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## ART. VII.—THE MONTH.

THE most important event of last month in the ecclesiastical world is the judgment of the House of Lords in the appeal of the remnant of the Free Church of Scotland against the decisions of the Scottish Court of Sessions, affirming the right of the United Free Church to the endowments of the old Free Church. Perhaps the most lucid statement of the precise point at issue was made by Lord Robertson, whose position, as the only Scottish judge among the Lords of Appeal, lends a peculiar value to his judgment. "The question is," he said, "to whom does certain property now belong which was given to the denomination of Christians which called itself the Free Church of Scotland? That body was founded in 1843. It consisted of ministers and laity who seceded from the Established Church of Scotland on certain questions of Church polity, but who professed to carry with them all the doctrine and system of the Established Church, only freeing themselves, by secession, from what they regarded as intolerable encroachments by the Law Courts upon the Church's spiritual functions. Rightly or wrongly, the theory of the Free Church was that they, and not the Established Church, were the Church of Scotland. The Church thus set up was endowed, by the liberality of its members, with the property now in dispute. Two competitors now claim it. Of the respondents [the United Free Church], the first remark to be made goes to the very root of their claim. They are not, either in name or composition, the Free Church of Scotland. They are not even the majority of the Free Church, but the assignees of the majority of the Free Church; they are a body formed in 1900 by the fusion of the majority of the Free Church with another body of Presbyterian Dissenters, the United Presbyterian Church. The property of the Free Church is claimed by this composite body, which, to the extent of a third or some large proportion, . . . is composed of United Presbyterians. Of this new body, it may be affirmed nearly as truly that it is United Presbyterian as that it is Free Church, and its name, the 'United Free Church,' suggests the fact. . . ." "On October 30, 1900, the General Assembly of the Free Church made over the whole property of the Free Church to the United Free Church. On the following day, October 31, the General Assembly of the new Church proceeded to set up a new formulary for the admission of their preachers, which had been preconcerted and made matter of treaty. Whereas a probationer of the Free Church used to be required to affirm his belief that 'the whole doctrine of the Confession of Faith'

is 'the truths of God,' the United Free Church probationer requires to affirm his belief in 'the doctrine of this Church' (*i.e.*, the United Free Church) 'set forth in the Confession of Faith.' . . ." "While such is the name and such the composition of the respondents' body, the position of the other competitor, the appellants, is very much simpler. They are those ministers and laity of the Free Church who did not concur in the union of 1900, but protested against it. They have done nothing but remain where they were, holding to the letter all the doctrines of the Free Church, adhering to it as an institute, and continuing their existence according to the measure of their powers. They say that in the event which has happened they are the Free Church, their brethren having left them for this new Church, just as those brethren might have left them for the Establishment or for the Episcopalians. They have, however, been declared by the respondents no longer to be of their communion, and their manse and churches have been formally claimed by the respondents for their own exclusive use. The adherents of the appellants are numerically few—some few thousands—but it has not been suggested that this introduces any legal difference from the situation, as it would have been had they been more numerous. Since the days of Cyrus, it has been held that justice is done by giving people, not what fits them, but what belongs to them."

It seemed worth while to place before our readers this luminous statement by a Scottish Lord of Appeal of the issue at stake, and of the circumstances which occasioned it. In Lord Robertson's opinion, these facts put it upon the respondents"—the United Free Church—"to prove their identity with the original beneficiaries," and in his own judgment, as in those of the Lord Chancellor, Lord Davey, Lord James of Hereford, and the Lord Chief Justice of England, they failed to establish this claim. On the other hand, Lord Macnaghten—not, be it remembered, a Scottish, but an English, lawyer—and Lord Lindley held that they had succeeded. The result, of course, is decided by the majority of five against two, and it cannot but be regarded as an important element in the moral weight of the decision that Lord Robertson, the only Scottish lawyer, was in the majority. The main points on which the decision turned were two: It was alleged that the United Free Church had abandoned at least two elements of fundamental importance in the constitution of the original Free Church—one, "the principle of establishment"; the other, a cardinal doctrine of the Westminster Confession, that of Predestination. As to the first, there could be no question that the founders of the Free Church were resolutely devoted to the principle

of Establishment. They had distinctly and earnestly declared in 1853 "that this Church maintains unaltered and uncompromised the principles set forth in the claim, declaration, and protest of 1842; and the protest of 1843, relative to the lawfulness and obligation of a scriptural alliance between the Church of Christ and the State." "The Voluntaries," said Dr. Chalmers as Moderator, "mistake us if they conceive us to be Voluntaries. . . . To express it otherwise, we are the advocates for a national recognition and a national support of religion, and we are not Voluntaries." But the United Presbyterians, with whom the majority of the old Free Church have joined, are nothing if not Voluntaries. Their principle is, "that it is not competent to the civil magistrate to give legislative sanction to any creed in the way of setting up a Civil Establishment of religion."

There would seem to be a direct contradiction between the principles thus asserted by the Free Church on the one hand and the United Presbyterian Church on the other. This, in fact, is so clear that the two Lords of Appeal, who differed from the majority, based their judgments on a principle which was stated in its strongest form by one of the Judges of the Court of Session from whom the appeal was made. "Be it," said Lord Traynor in that Court, "that the Establishment principle had been explicitly declared in 1843 to be an essential principle of the Free Church, I think the Church had the power to abandon that principle and to that extent alter the original constitution." Similarly, Lord Macnaghten stated the issue as follows: "Was the Church thus purified—the Free Church—so bound and tied by the tenets of the Church of Scotland prevailing at the time of the Disruption, that departure from these tenets in any matter of substance would be a violation of that profession or testimony which may be called the unwritten charter of her foundation, and so necessarily involve a breach of trust in the administration of funds contributed for no other purpose but the support of the Free Church, the Church of the Disruption? Was the Free Church, by the very condition of her existence, forced to cling to her subordinate standards with so desperate a grip that she has lost hold and touch of the supreme standard of her faith? Was she from birth incapable of all growth and development? Was she, in a word, a dead branch and not a living Church? This, I think, is the real and only question." Lord Lindley, however, in urging the same question, introduces a qualification which seems to us to indicate where the crucial difficulty arises. He said: "I cannot agree with those who contend that the powers of the General Assembly . . . are unlimited; but I am not able myself to define the limits of its authority

more accurately than above stated. It is probably impossible to draw a sharp line clearly dividing all acts of a General Assembly which are within its power from all Acts which are beyond it. . . . Great as the powers are, they are limited by what can be found in the Scriptures. The Church must be a Christian Church and a reformed Protestant Church. So far all is plain. I should, myself, think that it must be a Presbyterian Church." So that there are necessarily limits to the general liberty which Lord Macnaghten so earnestly claims for the Free Church; and if so, there does not seem any vital difference in legal principle between the five Lords of Appeal and the other two. The final question is simply whether "The Establishment principle" is or is not fundamental to the constitution of the original Free Church. Lord Lindley "cannot come to the conclusion that the view taken in 1843 on the duty of the State was a fundamental doctrine admitting of no explanation or modification." The Lord Chancellor, Lord Robertson, and the three other Lords who agreed with them, are, on the contrary, of opinion that it was a fundamental doctrine, not admitting, at all events, of such "explanation or modification" as amounted practically to abandonment. To that simple question the argument ultimately comes.

The other question, relating to the treatment by the new Church of the Westminster Confession of Faith, has not received any such decisive treatment by the Lords of Appeal. Three, at least, of the majority excused themselves from a final judgment upon that question on the ground that the question of the Establishment principle was sufficient to decide the issue. One of the majority, moreover, Lord Alverstone, distinctly said that, though he did not wish to express a final opinion, yet "had this been the only ground on which exception could be taken to the action of the Assembly of the Free Church, I am not at present satisfied that it has acted in excess of its powers. . . . The argument of the Dean of Faculty and Mr. Haldane satisfied me that there are passages in the Westminster Confession and in other Standards of the Church which might require such explanation and exposition as would fairly come within the words used in the Barrier Act—'alteration in doctrine.'" To most persons this will seem a far more important question than the principle of Establishment; and it is of great importance, in estimating the effect of the decision, to bear in mind that it is not decisive of the question whether some "explanation or exposition," or, in Lord Lindley's words, "explanation or modification," be not admissible by the authority of the General Assembly of the Free Kirk—and if so, then surely of the Established Kirk—on so

characteristic, if not vital, a doctrine as that of Predestination as stated in the Westminster Confession. All that appears really decided is that a free Church forfeits the property held in trust for it if it adopts changes in such principles as are fundamental elements of its original constitution, and that the principle of Establishment is such an element in the case of the Free Church of Scotland. We are content for the present simply to estimate the exact nature and purport of the decision, and we reserve for the present comments on its general bearing. But it would seem from this analysis that its practical consequences to the Scottish Churches, which are very grave, are of more importance than its bearing on the position of other Churches. In the latter respect, it does not seem to have established any material extension of principles of law already recognised.



## Notices of Books.

*Studies in the Religion of Israel.* By the Rev. L. A. POOLER, B.D., Rector of Down, Canon of St. Patrick's Cathedral, Dublin, etc. London: Hodder and Stoughton. Pp. xiii + 374. 6s.

It would be difficult to say what useful purpose is served by the publication of these studies. How and when Almighty God revealed Himself to Israel, or whether any direct revelation was given to Israel at all, are questions evaded by the author, and we shall do him no injustice if we say that he appears to disbelieve in the fact of a revelation. Supposing his chapters to be intended for novices, by way of an introduction to the new criticism, they labour under the serious defects of extreme meagreness and the absence of evidence for the assertions made. On the other hand, persons more or less acquainted with the subject will find nothing new, beyond a few additional guesses, in a book which merely retails what has been said before by abler writers, and Canon Pooler's style is not attractive. His most original remark is one about Ezekiel, whose "public ministry" is oddly said to have "corresponded more closely to that of a parochial clergyman than that of a prophet." Yet, half a dozen pages further on, this prototype of a parochial clergyman "prescribed laws," we are told, that formed the basis of post-exilic Judaism. The reader is further informed that the received text "cannot be right" in Zech. vi. 11, and "a later scribe in the period of the priest-kings must have written Jeshua for Zerubbabel, which is the name clearly required by the context." Upon this is built a theory that the Jews were ready to acclaim Zerubbabel as the Messiah, by a mistake that is "one of the most pathetic things in history." The earlier period of the