting for it, and nine against it, viz.:—

Whereas,—By a Resolution passed at a General Meeting of the Parish on the 15th September, 1854, it was considered injudicious to establish a Synod;

And Whereas,—At a General meeting of the Parish, held in April 1855 it was resolved:—That this Parish will not be represented at such Synods:

Therefore, be it Resolved,—That this Meeting still entertain the same opinion, and deem it inexpedient to elect Representatives to attend the Diocesan Assembly of Nova Scotia.

[*Adjourned meeting, March 28.*]

REPLY OF THE REV. MR. BULLOCK.

HALIFAX, March 26th, 1856.

Dear Sir,—To the Resolution enclosed to me this day, I desire to give an immediate and most unequivocal reply.

As a Christian Pastor, I gladly admit the obligation to do everything in my power for the general welfare of the Church and of the Parish of St. Paul's in particular.

With this obligation in remembrance, I have promoted the institution of the Dioeesan Assembly, and assisted in framing its constitution; under the same influence I intend (God willing) to exercise my right as a Presbyter of Nova Scotia to take part in its future deliberations, and to record my vote as my conseicnce shall dictate, and with the hope, by God's help, to serve the cause of Christ and his Church.

And further, it is my decided purpose to observe and carry out all the canons and ordinances of the said Assembly or Synod; always saving the undoubted rule of Christianity to "*obey God rather than man.*"

You will be pleased to communieate my decision to the meeting on Friday next, and believe me.

Yours very truly,

WILLIAM BULLOCK.

To Mr. Daniel Gallagher,
Vestry Clerk.

REPLY OF THE REV. MR. MATURIN

HALIFAX N. S., March 26, 1856.

GENTLEMEN,—I have received a copy of the resolution passed at the meeting of the parishioners of St. Paul's with reference to the intentions of the clergy of this parish, as to the proposed Synod, or "Diocesan Assembly of Nova Scotia."

I pereeive that the first subjeet of inquiry is, "Whether it is our intention to attend the Synod, as members of that body;" and I beg to say in reply, that as that assembly is convened by the highest ecclesiastical authority, I feel myself bound, in conformity with the vows of my ordination, to obey the call of my Diocesan, by attending these meetings, and if it please God to spare me in life and health, I shall be happy to devote my humble abilities to the promotion of the best interests of the Church by assisting in all its deliberations.

But there is a further inquiry, as to "Whether it is our intention to ry out, or assist in carrying out within this parish, the resolutions or ions, or any of the regulations, passed at any of the meetings" of the

Assembly. Now, on this point it seems to me impossible to give a satisfactory answer to the inquiry, as it will depend entirely on the nature of the regulations that may be made, and as I am totally ignorant of the subjects which may occupy the attention of the assembly. I wish it to be distinctly understood, however, that I do not consider myself pledged to support the resolutions which may be adopted at such meetings, and I must decline to compromise myself by any prospective engagements of this kind. I can only say that I have sufficient confidence in the wisdom and piety of its members to entertain a strong hope that nothing will be carried by the decision of that body which may require me to offer any opposition to the result, especially as it is a fundamental principle in the constitution of the assembly, that none of its regulations can by any means interfere with the doctrine or discipline, the Articles or Liturgy, of the Church of England. Still, however, I must observe that I do not commit myself to any particular course of action by attending the proceedings of the assembly, and I trust that I shall ever be enabled, by the grace of God, faithfully to oppose every attempt that may be made from whatever source to injure the true evangelical character of our Church, or to impair the religious liberties of the Laity or Clergy of her communion.

Without entering into any discussion of the general principles involved in the question, I must be allowed to express my deep regret that the Diocesan Assembly will be deprived of the benefit of the counsel and advice of the four Representatives of this Parish, who might have been expected, from their superior intellectual and moral qualifications, to have rendered the most valuable services to the Church by their cordial co-operation. I need scarcely say that I feel the highest degree of personal respect and affection for my Christian brethren of the laity who have conscientiously taken a different view of the subject. I am sure that I am fully disposed to make all due allowances for their prejudices, and I sincerely trust that no difference of opinion on this point will ever be permitted to break the bond of brotherly love that exists between us as members of the mystical body of Christ. At the same time, however, I must observe that it appears to me premature to decide against a plan which has not yet been carried into operation; and I cannot but think that the better course would be to give the proposed system a fair trial, and thus to judge of its merits by actual experience of its practical working, which would afford the best opportunity of testing the expedience and propriety of such periodical meetings.

After all, however, I must say that not having been present at the parish meeting, I am not aware of the nature of the objections that were urged against the system, and I must confess that I have never read or heard any such arguments which seemed to be entitled to serious consideration. It has always been my impression that it would be attended with the most beneficial results for the Bishop, Clergy, and Laity to

meet together for friendly consultation on affairs relative to the common interests of the Church, and to adopt such regulations as might be agreed upon with the deliberate and unanimous concurrence of those three orders; by which it might be expected that perfect unity and harmony would be fully secured; still, however, if I am mistaken in this impression, I trust I am open to candid conviction, and if those meetings fail of producing these results,—if through the influence of human passions and party feelings they tend to excite discord and contention among the members of the same Church,—I should much prefer to sacrifice any probable advantages that might be derived from them, to the preservation of peace and unity in the Church of Christ.

I remain, gentlemen,

Your faithful servant in Christ,

EDWARD MATURIN.

The Churchwardens St. Paul's Church.

After the foregoing letters from the Curates were read, the following resolution was moved by Mr. Ritchie and seconded by Mr. Lynch, and passed by a majority of 17—for, 43; against, 26:—

On hearing the letters of the Rev. Mr. Bullock, and the Rev. Mr. Maturin, in which they intimate to the parish that they will attend the Synod, or Diocesan Meeting of Nova Scotia, and that they will feel themselves authorized to carry out the canons and regulations of that body within this parish, notwithstanding that the parish has thrice resolved that they would not recognize that assembly, or send delegates, or be bound by its acts;

Resolved,—That this parish cannot allow the canons or ordinances of the Synod to be carried out within it against the consent of the parishioners, and therefore should the Curates adhere to their present determination, it becomes necessary for the parishioners, however painful to their feelings, to decide that the connexion which has hitherto existed between the Rev. Mr. Bullock, the Rev. Mr. Maturin, and the parish, shall cease at the expiration of the present year, ending Easter, 1857.

[N. B.—A few days before the Easter meeting of 1857, the Curates requested leave to withdraw their letters, which was granted, and they were of course retained in their positions.]

THE BISHOP'S LETTER.

HALIFAX, May 12th, 1856.

MY DEAR BRETHREN,

As more than six weeks have now elapsed since the adjourned meeting, and the excitement then prevailing may now be supposed to have yielded to calm reflection, I hope that you will not be unwilling to receive the following observations, in the spirit in which they are addressed to you.

Without questioning your power to decide what shall be done by the Easter Meeting of 1857, I understand your vote to mean that, so far as you are concerned, the stipends of the Curates of this Parish will not be voted next year, and that consequently their ministry amongst you must terminate. And we ask why is the connection so profitable to many of you to be broken? They have devoted themselves to your service; by day or by night they have been always ready to respond to your calls. Never sparing themselves they have been ever ready to adopt all methods of instruction, from which benefit might be derived by yourselves and families, holding classes and visiting constantly from house to house, in addition to their more public ministrations. The sick and the dying have been affectionately attended by them; the careless warned and the contrite comforted; and, so far as I can judge, their diligent attention to all their duties has been such as ought to satisfy the most exacting. Therefore, knowing "them which labour among you, and are over you in the Lord, and admonish you," you ought to "esteem them very highly in love, for their work's sake," and we cannot suppose that you took the step, of which the consequences may be most serious to the parish as well as to the Clergy, without imagining that there was a sufficient cause. Some of you allege that you were driven to this extreme proceeding as the only means of preserving yourselves from the introduction of practices, or of rules of discipline or order, to which you conscientiously object. But is this really so? Was there any danger such as to involve this painful alternative? What are the facts?

It has never been maintained by any one with my knowledge, and certainly it is not my opinion, that the decrees of the Synod can bind any parish, which has always refused to elect representatives, *until formally established by competent authority as a legislative body.* It will be

a deliberative, rather than a legislative assembly, *until its proceedings are ratified by an Act of Parliament.* The Home Government have recommended the Provincial Legislature to pass an Act of this kind for Canada, and doubtless we may obtain the same. WHENEVER THE DIOCESE IS PREPARED TO PRESENT A UNANIMOUS APPLICATION FOR IT, accompanied by the draft of a Bill previously discussed and agreed upon amongst ourselves. In the mean time the authority of the Synod is derived from the Bishop, who imparts to it a portion of his own legal power, foregoing its exercise in certain cases, because he finds that acting independently he may frequently do what is inexpedient, in ignorance of what would be most suitable to the circumstances of those over whom he presides. He therefore requests the members of the Church, both Clergy and Laity, to come together from time to time and give him the benefit of their counsel, and he incurs a very serious responsibility if, after having received, he declines to follow it. The Halifax parishes and a few others say, "We do not wish to have any share in the administration of the affairs of the diocese, and we will not give you the benefit of our advice." To this I reply *I have not the slightest wish to press you to do so.* No one disputes your right to abstain if you please, but surely it is enough to declare your sentiments. Why should you be displeased because an offer is made to you? You would have just cause of complaint if, whilst affording other parishes the opportunity of being represented, I were to pass over you; but when the offer is made, you have merely to reject it if it so pleases you, and there can be in such case no reasonable cause for offence on either side.

You, however, not content with refusing to give me your advice, *object to the attendance of the Clergy officiating in St. Paul's parish.* This must be on the supposition that you are implicated by their presence; but this is a mistaken notion, and I can assure you *that the Clergy do not in any way represent you there.* They have their seats, and their names are called over, as Clergymen holding the Bishop's Licence, without reference to any parish, and accordingly some are to be found there who have no Parochial Cure at all. The Bishop has a right to consult with his Clergy, and it is their duty to attend when summoned, but the Laity of the parish are no more represented than if their ministers were to absent themselves from the meeting.

I am aware that some of you have stated that you do not wish to interfere with the attendance of your Clergymen; but this was not understood by them, and is in fact a modification of the application actually made to them. We will, however, assume that your opposition is really directed against the enforcement of the decrees of the Assembly in the Parish. Now let me ask you calmly to consider whether you are not fighting with a shadow, and involving the parish in difficulties about nothing, for some years may elapse before any thing is decided upon by

which you could in any case be affected either for good or evil, and when any such decrees exist it will be time enough to ask your Clergy what they intend to do, and if they were to attempt to introduce anything objectionable, you know that a meeting could at any time be called to oppose them with as much effect as at Easter last; and then you would have been free from the charge of unfairly calling upon men to declare what they intend to do in the event of a certain contingency, and of punishing them for such intentions, although the contingency may never occur.

Moreover, as I have explained above, it has never been intended to attempt to enforce the *decrees of the Assembly as such in unrepresented Parishes*, and any misunderstanding caused by the replies of the Clergymen, is to be attributed to their wish to give an immediate and explicit reply to questions which they could not have been blamed for refusing to answer at all. They might very properly have said; Judge us by our deeds, we shall endeavour to follow the dictates of our consciences, and are prepared to answer for what we do. They, however, thought fit to answer your questions more directly, and in the only way possible, according to their judgment, considering their peculiar circumstances. *They are bound by a solemn oath to obey their Bishop "in all things lawful and honest," and therefore, as honorable men, must act according to his injunctions, provided they are not in themselves unlawful.* Now, if the Bishop, instead of acting without consulting any one, has taken the advice of the Assembly before issuing any order, it cannot be held that the Clergy are thereby released from their obligations. They cannot say: "we should, according to our oaths, have obeyed your directions if your propositions had not been discussed there, but since the majority of the Clergy and Laity assembled together have declared that they agree with you, we hold ourselves at liberty to refuse obedience." Such a plea would not be justified by any one.

Whether any particular regulation should be enforced in the unrepresented parishes, is a matter for the consideration of the Bishop, who must decide according to his own judgment, and will have the same power to enforce it as he would have supposing the Assembly did not exist, and *no more. But when he does adopt and issue as his own, any such ordinance, not being in itself unlawful, the Clergy cannot, without the guilt of perjury, refuse obedience.* This might have been more clearly expressed in their replies, but they appear to have been anxious to leave no room for supposing that they wished at all to evade the responsibility of acting conscientiously, and therefore replied that they did intend to introduce the regulations of the Synod, *on the supposition that they would be enjoined by their diocesan, without fully explaining to you that if not so enjoined they would not feel bound to carry them out.*

Some of you may think that the Clergy ought not to be bound by any such oath, but this is not an open question. It is one of the rules of our

Church, which neither you nor I can alter, and is indeed involved in the nature of Episcopal Government. Every Clergyman is required to renew this oath, whenever he is admitted to a new charge, whether as Rector or Curate, and I am sure that you would not respect the man, or desire to have him for your pastor (if you should unhappily find such an one in Holy Orders), who would take this oath with a mental reservation, or who having formerly taken, would now violate it either in the letter or in the spirit. Indeed I am disposed to believe that many of you were not aware of these obligations of the Clergy, when you voted as you did, and that you would not on any account have combined to tempt them to *forswear themselves, if you had been better informed.*

You will observe that I have not, in this letter, advanced any arguments in favour of our assembly, or endeavoured to refute any of the objections of its opponents; because I do not desire to urge any who are at present unwilling to adopt it, being persuaded that soon you will be more in favour of it than you now are against it, and that if I or any of my successors shall hereafter propose to annul what has been done, and to act entirely according to our own judgments, without reference to any Council or Assembly, you will not be slow to charge us with aiming at despotic irresponsible power, and will be urgent in your demands for the restoration of the Assembly. But there is one part of the constitution, on which I must say a few words, because it has been much misrepresented. You have heard of what is called the Bishop's veto, but I have good reason for believing that some of those who have been most vehement in their opposition, have not yet made themselves acquainted with the constitution and regulations,—a copy of which can be obtained for a trifle at the publisher's. Now, it is not the part of reasonable men to condemn without examination, and I therefore ask you each to read carefully the document now mentioned. *You will find that the word "veto" does not occur once, and that no power is given to the Bishop to do anything whatever, so that you have been misled if you have been told that any extraordinary power is conferred upon him by that constitution.* The fact is that the assembly being composed of three parties—the Bishop, the Clergy, and the Laity—the assent of each is required for the enactment of any regulation, so that if the Bishop and Clergy were unanimous in any case, and there was a majority of one amongst the Laity, against their resolution, it would fall to the ground. *Therefore, if the word must be used, the Laity have a "veto" upon the acts of the Bishop and Clergy, and the Clergy upon those of the Bishop and the Laity.* This is an important safeguard against the hasty adoption of measures requiring caution and deliberation, but it interferes with no existing rights, except those of the Bishop, who may thus be checked in his plans, but cannot possibly be assisted by it. *In short, the only effect of the veto is* to stop any proposed change, and to allow things to remain

as they are, and therefore it should be prized by those who are afraid of changes and alterations.

I have heard that some few have assigned, as a reason for their votes, a jealousy of the Bishop, and an expectation that his influence or authority would be in some measure diminished by the action of the parish meeting. I can scarcely suppose this possible, for surely you would not make two unoffending men your victims, in order that you might strike some one else over whom they have no control. Then the course adopted is inexplicable, if such were your intention, since the Bishop could not be in any way affected by your vote against your ministers. And further, I cannot understand how, *as Churchmen*, you could desire to free yourselves and ministers from the Bishop's control. One of the distinguishing features of the Church to which you belong is Episcopacy, or the government by Bishops. This has been maintained from the time of the Apostles, and is based upon an immovable foundation. That it is the true Scriptural system is granted by you when you profess yourselves members of the Church of England, *for if you were convinced after full and honest investigation, that the Church of which you are members is not a true branch of Christ's Church, you would of course leave it*, and join in communion with those whose claims were deemed indisputable. But it is most inconsistent to interfere with the order of the Church, with which you are voluntarily connected. If you continue in communion with the Bishop, you acknowledge his authority, implied in the name of overseer, and in his appointment to "*watch for your souls as one who must give account*," since without authority he could not incur responsibility. The notion of an Episcopal Church, independent of the Bishop, involves a contradiction in terms.

Doubtless there is in our nature a principle of self will, inclining us to resistance to all authority, but this is not sanctioned by Scripture, and it is generally found that those who cast off legitimate authority, are compelled to submit to some other power, or influences, not the less arbitrary and coercive because not formally recognized. I have but one object before me, which is the edification of that portion of the Church, for which I have to give account hereafter, and I desire your cooperation. I wish to labor for your benefit, and *with* you, as well as *for* you. I have nothing to gain for myself, but wish to devote myself to the service of the people of this diocese. If you will not allow me to do you good, if instead of working with me you regard every proposition with suspicion, and are always supposing some sinister design, instead of charitably believing that the intention was good, even when any act does not commend itself to you, I must doubtless be impeded in my work; and my labors for the extension of Christ's Kingdom and *for the advancement of the truth* must be to some extent hindered. And whilst I grieve over this on your account, they alone who cause the hindrances

must bear the responsibility. I do not here refer to the opposition to the diocesan assembly, about which opinions differ, but to cases in which the ends sought to be attained could not be in themselves condemned by any one.

With reference to the late proceedings, I must express my regret that no communication was held with the Clergy, no notice given to them, that these resolutions were to be proposed, for it appears to me that if your object had been simply to protect yourselves from a supposed danger, you would have consulted with them, and endeavoured to discover some method by which your wishes might have been obtained, without injuring them or causing confusion in the Church; and I cannot but fear that many acted without due consideration of the nature of the mutual relations of pastors and their flocks. If moreover you had communicated with me, and obtained from myself an explanation of my views, as to the position of the Synod and the relation of yourselves and Clergy to it, you would have learned, what I have stated above, *that you were not at all exposed to the dangers apprehended by you*, and all the mischievous consequences *of the late false step* might have been avoided. I have so often expressed my readiness to afford information about any of my official acts, to any member of our Church applying to me, and my wish that any who are dissatisfied would personally ask for explanations, that I cannot be chargeable with the consequences of any misunderstanding. It is my wish to have friendly intercourse with every member of my flock, of whatever rank or station, and although, with the affairs of the whole diocese requiring my attention, I cannot visit from house to house like the Parochial Clergy, I am always most happy to see any who will come to confer with me, and if, instead of putting faith in reports and rumours and acting on imperfect information, you would favour me with a personal interview when dissatisfied, I believe that a much better feeling would prevail amongst us, and that all the good works in which you and I ought to be equally interested would be much more efficiently conducted.

And now I must entreat those who really regard the interests of religion and of our Church, to consider what is to be the end of the present state of things? Can the Clergy continue their labors beneficially whilst this resolution is on record? *And if they leave you are you prepared to close your churches*, or do you suppose that any Clergyman of standing and character, such as you would desire in your ministers, will come with the risk of being at any time removed when a majority of votes can be procured against him? The minister of Christ is charged to be "instant in season and out of season, to reprove, rebuke, exhort," whilst he is warned that after a time "the people will not endure sound doctrine," but by this coercion you would tempt him to neglect his duty, and to listen to those who say "prophesy not unto us right things,

speak unto us smooth things, prophesy deceits." The truest wisdom, if you wish to secure faithful and efficient teachers and guides, *is to strengthen their hands* and make them as much as possible *independent*, that "they may speak boldly, as they ought to speak."

There may be a few who regard nothing, beyond the accomplishment of their own objects, and care not what mischief may be caused, provided only they succeed; but I will not believe that many can entertain such feelings, and I now address you, in the belief that you generally agree with me in deploring the existing differences, and that you would rejoice if harmony could be restored, and the evil consequences of the late division in any way remedied. It is never easy to retrace our steps, and it is not for me to suggest what ..en should now be adopted, but if after reading this letter you feel that you acted with too much precipitation, *and under a misapprehension of our views and intentions*, you will doubtless desire to come to an amicable understanding with the ministers of the parish, and I am sure that if this is sincerely desired there will be no insuperable difficulty in the way.

This parish should be an example in all things to the rest of the diocese, but you cannot occupy your proper position, whilst these divisions and dissensions prevail. On many subjects there will always be diversity of opinion, but you may very well agree to differ. Why should one party attempt to coerce, or interfere with the liberty of the other? I appeal to you as brethren, as professed members of the body of Christ, "Let all bitterness and wrath be put away from you." At least, do not allow your differences to stop all attempts to restore the fabric of the House of God, who is dishonoured when His Temple is neglected. The season is passing away, and the buildings under your charge, the church, the parsonage, the schools, are daily suffering for want of sufficient repairs, and delay will only increase the cost and difficulties. For your own sakes, for your children's sakes, I beg of you to endeavour to do something speedily, and to unite with one heart in doing what can only be accomplished by a combined effort. My constant prayer is according to the Collect for this week, in which I trust that you heartily join, that our God will grant to us by His Holy Spirit, to have a right judgment in all things. May we be so guided that we may hold the faith in unity of spirit, in the bond of peace, and in righteousness of life.

Believe me to be, in the bonds of Christian love,

Your affectionate friend and pastor,

H. Nova Scotia.

To the majority at the Easter meeting of
Parishioners of St. Paul's.

[N. B.—The most striking passages in the above letter have been italicized by the compiler.]

ANONYMOUS AND COTEMPORARY OPINIONS.

[*From Correspondence of the "Sun."*]

THE following letter is copied from the "Sun" paper of the 14th August, 1863; it was accompanied by a condensed report of the Judgment of the Privy Council in the case of the Rev. Mr. Long *vs.* the Bishop of Cape Town:—

MR. EDITOR,—You will oblige by publishing the accompanying decision of the Judical Committee of the Privy Council, in the case of the Rev. Mr. Long *vs.* the Bishop of Cape Town.

What will the advocates of Bishop Binney's Synod Bill think of themselves when they read the unanimous decision of the highest Court in the Empire upon this Synod case.

The men that voted for that Bill in the Legislature ought to hide their heads in very shame; many of them gave the lie to every act of their political lives. It was a degrading picture to see men calling themselves Liberals voting down liberty of conscience, and as far as they were able placing a power in the hands of one man that the Queen dare not ask for. By their votes they gave power to one man to erect a Court outside of and independent of the Courts of the country,—and, as in the case of the Bishop of Cape Town, gave him power to appoint his tools to try, condemn and punish any Clergyman that dared to think for himself.

The Bishop of Cape Town, and all other advocates of the one-man-power Synods, have now been told in unmistakable language that there can be no law superior to and above the law of the land.

Notwithstanding the jealous and unwarrantable complaints of the Puseyite faction throughout the Province, about the influence and pretensions of the Churchmen of the city, Churchmen throughout the Province owe them a deep debt of gratitude for the noble and determined stand they made in resisting successfully Bishop Binney's Synod Bill. And above all, and over all, Churchmen generally owe a debt of gratitude to John W. Ritchie for his noble defence of their religious liberties, that cannot be easily paid.

Such a Bill as Bishop Binney's in the hands of an unscrupulous man, would shatter the Church in this Province into fragments in a year. All parties in the Church ought to be sincerely thankful that they escaped so dire a calamity. This decision, I think, may be considered a death-blow to Synods, at least of the one-man-power. The remarks of the conductors of the *Church Record* on this decision are unworthy of notice.

Aug. 12, 1863. A CHURCHMAN.

[*From the "Sun" of 20th August*, 1863.]

MR EDITOR:—I only learned yesterday that the *Reporter* of Saturday last contained a communication, signed "Another Churchman," in reply to my introductory remarks to the decision of the Judical committee of the Privy Council, that appeared in the *Sun* of the 14th.

To persons fully conversant with the controversy of last winter, the remarks of "Another Churchman" carry their refutation on the face of them. For the information of persons not fully conversant with the discussions on the Synod Bill last winter, it will be as well to examine some of the remarks of the writer in question, and allow all interested to judge of the reliance that ought to be placed on them, and also whether he has improved the position of the advocates of Synods.

"Another Churchman" says their Lordships (the Judical committee) have only decided that Synods not legally constituted are only voluntary associations, and therefore only binding on such as choose to submit to the rules of such assemblies. In this he is quite correct and even here that fact was fully understood (hence the anxiety for legal enactment). Bishops, however, of the Cape Town stamp have entertained the opinion that, in accordance with the oath of obedience that Clergymen of the Church take, they are bound to obey the Bishop in all things not morally wrong; now they have been told by the highest Court in the Empire that they are only bound to obey them when they are legally right.

Upon this point hangs the whole pith and power of Synods, and if "Another Churchman" had been wise he would not have raised it.

If the Bishop of Cape Town without legal sanction treated Mr. Long as he did for exercising his judgment in a case in which it has been proved he was right, what chance, I would ask this champion of Synods, would Mr. Long, or any other person, have with this Cape Town Bishop if he had the sanction of law to enforce his peculiar views and Puseyite notions upon the members of his Church?

This is the point Churchmen have contended for, to prevent such men as the Bishop of Cape Town from obtaining the sanction of law, to force the members of the Church to bow to such rules or regulations as the Synod might choose to enact and enforce upon Churchmen.

Bishop Binney may form Synods as often as he likes and when he pleases, so long as they are like the Synods or assemblies of other Churches—voluntary; but the moment he asks for the sanction of law to enable him to form such rules and regulations as he thinks proper, to bind the consciences of Churchmen, he ought to receive the determined opposition of every Churchman with a particle of freedom in his soul.

The Bishop of Cape Town's treatment of Mr. Long proves what such men will do, and to what lengths they will go, to carry out their peculiar opinions and views. If such men cannot govern their flocks with

Christian love, forbearance and charity, they are unfit to govern them at all.—They ought to know in those days of religious liberty, FREEMEN will not have their consciences shackled.

The writer goes on to say that the Bishop of Nova Scotia never pretended to coerce any of his clergy in this matter. Now, why did not this champion of Synods and peace add that he did not coerce any of his clergy in this matter, for the simple reason, he had not the power to coerce any of them that were unwilling to attend. I am of opinion, however, that "Another Churchman," will not attempt to deny that had he been granted the power he would not have failed to make use of it. The exhibition in the Council Chamber and elsewhere has settled that question.

The writer considers it very irritating to call an assembly of clergy and laity, composed of the most respectable men, "A one man Synod." A spade is a spade, call it what you please; and when an assembly of clergymen and laymen, be they ever so respectable gives the power to one man, without check of any kind, to ignore and set at nought all their deliberations and resolutions, it is neither more nor less than a one man Synod or assembly, and made so by the members themselves.

"Another Churchman" regrets that the calm that has succeeded the Ecclesiastical storm of last winter should be disturbed. There is one fact beyond dispute, and that is, there is but little credit due to the advocates of Synods for the calm.—Calms, however, often precede storms, and Churchmen will do well to be on the watch, for although the serpent has been well scotched, he is not dead.

August 20. A CHURCHMAN.

[*From the St. John "Church Witness," of March* 18, 1863.]

WE have received a copy of a Bill which has been introduced into the Nova Scotia Legislature to legalize a Synod of the United Church of England and Ireland in that Province. It is substantially a copy of the Act which passed the Canadian Parliament in 1857, on the same subject, with one important exception. In the Canadian Act it is provided, "that nothing in this Act contained shall authorize the imposition of any rate or tax upon any person or persons whomsoever, whether belonging to the said Church or not, or the infliction of any punishment, fine, or penalty upon any person, other than his suspension or removal from office in the said Church, or exclusion from the meetings or proceedings of the Diocesan or general Synods." Why this important proviso is omitted in the Nova Scotia bill we cannot imagine. It appears to us to be a very wise provision. But our objection to the Bill rests

upon a broader ground than this. We hold that Synods are not only unnecessary, but, in the present situation of the majority of the Clergy in these Colonies, positively injurious to the Church. That they are unnecessary is proved by the experience of the Church in England. Church life there was never more vigorous than it is now, but there are no Diocesan Synods. It is true that there are Convocations of the two Provinces of Canterbury and York, but they have not been guilty of doing any real work of late years. They are simply arenas for talk, and do not influence the operations of the Church either at home or abroad. That Synods may injure the Church is proved by the action of the Ontario Synod vesting the patronage of the rectories in the hands of an irresponsible Bishop, and by the action of all the Canadian Synods on the veto question. The Canadian Bishops are now virtually supreme in their dioceses, in consequence of the veto power which they possess, and the want of independence among the majority of the Clergy. In the diocese of Toronto, the Bishop has never been opposed by the majority of his Clergy; he has burked salutary measures which have been introduced into the Synod by the mere expression of his opinion against them, and for ten years has carried all his own without difficulty. The Rev. R. Lewis, in a speech delivered by him at the last meeting of the Ontario Synod, after stating the evil effects of this want of independence, cites two instances "which go to prove that the Clergy of the Church of England can be independent enough when the fear of the Bishop is taken away." But if this "fear of the Bishop" operates to such an extent in Canada, can we hope to be free from it in these Lower Provinces? That our brother Churchmen in Nova Scotia are not insensible of the danger of passing the bill in question, will be seen by our correspondent's letter in to-day's issue, and by the petition addressed to the House of Assembly by the Rector, Church Wardens and Vestry of the parish of St. George, in the city of Halifax, on behalf of themselves and the congregations whom they represent.

[For the Church Witness.]

Mr. Editor,—A Bill for the Incorporation of the Church Synod in this diocese is before the Legislature. It asks the power of appointment, deprivation or removal of any person bearing office in the Church, of whatever order or degree, *'any rights of the Crown to the contrary notwithstanding.*

It empowers the Laity to meet by representation, *until it shall be otherwise determined by the Synod.*

It binds all parishes that have been represented under the first Constitution to retain their connection with the Synod under this Bill of Incorporation, whether approving of it or protesting against it.

Instead therefore of its being a Bill of Incorporation for the existing Synod, it is a Bill imperilling the civil rights of the Clergy, the connection of the Laity with the Assembly, and the liberty of parishes to judge and determine for themselves.

Should the Bill by possibility pass the House and Council in its present form, the Governor will not, I should think, feel himself at liberty to dispose of the rights of the Crown in this summary manner. *Imperial rights can be surrendered only by Imperial authority.* The Bill must be referred home.

When the Bishop of Oxford last year brought into the House of Lords a Bill enabling the Church to send forth Missionary Bishops, of her own mere will, *any rights of the Crown to the contrary notwithstanding*, the Lord Chancellor, with the whole strength of the Government, so successfully resisted even the admission of the Bill, that it found no seconder. The Bishop withdrew his measure, and has learnt that no British subject, civil or ecclesiastical, may be withdrawn from the control of the Crown.

May our excellent and earnest minded Bishop learn and act likewise. His present Bill is against the liberties of the Church of England in this Province, and encroaches on the civil rights of its members.

CHURCHMAN.

NOVA SCOTIA, March, 1863.

[*From the Correspondence of the Halifax Morning Chronicle.*]

SIR,—On Wednesday I was present in the Council Chamber, and heard the Bishop's most able advocacy of the Bill which is before a Committee of the Legislative Council, though I had not the pleasure of hearing Mr. Ritchie in reply. The thorough straight-forwardness, and honesty of purpose of his Lordship, that were apparent in his appeal, utterly precluded the idea of disingenuousness on his part, but his argument was, in my opinion, marked by a pervading fallacy.

He argued "*that the measure is not open to reasonable objection by the dissentient parishes, because it leaves them exempt from its operation.*" This argument would be unanswerable, if such would be the effect of an exempting clause; but the objection to the bill is, not that it may affect those parishes apart from the whole religious body with which they are connected, but that, in the nature of things, no legislative provision can protect them from the effect of the law, inasmuch as they are not independent congregations, but some of the parts of an organized whole, none of which can suffer from any external cause, without a correspond-

ing injury being inflicted upon the other parts. In this respect the case of these dissentients is distinguishable from every one of the cases in the Statute book, to which his Lordship referred, and herein lies the fallacy which, in the fervour of his zeal, he failed to perceive. What are the circumstances of those cases? They may be distinguished thus:—1st, the case of members of a religious society, that would be affected by a law of which they do not approve, waiving, or not urging their objections to it, *because they are satisfied with a provision that exempts them from the operation of it;* 2nd, a case where the subjects of the law are composed of distinct and independent bodies, and where the enactment, with a saving clause cannot, therefore, prejudice those who disapprove of it; 3rd, a case where the question of legislation respects merely a mode of disposing of the temporalities of churches that have been distinct, but have agreed to unite, and where a provision for that object is mutually assented to. Neither of these cases of past legislation is in point to the particular case under discussion.

The objections urged may indeed involve unfounded apprehensions as to the injurious tendency of the bill, but events *may prove* that those apprehensions are well founded; and the advocates of the measure can give no guarantee against the dreaded results, nor any security that, when practically felt by the minority, they will be remedied by future legislation.

The position taken by the Bishop, "*that what he would provide for by the measure may legally be done without it*," is in effect an argument for his opponents, for, whilst it shows that legislation is not indispensable, it shows also that it is unnecessary to incur a risk of this possible evil, viz: "*that dissensions under the law, may hereafter arise amongst Churchmen, which will produce the deplorable consequences of members of the same Christian communion being arrayed as litigants in Church matters, against each other, before the temporal courts.*"

Synodical action is legal without a statute; and, whilst it is supported by mutual assent and moral influences, is secure from the possibly baneful result that has been just adverted to.

When experience shall have suggested a difficulty in administration of the affairs of the Church, that demands the interposition of the Legislature, it will be time enough to have recourse to legislation.

His Lordship, then, is advocating a measure speculative and untried, so far as this diocese is concerned—a measure supported indeed by a great majority of Churchmen, who regard it as essentially necessary for the welfare and advancement of the body to which they belong, but opposed by a very considerable minority, who believe that it will be productive of injury to that Church, which is a sacred object of attachment and veneration, alike to the advocates and to the opponents of the bill. The views of the former may be sound, and they may realize all

the good that they anticipate from the proposed law, but confessedly no evil nor difficulty exists of sufficient magnitude to constitute a case of absolute necessity for present legislation. Is it wise, then, in the existing state of divided opinion amongst members of his church, for the Bishop to force on the minority a law of which they disapprove? Before persisting in a measure from which so many Churchmen are averse, will it not be well for his Lordship to pause and reflect that Church discipline in this Province rests mainly, not on royal patents, nor on canons, nor on ecclesiastical constitutions (even supposing such to have any legal force here), but on the affections of members of the Church, and on their willing, united, and respectful submission to those whom their hearts recognize as placed in authority over them—to inquire whether a law, forcibly imposed on unwilling subjects of it, may not engender heart-burnings, and dissensions, and estrangements amongst those whom it is the interest of the Church to bind closer together in bonds of mutual affection, and to *persuade* to zealous and cordial co-operation in sustaining and promoting a common cause of temporal and eternal interest?

Whether a law, modified, as is proposed, by an exempting clause, which would, in effect, subject some of the parishes to representative government, whilst others would continue as now, under the present mode of administration, which, as we were told, a Right Reverend Bishop pronounced to be an *autocracy*, would be practicable, it is not necessary to inquire—such a state of things would certainly be anomalous, and, in the Church of England, without a precedent.

Let it be borne in mind, that it is *a minority* in the Church of England in Nova Scotia that now ask the Legislative Council to protect them from threatened legislation, which they do not like—from legislation which the advocating majority admit not to be imperatively demanded by necessity—from legislation which is untried in this Province, and which is not recommended by the yet sufficiently tested experience of the successful working of a similar law in any British Colony.

March 26, 1863. AUDITOR.

The following document with the reply to it was issued during the time the Synod Bill was before the Legislature :—

STATEMENT OF FACTS IN FAVOR OF THE SYNOD INCORPORATION ACT.

In consequence of the many misrepresentations of the nature of the Synod Bill, which have been circulated, and the private influences brought to bear upon members of the Legislature by its opponents in Halifax, it has been deemed expedient to prepare a brief statement of facts, for the information of those who desire to discover the truth.

No greater powers are sought by this Bill than are granted readily by the Legislature every Session. It is the common case of an application by a large body of persons for an Act of Incorporation, with power to manage their own affairs, and a special proviso that *they shall not interfere with any other person or persons*. On opening the book of local Acts, at almost any page, similar powers are found to have been granted to Associations and Companies of all kinds, and sometimes even including power to interfere with the rights of others, as for example to mining, and telegraph companies. Referring to the first Acts in the volume :

The Governors of King's College, the Alumni, the Governors of Dalhousie, the Trustees of Acadia and St. Mary's Colleges have power to establish such bye-laws, rules, and ordinances, as may be thought necessary for the furtherance of the objects for which they are incorporated, and to appoint, suspend and remove all officers required. This and nothing more is now sought by the Church of England.

Moreover other religious denominations have obtained, without difficulty, such Acts as they required. In the Wesleyan Methodist Act, the "rules and usages" of that Society are fully recognized in the preamble, and generally, by Revised Statutes, Cap 51, (with the addition of Cap. 28 of 1860,) any congregations, holding that each congregation is a Church in itself, may incorporate themselves and adopt a "permanent Constitution and Bye-Laws" and appoint officers. Now the Church of England in this Province asks for no greater powers than these, except that, as it is composed of many congregations, her lay members must be permitted to act by their representatives.

There is no foundation whatever for the statements respecting Ecclesiastical Courts sanctioned by law, contained in the Petition from St. George's. There is not a word in the proposed Bill, to authorize the establishment of a Court, which implies a Judge recognized by Statute, and with power to compel the attendance of witnesses at his discretion. No power will be conferred beyond that which is already exercised by every religious denomination, over its own members, and which the Civil Courts invariably uphold. Many such cases have been decided in England, in the Colonies, and in the United States, upon appeals from Ministers or others against the governing bodies of

their several denominations; and *at this moment* the ordinances of the Synod may be enforced, "by the strong arm of the law," against all its members, as much as if the proposed Bill had passed. And since by the additional Clause all who have not, themselves or by their representatives, taken part in it, are exempted from its control, no party whatever can be injured by the Act.

It has been pretended, that this application is not really made by any very large majority of members of the Church of England, in this Province, or that it has not been sufficiently considered. The facts are as follows: Diocesan Synods, which had long fallen into disuse in England, the Parliament having gradually assumed to itself all legislation for the Church, are part of the Episcopal system; and by the Canon Law as reformed by Cranmer and other commissioners, (of which the adoption in England was only prevented by the untimely death of Edward VI.) all Bishops were required to hold Synods annually. In the Colonies, as also in the United States, separation from the State has rendered such deliberative bodies essential, and they have been restored with the addition of the Laity who have now a voice equally with the Clergy.

In the year 1854, a large majority of the Clergy, and of representatives of Parishes in this Diocese, determined to follow the example of other Colonies; and accordingly the actual operation of a Synod has been tested by meetings for business in 1855, 1856, 1858, 1860, and 1862; most of those who were at first doubtful having now taken part in it. The application to the Legislature was discussed in 1860, and was deferred until the next Session, that there might be full time for a general expression of opinion. In the notices for the election of Delegates, at the Easter meetings of 1862, the intended application was especially mentioned; and the draft of the Bill, together with the resolution of the Synod which had been adopted almost unanimously, was published in the Church paper in the beginning of November. Thus all possible publicity was given to it, and the application must be regarded as emanating from the whole body of the Church of England in Nova Scotia, with the following exceptions:—

Of 55 Parishes or Missions, two in the city and *one* outside of Halifax have positively opposed the Synod, and 3 others have refrained from taking part in it by the election of representatives.

Of 60 Clergymen officiating under the Bishop's license only 2 out of Halifax, and 3 in it, have declined taking part in the proceedings of the Synod.

This minority is so small that it ought not, *in any case*, to be allowed to deprive the majority of the object sought, and even if it were much larger, it could have no right to interfere, since it will not be affected by the Act, if it wishes not to be included. If absolute unanimity were to be required, on the part of all persons whose interests may be affected by any measure, legislation would be impossible. The incorporation of Halifax, for instance, could never have been obtained under those conditions.

The applicants cannot believe that the Legislature of Nova Scotia will

treat them with less consideration than was manifested towards their brethren by the Legislature of Canada, which has *three* times recognized their claims: 1st—by an address of both Houses to the Crown, in 1855, supporting the application of the Bishops, Clergy and Laity, for an Imperial Statute to relieve them from their disabilities, or supposed disabilities; 2nd—by passing an Act in 1856, on the recommendation of the then Colonial Secretary, and as it is believed without a division; 3rd—by another Act in 1858, to supply some deficiencies in the former. These applied to the whole of Canada; and additional Acts of Incorporation have since been passed, for the Synods of the several Dioceses included in that Province.

The question has been asked, Why do you require an Act of Parliament, when it is admitted that such Act will not give any additional force to the laws of the Synod, since those who will be subjected to them are also subject to them at present? To this question several answers may be given, but it is sufficient to mention one or two of them. The Church of England has been subjected to restrictions, as an establishment, from which other Christian communities have been free, and it is uncertain how far these restrictions apply to the Colonial Branches. An Act is required to remove this uncertainty, that, being deprived of the advantages, we may no longer be encumbered by the restrictions, proper to that status. The Imperial Parliament would have given the required relief, to all the Colonial Dioceses, in the year 1854, when a Bill, which had passed the Lords, was read a second time in the House of Commons by the very large majority of 196 to 62; but the Bill was withdrawn out of respect to the Colonial Legislatures, and in the belief that they would readily grant the desired powers. This was explained in his despatch to Canada, by Mr. Labouchere, who also confirmed the opinion, that legislation is required to place the Church of England on an equality with other Denominations, who hold their Synods, Conferences, and Conventions, at their pleasure.

He says, "I cannot too distinctly disclaim, on the part of Her Majesty's Government, any intention or desire of placing the Church of England in a privileged or exclusive position in Canada; but they are most anxious to meet the wishes expressed, and to free its members from all unnecessary impediments, to their own voluntary organization; and *thus to put them on an equal footing with other Denominations of Christians.*" The same reason for special legislation is expressed in the preamble of the above-mentioned Bill of the Imperial Parliament.

The practical evils of the existence of these doubts are frequently manifested, and some persons in this Province are thereby deterred from union with the Synod. In Capetown, where the Synod is held *without any Act*, a Clergyman affirming his belief that such Synods are illegal, in consequence of English Statutes, refused to give certain notices, and has been suspended and deprived of all his emoluments by the Bishop, whose proceedings were confirmed by the Supreme Court. He has appealed to the Privy Council, and his

losses will be very great, whatever may be the result. Persons in his situation ought to have their difficulties removed through the assent of the Crown to an Act of the Legislature.

Further, it has lately been decided, by the Supreme Courts of Sydney and Capetown, that the Ecclesiastical Laws of England are not binding in a Colony, and that the Bishop is virtually free from all the restrictions imposed by them upon the exercise of his authority. The Clergy, therefore, have a right to expect that some regulations shall be framed, as to the mode in which his power shall be exercised. To this reasonable request the Bishop, preferring constitutional government to despotism, has acceded. The Laity also have proved their estimation of the representative Institutions conceded by the Bishop, by the election of Delegates in nearly 50 out of 55 Parishes or Missions. But without an Act of Incorporation, both Clergy and Laity may be deprived of their privileges by the next Bishop, who would not be bound by any proceedings of the present Synod.

The objections urged by the Parishioners of St. George's may be very briefly answered, and indeed since they have stated that "they have no desire to prevent their brethren from forming themselves into an Assembly," it is trifling with the Legislature to continue their opposition, now that the desired exemption is conceded to them, and to all who have not joined in the application for the Bill.

The 1st objection is answered above. The 2nd and 5th relate to the present Constitution of the Synod, which must be framed anew—under the Act, but of which it may be observed that the Synods of Canada, Australia, New Zealand, &c., have all adopted it.

To the 3rd and 4th it is answered, that the appointment of Rectors, and the management of their own property, is secured to the Parishes, under Revised Statutes, cap. 50, and that the Synod cannot interfere with any law of the Province. In any case, they who ask for the Act, are the persons to judge of the propriety of its provisions, since it can affect only themselves. The case of Ontario is not in point, for *in Canada no Parishes are exempted*, and the patronage had been expressly transferred from the Crown to the Church Societies in 1852, to be exercised by any person or persons appointed by them, and in this way it was conferred upon the Bishop Ontario. Nothing of this kind could occur in this Province.

The fears of the abuse of power, expressed by St. George's, may be with equal reason entertained concerning *every* representative body, and the objectors, if consistent, would object to representative Institutions altogether, whether in Church or State. Neither the Clergy nor the Laity generally are so blind to their own interests, or so incapable of legislating for themselves as the objectors suppose. The "Laity of Nova Scotia" will repudiate with indignation, this assumption of a right to speak in their behalf. They have already spoken for themselves, in their parish meetings, and by their representatives; and they value the Synod for this, amongst other reasons, that

they can *there* make themselves heard, and are no longer liable to have the action of two or three parishes exercising an undue influence over the rest of the Church, or to have the sentiments of a minority, however respected and influential, mistaken for the voice of the majority.

In former times, the Church of England in this Province was the object of jealousy and suspicion; but it is confidently believed that those feelings no longer exist, and that the Legislature, which in 1851 deprived it of the status of an Established Church, will, without hesitation, remove all existing impediments to its free action. Its members desire no special privileges; they wish for freedom, and nothing more. Whether the Act will be really beneficial to them, or not, is a matter for their own consideration. They who ask for it have, after "the most mature consideration," decided that they ought to have it; and it is presumed that members of other religious denominations in the Legislature, will not be disposed to refuse compliance with their reasonable request.

REMARKS UPON THE "STATEMENT OF FACTS IN FAVOR OF THE SYNOD INCORPORATION ACT."

1. "No greater powers are sought by this Bill, than are granted by the Legislature every Session."

REMARKS.—Acts are always readily passed by the Legislature to legalize proceedings of any Association or Company for *business purposes, and as far as regards temporalities*. No Synod is required to transact business matters connected with the Church, since *every Parish is now incorporated for that purpose*, and so is *the Diocesan Church Society* and the *Endowment Committee*, for the benefit of the Church in general. The proposed Bill is intended to give the Synod powers of a *very different nature and far more extensive than this*.

2. "Other religious denominations have obtained such Acts as they required."

REMARKS.—They have never required or asked for *such an Act as this*, only such as would enable them *to hold and manage properties*, like other corporate bodies; but *not* to give the sanction of law to any rules or regulations they may make regarding the *order and discipline* of their respective systems.

3. "Any congregations, holding that each congregation is a Church in itself, may incorporate," &c.

REMARKS.—The Church of England in this Province *is not a separate Church of itself*, but a Branch of the United Church of England and Ireland, and therefore does not require any separate or additional Laws to govern it, other than those already existing in that Church. It is doubtless the tendency of the Synod movement to *effect a separation* from the mother Church, but to this we strongly object.

4. "There is no foundation whatever for the statements respecting Ecclesiastical Courts sanctioned by Law."

REMARKS.—One of the *chief and express* objects of the Synod, *is avowed to be*, to appoint certain persons and to frame rules and regulations *for the trial of offending Clergymen*; such persons so constituted and *sanctioned by Law must be a "Court,"* to all intents and purposes, and might by their action preclude Clergymen, Church Wardens, and other officers from their *civil* privileges as citizens, before the common Courts of Law.

5 "At this moment, the ordinances of the Synod may be enforced by the strong arm of the Law, against all its members.

REMARKS.—A member of the Synod, *as at present constituted*, would not be bound by Law by any ordinances of that Body which may not be found in the *general Laws and observances* of the Church: and may at any time free himself from its control, by *withdrawing* from it, as in the case of any other *voluntary society*.

6 "The application must be regarded as emanating from the whole body of the Church," &c.

REMARKS.—At the last meeting of the Synod an amendment *not to apply for a Law*, was put, when there voted—Clergy, 9 for, 23 against; Laity, 1 for, 17 against.—(Church Record Nov. 12, 1862.) Of the 60 Clergymen officiating in the diocese, *a minority* voted for the application. Of 98 Lay delegates from the parishes supposed to be represented, *only* 17 voted for the application for a Law, or about *one-sixth* of those who should have been present had they taken sufficient interest in the matter.

7. "The Legislature of Canada has three times recognized their claims," &c.

REMARKS.—The case of Canada is not in point. When the proceeds of the sale of reserved Church lands in that Province, were apportioned, it was decided that the amount belonging to the Church of England, should be given over to the Church Society of each diocese; it was necessary in consequence that that Body should be incorporated in order to take charge of it. Neither Newfoundland nor New Brunswick (which have no Synod) nor Nova Scotia has such general endowment Fund of the Diocese.

8. "Restrictions apply to Colonial Branches," &c.

REMARKS.—No restrictions are specified, and Clergymen who have long officiated in the Diocese have not experienced any.

9. "The Parishioners of St. George's have stated that they have no desire to prevent their brethren," &c.

REMARKS.—They have no desire to interfere so long as it remained a *voluntary Assembly*, but protest against its acts being made binding upon all over whom this Bill will give them power, without having the privilege of receiving or rejecting it, and upon future generations and new Parishes, who will have no option to exempt themselves from its control.

JUDGMENT OF THE PRIVY COUNCIL IN THE CASE OF REV. MR. LONG vs. THE BISHOP OF CAPETOWN.

THE following is the Judgment of the Lords of the Judicial Committee of the Privy Council on the appeal of the Rev. William Long *vs.* the Right Rev. Robert Gray, D. D., Bishop of Capetown, from the Supreme Court of the Cape of Good Hope, delivered June 24, 1863. Present—Lord Kingsdown, the Dean of the Arches, Sir Edward Ryan, and Sir John T. Coleridge. Lord Kingsdown said—

This is an appeal from a decision of the Supreme Court of the Cape of Good Hope, in a suit between the appellant,—the Rev. Mr. Long,—claiming to be the incumbent of the parish of Mowbray, in that colony, and the respondent, the Lord Bishop of Capetown. Mr. Long being in possession of the church of the parish of Mowbray, and in receipt of the income attached to the benefice, refused to obey certain orders which the Bishop, in what he considered the due exercise of his Episcopal authority, thought fit to issue, and for such disobedience the Bishop issued against Mr. Long, sentences, first of suspension, and afterwards of deprivation. The validity of these sentences, especially of the last, was the question to be decided by the Court below, which, by a majority of two Judges to one, has held them to be valid.

In the argument at our bar, many questions of great novelty and importance were raised and discussed with remarkable ability. Some of them were considered, and very justly, by the Council, as seriously affecting the well-being of members of the Church of England in the colonies and other dependencies of the Crown. We propose to deal with these questions only so far as may be necessary for the purposes of the present decision, and to abstain as far as possible from saying anything which may prejudice cases that may hereafter arise.

It is advisable, in order to make the reasons of our judgment intelligible, to state in some detail the facts as they appear upon record.

The Bishopric of Capetown was founded in the year 1847. At this time the legislative authority in the colony of the Cape of Good Hope was vested in the Crown. There was no State Church; all denominations of Christians stood on an equal footing; there were no ecclesiasti-

cal courts as distinct from civil courts. The Supreme Court, under the Charter of Justice, granted in 1832, had supreme jurisdiction in all causes,—civil, criminal, and mixed—arising within the colony, with jurisdiction over all subjects of the Crown, and other persons within the colony.

In this state of things letters patent were issued by the Crown, dated the 25th of September, 1847, erecting the colony or settlement of the Cape of Good Hope and its dependencies, and the island of St. Helena, into a Bishop's see and diocese, appointing the respondent, Dr. Gray, to be ordained and consecrated Bishop of the see, and commanding his Grace the Archbishop of Canterbury to ordain and consecrate him accordingly. The letters patent purported to empower the Bishop to perform all the functions appropriate to the office of a Bishop within the diocese of Capetown, and especially to give institution to benefices; to grant licenses to officiate to all rectors, curates, ministers, and chaplains, in all churches, chapels, and places where divine service should be celebrated according to the rites and liturgy of the Church of England; to visit all rectors, curates, ministers, and chaplains, and priests and deacons in holy orders, of the United Church of England and Ireland, and to cite them before him, or before the officers whom he was authorised to appoint, and to inquire concerning their morals, as well as their behaviour in their several stations and offices. Power was given to the Bishop to appoint Archdeacons, a Vicar-General, Official Principal, Chancellor, Commissaries, and other officers: and it was provided that an appeal should be made from sentences of the subordinate officers to be appointed, to the Bishop, and from sentences of the Bishop to the Archbishop of Canterbury. No ecclesiastical court was expressly constituted by these letters patent, nor was power given to the Bishop to establish one; and it was declared they should not extend to repeal, vary, or alter the provisions of any charter whereby ecclesiastical jurisdiction had been given to any court of jurisdiction within the limits of the said diocese.

The letters patent provided that the Bishop of Capetown should be subject to the metropolitan see of Canterbury, in the same manner as a Bishop of any see within the province of Canterbury, and should take an oath of due obedience to him as Metropolitan; and they contained a clause that the Bishop might, by an instrument in writing under his hand and seal, addressed to the Archbishop of Canterbury, resign his office; and after acceptance of such resignation by the Archbishop, the Bishop was to cease to be Bishop of Capetown to all intents and purposes. Dr. Gray having been duly consecrated by the Archbishop of Canterbury, and taken the oath prescribed, went out to the Cape to assume the duties of his office, and continued to discharge them till the latter end of the year 1853.

At that time it was considered by the Queen's Government that the then diocese of Capetown was too extensive for one Bishop, and that it would be advisable to divide it and make it into three dioceses, to be called Capetown, Grahamstown, and Natal. With a view to this arrangement, Dr. Gray, on the 23d November, 1853, resigned his Bishopric into the hands of the Archbishop of Canterbury, by whom the resignation was accepted, and Dr. Gray ceased to be Bishop of Capetown.

On the 8th of December, 1853, new letters patent were issued, by which certain specified parts of the original diocese of Capetown were erected into a distinct and separate Bishop's see and diocese, to be called thenceforth the Bishopric of Capetown, and to this newly constituted bishopric Dr. Gray was appointed, and he was also appointed Metropolitan Bishop in the colony of the Cape of Good Hope and its dependencies, and the island of St. Helena. The new letters patent seem to have been in other respects in the same form with the old.

But previously to the issuing of these letters, the Crown had granted a constitution to the colony of the Cape. Representative institutions had been founded, and a Colonial Legislature established.

Mr. Long was officiating in the colony as a minister of the Church of England, before any Bishop was appointed there. He had been admitted into deacon's orders for the colonies, by the Bishop of London, in 1844. In the year 1845 he went to Capetown, and was appointed by the then Governor of the colony to be minister of the English Episcopal Church of Graaff-Reinet, his salary being paid partly by the Governor, partly by the Society for the Propagation of the Gospel, and partly by his congregation. There seems to have been no endowment of any kind attached to this church. He had at this time no other authority for discharging the duties of a minister in that church than the holy orders which he had received from the Bishop of London, and the appointment of the Governor of the colony.

Soon after the arrival of the Bishop of Capetown in the colony, in 1848, and while the first letters patent were in force, Mr. Long was ordained Priest by the Bishop according to the form and manner of ordaining Priests as contained in the Book of Common Prayer; and, on being so ordained, he took the usual oaths prescribed by the laws and usages in force in England, and amongst others the oath of canonical obedience to the Bishop, by which he engaged to pay to him true and canonical obedience in all things lawful and honest.

On this occasion the Bishop granted, and Mr. Long accepted, a license from the Bishop to officiate and have the cure of souls over the parish and district of Graaff-Reinet, the Bishop reserving to himself and his successors full power to revoke the license whensoever he or they should see just cause so to do.

In the year 1854 a clergyman of the English Church, named Hoets.

built and proposed to endow an Episcopal Church in the parish of Mowbray, in the colony of Capetown, and to convey the Church to the Bishop upon certain terms agreed upon between them, and by a notarial act in the Dutch form, dated the 2d June, 1854, Mr. Hoets transferred in full and free property to the Bishop and his successors in perpetuity, for ecclesiastical purposes, a piece of land therein being described, "with the Church which the appearer had lately erected thereat his own cost and charge for the worship of Almighty God, according to the liturgy and ritual of the Church of England, situate in the parish of Mowbray."

By a notarial instrument of the same date, to which the Bishop and Mr. Hoets were both parties, the conditions on which the grant was made are stated.

The first is that the Church shall with all convenient speed be consecrated, and shall be at all times used and enjoyed by the parishioners of the parish of Mowbray, free from any charge.

Mr. Hoets covenants with the Bishop to pay a certain salary to the clergyman or incumbent to be appointed and instituted to the spiritual charge of the said church and parish in manner after mentioned, during the incumbency of the two first incumbents thereof, as and for a provision or endowment towards the stipend of such two first incumbents, and a mortgage is made by Hoets to the Bishop, of certain bonds, in order to secure the due payment of the stipend.

The Bishop, in consideration of these premises, covenants with Hoets, that he, the Bishop, and his successors will admit, institute, and appoint unto the said endowment, and unto the spiritual charge and care of the said church and parish, a clerk to be presented and nominated by Hoets, (such person being a Priest in holy orders of the United Church of England and Ireland, or of any of the Colonial Churches in communion with the said United Church, and not subject to any spiritual or ecclesiastical censure or other impediment) as the first incumbent of the said church and parish. And so in like manner upon the death, resignation, or removal for any lawful cause of the first incumbent, upon the like presentment of Hoets, to admit, institute, and appoint a second incumbent.

There can be no doubt that by these deeds a trust was created between Mr. Hoets and the Bishop, and that the Bishop became trustee of the church and of the funds provided for its support, and held them in that character.

On the 3rd of June, 1854, Mr. Long and several of the parishioners of Mowbray presented a petition to the respondent, as Bishop and ordinary of the diocese, praying him to consecrate the church, and on the 6th of June, his Lordship consecrated it accordingly, and signed an instrument under his Episcopal seal declaring such consecration, and reserving

to himself and his successors, Bishops of Capetown, all ordinary and Episcopal jurisdiction, rights and privileges. On the same day, his Lordship preached in the parish Church, and referred to the appellant as being henceforth the parish priest.

There were, or were supposed to be, some impediments to the institution and induction of the new incumbent in the English form, and no such ceremonies took place, but Mr. Long entered into possession of the benefice, and discharged his parochial duties, receiving from the Bishop a license to officiate and have the cure of souls within the parish and district of Mowbray. In this, as in his former license, the Bishop reserved power to revoke it, if he should see just cause, and Mr. Long on these occasions renewed his oath of canonical obedience to the Bishop.

We will here observe, in order that we may not have occasion again to refer to the point, that we consider the good faith of the arrangements between Mr. Hoets and the Bishop, to have required that the nominee of Mr. Hoets, when admitted by the Bishop to this church, should hold and retain it on the same terms as a Clergyman in England regularly instituted and inducted, and that the Bishop, by means of this license, obtained no right to suspend or deprive Mr. Long by the mere exercise of his discretion, or otherwise than for such cause as would have justified a sentence of suspension or deprivation in the case of a clerk in full and lawful possession of his benefice. Indeed, it is due to the Bishop to say that we did not understand his Lordship to contend for more than this by his counsel at our bar.

In the year 1856 the Bishop was of opinion that, for the purpose of settling some scheme of Church government which should be binding upon the religious community of which he was the head, it would be desirable to convene a Synod, consisting partly of Clergy and partly of Laymen, members of the Church within his diocese. The measure had been in contemplation, and, indeed, under discussion, for several years before, and different opinions had been entertained both by Clergymen and Laymen as to its legality and its expediency.

On the 15th of November, 1856, the Bishop issued a pastoral letter, in which, after stating the reasons which induced him to believe that such a measure was expedient, if not indeed necessary, for the well-being of the Church in the colony, and explaining the objects which might, in his opinion, be effected by means of a Synod, his Lordship proceeded to declare of what persons the Synod should be composed. These were to be, first, lay delegates, to be elected in the different parishes by adults, being, or at the time of the election, declaring themselves to be members of the Church of England, and of no other religious denomination; secondly, duly licensed Clergy, being in Priest's orders. Deacons were to be authorised to attend and speak, but not to vote.

Some of the subjects to be brought under the consideration of the

Synod were then enumerated, including matters not exclusively of ecclesiastical cognisance; as, for instance, the tenure and management of Church property; questions relating to the formation and constitution of parishes; difficulties which had presented themselves with regard to marriages, divorces, and sponsors; and finally, the desirableness, or otherwise, of seeking to obtain the assistance of the Legislature to carry out the objects of the Synod.

Mr. Long was summoned by the Bishop to attend the Synod, which was appointed to be held at the Cathedral Church in Capetown, on the 21st January, 1857, and he was requested to affix a notice of the intended meeting on his Church door, and to take the necessary steps for holding the election of a delegate for his parish.

Mr. Long and his parishioners were opposed to this measure. The parishioners held a meeting on the 22nd of December, 1856, at which they resolved that no delegate should be elected, and Mr. Long neither attended the Synod himself, nor took any steps to forward the election of a delegate.

No attempts appear to have been made at this time by the Bishop to enforce obedience to his summons, but the Synod was held, and was attended, as it appears, by many of the Clergy and Laity, and various resolutions were passed by them, which were termed Acts and Constitutions of the First Synod, held at Capetown, January 21, 1857."

These regulations provided that a Synod of the Clergy should be convened by the Bishop once in three years. They provided for the mode of electing delegates from the different parishes, and required that on some Sunday, or other convenient day, during divine service, each minister should give notice of the day and place of meeting for such election in his parish or district, and should cause notice of the same to be fastened to the door of the Church or Chapel of the parish or district.

The Clergy and Laity were ordinarily to sit and deliberate together, the Bishop presiding, and to vote as one body; but any member of the Synod might demand a vote by orders, in which case no resolution should be regarded as adopted by the Synod unless carried by a majority of both orders and assented to by the Bishop.

Various rules were made with respect to the formation of parishes, and the institution and induction of Clergy; and all Presbyters and Deacons before institution or induction, or before receiving a license from the Bishop, and as a condition of receiving induction, or license, were to sign a declaration that they would subscribe to all the rules and constitutions enacted by the Synod of the diocese of Capetown.

A Consistorial Court was appointed for the trial of all offences against the ecclesiastical laws of the diocese, and various provisions were introduced with respect to the mode in which the trial should be conducted.

The Synod had been convened without any express sanction of the Crown, and no attempt was made to obtain the assistance of the Legislature to carry into effect its objects. It was stated at the bar that the Synod re-

solved that it would not be desirable to make any attempt for the purpose, but we do not find any resolution to this effect amongst the printed papers.

In 1860 the Bishop convened a second Synod, to be held on the 17th of January, 1861; and on the 1st of October, 1860, his Lordship addressed a letter to Mr. Long, enclosing a copy of a pastoral letter which he had issued, and also a copy of the printed regulations adopted by the Synod for the election of deputies. The pastoral letter referred to the acts and constitutions of the last Synod, and mentioned, as one of the subjects to which his Lordship would have to call attention, the constitution of the ecclesiastical court.

Mr. Long was of opinion that the convening of this Synod without the authority either of the Crown or the local Legislature was an unlawful act on the part of the Bishop; that the Synod itself was illegal, and its acts of no validity; and he declined, therefore, to take any steps himself for calling a meeting for the election of delegates in his parish, but he handed over the papers to the Churchwardens and sidesmen that they might act as they should think proper, informing them at the same time of his own views upon the subject.

After some angry correspondence, in which, as usually happens, there are passages in the letters on both sides which the writers perhaps now regret, the result was that Mr. Long refused to give the notice required of the intended election.

On the 27th of November, 1860, he was served with a citation signed by the registrar of the diocese, by which he was cited to appear before the Bishop on Monday the 4th of February, 1861, to answer for having neglected and refused to obey the commands and directions of his Bishop to give notice of a meeting to be held "in terms of a certain letter addressed and forwarded to you, and dated the 1st October, 1860, with the pastoral issued on the same day and therein enclosed."

Certain Clergymen, five in number, were named by the Bishop to be his Assessors, but his Lordship offered, if Mr. Long had any personal objection to any of them, to change their names for those of other Clergymen who might be resident in the neighbourhood.

On the 4th of February, 1861. Mr. Long attended before the Bishop and his Assessors, and delivered in a letter signed by himself, stating, in respectful terms, the grounds on which he objected to give the required notice, and adding that if obedience were still required to the Bishop's command in that respect, it was impossible for him to pay it.

Mr. Long's counsel at the same time handed in a protest signed by them that no judgment or sentence pronounced by the Bishop as the judgment or sentence of any alleged Court was in any degree binding on Mr. Long, because no lawful authority was vested in the Bishop to hold, by himself or others, any court or courts competent to hear or determine any causes of what kind soever.

The Court adjourned, as it seems, without hearing evidence; there was

no question of fact in issue. The Assessors afterwards delivered their opinions in writing to the Bishop, and on the 8th of February, 1861, the Bishop pronounced a sentence suspending Mr. Long from the cure of souls and the exercise of all ministerial functions and offices for a period of three months, and thenceforward until he should have expressed regret for his past disobedience, and his willingness to render obedience for the future.

His Lordship added, from motives which do credit to his feelings, the following note to his judgment:—

"I have only to add that as you have a wife and children, I should be sorry to deprive you of any portion of your ecclesiastical income. You will be allowed to receive this, therefore, as heretofore for the present."

This sentence was intimated to the Churchwardens of the parish, and they were requested to provide a Clergyman to perform duty in the Church during Mr. Long's suspension. Mr. Long, however, considered the sentence to be a nullity, and he continued to officiate as usual, apparently with the concurrence of the Churchwardens.

On the 19th of February, 1861, he was served with a citation by order of the Bishop to appear before his Lordship on Wednesday the 6th of March, to answer for having failed to render due and canonical obedience to the Bishop, and for acting in defiance of the laws of the Church and authority of the Bishop. The citation recited the Bishop's order and Mr. Long's disregard of it, and required him to appear and answer for his contempt, and to hear and receive such judgment as the Bishop might see right to pronounce, and as the exigency of the case might require or authorize.

Mr. Long declined to attend this summons, and on the 6th of March a sentence was pronounced by the Bishop, which, after reciting the various offences against his authority of which he considered Mr. Long to have been guilty, concluded in these terms:—

"I therefore, Robert, by Divine permission, Bishop of Capetown, do, for these repeated acts of disobedience and contempt, withdraw the license of the Rev. William Long, and do deprive him of his charge and cure of souls in the parish or parochial district of Mowbray, and of all emoluments belonging to the same. And I do, moreover, hereby admonish the said William Long not to officiate again in the said Church or parish, and warn him that if he should do so after this his deprivation he will render himself still further liable to the censures of the Church.

R. CAPETOWN.

"Cathedral Vestry, March 6, 1861."

Notice was given of the sentence on the same day to Mr. Long and to the Churchwardens of Mowbray, who were required to conform to it; and a gentleman of the name of Hughes was appointed by the Bishop to officiate in the Church till a new minister was appointed, and to receive one half of the income.

On the 7th of March Mr. Long and the churchwardens applied to the Supreme Court of the Colony of the Cape of Good Hope for an interdict to restrain the Bishop and Mr. Hughes from interfering with him in the performance of his lawful duties as incumbent of the parish of Mowbray, and from disturbing him in the enjoyment of his lawful emoluments as such incumbent.

Some further proceedings took place in this matter, but the plaintiffs were required to file a declaration in regular form, for the purpose of trying the important questions in difference.

The present suit was accordingly instituted.

It was a proceeding, of course, in the forms of the Roman Dutch law; a claim in convention by the original plaintiff, and a defence and claim in reconvention by the defendant, so that in fact both parties were plaintiffs and both defendants.

The claim of Mr. Long, after stating those several matters of fact on which he relied, insisted that he was aggrieved by the proceedings of the Bishop, and prayed the protection of the Court, and also a declaration of the law by the Court in conformity with his views on the several points in dispute; and lastly, that he was entitled of right, and without any license other than his before mentioned letters of order, and the presentation he had already received from Mr. Hoets, and the approval of such presentation publicly made known by the defendant in June, 1854, to exercise all the lawful functions of minister and incumbent of St. Peter's Church, Mowbray.

The Bishop filed an answer and plea in reconvention, by which, as defendant, he pleaded the letters patent of 1847 and 1853, the license granted by him, and accepted by Mr. Long, as officiating minister, both of Graaff-Reinet and Mowbray; he alleged that until authorised so to do by the Synod and until the formation of rectories by the same authority as after mentioned, and until certain rules on that behalf had been framed, he could not give, nor had he in any previous instance given, institution to cure of souls, or induction to benefices, in any other way than by licenses similar to that granted to the plaintiff. He insisted that he cited the plaintiff in accordance with the rules of the Synod, and in exercise of the authority belonging to him as Bishop, conveyed to him by letters patent; that the sentences were judgments or sentences, ecclesiastical or spiritual, so issued under the power and authority conveyed to him by the letters patent, or otherwise of right belonging to him as Bishop of the Church of which the plaintiff was a Priest, and that the plaintiff was, in consequence thereof, removed for lawful cause from the Church of Mowbray; and he maintained, in conclusion, that the Court was not entitled to examine the sentence, but that if it were examined it ought to be affirmed.

This was his defence. In reconvention he prayed, by his second plea, that it might be adjudged that the letters patent of the 25th of September, 1847, and of the 8th of December, 1853, are valid in law, and that they confer the rights and powers claimed thereunder, and that ecclesiastical jurisdiction may thereby be lawfully exercised by him.

By his last plea he prayed that the said plaintiff in convention and defendant in reconvention might be restrained by interdict, so long as the sentence of deprivation should continue and remain in force, from occupying, or attempting to occupy, the Church of St. Peter's, Mowbray, or otherwise interfering with the duties of the minister of the said Church.

On the 15th of February, 1862, the Court gave judgment against the plaintiff in convention and for the plaintiff in reconvention, except as to his second plea in reconvention, to which we have already referred, and adjudged each party to pay his own costs. This was in effect a decision in all material points in favour of the Bishop, and Mr Long has been admitted to appeal to her Majesty. The case seems to have been very well argued in the Court below, and though there was some difference of opinion amongst the three Judges who decided it, no one who reads their opinion can fail to admire the great learning and ability which they have brought to bear upon the questions submitted to them, and the judicial temper and moderation which they have shown in a case calculated to produce great excitement in the colony.

The first question which we have to consider is, what authority did the Bishop possess under and by virtue of his letters patent at the time when these sentences were pronounced? The Judges below have been unanimous in their opinion—first, that all jurisdiction given to the Bishop by the letters patent of 1847 ceased by the surrender of the Bishopric in 1853, and the issue of the new letters patent; and, secondly, that the letters patent of 1853 being issued after a constitutional government had been established in the Cape of Good Hope, were ineffectual to create any jurisdiction, ecclesiastical or civil within the colony, even if it were the intention of the letters patent to create such jurisdiction, which they think doubtful. In these conclusions we agree.

Dr. Gray had been duly appointed and consecrated a Bishop of the Anglican Church in 1847, and such he remained after the resignation of his see; but by such resignation he surrendered all territorial jurisdiction and power of proceeding judicially *in invitos*, so far as such authority depended upon the letters patent of 1847. These points have not only been decided by the Court below, but have been embodied in their Judgment, by which they have expressly rejected the second claim above stated of the Lord Bishop.

But a majority of Judges below has held that the defect of coercive jurisdiction under the letters patent has been supplied by the voluntary submission of Mr. Long, and that he is on that principle bound by the decision of the Bishop. This point we have next to consider.

The Church of England, in places where there is no Church established by law, 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.

It may be further laid down that where any religious or other lawful asso-

ciation 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 consequence of such violation, then the decision of such tribunal will be binding when it has acted within the 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 sentences, 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.

These are the principles upon which the courts in this country have always acted in the disputes which have arisen between members of the same religious body not being members of the Church of England. They were laid down most distinctly, and acted upon, by Vice-Chancellor Shadwell and Lord Lyndhurst in the case of Dr. Warren, so much relied on at the bar, and the report of which in Mr. Grindwood's book seems to bear every mark of accuracy.

To these principles, which are founded in good sense and justice, and established by the highest authority, we desire strictly to adhere, and we proceed to consider how far the facts of this case bring Mr. Long within their operation.

To what extent, then, did Mr. Long, by the acts to which we have referred, subject himself to the authority of the Bishop in temporal matters? With the Bishop's authority in spiritual affairs, or Mr. Long's obligations *in foro conscientiæ*, we have not to deal.

We think that the acts of Mr. Long must be construed with reference to the position in which he stood as a clergyman of the Church of England, towards a lawfully appointed Bishop of that Church, and to the authority known to belong to that office in England; and we are of opinion that, by taking the oath of canonical obedience to his lordship, and accepting from him a license to officiate, and have the cure of souls within the parish of Mowbray, subject to revocation for just cause, and by accepting the appointment to the living of Mowbray under a deed which expressly contemplated as one means of avoidance the removal of the incumbent for any lawful cause,—*Mr. Long did voluntarily submit himself to the authority of the Bishop to such an extent as to enable the Bishop to deprive him of his benefice for any lawful cause—that is, for such cause as (having regard to any differences which may arise from the circumstances of the colony) would authorise the deprivation of a Clergyman by his Bishop in England.* We adopt the language of Mr. Justice Watermeyer, p. 81, that "for the purpose of the contract between the plaintiff and defendant, we are to take them as having contracted that the laws of the Church of England shall, though only as far as applicable here, govern both."

Is, then, Mr. Long shown to have been guilty of any offences which by the laws of the Church of England would have warranted his suspension and subsequent deprivation? This depends mainly on the point whether Mr. Long was justified in refusing to take the steps which the Bishop required him to take, in order to procure the election of a delegate for the parish of Mowbray to the Synod convened for the 17th of January, 1861.

In what manner and by what acts did he contract this obligation? The letters patent may be laid out of the case, for if the Bishop's whole contention in respect of them be conceded, they conferred on him no power of convening a meeting of clergy and laity to be elected in a certain manner prescribed by him for the purpose of making laws binding upon Churchmen.

A very elaborate argument was entered into at our Bar, in order to show that Diocesan Synods may be lawfully held in England without the license of the Crown, and that the statute with respect to Provincial Synods does not extend to the colonies.

It is not necessary to enter into the learning on this subject. It is admitted that Diocesan Synods, whether lawful or not, unless with the license of the Crown, have not been in use in England for above two centuries, and Mr. Long, in recognising the authority of the Bishop, cannot be held to have acknowledged a right on his part to convene one, and to require his clergy to attend it. But it is a mistake to treat the assembly convened by the Bishop as a Synod at all. It was a meeting of certain persons, both clergy and laity, either selected by the Bishop, or to be elected by such persons and in such manner as he had prescribed, and it was a meeting convened, not for the purpose of taking counsel and advising together what might be best for the general good of the society, *but for the purpose of agreeing upon certain rules, and establishing in fact certain laws, by which all members of the Church of England in the colony, whether they assented to them or not should be bound.*

Accordingly the Synod, which actually did meet, passed various acts and constitutions purporting, without the consent either of the Crown or of the Colonial Legislature, to bind persons not in any manner subject to its control, and to establish Courts of Justice for some temporal as well as spiritual matters, and, *in fact the Synod assumed powers which only the Legislature could possess. There can be no doubt that such steps were illegal.*

Now, Mr. Long was required to give effect, as far as he could, to the constitution of this body, and take steps ordered by that body for convening one of a similar nature. He was furnished with a copy of the acts and constitution of the last Synod, and he was requested to attend carefully to the enclosed printed regulations with regard to the election of delegates.

He clearly, therefore, was required to do more than give notice of a meeting, and he could not give the notice at all without himself fixing the time and place at which the meeting was to be held. He was required to do various acts of a formal character for the purpose of calling into existence a body which he had always refused to recognise, and which he was not bound by any law or duty to acknowledge.

The oath of canonical obedience does not mean that the clergyman will obey all the commands of the Bishop against which there is no law, but that he will obey all such commands as the Bishop by law is authorised to impose; and even if the meaning of the rubric referred to by the Bishop in his case were such as he contends for—which we think that it is not—it would not apply to the present case, in which more was required from Mr. Long than merely to publish a notice.

We are therefore of opinion that the order of suspension issued by the Bishop was one which was not justified by the conduct of Mr. Long, and that the subsequent sentence of deprivation founded upon his disobedience to the order of suspension must fall with it.

It was strongly pressed, both before us and in the Court below, that supposing these sentences to be erroneous, Mr. Long had no remedy against them except by an appeal to the Archbishop of Canterbury, under the provisions of the letters patent. What authority his Grace might possess under the letters patent or otherwise, to entertain such an appeal if it had been presented it is unnecessary, and we think it is inexpedient, to discuss. It is sufficient to say no such appeal has been presented, and that the suit in which this appeal is brought respects a temporal right, in which the appellant alleges that he has been injured. It calls for a decision as to the right of property, and involves the question whether Mr. Long has ceased by law to be what in England is termed *cestui que trust* of funds of which the Bishop is trustee. Whatever else Mr. Long may by his conduct have done, we cannot hold that he has precluded himself from exercising the power which under similar circumstances he would have possessed in England, of resorting to a civil court for the restitution of civil rights, and of thereby giving to such courts jurisdiction to determine questions of an ecclesiastical character essential to their decision. Indeed, in this case, the appellant and respondent have alike found it necessary to call upon the civil court to determine the right of possession of the church of Mowbray.

We think that even if Mr. Long might have appealed to the Archbishop, he was not bound to do so; that he was at liberty to resort to the Supreme Court; and that the Judges of that court were justified in examining, and indeed, under the obligation of examining, the whole matter submitted to them. We, of course, are in the same situation; and after the most anxious consideration we have come to the conclusion that the sentence complained of cannot be supported, and therefore we must humbly advise her Majesty to reverse it, and to declare that Mr. Long has not been lawfully removed from the Church of Mowbray, but remains minister of such Church, and entitled to the emoluments belonging to it.

Being of this opinion, we are relieved from the necessity of considering as a ground of our decision, whether the course adopted by the Rt. Rev. respondent in the proceedings against Mr. Long was in all respects proper, and whether the proceedings themselves, if the Bishop be regarded as acting and entitled to act with the authority of a Visitor sitting in *foro domestico*, were

conducted with that attention to the rules of substantial justice and that strict impartiality which are necessary to be observed by all tribunals, however little fettered by forms. Much argument was addressed to us at the bar on this part of the case, and it would not be proper to pass it altogether without notice; and first with respect to the suspension, and the constitution of the tribunal for the trial of Mr. Long, on the first charge against him.

It cannot be held that all the provisions which would have been applicable to such a case under the Church Discipline Act in England were necessary to be observed in the colony. This was impossible, but care should have been taken to secure, as far as possible, the impartiality and knowledge of a judicial tribunal. Here the Bishop was not merely in form but substantially the prosecutor, and a prosecutor whose feelings, from motives of public duty as well as from the heat necessarily generated in the purest minds by a long and eager controversy, were deeply interested in the question. It was, perhaps, necessary that he should preside as the Judge before whom the cause was heard, and by whom the sentence was pronounced; but he should have procured, as a Bishop in England under such circumstances would have done, the advice and assistance, as Assessors, of men of legal knowledge and habits, unconnected with the matter in dispute, and have left it to them to frame the decision which he would afterwards pronounce. But instead of adopting this course, he selected as assistants three gentlemen, all clergymen sharing his own opinions on the subject of controversy, and all themselves members of that Synod, which Mr. Long was accused of treating as illegal.

Mr. Long was cited for refusing to give the required notice, but the sentence was not grounded entirely on this charge. The protest which he had given in by his counsel against the proceedings was treated as a very grave offence. The Bishop, in speaking of it, says:—

"To put in such a document is virtually to reject Episcopacy and the Church, and to stop on the very confines of schism, if not to have overstepped the line."

Mr. Long's conduct at a private meeting with the Bishop is discussed, as to which there is great doubt what really took place, and no regular evidence appears to have been produced, or was in fact admissible, for it was not to the point in question; and from the language of the Bishop in delivering his Judgment, it may be inferred that the sentence against Mr. Long was not founded entirely on the only charge which he had been summoned to meet.

The proceedings which led to the subsequent deprivation are open to no less objection than those which resulted in the suspension.

The Bishop had declared before the first Synod that there were no rules or proceedings for trying ecclesiastical offences, and that one of the objects of the Synod was to supply the deficiency. *The Synod had established a Consistorial Court, and certain regulations by which the trials of clergymen and of laymen before such Court should be guided.*

These regulations had amongst other things provided that no sentence of

deprivation should be pronounced by any person whatever, but only by the Bishop with the assistance of the Chancellor of the diocese, or in case there be no such officer, some legal adviser whom he may see fit to appoint. *The Bishop insisted that Mr. Long was bound by the rules established by this Synod, and must therefore, it should seem, have considered himself bound by them; and yet, without any regard to these rules, without calling in the assistance of any legal adviser whatever, without any analogy to the course of proceedings in England, by which the judgment of impartial persons acquainted with the law is secured, the Bishop pronounces sentence of deprivation.*

On this occasion, as on the former, the sentence seems to have been founded on what are termed repeated acts of disobedience and contempt by Mr. Long, instead of on the single charge which he was called upon by the citation to meet.

We cannot say, therefore, that the proceedings in this case have been conducted in a proper manner, though our judgment rests on the other grounds already stated.

We have been much embarrassed by the question how we ought to deal with the costs in this case. We do not doubt that the Bishop has acted in the conscientious discharge of what he considered to be his public duty, and he has succeeded, at great personal trouble and expense, in bringing this contention in the court below to a favourable issue. On the other hand, it is impossible not to feel that Mr. Long has been subjected to probably not less trouble and expense by a course of proceeding on the part of the Bishop which we have been obliged to pronounce not warranted in law.

Feeling the hardship of the case upon the Rt. Rev. respondent, we still think that we are bound to award the costs of the suit and of the appeal to the appellant. We cannot, of course, suggest to her Majesty any consideration of what it may be fit to do, at the expense of the public; but it is not beyond our province to observe that the Lord Bishop has been involved in the difficulties by which he has been embarrassed in a great measure by the doubtful state of the law and by the circumstance that he, not without some reason, considered the letters patent under which he acted to confer on him an authority which, at the time when he acted under them, her Majesty had no authority to grant, and that either in this or in some other suit it was important to the interests of the colony generally, and especially of the members of the Church of England within it, that the many questions which have arisen in this case should, as far as possible, be set at rest.

[N. B.—The italics in the above judgment are the compilers.]

THE BISHOP OF OXFORD AND THE LITANY.

To the Editor of the Record.

Sir,—In the House of Commons on two occasions, (August 4th and 7th,) I called the attention of the Government to an injunction issued by the Bishop of Oxford directing the Clergy of his diocese to make a pause in reading the Litany and another in the Prayer for all conditions of men, for the purpose of private prayer. Not having obtained a satisfactory answer on the subject, either from the Attorney-General or the Under Secretary of State for the Home Department, I directed a case to be submitted to Counsel, a copy of which, with their opinion, I beg to forward to you.

In the present discreditable state of the Ecclesiastical Courts, it is, from the serious expense and uncertainty of the law, almost impossible for an Incumbent to resist an illegal order of his Bishop; and in the majority of cases the Clergy are too poor to take the opinion of counsel.

I am, Sir, your obedient servant,

HENRY SEYMOUR.

39, Upper Grosvenor-street,
London, August 18, 1862.

CASE

FOR THE JOINT OPINION OF MR. A. J. STEPHENS, L. L. D. Q. C, AND MR. RICHARD JEBB.

Your attention is directed to the following communication by the Bishop of Oxford to the Archdeacons of the diocese of Oxford.

"Cuddesdon Palace, July 30th.

"My dear Mr. Archdeacon,

"May I request you to communicate to the Clergy of your Archdeaconry the following injunction from me as ordinary:—

"That on the Sunday after the receipt of it, they give notice to their congregations, at the conclusion of the *Nicene Creed*, in these terms:—

"'You are earnestly desired to make your humble supplications to

Almighty God, who is the author of peace and lover of concord, that he will promote peace among our brethren in America, and inspire their hearts with Christian unity and fellowship.

"'*To allow of which prayer a short pause will for the present be made after the suffrage* in the Litany, "That it may please Thee to give to all nations unity, peace and concord"; and also in the prayer "for all sorts and conditions of men"; after the words "we commend to Thy fatherly goodness all those who are in any ways afflicted or distressed in mind, body, or estate."'

"I am, my dear Mr. Archdeacon,
"Your faithful friend and brother,
"S. Oxon."

And your opinion is requested—

1. Whether the Bishop of Oxford has a legal right to enjoin the Clergy of his diocese to make the two pauses specified in the above communication.

2. Whether the Clergy of the diocese of Oxford could be punished by the laws ecclesiastical for disobeying such injunction.

OPINION.

The answers to the questions submitted to us must depend upon the construction of the Act of Uniformity (13 at 14 Car. II., c. 4), and of the Canons of 1603.

The second section of the statute, after reciting "that nothing more conduced to the settling of the peace of this nation,.....nor to the honor of our religion.....than an universal agreement in the public worship of Almighty God, and to the intent that every person within this realm may certainly know the rule to which he is to conform in public worship,"—enacts that all ministers in any place of public worship "shall be bound to say and use the morning prayer.....and all other the public and common prayer, in such order and form as is mentioned in the said book annexed;.....intituled 'The Book of Common Prayer.'" And, by section 17, "No form or order of common prayers, administration of sacraments, rites, or ceremonies, shall be openly used in any church.....other than what is prescribed and appointed to be used in and by the said book." In fact, the object of this statute was identical with that of the Acts of Uniformity of Edward VI. (2d and 3d Edw. VI. c. 1; and 5th and 6th Edw. VI., c. 1), and Elizabeth (1st Eliz., c. 2), which was to establish "one uniform order of common service and prayer, and of the administration of sacraments, rites, and ceremonies of the Church of England."

By the 14th canon, entitled "The Prescript Form of Divine Service to be used on Sundays and Holydays," all ministers "shall observe the

orders, rites, and ceremonies prescribed in the Book of Common Prayer, as well in reading the Holy Scriptures and saying of prayers, as in administration of the Sacraments, without either diminishing in regard of preaching, or in any other respect, or adding anything in the matter or form thereof."

In "Newberry v. Goodwin," 1 Chil 282 (cited in 2 Stephens' "Laws of the Clergy" 1082), Sir John Nichol says: "The law directs that a clergyman is not to diminish in any respect, or to add to the prescribed form of worship; uniformity in this respect is one of the leading and distinguishing principles of the Church of England; nothing is left to the discretion and fancy of the individual. If every minister were to alter, omit, or add, according to his own taste, this uniformity would soon be destroyed, and though the alteration might begin with little things, yet it would soon extend itself to more important changes in the public worship of the Established Church."

The Bishop of Lincoln (Dr. Kaye) in his charge at the triennial visitation in 1846 (cited 2 "Stephens' Laws of the Clergy," 1096,) observes, "One object of the Reformers in framing a Liturgy was to get rid of the diversity in the mode of celebrating Divine service which before prevailed in different dioceses, and to establish uniformity in the public worship of God.....It is certain that the clergy, when they promise to conform to the Liturgy, bind themselves to conform to it in both its parts, not only to use the form of words, but to use it in the manner prescribed in the rubric."

We assume that the Bishop of Oxford issued the injunction in question under the rubric which immediately follows the Nicene Creed.

That rubric is as follows: "Then the curate shall declare unto the people what holy days or fasting days are in the week following to be observed. And then also (if occasion be) shall notice be given of the communion; and the banns of matrimony published; and briefs, citations, and excommunications read. And nothing shall be proclaimed or published in the church during the time of Divine service but by the minister; nor by him anything but what is prescribed in the rules of this book or enjoined by the King or by the ordinary of the place."

This rubric does not qualify the express language of the 2d and 17th sections of the Statute of Uniformity, nor of the 14th Canon; it does not enable the ordinary to alter, add to, or diminish the "order" or "form" of public prayer. The object of the rubric is twofold: (1) to enable a curate to declare, give notice of, publish, and read certain matters specifically mentioned; (2) to restrain the minister from proclaiming or publishing anything but what is prescribed in the Prayer-book; or enjoined by the Queen or by the ordinary. This latter restrictive clause does not confer on the ordinary an indefinite power of altering the Statute of Uniformity by enjoining pauses to be made in the prescribed pub-

lic prayers, in order that the congregation may interpolate private prayers. There is but one place in our formularies where any such pause, for the purpose of interposing private prayer is enjoined, namely, in the "ordering of priests," where the congregation are "desired secretly in their prayers to make their humble supplications to God for all these things: for the which prayers there shall be silence kept for a space." The very fact of such a pause being made the subject of express and positive rubrical provision here militates against an implied right in the minister to make, or in the ordinary to direct, a similar pause elsewhere in the public services.

The direction in the above rubric is exceptional, inasmuch as the language and spirit of the Act of Uniformity and of the Canons of 1603, contemplate public prayer, and not a mixture of public and private prayer.

The power attributed to the ordinary of enjoining the minister to "proclaim" or "publish," must be construed with reference to the preceding objects of publication expressly enumerated—viz., the observance of holy days or fast days, celebration of the Communion, banns of matrimony; briefs, citations, and excommunications; and applies to those objects or to other matters *ejusdem generis*. The necessity for giving this power in the indefinite terms used, results partly from the omission, in other parts of the Prayer-book, of specific directions to the minister to give notices of a similar nature, and partly from the requirements of several of the Canons. Thus in the Prayer-book there is no specific direction to give notice of an intended confirmation or of a change in the hour of Divine service. And though the rubric directs the curate to read excommunications, the sixty-fifth Canon requires that the ordinary shall first "give order" to that effect. Again, under the seventy-second Canon, ministers are prohibited from appointing fasts without the direction of the Bishop.

It is a rule that such a construction of a statute is to be favoured as hinders it from being eluded or frustrated. In "Arthur v. Bokenham," 11 Mod. 162, Ch. J. Trevor, says:—"In doubtful cases we may enlarge the construction of Acts of Parliament, according to the reason and sense of the law-makers expressed in other parts of the Act, or guessed by considering the frame and design of the whole." But in all the Statutes of Uniformity of Edward VI., Elizabeth, and Charles II., the same paramount object is apparent, namely, to provide "one uniform order of common service and prayer," and to prevent every diversity in Divine service, so that "all the whole realm shall have but 'one use.'" (Preface to the Prayer-book: Concerning the Service of the Church.)

If the Bishop of Oxford's injunction be legal, that principle would be violated; and in the forty dioceses of England and Ireland every possible diversity might be introduced, in case the several bishops should think

proper to direct similar pauses, but with different objects, to be introduced in different parts of the public services. The Bishop of Oxford's injunction has reference to the civil war pending in America. If his Lordship's injunction be legal, it would be equally legal for the Bishop of A. to direct a pause to enable his congregation to pray mentally for the success of the Northern States as the supposed champions of anti-slavery; and for the Bishop of B. to direct a prayer to be offered for the success of the Southern States as needful for the supply of cotton to England. It cannot be reasonably contended, if this diversity prevailed, that there would be one uniform order or form of prayer in accordance with the Act of Uniformity. The common prayer of the Church cannot be made up of special diocesan intercessions suggested by the ordinaries of the respective dioceses, as expressive of their individual sentiments.

In some churches a practice is pursued of making a pause in the Litany after the Petition on behalf of sick persons; but such a pause has no legal warrant. And in the special remembrances, in the Prayer for all Conditions of Men, as well as in the General Thanksgiving, the remembrances are not made silently and by the private prayer of the congregation, but audibly by the minister in a prescribed form.

It cannot be maintained that the injunction simply requests the congregation to apply mentally the ordinary prayer to a special case, for the notice given to the congregation is in these words, "You are earnestly desired to make your humble supplications to Almighty God, who is the author of peace and lover of concord, that he will promote peace among our brethren in America, and inspire their hearts with Christian unity and fellowship. To allow of which prayer a short pause will for the present be made after the suffrage in the Litany, 'That it may please Thee to give to all nations unity, peace, and concord.'".....These "humble supplications" are tantamount in effect to an audible petition made by the minister in the name of all; for though nothing is said openly, an actual incident of public worship takes place; during the pauses, the congregation prays.

For the foregoing reasons, we are of opinion—

1. That the Bishop of Oxford has not a legal right to enjoin the clergy of his diocese to make the two pauses specified in his communication to his archdeacons; and,

2. That the clergy of the diocese of Oxford could not be punished by the laws ecclesiastical for disobeying such injunction.

A. J. Stephens.
Richard Jebb.

61, Chancery-lane, Aug. 16, 1862.

COLONIAL CHURCH GOVERNMENT.

THE following despatch to Lord Monck, with the accompanying extract from a despatch to the Governor of the Cape of Good Hope, having been received in this Province, while the materials forming the foregoing pages were passing through the press, it was considered advisable to publish it with them. The despatch and extract speak for themselves.

"Downing-street, 11th February, 1864.

"MY LORD—A correspondence arising out of the recent Judgment of the Judicial Committee of the Privy Council in the recent case of Long and the Bishop of Cape Town has obliged me to obtain the opinion of the law advisers of the Crown on certain questions of much importance to the members of the Anglican communion in the Colonies.

"That Judgment mainly related to the state of the Church in Colonies possessing representative Legislatures, but in which the Episcopal authority has not been made the subject of any direct legislation. But some of the questions which it has raised are of general importance, and I think it best, therefore, to communicate to the prelates of the colonial churches an extract from a despatch addressed to the Governor of the Cape of Good Hope, embodying the decision to which I have been led on these subjects.

"I enclose six copies of this extract, and I have to request you will communicate a copy to each of the Bishops of the Anglican Church within your government.—I have, &c., (Signed) "NEWCASTLE.

"Viscount Monck," &c. &c. &c."

"*Extract of a Despatch from the Duke of Newcastle to Governor Sir P. E. Wodehouse, K. C. B., dated Feb.* 4, 1864, *No.* 736.

"In the first place, I am advised that (assuming that there is no local law to the contrary) the members of the Church of England in a colony in which that Church is not established have the same liberty of assembling for any lawful purpose which is possessed by members of any other religious denomination, and that it would be lawful for a Colonial Bishop or Metropolitan, without the consent of the Crown, and without any express legislative authority, to summon meetings of the clergy and laity of

the Church, under the designation of Provincial or Diocesan Synods, or any other designation for the purpose of deliberating on matters concerning the welfare of the Church. The powers of such a meeting may be gathered from the following extract from the Judgment of the Judicial Committee :—

"'The Church of England, in places where there is no Church established by law, 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.'

"It follows that the rules passed by such an assembly as I have described (unless in themselves contrary to law) are binding, not indeed on all professed members of the Church over whom the Bishop has been appointed to preside, but on all those who expressly, or by implication, have assented to these rules.

"So long, therefore, as the action of the Synod is confined within these limits, I should wish you to recognise it officially—to treat it as being what it virtually is, the representative of the Anglican Church, and to place at its disposal, without enquiring into its internal relations or disagreements, the funds which may be voted from time to time by the Legislature in aid of the Anglican Communion.

"For the present, however, I have instructed you not to 'take official cognizance' of the Acts of the Assembly, 'until steps have been taken to clear it from the imputation of illegality, which at present attaches to it.'

"When I gave you these instructions, I supposed that the Bishop could have little real difficulty in ascertaining how far the proceedings of the Synod had violated or had appeared to violate the principles laid down by the Court of Appeal, and I hoped (as indeed I still hope) that the members of the Church of England would be wise enough to cancel all such proceedings, and by so doing to place their institutions on a footing which would enable the Government to countenance them, and to abandon a position which must obstruct their relations with the Civil Power, and expose them to continual collision with the law of the Colony, to disastrous litigation, and perhaps to embarrassing defeat.

"With these feelings and wishes, I considered that it would be most convenient for the Bishop and the Church that I should leave them at liberty, in the first instance, to place their own construction on the Judgment, and to submit for my consideration such amendments of their existing rules as, with least detriment to their own position, would enable the civil power to give them its cordial co-operation. The Bishop, however, professes his inability to understand me, and, I assume, desires me to explain myself with more fulness. His principal difficulty is, I suppose, to ascertain what measures I hold requisite to remove the imputa-

tion of illegality to which I have alluded. The following opinions on this subject embody the advice which has been furnished me on this head.

"The Judicial Committee, I am fully aware, did not decide that it was unlawful for the Bishop, with such clergy and laity of the Church as might concur in any scheme or arrangement for that purpose, to meet in a voluntary Synod, and to pass rules and regulations by which those who assented to them might be bound; they decided only that some of the particular acts and resolutions of the Synod in question had exceeded those lawful limits; and that Mr. Long, the appellant in the case, who was not a party, and had not assented to those resolutions, could not be compelled to give notice of any meetings of such Synod, or of any proposed elections thereto, or to attend it, or to be bound by its proceedings. Mr. Long, under an express contract with the Bishop, would apparently have been bound to give that notice if the Synod had been a body recognized by the existing law of the Church of England. Their Lordships are of opinion that the Synod was not such a body.

"The portion of the Judgment which relates to the illegality of some acts of the Synod is in these terms (p. 16):—

"'The Synod, which actually did meet, passed various acts and constitutions, purporting without the consent either of the Crown or the Colonial Legislature, to bind persons not in any manner subject to its control, and to establish Courts of Justice for some temporal as well as spiritual matters; and in fact, the Synod assumed powers which only the Legislature could possess.'

"'There can be no doubt that such acts were illegal.'

"It is obvious that in this passage reference is more particularly made to those parts of the 'acts and constitutions' of the first Synod (the very term 'constitution' seems to imply the assumption of some binding authority) which are mentioned in the paragraphs beginning 'various rules,' &c., and 'a Consistorial Court,' &c., at page 8 of the printed Judgment.

"The surest mode, I conceive, of relieving the assembly in question from the prejudicial effect of these errors in its past proceedings will be for some future meeting, with the concurrence of the Bishop, to review all the acts of the former Synods for the purpose of removing from them, both in substance and in form, everything which has the appearance of an assumption of any compulsory powers, or of any attempt to create tribunals similar to those which, in countries where there is an Established Church, exercise a legal and coercive jurisdiction. It would be desirable expressly to declare that the Synod altogether disclaims the power of legislating, so as to bind any persons who do not voluntarily assent to and agree to be bound by its rules, that the terms, 'Constitution,' 'Consistorial Court,' and the like should be disused, and that the rule 'that all Presbyters and deacons before institution or induction, or before receiving a license from the Bishop, and as a condition of receiving such in-

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

of licenses, admissions, or institutions of clerks to spiritual offices, benefices or cures, a distinction must be made according to the nature of the office, benefice, or cure.

"If there be no previous contract or trust, express or implied, between the Bishop and the patron, or the Bishop and the presenter, and if the office, benefice, or cure in question has not been founded, endowed, or established by any positive law or enactment, or by any other mode of legal foundation inconsistent with the exercise, in that respect, of a free and uncontrolled discretion by the Bishop, in these circumstances I am advised that it would be competent to the Bishop to make the license, admission, or institution, of a clerk to a spiritual office, benefice, or cure, conditional on his assent to such resolutions.

"But if the Bishop be bound, with respect to such benefice or cure, by any antecedent contract or trust (like the engagement to appoint the nominee of Mr. Hoets), or by the terms of any legal foundation of which assent or obedience to such resolutions forms no part, he cannot, under such circumstances, lawfully exact from any clerk, entitled to claim from him license, admission or institution to such office, benefice, or cure, that such clerk should, as a condition of receiving such license or institution, agree to be bound by such resolutions.

"Within the limits thus laid down, the exercise of the Bishop's discretion in this respect should be recognized by the Executive Government as legitimate.

"Lastly, the Bishop requires to be informed—

"'Whether the document which has been placed in his hands by the Crown is in all respects as it confessedly is in some, an illegal instrument; whether any, and if so, which of its provisions are valid in law, whether it conveys any rights, title, or authority to the Bishop of this diocese and the Metropolitan of this province or not.'

"The words of the Judicial Committee to which the Bishop, I presume, refers (p. 13) are as follows:—Their Lordships state the Supreme Court of the Cape to have been of opinion—

"'That the Letters Patent of 1853, being issued after a Constitutional Government had been established in the Cape of Good Hope, were ineffectual to create any jurisdiction, ecclesiastical or civil, within the colony, even if it were the intention of the Letters Patent to create such jurisdiction, which they think doubtful.'

"'In these conclusions, they add, "we agree."'

"The Letters Patent then were *ultra vires* and invalid if, and so far as they purported to convey to the Bishop any power of coercive jurisdiction, irrespectively of the sanction of the local legislature, and of the consent express, or implied, of those over whom it might be exercised.

"I am aware of no reason whatever for supposing them to be invalid otherwise than as they may assume to grant this coercive jurisdiction.

The Bishop's corporate character, and any other incidents of his Episcopal position which result from the Letters patent remain untouched by the recent Judgment."

[It was intended to publish as an appendix to the foregoing materials, a Review of a pamphlet lately issued by Bishop Binney, styled "Remarks on Diocesan Synods," and "addressed to the Clergy and Laity of his Diocese." But upon a careful reading of the said pamphlet, it was decided that its refutation was contained within its own pages.]