Petri," (1) the words of St. Augustine—"on the faith of the confession" were given (even in capitals); (2) it was stated that the Epistle of the Council of Constantinople was addressed to "Pope Damasus and the Bishops assembled at Rome;" (3) the words "by the letter of the most religious emperor" were given. As our only desire in the controversy with Rome is that the truth should be made fully known, we readily insert Mr. Allnatt's reply. He has kindly sent us a copy of his work; and on the three points referred to, we have consulted it. But with regard to his third point, our readers may compare Dr. Littledale's remarks (CHURCHMAN, page 67), with Mr. Allnatt's own statement. We quote every word of that statement as it is printed in "Cathedra Petri;" and it runs thus:—

Council of Constantinople, A.D. 381. In their Synodical Epistle to Pope Damasus and the Bishops assembled at Rome, the Eastern Fathers say:—"You have summoned us as YOUR OWN MEMBERS (ὡς οικεια μελη) by the letters of the most religious Emperor" (*Ap. Theodoret. Hist. Eccles.* lib. v. c. 9); and **the Pope** in his reply says: "Most honoured CHILDREN (ὑιοι τιμιωτατοι), in that your charity accords to the Apostolic See the reverence due, you confer the greatest honour on yourselves" (οτι τῃ αποστολικῃ καθεδρᾳ. την οφειλομενμν αιδω ἡ αγαπη ὑμων απονεμει, κ. τ. λ. *Theod. Hist. Eccles.* v. c. 10).

THE ECCLESIASTICAL COURTS.

To the Editor of THE CHURCHMAN.

SIR,—The pamphlet reviewed in the April number of THE CHURCHMAN was meant for a practical contribution to the solution of a great and pressing difficulty. With the same object in view, its two leading suggestions were submitted to the Convocation of York with a considerable amount of success. The first was carried in the Lower House by a majority of three to one, and the other was withdrawn (for want of time) with the view of submitting it to the consideration of the Royal Commission, where I have since been examined in further explanation. The issue of this Commission is the best proof of the importance of the question, and the Bishop of Winchester, who is a member of it, has publicly expressed his desire that "persons capable of doing so should suggest improvements or modifications in the form of these courts."[1] Having no party object in view, I have been glad to explain my views in the columns of the *John Bull*, *Guardian*, *Record*, and even the *Nonconformist*, and I should have no difficulty in disposing of your reviewer's objections if you could afford me the requisite space in THE CHURCHMAN.

While I thankfully acknowledge his courtesy to myself, I cannot share his "wonder at the width of the gulf" between us, when he asserts that "the office of a bishop implies something quite distinct from the ecclesiastical courts," and again, that "the power and jurisdiction of the ecclesiastical courts are one and undivided, and are derived from the State to which the Church, as part of the compact of Establishment, has confided complete control over its discipline." This is precisely the allegation on which the Ritualists justify their resistance to the courts, and the more extreme section concur with Dissenters in desiring Disestablishment. If it were true, the Royal Commission would have

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[1] Lecture at Bournemouth, reported in the *Guardian*, April 19.

nothing to inquire into, and the reviewer's imaginary "compact of Establishment" would speedily come to a righteous end.

No authority for such undisguised Erastianism can be found in the language of the canons or statutes which the ecclesiastical courts administer, nor in the standard writers by whom they are explained. From the origin of these courts, under William the Conqueror, to the present hour, they have been held to exist for no other purpose than to promote the office of the bishop by judicial censures "for the soul's health" of the offender. The judge is the bishop's delegate, and his sentence is the purely spiritual one of suspension, or excommunication, from Christian privileges. The temporal punishments that may follow are the result of the State giving its assistance to the Church, not of the Church confiding its discipline to the State.

The question now under consideration by the Royal Commission is whether the provisions, incontestably established for this purpose at the Reformation, have been inadvertently departed from in later legislation, so as in any degree to countenance the objections now alleged. It is to this question that my pamphlet is addressed, and if your readers take the trouble to look at the authorities there quoted, they will perhaps come to the conclusion, that it is the reviewer who has fallen into the "portentous mass of historical mistakes," which he charges upon me. All I can do, in this letter, is to beg their attention to the two leading suggestions which are the practical outcome of the pamphlet.

The first is to make better provision for the exercise of the Bishop's office, especially in disputes of ritual and doctrine, *before recourse is had to the courts.* The principle of this suggestion is laid down by the Highest Authority, in Matt. xviii. 15–17. It has always been recognized, even in the worst days of persecution. The heretic was invariably exhorted to retract, by the bishop and others in private, before he was handed over to the secular arm. Before and after the Reformation, the greater part of the questions now brought into the ecclesiastical courts with regard to ritual and doctrine, was disposed of by the ordinaries and synods. The domestic jurisdiction of the bishop is expressly provided for in the preface to the Prayer Book, in the Church Discipline Act of 1840, and in the Public Worship Regulation Act of 1874. In short, a preliminary reference to the bishop, in the hope of avoiding recourse to the courts, is a fundamental principle of all our legislation. That it has failed to answer the expectations of the legislature is one main reason for the present inquiry.

I trace the failure to two causes; 1. That being enacted by statute law the reference to the bishop becomes only another stage in the litigation. Its extent and authority are fresh questions for the decision of the court. 2. That no sufficient provision exists for securing obedience to the domestic authority. It is admitted that the incumbent, on whom the immediate responsibility rests, cannot be expected to accept the arbitrary *dictum* of every bishop: the law itself would not hold him harmless if he did, as was shown in the case of Jenkin against Cooke. My suggestion is to constitute a canonical inquiry before the bishop, assisted by experts, who might add the weight of their brotherly persuasion to his fatherly advice. The parties should appear *in person*, and tell their grievances and their objections, in the hope of coming to a settlement. I want the proceeding to be authorized by canon, in order to entitle the bishop to claim "canonical obedience" from all parties; but it should have no *legal* effect, beyond protecting those who obey the bishop's monition from the penalties of the law. If the canonical inquiry fail, the law would stand intact, and the bishop might send the case to the court if he thought fit. My conviction, concurred in by the great majority of the Lower House, at York, is that nine out of ten ritual controversies would never get to the courts.

My second proposal has respect to the Archbishop's Court, which the great Statute of Appeals (24 Henry VIII. c. 12), declares to be the final court of the National Church. Still, there was at that time, as the Act itself shows, an appeal to the Spiritual Prelates of the Upper House of Convocation. Your reviewer has been misled on this point by some modern judicial *dicta*, which I have shown to be against all established law down to the reign of Queen Anne. I have pointed out the departure from this arrangement.—1. In the tyrannical action of the Crown as Supreme Ordinary, in the Courts of Ecclesiastical Commission, by which the regular ecclesiastical courts were almost superseded, under the Tudors and Stuarts.—2. In the provision of the Bill of Rights declaring these Commissions illegal and pernicious, and so throwing a practically new jurisdiction on the Court of Delegates; and 3. In the further changes of the present reign. Without entering on these topics here, I am glad to agree with the reviewer's conclusion, that the "most probable view of the constitution of the Archbishop's Court is that the archbishop in synod formed the full provincial court, while in ordinary cases the archbishop in his official character acted as sole judge." This is exactly what I propose to revert to. Assuming the provincial court to be restored as before the Public Worship Regulation Act, and the archbishop to be represented in it by his official principal in ordinary cases, I propose to restore the "full Court" for cases described in the 24 Hen. VIII., as involving "questions of the law Divine, or of spiritual learning" in this way. The judge, on the requisition of either party, should be bound to state a case to the Upper House of Convocation, and their determination should be binding on the judgment of the Court. It would be for the judge to apply the determination to the case before him, in disposing of the suit; and from his judgment the appeal for "lack of justice" would lie to the Crown, as at present.

I am so far from attacking the Judicial Committee (as the reviewer imagines), that I do not propose to touch it in any way, as originally constituted in substitution for the Delegates. The addition of the three prelates under the Act of 1840 has already been withdrawn, in exchange for a *rota* of assessors from the whole bench, which is not generally thought an improvement. Many other proposals have been made for furnishing the Crown with spiritual assistance in these appeals, but none appear to me likely to pass the legislature. My proposal would solve the difficulty, by giving a full and free deliverance of the judgment of the Spiritualty in the Church's own court, before it came to the Crown. I am content to leave the "lack of justice" to the Judicial Committee, as a purely lay and judicial tribunal. This is a greater risk than some of my High Church friends are willing to run; but an Established Church must confide in the Crown for justice in the last resort; without this we could have no Ecclesiastical Courts at all. The weak point at present is that every judge is obliged to collect the law of doctrine and ritual from his own miscellaneous reading, more or less open to question. The great judges in the Privy Council would be thankful (as I conceive) for an authoritative deliverance of the bishops of the Province; and would give it all due weight, while maintaining the Royal Supremacy. Further than this, I for one am unable to see my way; and it is a satisfaction to find that the Bishop of Winchester, who took part in my examination at the Royal Commission, has declared his opinion that such an arrangement is both "primitive and practical."[1]

I am, Sir, your faithful Servant,

GEORGE TREVOR, D.D.

Beeford Rectory, May 10, 1882.

[1] "Bournemouth Lecture."