sometimes imagined that all these scattered Deaconess Institutions of Germany are affiliated to the one motherhouse of Kaiserswerth. This, however, is a mistake. The house of Deaconesses at Eisenach, for instance, is a dependency of a larger one at Hanover; and I had seen previously at Nuremberg some of the sisters of an independent house established in that city.[1]

Now what I have to remark is, that this invaluable establishment of Deaconesses is a distinct outgrowth of the religious system established by Luther. And other modern institutions in his country, of the most earnestly religious and most practical character, could be enumerated.[2] The principle of faith which he proclaimed has not been without its proper fruit of good works in the land of Germany.

J. S. HOWSON.

ART. V.—THE ECCLESIASTICAL SUPREMACY OF THE CROWN.

THE Report and Recommendations of the Royal Commission on the Ecclesiastical Courts have now been under anxious consideration for many months, and have met with both favourable and unfavourable criticisms. On the whole, however, it must be confessed that the criticisms which are favourable have predominated. It is thought by many that the Report is a fair compromise, and that without any sacrifice of principle it offers a *modus vivendi* between parties who are at variance on points of doctrine in the National Church. Whether such a *modus vivendi* is really desirable or not is another question.

There are many, however, on the other hand, who are unable to view the Report in this favourable light, and regard both it and the recommendations on the whole as nothing short of a complete capitulation to the party of innovation. They regard the Report as *wrong in principle*, the chief objection being that it seemed to them to conflict with, and, indeed, to be subversive of, the Ecclesiastical Supremacy of the Crown: the design of this article is to show that such is the case.

It is above all things important in the first place to state clearly what is meant by the Ecclesiastical Supremacy of the Crown. A few quotations will suffice to make this clear. It

[1] A proof of the strong power and wide usefulness of the Deaconess Institutions of Germany is afforded by the recent publication in three volumes of Schäfer's "Die weibliche Diakonie." (1879-1883.)

[2] See de Liefde's "Charities of Europe," 2 vols. (1865.)

is not necessary to go farther back than the Act of Elizabeth, 1559.

The 17th Section of the Act for restoring to the Crown the ancient jurisdiction over the State, Ecclesiastical and Spiritual, commonly called the Act of Supremacy, runs thus:

> That such jurisdictions, privileges, superiorities, and pre-eminences, spiritual and ecclesiastical, as by any Spiritual or Ecclesiastical power or authority hath heretofore been, or may lawfully be, exercised or used for the visitation of the Ecclesiastical State and persons, and for reformation, order, or correction of the same, and of all manner of *errors, heresies, schisms*, abuses, offences, contempt and enormities, shall for ever, by authority of the present Parliament, be *united and annexed to the Imperial Crown of this realm.* (Warren's Blackstone, p. 271.)

Now this was passed on the 28th May, 1559. In the previous reign, that of Mary, all Spiritual and Ecclesiastical power and authority, jurisdiction, superiority and pre-eminence, had been lawfully exercised by the Pope, the Papal Supremacy having been restored by Act of Parliament in 1553. But from the time when the Act of 1559 became law, all that power, jurisdiction and superiority, *Spiritual and Ecclesiastical*, which had been exercised by the Pope, whatever it was—and we all know the extent of his claims—was transferred from him and united to the Crown. Mark, not to the *person* of the Sovereign, but to the *office—to the Crown;* so that the Crown, the Sovereign, has Spiritual and Ecclesiastical Supremacy in and over the Ecclesiastical State and persons; *i.e., over the Church as such*, and over the Clergy.

The purposes and objects for which that Spiritual and Ecclesiastical jurisdiction is to be exercised are set forth in the section already quoted; viz., for the visitation of the Ecclesiastical State; *i.e.*, for inquiring, examination, and inspection, for reformation, order and correction of the same; and of all manner of *errors, heresies, schisms, and abuses.* In other words, it is for the Crown, in its office as *Supreme Ordinary*, to exercise all necessary power and authority for the correction of all abuses, Spiritual and Ecclesiastical, and to adopt all means necessary for the same.

Thus, in brief, the Papal Supremacy was abolished, and the Royal Supremacy was substituted for it.

From this it is evident that the Sovereign is not the mere Civil Ruler of the Church or Ecclesiastical State, but is also the *Spiritual* and *Ecclesiastical Ruler.* Not, indeed, with power "to minister the word or the sacraments," but to rule, reform, and correct, and by the due exercise of authority to "banish and drive away erroneous and strange doctrines contrary to God's word."

We now turn to the 37th Article of Religion:

> The Queen's Majesty hath the chief power in this Realm of England . . . unto whom the Chief Government of all Estates of this Realm, whether they be Ecclesiastical or Civil, in all causes doth appertain . . .
> When we attribute to the Queen's Majesty the Chief Government . . . we give not to our Princes the ministering either of God's word or sacraments; but that only prerogative which we see to have been given always to all godly Princes in Holy Scripture by God Himself: that is, that they should rule all states and degrees committed to their charge by God.

Here the *Chief Government* of the Ecclesiastical State is attributed to the Sovereign. Now this does not signify merely the civil government of Ecclesiastical persons, as of all other persons in the Realm, nor does it mean the government of the Church merely in the same sense as the Crown now governs other religious bodies. For, in point of fact, the Queen does not govern other religious bodies at all. The Crown claims no control over them *as such*. They are perfectly free to teach and preach what they please, without let or hindrance from the Crown, as long as they do not violate the civil laws of the land. They may govern themselves any way they please, and change their forms of worship as they like. It is only when they disagree among themselves, and civil rights are involved, or contracts broken, that they come before the Courts of the Realm for legal determination. Far otherwise is it with the National Church. The Church is not free to change her doctrine or her ritual. She has accepted the position of a national institution, and has to submit to all its necessary limitations. A Church not established is self-governed: governs itself by its own duly appointed representatives; but when that Church is in the main the nation, and receives legal recognition and advantages as the National Church, then it is no longer free, as it was before: the Supreme authority rests with the nation and its duly appointed representatives; in this case with the Sovereign acting according to the constitution, by the legally appointed Courts of the Realm, for the Church is the nation in its Ecclesiastical capacity. Hence the Supreme Spiritual and Ecclesiastical jurisdiction rests with the Sovereign; *i.e.*, with the nation; that is, with the body of the Church considered as identified or incorporated with the nation. This is the true idea of the union of Church and State. The Church is a society of men united together for *spiritual* purposes: the State, a society united for *civil* purposes. When these *two societies*, consisting of the same individuals, are united together *as such*, in one constitution, and the doctrines of the Church become the laws of the State, the Church is established, and the constitution is a mixed one of *Church and State*. This is our happy position.

The reference to the Old Testament in the 37th Article

plainly teaches us the nature of the Spiritual and Ecclesiastical authority claimed by the Sovereign. It is "that prerogative which we see to have been always given to all godly Princes in Holy Scripture by God Himself." What was that prerogative? We turn to the Holy Scripture, and there we see what David and Solomon did in the Ecclesiastical affairs of the nation. What, we ask, was the conduct of Josiah, Hezekiah, and Jehoshaphat? They put down idolatry, deposed the idol priests, and set up godly teachers, priests, and scribes in their stead; and in a word, they purified and reformed the Jewish Church, and that without seeking the consent of the Ecclesiastical Courts or the spiritual authorities—rather in spite of their opposition.

Once more: the first of the Canons of 1603 has for its title, "The King's Supremacy over the Church of England in causes Ecclesiastical to be maintained;" and the second Canon is to the following effect: "Whosoever shall hereafter affirm that the King's Majesty hath not the same authority in causes Ecclesiastical that the godly Kings had amongst the Jews, and Christian Emperors of the primitive Church . . . let him be excommunicated."

It is quite true that since the passing of the Articles in 1562 and 1571, and the Canons in 1603, the Toleration Acts have relaxed the one and virtually repealed the other as far as Nonconformists are concerned; but as far as regards the Church of England and the members of the Church, these statements are in as full force as ever.

The conclusion from all this is that in England the Sovereign is an *Ecclesiastical person*, the Supreme Governor of our mixed constitution in Church and State; that the Courts which are set up to determine Ecclesiastical causes owe their authority to the Sovereign; and that the appeal in the last resort is not to the Sovereign only in her civil capacity, but in her Ecclesiastical, and as having, by the law of the land, supreme "Spiritual and Ecclesiastical jurisdiction."[1]

This is the view taken by the late learned Dr. A. J. Stephens, who says: "Thus the Sovereign has been constituted the highest Ecclesiastical judge, and appeals from the Provincial Courts to the Sovereign in Council are appeals to *an Ecclesiastical, not to a Civil Court.*" "The Sovereign is Supreme Ecclesiastical Ordinary."

The Ecclesiastical Supremacy of the Crown, then, consists in

[1] It is not necessary to repeat that when we say the Sovereign, we mean not the Sovereign personally, but officially, and as representing the nation, and that the claim we make for her is virtually the assertion that all Spiritual and Ecclesiastical jurisdiction belongs to the nation in its Ecclesiastical capacity; in other words, to the whole body of the Church.

this: that the Sovereign, acting for the nation, *i.e.*, for the body of the Church which is legally one with the nation, is supreme Ecclesiastical judge, as well as Supreme Governor of the Ecclesiastical State; and that by the Sovereign in Council, in the last resort, as the Final Court of Appeal, all doctrinal and ritual questions are to be determined; so that the *Ecclesiastical Supremacy of the Crown is the Ecclesiastical Supremacy of the Church—acting by its chief ruler and representative.*

I now proceed to show how the Report and its Recommendations are opposed to the Ecclesiastical Supremacy of the Crown.

I. It concedes the principle that "Spiritual causes should be tried by only Spiritual Courts," *i.e.*, by the Bishops, or those appointed by them.

First, it is provided that the Bishop may, if he please, veto the whole proceeding, and thus put a stop *in limine* to any further action. It is absurd, in the face of this, to say that nothing should be allowed to bar the indefeasible right of the subject to appeal to the Crown in the last resort, if the very first step cannot be taken without the consent of the Bishop.

Secondly, it is recommended that the matter should be dealt with by the Bishop personally, if both parties agree; if not, then it must come before the Diocesan Court.

Thirdly, it may be carried further to the Provincial Court, also a purely Ecclesiastical Court; and last of all, it may come before the Court of Final Appeal, which is to be a purely Lay Court, and is not "in any sense to determine what is the doctrine or ritual of the Church."

Now here we have, as above stated, the principle conceded that "Spiritual questions should be determined only by Spiritual Courts." This is an assumption utterly unjustified by the New Testament, the standards of the Church, or the historical facts of the Reformation.

Who made the Bishops supreme judges in this matter? What is there in the New Testament to justify this assumption? When the New Testament was written, there was no such officer in the Church as our present Bishop. There were inspired Apostles, also presbyters or bishops, and deacons; but Diocesan Episcopacy, such as we now understand it, did not exist; although we freely admit and maintain that the traces and germs of our Episcopate may be found, but it was confessedly a later development, as proved by Bishop Lightfoot in his learned treatise on the Christian ministry.

Again, what does the Church say on the subject? Article XX. says: "The Church," not the Bishops, "hath power to decree rites and ceremonies, and also authority in controversies of faith." The Church? What Church? Read Article XIX.:

"The visible Church of Christ is a congregation of faithful men, in the which the pure word of God is preached, etc."—no mention of Bishops, Priests, or Deacons, distinguished from the Church, though doubtless the Clergy, of whatever office, are included in the definition as members of the Church.

Once more, what of the facts of the Reformation? Why, that so far from questions of doctrine and ritual being decided only by the Episcopate, the Act restoring the Supremacy to the Crown, and the twin-sister to it, the Act of Uniformity, by which the Mass was abolished and the Reformation finally set up in the Church of England, were carried without the consent of Convocation, and in spite of the most active and determined opposition on the part of the majority of the Bishops! Fifteen out of sixteen on the Bench refused to take the Oath of Supremacy, and were summarily deposed by the Queen; and the Acts referred to were enacted by the Queen, with the assent of the Lords *Temporal* and the Commons in Parliament assembled. No mention of the Lords Spiritual in the Acts! Why not? Because the Acts were carried in defiance of their opposition. Again, then, we ask, what ground is there for the assumption that the Bishops alone are qualified or authorised by divine or human law for the determination of Spiritual questions? To say so is virtually to deny the Spiritual and Ecclesiastical jurisdiction which we have seen to be invested in the Crown.

II. The Court of Final Appeal, as recommended by the Report, also appears to many to be subversive of the Ecclesiastical Supremacy of the Crown. Here we are at variance with many able writers. The *Record* newspaper, referring to the fact that the Court of Appeal is to be a purely lay tribunal, asks confidently: "Is this a High Church triumph?" To this we reply, Most decidedly; and a very remarkable one too. A few words will be necessary to prove this, for at first sight it seems the very reverse.

The Commissioners tell us that the reason why they recommend that the appeal to the Crown should be heard by an exclusively lay body of judges learned in the law, is the fact that they had "provided in earlier stages for the full hearing of *Spiritual matters by Spiritual judges; i.e.*, by judges appointed under recognised Ecclesiastical authority." Pray what is this but to deny the Spiritual and Ecclesiastical competency of the Crown? If the Crown be, as we have proved, possessed of the highest Spiritual and Ecclesiastical jurisdiction (the Sovereign officially being the highest Ecclesiastical Ordinary), why should the Crown be deprived of its exercise in the Court of Final Appeal?

Further, the Report goes on to say that "the function of

such lay judges as may be appointed by the Crown to determine appeals is *not in any sense* to determine what is the doctrine or ritual of the Church." Again we ask, What is this but to deprive the Crown of its Ecclesiastical and Spiritual authority? Why is not the Crown to determine what is the doctrine of the Church? If not the Crown, who is to do so? The Bishops? And are we going to hand over to the Bishops the determination of this momentous question? Is it not the province of the Crown "to visit, and to reform and correct all heresies, schisms, and other abuses"? Is the Church going to take its doctrine without question from Spiritual judges? Why did it not do so in 1559, when the Bishops to a man were opposed to the Reformation?

The fact is, the Commissioners first make a purely lay Court for the final appeal to the Sovereign, so that it may not even appear to be an Ecclesiastical one, and then, to prevent all possible mistake as to the matter, proceed to muzzle the Court as it regards any doctrinal or ritual decision. If this is not in effect to destroy the Ecclesiastical Supremacy of the Crown it is difficult to say what is.

It may be asked, What, then, is the Final Court to decide, if not what is the doctrine or ritual of the Church? For, after all, that is the question at issue. A clergyman is accused, say, of doctrinal or ritual transgression. He is acquitted in the Provincial Court, the Final Ecclesiastical Court, according to the Commissioners. An appeal is now made to the Final Court. What is the question at issue? Evidently whether the accused has or has not violated the doctrinal or ritual law of the Church. How can this be decided unless they first know what is the doctrine or ritual of the Church? And if they sustain the judgment of the Court of the Province, will not that in effect be a declaration that the decision of the Provincial Court has been in accordance with the doctrine or ritual of the Church, and so put forth a determination as to the doctrine or ritual of the Church? According to the Report, the lay judges are only "to decide whether the impugned opinions or practices are in conflict with the authoritative formularies of the Church *in such a sense* as to require correction or punishment." In other words, the Crown is to be confined merely to the question of *the temporal* penalties which may be incurred, just as in the case of any Nonconformist litigants!

We have said this is a triumph for the reactionaries, whose avowed object is to "go behind the Reformation," and have done something to prove it; but more remains. It is a simple matter of fact that the extreme High Church party, as represented by Dr. Pusey and Canon Liddon, proposed to

expel the Ecclesiastical element from the Court of Final Appeal, in order that its decision, however binding in law, might not be binding in conscience. Dr. Pusey says: "The mischief in all these decisions has been the *quasi*-Ecclesiastical character of the Court given to it by the presence of Archbishops and Bishops." And Canons Gregory and Liddon expressly term the present Final Court of Appeal "The final *Civil* Court."

Well, these leaders have gained their end. Whether the Commissioners intended it or not, they have complied with the demands and wishes of the Ritualistic party—they have made the Final Court a purely Lay Court; they have debarred it from in any wise deciding what *is* the doctrine or ritual of the Church; and more, they have prevented it from delivering the sentence on the case. It is to be remitted back to the "*Church* Court," that sentence may be delivered there! Thus the Crown is shorn of all appearance of Spiritual or Ecclesiastical Supremacy, and reduced to the position of being a purely Civil Court. If this is not a triumph for the ultra-Church party, what is it? The Supremacy of the Crown is upheld in name, denied in fact, in that particular of which we are treating, viz., Spiritual and Ecclesiastical authority. The determination of Spiritual questions is handed over to Spiritual Courts, as demanded by the English Church Union, and the infliction of temporal penalties left to the Crown!

If there were any doubt as to the correctness of the views put forth in this article, one would think it would be thoroughly dissipated by the resolutions just passed by the President and Council of the English Church Union. They hail the Report of the Commissioners with *thankfulness*, as justifying their contention against the authority of the Judicial Committee of the Privy Council, and as recognising the inherent right of the Spiritualty to determine questions touching the doctrine, worship, and discipline of the Church. They submit, however, that the decision of the Final Court should avowedly affect only temporalities, which is indeed what the Commissioners appear to have recommended, only they did not like to put it quite so baldly; and that on all Spiritual questions considered by the Court, a reference to the Bishops of the Province should be *compulsory*, and that *their decision* should *be final*. The meaning of this plainly is that the judges of the Final Court should be compelled to take their decisions as to doctrine from the Bishops! Was there anything ever so presumptuous? They further submit that "no declaration of membership in the Church of England should be exacted from the judges of the Final Court." This, too, is in accordance with the views of Dr. Pusey, who, in his letter

to Canon Liddon (1871) said, "that it would not matter whether the judge was of some Dissenting body. Those without the Church are often better, because more disinterested, judges of the Church's doctrines than biased members of the Church."[1] True to the views of this Coryphæus of Ritualism, the members of the E. C. U. now demand that the judges of the Final Court of Appeal should not necessarily be members of the Church of England at all. Why not? Because it would thus more unmistakably appear that the decisions of this Final Court were in no wise binding on the consciences of Churchmen, except so far as they simply re-echoed the decisions of the Spiritualty.[2]

Now, we have no objection to the Final Court consisting only of laymen, if they are sufficiently learned in the law, though we think a mixed Court of lay and cleric, like the old Court of Delegates, more likely to give a satisfactory decision; but what we object to is, depriving that Court, that is, the Sovereign in Council, of her inherent and constitutional Spiritual and Ecclesiastical jurisdiction, and converting it into a purely Civil Court, having power merely to deal with the temporal accidents of spiritual causes. This is what the Commissioners have haltingly, and with doubtful voice, actually ventured to do. And the astute leaders of the E. C. U., keenly perceiving their advantage, now boldly demand that the Final Court shall be avowedly merely a temporal Court, bound to ratify, register, and carry into effect the decisions of the Bishops.

In conclusion, one can but express a doubt whether the Report is really calculated to promote the peace and well-being of the Church of England. It ought surely to awaken some misgivings in the minds of loyal and intelligent men to find that the Report is hailed with delight by such a body as the English Church Union. Let us hope that before it be too late the fuller investigation of the whole subject, both by friend and foe, will unite all true Churchmen who "have understanding of the times" in their firm determination to uphold, in its fullest sense, the Ecclesiastical Supremacy of the Crown.

W. F. TAYLOR.

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[1] "Letter to Canon Liddon," p. 64. Rivington: 1871.

[2] So far from objecting to the Final Court of Appeal on the ground that it is to be a purely Lay one, the party of innovation even want it to be altogether free from any necessary Church character. It would appear that some of our unsuspecting friends who have defended the Report have a good deal to learn yet as to the tactics and ends of the Ritualists.