and Congregationalists—on a basis higher and broader than any existing one. But none the less his "form of words," and the idea behind the words, is "sound"; and I trust that he will grow in sympathy and conviction up into the fulness of it. Towards this result the movement for "Church Reform," not only at home, but also amid the freer and less conservative atmosphere abroad, is surely helping to prepare the minds and imaginations of not a few Anglican Churchmen.

Hitherto I have spoken only of comprehension as regards the principles of Church polity at present represented by separate communions. But the like applies to doctrine. Indeed, it was to this that St. Paul applied his great formula, "All things are yours"—all types of Christian teachers, on the simple basis, "Ye are Christ's, and Christ is God's." To agree to differ on things *proved by the experience of Christian fruitage*, not by *a priori* theory, to be non-essential, in the mutual brotherly confidence of "discipleship" to the one Master and Redeemer—that, as Canon Henson has suggested, is the condition of a comprehensive Church of Christ on the general lines laid down in the large-hearted passage quoted above. Meantime "Let brotherly love continue" and grow to its outward fruit of unity. Various means of expressing it in the present distress may commend themselves to various types of Anglicans.

The Story of High Church Agitation for an Ecclesiastical Court of Final Appeal.

By the Rev. Canon HENRY LEWIS, M.A.

II.

SIX years later Archbishop Tait, in sheer weariness of the continued strife, publicly invited High Churchmen to state in definite terms what they really wanted. He promised that the fullest consideration should be given by the Bishops to their representations.

At the same time he reminded them that "the present form of our highest Court of Appeal was adopted within the last ten years in deference to what then appeared to be the wishes of the leaders of the High Church party."[1]

The response was a memorial signed by 5,000 High Church Clergy. In it they asked "for a distinctly avowed policy of toleration and forbearance, on the part of our Ecclesiastical superiors, in dealing with questions of Ritual." They also declared that "our present troubles are likely to recur, unless the Courts by which Ecclesiastical causes are decided, in the first instance and on appeal, can be so constructed as to secure the conscientious obedience of clergymen who believe the constitution of the Church of Christ to be of Divine appointment; and who protest against the State's encroachment upon rights assured to the Church of England by solemn Acts of Parliament."

A counter-memorial from the other side, with almost the same large number of signatures of clergy, was also presented. This entreated the Archbishop "to give no countenance to any attempt to procure toleration for Ritual practices, which for more than 300 years, and until a very recent date, were almost unknown in the Church of England, and which, when submitted to the highest Courts, have been declared to be contrary to the laws of the Church and Realm." At the same time the memorialists, "without expressing dissatisfaction with the existing arrangements," were prepared to acquiesce in "any alterations really calculated to improve them."

Feeling that the time was ripe for some further attempt to make the situation better, Archbishop Tait began once more to take action. He called the Bishops together. Having obtained the general approval of these, he next approached the Premier, Mr. Gladstone. He made two requests. One was that legal effect should be given to the Convocation scheme for enacting what the Archbishop called "Ecclesiastical Bye-laws";

[1] "Life of Archbishop Tait," vol. ii., p. 424.

the other was that a Royal Commission should investigate the condition and history of Ecclesiastical Courts.

The Convocation Scheme was that, when recommendations to the Sovereign have been made by Convocation in answer to the usual Letters of Business, such matters, after being approved by the Sovereign, should be laid before Parliament, and, if not opposed within a certain time, should take effect like Orders in Council sent up from the Ecclesiastical Commissioners. Both Mr. Gladstone and Lord Selborne fought shy of the plan for giving legal force to the proposed "Ecclesiastical Bye-laws." The latter bluntly said that the plan was impossible, so long as the Ritual party kept up their contempt for Parliamentary legislation in Ecclesiastical matters, and carried it to the length of organized opposition to the law. "They ask," he wrote, "for nothing less than to reduce the Royal Supremacy within limits utterly unknown in this country since the Reformation, and inconsistent with the plain meaning of Statutes, Canons, and Articles, as well as with the practice of centuries."[1] He went on to say that "*the whole coercive power* of our Church, concerning doctrine, Ritual, and discipline, has come to depend upon the construction of Acts of Parliament. Whether this is, abstractly, a desirable state of things, or not, I do not care to inquire; but it is at least, in my opinion, an *endurable* state of things; and of one thing I am perfectly sure—viz., that the demand for its reversal means Disestablishment, and nothing else."[2]

The plan for Ecclesiastical Bye-laws was, therefore, refused. A Royal Commission, however, was promised. It began its work on May 28, 1881. Archbishop Tait was elected chairman. He was present at nearly all its sittings, but died before the Report was issued. This came out in August, 1883. It is the fullest and ablest statement yet made from the side of the Church herself on the subject of Ecclesiastical cases in relation to the English system of appeal to the Sovereign in Council. Dr. Ben-

[1] "Life of Archbishop Tait," vol. ii., p. 440.
[2] *Ibid.*, vol. ii., p. 444.

son, the new Archbishop of Canterbury, drafted the "Proem."[1] Bishop Stubbs and Bishop Westcott undertook the immense research which the Report involved. It was proposed that the "Church Discipline Act" and the P.W.R. Act should be repealed, and the old Church Courts be revived. There were to be two—one for the hearing of charges of misconduct, the other for hearing of charges of heresy and illegal Ritual.

The following are the chief points which were to mark each Court:[2]

I. *Court for Cases of Alleged Misconduct or Neglect of Duty.*—(1) Any person was to be allowed to make a complaint with a view to proceedings, or the Bishop might *mero motu* appoint a complainant. (2) The Bishop was to have the power of vetoing any proposal to proceed. (3) If he allowed the case to go forward, the accused was to be cited to appear in the Diocesan Court. (4) If the accused submit, and the complainant agree, sentence may be passed at once. (5) If not, the case is to be heard in the Diocesan Court by the Bishop as judge, with the Chancellor and one other lawyer as assessors. (6) If the Bishop think fit, and both parties assent, the case may be sent to the Provincial Court instead of the Diocesan, or it may go there on appeal. (7) The Provincial Court is to be presided over by the official principal of the Archbishop, who shall be appointed in the ancient way. (8) An appeal to the Crown to lie, to be heard by a body of lay Judges, not less than five. (9) It is recommended that Bishops' costs should be defrayed from some public source, but the source is not indicated.

II. *Court for Cases of Heresy and Illegal Ritual.*—(1) Anyone can complain. It does not appear that the Bishop may proceed *mero motu*. (2) A hearing and judgment (with consent of parties) may be made by the Bishop *in camerâ*, from which there is no appeal. (3) If the case is sent to the Provincial Court, it may be heard by the Archbishop in his Court of

[1] "Life," vol. ii., p. 67.

[2] *Vide* Canon Perry's "History of the English Church," Third Period, p. 528.

Audience with his official principal as assessor, and five theological assessors, who shall be either Bishops or Professors, past or present, at one of the Universities. (4) An appeal to lie to the Crown, to be heard by a permanent body of lay Judges, who are to declare themselves members of the Church of England. (5) The Judges to have power of consulting the Archbishops and Bishops in the same way that the House of Lords consults the Judges, and to be bound to consult them *if one of the Judges demand it.* (6) Disobedience to order of Court to be punished by suspension and deprivation, but not by imprisonment.

Some of the Commissioners objected to the Bishop's power of veto. Others pointed out that, while the lay Judges of the Final Court of Appeal were given the power to consult the Archbishops and Bishops, they could refuse to use the power, and also they would be able to decline to abide by the opinions of the Episcopate when obtained. Against this they recorded their emphatic dissent.

The Report found favour with High Churchmen. It also soothed the sore feelings of the Ritualists. What pleased both parties was the negation of the proposition—"We ought not to go behind the Reformation." This, it was maintained, had too exclusively influenced Episcopal and legal action in adjudicating in Ritual and doctrinal disputes.

Instead of taking the advantage thus given to them modestly, and using it wisely, the extremists among the High Church party now began to reiterate the violent language of Hurrell Froude—Newman's whilom instructor—and to speak openly of the Reformation as an interruption and a disaster, or, at least, as "a limb badly set." Archbishop Benson—the hope of High Anglicanism at this time—would have none of this. He rebuked it sternly, and declared that to him "the Reformation was a ripe and long-prepared and matured movement in an era of illumination, the greatest event in Church History since the fourth century."[1]

[1] "Life," vol. ii., p. 68.

At the close of 1884 the Archbishop tried to get some of the recommendations of the Report passed into law. The Bishops, however, were not unanimous as to what should be done, and consequently the matter was not proceeded with. In 1892 he made another effort, the result of which was the Clergy Discipline Act. All Church parties were agreed as to the necessity of this step. The Convocation of Canterbury promulged, under the Queen's licence, a new Canon in accordance with the terms of the new Act, and thus the High Church ideal of Church and State legislation was in this carefully met.

1889 was an important year for High Churchmen. In it they were conspicuously tested as to their sincerity in agitating for spiritual Courts for spiritual cases. The Church Association brought charges in the Archiepiscopal Court against the Bishop of Lincoln (Dr. King). It was the most studiously fair thing the Church Association had done. The Bishop was a saintly man, and much beloved by men of all Church parties. To single him out for trial was, therefore, courageous. Moreover, the Archbishop's Court was a purely spiritual Court,[1] to which no such objection as had been urged against State Courts could be made. To all this it may be added that Archbishop Benson himself was a pronounced High Churchman. How did the High Church party receive the challenge made with such chivalry? It failed to meet it worthily. Lord Halifax inveighed against it; Bishop King only submitted to it under continued protest. Dean Church called the authority of the Court "altogether nebulous." Canon Liddon wrote to Bishop Lightfoot—Dr. Benson's special friend—asking him "to appeal to the Archbishop to decline to entertain the charges, on the ground that to do so would be in a very high degree prejudicial to the well-being of the Church."[2] Even the Archbishop him-

[1] "The High Church party," wrote Archbishop Benson, "have long refused to hear the secular Courts; now that a spiritual Court of undeniable authority is invoked it will not do for the spiritual Court to refuse to hear. At the same time it is remarkable that it should be invoked by the Low Church party."—"Life," vol. ii., p. 331.

[2] "Life of Archbishop Benson," vol. ii., p. 323.

self had to exclaim of his own fellow High Churchmen: "Are they sincere in wishing for a *spiritual* jurisdiction?"[1]

The trial began on July 23, 1889, in Lambeth Palace library. Five Bishops assisted as assessors. Judgment was delivered on November 21, 1890. It was decidedly in favour of the High Church view. The eastward position; the singing of the *Agnus Dei;* and lighted candles, when not needed for the purpose of giving light, were allowed. The two remaining points—the ceremonial mixing of the wine with water, and making the sign of the Cross in the Absolution and Benediction were condemned.

The judgment "was received with acclaim by the High Church party."[2] Evangelicals regarded it as a compromise on the part of the Bishops with powerful and persistent troublers of the Church's peace. As Archbishop Benson himself noted[3] in the privacy of his diary, the Bishop of Lincoln and his following wanted more liberty. To gain it they broke the law. The result of the Lincoln case proved how well the policy succeeded.

The judgment was appealed against, but on August 2, 1892, the Judicial Committee of the Privy Council confirmed it, but left the point about altar-lights open, as the Committee did not regard the Bishop as personally responsible for what took place thereto. The law, therefore, remained as it did prior to the hearing of this suit—namely, that lighted candles not needed for the purpose of giving light were illegal.

At the time of its pronouncement it was generally hoped that the Lincoln judgment would make for peace, and also for a reasonable attitude on the part of extremists in Ritual. The fact that it was a great victory for High Churchmen laid upon these the duty of using it well. It cannot, however, be said that High Churchmen as a party have been less contentious in their determination to secure a Court of Final Appeal for Church cases, which shall be to their liking. Nor can it be

[1] "Life of Archbishop Benson," vol. ii., p. 327.
[2] *Ibid.*, vol. ii., p. 366. [3] *Ibid.*, vol. ii., p. 325.

claimed that they have, as a party, been loyal to the conditions laid down in the judgment on the points which were conceded to them.

On this subject the Report of the recent Royal Commission on Ecclesiastical Discipline (1906) speaks with some severity: "We feel bound," it says, "to add, on the strength of the evidence before us, that it appears to be certain that many of those who welcomed the sanctions, which this judgment gave (not only to the mixed chalice and to the eastward position) have not observed the conditions attached by Archbishop Benson to such use."[1]

When Bishop Temple succeeded to the throne of Canterbury, a further attempt was made to conciliate High Churchmen in their opposition to the Judicial Committee of the Privy Council, as a Court of Final Appeal for Church cases. The occasion was the increase of certain special services outside the range of the Book of Common Prayer, some of which were harmless enough, but others being seriously objectionable. In 1899 the Archbishops of Canterbury and York sat together at Lambeth, in accordance with special arrangements, agreed to by all the Bishops, and carefully announced beforehand. They heard legal and expert argument on the subjects (*a*) of the use of incense and of processional lights, and (*b*) of the practice of reservation.

On July 31, 1899, the Archbishops, in a joint "Opinion," declared the use of incense and of processional lights to be inadmissible, and on May 1, 1900, in two independent "Opinions," they concurred in forbidding any form of reservation of the consecrated elements.

The Bishops of the various dioceses afterwards, in a joint pastoral, enjoined upon their clergy the duty of complying with the "Opinions" delivered by the two Archbishops. Here, again, there has been failure. High Churchmen have not, as a body, accepted the results of these pronouncements of

[1] P. 62.

a strictly spiritual Court supported by the whole episcopate in disputed points of Ritual and doctrine. As the Report of the Royal Commission of Ecclesiastical Discipline (1906) puts it, "It cannot be said that the Lambeth 'Hearings' have attained the result at which their promoters aimed—the settlement of the questions which were at issue."[1]

It remains for us to look at the view of the Commission itself as to the point for which High Churchmen have been fighting ever since the Gorham case (1850)—viz., an Ecclesiastical Court of Final Appeal for Ecclesiastical Cases. It recommends :[2]

1. "It should be open to any party who conceives himself to have been denied justice in any Ecclesiastical Court to appeal to the Crown for remedy.

2. "This appeal to the Crown should be dealt with by a Court consisting of persons commissioned by the Crown and armed with the power of the State, whose function it shall be to inquire whether the Church Courts, deriving their spiritual jurisdiction by delegation from the Bishops, and depending on the State for the enforcement of their sentences, have properly exercised their authority.

3. "The Crown Court is to decide all questions of fact in contest between the parties, including the proper construction of words and documents (if any).

4. "When any question arises not governed by statute, or other documents having the force of an Act of Parliament," the Crown Court ought "to act on the advice of the Spirituality, which for this purpose is represented by the Bishops."

It will be seen from all this that the most recent of Royal Commissions which have dealt with the subject leaves the matter pretty much where it was before. It recognizes and emphasizes that the way to the King's Court must not be closed to any Ecclesiastic or layman who feels that he has not had justice given to him in the lower Courts. It also presses

[1] P. 63. [2] P. 65.

for consultation with the Episcopate on points about which no formulary of the Church having the force of an Act of Parliament can be consulted. In such cases the opinion of the Episcopate "should be final and conclusive for the purposes of the appeal."

The whole of this latter recommendation seems to us to be reasonable, and we think that most Evangelicals could agree to it. But the vital point to be kept clear and prominent is the Englishman's birthright—the right to appeal (as a last resort) to the Sovereign in all matters, Civil or Ecclesiastical, in which he can show good reasons for holding that a grievous violation of justice has been done to him. In nearly all the suggestions which have come from the High Church side this vital point has been either ignored or too little importance has been attached to it. And thereby High Churchmen show how little they realize the gravity of the change, for which they have sacrificed more than fifty years of the Church's peace.

Even outside the State Church the King in Council is still the supreme authority for settling disputes among his Nonconformist subjects in matters which cannot be agreed upon in secular or religious Courts.

And were High Churchmen to force disestablishment upon the Anglican Church as a means to secure a special Church Court of Final Appeal for Church cases, they would still find themselves face to face with the Sovereign's supremacy. It is inevitable so long as the present constitution of the English State remains. And were monarchy to be abolished in this country, it is unthinkable that Parliament would part with the supremacy laid down by the dismissed King or Queen.

It is strange how little all this seems to be felt in High Church circles. In a recent article on "Church Courts" the Right Hon. J. G. Talbot, one of the most learned and respected of High Church lawyers, suggests three ways in which the High Church demand can be met: "(1) The appellate jurisdiction of the Privy Council might be confined to a power to set aside the judgment of the Ecclesiastical Court, and to send the case back for a fresh hearing. The appeal would then be known

as an appeal *tanquam ab abusu.* (2) Or the Provincial Courts might be so strengthened that no further appeal would be necessary. (3) Or, again, there might be an appeal from the Provincial Courts to a truly Ecclesiastical Court of Final Appeal."[1]

In only one of these suggested plans does the appeal to the Crown seem to be preserved. And in the event of continued disagreement between the Higher and Lower Courts no issue would ever be reached, since all that the Higher Court could do under the arrangement would be to send the case back to the Lower Court for further treatment, and this process might conceivably go on without end. The possibility of such a "dead-lock" is recognized by Mr. Talbot himself.

His own preference, however, is for a purely Ecclesiastical Court of Final Appeal composed of the Bishops, assisted by legal assessors. Such an arrangement would make two Courts of Final Appeal in England, only one of which would be really subject to the supremacy of the Crown.

For our own part, we prefer the recommendation of the recent Report of the Commission on Ecclesiastical Discipline as set out above. That leaves trained lawyers' work to be done by trained lawyers—viz., the authoritative interpretation of the laws of the State Church, in so far as such laws are binding on the clergy and laity of the Church with the force of an Act of Parliament. For work which properly belongs to theologians and Church rulers it makes provision by its suggestion that in all matters not guarded by the Church's legalized formularies and standards the Episcopate should be called in.

Here seems to be the way out of the long controversy which for fifty-nine years has divided Church parties, and kept the Church in a perpetual condition of internal strife.

If a change is to be made in the present arrangements which govern the ultimate decisions of law in the Church of England, we feel sure that the main body of Evangelicals would be

[1] "Laity in Council," published by Gardner, Darton and Co., p. 187.

prepared to accept that solution of the problem to be solved which the Royal Commission of 1906 has recommended.

Whether it would make our Ritual disputes to cease, or even to assume reasonable measure and place, we very much question.

The history of the past two generations of Anglican Church life seems to teach that, as long as the present combination of differing parties exists in the State Church, there can be no long-continued peace between the extreme wings of those parties. The fact that the ideals and aims of each are in the main antagonistic necessarily means conflict.

It remains, therefore, for the centre men of all the parties in the English Church to make the best of the situation by keeping in check the controversial spirit, and by being prepared to tolerate, even if they cannot endorse, the distinctive ideas and aims of each school, so long as such ideas and aims are not challengingly disloyal to our Lord and "repugnant to the plain words of Scripture."

The Poor-Law Commission Report.

By the Rev. W. EDWARD CHADWICK, D.D., B.Sc.

"THE Report of the Royal Commission on the Poor Laws and Relief of Distress"—the full title should be remembered—has now been before the public for nearly four months. During this period a great number of opinions on the Report as a whole, and upon particular sections of it, have been expressed. Some of these opinions have quite evidently been based upon an inadequate study of its contents; also, I venture to think, upon an equally inadequate conception of the difficulties connected with the various problems on which the Commissioners have been called upon to give advice. On the other hand, some judgments of the Report, especially those of experts in the various subjects dealt with, will demand serious consideration side by side with the Report itself.