

Church of England and Ireland is not a part of the Constitution in any Colonial Settlement, nor can its authorities, or those who bear office in it, claim to be recognized by the law of the Colony, otherwise than as the members of a voluntary association."

7. That this Constitution of the Church in New Zealand was framed after careful consideration of a Despatch of the Right Hon. H. Labouchere, to Governor-General Sir Edmund Head, Bart, and in accordance with the following suggestion in that Despatch:—"I am aware of the advantages which might belong to a scheme under which the binding force of such regulations should be simply voluntary."

8. That your Majesty's petitioners have accepted and acquiesced in the decision of the Judicial Committee of the Privy Council—that the Church of England in this Colony "is in the same situation with any other religious body, in no better but no worse position, and the members may adopt, as the members of any other communion may adopt, rules for enforcing discipline on their body which will be binding on those who expressly or by implication have subscribed to them;" and they therefore humbly submit that the judgment of Lord Lyndhurst, in the case of Dr. Warren, points out the course of procedure in all questions which may arise between any of the members of the Anglican Church in New Zealand, whether bishops, clergy, or laity, who have bound themselves by voluntary compact under the authority of the General Synod, viz.:—

- (1.) That the question be tried and decided according to the rules of the Synod, as agreed to by the bishops, clergy, and laity.
- (2.) That on the petition of either party the Supreme Court of the Colony has authority to inquire into "the regularity of the proceedings, and the authority of the tribunal, and on those grounds merely" to affirm or annul the decision.
- (3.) That from any such decision of the Supreme Court of the Colony an appeal would lie to the Privy Council upon the same grounds, and therefore that the Anglican Church in New Zealand is effectually guarded against the danger apprehended by the Lords of the Judicial Committee, viz.: "That cases might occur in which there would be a denial of justice, and no remedy for great public inconvenience and mischief," without having recourse to a direct appeal to the Crown, in the case of any controversy, such as that which is presented by the petition of the Bishop of Natal.

9. That the above recited principle of the civil equality of all religious bodies has been affirmed by a resolution passed by the House of Representatives in New Zealand.

10. That your Majesty's petitioners humbly express their conviction that the right of appointment of Bishops in New Zealand is not part of the prerogative of the Crown, inasmuch as all the bishopricks were founded by private efforts, and endowed from private resources: and further, that the assertion of any claim may operate as a most serious discouragement to the clergy already in New Zealand, and tend to prevent other clergymen from coming out from England, by cutting them off from all hope of election to the highest offices of the Church in this Colony.

11. That your Majesty's petitioners therefore humbly pray that all doubts may be removed as to their *status* to the ecclesiastical and temporal:

- (1.) By the acceptance of the surrender of their Letters Patent, now declared to be null and void.
- (2.) By declaring the Royal Mandate under which your Majesty's petitioners were consecrated to be merely an authority given by the Crown for the act of consecration, and to have no further effect or legal consequence.
- (3.) By recognizing the inherent right of the Bishops in New Zealand to fill up vacancies in their own order, by the consecration of persons elected in conformity with the regulations of the General Synod without Letters Patent, and without Royal Mandate, in the same manner as they have already consecrated a Missionary Bishop for the islands in the Western Pacific, after communication with your Majesty's Principal Secretary of State for the Colonies, and with the Attorney-General of New Zealand.

And your Majesty's humble and loyal petitioners, as in duty bound, will ever pray.

(Signed)	G. A. NEW ZEALAND, 13th June, 1865.
"	H. J. C. CHRISTCHURCH, 6th July, "
"	EDMUND NELSON, 21st June, "
"	C. J. WELLINGTON, 23rd June, "
"	WILLIAM WAITAPU, 13th June, "

Enclosure 3 to No. 4.

MEMORANDUM BY MINISTERS.

Ministers are of opinion that the recent judgment of the Judicial Committee of the Privy Council, in Bishop Colenso's case, affects the Civil Government of Colonies in which Responsible Government exists, in two particulars:

It being established by the judgment, that the Crown has no authority over the Colonial branches of the Church of England, it follows that the Crown ought not to incorporate Bishops of that religious denomination within the Colony by Letters Patent, except under the advice of Colonial Ministers, advice which of course will not be given in the case of one religious body in exclusion of others.

The right to advise the Crown (through the Governor) in reference to the creation of Corporations within the Colony is one which Colonial Ministers ought to guard with jealousy.

It being also established by the judgment that Letters Patent purporting to confer Episcopal jurisdiction within the Colony are a nullity, and that Bishops so appointed have no jurisdiction or authority over the members of their religious communities, other than that which the governing authorities of all religious bodies possess over the members of their respective denominations, it follows that *quasi* judicial proceedings by Bishops (like those of other governing authorities of religious bodies) within the Colony, can only be regarded as proceedings *in foro domestico*, which ought not to be liable to be reviewed on appeal by the Judicial Committee of the Privy Council.

8th August, 1865.

HENRY SEWELL.