



PROCEEDINGS

OF

THE GENERAL ASSEMBLY OF THE CHURCH  
OF SCOTLAND,

1842.

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No General Assembly of the Church of Scotland has ever met in circumstances of profounder solemnity, or with prospects more overclouded. Enemies determined and ferocious; treacherous and heartless defection in the ranks of the professed upholders of the truth; civil power glorying in its sacrilegious usurpation of spiritual authority, and eagerly rushing on to fresh invasions of ecclesiastical order; the Executive of the State in league with her enemies, and proclaiming its resolution to enforce what it calls existing law against her to the uttermost! No outlook could well be gloomier—no circumstances more solemn.

Yet never, perhaps, was any Assembly ushered in with more of external pageantry and brilliance. Whether to dazzle or to overawe is a question; still such was the fact. The world seems to have summoned all its pomp to grace the train of the representative of royalty. It was a bright, though vain parade of splendour. And had the church no concern in it at all? None in one sense, and yet something in another. None, in so far as the mere glitter was concerned, yet much, in so far as it was a summoning of the nation's attention to the deliberations that were to follow. It seemed as if the world were acting as the church's herald, to call men's eyes and ears to the noble position which was about to be occupied, and the glorious testimony which was to be lifted up, by a church, which of all the standard-bearers of the Reformation, had ever borne the fullest, clearest testimony to Christ's gospel and Christ's government, and whose ancient banner, long soiled

and hidden, was now again to be uplifted and unfolded, for the gaze, the admiration, the instruction, not of Scotland, nor of Europe, but of the world! Let us briefly turn up the testimony which this General Assembly has borne, that both friends and enemies may consider it—that the churches of Christ throughout the earth may ponder it. When, in any age or country, has a testimony so bold, so ample, so rich, so manifold, been lifted up by a church of Christ, as, during these ten short days, has been done by the Church of Scotland, in circumstances of no ordinary difficulty and peril? It is not easy to give a correct classification of the various points to which she has borne witness; we merely throw hastily together the following heads, as a summary or index of the proceedings which follow. It may either be regarded as a brief table of contents, or as an analysis of the different heads of testimony set forth in the acts, proceedings, and declarations of the General Assembly of 1842.

I. Christ the Head of his body the Church.—None may interfere between the head and the members.—Christ the only King and Lawgiver of his Church.—No appeal in matters spiritual or ecclesiastical to any civil tribunal upon earth.—All encroachment upon this jurisdiction to be protested against and resisted to the uttermost.—No possibility of compromise or concession on this point. (See Claim of Rights, Protests against the Civil Interdicts, Refusals to go into Court upon Spiritual Matters, Different Decisions pronounced in the face of Interdicts.)

II. Laws of Christ's Church.—These distinct from and beyond the control of civil laws.—No human judge may abrogate, alter, or interfere with them.—Not founded upon expediency, but on the word of God.—By these laws all courts ecclesiastical entirely regulated.—Erastianism condemned. (See Cases of Discipline—Cambusnethan—Stranraer.)

III. Rights of Christ's people.—Right of a free voice in the choice of their pastors, (Anti-patronage.)—Right of free consent in the knitting of the pastoral bond, (Call.)—Right of dissent from the intrusion of unacceptable pastors, (Non-intrusion.)—Right of deliverance from pastors that have been already thrust upon them, (Culsalmond, Glass.)—These rights not to be interfered with or usurped by patron, civil courts, or presbytery. (See Antipatronage, Strathbogie, and condemnation of the *Liberum Arbitrium*.)

IV. The Ministry.—(1.) Preparation for.—The *souls* of students, as well as their understandings, to be watched over by the church, so that their piety as well as their learning may be provided for. (See first Saturday's proceedings.)—(2.) Probation for. Care to be had, not merely in the matter of license, but after license, to

see that during the time when they are called to exercise and prove their gifts for the ministry, they be provided with special fields of labour, both for their own profit and for the cultivation of the waste places of the land. (See Scheme for Employment of Probationers.) 3. Entrance on.—Their motives must be holy, not carnal and worldly; taking the oversight of the flock, not for filthy lucre, but of a ready mind; not from love to the hire, but from love to souls. (See cases of Fala, Ladykirk, Kettle.) 4. Appointment to the care of a particular flock.—This, the office of the Head of the Church,—“ I will give them pastors after mine own heart;” the mind of the Head to be ascertained through the free voice of the members, not through the Patron or Presbyteries; this voice not a mere negative one, saying who is unsuitable, but a direct and positive one, saying who is suitable. (See cases referred to in No. III.) 5. Ordination.—That it is wholly spiritual, depending neither for its bestowal nor removal upon any courts but those appointed by Christ for this end.—The sin and sacrilege of the civil magistrates attempting to interfere with any court of Christ in conferring or depriving of spiritual gifts.—Ordination must be true and scriptural, in order to be valid. (See cases of Culsamond and Glass.) 6. Ministerial walk and conversation.—That it be blameless, circumspect, &c. (See cases of Cambusnethan, Stranraer.)

V. Courts of Christ's church.—That they are spiritual, independent of civil tribunals, subordinate to Christ alone, constituted in his name, guided by his laws. (*Passim.*) That they are courts not simply for government and discipline, but also for strengthening the hands of the brethren in the work of the Lord—for recounting the doings of God, and the progress of the gospel, both at home and abroad—for mutual conference, praise, prayer, and reading the word; and for united intercession in behalf of all men, and supplication for the outpouring of the Spirit and the coming of the kingdom. (See reports of different committees; daily opening of the court with reading, praise, and prayer.)

VI. The Eldership.—A spiritual office of Christ's appointment.—Election thereto by the free voice of Christ's people.—Trial of gifts for this office by the session. (See Act anent Elders.)

VII. Missions. 1. The church's care for her children at home. (Education—Church Extension—Employment of Probationers.) 2. Her care for her children that have gone from her to other lands. (Colonial Scheme.) 3. Her care for the Heathen. (India Mission.) 4. Her care for the Jews. (Jewish Scheme.) Her complete evangelistic character, beginning at her own children in Scotland, and then compassing the whole world in her zeal for Christ and love of souls.—Her testimony to the duty of contributing of our substance to the cause of Christ.—(Collections.)

VIII. Her care for the poor.—Inquiring into their condition, and providing both for their temporal and spiritual wants.

IX. Her zeal for the sanctity of the Sabbath, and her efforts for maintaining its sanctification.

X. Her desire for more frequent communion, seeking to remember Christ's death more frequently till he come.

XI. Her catholic spirit.—That the church is one body, one family, one temple, though called by many names, scattered over many regions of the earth, all being one in Christ, the Head.—(See Cancelling of the Schismatical Act of 1799—Reception of Deputations from England, Ireland, America, Prussia, Switzerland.—Correspondence to be opened with all these churches, and several others who hold the head.—The Memorial for Prayer.)

XII. Her acknowledgment of God's providences and chastisements, calling on her members, and upon the nation at large, to humble themselves under the afflicting hand of God.

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#### THURSDAY, 19th May.

The General Assembly commenced its sittings this day. After sermon in the High Church by the Rev. Dr Gordon, Moderator of last year, from Matthew vi. 13, His Grace the Commissioner (the Marquis of Bute) proceeded to St Andrew's Church, which, as last year, had been fitted up for the accommodation of the Assembly. The attendance of members was very large, and the whole church crowded.

The meeting being constituted by a solemn prayer from Dr Gordon, the clerk proceeded to call over the roll of members. Immediately after this had been done, Dr Cook—seemingly afraid that he and his friends should be suspected of any dereliction of their long-cherished dislike to *quoad sacra* erections, intimated their unaltered adherence to the protest which they had some years ago entered against the act by which the ministers of these erections were admitted to seats in church courts. The Rev. Doctor did not, at the time, specify *elders* as well as *ministers* in his protest, but, of course, this was a mere oversight; he, no doubt, intended to include them also, although it would not have been a matter of astonishment had the fact that his own brother, with some half-dozen others, on the same side of the house, belong to the class of mere *quoad sacra* elders, in some degree tended to modify the Rev. Doctor's opposition. It has always been felt a peculiarly troublesome argument in reply to the opponents of the status now enjoyed by *quoad sacra* ministers and elders, that the former Lord President of the Court of Session never had any right to a seat in church courts, except what he received as member of a session that owed its existence to a mere ECCLESIASTICAL arrangement.

In reply to Dr Cook, Mr Dunlop immediately answered, that the declaration which he had made might require the house to do what he was sure would be warmly responded to,—declare their determined adherence to the act of 1834, relative to Chapels of Ease, and their resolution to maintain those who were then admitted, in the full enjoyment of all the powers and privileges to which, by the constitution of the church, they were so plainly entitled.

Dr Gordon then proposed Dr Welsh as Moderator, which was unanimously agreed to; after which the Queen's commission to the Marquis of Bute as her commissioner, and letter to the house, were read and ordered to be recorded. The Commissioner next addressed the Assembly—but without any reference to the present position of the church; and the Moderator replied. An address to Her Majesty on the birth of the Prince of Wales was resolved on; the standing orders of the house were read, and several committees named.

#### STRATHBOGIE COMMISSIONS.

The report of the committee on commissions having been read, Mr DUNLOP called the attention of the house to that part of it which referred to the commissions from the Presbytery of Strathbogie. The committee reported that on the part of the Presbytery of Strathbogie, two commissions had been returned, one in favour of the Rev. Mr Dewar, and Rev. Mr Harry, Leith, and Major Steuart of Pittyvaig; and the other in favour of Rev. Messrs Walker and Thomson, and James Edmond, Esq. Mr Dunlop said, that in reference to one of these commissions, he took leave to say, that the office-bearers of the house would better have discharged their duty with reference to the dignity of the Assembly, had they taken no notice of it. He thought that, where members had been deposed by a solemn judgment of the supreme tribunal of the church of which they were office-bearers, the Assembly ought not to have been troubled with commissions in favour of persons from whom they had taken away the only character in which they could show their face in that house. That was a totally different case from a disputed commission. These gentlemen had no *status* in the house. They might just as well receive a commission from the Relief Presbytery of Edinburgh, or from any other similar body. The case was quite analogous to that of the people of Birmingham, who some time ago, before they had received the privilege of the suffrage, elected a legislative delegate to represent them in parliament; and for parliament to have appointed a committee to decide upon the validity of that election, would have been a monstrosity certainly not greater than the one the Assembly were now called upon to perpetrate. Whatever opinion individuals might entertain of the propriety of the sentence passed upon these men last year, still being the sentence of the supreme court of the church, he could not understand how any individual who held the principles of presbyterian government, and continued in the presbyterian church, could set himself forward to claim for persons so deposed the right of forming constituent members of that house. He, therefore, did not propose to discuss the question at all. Last year, when the ministers of Strathbogie stood *suspended*, it was conceded by Dr Cook that the names of the representatives sent by them, should be erased from the roll of the Assembly. But this year they stood *deposed*, and therefore no question could be raised. He moved that the commission in favour of the Rev. David Dewar and others be sustained, and their names added to the roll; and that the commission, in favour of Messrs Walker, Thomson, and Edmond (elder), be not received.

The PROCURATOR said,—In seconding the motion, the Assembly will excuse my remarking on the manner in which it has been introduced. I think that blame has been thrown without just cause on the office-bearers who constitute the committee for preparing the roll. They have acted entirely in conformity with the terms of the instructions given to them with respect to the discharge of this duty. There

is not the least ambiguity in the terms of those instructions at all; for it is stated no fewer than three times that all the office-bearers are to do is to look to the technicalities connected with the commissions. The instructions (which were quoted by the learned gentleman) relate to mere matters of *form*. We held, therefore, that we had no right to look beyond the matter of form in this instance more than in any other, and that we were not entitled to consider whether the parties were in one situation or another, provided the form was right. So I think Mr Dunlop might have spared his censure of the office-bearers in this case.

Rev. Mr CARMENT of Rosskeen said, he was inclined to be even more severe upon the officers than Mr Dunlop had been. For his part, he thought they might as well have reported a commission from seven scavengers or tinkers, or from any seven men in Edinburgh. In fact, he would have been less offended, less insulted, he would say, and would have considered the dignity of the house less insulted by a commission from seven scavengers, than from seven men who had been deposed by the General Assembly of the Church of Scotland. If they were to receive this commission, they would soon get plenty of commissions of a similar kind.

Dr COOK wished to know whether all the data connected with these commissions are before us.

Dr BRYCE.—I wish to know if there is any other document connected with these commissions than that which has been laid before us by our officers?

The Rev. Mr DEWAR here came forward and laid on the table a copy of a document, which was understood to be an interdict which he and his colleagues had received against their sitting and voting in that Assembly.

The PROCURATOR said, that they had no other document on the subject to lay before the Assembly. They had had an interdict served upon them at last General Assembly; but with respect to the document now on the table, they knew nothing about it.

Dr BRYCE said, he suspected that the interdict referred to had been served subsequent to last Assembly, namely, on the 29th June last. If this interdict were read, it would perhaps be found that the question was placed upon a different footing from what it was at last Assembly.

Rev. Mr CUNNINGHAM said that no interdict whatever could possibly have any bearing on the question before them. The precise question before the house at present was just this—whether the one or the other of these commissions should be sustained, the one coming from men who were undoubtedly ministers of this church, and in full possession of all the rights of such, and the other from men who were unquestionably and notoriously deposed. It had been moved that the one list should be sustained, and that the other should be rejected; and all the materials having a lawful and relative bearing on this question were before them in the fact which he had stated, viz. that the one list came from men who were recognised ministers of the church, and the other from men who had unquestionably been deposed by the church, and who were, therefore, incompetent to return representatives to that house. That was enough, perfectly enough, for the settlement of this question. No interdict, of whatever kind, or whenever passed, could in the slightest possible degree rightfully affect their decision in the matter. With regard to the way in which these commissions had come before the Assembly at all, it was clear there was blame somewhere. He admitted that the Procurator had shown some ground of defence for the committee; but if the blame did not lie with them, it lay with some one else. Those parties, whoever they were, who had received these commissions, had acted in a most improper and unbecoming manner; and if they required instructions not to receive commissions from deposed ministers, though he thought common sense might show them the propriety of rejecting them, the Assembly would just give a formal order to that effect. While, then, he thought the interdict should not at all affect their decision, he was at the same time glad it had been laid on their table, as it might require them to take some steps with regard to another matter.

Dr COOK was sorry that in some mode or other this question could not be kept in abeyance, till it was seen whether there was a possibility of uniting together in removing the great cause of a dissension so painful to every friend of the church.

The very essence of their division was, that they (Dr Cook's side of the house) did not hold the ministers of Strathbogie to be deposed; and suppose that the consequence be that they should be deposed themselves, from that opinion they could never recede. It was very well to talk of not receiving a commission from deposed ministers. Who would have thought of such a commission, if the deposition had been one in which all parties of the house had acquiesced? He did not want to enter at present upon any inquiry as to the effect of the rejection of this commission. He did not wish at present to enter upon a subject which might entangle the whole proceedings of the Assembly. But, holding as he did, and as he had declared in presence of the house, and as was declared by the dissent signed by an immense number of the members of this house and of the church,—that that was not a deposition, could he be compelled to say that he was to receive that commission in favour of Rev. D. Dewar and others, and to hold that these other persons have been deposed? What was deposition? He considered that deposition was a punishment inflicted for a fault. But he held that there was no fault committed in obeying the law of the land. He considered such obedience a duty binding on him as a good churchman. Having that view, he must enter his dissent against a motion which implied that they were superior to the law of the land in a matter of that kind, and might trample it under foot if they thought it interfered with a spiritual privilege. He conceived it to be a matter connected with civil right, and having so declared, to that determination he would adhere.

Dr CHALMERS.—Moderator, this is the first time in my life that I ever heard it asserted that the dissent of a minority superseded the sentence of a court passed by an overwhelming majority. The proposition is, in substance, that those deposed by the General Assembly of 1841 shall, nevertheless, be allowed to sit as members in the General Assembly of 1842. Why, Sir, the proposition is so very monstrous, and so fully comes in conflict—so palpably and immediately comes in conflict—with a first principle, that I cannot hold it to be a case for argument at all. But that such a proposition should be made,—that such a proposition should ever be thought of, is a very instructive fact. It discovers to what a fearful extent of anarchy and disorder the enemy within—whether by the instigation and encouragement of the enemy without, I cannot say—are resolved to plunge the Church of Scotland,—how they are resolved to strip her of the last vestige of that authority which belongs to every distinct body, governed by distinct office-bearers. Never, Sir, I would say, has the character of the outrage inflicted upon the church come out in such bold relief as at the present moment, when we have just met under the countenance of her Majesty; when we have been ushered to our places with the form and circumstance of a great national institute; and when we are now holding our deliberations in the presence and hearing of royalty, represented by one of the most respected of our noblemen. We are now congregated in this our first meeting of the present Assembly, by the authority and appointment of the last meeting of the last General Assembly; and, Sir, in these circumstances, what is the first thing we are called upon to do? Why, to pluck from our archives the most solemn deed of that most solemn convocation, and to trample it down under our feet as a thing of insignificance, or a thing of nought. It is under the authority of last General Assembly that we now hold our places, and are now met as a deliberative body; and I must say, that if there is anything more than another which could unsettle all men's notions of order and authority, it would be the success of the present proposition. It would truly be an egregious travesty—it would make a farce of the proceedings of our General Assembly—a complete laughing-stock of our church—were there left her no authority to enforce obedience from her own sons. It would present a strange contrast between the impotence of our doings and the pageantry of our forms—between the absolute nothingness of the Assembly, and the mighty notes of preparation—the imposing cavalcade, which accompanied us—the pealing of the clarionets with which we were conducted into the house on the present occasion. I must say, there is not a heart that beats with more gratification, or feels more elevation, than my own, at the countenance given to our venerable church at present by the high and honourable of the land; but ours will be the fault, if, untrue to ourselves,—if, untrue to our privileges, we shall allow our church to become a sounding brass and a tinkling cymbal.

And, to use the language of an old proverb, if men deposed in the most regular manner, by a sentence of the supreme court of the church, shall be admitted or suffered to sit as members of the General Assembly, we shall become a hissing and an astonishment to all passers by.

Mr DAVID MILNE.—I wish the interdict some time ago laid on your table should now be read. Mr Cunningham, it is true, said it could not bear upon the question, knowing, as I suppose he did, its contents. But I do not know what it contains, and therefore I move it should now be read.

Mr HUGH BRUCE held the case to be analogous to that of two presentations to a vacant church, in which event the civil court must decide as to which of them was valid. He therefore thought that the members ought not to be excluded from knowing what the civil court had done in this instance.

Dr LEE.—I would like to know what paper it is to which the motion refers—what, in short, is it that is desired to be read? Unquestionably, no paper has come before us in a regular form—who it was that laid that paper on the table is more than I know. But I never yet saw a paper laid on the table, and a motion made on it in the same manner.

Mr EARLE MONTEITH.—That document having been stated by the gentleman who laid it on the table, to be an interdict by a civil court, it is not before this house in any other way, but only incidentally, as having been laid on the table by that gentleman. We know nothing about it; but I believe, historically, it is an interdict pronounced against certain gentlemen. Before, therefore, my learned friend (Mr Milne) can press his motion, he must show that it has relevancy to the question before the house. I am desirous that it should be read, and I trust before this Assembly is dissolved it will be read; but I protest it shall not be read for the reason stated by the mover, which is simply that it bears on the question before the house. Mr Bruce had instanced the right of a civil court to decide on two competing presentations as analogous, but his learned friend seemed to forget that then a civil right was unquestionably involved, whereas the present question regarding the right to sit in this house was purely an ecclesiastical matter; or was it to be said that that was a civil right too?

Mr BRUCE.—I ask if an interdict was not served on the Moderator and the clerk last year, relative to the very question now before us, viz. the *status* of the deposed ministers of Strathbogie?

Rev. Mr THORBURN of Forglen thought that the way in which the paper had been brought before the house, was sufficient of itself to show them how to deal with it. It had been laid on their table by the Moderator of the Presbytery of Strathbogie, not to guide the Assembly to a proper deliverance, but to acquaint them with a grievance to which he had been subjected. The Moderator of the Presbytery came to them and said,—“When I am approaching your court as the legal representative of my Presbytery, I am intercepted by a party who has no right to interfere, and I lay the proof of his interference on your table, and claim your protection.” This showed them how to deal with the case. They ought to decide upon it according to their own ecclesiastical law; and if they found Mr Dewar's commission valid, they then ought to inquire into the obstacle which had been offered to his acting upon it, and the means of ascertaining which he had laid upon their table.

Mr DUNLOP.—Before they determined whether Mr Milne is to get his document, Mr Bruce insists that he is entitled to get his information. The point is first as to the document or information desired by Mr Milne, and then, after that is disposed of, we will take up Mr Bruce. If Mr Milne by a majority gets his information, then we shall certainly allow Mr Bruce his.

Mr MILNE, in reply.—It is surely easy to throw light on the matter by the reading of that document, which at least one member of the Strathbogie Presbytery seems to consider does throw light upon it, otherwise he would not have laid it upon the table. I submit that the clerk should state what the nature of the document is.

Mr ROBERTSON of Ellon.—I consider the objection of Dr Lee fatal to the motion. The document has not come into our hands in any regular way; as a hundred people might come and throw a paper on the table in the same way. I apprehend,



therefore, that there is no ground for entertaining the question. My only object in rising, is to endeavour to prevent a waste of the time of the house.

Mr MILNE said, that from the respect he entertained for the reverend gentleman who had just spoken, he would not press his motion.

Mr BRUCE then again put his question as to the general interdict.

Mr MONTEITH objected to the question being answered, on the same ground as that on which he had objected to the motion of Mr Milne.

Rev. Mr PAULL thought the interdict to which Mr Bruce referred, should be read as part and parcel of the case before the house.

Dr BRYCE said, I must now confine myself to the motion of Mr Dunlop on the merits, and I approach the question under very great disadvantages. My view is indeed very different from that taken by Dr Chalmers. If I know the position in which I am placed, between these two competing commissions, I hold that I am bound not only to consult what I owe to the laws of the church, but also what I owe to the law of the land. I am cut out, by the view which this house has taken, from resting on the documents lodged with the clerk; but the house cannot cut me out from contemplating the very serious consequences that may arise out of the claims of these two parties, one of which can only be sustained by an entire disregard of the law of the land. One party comes forward and claims for these gentlemen the right of sitting as members, the other side states the simple fact, "You have been deposed;" and therefore we are called to inquire into the ground of that deposition. If I believed them to be deposed, could I possibly stand here; but believing them not to be so, I must be permitted to state the ground on which this belief rests. It is, that the sentence of deposition has been suspended by a power competent to suspend it. I may, to be sure, be told on the other side, that this power is not competent to do so, but is it not quite competent for us on this side to hold a different view? If you take away that right of judgment from us, then we may all tumble down together, for we have no ground left to stand upon. I was astonished to hear from a learned gentleman in my eye (Mr Monteith), that this question of taking a seat in this house is not a civil right. I maintain that it is a civil right for a member to sit here. It is under the statutes of this country, that those Presbyteries have a right to send their representatives to this court, and it is not solving the question, to tell me that one of the Presbyteries is not a Presbytery, and that the other is. That is a *petitio principii*—a begging of the whole question; for if the Presbytery of Strathbogie, which includes the majority, is in the eye of the law the true and only Presbytery of Strathbogie, then it is that body alone who are entitled to come here. The plain question, therefore, before you, disguise it as you may, and put it in any shape, or give it any form, is just—Shall this Assembly violate the law of the land, or shall it not? If those interdicts are disregarded, then the law is violated; and they are disregarded, if Mr Thomson and others are rejected on the one hand, and if Mr Dewar and others are admitted, on the other. In both instances the interdicts are disregarded, and the law of the country is disobeyed. You stand interdicted by the law of the land from doing the act which it is moved you shall do,—from interfering with the majority of the Presbytery of Strathbogie. The learned Professor of Divinity powerfully and eloquently appealed to you, as he always does, and he said he never expected to hear a proposition made, that men deposed should be still received into this house. Sir, I for one never expected to see a motion brought forward in this Assembly, that when the law of the land said you shall not molest or interfere with certain gentlemen in the discharge of their duties, yet still you shall determine so to interfere. Yet so it is. But we (the Moderates) stand bound by our last year's protestations, to regard them as still ministers of the Church of Scotland. I move, therefore, that the commissions of the majority of the Presbytery of Strathbogie be sustained.

Dr COOK said that he would now simply move that the General Assembly do not sustain the commissions of either of the parties.

Mr PAULL of Tullynessle seconded Dr Cook's motion. He said that, in the present motion, he saw nothing but entire consistency with their former conduct. He was exceedingly sorry to hear the insinuations thrown out against his side of the

house—observations which he thought might well have been spared. He trusted the time was not far distant when, under the blessing of God, they would see their way to the solution of this question consistently with what he believed to be the law and the constitution of their beloved church.

Mr DUNLOP then repeated his motion, which was, That the commission in favour of the Rev. Mr Dewar and Mr Hay Leith, and Major Steuart, be sustained, and their names added to the roll.

Dr COOK said, that he would simply move that the Assembly do not in *hoc statu* sustain *this* commission.

The vote was then taken, when Mr Dunlop's motion was carried by 215 to 85; thus leaving a majority of 130.

When the state of the vote was announced, Mr Edmond, the elder from the presbytery (majority), was proceeding towards the clerk's table with a paper in his hand, when

Mr CUNNINGHAM rose quickly and asked, "Who are you?" I ask who are you?

Mr EDMOND stood still, and replied, "The lay member of the Presbytery of Strathogie."

Mr BISSET.—I demand in turn who proposes that question?

Mr CUNNINGHAM said he was a member of this house, and his name pretty well known.

Mr Edmond tendered a protest by the representatives of the Presbytery of Strathogie (majority), against the deliverance rejecting their commission, and sustaining that of the representatives of the minority, and further protesting that the meeting having excluded them as constituent members of the General Assembly, without any lawful ground for so doing, and having admitted others in their room, that this is not a full and lawful General Assembly of the Church of Scotland, and that all the acts and proceedings thereof shall be deemed and held to be null and void.

Mr CUNNINGHAM—I trust the house feels that it has been grossly insulted by the protest offered by this individual. As to the individuals deposed by last General Assembly, it was quite competent to inflict a still higher and more severe sentence even upon them, if it was deemed necessary. But I think it is proper that some notice should be taken of the conduct of this Mr Edmond. Last year he insulted this house in the same way, by appearing under a commission which had been granted by suspended members of this Presbytery, and this year he has insulted the house by appearing under a commission granted by deposed ministers. I think that an insult, and a gross insult, as he must have come forward in these peculiar circumstances for no other motive than that of insulting the dignity of this house. I therefore think it would be fit and proper in this house to vindicate its dignity by finding that he is no longer an elder of the church.

Dr COOK.—What is the dignity of this house? The dignity of this house is to act with solemnity and justice as the supreme ecclesiastical court. On that account we stand on much higher grounds than can be understood by the term dignity in its ordinary acceptation, and therefore we should have charity for the motives of persons, however erroneous we may deem their conclusions in particular instances. Here this gentleman is said to have insulted the Assembly. Now, what motive, I ask, could any man in his senses have to come and insult this house in the way he supposed? If the censures of the church are thus to be directed against us at once, in this summary mode, why the sooner the church is dissolved the better. I now beg to enter a protest against the motion.

Mr DUNLOP.—I agree with Dr Cook, that the dignity of this house cannot be affected by any thing those gentlemen can do. But, at the same time, I am bound to say that those office-bearers of the church must conduct themselves in a way conforming with the office they hold; and most unquestionably when an elder comes and tenders a commission by those who are deposed, I cannot but hold that to be an act altogether out of accordance with his character as an office-bearer, and which proves him to be unworthy to retain that office. At the same time, he may have acted inadvertently, and he may see cause to apologize to this house, and they in their turn may then see cause not to proceed farther in the matter. Therefore, I

propose that Mr Edmond be cited to the bar of the Assembly on Saturday, to answer for his conduct in presenting this commission.

Mr H. BRUCE was a little surprised that those gentlemen who now discovered grounds for deposing Mr Edmond, should not proceed a step farther, and depose the whole minority of the Assembly, who entirely concurred in the views entertained by Mr Edmond. Why not depose Dr Cook, who had avowed as strongly as he could avow, his concurrence in the sentiments for which it was now proposed to depose a lay office-bearer of the church.

Dr COOK.—That protest given in and adopted by those on this side, just contains the sentiments, and the essence of the sentiments imputed to this gentleman. If you depose one, depose all. I think that it will not be a matter of very heavy concern to me if I am deposed, because I feel that I have acted conscientiously; and if deposition is to ensue, under all the circumstances, the sooner I am deposed the better.

Rev. Mr THOMSON of Dundee asked Dr Cook whether it was really consistent with the duty which the office-bearers owed to the church, to return again and again, and abuse the decisions of the supreme court in the way in which it was so often done. Nothing could be more unconstitutional, more subversive of all order. That was not the doctrine his respected friend Dr Cook had taught him twenty years ago. No person knew the constitution of the church better than the Rev. Doctor, for he (Mr Thomson) remembered well how the Doctor had taught him, that no individual member, and no minority, were entitled to dispute a solemn decision of the house. That was the constitutional, and only rational opinion on the subject, and he hoped that the Rev. Doctor would return to the views which twenty years ago he certainly held. In doing so he would only be following the example of his uncle, and of the man whom he so much revered, Principal Robertson. He was sure that his returning good sense would show him the propriety of this course.

Mr MONTEITH said, the question was not whether this gentleman was to be deposed, but whether he should be called to the bar to answer for his conduct. The effect of this motion would be, that he would be fully heard, and his friends for him. It was possible he might make out that he had acted on what he believed to be the law of the church. He was clearly of opinion that he should be called. This house had not the power of vindicating its own dignity which the civil courts possessed; but they had ecclesiastical censures, and it was necessary at times to inflict them; because if they allowed individuals to beard the house in this way, there would be an end of all order, and a speedy end of the church itself.

Dr BRYCE.—You have decided that this gentleman has not the right of sitting within this house, but you surely are not therefore to punish him for claiming that right. His opinions may be right or wrong as to this right, but ought he to be cut off for claiming that right?

Principal DEWAR said, that fully agreeing as he did with Mr Dunlop, as to the impropriety of presenting this commission, and tendering the subsequent protest, still he thought on the whole, the best course would be to throw it over the table without any farther notice.

Mr ROBERTSON thought that if they had not a check against the initiative step, it was acting very singularly to turn round on a party whose cause had been adjudged by the Assembly, and to censure him for tabling a protest against the judgment—the latter course being the natural and formal sequence.

Mr DUNLOP then said, that to save further discussion, he would agree to withdraw his motion.

The Assembly, after making some arrangements as to meetings of committees, and other details, adjourned till Friday forenoon.

FRIDAY, 20th May.

The proceedings of this day were, as usual, chiefly of a devotional kind, and a very great improvement was introduced in conducting these, namely, the reading of a portion of scripture and singing of a psalm. This proposal was made by Dr Mackellar,

first in the way of a suggestion, for the consideration of the house at some future period; but as Mr Carment very properly remarked, if the measure were right and proper, that it ought not to be delayed, it was forthwith acquiesced in.

In addition to the devotional exercises, Mr Dunlop produced and read the general report on the schemes of the church; and afterwards Dr Keith, as convener of the committee on the Jewish Mission, gave in the report of that committee for the past year.

In reference to the report on the schemes, it is truly gratifying to find that, notwithstanding the embarrassing circumstances of the church, the contributions during this year have amounted to L.30,000, exceeding, by L.5900, the amount collected during the preceding year. It thus appears that instead of the struggles of the church embarrassing her in her missionary enterprises, these continue to prosper. Many were the predictions of serious defalcations from our missionary fund, and not a few of their supporters had begun to abandon all hope of their success. But what is the result? In spite of much coldness on the part of professing friends, many withdrawals from *moderate* supporters, and in the face of deep commercial distress, the funds of *all* the schemes have increased. This is indeed cause of gratitude, because it proves that the principles for which the church is contending are not of that withering and paralysing kind which has been so often alleged, and that the solemn obligations of allegiance to Christ as the head of his church, are no way incompatible with the equally solemn obligation to promote his cause in the world.

The Assembly having been constituted by prayer by the Rev. Principal Haldane, who acted as Moderator *pro tempore*,

Messrs Roxburgh of Dundee and Noble of St Madoes, were nominated to preach before his Grace the Commissioner to-morrow.

Dr BRYCE.—I perceive, that it is proposed that a deputation from the presbyterian church in Ireland should be received here on Saturday. Now, I think it only courteous to the deputation, and respectful to the house, to give notice at this stage, that when the question as to receiving the deputation comes on, I shall submit a resolution to the house regarding the late proceedings of their General Assembly, which must be well known to the members of this house, from public channels of information. And I for one will consider myself bound to take the sense of the house, in some shape or other, on these proceedings, before we agree to admit them as a deputation from that Presbytery, or, as it is called, Assembly.

Dr MACKELLAR.—I take the liberty, in connection with the proposed order of business, to give this intimation, that it is intended, on an early day, as soon as is convenient for the committee to arrange it, to propose a resolution to this house with regard to the encroachments of the civil courts. If Tuesday were approved of, it would be most agreeable to those who are to take charge of it.

Dr COOK.—I beg leave also to intimate, that it is my intention, on the same day on which this resolution is brought forward, to move certain resolutions, the object of which is, to restore harmony to the church, and which will bring out the views we entertain on the very subject indicated by my reverend friend. I intend to move these as counter resolutions to those indicated by Dr Mackellar.

## DEVOTIONAL EXERCISES.

Mr Gray of Perth then engaged in prayer, having been called on for that purpose by the Moderator.

Dr MAKELLAR said, that he was sure they all felt it was a privilege and a blessing on this day thus to lift up, in a more peculiar manner, their hearts unto the Lord. But it occurred to him, that it would be a great advantage if, when engaged in devotional exercises, they should also engage in reading a portion of the Word of God, and celebrating the praises of redeeming love. He did not wish that it should be done abruptly, but hoped it would be kept in mind by next Assembly.

Mr CARMENT was delighted at this proposal; but he did not see why they should delay till next Assembly. Why not begin at this Assembly?

Mr DUNLOP highly approved of Dr Mackellar's proposal, and suggested that they should now proceed to hear some of the missionary reports, and afterwards follow out that proposal, by concluding with reading and praise. Agreed to.

Read, ISAIAH lxii. Sung, PSALM xlviii. 12, 13, and 14.

## THE FIVE SCHEMES.

Mr DUNLOP then rose and said—I have now to lay before the General Assembly a report on the part of the joint committee on the Five Schemes, regarding the collections, congregational and parochial, contributed during the past year to these schemes: and I own that never since I had the honour to sit as a member of this house, had I a duty to perform so full of joyful satisfaction, as I have on the present occasion—an occasion which calls for the exercise of our grateful thanks to Almighty God, for having put it into the hearts of the members of our church to contribute more liberally than before to the advancement of his Son's kingdom, and that too under circumstances in which less than formerly might perhaps have been expected. The year which has passed since the Assembly last met, has been peculiarly marked by great depression and distress in our land—depression and distress which, on the one hand, must have diminished the means of individuals for contributing to our cause, and which, on the other hand, must have occasioned additional claims on their benevolence towards those who were suffering and in distress. We have also had to lament that the divisions amongst us have caused to cease some of the streams which formerly flowed into our treasury. Yet notwithstanding all these unfavourable circumstances, I rejoice to say, that in the sums collected for every one of these schemes, there has been a decided increase, and in some of them the increase has been large. I would submit to you some statements in figures, to prove and illustrate what I have stated, and to bring out some other circumstances to which I wish to direct your attention. And though figures are generally very dry, uninteresting things, yet they in this instance are invested with a deeply interesting character, as the index of the advance of zeal for God's cause in the hearts of the people of this country, and of the progress of the gospel over the whole world. I would wish to contrast, in the first place, the sums received—not individual contributions, but parochial and congregational collections:—I say, I would, in the first place, contrast the sums received during the last ten months, (the accounts being now made up on the 15th of April), with those received during the full year preceding, with the exception of the India Mission, which is for a longer period. For the India Mission, the sum received last year was L.4158; this year it is L.5202. For the Educational Scheme, the sum received last year was L.2492; this year it is L.3594. For Church Extension, the sum received last year was L.2968; this year, properly including a sum collected for the employment of probationers, a branch of the scheme, it is L.3181. For the Colonial Scheme, the sum received last year was L.3138; this year it is L.3741. For the Jewish Scheme, the sum collected last year was L.4422; this year it is L.4473; not a large increase, but still an increase. The whole sum collected last year was thus L.17,578, while the sum collected during the past ten months is L.20,191, showing an increase of nearly L.3000 on the whole. Now, observe, these are the collections only for the last ten months, with the exception of

that for the Indian Mission. And before showing you the actual sum collected during the whole year, I would wish for a moment to direct your attention to the progress we have made in the amount of these collections during the last eight years, and which will quite satisfactorily make out what I am very desirous of pressing on you, viz. that an increase on the number of the objects of Christian liberality does not diminish the amount contributed to each. To prove this—In the year 1834 there were but *two* schemes, and the total sum collected was L.3511. Then Church Extension was added, and next year the total sum collected was L.5128. Then next year the Colonial Scheme was added, and the total sum collected was L.7941. Next year the sum collected was L.10,070—next year L.13,800—next year L.14,353—next year L.16,156—last year L.17,578, and this year it has increased to L.20,191. So that, as we have increased the objects for which we have called on our people to contribute, the amount of contributions to each has proportionally increased. But I must not confine your attention to the collections for the ten months; for though the whole cycle of our collections were gone over during these ten months, it is desirable to see the amount actually received during the whole twelve months. And therefore I may state, that the sum total of our collections and individual subscriptions, including the Church Extension Supplementary Fund, and L.3000 raised to defray the debt of last year and the expenses of litigation, in addition to large contributions for the relief of the distressed at Paisley and elsewhere, is about L.30 000, being an increase over last year of nearly L.8000. Another gratifying circumstance arises from the increase in the number of parishes contributing to all the schemes. Last year there were only 122 parishes which did so, while there were 286 which contributed to none. This year the number of parishes contributing to all the schemes is 351, being an increase of 229, while those collecting for none of them are 279, being a small decrease. It is very gratifying also to see, that the unendowed churches give their full share of the contributions, although out of their own resources they have also to support their own ministers. The amount received from them last year is about L.3000, which, I repeat, is their full proportion. I could, with great pleasure to myself, and, I doubt not, also to you, state the full details regarding all the schemes; but as these will be laid fully before the house in the printed list of contributions, nearly ready for publication, I shall not at present trouble you with them. The whole details have been prepared, with the greatest labour, by our excellent agent, Mr Jaffray, and they have all been checked, with the exception of those on the India scheme. I only wish now for a moment to call the attention of the house to one or two contrasts, in order to prove to you that it is not a lack of willingness in the people to contribute, which causes the absence of returns from so many parishes, but the ministers of those parishes not giving them the opportunity; and I think I shall be able to do this without exciting anything like invidious feelings. I believe that no evil was done by what was said on this same part of the subject last year, and I hope some good was accomplished. Some members of Assembly will perhaps remember, that last year I contrasted two districts on the opposite banks of the Clyde, the one on the right hand and the other on the left;—the one, a Presbytery which has become still more interesting to us this year, from the circumstance that within its bounds is the seat of the royally-descended family, whose head, worthy his high lineage, represents our Sovereign in this Assembly, and which in its sphere, and in proportion to its means, vies even with the liberality of the noble person to whom I have alluded. This Presbytery—the Presbytery of Dunoon—which, with the exception of the fair isle of Bute itself, is composed of the rugged hills of Cowal, and which in numbers would not constitute more than one-fourth of the Presbytery of Irvine, or one-fifth of the Presbytery of Ayr,—this small Presbytery, I say, contributed as much as either the one or the other. I stated this at last Assembly, and this year their neighbours on the other side have been stirred up, and an increase in the collections from both Presbyteries, particularly that of Irvine, has taken place. I trust, then, I may be allowed, in a similar way, to contrast one or two other cases of a similar kind. Take, first, the Presbytery of Dumfries and the Presbytery of Penpont. They both comprise similar districts of country, with the exception of the town of Dumfries, in the former Presbytery, which besides contains double the

number of parishes that is to be found in the Presbytery of Penpont. And yet, while the Presbytery of Dumfries collects L.90, the Presbytery of Penpont collects L.141. Then go further north. There are three Presbyteries of a similar character, all lying together,—those of Inverary, Lorn, and Mull. They have the same kind of population, and are nearly of the same extent. And how stands the case with them? The Presbytery of Inverary contributes L.55, the Presbytery of Mull contributes L.34, while the Presbytery of Lorn, which lies between the two, contributes L.87. There is one other contrast to which I wish to refer, and I do so with peculiar satisfaction,—I allude to the case of the Western Isles. And, Sir, there is something peculiarly touching—something intensely interesting—in seeing the poor people of these islands doing what they can to send the gospel to those who are, temporally, far better provided for than they. The three western presbyteries of which I mean to speak are those of Uist, Lewis, and Skye. That of Uist contributed this year L.10 to the funds. But the Presbytery of Lewis, on the one side of it, has contributed L.86, while that of Skye, on the other, has contributed L.85. This L.85, too, comes from four congregations alone,—one of the parishes, that of Snizort, actually contributing L.71, 18s. I do trust that statements like these will have the effect of stirring up the hearts and nerving the exertions of ministers in other parts of the country. I do trust they will not close the doors against their people, who may desire to find vent for their love to their Saviour, by contributing something to advance his cause, though that something may be small. I trust the ministers of the church will open the door, so that even the poorest in all our parishes may be allowed to contribute something in support of our great, and noble, and holy cause. Mr Dunlop concluded by passing a high eulogium on the laborious and faithful manner in which Mr Jaffray, the agent for the five schemes, had discharged his duty, and stated that Mr Jaffray had been instrumental in greatly increasing the collections for all the various objects. Mr Dunlop also stated, that the duties of the agent were so many and so increasingly onerous, that it would be requisite to appoint some one to assist him, especially in the travelling department. He moved for a committee to consider the matter, and report.

Dr BROWN, Aberdeen.—I am sure the house must feel highly gratified at the nature of the report which we have now heard, that amid all the distresses of the country, and all the differences in the church, the contributions to these schemes of Christian benevolence have been greatly augmented. I take it as a token for good and a subject of real congratulation, affording us a proof of the favour of God. It is needless for me to insist upon the subject, but I would only suggest, as matter of encouragement to us, that we appear to enjoy in our schemes the favour of the Lord.

Principal DEWAR said, it appeared to him almost incredible at first, that the inhabitants of the distant parish (Snizort) mentioned in the admirable report of Mr Dunlop, should have contrived to raise the sum of L.70; but he believed that in proportion as religion in its power extended over the land, would Mr Dunlop have to report similar cases. The increase in their funds, under the circumstances of distress in which the country at present lay, was peculiarly gratifying; and yet he would take the liberty of saying, that L.30,000 was a very small sum from Scotland in the cause of the Redeemer. He trusted that he would soon have to report double the sum. The report they had heard, and the general interest Mr Dunlop took in the subject, must have cost him a large amount of labour, and he therefore proposed that the thanks of the house be communicated to him through the Moderator. He knew that no thanks of theirs could adequately express to him what they felt; but he had no doubt that Mr Dunlop had an ample reward in his own mind, from the consciousness that his labours had been expended in the cause of the Lord Jesus.

Mr DUNLOP said, that his labour in the matter was not worth speaking about; the whole fell on Mr Jaffray, who indeed deserved their warmest thanks. He fully concurred with Principal Dewar, that the sum was still a small one; he thought it almost nothing compared with what the cause demanded, or Scotland might afford. He believed that, except some instances among the labouring classes and domestic servants, no one in this country made a sacrifice for its promotion.

Mr HUTCHISON wished to bring forward a rather singular case of contrast. One of the poorest parishes in Lewis, the parish of Uig, had got up no less than L.33, L.21 of which were collected for the schemes of the church, while the remainder was given to another religious society. He was perfectly astonished when he saw L.21 collected from that poor parish,—from the large sum of L.4. 4s. which had been sent up from one of the largest parishes in Glasgow.

Mr FERRIE of Anstruther Easter, said, he had felt highly gratified at the report which had just been read. He would, however, suggest to the Assembly, that next year they should require from those ministers, who did not collect for the schemes, a valid excuse for not doing so. They could not compel ministers to collect, but he thought they might reasonably require a valid excuse from those who refuse.

The MODERATOR then communicated the thanks of the house to Mr Dunlop :—The house is deeply sensible of the obligations under which it lies to you in this matter. And this, allow me to say, is only one of a thousand instances in which you have made the most devoted and self-sacrificing efforts in behalf of our beloved church—efforts which placed her under a debt of gratitude she will never be able to repay. I beg leave to return you the thanks of this Assembly.

#### MISSION TO THE JEWS.

Dr KEITH, convener, gave in the following report of the committee on the conversion of the Jews :—

#### REPORT OF THE COMMITTEE FOR PROMOTING THE CONVERSION OF THE JEWS.

In presenting a report for the past year, the committee cannot forbear from expressing thankfulness to God, that, in the course of it, two stations, surrounded by hundreds of thousands of Jews, among whom not a single mission had been previously established, have been occupied by your missionaries; and they would entreat the prayers of the church, that an abundant blessing may rest on their labours. They confidently expect that they will soon be enabled to realise the hope which they have long cherished, of embracing a larger sphere of operation, by the establishment of other missions. In the mean time, they would briefly report the present state and progress of the important work committed to their charge.

1. *Prayer Meetings.*—The committee rejoice that meetings for prayer on behalf of the people of Israel have been continued, and that their number has been increased, during the past year. The committee attach much importance to these meetings, believing that any success which has attended their efforts has been owing very much to the prayers offered up on such occasions. They would earnestly press upon the friends of this cause the importance of associating themselves for this purpose.

2. *Missionaries.*—The committee last year reported the ordination of Mr Edwards, and his departure with Mr Herman Phillip for Jassy, in Moldavia; and added, that Dr Duncan was shortly to follow for Pesth, in Hungary, where Mr Smith and Mr Allan, two candidates for the missionary office, were to accompany him, for the purpose of continuing their preparatory studies.

These stations have now been occupied since that time, Dr Duncan having arrived at Pesth in the month of August last. Full accounts from these missions having been published in the "Missionary Record," the committee will be very brief in their statements. They desire to feel grateful to God, that they have been guided to the selection of the stations now occupied. Pesth, in particular, is a most important station. The valuable labours of Dr Duncan there have been of great consequence; and among the Jews of that influential city, to whom in many points of view his residence must prove a blessing, considerable interest has been excited. This station has been found to be most important, also, as regards the protestant churches in Hungary, whose standards and form of church government are much the same as our own, but who, from many reasons, have fallen into a very lifeless state. The committee fully intend to maintain an effective mission at Pesth.

At Jassy, Mr Edwards has had many difficulties to struggle with. At first, his residence there roused the attention of the Jews, and many came to him; latter-



ly, however, the attendance has fallen off considerably, and some of those who seemed serious inquirers after the truth have left Jassy. Mr Edward, meantime, has conducted himself, at his solitary station, in a manner deserving the greatest praise.

Mr Robert Smith, who was reported to last Assembly as about to be licensed as a preacher, has spent the autumn and winter at Pesth with Dr Duncan, and having returned to Scotland in spring, he was ordained in April last, by the Presbytery of St Andrews, as a missionary to the Jews. The committee have the highest opinion of Mr Smith's piety and acquirements for this important office, and have no doubt that he will prove a most valuable addition to their band of labourers. It is proposed that he should return to Pesth immediately after the rising of the Assembly, with the view of being permanently stationed there, after paying a visit to Mr Edwards at Jassy. The committee have accepted an offer of the Rev. Mr Dennistoun, at present officiating at Montego Bay, in Jamaica, to be one of their missionaries, for which they believe him to be well qualified. He has not yet returned to this country, in consequence of delay which has arisen in placing a successor in his charge: when he comes he will be appointed to some of the stations afterwards mentioned.

3. *Candidates for the Missionary Office.*—Besides Mr Allan, Mr Wingate, and Mr M'Lennan, mentioned in last report, as preparing for the missionary office, the committee have had a converted Jew, Joseph Frankel, under their charge, during the past year, for an assistant missionary; and they expect to have another converted Jew, who has been strongly recommended to them, under their charge soon. Several young men, at present studying for the ministry, have also expressed a wish to come forward in this cause.

With regard to Mr Allan, the committee beg to make the following report and request:—Mr Allan, having completed his whole course, except one irregular session in divinity, and one session in ecclesiastical history, accompanied Dr Duncan to Pesth in July last. The committee, being unwilling to leave Dr Duncan alone, and being assured that, under his superintendance, Mr Allan was prosecuting his studies at least as vigorously as he could have done at home, and with great advantages as regards his future labours, recommended him to remain at Pesth during last winter. Mr Allan accordingly did so; and, in order to meet as far as possible the strict requirements of the church's law, he sent to the professor in Glasgow those of his discourses which he had not previously delivered. The committee trust that, in these circumstances, the Assembly will agree to hold Mr Allan's course as completed, and will authorise any Presbytery to take him on trials for license and ordination; and they beg to represent that this is a matter of very considerable importance to the mission, in the present scarcity of labourers, as the services of Mr Allan, who is highly qualified for the work, would thus be obtained much sooner than would otherwise be practicable.

In regard to Mr Wingate, the Committee have also very earnestly to press the extreme importance and obvious propriety of the curriculum in his case being shortened, in consideration of his high standing, his undoubted qualifications, his mature age, his devotion to his studies, not only during the winter sessions at home, but in summer abroad; and his special destination to the foreign field and to missionary labour among the Jews. They are of opinion that, with such restrictions as the Assembly may deem expedient, Mr Wingate might receive ordination as a missionary, after due examination in all the branches, towards the close of the ensuing session, or in the course of the following summer.

5. *Destination of Missionaries.*—The Committee are strongly of opinion that the stations at Pesth and Jassy should be maintained—the former, especially, being of the greatest importance. They have not been able, with their present number of missionaries, and with the necessity of maintaining their present stations, to occupy a station in Palestine. They at one time hoped to do this in conjunction with the Irish church; but obstacles having arisen in the way of that church immediately commencing active operations, the Committee have been unable to make any arrangement for this; the station, however, is ever kept in view; for many reasons they are most anxious to occupy it, and they do not doubt they will be enabled to do so

at some not distant day. They are very anxious also to establish an efficient mission to the Jews in Holland, who are of a superior class, and they hope to be able also to overtake this.

The importance of having a missionary station at Bombay, for the Jews in that part of India and the southern parts of Arabia, was mentioned in last Report, and has often since appeared to the Committee, and they will keep this station before them till it is supplied.

The Committee, after some correspondence, have had a communication from the Rev. James Hamilton, of Regent Square Church, London, written at the request of a meeting of the ministers and elders of the Church of Scotland, held there on the 13th of May, stating that it was the firm conviction of the meeting, that a very extensive field for hopeful labour exists among the Jews in London, and that an auxiliary to the Church of Scotland's Jewish Scheme would find much favour among the Christian people in the metropolis; and requesting that this Committee would recommend to the Assembly the adoption of some means for the immediate formation of such an auxiliary Committee in London. Your Committee consider this matter of the greatest importance, and beg to recommend to the Assembly that the ministers and elders of the Presbytery of London be requested by the Assembly to form themselves into an auxiliary Committee in connection with your Committee, and to invite the assistance and co-operation of all others friendly thereto.

6. *Schools.*—Of the schools maintained by the Committee at Posen, they continue to receive favourable accounts. They have also granted a sum to Dr Wilson at Bombay, for the establishment of four additional schools for the Beni-Israel in that presidency, which, with some already established, will be under the care of that devoted servant of this church. The Ladies' Society, under the sanction of this Committee, are also maintaining some Jewish children at a school in Corfu.

7. *Address to Israel.*—The address, sanctioned by last Assembly, has been extensively circulated in this country, and also in Europe and Asia, having been translated into various languages.

8. *Funds.*—The Committee rejoice to state that there has been a steady increase in the subscriptions in support of this interesting and important scheme of the church. Last year they amounted to L.4541, 7s. 10d. This year they are L.5568, 12s. 5½d. The liberality of the church for this object is very encouraging to the Committee, and enables them to proceed with confidence and cheerfulness in all their plans. They trust it will not be relaxed at all, for the sphere of their operations is extending, and the cause is increasing in interest and importance day by day, as will be seen from some subsequent remarks.

The Committee have much pleasure in laying before the Assembly a copy of the Journal of two of the deputation sent to inquire after the state of the Jews in 1839, which has just been published. The information then obtained has been found in the highest degree important; and they trust that additional interest will thus be excited for God's ancient people. The copyright of it has been retained by the Committee, and it is sold at a price barely sufficient to defray the expences attending it. The book has been prepared by Messrs M'Cheyne and Bonar, two of the deputation; an arrangement adopted in consequence of Dr Keith's intention to make use of his materials in a separate publication.

9. *General Observations.*—True to the very letter as are the manifold judgments which have come upon the Jews, in many past ages, throughout all countries, there are now also manifold indications, manifest in the sight of all who consider the Word of God and the operation of his hands, that a new era of their prophetic, and consequently actual, history is arising; and kingdoms, as well as churches, show an altered spirit towards Israel. Year by year penal laws, the rigorous enforcement of which continued unchanged for many preceding generations, are now in the course of rapid repeal. Their liberty has been proclaimed even throughout the Turkish empire. Their influence is felt, even where they have hitherto been the most despised and oppressed of mankind. The time seems to be fast passing away of which it was written of them, "No man did lift up his head." Zechariah i. 21. If the time of their restoration to their own land were now come, the prophecy would be

true, "I have called thee from the chief men of the earth." Isa. xli. 9. Though spoiled, they now, in no slight measure, possess the riches of the Gentiles; and, since the last European war, they have become the creditors of kingdoms; and mere worldly policy now demands a reversal of the past system of the barbarous persecutions they have so long and so universally endured.

Churches, too, seem at last smitten with conscious guiltiness because of the past neglect of the people "of whom salvation came." It is not alone the deputation which you sent forth to Palestine and other lands to make inquiry concerning Israel, nor even the very recent settlement of a bishop in Jerusalem, in which the king of Prussia, the British government, and the dignitaries of the Church of England took part, though these are, so far, thus significant; but also a newly-awakened interest in behalf of Israel pervading no small portion of Christendom, of which these things were partially the indication, conspire to show that the time is past of which it is said of forsaken Jerusalem, 'Who shall have pity upon thee? or who shall bemoan thee? or who shall go aside to ask how thou doest;' Jer. xv. 5,—and that the time is approaching when Jerusalem shall be called, 'Sought out, a city not forsaken.' Isa. lxii. 12.

"The times and the seasons the Father has in his own power," as the Son said when questioned touching the time of the restoration of the kingdom to Israel. Acts i. 6, 7. But the time to favour Zion, yea, the set time, is fixed in the counsels of the Eternal; and things by which its coming may be known are written in the sure word of prophecy, to which it is well to take heed. Not only does the land seem to be fast reaching the prescribed degree of desolation which denotes, as marked by Isaiah, the terminating period of the wilful, irreclaimable, and all but universal blindness of the people that once alone were the Lord's; not only is the time now entered on in the sight of all men, in which many run to and fro, and knowledge is increased to a degree unexampled and unthought of in ages past, and in which, also, the troubled aspect of a sinful world excites fearful forebodings of the things that are coming on the earth; not only are the missionary enterprises of the present day also unparalleled in ages past, since the earliest days of Christianity, by the preaching of the gospel throughout the world,—all of which things are set down as the significant signs of the time when the first-fruits in the latter days shall be gathered to God and to the Lamb from all the tribes of Israel; not only do we now cease to look in vain, for the practical illustration of the reason assigned by the psalmist of the set time to favour Zion being come, "for Thy servants take pleasure in her stones, and favour the dust thereof," Ps. cii. 14; but the noise and the shaking, of which Ezekiel speaks seem manifestly begun among the *dry bones*, which emphatically represent the whole house of Israel. While throughout many kingdoms a spirit of inquiry is prevalent among the Jews, and thousands have abandoned the traditions of the fathers, by which they have made void the law, and Jewish periodicals are appearing in quick succession, in Germany, France, and England,—two, for the first time, in the course of the hypast year,—which intimate as well as indicate the change which is passing among the Jews,—it is now held undeniable among themselves, "that the long *torpid* state of fallen Israel" is at an end. This is not, therefore, the time for relaxing efforts or restraining prayer, in respect to the conversion of Israel. But it is surely full time for the church to show its faith in the blessed promises, "By your mercy shall they obtain mercy."  
"ALEX KEITH, Convener."

DR KEITH also laid on the table the journal of Messrs M'Cheyne and Bonar, two of the deputation to Palestine; and introduced Mr Robert Smith, who has been appointed one of the missionaries to the Jews.

MR SMITH then addressed the Assembly on the present state of the Jews in Hungary.

Principal HALDANE moved the adoption of the report, and that the thanks of the Assembly be given to Dr Keith. Of Mr Smith's talents, learning, piety, and devotedness to the cause of Christ, he had the highest opinion.

Professor BROWN seconded the motion, and likewise bore testimony to the abilities of Mr Smith, who had been his pupil in the course of his literary studies.

The MODERATOR, addressing Dr Keith, said, I am instructed by the Assembly

to tender to you and the other members of the committee their cordial thanks for the zeal and judgment with which you have conducted the great trust committed to you; congratulating you, at the same time, upon those tokens for good with which it has pleased the Almighty to encourage you in your work and labour of love. The Assembly also have listened with much interest to the information communicated by your young friend, and consider it a proof of the wisdom exercised by your committee, that they have made selection of such an agent. While the fate of the Jewish people must always be considered by the philosophical observer as one of the most interesting moral phenomena presented to us in the history of our species, it affords matter of more heart-moving interest to the follower of Jesus, as being intimately connected with all that is most important for us to know respecting the character and purposes of the Almighty, and the prospects of the church. Accordingly, in all ages of the Christian world, the conversion of the Jews has occupied the attention, and called forth the exertions of believers in the Lord Jesus. Till a recent period, however, it may be allowed that the advantages arising from these efforts have been chiefly negative. This perhaps may have arisen, in no small degree, from sufficient attention not having been paid to the intimations contained in the word of God, or in relation to the will of God, that this cause should not be left to isolated or individual efforts. From the indications of ancient prophecy,—from the commandment of our Saviour to begin the preaching of the gospel at Jerusalem, connected with the explanation given of it in the practice of the apostles, who uniformly, in the first instance, addressed themselves to the Jews,—and from the remarkable circumstance, of a distinction in the commission to the apostles, between the circumcision and uncircumcision,—we may draw the conclusion, that it is the duty of the church to direct its collective wisdom to the subject, and commission individuals, selected from their number, to direct their energies for the benefit of the Jewish people. And, perhaps, no church fully fulfils the ends of its institution as a great Christian ordinance, if special attention is not paid to the imitation of the apostolic model in this respect. And it appears to me that the solution of the great problem has perhaps been left to the Church of Scotland in the development of the principle, that the liberality of individuals should not be left to private zeal, but to that wisdom which cometh down from above in answer to the prayers of a united church. However, the experiment is one of great difficulty and delicacy. The Assembly have entire confidence in committing it to you, who have given satisfactory proofs that your heart's desire and prayer to God for Israel is, that they may be saved, and whose course of study has led you to habitual contemplation of multiplied instances of the faithfulness of God in fulfilling every word that proceedeth out of his mouth, and of His condescending goodness in connecting that fulfilment with the efforts and prayers of those who are strong in faith, giving glory to God.

Dr CANDLISH spoke on certain points of detail in the report. 1. The application made to the committee from London. In consequence of communications between Dr Keith and an eminent individual in London, a correspondence had been opened with the ministers and elders of our own church there. They have unanimously and earnestly requested to be employed as the Assembly's agents in the Jewish cause in London. A field presented itself there so wide and extensive, that the operations of our church need not interfere with any other association. And the present excitement of the Jewish mind there, with the dissension which had divided the London Jews into two synagogues, were to be recognised as favourable circumstances. There was good evidence, too, that many of those who had been converted from Judaism to Christianity, preferred the simple ritual and forms of the Church of Scotland. The committee suggested the propriety of authorising their friends in London to act in this department. 2. The Rev. Doctor then adverted to the cases of Mr Allan and Mr Wingate, students of theology, destined to be missionaries to the Jews, and with respect to whom, on the ground of the exigency of the cases, he recommended that certain of the steps, preparatory to regular license and ordination according to the practice of the church, should be dispensed with. He concluded by reading the following motion:—

“ The General Assembly having heard the report of the committee for promoting

Christianity among the Jews, approve of the same, and appoint the following ministers and elders, viz.—[here follows the list]—to be a committee, of which Dr Keith shall be convener, with all the powers conferred by former acts of Assembly, appointing committees for the same object; and, in particular, with full power to appoint an acting sub-committee in Edinburgh, and corresponding and co-operating sub-committees in other places, as well as to nominate missionaries and agents, and take all other needful steps for forwarding this work in those stations which shall appear to be most promising. Farther, the General Assembly, having considered the recommendation of the committee relative to the establishment of an institution or mission for the conversion of the Jews in London, together with the application to that effect of certain ministers and elders connected with this church, and resident there, reported to the Assembly by the committee, do hereby request and authorise the said ministers and elders, together with such others in communion with this church as they may associate with themselves, to act as a committee on behalf of this church, and in subordination to the acting committee before referred to, for the purpose of collecting funds, as well as managing and superintending such missionary operations among the Jews in London, as it may be found desirable to institute, with instructions to the said committee in London, to avail themselves as far as possible, of the concurrence and co-operation of the Christians of other denominations, who may be willing to give their aid in this good work of the Lord.

“ And the General Assembly, with reference to that part of the report of the committee, which brings before them the case of Mr Allan, and that of Mr Wingate, being sensible as well of the urgency of the call for additional labourers among the Jews, as of the high qualifications of these two candidates for the office, and the peculiar circumstances in which they have been placed, approve of the arrangements adopted and contemplated by the Committee. And in particular, as to Mr Allan, the Assembly agree to dispense with one session of his attendance on divinity and church history, he having pursued his studies during the past year under Dr Duncan’s superintendence at Pesth, and having submitted all his discourses to the professor of theology in Glasgow, under whom he formerly studied; and they authorise the Presbytery of Glasgow, or any other presbytery of this church, without waiting for the usual sanction of the synod, to take Mr Allan on trials for license, and thereafter, on his being licensed as a probationer, to proceed with his ordination as a missionary to the Jews, according to the laws of the church; while again, as to Mr Wingate, the General Assembly, dispensing in his case with the usual preliminary of licensing him as a probationer to preach the gospel, which is indispensable to his being eligible to a charge in this country, and with a view exclusively to his appointment as a missionary to the Jews, authorise the Presbytery of Edinburgh, or any other presbytery of this church, to take trial of his gifts and qualifications in the usual manner, after his completion of the next session of his attendance on the professor of theology; and thereafter, on being satisfied, to ordain him to the office of the ministry, as a missionary to the Jews aforesaid; it being expressly understood, and hereby provided, that he shall not, in respect of such ordination, be considered eligible for a charge in Scotland, until he shall have completed the *curriculum* prescribed by the laws of this church, as essential to the receiving of a license as a probationer as aforesaid: and the Assembly renews its recommendation to the ministers of the church to remember the cause of God’s ancient people in the services of the sanctuary.”

Dr MAKELLAR seconded the motion.

Dr HILL bore testimony to the abilities of Mr Allan, especially as a Hebrew scholar, as exhibited in the academical discourses which he had sent home, and expressed his acquiescence in the motion of Dr Candlish.

Dr COOK would object to the relaxation of the ordinary rules as a general matter, but agreed, in the exigency of the cases of Messrs Allan and Wingate, with the motion, which was accordingly agreed to.

The Assembly then engaged in devotional exercises, which were conducted by the Moderator, and Dr Paterson of Montrose. Adjourned at four o’clock till eleven o’clock to-morrow.

SATURDAY, *May 21.*

The Assembly met this day at eleven o'clock forenoon.

COMMISSIONS FROM THE PRESBYTERY OF STRATHBOGIE.

The minutes of yesterday's sederunt having been read,

Dr CANDLISH said, he understood that a member of the house had a communication to make to the Assembly upon a matter affecting the constitution of the Assembly, and his own privilege as a member of the house; and he (Dr Candlish) moved, that before proceeding to the business of the day, the commissioners from the Presbytery of Strathbogie be allowed to make a statement in regard to the circumstances in which they take their seats as members of Assembly.

The report of the committee on disputed commissions was here read. The commission from North Isles was sustained; as was the commission from Annan as to the minister; but the elder could not sit till he produced a certificate of his being a *bona fide* acting elder. The commission from the church in India was sustained, the regulation of the last Assembly in regard to it not having been intimated to the church in Madras before the commission was issued. The commission from the University of Glasgow was sustained, on the record of the Senatus having been produced as to the date of the appointment. The commissions from the burghs of Forres, Lanark, &c. were sustained, but the commissioners were not allowed to take their seats till they produced certificates of their being *bona fide* acting elders. The certificates from the burgh of Rothesay had been produced since the former report was given in.

The Assembly having agreed to hear the commissioners from the Presbytery of Strathbogie,

Major LUDOVICK STEWART rose and said—Moderator, I hold in my hand a document which has been sent to me within the last few days. It is an interdict from the Court of Session, prohibiting me from taking my seat in the Assembly as the elder from the Presbytery of Strathbogie. I am not one of those who treat lightly an interdict of a civil court, for I have long been accustomed to strict discipline; but I hold that there are circumstances in which an individual may be placed, when it would be criminal to obey the interdict of any earthly court. I hold in my hand an authority in this holy Book, which does not prohibit me from standing forth in support of the principles of the Church of Scotland, in which I have been brought up; and so long as I am permitted, I will serve God as faithfully as I have served my country; and I am ready to do so again, whenever the time arrives, and the circumstances may come when I may be called upon to do so. The Rev. Doctor, the leader of the other side, talked much on Thursday of the power of conscience. I hope he does not hold that those on the other side are the only people who have consciences. I hope he believes that others have consciences as well as they. Another friend, whom I have met in other countries, on the banks of the Ganges, talked of the law of the land. I have no objection to the law of the land. As a military man, I have often been under its control; but mix up conscience and the law of the land, and you have a dose which not every one in the Assembly will be able to swallow. I do not look with indifference upon this interdict; but I hold that it would be criminal in me to obey it so long as the Church of Scotland calls for the services of her members; for there is nothing in this book which commands me to obey such an order; and I will not obey any thing which implies criminality to the Church of Scotland.

Rev. Mr DEWAR, another of the commissioners from the Presbytery of Strathbogie, said,—I have simply to state, that I am placed in the same circumstances as the gentleman who spoke last. I laid upon the table on Thursday last an interdict from the Court of Session, prohibiting the members from the Presbytery of Strathbogie from taking their places in the Assembly; and I may state, that so far from having disregarded the authority of the civil courts in things civil, I am confident that none in the house has paid more scrupulous attention to them than the Presbytery of

Strathbogie has done. But to an interdict prohibiting them from taking their seats in the General Assembly, they cannot in conscience yield obedience; and we are firmly resolved, seeing that the General Assembly has given us permission to take our seats here,—we are firmly resolved, by the grace of God, to continue in our determination to take our seats as members of the court.

Dr CANDLISH said, that these communications formed an incident unparalleled in the history of the Church of Scotland. So far as the value of the document itself was concerned, he did not mean to propose that any particular steps should be taken. But there were two duties which they had to discharge, and he would be ashamed of the Assembly if they shrank from discharging them. They owed a duty to the commissioners, who, in such peculiar circumstances, had, in obedience to the call of the church and the word of God, taken their places as members of the house; and they owed a duty to the Assembly and to the church itself, to record, in a solemn and emphatic way, the sentiments with which they regarded that unconstitutional interference on the part of the civil court, with its powers and privileges. If such a step as that interdict were recognised and given effect to, there was not one member who might not be interdicted from taking his place as a member of the court. And the result was, that it would be in the power, not of the General Assembly, but of the Lord Ordinary, at the request of any private party, to overrule the deliberations of that Assembly, and determine who should be its constitutional members, and in what way its affairs should be conducted. The Rev. Doctor here read part of the prayer of the petition for interdict, viz.:—"May it therefore please your Lordships to suspend the proceedings now complained of, and the pretended resolutions, appointment, and election, of date the 30th day of May last, or of whatever other date the same may be passed and made by the respondents, or any of them, assuming the character of the Presbytery of Strathbogie, whereby they have appointed or elected commissioners to represent the Presbytery of Strathbogie in the ensuing General Assembly of the Church of Scotland, to be held at Edinburgh in the present month of May, and whole effect thereof; and to interdict and prohibit the respondents, and all and each of them, from taking any other or further steps in pursuance of such pretended election, or from attempting to carry into effect the pretended election which they have already made, or any election which they may yet make, of commissioners to represent the said Presbytery of Strathbogie in said General Assembly, or from carrying into effect the said resolutions, appointment, or election complained of, in any manner of way; and more particularly, to interdict, prohibit, and discharge the said Rev. David Dewar and Harry Leith, and the said Major Ludovick Stewart, and all and each of them, and all others, from founding on the said appointment and election, or any other appointment or election which may be made by the respondents, or any of them, assuming the character of the Presbytery of Strathbogie, of commissioners to represent the said Presbytery of Strathbogie in the said ensuing General Assembly, or from claiming any right or title of any kind under the said pretended election: And farther, to interdict, prohibit, and discharge the . . . said Rev. David Dewar, Harry Leith, and Major Ludovick Stewart, and all and each of them, and all and every person or persons, except the persons elected by the complainers, . . . from appearing at the ensuing meeting of the General Assembly, or of any committee of said Assembly, and, by themselves or their agents, presenting or transmitting to the said Assembly, or committee thereof, any commission as representatives of the said Presbytery of Strathbogie; and also, to interdict, prohibit, and discharge the respondents, . . . from claiming any right to sit or vote, and from sitting, voting, or acting in the said Assembly, as members thereof, under the fore-said pretended nomination and election, for the Presbytery of Strathbogie, in any manner of way: And also, to interdict, prohibit, and discharge the said respondents . . . from molesting or opposing the complainers in reference to the election lawfully made by the said Presbytery, and the majority thereof, and the commissioners thereby chosen to represent the said Presbytery in the said ensuing General Assembly, in any manner of way," &c.

That was the prayer of the petition, and the following was the interlocutor pronounced by Lord Cuninghame, Ordinary:—

"The Lord Ordinary having considered this note, appoints the same to be

seen and answered within fourteen days. In the mean time sists execution, and, in respect of the general interdict already granted by this court, 29th June 1841, which still subsists, grants the special interdict now craved, till the case now comes to be advised on answers.

(Signed) J. CUNINGHAME."

Such was the interdict applied for and granted on the 6th May, as an interim interdict; so that, even if it had been consistent with the duty of the commissioners to take any notice of it, and to appear in answer, it would have been impossible to have had the case disposed of before the Assembly rose; so that virtually, even if they could have appeared in the civil court, it would have been an interdict from sitting in that Assembly. But they knew better what was due to themselves and the church, than ever to think of appearing in answer to such a complaint. They had taken the course of duty. They had come up, just as if nothing of the kind had occurred, to take their places in the Assembly. And they now threw themselves upon the protection and sympathy of the house, and made the house acquainted with, he thought, the most direct invasion of the constitution of the Assembly and of the privileges of the church which had been attempted among all the extraordinary proceedings of the civil courts, and all the inroads which the Court of Session had made into the jurisdiction of the church. Without further remarks, he meant to propose the following resolution:—

"The General Assembly having received intimation of the service of an interim interdict granted by the Lord Ordinary against the Rev. David Dewar, minister at Bellie, the Rev. Harry Leith, minister at Rothiemay, and Major Ludovick Stewart, ruling elder, commissioners from the Presbytery of Strathbogie, prohibiting and discharging them from taking their seats as members of this General Assembly, and deliberating and voting therein, as they are solemnly bound and charged by the said Presbytery to do, for the glory of God and the good of this church; and having had a copy of the said interim interdict produced and laid on the table, do invite and encourage the said commissioners from the Presbytery of Strathbogie to persevere in the discharge of the sacred duty committed to them, notwithstanding of whatsoever pains and penalties may be incurred by their disregard of the aforesaid interim interdict; relying on the strength of Almighty God, and the sympathy, countenance, and support of this General Assembly. And the General Assembly do further hereby protest against the attempt now for the first time made, on the part of any civil tribunal, to interfere with the constitution of the supreme courts of this church, and to prevent the attendance of commissioners duly elected to be members thereof, or otherwise to determine questions affecting the validity and competency of the election of commissioners thereto,—the determination of all such questions, regarding its own constitution, being the undoubted right of the General Assembly alone, and being essential to its integrity as a supreme and independent court, recognised as such by the constitution of the church and the law of the land. And the General Assembly declare, that such interference is wholly unconstitutional, and that this court cannot recognise any sentence of such civil tribunal, pronounced in a matter wholly ecclesiastical, and placed under the exclusive jurisdiction of this supreme ecclesiastical judicatory."

The Assembly must have been profoundly affected by the statement of Major Stewart. It was impossible to listen to what fell from that representative, without being profoundly touched. Holding in the one hand an order of those civil courts to which he had often rendered obedience, and in the other nothing but the word of God, he had declared that we must disregard the former,—he had looked to no guide in regard to the way in which we should meet such interferences, but the word of God, which expressly commanded him to come forward and deliberate and vote for God's glory and the good of the church. Although it was little protection which the Assembly could give, under the terror of such an interdict,—although it could not shelter them from the vengeance which might be poured down upon their heads on the part of the civil powers,—although it could not keep them out of the four walls of a prison, nor shield them from persecution for conscience sake,—it could, by its sympathy, strengthen their hands and encourage their hearts; and it could respond to the truly Christian sentiments which pervaded the statement which these brethren had submitted to the house.



Dr Cook had listened with attention to the Rev. Doctor, and to the statements of the two gentlemen who preceded him. In the whole of what had been said, this great point had been overlooked,—that in every established church—established by law—there is a mingling up of civil and ecclesiastical jurisdictions; that, in so far as matters civil are concerned—and in some degree sitting in that house was a civil matter, resting in some degree upon civil authority, and the Assembly being recognised by the law of the land—in so far there might be no impropriety in the civil court interdicting as they have done. It had been admitted that there never had been any such interference up to that time; and why? just because they had been going on in their own province, and had not come into collision with the civil courts. But this was a matter connected with a long train of interdicts and proceedings of the civil courts. It arose out of those, and some of those were strictly connected with the civil rights of the members of the house. On that ground alone they should have been cautious of taking up the ground assumed by those gentlemen. It amounts (continued the Rev. Doctor,) just to this,—that we, constituted under the law of the land as an established church, and sitting in that capacity, declare that we are prepared to violate the law of the land, and set ourselves in direct opposition to the expounders of that law. I should have thought that the way to proceed in this matter was different. We might have lamented this interference, and entertained an opinion that, under all the circumstances, it was a stretch of power in the court to do so. But where's your remedy? Not here. You cannot sit *pari passu* with the Court of Session, and review its decisions. If it violate our privileges, we go to the legislature and tell our wrongs, and complain and petition that they be so guarded as that no violation of them can take place. Where is this to stop? It may be said that this is a strong case; and so it is. Let me again entreat the house to consider in what situation it places itself by adopting the motion of Dr Candlish. It places the house in direct hostility to the law of the land. It does not take the constitutional remedy; and it drives away almost every possibility of getting clear of the calamities under which we are now suffering. By holding to our own privileges in the proper way, we might have got a remedy, which might have preserved the unity and power of the church. I move that this motion be not adopted, and I find myself compelled to protest.

Dr CANDLISH.—I have no intention of using my privilege of reply; but as some members have come in since the discussion began, I beg simply to state what the matter before us is. With reference to what was stated by the Rev. Doctor, so far from having the slightest objection to the remedy to which he pointed against this unconstitutional interference with our ecclesiastical rights and privileges secured to us by law, I will rejoice to go along with the Rev. Doctor in seeking such a remedy; and I hope therefore that he will go along with us when we propose to seek such a remedy. But the adoption of that particular remedy, which is going to the supreme civil power to complain against this encroachment on our ecclesiastical privileges, and to protest against it as unconstitutional and illegal, that is one question; but it is another question, what is our duty when such encroachments are attempted and made; and that is the only question before the Assembly. The remedy to which the Rev. Doctor pointed, of an application to the legislature, may come very well afterwards, when this may be included in the various other encroachments of which we complain, and from which we demand protection; but, on the other hand, this present interference with the Assembly lays upon us the duty of resistance to that attempt, whatsoever remedy may be applied to the grievance. In the mean time it is our duty to refuse compliance with any such interference, and to encourage our brethren from Strathbogie in their noble determination to obey the law of God and the law of the church, rather than the interdicts of the Court of Session, in matters which are wholly spiritual and ecclesiastical. This question alone is now before the house; not what ulterior measures are to be adopted, with a view to the remedy of the grievance, but what in the mean time is the duty of the Assembly, which is evidently to express their sympathy with their brethren from Strathbogie, and solemnly to protest against this new encroachment on the rights and liberties of the church, secured to her by the constitution, and ratified by inviolable treaty.

It was agreed that the vote should be "First or Second motion," the first being Dr Candlish's, and the second Dr Cook's; and the roll having been called, and votes marked, it carried first motion by a majority of 97. For Dr Candlish's motion, 173; for Dr Cook's, 76.

#### THE QUEEN'S LETTER.

The committee appointed on Thursday to prepare a reply to her Majesty's letter to the General Assembly, gave in a draft of the answer, which was read. It was, of course, an echo of the Queen's letter, and stated, in pointed terms, the satisfaction with which the Assembly would follow out her Majesty's benevolent wishes with respect to the present sufferings of the working classes.

Mr A. DUNLOP thought the house would put itself in a still better position with her Majesty, if, in accordance with her Majesty's benevolent wish in respect to the state of the poor, they could state in the reply, that having already taken that part of her Majesty's gracious letter into their consideration, they had appointed contributions to be made in all the parish churches in behalf of the poor. By stating that they had already done so, they would show, what he was sure that all of them felt, an anxious desire to follow out her Majesty's benevolent wish on this subject.

Dr LEE said, he was very sure that the suggestion would be universally acceptable to the Assembly; but he did not think it necessary to defer the approbation of the draft till that proposal was gone into.

Mr DUNLOP said, the delay would not occupy more than two minutes. He would then simply move, that the Assembly having taken into consideration that part of the Queen's letter recommending to their consideration the state of the poor, do, in accordance with her Majesty's gracious recommendation, resolve to appoint contributions to be made in all the parish churches where her Majesty's wish has not already been anticipated. Mr Dunlop added, that either a special day might be fixed, or it might be left to the convenience of parties.

The motion was unanimously agreed to, the reply to the Queen's letter being altered accordingly; and the Moderator communicated it to his Grace the Commissioner, who said that he could assure the Assembly that her Majesty would be much gratified by the unanimous and kind manner in which her recommendation had been received.

The congratulatory address to the Queen on the birth of a royal prince, was entrusted for presentation to his Grace the Commissioner, who intimated that he would have the greatest pleasure in complying with their wishes.

#### ORDERING OF THE HOUSE.

Mr DUNLOP then gave in the report of the committee on the ordering of the house. It expressed the great satisfaction they had in announcing to the house, that the very elegant building which was now in the course of erection for their accommodation, would, so far as the mason work was concerned, be completed by August or September, and thus be ready for their next meeting in May. They had to acknowledge, as formerly, the great kindness of the Commissioners of Woods and Forests, in fitting up, at considerable expense, St Andrew's Church as a temporary place of meeting. They had also to acknowledge the great attention and skill evinced by Mr Nixon, in making all the necessary arrangements. Nothing could exceed the attention, care, and skill with which he had adapted the arrangements to the convenience of the members. The report then mentioned one or two alterations which had been made this year, in order to prevent the admission of those to the body of the house who had no right to be admitted there. It was also recommended, that the time of giving in dissents should be altered, so that they should be given in, not immediately after the motion dissented from was carried, which occasioned great inconvenience, but when the Moderator announced that he was ready to receive them. The report was approved of.

#### CORRESPONDENCE WITH FOREIGN CHURCHES.

Dr CANDLISH, as convener of committee on this subject, laid on the table of the Assembly three letters; one from the commission of the church in Canada, another from the assembly itself of the church in Canada, and a third from the general

assembly of the presbyterian church in the United States. This last was read to the Assembly. It expressed in very interesting terms their sympathy with the Church of Scotland in her present troubles,—their conviction that the Lord would not forsake them when engaged in defending His own cause,—and their hope that the church would be, by God's blessing, soon delivered from her difficulties.

Dr MAKELLAR, after expressing his heartfelt joy and gratitude to Almighty God for the receipt of a communication so truly refreshing and encouraging as this, moved that the committee should be instructed to draw up draft answers, and lay them before the House at a subsequent sederunt.

#### REPORT OF THE COMMITTEE ON BILLS.

The clerk then read the report of the committee on bills. It stated that, besides petitions on several other subjects, there had been one hundred and one petitions against patronage sent up through them. One of the other petitions was from the parishioners of Rhyrie, requesting leave to erect a temporary place of worship out of the parish, as the heritors would not allow them a piece of ground within it to build upon.

#### REPORTS OF COMMITTEE ON COMMISSION RECORD, SPECIAL COMMISSION, AND VISITING COMMITTEE.

Dr BUCHANAN gave in the report of the committee on the commission record. It called attention to what had been done by the commission in the cases of those ministers who had communicated with the deposed ministers of Strathbogie, and in the cases of Muckairn, Lethendy, and Culsalmond.

Mr BANNERMAN gave in the report of the special commission appointed by last Assembly.

“ The commission, in all the matters that have been confided to them, have been careful to abstain from any unnecessary exercise of their powers.

“ Under their instructions the commission proceeded, as it was their imperative duty, to make provision for the religious instruction of the parishes in the Presbytery of Strathbogie before-mentioned, by the appointment of missionaries; and they have to report that the services of the missionaries have been productive of many important benefits, and that the members of the Presbytery of Strathbogie have very efficiently co-operated in the superintendence of those parishes. In the peculiar circumstances in which, in the providence of God, these parishes have been placed, the commission sanctioned an address to the people of these parishes.

“ Several presbyteries having, in the exercise of their proper jurisdiction, been threatened with interference, by applications to the civil court for interdicts, and applied to the commission for direction and advice, the special commission has not hesitated to support the authority of the church courts, and to tender the advice which seemed suitable to the circumstances. Where it seemed advisable, they have recommended that appearance should be made in such actions, and that the expense should be defrayed by the church. In cases involving in no way any civil right, no appearance has been advised; and wherever civil rights might be indirectly affected, but the proceedings challenged were essentially of an ecclesiastical nature, they have recommended, that in the papers lodged on behalf of the church courts, it should be distinctly set forth, that ‘ they could not, in deference to any other than ecclesiastical authority, arrest the progress of ecclesiastical procedure, or pause in the performance of their ecclesiastical duties; and that appearance had been entered, in the hope of satisfying the civil court that they had no jurisdiction to maintain the application made to them, and that the parties might thereby be protected from the consequences of an adverse interlocutor.’

“ Owing to the great extent, complexity, and delicacy of the numerous civil actions in dependence, and threatened against the church, in consequence of her present position, and deeming prompt advice to be of great moment, the special commission very early appointed a standing law committee. That committee has had numerous meetings, most of which have been attended by the procurator and agent for the church. The assistance afforded through the labours of this committee has been productive of important advantages to the church.

"An extract from the minutes of the Presbytery of Strathbogie having, immediately before the meeting of the commission of Assembly in August last, been laid before the special commission, in which it was stated, that certain of the deposed ministers of that Presbytery had dispensed the sacrament in their former parishes, and that certain other ministers of the church had openly assisted them on these occasions, and recognised them as ministers of the gospel, the special commission thought it right to order the minute to be transmitted to the commission. And other extracts from the minutes of the same Presbytery, dated the 1st November and 28th April last, containing reports of similar proceedings by other parties, having been also transmitted to them by the Presbytery, the special commission beg to lay the same, with this report, on the table of the General Assembly.

"The special commission beg also to lay on the table of the Assembly, extract minutes, &c., of the Presbytery of Irvine, relative to an application to take steps towards the settlement of a minister in the new church at Stewarton.

"They have further to report, that the Rev. Mr Wilson, minister of Stranraer, has applied to the civil court, and obtained an interdict against the Presbytery of Stranraer proceeding in a libel against him, on the ground of various alleged irregularities in the procedure, and of ministers of *quoad sacra* parishes sitting in the Presbytery; and that Mr Thomas Clark, preacher of the gospel, also applied to the civil court, and obtained an interdict against the Presbytery of Dunkeld from proceeding in a libel against him, on the ground of ministers of *quoad sacra* parishes sitting in the Presbytery. Copies of the notes of suspension and interdict in these cases, with relative minutes of the respective Presbyteries, are herewith laid on the table of the Assembly."

"JAMES BANNERMAN, Moderator."

There was also laid on the table of Assembly a report from the Presbytery of Strathbogie, announcing that a licentiate of the church, Mr Duguid, had, in violation of his ordination vows, received pretended ordination, as minister of the parish of Glass, from the deposed ministers of Strathbogie.

These reports having been read,

Mr DUNLOP said, he was about to propose a motion which he believed would be agreed to without any opposition from those on the opposite side of the house. It was alleged in these reports, that various ministers of this church had partaken of a pretended celebration of the Lord's Supper at the hands of deposed ministers. What he had to propose was, that those ministers so charged should be cited to appear at the bar of the Assembly on Thursday next, to answer to the charge brought against them.

Mr ROBERTSON of Ellon said, he would agree to Mr Dunlop's motion under protest, that he should not thereby be precluded from putting in any plea in his defence which he would otherwise have urged.

The motion was then agreed to, and those of the accused present were cited to appear *apud acta*.

#### THE PARISH OF GLASS.

In connection with a petition from the parishioners of Glass in communion with the church, complaining of the attempt made by the deposed ministers of Strathbogie to ordain Mr Duguid as their pastor, and of his attempt to intrude himself upon them as such—in connection with this petition, Mr DUNLOP moved that Mr Duguid should be cited to appear before the bar of Assembly, to answer to the complaint against him. Agreed to.

#### CASE OF STRANRAER.

The parties in this case were called, and Mr Wilson, the party libelled, was cited to appear at the bar of the Assembly on Friday, to answer for his conduct in applying for an interdict against the Presbytery proceeding in his case.

#### CASE OF MR CLARK.

Mr Clark, late presntec to Lethendy, was also cited to appear at the bar of Assembly on Friday, to answer a similar charge against him.

## IRISH DEPUTATION.

The clerk having intimated that the next business was to receive the deputation from the presbyterian church of Ireland.

Principal DEWAR rose and said, I rise as a representative of the deputation which was appointed by the last General Assembly to visit the Assembly of the presbyterian church in Ireland. Most kindly were we received by our Irish brethren, though I need not inform those who are acquainted with Ireland, that one can scarcely go to that country without being kindly received. I myself, when, on a former occasion, I visited Ireland many years ago, received a hearty welcome from a thousand Irish hearts in a thousand Irish cottages; and I venture to say, that if Dr Bryce were to accompany this deputation back to Ireland, he too would be as kindly received. He might possibly hear sentiments contrary to his own expressed in a plain Irish manner, but that would not deprive him of the real kindness which I then experienced. The Rev. Principal then expressed his great delight at the proceedings of the last Irish Assembly; and, touching upon the great success which had attended the exertions of that church, implored a blessing upon her labours, especially as regarded her home mission. He thought, therefore, that Dr Bryce should permit the strangers to be heard without opposition. The reverend Principal then introduced the Irish deputation.

Dr BRYCE.—Moderator, I did give notice yesterday, that when the order of this day should be brought forward, and these gentlemen introduced, I would have a certain subject to bring under the consideration of the General Assembly. In noticing this, allow me to say, that I am influenced by no kind of party suggestion; for I do so not only without the concurrence of my friends, but also in opposition to the wishes of some of them. I have great deference for some of my friends, and I am always ready to listen to their opinions; and as some of my friends near me tell me that it would be a want of courtesy to offer any opposition to the hearing of the deputation, I have no objections to waive that question, trusting that the deputation will see cause to retract or disavow the sentiments expressed at the meeting of the Irish Assembly.

Dr BUCHANAN thought that Dr Bryce had acted wisely for himself by following the suggestions of his friends; but in withdrawing his intended attack on the deputation, he could not consent that Dr Bryce should place them under any restriction whatever as to what they should say. They had come from a Christian church as independent ministers and elders, to represent the opinions and feelings of the body with which they were connected; and he hoped they would do so in terms suitable to the respectability, influence, and number of that body. He hoped they would not regulate their words to suit the taste of any individual member of the house. As one of the deputation to Ireland, he was ready to repeat the same sentiments as he did then.

Dr HILL said he was exceedingly sorry that any interruption should have occurred, or any opposition offered, to the hearing of this deputation. He hoped they would now be allowed to express their own sentiments in their own way.

The Rev. HENRY WALLACE of Derry then addressed the Moderator:—As there has been a special reference made to myself in the remarks of an honourable member of this house, regarding some sentiments which I uttered in our own Assembly in Ireland, I may be allowed simply to say, that I do not consider that I am called on here to enter into a defence of what was said or done in another place, and in a meeting of an independent ecclesiastical body. I think I shall best consult my own feelings, and the dignity of the Assembly which I am here to represent, by leaving the matter of accusation to be met in the place where the sentiments were uttered. I am sent here to represent the General Assembly of the Presbyterian Church in Ireland; and I think, as their representative, I may claim a right to be received, altogether independent of personal objections. I may also add, in reference to our feelings as to our independent jurisdiction at home, that we must have learned our lesson very badly from the Scottish church, and from the noble and venerable men from whom we are descended, if, in a great constitutional question, such as the one now in discussion, we should either think tamely or speak tamely. We derived a great measure of the spirit with which we are actuated from our Scottish ancestors; and although

it is two hundred years since our first constitution as a presbyterian church in Ireland, and thus separated from the Church of Scotland, yet is that separation to be viewed in no other light than as a separation for local convenience. We are separated only by the narrow sea which divides Scotland from Ireland, but we are not separated in affection, in brotherly kindness, or in the profession of our faith. We hold ourselves to be part and parcel of the Church of Scotland, although we be geographically separated from each other. I have come here along with my other brethren as the representative of a church organised two hundred years ago in the north of Ireland; and on the 10th day of June next we shall be called upon to celebrate the bi-centenary of the presbyterian church in Ireland. At the earlier stages of its existence, its members were few in number, and they had to struggle against great discouragements; but, by the blessing of the divine Head of the church, we are now a large body in Israel. We can now number about 500 congregations connected with our Assembly, and we number at least one-half of the whole Protestant population of Ireland, and, hence, we occupy a position which well entitles us to the warm greetings we have got from the Church of Scotland. We can look back, and with the deepest pleasure, to the watering which your fathers gave to the plant which at first was but feeble; but I am sure there is no one here who does not now unite with us in rejoicing at our position of prosperity and comfort as a church of Christ. Our position at the present moment I hail as one of great advantage,—an advantage which we enjoy beyond other churches,—that there is nothing among us to interrupt our unity and peace. And when I speak of peace, I mean that peace which ought always to be a distinguishing characteristic of a church of Christ. We have had our days of suffering and of conflict, but the great Head of the church has now restored peace among us, by enabling us to root out heresy from our church, and the peace and prosperity we now so happily enjoy, is greatly increased by the expulsion of false doctrines from among our members. We can now meet with you in cordiality and affection, being ourselves united in a bond of union, and holding Christ Jesus as the sole and supreme Head of the church on earth. It is not very long since we had another cause of great rejoicing in the union of two portions of the Christian church which should have been united long before. For some time, indeed, there did exist a jealousy between us; but, by the blessing of God, that jealousy has been removed, and we are now united in one church, in the bonds of love, which I hope will long continue under the blessing of the Spirit of all grace and of all consolation. This happy union now gives a strength and a dignity to all our operations for the spread of the gospel. I may allude simply to the extraordinary relation in which as a church we stand, and I must speak of what I may say does not exist—our political position. We have no political situation as a church. We have hitherto avoided all connection with political parties or political questions. But I fear that at present there are certain signs, certain significant signs, which may require us to become more connected with political matters than we have ever yet been. When we see our interests and privileges as a church likely to be sacrificed to the interests of another, it is about time for the one-half of the protestant population of Ireland to take a better and more decided position, and secure the means of still farther than at present blessing our native land. In relation to another church, our position is not quite so gratifying as might have been anticipated. Like your church, we have been attacked in reference to our ordinances and our sacraments, in a manner which seriously affects the standing of the church, nay, even threatens its very existence. We endeavour to cultivate peace with all men who love the Lord Jesus Christ,—and we think we have done so; but at present it seems almost impossible that we can expect this spirit to last much longer. It is most important that we should uphold our testimony for the constitution of our church, as well as for the purity of our doctrine. We cannot admit that the constitution of any church is more scriptural than our own, and therefore we stand fast in support of it, however our being compelled to do so may affect others. Like your church, too, we hold brotherly intercourse with the churches of Christ abroad. The presbyterian church in the United States also corresponds with us, as with you. It has been said here to-day, that in your church this practice ought to be extended. This I consider to be a measure

of the last importance, and one which ought to be adopted by the Church of Scotland. Too many of the churches of Christ on the continent are left without that kindly intercourse and exchange of brotherly Christian feeling which ought to be practised. This should no longer be permitted to exist in the church; and I look upon the Church of Scotland to be in the position at present which loudly calls on her, and completely justifies her, in inviting that intercourse and correspondence, because she holds the highest dignity among the churches, and she ought therefore to incite others to the following of that which only churches of a kindred form with her can exhibit. When we look at the state of the church in Prussia, it is impossible to avoid a conclusion as to the vast importance of that church. Great importance has been attached to the fact of the King of Prussia having come over to this country to stand sponsor to the young Prince of Wales; and importance is also attached to the fact of a deputation being at present in this country from the church in Prussia. That deputation has already been at Dublin making inquiries into the state of the Church of Ireland, and they have been furnished every information in reference to the episcopal church in Ireland, its constitution and its doctrines; and it ought not to be overlooked, that it is a duty incumbent on both churches to communicate all information to the church in Prussia as to our position, and to urge upon them the fundamental doctrine of the church, that Christ is the alone Head of the church,—that this doctrine is one of the glorious doctrines of the reformation. I hope a correspondence will be opened up also with the churches in Holland, and in all other countries, but I hold it the duty of the Church of Scotland to invite all others, that the church may become the centre and pattern to all other churches of Christ, uniting them all into one. By the providence of God the position of the Church of Scotland is such at the present moment as to attract the observation of all the churches on the earth. You need not wonder that we, who are so closely connected with you, should look with deep interest on your present position. Your church stands upon an eminence in the face of all Christendom and of the world; and as to purity of doctrine, no church on earth has held them equally pure, and with equal faithfulness. Our sentiments, as the presbyterian church in Ireland, as to your present position, are already well known. We are attached to the same principles as you are; and although we have sometimes trembled for the safety of the ark of God in Scotland, and have watched your proceedings with the utmost intensity, we fervently pray to the great Head of the church, that he may so guide your leaders, as that they may discharge their important trust, so as to do their duty to the church and to God. It is not a question which affects your own interests merely,—it is not a minister of this parish, or that parish whose cause is at stake—it is not merely a question as to who shall lose and who shall not lose their emoluments—it is no such thing. It is much more important; so much so, that even your existence as a church, important though it be, is of less importance than the unhappy state in which you are, and which we all most solemnly deplore. You should call, as witnesses of Christ, not this land only, not only Ireland, but England, Europe, and America, and wherever the truth of Christ can go. No church was ever in the same position in which yours is, and continued to bear such inflexible testimony to the Headship of the Messiah. No church whatever which had been connected with the state had ever given such importance to a doctrine which was absolutely essential to the interests and jurisdiction of a church of Christ. You need not wonder, then, why we take such a deep interest in your proceedings. Some people have said to us, “Why do you meddle with the Church of Scotland at all? Can you not eat your own bread at home, and let them alone? Let them fight it out with the state as they best may.” I do not understand the Christian sympathy of such a course of advice. We are brethren, and brother should assist brother; they should work together, labour together, and suffer together. I have been tauntingly told that “they will make a noise and a clamour, and go on to oppose the civil courts for a while, and then something will be offered them, and they will accept the offer for the sake of peace, and give up their clamour, and you will hear no more about the struggles of the church.” On this point I have no fear. If I had, it would have been entirely dissipated by what I saw at the beginning of this Assembly. This I take to be an omen for good, that the church would continue stedfastly to bear witness for Christ's headship, and stand by

the great cause which He had committed to her keeping. I might refer to ourselves as a church, having already in possession all that you ask for. I ask you to look at us in the character of a church of Christ. Two hundred years ago our church was organized by only five ministers, and from that time to the present we have maintained our independent spiritual jurisdiction—no man interfering—which we found simply on the word of God; and even in the choice of our pastors, the people, from generation to generation, have had and exercised their own discretion. I point to our church, and I ask, after two hundred years' experience of its effects, what has the church to fear, or what has the state to fear, if the Church of Scotland were allowed to exercise the same spiritual independence, and the people the same privileges? The reverend gentleman concluded, thanking the Assembly for the kindness he had experienced, and the indulgence they had granted him.

Rev. WILLIAM GIBSON, Belfast, then rose and said,—In rising to address this venerable Assembly, you will give me leave to say, that I feel altogether incompetent to discharge, in a manner worthy of the church with which I am associated, and of the occasion on which we are assembled, the important duty to which I am now called. Inasmuch, however, as it has been required of me thus to appear before you, and to bear a part, however humble, in the proceedings of this day, I trust that you will grant me your indulgence, while in the hearing of so many venerable fathers of the church, I would endeavour to express that sympathy which we, her descendants, feel with that great conflict in which she is now engaged, and to record the reasons of that expectation which we fondly cherish, that her great Head will, in due time, bring her safely out of all her troubles, and render her yet a means of more abundant blessing to Scotland and the world. The subject is one, indeed, with which a stranger may not rashly intermeddle, but occupying, as it has done, a large share of attention in the church to which I have the honour to belong, and affecting, as it does, the character and prospects of presbyterianism throughout the world, I trust it will not be deemed as foreign to the object of our visit at this time, if I should dwell upon it for a little at this stage of the proceedings of your Assembly—an Assembly, than which a more momentous and important, never, perhaps, was held in Scotland. And truly, Sir, when I reflect upon the high and holy interests that are involved in the present struggle—on the position which this church in former times maintained in relation to the great principles that are now assailed—on the remarkable train of preparation by which she has been led to assume her present attitude, as a witness for Christ before all nations—and on the probable result of the deliberations and decisions of this present meeting, I cannot but believe that it is the duty of all her children to avow their liveliest interest in her cause, and their determination, by the Divine blessing, to stand by her to the last in prosecuting and defending it. This church, need I remind my venerable fathers and brethren, is now, not less than at any former period in her history, challenging the attention, not only of the nation generally, but of universal Christendom. Whether she would or not, she has been brought into a position in which she is now a spectacle, not only to other churches, but to a wondering and opposing world. To such an extent is this the case, that not only in the cottages of the poor, but in the highest places in the land, in cabinets and courts, and even in the palaces of royalty itself, there is an interest awakened on her behalf that has not been equalled in its intensity for many generations. To an observer of the dealings of the Lord towards her, it is most interesting to trace the operation of those causes that have conspired to place her in her present attitude of difficulty and yet of honour. It is remarkable, for example, how, by the discussion of the abstract principles that are involved in the present struggle, she has been prepared for their practical assertion. When that angry storm which, about ten years ago, began to rage around her, rose to its height, when the question of the lawfulness of civil establishments of religion was so keenly agitated, it did not for a time appear what the end should be, or what the design of the King of Zion in calling her forth to advocate his supremacy over the nations. The design, however, is sufficiently apparent now. And have you not abundant reason to bless his name, that, by a way that you knew not, but by the very way best fitted to prepare for present and future trials, the Lord has been conducting you step by step to a position in which you can best maintain his exclusive right to rule over his own house, and his



authority not only as king of nations, but king of saints? It is true, that at the commencement of that warfare, some of the noblest of your champions had fallen, and others of kindred spirit soon after entered into rest. But what although your Thomson should be removed, and the church should mourn his premature departure. His mantle fell when he ascended, and his zeal for reformation animates a noble company, who now stand forward in the day of battle. And what although M'Crie should survive no longer, to encourage and sustain by his counsel the devoted advocates of reforming measures in the church, whose welfare, although he was separated from it, lay near his heart? Yet, the portraiture he drew of her first reformers is as fresh as when it came from his master hand, and their noble deeds are registered for the imitation of posterity in his imperishable works. These and other faithful witnesses for truth are gone, but the seed of reformation which they sowed is springing up in rich luxuriance, and its fruit is now beginning to shake like Lebanon. And who is there that does not see, in the entire series of those movements which have been going forward in this national church, the gradual development of those great seminal principles of Presbytery, from which, wherever they have been spread,—whether on the continent of Europe, among the glens and mountains of Scotland, and the green fields of Ulster, or under the shelter of the leafy forests of the western world,—there has sprung up a glorious harvest of righteousness and truth? Can it be imagined for a moment, then, that you will be left to perish now, after having been so visibly conducted to that position you so honourably fill, and where alone, I am persuaded, you can dwell in safety? And when, besides, it is remembered, that you are all the while seeking, not earthly honour or aggrandisement, but the honour of Zion's King, can it be supposed that he will leave you for a prey to the destroyer? Since you began to return to the old paths of your fathers, has He not in an unwonted degree appeared on your behalf, blessing your ministrations to the revival of religion in many a parish, and the conversion of many a soul? Must you not acknowledge, that hitherto he has delivered you from innumerable dangers, and in the midst of gathering storm and tempest, gladdened you with many cheering gleams of sunshine? All your attempts, indeed, to obtain a deliverance as yet have failed; but here, too, must you not confess that the Lord has led you by a right path, preserving you from every unworthy compromise, and, by unsettling all your confidence in man, teaching you to lean for guidance on himself alone? You are now in that very position in which you can most effectually bear witness before all the nations to the present truth. It is no new position to which the Church of Scotland is now driven. To her it has been committed, as her peculiar distinction, to maintain the honour of Christ's crown, in connection with the liberties of his purchased people. For many a long year she held forth this testimony, under circumstances of peculiar difficulty and danger, enduring unto bonds, imprisonment, and death. But what although she was flung into the furnace of fiercest trial, yet never did she enjoy more largely than in the days of her adversity, the presence of Him who walketh amid the seven golden candlesticks: and what although many of her children fell,—their blood watered that plant of renown which the Lord had planted, whose branches have since extended to the ends of the earth. Casting herself upon the sympathies of her spiritual children, as of old, and committing her way unto the Lord, this church will, now as in former times, be more than conqueror. Other churches may rely on royal favour and protection, and may look for help in their extremity to the titled of this world; but yours has been emphatically the church of the people from earliest days. By them she was at first established; their manly arms defended her in times of trial—their intercessions at a throne of grace enabled her to maintain her testimony before kings, and not be ashamed; and cheered by their sympathies and girt about by their support, she walked unharmed amid the fire and smoke of many a persecution, and came forth in triumph from the onset of many a foe. And if the favour of her Head was at times withdrawn from her—if the Lord became to her as a barren wilderness, and as a land of darkness—it was because she ceased to care for the people, who had proved so nobly how much they cared for her. She is returning to her first love—she is caring for her children again; and now that they are gathering around her as in days of old—now that she is reanimated with life from the fountain of life,

fired with the spirit and inspired by the recollections of former times—now that she has been taught so often and so affectingly by the result of late negociations, to cease from man, and to hold fast by nothing but allegiance to her heavenly King—now that, in a word, she is equipped for battle with the enemies of our Lord and of his Christ—can it be that she will be left desolate or forsaken in her hour of need? nay, rather, will not the Lord arise and have mercy upon her, if she only continue true to His cause, and stand forward before the world the uncompromising advocate of the chartered rights of His redeemed people. And who can tell but many of those who had become estranged from her, and by her long neglect were driven to another fold, may, as they witness her faithful struggles, return to the once holy and beautiful house of their fathers, and that as in the case of our own Church in Ireland, a happy and harmonious union may be consummated, and the name of secession from her ranks be known no more. Happy, thrice happy day for Scotland, when on scriptural principles her children shall again be one! I am persuaded that many godly descendants of the secession fathers long for such a consummation, and that the manifestation of such a spirit upon their part, combined with unflinching faithfulness on yours, may yet result in such a delightful issue. And not in Scotland only, but throughout the world, will your children hail your return to the attainments of former times. I trust that we, your first-born sons, shall never fail you in your hour of need. Should any of you be required to suffer, as your fathers, for the sake of a good conscience—should you be forced to leave the sanctuaries you have loved, and the people for whom you have prayed and laboured—we will welcome you should you visit our shores—we will receive you as brethren greatly beloved, not only for your own sake, but for the fathers' sake. We will, by the grace of God, encourage, sustain, and comfort you. But I cannot believe that we shall be called to witness results like these. I cannot believe that an enlightened Legislature will consent to measures that will thus harass and oppress you, or that in this free country—a country which owes its pre-eminence among the nations to that church whose dearest interests are now in jeopardy, the glory of your Zion will be permitted to depart from her. The signs of the times, although in some respects they are ominous, seem to indicate a far different issue. Nor is it a little remarkable, that the commemoration of events of stirring interest in our respective churches should conspire, with the necessities of the present hour, to rekindle into a holy and universal flame our zeal for Presbytery and for all the principles that constitute its peculiar glory. The present, as my friend and brother has informed you, is an important year in our Ulster annals, reminding us of our original establishment, and calling for united acknowledgments to Him who has made us to be a blessing in the land; and truly when we think on the way by which we have been brought since your fathers landed on our shores, when we reflect on our rapid increase, our influential position, and our national importance, and when we consider the remarkable facilities we enjoy for carrying out the design of our plantation as a branch of Scotland's church, and dwell upon our great unworthiness, our former backslidings, and our present insufficiency to the discharge of our high trust, we have abundant reason to declare, "hitherto hath the Lord helped us, the Lord hath done great things for us, whereof we are glad." In bearing testimony to that goodness which has watched over us for two hundred years, I am persuaded that we shall turn with fond affection to the land from which we sprung, and the mother that gave us birth; adoring that gracious Hand, which, now in our prosperity, has placed us in circumstances to aid you in your hour of peril; and that we shall esteem it a signal honour if, together with you, we are acknowledged to the maintenance of the whole truth of Presbytery amid the contentings of these last times. Again, it was but the other year that you yourselves commemorated a glorious era in your national history, the period of the second Reformation. And the year 1843, should we live to witness it, will bring along with it the remembrance of an event of still more general interest, an event affecting in a peculiar manner all the healthy branches of the Presbyterian family throughout the world—the holding of that august Assembly at Westminster, at which were prepared, within its storied and trophied walls, those Standards, around which so many of the allied armies of the faithful are mustering for a conflict with the common foe. It is most interesting indeed, to observe how an

attachment to these Standards has revived amongst us all, insomuch that they have come to constitute the rallying point around which we meet—the bond of cohesion by which our churches are linked together in cordial intercourse. And when we look around and perceive the symptoms of coming change in other ecclesiastical institutions—the paralyzed condition of the Church of England, by the prevalence of an insidious and fatal heresy, from which she cannot, or will not, seek to be delivered—the consequent elation of the Man of Sin in the imagined prospect of regaining his long-lost splendour and power—and the distinguished position which the Church of Scotland holds as a witness for the truth as it is in Jesus, must we not conclude that the Lord has something in his heart to do with her, not only in relation to this country, but to all the churches and countries of the world? Who can tell but that, through her instrumentality, Presbyterianism may speedily revive in England, and that the golden dream of the Westminster divines may yet be realized, in the establishment of a basis of uniformity, where all the faithful of every communion in these kingdoms may meet together and hold delightful fellowship. I cannot, therefore, believe that this church has been led to occupy the present ground in vain, and that, summoned as she is, by so many voices from the living and the dead, she will be allowed to retire at pleasure from the conflict. I may speak too sanguinely indeed, but I cannot withhold the expression of my conviction, that this church is yet to prove the grand agent for the reformation of all churches, and that the present conflict will not cease till the way is prepared of God for the overturning of every system that is incompatible with the undivided supremacy of Him whose right it is to rule in Zion, and to whom belongs the kingdom, and the power, and the glory. It is true that, beset as you are with difficulties, you may be sometimes almost tempted to abandon the conflict in despair. The principles which it involves belong to the faith of things invisible; and the men of this world cannot appreciate their worth and beauty. You know, however, that they are of vital importance in themselves, and in their application; in themselves, as touching the crown rights of the Redeemer; in their application, as touching the liberties of the church, his free and independent kingdom. They were regarded by your fathers, when they perilled all in their defence, and when rather than surrender them upon the shrine of worldly policy or expediency, they submitted to be driven from their happy homes to the deserts and caves of the earth. You have now a noble opportunity of proving that you are the descendants of those illustrious saints and martyrs. If this church is unflinching now, she may never have another battle to fight again. If she go on as she has begun, nobly contending for her emancipation from every yoke of bondage; if she spurn away every temptation that would seduce her from her onward path; then she will come forth stronger than ever from the struggle, her people bound up with her in all her fortunes, and lifting up their hands to bless her. Go on then in the strength of God, my respected brethren and fathers. Your warfare may not yet be at an end, neither may it be brought to a termination for many days to come. But although protracted in its duration, glorious will be its issue. Of all the churches in these lands you have been called out the first into the battle-field. Others may, ere long, be summoned to similar contendings; if you continue faithful, they will be inspired and animated by your bright example. Your country, whose dearest interests are involved, will bless you,—other countries and generations will call you blessed. The Lord will help you; and when the day of trial comes, that shall try all them that dwell upon the earth, He shall hide you in the hollow of His hand, and you shall dwell in safety. It will be your resting time after the alarms of war; and in all your borders will be heard the voice of joy and gladness. Your church will be a quiet habitation—your country a delightful and a happy land. The shout of a king shall be among you—that King the many-crowned Jesus. Your children throughout the world will rejoice in the joy of her who has been the nursing-mother of them all, and as they contemplate the deliverance that the Lord shall have accomplished in her, and the perfection and the symmetry of her arrangements, they shall raise the note of triumph and of praise, “Beautiful for situation, the joy of the whole earth, is Mount Zion, on the sides of the north, the city of the Great King.”

JAMES GIBSON, Esq., in rising to address the General Assembly of the Church

of Scotland, as an elder of the Presbyterian Church in Ireland, felt, that after the address of the reverend gentleman who has just sat down, it would be unpardonable if he attempted to detain the house at any great length, in the expression of his sentiments; but he would not discharge his duty as a member of the deputation, if he did not, on the part of the laity of the body to which he belonged, assure this Assembly of its devoted attachment to the sacred principles for which the Church of Scotland had always contended, and their most cordial sympathy in all the difficulties and dangers to which, in the maintenance and assertion of those principles, the Church of Scotland was now exposed. The Presbyterians of Ireland could never forget the land of their fathers, nor cease to venerate that church, the history of whose sufferings was associated with almost all the earliest lessons of their childhood. They were proud of their descent from the former, and they rejoiced to possess the privilege of brotherly intercourse with the latter; and when he (Mr Gibson) looked around upon this Assembly, he could not resist the conviction, that, in many of those whom he addressed, he beheld not only the successors, but the descendants, of those venerated men, to whose labours of love his brethren of Ulster were even now indebted for all the spiritual blessings which they possess; and that, in thus recording the attachment which they felt towards this church, he was giving utterance only to the feelings of gratitude, and discharging to the living the debt of obligation due to the illustrious dead. There existed, however, between the north of Ireland and Scotland a bond of brotherhood more sacred than any resulting from earthly relationship,—one which, he trusted, would yet be drawn still more closely,—strengthened by many high and holy considerations, and confirmed by many kindly offices of tender regard and Christian sympathy. There never was a time when the dealings of God's providence seemed to indicate more clearly that it was the solemn duty of those churches anxiously to cultivate towards each other such sentiments; for he believed that the chain of circumstances which had led to their present intimacy, and placed them, as it were, side by side, to succour and support each other, was a preparation for the accomplishment of some great design of God to his church, of which it would be presumptuous to venture at present even to guess the development, but in which both seemed destined in concert to take a distinguished part. He (Mr Gibson) looked on them, not as two distinct churches, but as two sections of one great body, called on, each in its own proper sphere, to promote the same great end. There was a coincidence in their history of late years, which pointed distinctly to the same object, although there was a different line of labour assigned to each. In Ireland the church had to purify itself from errors of doctrine, and in Scotland it had to assert once more the glorious principle of its own independent jurisdiction as a church of Christ, and to shake off every trammel which implied any subjection in spiritual matters to any other than its own Lord and Master. The Irish church had already, after a momentous struggle, succeeded in its duty; and although, as yet the contest here was still undecided, he (Mr Gibson) could not entertain any fears for the result; he was convinced that, as upon this foundation, laid with the prayers and cemented with the blood of so many martyrs, was built the whole platform of Presbyterian government; so upon the full and complete practical development of this truth depended not only the well-being, but the very existence, of the church. The Presbyterians of Ireland looked on with intense anxiety as to the result; and as they beheld their brethren here unflinchingly faithful in this great cause, and heard from time to time of their growing strength and still increasing courage, they offered up their thanksgivings to Heaven, and supplicated for still fresh supplies of grace to make them sufficient for their mighty work. For what purpose were the principles of these churches thus brought before the public view, and forced into notice, not only in the highest places of the land, but even in the lowliest abodes of the people? He (Mr Gibson) believed that there was now at hand, if it had not arrived already, a period of angry conflict between the antagonist principles of truth and error. The different forces were already taking up their positions in the field of battle—the hands of infidelity were seen in one direction, arrayed under the standard of a false philosophy; in another the Church of Rome was pressing forward its pretensions; in a third, the Puseyite, coming forth out of what had been once regarded as the

very citadel of the Protestant faith ; and against all these, surrounding it on all sides, had the Presbyterian Church in Ireland to contend. In Scotland, the church occupied a high vantage-ground—it had its hold on the affections of the great body of the people. Whatever their feelings might be on some points of difference, in doctrines they agreed with its standards ; but in Ireland the case was widely different. There the Presbyterian Church had no sympathy in the minds of the great mass of those in the midst of whom it was situated. At the very present time, the validity of presbyterian ordination was called in question, and the right of presbyterian clergy to solemnize marriages in cases where one or both of the parties belonged to the established church in that country ; and upon what grounds was this right denied ? because forsooth the episcopal church in Ireland did not recognise the validity of presbyterian ordination. He trusted that the judges in Ireland, on a reconsideration of the case, would not confirm the judgment which they had in one case already pronounced, ordaining such marriages invalid, asserting that the commission which the ministers of this Assembly, as well as of the Presbyterian Church in Ireland, hold as the servants of the Lord, is altogether null and void. But these opinions were not confined merely to courts of law ; they were prevalent even amongst the clergy of the established church ; and in an Irish periodical now under their patronage, the question, “ Which is the Church of Scotland—the presbyterian, as established by law, or the episcopalian as still maintained by some in this country ? ”—has been the subject of discussion. There was then between the two churches the same danger, the same difficulties, interposed ; and any attack made upon the one could not fail to be felt by the other. If in Scotland the present conflict should end in the defeat of those who asserted as its fundamental principle, its own inherent and supreme ecclesiastical jurisdiction ; or if, worse still, their defeat should exhibit any disposition on their part to doubt the high ground which they now so valiantly occupied, the Church of Ireland would deplore either as its own calamity. But he (Mr G.) had no fear of any such event. There was within this church a spirit which would not give way ; there was in the truth which it maintained, an imperishable principle of life, which, even though buried for ages, will still, in the providence of God, come forth in all its own native holiness. The presbyterians of Ireland looked forward to the time when, conflict being ended, this church would be at liberty to adopt the suggestions of a venerable member of this Assembly whom he saw before him (Principal Dewar,) when, holding forth the language, and breathing the spirit of Christian love, the presbyterian church would address the people of Ireland, not in the tone of angry politics, or that of fierce controversy, but in such language as would carry conviction to their heart, and make the name of Presbyterian in Ireland, as well as Scotland, the happy designation of a people rejoicing in the truth.

S. M. GRIER, Esq. (or Counsellor Grier) considering the variety of important matters that are pressing on the attention of the Assembly, and the fulness with which the other members of the Irish deputation have expressed the sentiments of the Irish Presbyterians towards their mother church, I believe I shall exercise a sound discretion, and consult the convenience of the house, by adding nothing to what has been said, further than stating my full concurrence in the resolutions of the Irish Assembly, and the pleasure which I have in being one of the deputation by which they are communicated. I hold it as one of the highest privileges of my life to have taken a part in the delightful intercourse by deputations which has now been established between this church and the Irish Assembly. That intercourse will, I hope, be continued, and made still closer by this Assembly, not only in the Irish church, but with all others professing the same faith ; and I will venture to assert, that however far it may be extended, it will not reach any church from which a warmer and more zealous support and co-operation will be yielded than from the Irish church. In fact, the Presbyterians of Ireland, having no very pleasant historical recollections connected with their native land, are proud of referring back to the land of their Scottish forefathers for those heart-stirring associations,—associations which their own country does not afford ; and to this circumstance may be ascribed much of the zeal and energy which they exhibit in support of those principles which have obtained the sanction of this church.

Dr MAKELLAR.—I cannot sufficiently express the high, and, I am sure, the holy

gratification which must have been afforded to every member of this house, in witnessing the presence of the deputation from the Presbyterian Church in Ireland, and in hearing the noble and brotherly sentiments which they have just expressed. It is quite evident that the relationship in which they stand towards us is not a name but a blessed reality. It is evident that we are one in origin, one in interest, and one in aim. It is evident, too, by this time, that the sympathy they have expressed is a true sympathy, and not merely a consequence of that ardour which characterizes the Irish nation. It affords an assurance that they will make every exertion they can in our behalf. We have experienced much kindness from our Irish brethren in times past, and we are not insensible or indifferent to it. They have reminded us of our common origin, they have said that we are brethren descended from the same parents, bound together by the same word of God, and, though for a time that connection was lost, yet it was but for a time, for it is now, in some measure at least, regained, and it will, I trust, be fully established by the continued exercise of reciprocal affection. And though we may be still different in name, yet I trust the time will soon come, when not even that distinction shall exist; and I hope that in the meantime we shall go on together in promoting the glory of God, and the best interests of religion. I shall not, at this late hour, insist on our attachment, and, I trust, unalterable attachment, to the Church of Ireland, but I shall refer to a motion which will be read by Mr Dunlop, and which, I trust, will receive the unanimous concurrence of the members of this house. That motion will assure them that we are not unmindful of their exertions on our behalf.

Mr DUNLOP said, that there was laid upon him the high honour of moving an expression of their christian regard and affection to the deputation they had had the pleasure of hearing. He participated in the feelings which had been expressed by his reverend friend (Dr Mackellar), and in the desire which he had signified that they should be knit more closely together to their brethren in Ireland and England, and throughout the world. He hoped that the really refreshing presence of their friends would give a life and intensity to such feelings. It could not but be gratifying to all of them, that the Presbyterian Church of Ireland sympathized with them in their present struggle, and lent them her ready and most effectual aid. Mr Dunlop concluded by moving, that

“The General Assembly have heard with great delight the statements of the deputation from the General Assembly of the Church of Ireland. They feel the deepest interest in the state and prospects of a church so near and dear to them, and rejoice to hear of their prosperity and increase. They desire to take courage from their assurances of sympathy and support in carrying on the struggle in which they are engaged, and acknowledge with heartfelt gratitude the energetic, unanimous, and most important aid already rendered them. They would gladly, to the utmost of their power, co-operate in obtaining the removal of any difficulties in which the Presbyterian Church of Ireland is, or may be, involved. They would unite in prayer to Almighty God that He would be pleased to prosper them as a Church, and pour down his Spirit upon their members, and bless the missionary operations in which, the Assembly rejoice to think, they are engaged on the same field with the missionaries of this church, and request their Moderator to express to the deputation the feelings of gratification, esteem, and affection, with which this Assembly is animated towards them and the church which they represent.”

Dr HILL was very sorry that Mr Dunlop's motion should contain any thing which might possibly create a discussion. Since there were various expressions in it, however, with which he could by no means concur, he thought that if the Assembly agreed to this motion, it should be without a vote. Agreed to.

The MODERATOR then communicated the thanks of the house to the Irish deputation. He said—Gentlemen of the deputation from Ireland, I have the pleasure of expressing to you the feelings of satisfaction which the General Assembly have experienced from your appearance among us. As individuals, we welcome you with affectionate kindness; and, in your collective capacity, we desire to render you all honour, as representing a church endeared to us by hereditary ties and ancient recollection, and instances of recent kindness and active service; and a church entitled to our high respect, from the zeal, and fidelity, and ability with which it is fulfilling the

great ends of a christian institution, and from the evidence which it affords to the world, in circumstances which render the experiment peculiarly interesting and valuable, as to the efficacy of the presbyterian system of government, in connection with the preaching of the doctrines of free grace, in repressing disorder and crime, and in training up a peaceful, industrious, and virtuous population. We are deeply sensible of the obligations under which your church has placed us, by the lively interest which you exhibit in every thing connected with the Church of Scotland, and by the substantial proofs which you have afforded of your willingness to co-operate with us in our missionary schemes, and in all by which it appears to you that you may promote our advantage. We can assure you of an interest entirely reciprocal. We have listened with sincere delight to the statements which you have made as to the position of your church, and your plans of usefulness. We admire the wisdom and zeal manifested in your proceedings. And from what we know of the character of your clergy, from what we have seen this day of your influential laymen—from the care exhibited by you, not only in regard to the talents and literary qualifications, but still more, as to the religious character of the aspirants to the sacred office,—from your judicious efforts to improve the character of those already connected with your body, and to make a successful inroad into the regions of darkness, and degradation, and delusion,—we cannot but cherish the most sanguine hopes as to the progress of the Presbyterian cause in Ireland. We trust that the intercourse between the two churches may long be continued, and become more intimate, that we may profit by our mutual experience, be stimulated by the example of each others zeal, and that history, in its future pages, may have nothing to record but instances of our holy rivalry in provoking one another to love and good works.

#### RELIGIOUS EXERCISES.

Dr MAKELLAR proposed that the services of the Assembly should commence every morning by reading a short portion of God's word, and singing a verse or two of a psalm. Instead of being a waste of time, it would, by the blessing of God, save much, and dispose their hearts to the exercise of those feelings of brotherly kindness and mutual forbearance which they might otherwise overlook.—Agreed to.

The Assembly then adjourned till half-past six o'clock.

#### SATURDAY EVENING.

After adjournment, the Assembly met at half-past six o'clock.

The Clerk read the following overture anent the rescinding of the Act 1799, relative to ministerial communion:—

“The Synod of Lothian and Tweeddale humbly overtures to the General Assembly to cancel or rescind that part of the 5th act of the General Assembly of 1799, which prohibits and discharges ‘all the ministers of the church, and the ministers of all chapels of ease connected therewith, from employing to preach upon any occasion, or to dispense any of the other ordinances of the gospel within any congregation under the jurisdiction of this church, persons who are not qualified, according to the laws of this church, to accept of a presentation, and from holding ministerial communion in any other manner with such persons.’”

Mr CUNNINGHAM held the act referred to in the overture to be eminently discreditable to the Church of Scotland. It was quite competent for the present Assembly to rescind it; because it had been passed without being transmitted to Presbyteries, so that it rested only on the authority of the Assembly of 1799. It was passed for temporary purposes, and upon motives and grounds which he believed were now regarded by a great majority of the Church of Scotland as of the most erroneous and improper kind, and as amounting to nothing less than a hatred to the cause of evangelical truth. It was directed mainly against the labours, and exertions, and employment in the pulpits of the church, of men eminently blessed of God,—Messrs Haldane, Mr Simeon of Cambridge, and other ministers of the Church of England, and of the evangelical dissenters; prohibiting all the ministers of the Church of Scotland, and the ministers of all chapels of ease connected therewith, under the penalty of church censures, from employing to preach upon any occasion, persons not qualified to hold a ministerial charge in the church. The first part of it says, that no one is entitled to possess a cure in the

Church of Scotland, who has not received license, according to the laws and forms of the church, from one of its presbyteries. With that declaratory part of the act 1799 he did not mean to interfere. It might be questionable, on strict principle, whether such a law should have been issued. At the same time there was nothing in it exactly contrary to principle. The overture was directed only against the latter part of the act, which prohibits any minister of the church from admitting to his pulpit, or employing in the dispensation of any of the ordinances of our religion, any other than those duly licensed, after a full curriculum of study, by the presbyteries of the church. Never before 1799 was that the law of the church. It had been successfully contended at the time, that it was not possible to lay the hand on any thing that could be called the law of the church, or a principle of the church, which authorised the issuing of such a prohibition. It had been passed at a time that was now considered one of the most melancholy and deplorable periods in the church's history; but a very few years after the Assembly had declared that they would take no part, and manifest no interest in the propagation of the gospel among the heathen abroad, when many of its members regarded the church as a mere municipal institute or corporation. They had been more recently led, by the 'good providence of God, and by the grace of his Holy Spirit, to become familiar with regarding the Church of Scotland as a branch of the great catholic church of which Christ is the head. They had been awakened to a better and deeper sense of that view of their condition, and of the duties and responsibilities connected with it. In consequence, they had been led to consider other sections of the one visible church with affection, as members of the same body; and it was a result of the prevalence of that sentiment, that the overture had been laid upon the table, and that the motion with which he meant to conclude had been proposed. In various cases, the act 1799 referred to, had been practically violated. It had been broken when the brethren of the Presbyterian Church of Ireland had been admitted into ministerial communion; and he believed that the majority of the house were persuaded, by the result of that intercourse for some years past, and by what they had heard that day, that in disregarding that act, they had acted on sound and beneficial principles. It had been substantially disregarded by very many of them; and ministers, not licensed by Scotch Presbyteries, had been admitted into the pulpits of the church. The prohibition had not been enforced, and he thought no presbytery would now enforce it; so that even if it continued, and were attempted to be enforced, the Assembly would give no countenance to any Presbytery making such an attempt. They should therefore put an end to the inconsistency of having it on their statute-book. They should abjure the narrow, and illiberal, and sectarian spirit which dictated it. Every one would feel that it was a right and reasonable thing to hold ministerial communion with the members who had addressed the house in the forenoon, and with all the other office-bearers of the same church; and there was no one who had listened to the letter from the Presbyterian Church of North America, but would feel it a right and reasonable thing to have the same intercourse with that Church. That letter expressed a hope that the time would soon come when the Presbyterian Church of North America would have personal intercourse with the Church of Scotland; and the Assembly hoped so too. But so long as the Act 1799 remained, if the authors of that very admirable letter were to come to this country, they could not employ any of them to preach in our pulpits, or address our congregations. Not to allude to foreign churches, with whom we should cultivate a closer ministerial communion, there was a strong feeling that they should hold also some measure of communion with the Dissenting Presbyterian bodies of Scotland. It would tend indirectly, but yet very speedily, and certainly to a much more thorough and complete amalgamation of the various Presbyterian bodies, and bring on the result of all the Presbyterians in the world being cordially united in promoting and advocating the great and important principles they profess. The reverend gentleman concluded by moving in terms of the overture.

Mr HETHERINGTON of Torphichen seconded the motion.

Principal DEWAR said, he had never felt himself bound by that act; in fact, since he was a minister of the Church of Scotland, he had always acted in violation of it. When in Glasgow he had the honour to have in his pulpit that faithful servant of



Christ, the Rev. Rowland Hill, together with others of different denominations. His views of it may be different from those of Mr Cunningham, for he (Principal Dewar) did not consider it as binding, owing to the way in which it had been passed. Its object was to keep out of the pulpits of the Church of Scotland the most faithful preachers of the land, who were at that time chiefly among the Secession. He would wish to hold ministerial communion not only with churches abroad, but also with churches at home, for he thought they were bound by every tie of Christian principle to open the door a little wider, and to admit men who were the faithful servants of the Lord Jesus Christ.

Dr WILLIS said, if this act, which it was proposed to rescind, was a mere old narrow-minded sectarian act, no one would join in rescinding it more gladly than he would. But at the same time he thought it necessary to give the ministers of the church some directions as to the use of liberty which the rescinding of this act would give them. He thought that it would be necessary to place some restrictions on the indiscriminate admission into their pulpits, of ministers of other religious denominations, for in his view, an indefinite latitudinarian scheme of admission was most of all opposed to the real unity of the church. Without such restrictions, where would this liberty end? He might preach in the forenoon certain doctrines, which in the afternoon might be contradicted by the minister of another communion whom he might admit into his pulpit,—or he might contradict in the afternoon what another minister had said in the forenoon. This was a liberty which they should not grant rashly,—they having pledged themselves to a belief in the doctrines of the Confession of Faith, should take care not to interrupt its unity and harmony by opening their pulpits to those who might preach another doctrine. As one, who had himself been a Seceding minister, he was desirous for union among Christians; he had given a practical proof of that by joining the church; but, at the same time, he could not approve of any thing like an indiscriminate admission of ministers of other communions into the pulpits of the church. He was ready to meet and act with those ministers on the platforms of Bible and missionary societies, but he was not ready to detract from the harmony of the Confession, by holding pulpit communion with them. And besides all this, how did they know that, when they offered to join in communion with ministers of other denominations, these ministers would agree to join with them? Instead of availing themselves of their offer, might they not rather point to it with the finger of scorn, and say that their liberality of sentiment was late of coming?

Dr CANDLISH said that the argument of Dr Willis, as to the risk which would attend the giving to the ministers of our church liberty to hold communion with those of other denominations, proceeded upon the assumption that our ministers themselves would not prove faithful. Such an assumption the Rev. Doctor had no right to proceed upon; but even though well founded, the sooner such unfaithfulness was indicated, the better for the church. If any minister were himself to preach in the forenoon the great doctrine of our standards, and in the afternoon admit to his pulpit one who would call in question the essential articles of the faith, it would be manifest that he himself was not sound, and his ecclesiastical superiors could proceed against him. But there was little or no danger of such consequences from adopting the motion now on their table. Its only effect would be to remove the prohibition which the act 1799 introduced, forbidding the reception of ministers of any other denomination whatever into their pulpits, and to place our ministers in the precise position which they occupied before the act 1799 was passed. If the liberty which the adoption of this motion would grant them were abused, it would then be time enough to make regulations and restrictions; but he did not see the necessity of making these just now, as he did not anticipate any evil consequences from the measure at all. He was not aware that the act 1799 was passed because of such abuses having become prevalent. It was, on the contrary, notorious that that act was passed for the very purpose of excluding from the pulpits of the church, men whom it would have been an honour to any church to employ in preaching the unsearchable riches of Christ. And he did not know that any of the ministers of the church were likely to abuse the liberty which the rescinding of this act would confer upon them, except, perhaps, one or two who held communion with those who derived their only authority from a body of Chartists, and these were amenable to

discipline, and, he trusted, already under it. But it was not to Chartists that the pulpits of the church would be thrown open, by the rescinding of this act. It would be to ministers, for instance, from foreign lands; from Geneva, or from Switzerland; men such as Dr Malan, to whom, at a communion season, in a parish which God had blessed by a revival of religion, he (Dr Candlish) had felt it a privilege to give way. It would be to ministers of that church from which that day they had received so kind and affectionate a letter—the Presbyterian Church of the United States. The rescinding of this act would enable the Church of Scotland to draw such men towards her in the bonds of unity and love. He could not sympathise with the fears of Dr Willis; and he did not see, if they were to meet with the ministers of other religious denominations, on the platform of Bible and missionary societies, why they should not also hold brotherly ministerial communion with them. If it was right and proper for him to meet with them in order to advance the common cause of their common Christianity, he did not see why he should not also avail himself of their services in preaching the gospel, and administering the sacrament. Dr Willis seemed to think that their Dissenting brethren would spurn the offer which the rescinding of this act would make. But even supposing that to be the case, was it a reason why the church should refuse to take out of her statute-book, an act which distinctly and unquestionably gave her the character of a sectarian body. For in passing that act, he (Dr Candlish) held that the Church of Scotland had isolated herself from the communion of saints—so far as the present world was concerned, had proclaimed herself to the world as a sect, and had separated herself from all the other churches in Christendom. Dr Willis had spoken much of unity of doctrine, of adhering to our form of sound words, and of the danger of a spurious liberality. Now no man felt the importance of these things more than he (Dr Candlish) did. But the day was not yet come when all who loved the Lord Jesus saw eye to eye, and lived in uninterrupted harmony; these were still the days of imperfection. And were they to make no allowance for that difference of opinion which prevailed in the various churches of christendom, relative to discipline and government, were they not to hold as members of the one catholic visible church of Christ, those who differed from them on subordinate points, even of doctrine. He was sure no one in this Assembly would say so; and, if not, then it followed that they ought to place themselves again in that position which they should never have left, as a branch of the one catholic visible church of Christ. He begged leave to support the motion of Mr Cunningham, for the rescinding of a statute which, in his opinion, was a blot upon the Church of Scotland.

Dr WILLIS thought that Dr Candlish had not adverted to the distinction between the visible and invisible church of Christ. He (Dr Willis) admitted that the invisible church was one, but he denied that therefore they were in all circumstances to hold visible communion with the visible branches of it.

Dr CANDLISH said he had not omitted the distinction to which Dr Willis referred. He distinctly held the catholicity, not only of the invisible, but of the visible church of Christ.

Mr CARMENT agreed cordially with the spirit of the overture, but strongly recommended that some means should be adopted, whereby men of unsound belief would be excluded from their pulpits. He stated that cases of this kind had come within his own knowledge. Caution was all the more necessary, since some ministers might not be disinclined to admit men of unsound views into their pulpits.

Principal LEE did not feel any sympathy for the act; but he thought it incumbent on them to exercise some caution, in order to moderate that ardour with which individual ministers might enter into the plans for receiving into their pulpits men not duly accredited. He had himself seen men address congregations from the pulpit on the doctrines of Christianity, when they had not actually been ordained. He would suggest that something should be inserted in the deliverance of the Assembly, to prevent any thing of such nature from taking place.

Mr Smith of Borgue, and Mr Thomson of Dundee, spoke to the same effect.

Mr GUTHRIE said, he looked upon the act 1799 as one of the blackest acts the Church of Scotland ever passed; and he rejoiced with all his heart that such a motion had been made. For himself he saw no great occasion for all these cautious

and precautions. Why was that act passed? There would have been great need for such cautions and precautions if there had been any danger of heretical views getting access into the pulpits of the church; but he held that it was passed, not to exclude heresy from our pulpits, but to exclude truth. If he preached heretical doctrine in his own pulpit, the Presbytery of Edinburgh was entitled to call him to account for it; or if he admitted a Socinian into St John's, he was equally liable to be called before the Presbytery. He rose for the purpose of protesting against a sentiment uttered by his friend Dr Willis. He (Mr Guthrie) had as much to do in contesting the matters of the church with his dissenting brethren as Dr Willis, and perhaps a great deal more; but, so far as he knew the sentiments of his dissenting brethren, they would not taunt us with passing this act; they would rejoice that the Church of Scotland had passed such an act, and washed her hands in the Assembly of 1842, of an act which disgraced her when passed in 1799. He had mentioned to an office-bearer of the Secession church, that the present measure was contemplated, and that if nobody else brought it before the Assembly, he would do so himself; he had had occasion also to speak of it to others; and there were none to whom he had spoken of it who did not rejoice in it as Christians; and he would do his dissenting brethren the justice to believe, that they would not, as Dr Willis had said, think less of the act that it was passed at this late hour. Why was it only passed at that late hour? He would answer in the words of the old proverb, "better late than never." He could explain why it was passed at that late hour. If they could have contemplated having a majority over the other side of the house, it would have been passed long ago. But they had not the power of passing such an act by a majority of the church. He would himself have proposed it long ago, if he could have believed it would have been carried, as carried it would be this evening, by a great majority.

Mr CUNNINGHAM proposed to obviate the objections which had been stated, by adding to the overture the words, "While, at the same time, the General Assembly urge upon the ministers of the church to guard against holding ministerial communion with men who are not sound in the faith."

Dr HILL was quite aware that the time was come when a change might be made in the Act 1799. He had received ministers of other communions into his pulpit, and therefore could have no objection to the alteration. At the same time he recommended the Assembly to guard against the abuse of the privilege.

Mr DUNLOP said, it appeared to him that the only objection urged against the passing of this motion just in substance amounted to this, that there would be no security at all afforded against the introduction of unsound doctrine into the pulpits of the church, but this act 1799; and of course it would follow, that till that act was passed, the church was in a state of latitudinarianism,—there was no security for her people at all, they being left at the mercy of a wild irresponsible discretion. The idea required only to be stated, and its absurdity was seen. This act required not to be modified, but to be expunged and cancelled, for it forbade their holding ministerial communion with any church of Christ over the whole world. It was an antichristian act, entirely opposed to the catholic nature of the church of Christ,—it made them no better than one of those sectarian churches which assumed the name of catholic, —for it was a striking fact, that those churches which most vauntingly assumed the name of catholic, were in reality the most sectarian. He trusted such would not be the case with them, and that they would now remove this hindrance to catholicity out of the way.

Professor ALEXANDER.—I beg leave again to ask, would Mr Cunningham add to his resolution, that none be admitted to preach in our pulpits except they preach the doctrines of the Confession of Faith exclusive of its discipline.

Mr CUNNINGHAM.—I am not aware that there is anything in the Confession of Faith but doctrine. I am not aware that it contains any discipline. But really, if any have strong feelings and difficulties in this matter, their proper course is, after the rescinding of the act, to bring forward overtures anent the cautions and precautions that might be deemed necessary to prevent the abuse of the liberty. The field was perfectly open.

The motion was then agreed to.

## RELIGIOUS SUPERINTENDENCE OF STUDENTS.

The Assembly then proceeded to take into consideration the overtures anent the religious superintendence of students. The clerk read the following one from the Synod of Glasgow and Ayr:—

## OVERTURE ANENT UNIVERSITY EDUCATION.

“Glasgow, 15th April 1842.

“Which day, the Synod of Glasgow and Ayr being met, and having been constituted, agreed to transmit to the General Assembly the following overture :

“Whereas it is highly expedient and necessary that provision should be made for the pastoral care and religious instruction of students attending the literary and philosophical classes of our universities, and of the students generally, and especially for those of them who, resorting to these seats of learning from distant parts of the country, are unavoidably deprived of the guardianship of their parents, or who may be looking forward to the holy office of the ministry in the Church of Scotland, as their future profession in life; and whereas no such provision exists in connection with the present system of university education: It is hereby overtured to the Venerable the General Assembly of the Church of Scotland, by the Synod of Glasgow and Ayr, to take this subject into immediate and serious consideration, and to adopt such measures to supply this deficiency as to their wisdom shall seem best.”

“Extracted from the records of the Synod of Glasgow and Ayr, by

“ROBERT AULD, Syn. Clk.”

Dr ROBERT BUCHANAN, as a member of the Synod of Glasgow and Ayr, from which the overture now read was sent, said, I take the liberty of offering a very few observations in support of the object thus brought under the notice of this venerable house. I do not intend at this late hour, and on this particular evening of the week, to detain the Assembly. At the same time I conceive (and I believe my feeling on the subject will be generally sympathised in) that the subject to which the overture refers is of so important a nature, that it would be unworthy of the house not to bestow on it some small measure of its attention. There are two points referred to in connection with the existing system of university education—two points of deficiency which it is desirable that this Assembly, so far as may be in their power, should take measures to supply. The one is in regard to the direct communication of religious instruction to the students who assemble at our different universities. It is unquestionably not a desirable state of things, that in the universities of a Christian country—by their institution very directly connected with our own church—there should actually, at least in several, be no provision whatever made in connection with the university system, for imparting religious knowledge to the youths there assembled. They may receive, and do receive, every advantage which the progress of learning and science can afford. But in so far as the knowledge of religion, of that gospel truth which makes men wise unto salvation, is concerned—in so far as that divine learning is a matter bearing directly on the wants and interests of mankind,—there is no systematic provision made for that knowledge being imparted to the youth gathered into our universities. They come there at the period of life when such instruction is peculiarly necessary, when they are exposed, amid the temptations of the large towns or cities which are our university seats, to new associates and manifold snares, at the period when the mind commonly receives the impressions that last through life. They come at that critical season of life to our universities, and are left to pass through those critical years, receiving various branches of learning, subject to the influences of various kinds of knowledge; but left, so far as the university system is concerned, strangers to the influence of that only knowledge that can bring them unto God, and direct them in the way to heaven. I do not think it necessary to dwell on a deficiency so obvious and so great, in order to commend to the General Assembly of the Church of Scotland the object to which this overture relates. All must feel it to be a manifest defect—a defect demanding attention and calling for a remedy. I have stated that this defect does not, in all its extent, apply to all of our universities. I believe that in so far as the universities of the metropolis and of Glasgow are concerned, there is absolutely no provision whatever for the communication of religious knowledge to the youth who are attending

the literary and philosophical classes of these establishments. At one of them, indeed, there is a chaplain, who assembles with the students on the Sabbath day for public worship; but in so far as the direct communication of religious instruction, through the medium of classes, or by a special officer appointed for that end, is concerned, there is no provision whatever. And one may pass through these universities—through the whole curriculum of literature and philosophy, except in so far as certain classes are opened with prayer, without learning even the very first principles of the truth as it is in Jesus. In one of the colleges of Aberdeen [both—from Professor Brown,] there is a lectureship on one day of the week—a mere address by one of the professors on the subject of religion, but nothing of those direct catechetical instructions, without which it is vain to expect anything like a proper acquaintance with the principles of religion. In that college there is no regular provision for public worship. In the other, there is a weekly lectureship, and a chapel for the students. But even in these two cases, the provision is altogether inadequate to the object desired to be accomplished. The other deficiency to which the overture refers, and which it prays that the General Assembly of the Church of Scotland should make the subject of immediate and earnest consideration, with a view to provide a remedy, is in regard to a moral and religious superintendence over the general character and conduct of students. The system of superintendence in the English universities—I do not pretend to say with what success it is practically administered—is of a nature which, if faithfully ordered, would ensure the exact surveillance of the every-day life of those who attend these seminaries of instruction. But the entire difference of system in our universities presents a great obstacle to the attainment of such an object. There is no provision for lodging the students within the walls of our universities; and consequently, we have not the same means of bringing them under the cognisance and controul of officers connected with these institutions. At the same time it appears to the proposers and supporters of the overture, that something at least might be done towards the providing of some system of superintendence that might go far to remedy the existing deficiency. The greater number of our students assemble at our university seats from distant parts of the country. They are necessarily separated from their parents and natural guardians, introduced into the society of strangers, left, most of them, to the casual influences by which they may find themselves surrounded; and I need not tell any one who has experienced or had his eyes open to observe the course of a student's life, how formidable and fatal these influences are—how many youths are carried aside by them from the path of piety and virtue in which they had previously been trained to walk, and led permanently into the crooked paths of sin, and brought under an influence which gives a direction to their whole future life, and alters the course and current of their whole conduct. I conceive it is the manifest duty of this church to advert to an evil so obvious and so great, even if we were not directly connected with the universities of Scotland, the very circumstance that our position as the Established Church of this kingdom gives us not merely a right, but imposes upon us a duty, to watch over whatever concerns the religious welfare of its people, and would call upon us to advert to a question of this nature. But when it is borne in mind, that by the constitution of the kingdom, the national church stands in the most direct relation to all the educational establishments and institutions of Scotland, and stands in that relation on the very purpose to secure that the religion of which that church is the guardian and teacher, shall be carried out in that university system, and made to bear on those who are the subjects of that university education; we are unfaithful to the trust reposed in us—to the duty which the state has committed to our care—if we do not adopt every legitimate means to secure that the holy religion of which we are the appointed guardians, shall be brought to bear on the youths attending the classes. What can be done in order to meet the deficiency to which I have referred? I have already said that we have not any provision for bringing the students within the walls of these establishments, and placing them directly, as it were, in a domestic capacity, under the oversight and guardianship of the officers of these establishments. I know that, in the absence of that provision, in some, at least, of the universities, individual professors, or the university as a whole, may endeavour

to supply that radical deficiency, by doing what in them lies, individually and collectively, to maintain a sort of general oversight and inspection over those attending the institution. Dr Cook, when I had an opportunity of speaking to him on the subject, mentioned that something is done, and, I doubt not, to the extent of making it practically a principle of value in the university of St Andrews, with a view to bring the students of that establishment under the care of the professors. But, notoriously, what is everybody's business is nobody's. A student generally attends two, or three, or more classes. No professor considers him under his particular care; and whatever kindly feelings he may show to him when he comes before him, or is invited to his house, still it is not expected that the professors should follow the students over all the town to see how they are lodged, who are their companions and guardians, and what course of conduct they are pursuing. This is not expected; and it is not done. I never experienced any such oversight or superintendence during my attendance at college; and I am no exception to the rule. It is the same with all. I might have been at any church or at no church all the session, living in the worst company or in the best company, and my professors know nothing about it. It was enough if I gave regular attendance on the classes, and preserved a correct demeanour there. This evil calls for remedy. What have we in our power to do for securing the object to which the overture refers? We can appoint, and it is indispensable that we should appoint, a pastoral superintendent at each of the universities of this kingdom, whose special business shall be to act as the friend, and counsellor, and guardian of the students there. Of course, we could not make it binding on the parents, to place their children under the charge of such a superintendent. But I feel the most unbounded confidence in coming to the conclusion, that were it only made known to them that a minister of this church was set apart for such a purpose, the parents would rejoice at the opportunity thus afforded them of placing their sons under proper protection and care. These are the general views which this overture has led me to bring before the Assembly; and I now beg leave to move, that "The General Assembly, having considered the overtures on the Religious Superintendence of Students, resolve and declare, that it is expedient that a pastoral superintendent, appointed by this church, should be established in each of our universities; and appoint a committee to consider and report on the arrangements necessary for carrying this resolution into effect."

Dr DEWAR approved of the motion.

Dr BROWN of Aberdeen agreed with Dr Buchanan, but was sorry the house should think the religious education of the students was altogether neglected. That was not the case, as they had already heard. He would not recommend interference with those young men who were members of other churches. He did not agree with Dr Buchanan as to the propriety of throwing a number of young men together; and experience went against it.

Mr PAULL of Tullynessle said, he had been anticipated in one remark by the Rev. Doctor, but he thought it might come with greater force from him (Mr P.) He (Dr Brown) occupied the situation of a professor, and was therefore a party in the case, but he (Mr P.) must say, that in the university with which he was concerned, as also its sister university, a strict pastoral superintendence was exercised over the students. He thought there should be a more systematic plan than Dr Buchanan's proposal. It is the glory of our parish schools that they are religious institutions. Now, he thought it desirable that when young men passed from them to the university, the same religion should always be at the foundation of all their knowledge.

Mr NAIRN of Forgan felt himself called on to be a testimony in favour of a learned professor (Alexander) of Greek in the university of St Andrews. Not only did he instruct his students professionally in literature, but had a separate class, where his object was to instil into their minds an acquaintance with both the doctrinal and experimental truths of Christianity. Were this example extensively followed, and if each professor took charge of the moral as well as intellectual instruction of his students, this proposal might be superseded; but they had no security that this would be the case, so that the best plan was to agree with the overture of the Reverend Doctor.

Professor ALEXANDER supported the motion, referring to the care exhibited to-

wards the students of St Andrews by several of the Dissenting ministers. With respect to what had been stated as to his own conduct in the matter of the religious superintendence of his students, he had to acknowledge that he was an unprofitable servant; but he considered it his highest privilege as a professor, to watch over the Christian principles and character of the students committed to his care.

Dr LEE desiderated the means of an adequate superintendence of the students in the university of Edinburgh, and spoke of the difficulties experienced there, from the dispersion of the students over a large surface, and other causes. He also shewed the propriety of measures being adopted for improving the system of religious education generally in our colleges, to a much greater extent than had been found practicable for a great many years past. The same difficulty was not felt in the early times of the church. In these times the education of young men, during their curriculum of study, when preparing to take degrees in arts, was placed chiefly under the charge of one individual, who carried them through the various parts of their studies, and not only devoted a portion of every day to the exercises of devotion in his class, but appropriated certain days of the week to the religious instruction of the students; and it was for their use that the Catechisms, Larger and Shorter, were translated into Latin, at a time when the education of the students was chiefly conducted in that language. The Rev. Principal concluded by making some remarks on the inadequate provision made for students of the university of Edinburgh, in one of the parish churches, where there are not sittings for more than a fifth or a sixth of the students.

Dr HILL stated that measures were in contemplation in the university of Glasgow for extending the means of religious instruction, and which, he hoped, would be matured before the next session. He agreed with Dr Dewar in regretting that the universities had not been taken along with the church in this proposal; and hoped that if any individual was appointed to take charge of the religious superintendence of students, he would be one already connected with the university, as this would insure him a more easy access to the students. He approved of the overture, having giving it his support in the inferior court.

Dr CANDLISH rejoiced at the unanimity with which the proposal had been received; and it was still more satisfactory to receive such assurances from all connected with the universities, of their extreme anxiety on the subject. At the same time, he wished it to be understood that the purpose of the originators of this measure was to have individuals specially appointed to the office of superintending the religious instruction of such students as might be placed under their charge. There were two reforms in this particular needed in the universities, and which it was exceedingly desirable that the Assembly should not confound together. One of these reforms was incumbent on the ministers themselves, and the other was incumbent on the church. He held it to be one of the stigmas on the Scottish universities, that religious knowledge formed no part of the examination of students for degrees in arts, and that there was no security as to the religious instruction of those who received them. (Here Dr Dewar was understood to dissent.) He rejoiced that there was some improvement in this respect in Aberdeen; but it was not the case in Edinburgh, or in Glasgow, where he had received his own degree in arts; and he expressed his hope that all the Scottish universities would set themselves right on this subject. The reform more immediately incumbent on the church, was to make provision for the religious superintendence of the students generally; and he ventured to say, that this could not be accomplished in any other way than by the appointment of a particular individual at each university seat, to the special office of watching over the spiritual interests of the youth attending the university.

Let it not be supposed that the Church of Scotland here means anything sectarian, or striking at other denominations. It is no more than right and proper that the Synod of Relief, or the Synod of the United Secession, should adopt the same expedient at all university towns. Wherever students are gathered belonging to any denomination, there should be provision made for their religious superintendence by the denomination to which they belong. Thus, I think, it is the duty of the Church of Scotland, whose students are congregated in any considerable numbers at the university towns, to make provision for their religious superintendence. This need

not be compulsory. If the people of Scotland were made aware that the Church of Scotland had appointed a minister of the gospel at each of the university towns, who should be set free from every other duty except superintending the manners and religious instruction of the youth who choose to put themselves under his care, such an intimation would be hailed with gratitude by the parents and guardians of many who are now left to stray in the paths of sin; no man caring for their immortal souls. It is very well to speak, as a professor on the other side spoke, of the excellency of particular ministers, and the care which they take of the students; but it is impossible for me, or any one similarly situated, to give due pastoral superintendence even to some half-dozen students who may happen to attend any church. But let the Church do its duty of having at each of the university cities a minister whose sole charge is to oversee the conduct and impart religious instruction to the youths at college, whose parents and guardians may put them under his charge. Thus, at all events, the church will have discharged her duty. This is precisely the reform at which these overtures point. It is not enough to satisfy the authors of these overtures that we merely call the attention of the country generally to the necessity of more attention being given to this subject. Neither will our view be met by any academical arrangements which can be made in the present state of the universities. Nothing will exonerate the church, but the appointment of a minister by the church herself. This interferes not with any duty of the professors. I must concur in hearing my testimony on the subject to which my respected friend Dr Buchanan referred, in regard to the condition of young men attending college. The state of the universities, or rather of the university towns, (for far be it from me to say the blame lies with the universities, who wish to do their duty in the matter,) with all their temptations, and opportunities of sin, costs many a parent an anxiety of heart which would be greatly relieved, or altogether removed, if they were made acquainted with some godly minister, whose sole duty is the superintendence of the youth, and under whose special charge he might place his son, at the time when he was most susceptible of impressions, to be guarded against temptations, and encouraged to walk in the way in which he has been trained to go by his parents, and former teachers. No interference is intended with the universities, nor any reform intended to be introduced among the university officers. It is right and proper that the superintendents of every university should attend public worship with those under their charge, in the chapel of the university, or somewhere else; but no such arrangement, even the most perfect, would meet with and satisfy the views of those who proposed these overtures. They wish the church to appoint an ecclesiastical officer, duly qualified and authorised, whose sole care of souls shall be the youth who are on attendance at the universities. Without compulsion or constraint—not shutting out other churches or denominations, but rather rejoicing if they should follow our example—we are anxious that there should be at each of the university cities, a minister thus set free from ordinary duties, to this special charge.

The motion was then agreed to.

#### FREQUENT CELEBRATION OF THE LORD'S SUPPER.

An overture was then read from the Presbytery of Dunse, in favour of the more frequent celebration of the Lord's Supper.

Mr CARMENT said he would not cordially go along with these overtures, unless the Assembly were also to issue an order to the ministers of the church, to be more rigid and careful in admitting communicants to the Lord's table.

Mr BUCHAN of Kelloe thought the communion was not celebrated so often as it should be. In most country parishes it was celebrated only once a year, and thus came to be looked on much in the light of a mere formality. Now, he could not but think that in scripture there were many injunctions to its frequent observance; and in the early ages it was, he thought, pretty clear that it was celebrated every Sabbath. True, that could not be done now, but still they ought to have it oftener than they had it. The objection of Mr Carment was by no means a sound one, for, if impure communion was an argument against frequent communion, it was an argument against the celebration of communion altogether.



Dr CANDLISH did not think that they were at present in a position to make any final decision on this subject. It was a subject, all would admit, worthy of grave inquiry; and without committing the General Assembly, either in favour of frequent communion or against it, he thought they should be satisfied for the present with the appointment of a well selected committee to consider the subject, in the light of ecclesiastical history—in the light of the usages of their native land—of the practice of former days, as well as in the light of present circumstances, and to prepare, what was absolutely essential, a somewhat elaborate report, to be presented to a future Assembly. His own leanings were in favour of more frequent communion, yet he did fear lest, in some instances, (and here he expressly excepted the Presbyteries from which the overtures on their table had come up,) he did fear lest, in some instances, the proposal of more frequent communion had originated in feelings tending in a direction which he should not wish to encourage—he meant high church, and seeming Puseyite views, which some might be adopting even within the presbyterian church. Still he did think that celebration of the sacrament once a-year in country parishes, and twice a-year in towns, as was generally the case, was by far too rare. But still there were difficulties in the way of a more frequent celebration, which they would do well to consider. In our large towns, for instance, the observance of the Lord's Supper was mixed up with other days associated with it; these were not rashly to be touched. But he begged leave to move that the whole matter should be referred to a committee.

Mr PAULL of Tullynessle seconded the motion. He had heard the Rev. Doctor's speech with extreme delight. He acknowledged that his feeling was not very favourable to frequent communion, but he was quite open to conviction.

Professor ALEXANDER said he had been led by a study of the word of God to be in favour of frequent communion; and if the usages of the church in appointing accessory days to the celebration of the ordinance stood in the way, he would say, let the appointments of men yield to the institutions of God. At the same time, he was willing to wait for the report of the committee, as he might have come to an erroneous conclusion.

Mr DAVIDSON of Drumblade was in favour of more frequent communion, and bore testimony to its good results in various parishes of the north.

Dr Candlish's motion was then agreed to, and the Assembly adjourned.\*

### MONDAY, *May 23d.*

The Assembly was this day opened with praise, and, after a portion of the cxlii. psalm was sung, the Moderator read the 60th chapter of Isaiah, and offered up a most impressive prayer. The minutes of Saturday having been read,

Dr COOK here read his reasons of dissent against the decision of the Assembly in favour of the Rev. D. Dewar and others, together with a set of resolutions which he intended to bring forward to-morrow, relating to the alleged encroachments of the civil power, and professing to have in view the restoration of peace and harmony to the church.

Mr DUNLOP.—We are much indebted to the Rev. Doctor for reading these resolutions, as being, as he expressed the other day, the utmost he intends to propose in order to restore harmony and peace.

### COLONIAL COMMITTEE.

Dr WELSH read the report of the Colonial Committee. Having announced that the collections for the past year exceeded those of the preceding by upwards of L.1000, it proceeded to state the present condition of the various missionary and educational stations. Queen's College had been opened under most auspicious circumstances, and Dr Liddell had been received with every kind of regard. The

\* It is now nearly ten years since this journal advocated greater frequency of communion, against an adverse Assembly. The question has made rapid progress during these few years, and we have no doubt that the Assembly of 1843 will endeavour to undo the mischievous effects of the decision of 1833. Our original standards fixed four times a-year. It certainly ought not to be less.

various missionary stations were in a flourishing state, and numerous applications had been made for additional missionaries. They had also received similar pressing applications from British residents in Brussels, Leyden, Petersburg, and Riga. The labours of the colonial presbyteries and synods in doing what they could to afford ministers to districts where none had been appointed, were worthy of all praise. The Committee had also done not a little during the past year in the way of furnishing emigrant ships with Bibles, Confessions of Faith, and religious tracts. Still they could not but remember that much more was yet to be done. A hundred ministers were required in Canada, sixteen in Nova Scotia, and seven or eight in New Brunswick, while to the West Indies only two had as yet been sent out; and in Ceylon and other places, single missionaries were left to wear out their strength, without even that consolation which the presence of a friend and brother could afford. The necessity of Gaelic missionaries was also urged on their attention. The report concluded by making a few suggestions for the carrying on of the operations with greater efficiency. It suggested that correspondence should be opened with the brethren in each separate colony, and in foreign states, for the purpose of tendering counsel, asking advice, and obtaining statistical information regarding their religious and educational condition, that deputations might be sent to the various presbyteries of the church in order to bring the scheme more prominently under their notice. The report also acknowledges with gratitude, the assistance rendered to the scheme by the presbyterians of England and Ireland, the former having contributed L.120, and the latter L.200 to the funds.

Mr DUNLOP made some statements relative to the presbyterian church in New South Wales. The Assembly were aware that some time ago a great division had taken place in that church. A body of ministers then had separated themselves from their brethren, for causes on which he would not now enter. However, a government act had been the means of restoring peace and harmony to the church, and they were now all going on in unity, zealous for the advancement of the Saviour's cause. At the same time, some small embers of disorder appeared not yet to have been entirely extinguished. Such, for instance, were the cases of Paramatta and Maitland. At the time of the separation, two of the separatist ministers were placed at these stations, and thus, at the reunion, there were four ministers, where only two were necessary. The synod upon this deemed it best to dismiss the whole four, and allow the congregations to have any two of them they thought fit. To this Mr Allan of Paramatta, and a number of his people, refused to submit; and upon his refusal, the moderator of the synod also refused to give him a certificate, without which he could not draw his stipend. Mr Allan appealed to the governor, on the ground that the government act pledged the synod to proceed in accordance with the law and constitution of the Church of Scotland, and that such had not been followed in his case. The governor refused to interfere, on the ground that the government had no right to exercise, and would not exercise, any authority in spiritual matters. All the documents had been transmitted to the government at home, and Lord Stanley had transmitted them to the Colonial Committee, with an expression of his opinion that the governor-general was perfectly right in refusing to interfere in the matter. The committee, on considering the subject, had come to the same conclusion, that the governor was perfectly right in not interfering; for for him to have done otherwise, would have been utterly inconsistent with the laws and constitution of the Church of Scotland. He hoped what the committee had in this case done, would meet with the approval of the house.

Dr MAKELLAR moved the approval of the report, and the thanks of the house to Dr Welsh, as convener. They must all have been delighted with the encouraging nature of its information; but they must also all have been impressed with the conviction, that "the harvest was great, and the labourers few;" and with the necessity of more and more prayer, that the "Lord of the harvest would send labourers unto his own vineyard." He was sure he might also say, for the whole members of the house, that it was to them a cause of thankfulness, that Dr Welsh was enabled to devote his distinguished talents to the advancing of a cause so very great and good as the cause of Christ.

Mr CRICHTON seconded the motion. He had listened with deep interest to the

report which had been submitted. It afforded them good grounds for thanking God, and taking courage. It was a token for good that the missions of the church were so blessed in the midst of all their divisions. They were in the furnace, but it was only to have their dross and tin purged away. He would yet give them a glorious deliverance, and make the church not merely a national blessing, but an efficient instrument for the evangelization of the world.

Dr GORDON then communicated the thanks of the Assembly to Dr Welsh, as follows:—The General Assembly have heard, with the greatest satisfaction, the report of the colonial committee of this church, and I am instructed by them to tender to you and the committee, our warmest thanks for the diligence, and zeal, and fidelity with which you have acted in this matter. Of your own qualifications for the office of convener, and the confidence which the church reposes in you, I shall say little—much less than my own feelings would dictate. From the distinguished place you occupy in one of our universities, and from the deservedly great influence which I know you possess among the students of divinity attending it, you have peculiar opportunities for awakening in their minds a love for missionary enterprise, which, from your very extensive acquaintance with the history of the church all over the world, you are so well able to do. I feel assured that you will use that influence in leading the young men under your care to take more enlarged views of their obligations to the cause of Christ, that they may not only love to preach the gospel at home, but be led to forsake home and all its endearments, for the sake of promoting the cause of Christ. May you long be spared to labour in this cause; may you be honoured as the instrument of bringing about that state of things.

Dr CANDLISH referred to that part of the report which set forth the extreme urgency of the demand made upon the committee from all the colonies. That part of the report was deserving of much more serious attention than was given to it when merely read in the Assembly, and he suggested that that part of the report should be very specially sent down to all the parishes of the church, either at the time of making the annual collections, or immediately,—that it should not be merely left imbedded in the report, which may be long, and which many may not read, but, comprehensively, and succinctly, and emphatically, bringing out the great field before them, be read by the ministers to their people. He took the opportunity of saying, that the want of ministers able to preach in the Gaelic language, was a subject which the church would have immediately to take under its consideration. Even in the church at home, the scarcity of Gaelic preachers was beginning to be keenly felt; and some means must be devised for raising up young men qualified to preach in the Gaelic tongue, either by appointment of one able to teach it at the universities, or by some yet more efficient plan for bringing forward young men from the Highland parts of the country. Reasons had tended to reduce the number of candidates for the office of the ministry, even at home, who are able to preach in Gaelic, and the demand from abroad had been increasing. In those circumstances, it was the bounden duty of the church, without delay, to consider how that great exigency might be met. He hoped the Assembly would agree to that part of Dr Makellar's motion, which proposes that Dr Welsh, whose services had been so valuable as vice-convener, should be now appointed convener of the colonial committee. Although the business of that committee was exceedingly multifarious and complicated, yet their proceedings were conducted in so orderly and effective a manner that was really a model to all the Committees of the church.

ADAM LONGMORE, Esq. seconded the motion. Agreed.

Mr THOMSON of Dundee read the report of the committee for the classing of returns to overtures. *Inter alia*, it stated that 60 presbyteries had made returns on the eldership overture; of which 45 approved, and 15 disapproved.

Mr DUNLOP said, that in regard to the overture on the Latin classes, he feared there had been some delay, and it would be better to re-transmit it. In the mean time, there being a majority of presbyteries approving of the eldership overture, he had the greatest delight in now moving that the Assembly pass it into a standing law of the church. It was a matter of great satisfaction, not only that a decided majority had approved, but also that so very few had ventured to express disapproval. The difficulty was well known, of getting, in a single year, any decision of the church upon these overtures at all; and how they required to be transmitted for one, or two,

or three years, before they can be sustained. There were, in this case, forty-five presbyteries approving in the first year, and only fifteen disapproving; and of these fifteen, some approved of the principle of the overture, and disapproved only of its details, so that there was comparatively a very small number of the presbyteries of the church disapproving of the principle of the overture. He rejoiced at this, not only on account of its great advantage, by securing the popular election of elders, and thus a return to the great constitutional principle of the church as to the appointment of its office-bearers, but chiefly because it puts to silence an accusation heaped and hurled against the church, that in seeking to obtain a voice for the people in regard to the election of ministers, they were only endeavouring to get power for themselves—to take some power from the patron, and secure it for the church courts. He trusted that the decision come to last year by the Assembly, would be renewed by the present Assembly, in passing the overture that had been returned, into a standing law of the church. Agreed to.

Mr DUNLOP.—As the eldership overture was to be brought into operation in every kirk-session, he proposed that it be separately printed, and that a copy of it be sent to every kirk-session of the church, and that they be desired to record it in their church-books. That was the only way of preserving it. It was also important to have returns as to the number of elders in the different sessions of the church. This was obtained in 1828, and in the report of 1835, which had suggested, among other alterations, the one now returned. But it was very desirable to see the improvements which had taken place since 1828; and he therefore suggested that such returns should be required, and a committee appointed for the purpose.

Dr Cook dissented.

Among the many important proceedings of the Assembly, there is no one more important, or whose influence will be more immediately felt for good than the passing of the eldership overture into a law. Taking as we have done for years a lively interest in the renovation of the eldership, and having lent the cause our humble advocacy, it is with peculiar satisfaction that we congratulate the friends of the church on the success of the overture. In the very first year of discussion, it obtained the unanimous approbation of 45 presbyteries, only 15 declared against it, and several of these approved on principle, and only disagreed on details. The measure will doubtless operate for the advantage of the church in a variety of ways which are not at present all apparent. In the mean time, its influence will be immediately felt in vindicating the consistency of the church, and putting down the calumny, that the majority in the present struggle are merely seeking clerical power, and, after all, do not care for the rights of the Christian people. The free election of elders by the communicants will be a ready answer to all such selfish and senseless charges. The services, besides, of a large body of faithful men will be immediately brought into play in parishes where there have been no elders, or a most inadequate proportion. This cannot fail to be attended with the best results: in spreading religious instruction and consolation among many who have hitherto been neglected, and in securing more attention to the wants of the poor. We trust, that not a few of the new elders will hold prayer meetings in the districts which may be assigned them. And, lastly, the measure, if the pious people of the church are true to themselves, will have the effect of adding greatly to the evangelical influence, not only in the kirk-sessions, but in the superior courts of the Presbytery, Synod, and General Assembly. In two of these courts the elders are as numerous as the ministers, and they together return the members to the General Assembly. If there be, as is understood, a combination among moderate patrons to appoint none but moderate presentees, in the hope of ere long breaking down the present majority of the church, and restoring the reign of moderatism, let their congregations take care to elect only pious and faithful elders, and let these elders, when returned to presbyteries and synods, make a point of regularly attending and of electing only suitable representatives to the General Assembly, and it may be more difficult to beat down the evangelical majority of the church than many patrons foolishly imagine. If without the aid of the popular appointment of elders, and in the face of keen opposition, the majority have, year after year, been adding to their numbers in the Assembly, how much more may this be expected, when they shall receive an accession of support from the eldership in all the courts of the church?

We have only to recommend, as a great security for the successful working of the measure, in obtaining the best qualified elders for all duties, that ministers, in the prospect of an election, should preach more or less frequently on the divine authority, duties, and qualifications of the eldership. This is particularly called for from the comparative unacquaintance of many of the people with the subject, and the novelty of free election to the office. It would tend to raise the office in public estimation. It is very desirable, also, that the congregation should have one or more meetings for prayer and conference previous to the appointment. This would serve to remove their apprehensions,—to impress the minds of all with the importance of the trust, and to draw down the divine guidance and blessing on the choice. While the success which has attended the popular plan, wherever it has been already tried, shows that there is nothing to apprehend in its working, it is at the same time the duty of the friends of the measure to make as full provision as possible for its smooth and successful operation, and especially in the first years of the change. It may have an important influence one day on the election of ministers, by disarming the most plausible objection to its adoption.

Dr DEWAR read the names of the deputation to Ireland.

Dr CANDLISH read a letter which was addressed to the Assembly, by the synod of the presbyterian church in Canada, of date July 1841.

#### PATRONAGE.

Mr BRIDGES gave in a report of the overtures, which had been sent up to the Assembly on patronage. There were overtures from twelve synods, from twenty-four presbyteries,\* from thirty eight parishes, signed by 11,909 persons, from fourteen associations, and from two kirk-sessions.

Mr CUNNINGHAM then rose and spoke to the following effect:—Moderator, I regret to be again called upon to address this house on the very important subject to which these overtures and petitions refer. However, I entertain some measure of hope that this is the last time when the subject will require to be discussed in this way. I do hope and trust that the result of the vote of this evening will be that the Church of Scotland will henceforth occupy the position of a church that has decidedly made up her mind on this question, and is determined to express that mind in every proper and competent way,—that she will occupy the position of a church protesting against patronage, and availing herself of every favourable opportunity of demanding its entire abolition. The mind of the office-bearers of the church on this point is now made up fully, and is decidedly expressed in the documents which have been laid on the table. Overtures for the abolition of patronage have been sent up by almost all the synods of the church, with one single exception or two, and petitions have been sent up by a great number of the people. Not that any general or simultaneous exertions have been made for getting up petitions. It is perfectly well known that if this had been the case, vast numbers more of petitions for the abolition of patronage could have been procured, and the signatures might have been greatly swelled. It is well known, for example, that the people of Edinburgh last year sent a petition to parliament for the abolition of patronage, and against Lord Aberdeen's bill, signed by 27,000 individuals. And, at the same time, petitions to the same effect, and contemplating these two objects—petitions in opposition to Lord Aberdeen's bill, and calling for the abolition of patronage—were transmitted from between 200,000 and 300,000 of the members of the Church of Scotland in the country. On account of the peculiar nature of the cause, and to show the real source of the confidence we have in the success of the cause, I will just again recall to the remembrance of the house the leading principles on which the anti-patronage cause is founded, and the leading grounds on which we hold ourselves called upon, and feel constrained to call upon others, to resolve and declare that patronage is a grievance—that it has been attended by great injury and mischief to the interests of religion, and that it ought to be entirely abolished. The progress of the anti-patron-

\* Mr B.'s report mentioned only eight synods, and seventeen presbyteries; but four omitted synods, and seven omitted presbyteries, were mentioned by members of the house.

age cause has been greatly aided by a remarkable combination of circumstances—by events occurring in the providence of God, fitted, and, I humbly believe, intended, to lead men to form right views of the nature of the grievance, and right views of the duty they are consequently called upon to discharge respecting it. At the same time, the real basis of any measure of success which the anti-patronage cause has enjoyed,—the real reason of the great success that has attended it, is to be sought for in the foundation of clear, and firm, and sound principle, bearing upon this point, which could be so fully defended, and which could be so effectually vindicated against every attempt to assail and undermine it. This is the true and real foundation of the success of our cause. On this basis of sound principle, we are still able clearly to explain, and conclusively to defend the cause; and had we not this basis upon which to rest, no combination of external circumstances whatever would have aided men's understandings on the subject, or have excited the mind of the church, and induced the General Assembly to take up real anti-patronage ground, to declare it a grievance, and demand its abolition. When the matter was discussed in last Assembly, I observed one or two points, which I will briefly notice, as decided improvements in the way and manner in which the question has come to be discussed. I observed in last Assembly, in the discussion of this question, somewhat less of the attempts we have seen in previous years to evade the real merits of the question. There used to be some little attempts to involve us in personal difficulties and personal inconsistencies; and this was for some time one of the favourite and staple tricks by which we were assailed. There was also, for example, an attempt to make some little difficulty as to what we meant by patronage—an attempt to evade the fair consideration of the case, and the argument founded upon it, by references to the history of patronage, and the various occasions when it was transferred from one party to another. This used to be a favourite topic with our opponents; but they now admit what we mean by patronage, namely, the right to found a title on the mere possession of property, or on some mere worldly and secular consideration, to interfere in the settlement of ministers. That is our view of the nature of patronage; and it is in accordance with the definition of the canon law, and of those who comment upon the canon law; and that is the view which our opponents now admit that we hold. Another plan by which our opponents contrived to evade the whole grounds of the question at issue, and which constituted their grand objection, was by running all at once to the practical conclusion, that if we held these views, we ought to leave the church to maintain our consistency. This also was a favourite trick of theirs; but I would fain hope that men are now becoming convinced that, in founding so exclusively upon this ground, and only bringing against us the *argumentum ad invidiam*, they were not meeting us on the argument of principle; and it is so far satisfactory to know, that this low, and mean, and despicable mode of arguing the question is now left to the lowest and most despicable defenders of patronage. Every man capable of discussing the question on its merits, and every man capable of discussing any question, ought to feel it to be his proper duty to meet us on the grounds on which we maintain that patronage is wrong and ought to be done away. Let them meet us on this ground if they can; but it is men who are conscious in their own minds that they cannot meet us on that ground who tell us, that if we hold these views, we ought to go out of the church; and no man possessed of a manly intellect—no man possessed of a manly heart—would discuss the question in this way, or would rest solely on this as the basis of his defence of patronage. I have no objection to an allusion of this kind in the course of a discussion, if the man who makes it is one who really attempts to meet our views. I have no objection to such a man dropping a hint to us at the close of a discussion, that if these are the views we entertain, it is worth our consideration whether we can maintain them, and remain in the church at the same time. But what I object to, and what is utterly unworthy of any man possessed of a manly mind and a generous heart, is the conduct of those who, without attempting to answer us on the grounds on which we object to patronage, or without attempting to bring out the grounds on which patronage is defended, meet all our arguments by a despicable sneer and taunt at our consistency. Now, as this mode of arguing the question was virtually abandoned at last Assembly, I hope that we shall have no recurrence to it on the present occasion. The motion I have to bring before the house is as follows:—"That the General

Assembly, having considered the overtures and petitions anent patronage, resolve and declare that patronage is a grievance, has been attended with much injury to the cause of true religion in this church and kingdom, is the main cause of the difficulties in which the church is at present involved, and that it ought to be abolished." This we hold to be a brief and compendious statement of the conclusions to which we think that all men ought to come, who fairly, and deliberately, and impartially examine this subject, and direct their attention to this great question,—whether patronage ought to be continued or ought to be abolished. We are still firmly satisfied of the soundness of the grounds on which we have always advocated the abolition of patronage; and although there were some symptoms of improvement in the way the subject was discussed in last Assembly, still I cannot but feel convinced, that the real merits of the question are not in general appreciated by our opponents, whose statements are rather apologies for than manly defences of patronage,—rather directed to the object of showing that our arguments against it are not quite so clear and strong as we allege, and that patronage is, somehow or other, not quite so bad as we represent it to be; and that there are, somehow or other, various important advantages which it is fitted to afford. This is the object to which the leading statements of those who support patronage and oppose its abolition are usually directed; but these, I think, do not bear upon the intrinsic merits of the question, whether patronage is a thing that can be thoroughly defended, and ought to be approved of and continued. Now, I venture to take the liberty of saying, that no man can be properly regarded as meeting the anti-patronage argument in a frank and manly way, unless he directly and explicitly address his statements to this important question, How or in what way ought the pastors of Christian congregations to be appointed? This is the question on which the whole of the controversy turns. The decision of this question settles the whole matter, aye or no. It determines absolutely and conclusively what are the views we ought to entertain, and what is the course we ought to take on this point; and I venture to say, that whatever statements may be made in discussing the matter of patronage, and in whatever way the statements made in the discussion may bear in favour of collateral topics, every consideration and every argument that does not bear on this question, and upon the answer that ought to be given to it, is irrelevant and evasive. I think it right to press this point upon the attention of the house; for I am satisfied, that by keeping it closely in view, we will be able to judge more readily of the relevancy or irrelevancy of the arguments brought before us in the progress of the discussion. The real question before us, therefore, is, How ought pastors to be appointed to Christian congregations? And the first thing to be ascertained, in order to form a proper notion of the nature of the question, is, what the pastors are. They are pastors of Christian congregations; and if we want to know how these pastors ought to be appointed, we have first to know what is the character of the office they hold, and of the functions they are called upon to execute. Now, those persons, in regard to the appointment of whom the whole question turns, are, as all admit, office-bearers of Christ's house. They are appointed to administer the laws of His visible kingdom, and are entrusted with the cure of souls. Now, in regard to the mode of their appointment, we must seek for information from the same source whence they derive their authority for executing the functions committed to them; and while we apply there for information for the decision of the question, the inquiry will suggest some important general considerations, bearing on the settlement of the question itself. These persons are office-bearers in a kingdom which is not of this world. This is its leading character and distinction; and we hold that the appointment of these office-bearers in Christ's kingdom should not be regulated by mere civil law, or by mere secular and worldly considerations; and that it must not be determined or affected merely by the possession of property. Then what are the functions they are called upon to execute? They are to administer Christ's ordinances; their whole conduct and procedure must be that of a free and independent society; no man can dispute this; and this, then, is our leading view of their character, one leading aspect in which it is to be regarded. And if they are appointed to conduct and administer the affairs of a free and independent society, this necessarily implies that their appointment should not be determined or controlled by any foreign authority,—by any authority beyond the society itself; and surely it is manifest that an authority which is purely

civil, which rests exclusively on human law, and which is based entirely on secular and worldly considerations, must in this matter be foreign and alien to the church of the Lord Jesus Christ. Now these principles seem so very clear as scarcely to admit of dispute; and, accordingly, I believe this view is very generally conceded by almost all who have brought their minds to bear on the subject. Men may evade the question altogether, and contrive to rest on certain vague general notions of a secular and worldly kind, derived from worldly comforts and advantages, and the relations in which they stand to others, and which lead them to a dislike of the whole subject, and make them dispose of it as quietly as they can; but I cannot conceive how any man can seriously bring his mind to bear on the question, without at last coming to this conclusion. And I am the more confident in making this statement, from a circumstance which occurred at the last Assembly, and which may be in the recollection of many members of the house. I refer to an important admission made by Mr Robertson of Ellon, and manifestly based on the substantial admission of the very principles to which I have now referred, when he distinctly laid down this as the view he had come to adopt. I don't profess to give the words, but the substance of the statement was, and Mr Robertson will correct me if I am wrong,—that the only way in which patronage could be rightly exercised was by being exercised by a Christian state, through the agency and instrumentality of Christian men. Now, this admission was clearly based on the obvious and undeniable truth of the principle to which I have referred, that the persons appointed, being office-bearers in Christ's house, are set apart to administer the affairs of his kingdom free and independent; and that it is a palpable incongruity and absurdity that their appointment should be determined by the civil power, or that any secular influence should be allowed to intromit in matters of a purely spiritual character, and requiring the agency and instrumentality of men of Christian character. Now, if there was nothing more to say on the question than this, this of itself is enough to warrant us in condemning patronage, and quite enough to warrant us going the whole length implied in the motion now laid upon the table. I don't see how it can be disputed, that this principle was counter to the existing system of patronage, as now established by law in the Church of Scotland. There is no provision in patronage, as it exists in the Church of Scotland, that regulates it through the instrumentality and agency of Christian men. It is left to be regulated by secular and worldly considerations, and by questions of property; and I cannot well understand, how any man can be prepared to lay down the proposition to which I have now referred, and who can yet refuse to concede in argument—whether he may or may not feel himself called upon publicly to proclaim his conviction, that the present system of patronage is inconsistent with Scripture, that it is indefensible, that it cannot be fully vindicated and cordially approved of, and that, therefore, the legitimate inference is that patronage is a grievance, and ought to be taken out of the way. These are some of the considerations suggested by the first blush of the question as to the appointment of the office-bearers of Christ's house. Now, where are we to seek more precise information as to the source whence the power of their appointment is to be derived? We are called upon, in seeking information respecting the character and appointment of Christian pastors, to consult the word of God as the supreme directory; and whatever we find there, whether in direct precept or in general principles, whether set forth in direct terms or conveyed by implication, must be the supreme rule and standard in determining this point. Now, we are all agreed in regard to the great general principle of the church's power, as comprehending the whole of what is needful in the way of preparing, qualifying, and authorising men to enter on the exercise of the functions of the holy ministry. This is the important duty which we are all agreed is devolved upon the courts of the church, and into which, in their capacity of preparing men for the ministry, no earthly power is entitled to enter. We are all of one mind as to that subject. We all hold that the church courts are the only judges of the qualifications of men entering into the ministry, and that they only are entitled to superintend the education of young men preparing for the sacred office, and are entitled also to say whether they have made such progress and attainments, as that they may be looked to by a congregation as suitable for becoming their ministers. They have also a full and unquestionable right to determine in every case, whether they shall admit and ordain any man, whether he has been presented by the pa-



tron, or chosen by the people. On this point we are all at one. Now, we think we have as good and clear scriptural ground for asserting, that the people should have choice of their minister, as we have for saying that the presbyteries have all the powers that we agree in conceding to them; and at any rate the Scriptures shut us up to the conclusion, that the presbyteries or church courts, and the people or congregations, are the only parties who ought to have any thing to do with the settlement of ministers. These are the only parties recognised in Scripture as entitled to meddle in this matter. It gives no sanction, direct or indirect, for the interference of any other party; and therefore we hold, that if we examine the word of God with a view to answering the question, How ought Christian ministers to be appointed? we have sufficient materials for getting at the conclusion, that the presbyteries and the people are entitled to settle the matter between them; and therefore that there is sufficient ground for entitling us to declare, that patronage is a grievance, and for demanding its abolition. It has always been maintained by presbyterian divines, that nothing ought to be admitted into the worship and government of Christ's house which has not a positive sanction and warrant in the word of God. Now, there is nothing in Scripture warranting the interference of patrons, or recognising the introduction of the civil power in the matter of the settlement of ministers. Scripture recognises the place and standing of the presbytery and the people in the business; but it recognises no other authority; and moreover, we are warranted in coming to the conclusion, that there are sufficient materials in the word of God to lead us to adopt the principle, that there is a divine right in the Christian people to elect, and in the church courts to admit the office-bearers of Christ's house. In this argument the principle of non-intrusion has an important advantage over the anti-patronage principle; for, first of all, the argument in support of the principle, that no man will be intruded upon a congregation contrary to the will of the people, may be derived from a larger and wider field of scriptural statements, than bear directly on the choice of the people. And it has also this advantage, that every argument which proves the right of the people to have the choice of their own minister, does also prove, *ipso facto*, that, *à fortiori*, they have a right to have no man thrust upon them contrary to their will. Still I plead there are sufficient materials in the word of God for leading us to come to this conclusion, that the people should choose their own ministers. These are to be found in the narratives of the election of an apostle and the deacons. And surely if any information as to this matter is to be derived from these narratives, they very obviously point to this, if they were examples to be imitated at all, that the people should suggest and nominate those that are to be invested with office in the church. I do not mean to illustrate this at any length, as I am at present rather stating my own opinions than laying down the basis of the motion I am calling upon the house to adopt. But I say that the elections of the apostle and deacons, taken in connection with other materials in the Scriptures, warrant my position that the Christian people are entitled to the substantial choice of their own officers. I do not enter upon the question as a question of criticism. I only refer briefly to the authority on which this view of the question rests,—to the authority, not to the argument. I plead, of course, not only that the people should have a right to choose their own office-bearers, but likewise maintain the position which those portions of Scripture support and establish this right. This was the doctrine of the primitive church, as is clear and unquestioned in the unequivocal statement of Cyprian on the point. I also plead, that not merely is it the right of the people to have substantially the choice of their ministers, but that this was the almost unanimous doctrine of the whole body of the reformers. They held this doctrine, and it ought to be sufficient to rescue us from the sneers and taunts of others when we assert the same truths. The great body of the reformers, when they came to examine the word of God, not only saw themselves constrained to resist the tyranny of the pope and bishops, but also the tyranny of lay patronage, to insist on the right of the people to the substantial choice of the office-bearers. Now, I hold that a principle based on Scripture, and asserted on that ground by the reformers, is one worthy of consideration, and not likely to be easily disposed of. I appeal to our friends, whether the opponents of the view I have now taken, are not also in the habit of passing over this part of the subject in a perfunctory and unsatisfactory way. They rather try to avoid the application of those statements to the question in hand, than to answer them. They rather try to show that these portions of Scripture do not necessarily support our views, to the

exclusion of all others. This is the highest point they aim at, and they seldom think of venturing to aim at establishing those positions which are indispensable for the success of their cause, viz. that these statements, in their fair and natural import, do not countenance the position we entertain. They think they can prevent us from asserting that those statements necessarily imply what we assert, and nothing else; but they seldom attempt to meet the position involved in the question, What is the true effect of those statements? Let us hear them upon this point. Let them venture to ask what is the natural effect of these statements, and then there would be no great difficulty in coming to a conclusion that they are intended to teach us this lesson, that the Christian people are entitled to the choice of their own office-bearers. Now, our opponents should openly lay down this position, that Scripture gives us no information on this point at all; that there are no materials in the word of God, in the right use of which we are warranted to come to any conclusion as to the way and manner in which pastors should be appointed. If they lay down that position, and establish it, then they cut the knot at once; they put the Scriptures out of the field. Let them lay down such a position if they choose; but let it be distinctly understood that they do take this ground, and let them give us arguments for so extraordinary a position. If they will not say the Scriptures contain no elements on which to come to any conclusion on this question, we are entitled to demand what the conclusions are to which the word of God leads us. We hold ourselves entitled to be met by a frank and manly discussion of this question; therefore, I say, unless it be alleged that the Scriptures do not lay down any position on the subject, do tell us what are the conclusions for which the Scriptures afford us materials? Independently altogether of the right of the people to choose their office-bearers, as drawn from Scripture, there are sufficient materials elsewhere, and to which I have already referred, for condemning patronage and in support of my motion. Dr Cook, it will be remembered, in last Assembly, in adverting to the scriptural argument, gave us something pretty long, very much like a dissertation, on the distinctive characters of the Jewish and Christian dispensation, showing that the Jewish establishment was full of rites and ceremonies, where everything was ratified by express command, and that in these respects it was a contrast to the Christian dispensation, where many things were left to be regulated by circumstances and general rules. Now this is true; but then, the only way in which that position could bear on the question, would be to prove that there was nothing settled in Scripture,—no materials given for settling *this particular question*; and no general declamation, no vague generalities, are sufficient to put down our position in respect to the appointment of ministers. It must be shown not merely that Scripture is not sufficient to give us warrant for the views we hold, but it must be shown that Scripture gives no warrant, contains no elements, for settling this point. This, however, is not a mode of discussion, which, I take the liberty of saying, our opponents are in the habit of resorting to. They lay down vague generalities, with a certain degree of truth and plausibility, that do seem to be connected with the matter under discussion; but when examined, they are found to be without any bottom; and in this way the real truth of the position is evaded, as the argument has nothing to do with the precise point in hand. I may illustrate this by a reference to what took place on Saturday. My friend Dr Candlish made a motion, to the effect that the interdict of the Lord Ordinary, in regard to the deposed Strathbogie ministers, was an illegal interference with the privileges of this house. Now, how should this have been met? The manly way was to maintain that, by the law of the land, the Lord Ordinary was entitled to interfere; the fair, and frank, and manly way would have been to meet Dr Candlish with a counter assertion. Dr Cook, however, did not take that mode. He did not venture to say that, by the law of the land, the Lord Ordinary was entitled to interfere with this house. In place of that, the only way in which the question could have been fairly met, Dr Cook repeated the old story about the necessity of established churches obeying the law of the land, and that was all. Now, Moderator, I will advert very briefly to the other grounds on which we rest the settlement of this question, and these are the views of reason and common sense. Laying Scripture aside in the mean time, we may ask what does reason and common sense suggest on this point, on the determination of which the peace and prosperity of this church so much depends? Surely this at least is very obvious, that the appointment of Christian ministers should be vested in those who, from their circum-

stances and professions, may be expected to desire to get good and suitable ministers, and may be expected to be qualified to make a good selection. These are obvious truths, grounded on common sense, which no one will venture to dispute; and they lead clearly to this conclusion, 1st, That the presbytery, or church courts, ought to have a large share in the general subject of the vocation of ministers; 2dly, That the Christian congregation should have an important place in this matter; and, 3dly, that patrons, as such, ought to have no standing in the matter at all. These are the conclusions come to on this question under the guidance of reason and common sense. Of course, I fully admit, and cordially believe, that there are patrons who really desire to get good and suitable ministers, and who are well qualified to make a selection of such ministers. We all know, and in the circumstances in which we are now placed, we are not likely to forget that there are such patrons. But what I wish to call the attention of the house to is this, that the desire of these men to get good and suitable ministers, and their fitness for making a selection, is not in any measure in virtue of any thing attaching to them as patrons, or flowing from any thing connected with, or accruing from, the nature and tenure of this property; it depends in no way on the manner in which they have become patrons, or the grounds on which this right to exercise patronage has come into their possession; it is traceable entirely to distinct and accidental circumstances connected with these individuals. It is owing to this, and this alone, and not to any thing attaching to their position as patrons, or to the way and manner in which they have acquired their patronage. These men are, no doubt, good and excellent men, and I rejoice that, on the whole, there are so many of them,—though I fear they are still in a minority among the patrons,—but I maintain they would have had just as much power and influence in this matter, had they been entirely destitute of wisdom and goodness as they are possessing it, their right to patronage would continue the same, even if they did not possess the two great requisites of wisdom and goodness. I contend that, in the system of patronage, there is no provision made, or attempted to be made, for securing that it shall be vested in one who has, or professes to have, a regard to the good of the church in the selection of suitable ministers. It is a radical error in the system of patronage, viewed in the light of reason and common sense, that no attempt is made to place the power of patronage in one who has the qualifications I have referred to. He may have the desire and the ability to select good and suitable ministers; but, on the other hand, he may not have these qualifications, and no provision, I repeat, is made for curing this evil; the matter is regulated by the mere question of property. Then, as to the people, we may venture to say, from the position they occupy, and the professions they make as members of the church, that they may be expected to have a real desire to get a good and suitable minister. And here there is an immense superiority of the people over the patron on this fundamental point. Then, as to the capacity of the people to judge. On this point, our opponents say they have the superiority over us. Without entering fully into the discussion of this topic, I will only observe, that the precise point on which judgment is to be formed is mere suitability to a parish. Every thing else belongs to the presbytery,—as to the general qualifications for the ministry of the gospel; and the only thing that can belong to either the people or the patron, is the question of suitability for a particular parish to which a minister is appointed. Now, I have no hesitation in saying, that the Christian people of a parish are better qualified to judge of the suitability of an individual for that parish than any one man can possibly be, be he who he may, and however desirous he may be that a good and suitable minister should be appointed. The mind of the parish upon that point will, in all ordinary circumstances, be more wise and sound than that of one individual can be,—one who, perhaps, never saw them, and never will see them in his life, and who knows nothing of the constitution and character of the parties. It is said, no doubt, that it is the right of the church courts to check the evils that may result from this. All this is true; still our answer is, that the initiative is an important part of the process, and tells upon the ultimate settlement of the matter. The question therefore occurs, why should any part in this important process be left to a mere question of chance,—to a right dependent on worldly property? Why should any thing in the important matter of appointing Christian ministers be left unregulated by any sound principles, or any attempt even to bring sound principles to bear on it? Why should patrons have a veto in the settlement of any

parish while the right is not given to the people,—to the party most deeply interested in the settlement. If a veto is given to the patron, it is an important operation to influence the whole proceeding; and, important as that influence is, you leave it without an attempt to bring sound principle to apply to it; you leave it to mere secular considerations to settle the point. Reason and Scripture, then, concur in leading to the conclusion that patronage, based solely on human law and the possession of property, should have no place or standing in the appointment of Christian ministers. And this conclusion, though we had nothing more, is a perfectly sufficient ground—nay, it is an imperative call for the condemnation of patronage. I am bound to admit that an elaborate attempt was made by Dr Cook at last Assembly, who endeavoured, I should scarcely say to answer, but to get beside this question. There was a great deal of ingenuity in it; and, I dare say, he thought it a full and satisfactory answer to the question. It was substantially this,—and the house will see that it was rather to supersede the necessity of considering the question I have broached, than any way of showing that a different answer could be given to it—the substance of the argument of Dr Cook, is this: He supposes the case of a proprietor, who deems it necessary to erect a church for his dependents. Under the influence of this conviction, he resolves to build a church and endow a minister. This is a pleasing and interesting feature of character, that calls forth one's amiable feelings; but then he wishes to come to the conclusion, that when such a thing has been done, it is a necessary and proper thing that the man who has done so much for the good of the church and his dependents, should retain to himself and his heirs the right to name the minister. That is, in substance, the position taken up by Dr Cook. It is virtually an appeal to our feelings; and the question is put, Does not every man see that this is a natural and reasonable consequence? Now, this is rather a delicate matter; it bears upon a delicate topic, with regard to which I will speak with all forbearance. Still, there is principle involved in the matter, and it must be brought out. The individual who builds the church is, *ex hypothesi*, a man desirous to promote the interests of religion. That being supposed, we are entitled to assume that the whole of his conduct in this matter is to be regulated by right principles, and by a regard to the real welfare and efficiency of the institution. Now, the question is, what is right or reasonable for a good man to do in these circumstances, and in accordance with these objects, and not what is natural for a man who does not think of those things at all. The question, I repeat, is, not what is natural and reasonable on taking a superficial view of the matter, but what ought this man to do, aiming at the objects he had in view in erecting and endowing that church? What ought he to do? Why, that is just the question before us now. Dr Cook says it is natural and reasonable that when a man builds a church, the patronage of it should be possessed by him, and should go down to his heirs. I suppose he means to assert two things,—first, that it is reasonable and natural for an individual to ask that the patronage should be invested in his heirs; and, secondly, that the people should coincide in the arrangement. I suppose this is his meaning, but I cannot consent to either of these. It is true that a man has a right to do with his church and his money as he pleases; but then we are assuming that he really desires to lay out his money in a way best fitted to promote the interests of religion, and the welfare of his dependents; and that being assumed, is it not manifest that he, in making an arrangement in this matter, is bound to take up still the very question to which I am calling the attention of this house? Is he not bound to entertain and decide the questions, How ought a Christian minister to be appointed? What are the principles that ought to regulate us in this matter? And how may I best exercise my authority and influence for seeing that the appointment of Christian ministers should be regulated by right principles, and in a way best calculated to promote the cause of religion?

There is no other way in which the asserted *prima facie* argument, of the reasonableness of giving to those who build and endow churches the patronage of these churches can be maintained. There is no way in which it is possible to get past the questions, which, as good men and pious men, they are bound to decide. The reverend and learned Doctor will surely never attempt to speak in favour of men retaining the appointment of ministers, who do not care one straw what the minister may be, or what may be the results of his appointment—men who only care for the one thing, that the patronage be secured to them and their heirs. I am perfectly sure that there is not a single man in this Assembly who will maintain such a mon-

strous proposition. But I will admit, that in the case of a good and pious man, who builds and endows a church, and who is at the same time conscious of the purity of his motives—I am willing to admit that such an individual may think it a very natural and reasonable thing that he should have the patronage secured to himself. I will not say that there is any thing unnatural or unreasonable in such a supposition, when the scriptural principle was not brought to bear on the question. I can imagine a good and a pious man, who had not given a great deal of consideration to the scriptural nature of the question, holding it quite natural, that when he had built and endowed a church, the right of the patronage should be secured in property to himself and to his heirs. But let even such a good and conscientious man look at the question as he ought to do, let him consider it in the light in which it ought to be considered, and I cannot at all see how he could come deliberately to such a conclusion. He must in such circumstances be convinced that in all cases of the appointment of ministers to churches, the best means of securing a good minister ought to be adopted; and could he persuade himself that the best way to secure for the people a good minister was to make the patronage of the church a piece of property to be handed down to his heirs? I cannot see how a good, pious, and conscientious man, even in the case of his building and endowing a church, could come to any such conclusion. I hold, therefore, that there is nothing absolutely natural or reasonable in transmitting the patronage to his heirs, however it may be held reasonable and natural that those who built and endowed churches, should exercise the patronage of them during their lifetime. The son who succeeds to him may be very different in his principles. It may be, that the property which the father had used so well for the benefit of others, might be rapidly squandered by his successor, and the property in the patronage brought to the hammer; and thus the appointment of the minister would be thrown into other and unknown hands; it would most likely be exercised no longer under the influence of a proper principle, and thus the great end intended by the original founder of the church and endowment, might be altogether set aside and destroyed. It may be that there is nothing wrong in the church accepting of the boon of a church and an endowment,—it may be that the presbytery are warranted in carrying into effect the settlement of a properly qualified minister when presented, though the patronage be retained in the hands of the Crown, or of an individual; and the people may even be justified in accepting such a presentee, if they find him suitable and edifying: Although patronage can neither be admitted as a principle, nor approved of as a practice, there are, no doubt, circumstances in which it may be submitted to. This was a most important view of the matter, and it was not to be determined by any considerations of the principles which might guide man's conduct in considering patronage as a merely secular property; it was to be judged of on higher, on spiritual principles. Looking, therefore, at patronage in the view in which it ought to be considered, it is clear, that the argument of the reasonableness of men building and endowing churches, and transmitting the patronage of them in property to their successors, must be thrown entirely out of the way. Though patronage should be properly exercised as it now exists, it does not affect the important question, In what way ought the ministers of Christian churches to be appointed? I hold, and I think every one who fairly considers the question will hold, that not only the individual who builds and endows a church, but the presbytery which accepts and carries into effect a presentation by a patron, ought to bring the whole question to be tried, not on its secular, but on its spiritual principles; they ought not to look on it merely to decide whether it be natural or reasonable that such a system of patronage should be tolerated and allowed. There was a clear and indispensable duty incumbent on all the parties,—there was an absolute necessity, if they would view the question aright, for their taking up the subject of the spiritual and scriptural principles bearing on the right to appoint ministers. Another argument which had been used in support of patronage was, that by endowing a church, the patron obtained a clear right to the exercise of his patronage in the appointment of a minister. I am not sure that this is openly pleaded as an argument, but it is often insinuated as an argument for patronage, that the state, by establishing the church, or the individual, by endowing it, obtained a right to the appointment of a minister. This is the only manly and consistent argument which our opponents can bring against us. It is the only one they can find by which to put a smooth skin and a decent face upon the matter,—it is the only ground on which they can found their position, that the establishment of a church by the state,

or the endowing of it by an individual, should give the respective parties a right to the presentation. They may have other grounds, but on this alone can they openly defend the exercise of state and individual patronage. This argument is most clearly and decidedly Erastian. I hold it to be in all circumstances whatever, Erastian to admit that the civil power has a right authoritatively to interfere with matters spiritual and ecclesiastical, no matter by what means they acquired the position of claiming it, or whatever be the grounds on which they assert their right to do so. If the civil power, or if an individual claim, or exercise jurisdiction, or attempt to interfere, or claim authority to interfere, with ecclesiastical matters or ecclesiastical procedure, it is undoubtedly Erastian; it involves sin on the party who exercises the interference, and sin on the part of the church, or the ministers who submit to it. This question, of the right of appointing ministers, occupied an important place in the old Erastian discussions, and was very often brought forward by the supporters of that heresy. They imagined it a very plausible argument to say, that the civil power was as much entitled to interfere with the civil right of appointing ministers as with any other civil right; and on this ground the old Erastians were fond of putting the question of the right of the civil power to appoint ministers pretty much in the foreground. They thought they could say, as Dr Cook and others now say, that it was natural and reasonable, that an individual who endowed a church, should have the right of appointing a minister confirmed and conveyed to himself and his heirs. The right which they then claimed to interfere they meant to use as a wedge to drive their actual interference into the precincts of the sanctuary itself. The spirit of Erastianism was the same still. Patronage was looked upon by many as a wedge by which the civil power might be enabled to get into the holy of holies, and thus entirely subvert the separate and distinct government which Christ had appointed in his church. And the more we call upon them to point out to us a tangible ground on which they defend this continuance of patronage when it leads to such results, we find that the only ground on which they can stand in its defence is, either that it is inherent in the state which established the church, or given to the state by compact with the church; and on these they found the right of the civil power to exercise its present interference with ecclesiastical matters. We say that the appointment of a minister is essentially and completely an ecclesiastical matter,—a matter entirely and solely within the power of the church itself, and of the church courts; and as a proof of this, we bring forward a test of the distinction between the civil and the ecclesiastical provinces,—a test which our opponents have not ventured to impugn, nor can they themselves produce to us any other test. We say, that these matters of the appointments of ministers, are matters properly and purely ecclesiastical—that these powers were given by the Lord Jesus Christ to the church—that they form part of the ordinary government and business of the church of Christ, and that this part of the process of its government must go on in Christ's church wherever that church is situated, or in whatever circumstances it may be placed. To show the dilemma into which we drive the upholders of the Erastian doctrine, when they assert that the right of the civil power to exercise patronage and to interfere in ecclesiastical affairs is derived either from inherent right, or by compact with the church; we say, that if the civil courts have a right, either inherent or by paction, to decide how ecclesiastical matters shall be settled, independently of the church courts, then the church courts must vitally cease to be courts of Christ's church, and the civil courts must be at liberty to appoint officers other than those which Christ has appointed in his church. Such being the dilemma into which they must be driven, I am astonished how any one can continue to be connected with the church who can support or give countenance to patronage. They may possibly say that they hold the question to be a constitutional one, on the ground of the statutes which exist on the subject of patronage; but I am quite sure that neither Dr Cook nor any other man will contend, or attempt to contend, that the spiritual independence and jurisdiction of the church can be upheld otherwise than by upholding the great scriptural principle, the truth of which was involved in the sole headship of the Lord Jesus Christ over his church. Unless we are determined, in virtue of that great principle, to protest against the exercise of civil authority in spiritual matters, and get that interference put entirely out of the way, we shall not be discharging our duty; and I cannot concede that any man, who professes to be acquainted with the scriptural grounds of the spiritual independ-

ence of the church, and the right of the Christian people in appointing their own pastors, is at all consistent in his views of these doctrines, unless he opposes patronage, and demands its total abolition. I have no time to go on to show what the effects have been on the church of the act of Queen Anne, more than to say that it has been productive of immense injury. I might go on to inquire, whether it is consistent with the revolution settlement, or the act of union, but I have not time to go into this part of the subject; it will probably, however, be taken up by some one else. I would, however, say, that the subject of patronage has been one all along fraught with the most injurious and lamentable effects to the Church of Scotland. It has given rise to much separation and dissension among her ministers and her people, and it has spread spiritual desolation and death over many parts of the land. When we look to the gross iniquity of the act of Queen Anne—to the despicable and shameful breach of national faith in which it originated and was carried—to the unhal- lowed purposes it was intended to serve,—all these considerations must aid us in coming to the ground of what I hope will be our decision on the question of this detestable law of patronage; and I hope they will constrain us to use every lawful means to put an end to its existence. We have now seen its principles and its effects brought out in bold relief by the Erastianism evinced in the decisions of the Court of Session. By these decisions we see clearly that patronage has been, and will yet be used as a wedge to force an entrance into Christ's house. This is now proved, beyond a doubt, by its being brought into actual established practice as the ground of that secular interference which has now reached such a fearful extent, that I cannot believe or imagine how a single man in the house can attempt to justify the act of Queen Anne, on which the interference is professed to be grounded—an act which should be regarded by every Scotsman with feelings of the utmost indignation and detestation. The decisions are not actually founded on the act of Queen Anne, or the precise terms it contains; it is not alleged that there is any thing directly in that act by which such proceedings can be justified. Recourse has been had to an attempt at general reasoning, and it really is reasoning of a very sorry description. They have attempted to reason in this way: Here is a civil right which is in some way involved in an ecclesiastical question—we must give effect and protection to this civil right—some court or other must certainly have the power of giving effect to it—some court requires to have the power of keeping one party to the proper discharge of their duty, and of keeping to others their civil rights. This is all the extent of their reasoning. No one attempts to maintain explicitly that the Court of Session is the proper court, or that, by the law of the land, any such court with such powers has been established. They content themselves with the statement, that so long as there is a civil right involved in the appointment of ministers, the church will never be relieved from the interference of the Court of Session in defence or protection of such civil rights. There can be no safety against such interference by any court as long as patronage is allowed to remain in any shape. They may have a majority of a civil court declaring that a civil right is involved, however moderated or restrained the exercise of patronage may be; the same interference may be carried on, however remote the civil interest may be in the question, and the only way, therefore, for us to get rid of the evil is by the total, the absolute abrogation of the law of patronage. It may not be unreasonable, before I conclude, to allude shortly to the way in which patronage has of late been exercised. It is fit and proper that this should be done, in order to strengthen our arguments and our cause, even though it should, as I am aware it may, give rise to rather unpleasant and perhaps angry feelings. But we have met as the Church of Scotland, to give expression to our opinions and feelings on this question, and it would be mean, it would be degrading, it would be cowardly, on the part of the church, if she did not give a single hint as to the manner in which the patronage of the Crown and of private parties had been recently exercised. We are bound to protest against any interference with our Christian rights—we are bound to tell the state boldly and fearlessly the evils under which, as a church, we are labouring—we are bound to tell the state that they arise from a violation of a solemn compact by the passing of the act of Queen Anne—from a violation of the revolution settlement. It is the state that has broken the compact, not the church. The compact was broken by the passing of the act 1712; there is no breach of compact on our part. We were never consulted about that act—we were never consenting to it. We held, and

still hold it as illegal, unconstitutional, and unconsented to by the church. This is the true character of the transaction, and thus are we able boldly to meet any charge of breach of compact against us. We are bound to tell the state, that with it has been the origin of the difficulty; and I repeat, that it would be mean and cowardly, if by any feeling of timidity or apprehension, we should be withheld or kept back from speaking out our minds freely on this great question. If we are now to be deterred—now, after all our discussions—after all the light that has been thrown upon the question by the proceedings of the Court of Session, and in the providence of God,—if we are to be deterred by any apprehensions or by any negotiations or considerations of worldly expediency,—if we are to wait till this one try his best skill and abilities,—if we wait to see how this body, and that body, and the other body are to stand affected,—to see what the Whig will say, or what the Tory will do,—if we wait to find out how the House of Lords will feel, or the House of Commons act upon the subject, we would act in a way unworthy of Christian men; and we hope that the church would not tolerate such a proceeding. I call upon you to remember the truth—a truth which we all profess to believe—that God regulates the proceedings of nations, and that with him there is nothing impossible; and that we will not be disappointed in depending on the words of His mouth as to when and how we shall be delivered from the difficulties and dangers which at present surround us. We shall, therefore, place our dependence on the word of His power; and realizing this, we must consider not what paltry expediency would suggest,—not whether our proceedings shall conciliate one party or irritate another party,—whether it shall please one or disappoint another,—let us consider what is our duty, according to the word of God, and follow it out boldly. We have seen enough already to convince us that we ought to place no confidence in the promises or professions of political parties,—in no negotiations, public or private,—that we should not put our trust in man, whose breath is in his nostrils. If we have already been hedged up and closed in by patronage,—if we have seen all the iniquity and all the malignity of its operations,—if we have seen it in its true colours, let us proclaim it to the world, and then show that we are determined to do our duty in regard to it. If the Church of Scotland shall be mean and cowardly enough to refuse on the present occasion to enter her decided protest against patronage, and demand its entire abrogation and removal, it will forfeit the confidence of the great majority of the people of Scotland, who have a cordial and heart-hatred of patronage, and on them, under God, must in a great measure depend the deliverance of the church and her victory over her enemies. By hesitation or flinching now from the great question, we will in some measure forfeit the confidence and respect of the Church of Ireland, whose open and consistent support of our cause points out to us our imperative duty in reference to this question, and I hope we shall not sink below the idea they have formed of us. In conclusion, I shall only say, that if, through any unmanly fear of the consequences, we hesitate to call for the total abolition of patronage, we shall fail in securing the sympathy and support of the people of Scotland, so much so, as to deprive us of a sufficient protection against the number and strength of our enemies, who are not only numerous, but who exhibit a motley combination. They are numerous and formidable still, and I only hope that we shall be successful in gaining our object, and thus be entitled to enjoy and to claim the cordial support of the people of Scotland; and this we can only gain by opposing patronage in every form and shape. If the Church of Scotland, during a period when so much is required of her, shall exhibit supineness, she will give open and palpable proof to the world that she is not worthy of the blessings with which God has blessed her; that she is not fit for the emergency in which she is placed, if she does not, with the blessing of God, take the plain course which has been pointed out to her. If the church shall be so base, so mean, so dastardly, as now to refuse to protest against patronage, I have little hope of her success in the present controversy; and I fear she will perish—and if so, she will deserve to perish, and to suffer unpitied.

Mr BUCHAN of Kelloe rose to second the motion. He said,—In rising to support a motion which I have hitherto opposed, I think it due to myself and to this Assembly to state that, in doing so, I differ from some of the opinions of the reverend gentlemen who have just addressed you. I cannot go along with some of my reverend friends in their argument that Scripture, in the abstract, condemns the exercise of patronage in the church. I hold that it does not. The Scriptures do not



lay down any precise mode of religious worship, and hence we have presbyterianism, episcopalianism, and other systems, all different in detail, but all agreeing in the great fundamental principles and authority of the word of God. And so it is with patronage. I do not find any thing in Scripture absolutely debarring patronage; but I admit that there is nothing in Scripture to recommend it. There is much in Scripture which should lead us to avoid patronage; and though I have always been a pro-patronage man, it mainly arose from the conviction that it had been a constituent element of the Church of Scotland, from the period of the reformation down to the present time. In this conviction, it appeared to me, that though patronage was not desirable, yet being part of our ecclesiastical constitution, and from being extremely unwilling to adopt any extreme change either in church or state, unless absolutely called for, I always opposed any change of patronage. I consider patronage as a sort of excrescence on our ecclesiastical constitution; but, as you all know, an excrescence on our physical constitution may exist without injury to the system, and so I was willing to let patronage remain, provided it were kept in its proper place. But patronage was abused, and the Church of Scotland suffered grievous injury from its abuse. As a check upon it, and a security against exclusive exercise, I gave my support to the veto. I supported the veto as the means to an end. I would have been prepared to support any other mode, whereby to answer the same purpose. Other modes were tried; other modes were proposed; but they all failed. I consider that the church now has come to this position,—are we to have limited patronage, or no patronage at all? I say we should have no patronage at all. I have said patronage has existed since the reformation. It has done so. I have said various modes have been tried to restrict it, and that they have all failed. I shall notice some of these modes. We all know the cry that was raised against the veto act; a most nonsensical cry it was. I say it may be called a nonsensical cry, when we consider that in the course of four or five years, about two hundred and fifty settlements took place under it, and scarcely any practical difficulty occurred. I feel warranted to say, that the operation of the veto act was most satisfactory, and the opposition offered to it most ill deserved. When the veto was opposed, we were pointed to the call; and the call was held up by some as preferable to the veto. The call, as a restriction of patronage, will never do. It is too loose, and does not give the people a sufficient voice in checking the appointment of an objectionable presentee. Then came the *liberum arbitrium*. That did not give satisfaction; and you all know how it was disposed of. We threw it overboard. The truth of the matter is, the real question at issue is the spiritual independence of the church. It is not this or that mode of limiting patronage which has created the opposition to our views, so much as it is a spirit of opposition to the spiritual independence of the church for which we are contending. Our early reformers received, or rather submitted to patronage, under very strong protestation, stating again and again that it was a grievance that could not be borne. They were placed, in some respects, in more favourable circumstances than those in which we find ourselves placed in; for they had the acts of parliament which more immediately affected patronage presented before them from time to time, with more freshness than we can well command. These acts most distinctly acknowledge the spiritual independence of the church. I allude to the acts of 1567, and 1592. I consider the act of 1567 as carrying with it an authority of spiritual independence, inasmuch as it distinctly excludes all right on the part of the civil power, to interfere with ecclesiastical matters. To that act I look as one of the best securities that the ecclesiastical shall not be encroached upon by the civil power. Those acts were held always in great respect by the early reformers, and by all who have contended for the spiritual independence of the church. Dr Mc'Crie had great respect for them, and clearly shows that the principle of popular control was decidedly recognised by them. When these acts were in force, no Court of Session would have dared to trample on the safeguards of the church, and none were to be found coming forward with strong memorials of unblushing Erastianism, calling for the civil court to bind the yoke of patronage about her neck. The early reformers realized to the letter the principle of spiritual independence, looking forward to the period when it would be fully and fairly restored. But what followed? A period

came when the civil and ecclesiastical jurisdiction flowed in a smooth current. I allude to the last century; and when the church herself became a party to settlements which stamped an indelible character of disgrace upon all who were capable of perpetrating them. And the deadly consequences which followed, it must be admitted, were conducive to the promotion of a system of religious observance, which materially affected the best interests of this country. And, Sir, I would rejoice could I say that these evils had not been felt in one day. I would rejoice could I conceive that they are now at an end; but when I look to the recent settlements of Marnoch and Glass, and compare them with the very worst settlements that took place during the last century, I cannot resist the conviction, that we are now in a much worse condition than we were then. At the former period, the Court of Session was strongly in favour of the spiritual independence of the church. The judges of that day were men of mean authority; they saw clearly and distinctly the line of demarcation between the civil and ecclesiastical power, and they had no desire to overstep it,—they had no wish to encroach on ecclesiastical authority—not to trample on the rights of the church by such interdicts, and threatened pains and penalties, as we have unfortunately been called upon to witness in the present day. I am sorry to say that the civil courts of the present time have the sympathy of our highest authorities. I am sorry to say that the government is not with us. I would have been happy to find the government on our side. From my earliest years my strong bias has been on the side of Conservatism; but with all my bias, and all my partiality for Conservatism, I would consider any government, be it Conservative, or Whig, or anything else, that would attempt to bring the spiritual independence of the church into subjection to the civil power, unworthy of my feeblest aid. With all my bias for Conservatism, I trust I never shall be blind to its faults; and when I see it opposing itself to the interests of our revered church, I must oppose it on that ground. Sorry am I thus to speak of the present government. Sorry am I to be obliged to say that it has not sympathised with the people of Scotland in their present noble struggle for spiritual independence. Never did a government enter on office with such an opportunity of winning the affections of the people and the great body of the clergy, as did the government which now exists in these lands; and never did a government have the affections of—no, I shall not say lose them, for I cannot, but hope that they will yet retrieve the loss, and restore themselves to that confidence and esteem which they could derive by an honest and manly acquiescence in the demands of the church. If so, and I earnestly hope they may, none will rejoice more cordially in it than I. I believe the government has been greatly misled in this matter. I believe no government, which was fully aware of the feeling of the Christian public, could for a moment think of withstanding their just demands. And I do believe, that were the present government made distinctly aware of the actual state of feeling which now exists in this country, and the Church of Scotland, it would most gladly give its support to the noble principles for which we are contending. I confessed myself to be a pro-patronage man. I feel that I would not be doing my duty to the church, were I not to avow clearly the party to which I belong; but I conceive that, in the present crisis, I would be equally chargeable with a dereliction of duty, were I not to enter my solemn protestation against the manifold evils with which it has been attended. I need not enter fully into the question. It has been often and ably discussed; but I would advert to a few points that appear to be essential to the support of my present position. By the act of 1690, which I look upon as the charter of the liberties of the Church of Scotland, patronage was done away, and a system of ecclesiastical government was introduced, to which the people were greatly attached; and in the treaty of union it is specially provided, that the rights and liberties of the people, as thus secured, should be maintained. This act was subsequently confirmed, and provision made that no change should take place in the mode of ecclesiastical authority and worship which had been settled at the time. Those who are acquainted with the history of Scotland, must be aware that the union was effected with great difficulty. The country was in a state of the greatest agitation and excitement, and much difference of opinion prevailed even among the clergy on the point. But the majority of the clergy were in favour of the union, and it was mainly owing to their exertions

that it was effected at all. No friends had ever stronger claims to their country's gratitude than the clergy of these days. But as we have already heard to-day, we are commanded by the highest authority to "cease from man;" and so it has been exemplified in the experience of the Church of Scotland; for scarcely was the union effected until the act was repealed which had been passed under the most solemn circumstances in which any act has ever passed. A greater blot than the rescinding of this act there is not in the pages of the history of our Scottish church, and a more gross violation of the British constitution could scarcely have been perpetrated. And for what purpose was this act rescinded? For what end was it rescinded in the short space of five years? Was it for some patriotic purpose? Was it to procure some great and important benefit for the people of Scotland? No such thing,—but for a purpose, than which nothing more nefarious ever entered into the heads of any corrupt legislature, being avowedly to overthrow the presbyterian church of Scotland, and thereby abet the pretender and the Roman catholics, from whom this country had previously suffered so much. But this did not succeed. In the providence of God they were defeated, and the country hurled from power the most corrupt set of men that ever sat as the legislature of the land. The result led to the ascendancy of a government which protested against the injuries done to the presbyterian church; but how it was followed up, I am at a loss to say. But of this I am certain, such was the feeling against patronage, that though it still existed in the statute book, it was a dead letter. Things went smoothly at first, but patronage gradually established itself, and ultimately proved itself a very sensible mode of propping the secular power. It led to the evils which prevailed during the last century, and to those which have prevailed during the present century which we may so much deplore. The question now comes to be, what is to be done? It had been said that the delay in doing any thing had been so great that it would be hopeless now to think of effecting a change. Nay, it is contended by some that we should not now seek the abolition of patronage. I think the reverse of this. I hold that the delay which has taken place is a reason why we should now go forward, because it shows that all parties in the church were averse to resorting to such an extremity, could any other mode have been devised whereby the great principles for which we are contending might be obtained. It was objected that we should require great efforts to carry our proposition. I admit it will require great efforts; but here let me ask, was there ever any great measure carried without great efforts? What would have come of the reformation in Germany, and the reformation at home, but for the great efforts of the first reformers? Those who are prepared to expect great changes, and great undertakings, must be prepared also to encounter great difficulties. But the difficulties, after all, will not be so great. There is a noble feeling in the British character, which, when the British people know what the truth really is, will always show a strong bias to act according to truth and justice. One of the greatest advantages of these times is, that there are ample means of making our principles and position known, but this very facility also involves the disadvantage of getting access to men's minds with poison as well as truth. If, however, the Church of Scotland pursue a right course, she has nothing to fear, and, by the blessing of God, she will be successful. We know the difficulties with which the settlement of every great question has been met. Look to the opposition to the abolition of the slave trade. Look to the test and corporation acts, and I do not know how many other great questions, which were all resisted, and which all triumphed; and I am persuaded, that by the blessing of God, this question will triumph also. Mr B. sat down by seconding Mr Cunningham's motion.

The PROCURATOR said—It is with some reluctance I have been prevailed on by such of those friends as generally sympathize with my views, to undertake the task of moving an amendment on this occasion. I feel that I am supporting what has been considered the unpopular side of the question, and for this, among other reasons, I have been unwilling to undertake the task. I was also reluctant, from the difficulty I anticipated from the ability of the mover and seconder of the motion; but my friend, Mr Cunningham, will not be surprised when I state that, after having listened with every attention to the speeches of himself and his seconder, I still remain un-

convinced. Notwithstanding the powerful mind of my friend who has introduced the motion, I do not feel that he has made any statement which does not admit of being freely answered; and the anxiety which remains with me arises from the consideration that, if it is not answered, the fault will be in the person deputed to make that answer, and not in the weight of my friend's argument; but I have no doubt that the gentlemen who may follow on the same side, will supply any omissions which I may make. I am ready to meet my friend in argument on the different grounds he has taken; but I can assure him I have no desire, and never had any desire, to offend him by any of those railings which he says he has met with from those who entertain similar views to myself. I am by no means an out-and-out admirer of patronage, and I do not say that it provides the best mode for the introduction of ministers into the church; but I have not heard any opinion as to any method which would render it safe to abolish patronage. I state this, that there may be no misunderstanding as to the ground on which I hold my opinion on this subject; and in making this statement, I hold myself to be using the very same language which I used on the first occasion that I delivered my opinions to the house on this subject, and I think, then, as now, in answer to the reverend gentleman who has proposed the motion. I may add that I do think those on my side of the house have one great advantage, in so far as they are defending a system which already exists, and accordingly it appears to me that my friend has shrunk, notwithstanding all the force he has brought to bear upon it,—he has shrunk altogether from meeting the reasons and arguments on this side of the house. It was his duty to bring forward arguments in support of his motion, and it is my duty to show that he has not done so. In this country it is generally worth while—though I admit, some dissent from this view—I say it is worth while to stand up in support of existing institutions. At the same time, I do not say that patronage is the most beneficial system, but it has existed in the church for nearly three hundred years. It has existed, with the exception of the period between 1649 and 1660, and during the time that prelacy prevailed in the land, though even then patronage prevailed, though it was not in connection with a presbyterian establishment. Next, Mr Cunningham says, that there is a great naturalness in patronage. I admit that there is. During the three first centuries of the church patronage was unknown; but all things were then in common, and there being no establishment at that time, the people followed what is now known as the voluntary system. I say that the voluntary system was in existence, and, of course, there could be no patronage. But in the process of time, wealthy individuals rose up, who built and endowed churches, and what surely could be more natural than that they should reserve in their own hands the patronage of them. There was no obligation for the building and endowing of these churches, but they were so built and endowed, and tendered by these wealthy persons to the sect of which they most approved. It is true that the sects to which they were offered might refuse them, but it does not appear that they had done so; and I repeat that if the person who had laid out his means for the benefit of the poor in his neighbourhood, should choose to say that he would retain the nomination of the pastor in his own hands, nothing was more likely to happen than that the conditions would be accepted. I think, therefore, that this was a most natural thing, and thus patronage may be said to have had its commencement. Not only was it natural, but it was common—so common that it came almost as a matter of course, that the man who built and endowed a church had the patronage. When Christianity was established, the process was not very much different. What was more proper or judicious, than that the state should consider which sect they should adopt, and, having made that selection, was it not natural that the state, which adopted a particular class of Christians, should be anxious to retain the patronage which they intended to endow? Without saying, therefore, that patronage is the best way, I repeat it is a most natural way; and I will carry my observations to this extent, that should an individual build and endow a church, it would be impossible, according to law and justice, to wrest it from him against his will. I never before heard a statement that it was possible to do this, and I cannot comprehend it. The remedy was in the hands of the parties who took these churches and endowments. If they did not comply with the conditions, let them have nothing to do with them; but after

parties had endowed and established them by their acts of liberality, was it according to either law or justice, that these should be taken from them? I regret that this argument was used.

Mr CUNNINGHAM said, my argument was to this effect, that upon grounds of right reason, the man who built a church should not have reserved the patronage.

The PROCURATOR.—I thought my friend had carried his argument farther, and admitted that patronage could be taken from the builder of a church against his will. Now, I shall assume for the present that patronage is a very bad system. Still I am satisfied that it is not the worst method by which ministers may be appointed; and I conceived that my friends this day would have agreed with me, that election by the popular voice was not the most sensible, nor the most peaceful, nor judicious method which could have been adopted; and, if I am not mistaken, I have read a statement taken down from the lips of my friend opposite, that this mode of initiating a minister was an objectionable mode. I say I may have been mistaken, or it is possible that he may have made an alteration in his opinions. Now, this is one mode of settling the question which affects the church, to which I am decidedly opposed. I think it is contrary to principle and to common sense. There is a material difference between the capacity of choosing, and the capacity of judging; and I say that the humbler classes of Scotland, with all their piety and intelligence—and no one gives them credit for this more readily than I do—I say they have not the means of making a proper choice of their minister. They cannot know a man till they get him, and have experience of him; and, according to my opinion, this would be a worse way of settling him than by means of patronage. But if my friend will bring forward the motion, which Mr Buchan seemed to think he had done, for repealing the act of Queen Anne, or if he will move in favour of popular election, then we will understand him; but I object to go to the legislature with this motion, till we know what he wants. I will put a case in point. What would be thought of any reformer, or of any of the Radical agitators of whom we now hear so much, if he were to rise in the House of Commons and declare that the existing system of representation was a bad one, and should not be continued, without at the same time pointing out a remedy for that of which he complained. Why, he would not find a seconder, excepting one as wild and infatuated as himself, to support a resolution which would throw the whole matter into anarchy, disorder, and confusion,—a resolution which did not provide for any other mode instead of that to which he was opposed. This, then, is what I want my friend to do,—to propose another system for that which he would abolish. Until he does so, I don't think I am bound to go into all his arguments, though, at the same time, we are not afraid to meet any of the arguments which he has adduced. Having stated this much, it would be enough for my own mind, and in explanation of the vote I am to give, I would not say more. I will not vote for the abolition of patronage, till he shows what is to come in its place, and until he does so, it is in vain for my friend to say we cannot meet the argument. It is he who will not meet our position and arguments. I remember in 1837—for last year I was not a member of Assembly—the speech of my friend was like the speech we have heard to-day,—one in which he professed that he was going to prove a great deal, and after an interval he professed he had proved it, and yet I say he did then as he has done now, not even attempted to prove it. He said he had proved it from Scripture, and quoted a text which was more calculated for the meridian of a Voluntary association, than for the Assembly of the Church of Scotland,—viz, “Thy kingdom is not of this world,”—and stated that it was unnecessary to quote further. He has not quoted any authority from Scripture. It is true, he has referred to texts, and to the election of apostles and deacons, but surely it is not to be said that this *questio vexata* can be settled by any allusion to Scripture. He tried it last year, and assumed he had proved the point. He has quoted the sentiments of Samuel Rutherford in his favour, but I must say, that the opinion of Mr Cunningham would bear as much weight as that of the passage he had quoted. But whatever Mr Cunningham's opinion might be, I should have liked him to show that the passage concerning the election of apostles and deacons contained any directions for the observance of the church at large. It appears to me that it provided for nothing beyond

an incidental election, for otherwise it would have been declared by authority that this should be done in similar cases. I say, therefore, that I have less regard for the opinions of these men, eminent though they may have been, than for that of Mr Cunningham himself; and though I will not trouble you with the chain of proof, it is not the less true that the Church of Scotland has never protested against patronage in the manner in which it is now proposed it should do. I would refer my friend from Livingstone and Rutherford to a letter by Lord Warriston, who was clerk of the church at that time, and between the years 1640 and 1650, he proves that the presentation to parishes was not understood in the sense it is now understood; but that which was protested against was the presentation of patrons, independently of presbyteries, sessions, and congregations. I will read the passages to which I refer from the new edition of Baillie's Letters. [The learned gentleman then read at some length from the work in question, with the view of proving that the protests of the church in early times were not directed against the use of patronage as now exercised, but against its exercise independently of the church.] This was what was resisted in the time of the Covenanters, and it is quite evident that they protested against a different thing in those days from that against which they are protesting now. [The learned gentleman made another quotation from the same work in favour of his position.] Now, the value put upon that, it does appear to me, is, that in the times of the Covenanters these were the views which were entertained; that they were stronger, still remains to be made out. In those days did not the church make itself superior to the state? It was then that they began to make encroachments on the state. Now, Sir, I repeat that I am by no means wedded to patronage. I am quite willing to abandon it when the scripture argument shall have been made out to my satisfaction. (Really Moderator, I wish my friends would allow me to finish my sentence, I had not done when they interrupted me.) Now, Sir, my friend has stated that he would give us an argument from principle, but as I have not been satisfied with the scripture argument, I don't think he should have stated any argument on grounds of principle, until he had established his position by the argument from scripture. If the scripture argument were sound, it could not be resisted, as it would be superior to all others; but it is one which I understood to have been given up on all sides as unavailable. I will not take the liberty, which my friend has given, of saying, that I cannot see how he can remain in the church; I have no doubt he has good grounds for doing so; but I do take the liberty of saying, that if the scripture declares patronage to be a sin, and if our friends maintain that it is Erastian, then the church itself must be Erastian, and that it is complying with what is sinful. I leave the scripture argument, however, in the hands of my reverend friends who are to follow me, and who will, I have no doubt, deal with it in a more effectual way than I can. Having now disposed of that argument, I come to the argument which my friend has drawn from principle; and here I concur with him in the main, though I cannot draw from it the same conclusion. I think that the patrons should belong to the church. I esteem it inconsistent to allow patronage to remain in the hands of those who are unconnected with the church. To that extent I agree with him. But I ask again, if patronage were abolished, what would be put in its place? He has not told us that; I wish then he would tell us what he wants; and I dare say there are many who would abandon patronage if they only knew what was to supply its place. But there are different gentlemen, who say, that they have always been friends to patronage, and that they are still friends to patronage, who yet vote against patronage. This has always been to me a very great mystery. There are some very excellent men among my reverend friends who say so; but I cannot see how it is consistent in them, that, though friendly to patronage, yet they vote against it. As to the matter of petitioning for the abolition of patronage, I think that it is totally useless; for I hold it perfectly clear, that if a person cannot get the half of what he wants, he cannot surely get the whole; and while the legislature has so often refused to the church the principle of non-intrusion, I see no hope of its granting the abolition of patronage altogether. The Church of Scotland is undoubtedly a presbyterian church, and the legislature *might* permit us to be without patronage; but if you tell them that anti-

patronage is essential to a presbyterian church, they will not be able to understand that, when they know from history, that she existed more than two hundred years subject to patronage. I cannot see then how the legislature will grant the abolition of patronage, till it is established that its abolition is essential to the church as a presbyterian institution. We have all consented this year, at least most of us have consented, so far as to go along with the overwhelming party which has taken up the cause of non-intrusion; and now I would put the question, Is it settled that statesmen are to do nothing for us? Do they not see that they should treat us as others treat us? Do they not understand that this is not a question between a few ministers of one party and a few ministers of another? Are they not aware that we are dealing with what concerns a great and most important institution of our country? And are we not entitled to hope that government, from a sense of the importance of this question, will give it all due consideration? Recollect when it was that we applied to the state; it was in 1838, it is now 1842. I mean 1842, now that is only four years since the agitation of parties. But do you recollect how long the church took in coming to its own conclusions when patronage was abolished? It was in 1739 that they forced the subject on the notice of the church, but it was ten years before they obtained the abolition of patronage. Really when Scotsmen took ten years to come to what they wanted, is it right to say that now, at the end of four years, English members of parliament should be prepared to grant it? But there are some who tell us that the government are going to settle it, and therefore I say that more time should be given for the decision of this great question, and that another year should be allowed to pass by, in which time I hope my rev. friend (Mr Cunningham) will be able to satisfy me upon the scriptural argument. I turn once more to the time between 1649 and 1660, and if I find Warriston at that time impressing on his friends the necessity of weighing well the great question then under consideration, have I not a title to ask you to wait some time longer? [The learned gentleman then read a passage from Warriston, which bore that the question was one peculiarly calculated to set the nobility and gentry together by the ears.] So that really, if I am to appeal to authority on any subject, I do not know to what higher authority I can appeal in favour of deliberate agitation on the subject than to those by whom the church was built up. There is another class of gentlemen who are apt to be carried away by another argument. I said before that I had an aversion to putting myself forward on this subject, because I believe the subject to be unpopular. Now, I believe some are apt to be swayed by the argument of popularity. The popularity of the subject, however, may be doubted, when there are only twenty-three out of eighty-two presbyteries which have sent up overtures against patronage; and I do not think the petitions on the subject have been signed by a number so large as twenty thousand. But I would ask my friends in the ministry, whether it is right to seek popularity by supporting a side which they would not otherwise do? To test the popularity of the matter in this house, I wish Dr Bryce would just move that individual patronages should be abolished; we would then see how popular it is. I am sorry I cannot make myself heard, because I have been labouring under a severe cold for some time. I conclude by proposing the following motion:—"That the General Assembly having considered the overtures, find it inexpedient in the present circumstances to transmit them."

Mr CRICHTON.—I beg leave to move an adjournment till six o'clock, at which time I will trouble the house with a few observations.

Dr MUIR of Glasgow then rose and said—I am glad the Procurator has so far modified his motion as that I can second it. It merely declares it to be inexpedient, in present circumstances, to petition for the abolition of patronage. We have heard learned and ingenious speeches from learned and ingenious men, and we may perhaps hear many such to-night yet; but before I yield to them, I would like to know if I am in a position to do so—whether I am in a position to accede to any such innovation as that now proposed. And here I beg to say that all depends on the Divine blessing; and are we in circumstances just now to expect God's blessing as a national church—to expect God's blessing even though we ask it? Let us go to the Bible and see. The Bible I take, of course, to consist of both Old and New Testaments; and if we go to the Old Testament, we find that the church and the state,

states throughout the world to the end of time. Now, though that polity be now abolished, yet the principles on which it proceeded are unchanged, and allow me to say, unchangeable. One of these principles is, that while it is the business of the state to support the church, it is the duty of the church to tell the state what is its duty, and to set it right when it goes wrong. But our church has not done this. Thirteen years ago, the church ceased to do its duty, did not warn the state against the sin it committed, and, therefore, it cannot expect God's blessing. It allowed the state to pass the popish emancipation act without protest, and therefore she has not enjoyed God's blessing in time past, and cannot expect to enjoy it in time to come. Have we even been able to get any great measure since that act was passed? Has not the cup often been brought to our lips, and as often dashed, as it were, from them, by a Providence which seemed, so to speak, to tantalize them? And why is this? Because she has not done her duty in that particular instance. They may do it yet—it is not too late—and if she do it, she may secure God's blessing, but not till then. I would just say a word or two on some other points. It is said the restoration of patronage was a violation of the treaty of union. Now, I do not pretend to be much versed in law, but I find that, in the claim of rights presented to king William and Mary before they were rightly fixed on the throne, there is not a word said about the grievance of patronage. However, when they were fairly settled on the throne, in their first session of their new parliament, there was an act passed, ratifying the act of king James, except that part of it relating to patronage. In the second session an act was passed, transferring the right to present from the patrons to the heritors and heads of families. Then the treaty of union was passed; but it merely confirmed that done in the first session, not that which was done in the second. So that there is no violation of the treaty of union in restoring patronage. Then it is said, patronage is contrary to Scripture. Now, I don't at all see this. It is true we find that an apostle and the deacons were elected by the people; but then the apostles also elected ministers; for I read that they "ordained them elders in every city." So that I think there is no fixed rule laid down on the subject. I just conclude by saying, that I no more hold a limited patronage to be any infringement on the religious liberties of the people, than I hold a limited monarchy to be an infringement on their civil liberties.

### MONDAY EVENING.

The Assembly resumed at half-past six.

Mr MAKILL CRICHTON.—I cannot help expressing the unmingled delight which I feel on account of the course which the debate has taken. Mr Cunningham, who has all his life been a champion of the principle of election of pastors by the Christian people, has opened this debate with a power which cannot be surpassed, if it can possibly be equalled in this house. He was seconded by one of the landed aristocracy, whose weight of character renders him an honour to our cause, and who, until driven by Providence to the position of an abolitionist, had been led by his conservative predilections and let-alone principles to be a defender of modified patronage. I was scarcely less refreshed at the way in which the enemy opened their fire. Apparently afraid to face the question, they have sought a very doubtful succour from our ranks, whence both the mover and seconder of the very modified counter motion have been taken. Whether in consequence of finding their minority number but eighty-five in the full house of Thursday, and the still smaller number of seventy-six on Saturday, their courage has fled, and they have left the battle to be fought by the now very small band of middlemen, who

“ Hang between, in doubt to act or rest ;”

or whether they reserve themselves, as a forlorn hope, to crush us by a desperate effort in the conclusion of the debate, remains to be seen. Another thing which rejoices my heart as a defender of the Christian people's rights is, that they have not dared to meet our anti-patronage resolution by a motion in favour of patronage, but have simply moved that it is not in *present circumstances expedient* that the overtures be approved. This is a concession indeed. I hope that next year, not on this ques-



tion, for I believe the anti-patronage protest will this night be adopted by a large majority, but in measures to be energetically adopted for the extinction of this master-grievance, we shall obtain the support of some reverend fathers and brethren upon the opposite side, even as already some of the moderate presbyteries have supported the overture for the popular election of elders. The signs of the times do indeed remarkably concur in recommending to us a straightforward, decided, and uncompromising course. I have two reasons for not attempting a regular reply to the speech of the learned Procurator, who preceded me in the debate. In the first place, because he has not returned to the house from the important business which led to our short adjournment; and in the second place, because I feel it a hopeless task to attempt convincing him of his error. He told us that he had listened without conviction to the Scriptural argument of Mr Cunningham against patronage; and therefore how can it be expected that I shall convince him? Mr Cunningham's powerful and unanswerable demonstration was calculated to carry conviction to the judgment and conscience of every one, where

“Dann'd custom hath not brazed it so,  
That it is proof and bulwark against sense.”

If the learned Procurator was not convinced by Mr Cunningham's arguments, how came it that he did not even attempt to refute them? It was a mere statement of his opinion, without the shadow of argument. The demonstration of Mr Cunningham remains unassailed, and cannot be refuted. I was more struck by the course pursued by the reverend and respected Doctor, (Dr John Muir), who from this side of the house seconded the amendment. I honour his piety and worth. I regard him as an ornament to our church, of which he is a devoted pastor, although I regard his argument upon the present occasion as strangely inconclusive. What was the amount of his first and main argument? It was this: that the Church of Scotland, in not protesting against the Roman catholic emancipation bill, had committed a great sin, and had encouraged the Romish cause, and that therefore she ought not to denounce but to cherish the popish innovation of lay patronage. If any amendment can be based upon such a ground at all, it is not a rejection of the anti-patronage overture, but a motion that this church, before resuming the anti-patronage protest, should adopt a resolution condemning the Roman catholic bill. I feel, Moderator, that upon the course adopted by the present General Assembly the destinies of this church and country, for weal or woe, do, under God, in a great measure depend. It is therefore incumbent upon us to approach all the great questions which are to engage our attention, in a spirit of prayerful deliberation—in the exercise of prudence and judgment, united to unshaken constancy and firmness. In me this solemn feeling of responsibility is enhanced by the conviction that, numerous and important as are the subjects which are to occupy the attention of the Assembly, we are this night engaged in the discussion of the master question. To the imposition of lay patronage upon our church, and to the pernicious operation of that evil principle, I trace all the difficulties and dangers by which our church and people are at present surrounded. I am aware that there are many reasons why the Lord should have a controversy with us—our neglect and abuse of high privileges—our sins and defections have been manifold and grievous; still, the sin of the church in tolerating, and often in fostering patronage, and the working of the principle itself in the church, are plainly the main procuring causes of our former spiritual declension, and our embarrassments and dangers. It has proved for many generations the main weapon by which the enemies of evangelical truth and of religious liberty have been working out their designs. I do not merely protest against the great sin of the church for the last hundred years, in the days of her declension, in protecting and rigorously enforcing patronage, to the grievous oppression of the people; but I have to charge the church with sin in this matter for the last eight years, during which evangelical councils have been in the ascendant. It is true that in 1834 the church did most properly re-declare her law, that no pastor should thenceforth be thrust upon a reclaiming people. But she did so in a manner the most favourable to patrons, and conferring the lowest degree of privilege consistent with any measure of spiritual freedom to the people. By the same act the church was guilty of a sin, proper, I believe, to the nineteenth century,

and never before chargeable against the Church of Scotland in her periods of purity and reformation, viz. of giving, in her spiritual capacity as a church, a virtual recognition to modified patronage. I can conceive that limited patronage may by us be tolerated as a grievance, but I cannot conceive how any man who holds the evangelical principles of presbytery, and maintains the principles of government contained in our standards, should deal with patronage in any other way than by protest. We were told by the learned procurator that if we held patronage to be unscriptural, he could not see how we could with a safe conscience, remain in the church. This is our answer: Our church, in her standards of polity or government, declares patronage to be unscriptural; to be a popish innovation. The grievance was imposed upon the church from without; and so far from being approved, was denounced and protested against by the church from within. Therefore, so long as it is kept within certain limits, as in days of old, it does not form a ground of separation, provided we never so become a party to it as to the right of consent which remains with the Christian people; and provided, in accordance with the standards to which we adhere, we regard it as a grievance, and seek its removal. The only two points of the argument to which I would briefly claim your attention, is, first, regarding the legality; and, second, regarding its operations and effects. These points have not hitherto been sufficiently discussed, or placed in the prominence which rightfully belongs to them. It is vastly important that we scrutinize the weight and authority which is due to that act 10th of Anne, chapter 12th, restoring patronage, upon which all the usurpations of the civil court, and all the tyranny over the people, in the recent forced settlements, are expressly based. We have the concurrent testimony of historians, biographers, statesmen, and lawyers, that the statute restoring patronage in 1711, was a black act of national treachery, a gross violation of the then recent act of security and treaty of union between the kingdoms of England and Scotland; a step in a plot then in progress by the popish party then in power, for the overthrow of the protestant constitution. The transaction, however, ought to be viewed in a yet stronger light, viz. that the patronage statute is essentially null and void, as proceeding from a parliament, the very basis of whose constitution precluded it from passing such a statute, without the solemn consent of the parties to the national treaty; or, alternatively, if the statute be not pervaded by an essential nullity, it has torn up by the roots the very foundation of the union, and we are entitled to claim the protection of a native legislature. The reverend Doctor who seconded the counter motion, told us there was nothing illegal or unconstitutional in the act restoring patronage. He told us, that in the claim of rights given in by the church at the revolution, there was no mention of patronage as a grievance. The Rev. Doctor, however, failed to notice that the claim of rights was a protest against prelacy, under which patronage had been restored and enforced, of which system patronage was a part. It therefore includes a protest against patronage, as the greater includes the less. The Rev. Doctor alleged that the treaty of union ratified only the act 1690, cap. 5, and did not confirm the act 1690, cap. 23; but upon examination, he will find that that statute confirms "the hail other acts of parliament relating to the church." I shall not trouble the house by proving this from the very terms of the statute by which the union was effected. I shall bring to bear upon the point, reasoning and authority far higher than mine. Instead of detaining the house by producing the numerous authorities which bear upon the point, I shall content myself by quoting two as a sample. The first opinion which I shall produce is one which must rank high, especially with our opponents on the opposite side of this house. It is not less than that of the English episcopalian lawyer, Judge Blackstone. In the introduction to his celebrated Commentaries upon the Law of England, at section 4th, he thus expresses himself:—"Upon these articles and acts of union, it is to be observed, 1st, That the two kingdoms are now so inseparably united, that nothing can ever disunite them again, except the mutual consent of both, or the successful resistance of either, upon apprehending an infringement of those points, which, when they were separate and independent nations, it was mutually stipulated should be fundamental and essential conditions of the union. 2d, That whatsoever else may be deemed 'fundamental and essential conditions,' the preservation of the two churches of England and Scotland, in the same state that they were in at

the time of the union, and the maintenance of the acts of uniformity which establish our common prayer, are expressly declared so to be. 3d, That, therefore, any alteration in the constitution of either of these churches, or in the liturgy of the Church of England (unless with the consent of the respective churches collectively, or representatively given), would be an infringement of these 'fundamental and essential conditions,' and greatly endanger the union." It rather adds to the weight of his opinion that Sir William Blackstone has no exclusive reference to Scotland in this passage. He thus distinctly declares, that any alteration in the constitution of the church, either of England or Scotland, as ratified and guaranteed at the union, without their solemn consent in their collective capacity, would be an infringement of the fundamental and essential conditions of that union, and would greatly endanger its stability. I call upon the reverend and honourable gentlemen opposite to apply this exposition of constitutional law to the act 1711, and either to refute Judge Blackstone, or to prove their zeal for "the law of the land," by joining me in demanding its repeal. The only other authority which I shall at present quote, is that of William Grant, afterwards Lord Prestongrange, a distinguished member of the Seafield family, who held very different views upon this subject from those entertained by the present representative of that house. I am glad to think that this remark is considered an imputation, and I fain hope we may yet see the respected nobleman contending, under that anti-patronage banner, to which his ancestors in the last century were so true. In a pamphlet, published in 1736 by Mr Grant, afterwards Lord Prestongrange, he thus expresses himself:—"But what is the strongest reason of all against patronages, and for the repeal of that law, is, that patronages being entirely abolished at the revolution, and another method settled by law pretty much the same with that in the bill brought in, that law, as one of those securing the Church of Scotland its rights and privileges, was made the unalterable condition of the great treaty of union, upon which are founded the *very powers of the parliament of Great Britain, and his Majesty's right of succession to Scotland*. That act then, in 1711, restoring patronages, was a *manifest violation of the most solemn public faith*." Is it possible for language to express more strongly than the above quotation, that the 10th of Queen Anne, c. 12, was not merely a violation of the treaty of union, but was an overthrow of the foundation "upon which are founded the *very powers of the parliament of Great Britain, and his Majesty's right of succession to Scotland*." The inevitable inference to be drawn from these, and other similar testimonies of the statesmen and lawyers of last century, is either that the patronage statute is null and void, as proceeding from a party expressly precluded, by the very terms of their existence, from passing such an act, or that it has uprooted the very foundation of the union, and we are entitled to demand the protection of a native legislature. Such was, in truth, the light in which the church regarded that infamous statute. For many years they would not allow a presentation to be laid upon the table of a presbytery, but proceeded in the settlement of ministers upon the call. Even when they afterwards permitted the acceptance of presentations, it was under the express condition that they were to submit themselves in the matter to the presbytery. Abundant evidence upon this subject may be obtained, without labour or research, by reference to the series of articles written by my friend Mr Begg, and published in the Witness newspaper, upon the foresaid settlements and policy of the church during the last century. So conscious were patrons of the gross treachery and fraud by which they acquired their patronages in 1711, that for many years they did not press their rights. My respected friend, Mr Buchan, told us that in the last century the church courts began to employ patronage as a tool for working out their designs; but he omitted to notice that it was when the church became corrupted by the working and influence of that very patronage, that she began the shameful traffic of forcing unacceptable presentees upon reclaiming congregations. In conclusion, upon this head—the Rev. Doctor (Cook) at the foot of the table smiles at the announcement—had he been here in time, his fears of an interminable speech would have been calmed, by hearing me state that I meant to confine myself to two heads or subdivisions of the subject. The Rev. Doctor, when he preaches, which is seldom enough, except when he goes to Strathbogie, scarcely confines himself to a subdivision of discourse so limited. In conclusion, I would state, that the

illegality and unconstitutional nature of the patronage act is too little insisted on. It ought to be proclaimed throughout the length and breadth of Great Britain—from the Land's End of England to the *ultima thule* of Scotland, that the patronage law, upon which is expressly built all the encroachments of the civil court, and all the enormities which have been perpetrated upon the Christian people of Scotland, is founded upon a base infraction of the solemn national treaty upon which the union of the kingdoms is built, and is in itself fundamentally and essentially illegal. It will if possible strengthen and increase the well-grounded antipathy of the Scottish people to the unscriptural tyranny of lay patronage; it will rally to our cause all that is just and generous in the English nation; for whatever views they may entertain regarding our presbyterian system, they can, when the case is laid before them, hold but one view as to the necessity of abolishing patronage, and thus restoring the basely broken treaty of union. Let this view, then, be brought more prominently forward, and pressed upon public attention, viz. that there is no escape from the alternative, that the statute 10th of Anne is either essentially illegal, or that if binding, it has overthrown the very foundations of the great national union, and we are entitled to claim the protection of a native or Scottish legislature. I desire now shortly to direct your attention to the truth, that patronage is the weapon by which our enemies are seeking to work out the subjugation, nay, the very destruction of our beloved Zion. I do not pause to attempt any sketch of the history of patronage during the last century. The fearful effects of its despotism are well known, and are yet felt. I must, however, express my surprise, that notwithstanding the history of the past, the government of the country should have cast the weight of its influence and authority into the scale of moderatism. I would have thought that even a mere secular and worldly policy would have produced a wiser result. Is it on account of the fruits which during the last hundred years it has produced? Is it on account of the spiritual despotism with which it crushed the people of Scotland? Is it on account of their having driven many of her most godly ministers, and a mighty section of the godly Scottish people, from her communion, and thus caused a fearful schism, which threatens the existence of the parent church? Is it because under the negative and positive sins of moderatism—I speak of the last century, but I am quite aware that the moderate minority of the present century has now so identified itself, even in its most revolting features, with the moderatism of the last century, that I don't wonder at the sensitiveness of my friends opposite.—Is it because under their neglect of duty, and inefficient ministrations, dissent, pauperism, chartism, and all the elements of revolution and anarchy have grown up unheeded, and seem now ready to burst with destructive fury in our land? I do marvel, Sir, that ever a narrow secular policy should desire again to entrust the religious superintendence of the nation to a moderatism which has brought political and social evils so fearful upon the land. To come however, Moderator, to the present day, I own that there is no evil now affecting our church which may not directly be traced to the operation of patronage. Is the constitutional jurisdiction of the church, in matters spiritual, invaded, and a right of paramount controul arrogated by the civil court? It is because the church has ventured to declare limits to the exercise of lordly patronage. Are our presbyteries dragged to the bar of the civil court to suffer rebuke and menace? It is because she refused to thrust in the patron's nominee. Are the rights of the Christian people, in the settlement of their pastors, trampled in the dust, and the atrocious days of forced settlements renewed as at Marnoch, Culsalmond, and Glass? It is that unmitigated patronage may be peremptorily enforced. Are licentiates of this church breaking their vows of obedience to their ecclesiastical superiors? It is because they have been bribed to rebellion, by receiving a presentation from a patron which they are determined to enforce. Are the presbyteries rebelling against the spiritual authority of the General Assembly? It is because they are cheered on by the patrons and civil courts to enforce high handed patronage. Is the moderate minority, which constitutes a considerable section of this house, trampling under foot the most solemn spiritual sentences of this supreme court,—holding the highest censures of the church to be annulled, and deposed ministers to be reposed by the mere sentence of a civil court,—are they despising all ecclesiastical subordination, and actually enforcing a schism in the church? It is be-

cause patronage is the god of their idolatry—the craft by which they make their gains,—and they do not hesitate to cast to the winds their allegiance, and own the civil court as head of the church, because it is now the champion of irresponsible patronage. Is Scotland in the course of being turned into a moral wilderness, and the religious oversight of the people committed to careless shepherds? It is because the patrons are jealous of their alleged rights, and, no longer operated upon by public opinion, are making their main object, not the religious good of the people, but the subserviency of the presentees. It is high time that the truth was spoken out plainly and boldly in this matter, and that the people be stirred up to a sense of their duty, to arise and shake off the yoke which has become intolerable. I shall illustrate and enforce the accusation which I have made, by adducing some recent instances of the pernicious exercise of patronage. I have no false delicacy to make me shrink from the avowal of the truth. My respected friend, Mr Buchan, avows himself a conservative politician, and is evidently restrained by some lingering hopes of his party from the full expression of his indignation. I feel, Sir, under no such trammels. I am now trusted by neither Whig nor Tory party in the state. I cast off successively my confidence in each, as I was successively undeceived in my too fond reliance in their protestant constitutional principles. In me, Sir, the churchman so overpowered the politician, that I have been driven, at some sacrifice of self-interest, to declare my mistrust of both, and assume the independent position of a Bible politician. We have excellent friends connected with both parties, such as our friends Mr Buchan on the one hand, and Mr Monteith on the other. The main body of both parties, however, is so thoroughly secular and worldly, that I would as soon trust the lamb to the wolf as commit the adjustment of the church's spiritual independence and the religious privileges of the people to the sole arbitrament of any political party. This, however, the dark and tyrannical policy of the present government towards our church and people, has taught me, that the day of their accession to office was an evil day for Scotland. Their contempt of the people, their arbitrary appointments, their forced settlements, their bodies of military marched into quiet parishes, is in striking contrast to the liberal exercise of church patronage by the late government. Yes, Sir, it is but justice to the last government gratefully to acknowledge, that they did consult the wishes and conscience of the people, and made that the chief rule in their appointment of ministers under the Crown patronage. It is too clear that at present both private and public patrons, with but few exceptions, are engaged in a conspiracy to outrage the rights and destroy the liberty of the church and people of Scotland. [After alluding to the cases of Culsalmond, Strathbogie, and Kettle, Mr C. then proceeded to speak of Cupar.] My reverend friend the late incumbent died suddenly,—the government, upon the information of some spy, (for the official notification of his death had not been transmitted,) lest the intelligent people of this important town and parish should dare to annoy the Home Secretary with any feelings of their own, determined to anticipate,—while the widow was yet weeping over the dead body of her husband, while the fatherless children were yet mourning over the remains of their parent,—before the body of the deceased minister was committed to the tomb,—that the people might have no room to move in the matter, a successor was appointed. I am aware that the appointment is gazetted on the 8th, while the funeral took place on the 7th, but it is well known that the appointment was determined before the funeral. I say it for the honour of my countrymen, that this indecent and tyrannical proceeding, insulting alike to the memory of the deceased, and to the people of this important parish, almost without parallel even in the most rampant days of Toryism, excited one universal feeling of disgust and indignation among moderates as well as evangelicals. In the case of Ladykirk in Berwickshire, the entire people of the parish (with the exception of three individuals) transmitted a petition in favour of Mr Whitelaw, who, as assistant, had exercised the ministry for a considerable time much to their edification. Sir James Graham not only presented an individual of whom they knew nothing, but up to the period when I last visited Berwickshire, which was nearly two months after its transmission, had not even had the courtesy or decency to acknowledge receipt of this important and unanimous petition. Here is despotism in the exercise of patronage, contemptuous,

high-handed, and unmixed. There is here such insolent contempt, that, happily, there is no attempt to deceive us. We have full warning of what we are to expect, and for what we are to prepare. Scotland is now suffering from having surrendered her independent condition as a kingdom without sufficient provision for the protection of her interests. There is no secretary of state, as in Ireland, to attend to the interests of this kingdom. The English home secretary, an Achan in the land, and bitterly opposed to our sacred privileges, thinks, that as the barriers of the union treaty were basely broken down in 1711, he may complete the work of Bolingbroke, and, as border marauder, may foray the parishes of our land, and spoil our people of their dearest inheritance. I might quote other cases, and thus multiply instances of the oppression and moral desolation which patronage is working in the land,—but let the above suffice. The policy of the government and of the patrons is plain and palpable. They expect that the whole body of *quoad sacra* ministers shall be declared disqualified, and that by the rigorous and exclusive exercise of patronage in favour of moderatism, they will soon realize the majorities of our church courts, and re-establish the dark reign of moderatism. If, leaving attempts at compromise, we be firm and united, and act the part of Christian patriots, be assured that the evil root of bitterness, lay-patronage, and the anti-national ministry who are so wickedly and cruelly enforcing it, shall both be cast down and destroyed long before they can accomplish their deadly and anti-national design. I hope we have been taught the folly of halting between two opinions, and shall advance directly our concentrated influence against the very existence of patronage. My friend, the learned Procurator, asks, If you cannot obtain a legislative sanction for the veto, which is a mere restriction of patronage, how can you expect to obtain the total abolition of the right? Does not my learned friend know that there are some evils more easily eradicated than regulated or restrained? Does he not know that faltering half measures are always more apt to fail than an uncompromising, bold, and decided course. My learned friend seems to forget that no great constitutional battle, whether political or religious, has ever been fought without encountering difficulties apparently almost insurmountable. I am aware that we are not only thus encountered by our ordinary opponents, but by some who have deserted from our standard,—men who, when little was to be done, and nothing sacrificed in the cause, declaimed against patronage, and if words would avail, must have destroyed it; but who now, that our principles require to be carried into effect, and the uphill path of difficulty is to be surmounted, with craven spirit desert their associates, and worse still, basely join the enemy, and reproach us for our perseverance in what they term a hopeless work. I shall be asked, if patronage is to be abolished, how is the appointment of ministers to be vested? The learned Procurator says, I hope you do not mean to give us popular election, for that is worse than unmitigated patronage. As to the precise mode of adjusting the appointment of ministers when it is placed within the church, there may exist, while the same principle is maintained, a variety of views. I have no hesitation in declaring my conviction, that while the trial of qualification and ordination is vested in the office-bearers, the right of election is in the communicants of the church. I am surprised that the Procurator, whom we believed to be a friend of popular rights, should hazard such an assertion. It is to a tried and religiously qualified body, even to those who have been found qualified and admitted to the sealing ordinances of the church, and to full membership, that the privilege appertains. I am aware that so long as human nature is corrupt,—so long as the visible church contains an admixture of persons who are not real Christians, even this system will not be without its practical defects. But sure I am, that under an amended discipline, and those wise regulations which the church will adopt, the evils will be few indeed compared to the fearful mischiefs which are the legitimate offspring of patronage. Sure I am that the system will, in practice, justify its claim to a scriptural authority and foundation. And as I cannot detain you by further argument, let me just ask the Procurator, and all those who are beset by alarms about the supposed effects of what they erroneously term mere popular election, to look to the sister presbyterian church of Ireland, and calm their fears. There you see a church, including nearly a million of the Irish people—a church endowed by the state, and

wholly free from the curse of patronage. There the communicants have the free election of all office-bearers, deacons and elders, as well as pastors. What is the consequence? Do you there find a vulgar and degraded clergy, and a tumultuous and disorderly people? On the contrary, the clergy are distinguished for piety, talent, learning, eloquence, devotedness to the gospel ministry—the people for intelligence, order, industry, and for love of their queen and country. Why, I ask, should the popular system, which works such wonders for the endowed presbyterian, prove a curse when restored to the presbyterian church of Scotland. The practical argument deduced from the example of the presbyterian church of Ireland goes farther, and strikes a deadly blow upon church patronage. In the matter of church government, the Church of Scotland contrasts but poorly with the sister presbyterian church of the green isle. In that church you see a united evangelical body, you find no incubus of moderatism, the opinion of patronage dividing the counsels of the church—no internal rebellion against ecclesiastical authority, no insubordination, no misrule; and why? because no unscriptural encroachment in the shape of a civil right—no apple of discord like patronage exists, to cause, as in Scotland, aggression from without, and excite schisms and dissensions within. Let us go to the battle as men, and under the anti-patronage, we are certain, by the blessing of God, to win. In that struggle we ascend a vantage ground which before we did not occupy. In the first place, we occupy a strong and broad ground of Scripture principle, which alone will nerve us to overthrow a thousand obstacles. In the second place, we occupy a vantage ground of national and constitutional right. We are entitled to point to the infamous statute of Queen Anne, which subverted the foundations of the union, and to say to generous Britain, with an appeal which will not be in vain, repair the breach (which the Bolingbrokes now in power are seeking to widen and render irreparable) made in the national treaty, or hold the union to be void, and restore our Scottish legislature. In the third place, our anti-patronage movement carries with it the principles and the hereditary feelings and recollections of the Scottish people. They scarce could understand, and never could thoroughly enter into your non-intrusion and *liberum-arbitrium* diplomacy. I tell my friends on this side of the house, that they have greatly discouraged their best friends among the people of Scotland by their long halting in taking up anti-patronage ground. Believe me, your efforts have been too much directed to statesmen and high places, instead of being directed to enlighten and encourage the middle classes and labouring population of Scotland, where, under God, your great strength lieth. Effectually arouse and unite them in a cause so just and sacred, and you necessarily carry the assuredly hostile, but time-serving statesmen, whose Erastianism will yield only to the pressure from without. It will give a mighty impulse to a cause already powerful and progressing in Scotland, if the church shall resume her ancient protest against patronage, and guide the helm of the national movement for its destruction. It is an anomaly proper to the nineteenth century, to see a reforming church hesitating to pronounce patronage to be a grievance. Wipe away this stain upon the æra of the third reformation of the Church of Scotland; supersede and swallow up your non-intrusion committee by a standing committee of the church against patronage; unfurl the anti-patronage banner, never again to be laid aside, until this master-grievance, the source of the encroachments of the civil courts and patrons upon the spiritual liberties of the church and people—the power by which the door of the fold is seized by those who send in wolves instead of shepherds into the fold,—be utterly and for ever destroyed. Upon the issue of our struggle, the integrity, the existence of the Church of Scotland depends. If we falter and temporize, ruin threatens us—if, united and determined, we persevere in our great and glorious cause, in humble dependence upon our God, the church of our fathers will achieve a glorious deliverance, and, free from the curse of patronage, and all its consequent corruptions, will be transmitted to our children, and our children's children, as their dearest inheritance.

Mr BULLOCK of Kennet would only take up the attention of the house for a very short time, his only reason being, that he was disinclined to give a silent vote. If he could bring himself to believe that by the issue of this discussion and division it was possible or practicable to relieve the church from her difficulties, he would give his

humble vote for the motion of the Rev. gentleman; but as there was a prospect of the question being taken up by the government, and, as even with a unanimous vote of this house, there was no likelihood that parliament would consent to repeal the law, he would not give it his support. Even if the government did consent to adopt what the motion prayed for, and sent down to the gentlemen opposite who would vote for the motion to-night, and ask them to fix on the law they wanted, it would be found, that however they were united to-night, there would be a vast diversity of opinion among them on that point. Though the matter might be carried to-night for the first time for some years, it would be by the union of those holding different opinions. Some held there was no Scripture warrant for what they sought; some were satisfied of the inexpediency of asking it; others were driven to vote for it, believing it to be the only mode they had left of getting rid of the church's troubles. If, therefore, another mode were pointed out of accomplishing this, the latter party would not be found supporting the motion. The hon. gentleman then referred to the evidence given on this question before the house of commons, eulogising that given by the moderator, and read an extract from the committee's report, to the effect, that in all the proposed modes of settling the question of patronage, there were more difficulties than people were generally aware of, and that, in these circumstances, no change ought to be made without the fullest consideration. Since the adoption of that report, the question had not again been discussed in the house of commons, and he did not think that it would meet with the attention they expected. His reverend friend (Mr Cunningham) had said that no simultaneous exertions had been made to excite the people of Scotland to forward petitions on this subject; but after hearing the speech of his learned friend, (Mr Crichton), and when he recollected the number of counties he had traversed, and the zeal and ability he had displayed, he was astonished that there had not been a far greater number of petitions than what had been produced. He was glad the discussion had been brought on so early in the week, as when it had been settled by the vote of this evening, they would be able to go into other questions on which there was more hope of their coming to agree on a measure which would be beneficial. While at first he felt disappointed that the discussion in the house of commons had been delayed, he was not now sure if it was not the wisest course, because great exertions had been making to send members to the Assembly to make a great demonstration in favour of the abolition of patronage, in preference to any other mode of settling the question. He hoped they would get something which would be for the good of the church; the more especially as this discussion had taken place during the suspension of the question in the House of Commons. He believed the government entertained a friendly feeling towards the church, and ultimately a measure might be got which could be sent down to presbyteries for approval, and tend to reconcile all parties. He was as ready as his friend Mr Buchan to object to any measure which did not fully prevent the intrusion of ministers against the will of the people. After alluding to the means taken to induce the people to believe that the present government would give an acceptable measure, he said he had no fear of it, as they could have no object in view but the good of the country. [He then made some allusions to the case of Cupar, in which the late government had given the choice of a minister to the people, and they refused to confirm it.] He was sure the present government would not do so. They would not attempt it. Perhaps he had said but little explanatory of the reasons for the vote which he was about to give; but if he could bring himself to believe that it would forward the question, he should adopt the motion, and vote with Mr Cunningham; but he could not bring his mind to any such conclusion. At the same time, he had a feeling in favour of patronage. He was as much opposed to high-handed patronage as any man; but he conceived some measure was attainable which would support the rights of the people to state and enforce the objections which they might entertain to a presentee; and any measure which would support this principle he had continually advocated in that house. He was in connection with no patron; he was as independent of government or any other patronage as any man could be; but, actuated by motives for the good of the church, and anxious for a settlement of this question, he could not vote for the motion.



Mr MACDUFF RUIND opposed Mr Cunningham's motion.

Dr CHALMERS.—I do not attempt to consider patronage on its abstract grounds. These have been treated of already to-day. I will speak only of what is best and fittest in the present state of the Church of Scotland. When I was first engaged with this subject—that is, nine years ago—I entered upon it as a friend to reform—to gradual reform—a reform by a series of progressive ameliorations, by which we would feel our way, and convince the people by an experimental exhibition of our steps, and thus guide ourselves on the way to a desirable landing-place. A number of us met in 1833; and such seemed to us to be the fit way of procedure. Some may wonder that the genuine and legitimate fruit of this principle, the preference of the gradual to instant and complete reform, was the veto law. The veto was preferred to the call, because it laid the burden of the movement, not upon the assentients, but upon the dissentients, so that the element of the popular will came ten times less into conflict with the power of the patron. We did the least we could; we made the slightest possible encroachment. Yet it was followed up by a violent opposition, and led me into extensive correspondence, *e. g.* with Lord Aberdeen. We then resiled a step, and then followed a great deal of correspondence about the *liberum arbitrium*. And the ultimate issue has been, that patronage would not allow of any deference being given to the element of the popular will. In the utter impossibility of amalgamating them, we have therefore been shut up to this, that there is no conclusive and comfortable settlement, but in the utter extinction of patronage. At the same time, unless the abolition of patronage could be followed up by a system for the appointment of ministers, which one could hold up his face for, and which was likely to secure a succession of efficient pastors to the Church of Scotland, we would not hold a right position in which to demand its removal. We must be able to say that the initiative, when transferred to the people, is a good and likely system to secure an efficient ministry. I have no faith in the infallibility even of the popular voice. I do not subscribe to the maxim *vox populi vox Dei*. But the thing which leads me to prefer popular election (wrongously so called) is the profound and exquisite adaptation which obtains between the truths of the gospel, and the exigencies of human conscience, inasmuch that if a congregation be honest and sincere, the collective voice of that congregation is with me the greatest of all authorities and guides in the choice and determination of a man. When I speak of the popular conscience, I don't speak of the conscience of a people whose religious character has not been tried and ascertained. If by the people, you mean the inhabitants of the parish in general, I consider it as bad as the present system of patronage. The church would be in as bad circumstances, and in as unlikely circumstances for having a good series of ministers, if over-ridden by an ungodly democracy, as if over-ridden by an ungodly aristocracy. The most unsavoury of all propositions ever made to me was, that the right of election should be vested in the ten-pounders of the parish, *i. e.* making it a civil, instead of a religious qualification. Our system of election would be different. Recollect that under a system of popular election by the communicants of our parishes, you have still the same check, the same veto, so to speak, as you have under the system of patronage. You have the same constitutional power of making regulations under the one system as you have under the other. This consideration may well mitigate, I think, those fears which by some are so often expressed, of the flood of an ungovernable democracy rolling over the land, when popular election shall become the law of the church. We have the power to raise the qualifications both of the electors and of the eligible. The eligible are the licentiates of our church,—the electors are the communicants; and if the qualifications of the eligible were raised, which the church has it in her own power to do, then we might have the utmost security in elections vested in the body of the communicants, because we would then have furnished them with the best materials. And I rejoice to say, that the church is raising her literary standard, requiring a little more Hebrew, and a better acquaintance with church history; and her presbyteries are making their examinations more strict. Truly the most cheering of all prospects is afforded by the thought that, in comparing the *personale* of our students with those of my own standing forty years ago, nothing can be more palpable or undeniable than this, and all the professors of theology, I am sure, will bear testimony to it, that a

great elevation has taken place in the learning, the scholarship, the principles, and everything desirable in the rising hopes of the Church of Scotland. But even the standard of that scholarship and learning we have it in our power to raise indefinitely, and we can do the same with the standard of the qualifications of our communicants, and thus both the elector and eligible being improved, these two elements would act most admirably to each other's hands. I believe that we might look to nothing but a more holy, lettered, and accomplished ministry, and a more Christian and pious people, as the result of such an arrangement. Without entering at all into the abstract theological grounds, which have been already so ably stated,—the grounds on which I would prefer a well-regulated system of popular election to the present system of patronage,—I say, without considering these at all, we have enough to guide us to the same determination in the probable results of the one system, and the dreary experience we have had of the other. It was argued by a former speaker in his debate, that as civil liberty was compatible with a limited monarchy, so also religious liberty was compatible with patronage. But the difference between the cases is this, that patronage refuses all limits—there is no such a thing as a limited patronage in this country. From the way in which it was exercised during the last century, and the way in which it has of late been exercised, it is too evidently like “the Turk that can bear no neighbour near his throne.” Neither non-intrusion nor spiritual independence can at all consist with its existence, and, therefore, looking to its moral results and mischievous bearing, I feel satisfied that we can only arrive at a satisfactory adjudication of the present question by the entire abolition of this system.

Mr ROBERTSON of Ellon, after one or two introductory remarks on the speech of Mr Cunningham, proposed to address the house chiefly on the question of principle. He did not think the arguments of Mr Cunningham had been answered. How far he should be able to answer them remained for the house to judge. If they were debating on the meaning of the term patronage, as it stands in the standards of the church, it might be of some consequence to fix the precise meaning of the term. That, however, was altogether irrelevant, so that he would accept of the reverend gentleman's definition. In the pursuit of his argument the reverend gentleman directed the attention of the house to what constituted the nature of the subjects they had to deal with, and stated that to be, the appointment of Christian pastors to govern in the Lord, and to minister to the Christian people. To this he had no objection; but on this the reverend gentleman had laid down an axiom, that there were only two parties that had anything to do in the matter—the people on the one hand, and the courts of the church on the other; and that power could belong to no other parties whatever. But Mr Cunningham, as appeared to him, did not attend to another consideration, the effect of which was to show either that the Christian church should not be established at all, or that another element must be introduced here, which should not deprive either the church courts of their power, or the Christian people of their rights. Now, these were what he would be inclined to call two poles, the one civil, and the other spiritual; and were he to follow the same line of argument, and, instead of directing all his attention to the spiritual pole, he were to direct his attention to the civil pole, perhaps it were no difficult matter to show that the whole question is a civil one, unless they were to overturn the whole foundations of civil government. Suppose a corporated body were extended over the whole country, invested with a certain proportion of wealth, and that by the regulations laid down for the management of that corporate body, the distribution of the wealth belonged exclusively to the members of the body, without reference to any civil court whatever. Now, this was Mr Cunningham's view. The Christian people, according to him, had a right, if not of electing their own pastors, at least of declaring, on reasons they deem sufficient, who shall not be their minister. For this they are not to be responsible; their decision is not brought forward to public view. If he understood Mr Cunningham aright, the other party had a similarly irresponsible power, for the due exercise of which they were not answerable to the public. But every court of irresponsible power should state the particular grounds on which they form their judgment, because on no other grounds could the liberty of the public be guaranteed. Allusion had been made to the constitution of the primitive church, and it had been contended, that in the primitive church the people had the power to

elect their pastors. This had been argued on the authority of Cyprian; but if Cyprian was any authority at all in the matter, it was more in favour of episcopacy than of presbyterianism. However, on that point he was not disposed to lay much weight. With respect to the argument itself, he would beg to remind his friends opposite, that in the primitive church the form of church government which prevails in the presbyterian church could not be expected to be found. The primitive church was a voluntary church; it possessed no corporate body of its own; and, in these circumstances, the choice of their pastors was properly the right of the people. But when the Christian religion at length obtained the sanction of the legislature, it became possessed of property, and what was the consequence? The civil power might here deprive it of that property—of its temporalities; but the moment it allowed a corporate body of men to hold property by law, on their own responsibility, and to be used according to their own discretion, that moment the civil and ecclesiastical powers came into collision. The civil power might put down the church, or the church with the power of the people put down the state; and experience had proved that the one result was more to be dreaded and calculated upon than the other. If his friend would argue exclusively in favour of one pole without reference to the other, a *deductio ad absurdum* might be drawn from the one as well as from the other. The more consistent and direct deduction to be drawn from the constitution of the primitive church was, that if the pastors and the people were exclusively to have the power of regulating her affairs, electing the pastors, and ordering the doctrine and discipline, an established church was inconsistent with such a constitution. His rev. friend did not dwell at great length on the scriptural argument. He referred to the election of the apostles and deacons, but he (Mr R.) begged to remind him that the election of the former were by Christ himself, and the latter were elected in circumstances very different from those in which the power was sought in the present constitution of the presbyterian church. If they were to go to the Old Testament—and they might do so with much propriety in the present case—they would find that the civil power had had a good deal to do in matters of religion. Witness, for example, the case of Jehoshaphat the king, who took measures for instructing the people, and carried them into effect under the authority of the civil power. Mr Robertson then went on to show, that the motives which led to the establishment of Christianity, and the grounds on which religious establishments were supported, were quite consistent with the word of God. On this head, he said, the Christian state was an essential element in the constitution of the Christian church,—inasmuch as the establishment of that church necessarily arose, in the first instance, from the state's being impressed with the conviction that it was its duty, and would tend to the advancement of God's glory, the good of souls, and the advancement of morality in the land, that the Christian church should be established. And while the Christian people and the church had a deep interest in the Christian church, it could not be said that the Christian state had no interest in promoting and taking care that those who were placed in that church should answer the purpose for which the Christian state had originated the Christian establishment. This brought him to the second and last argument by the rev. gentleman. He adverted to a case put by his (Mr R.'s) respected friend, Dr Cook, last year, when he spoke of the naturalness and propriety of patronage following the erection and endowment of a church; and the rev. gentleman observed most properly, that it raised the point, how far it was competent, in a party erecting and endowing a church, to claim the patronage for himself and his heirs. He agreed with the reverend gentleman, that that question was necessarily raised; but he held also, that if the party referred to discharged his duty, we might also come to a right understanding on the elements essentially involved in the solution of the question. The reverend gentleman stated, that the only point on which the people were called to judge was exclusively the suitability of the minister to the peculiar condition of those people; that the question of qualification in a general point of view, and also an after judgment on the qualification, and on the question of suitability itself, was reserved for the presbytery, and he laid it down as a dictum, that in the mere matter of suitability, the people are more competent judges than any other party ever could be. Now, if he (Mr R.) were to ad-

mit that the people, in the exercise of a calm judgment, were competent to decide in this matter, still this argument of suitability is open to the test of reason and experience; and he would put over against it the evils which arose from popular agitation; and he was not sure but, in balancing difficulties, it might not be so easy a matter as the reverend gentleman supposed, to determine whether it would be for the unqualified good of the church to have a limited patronage, or to throw the election of their ministers into the hands of the Christian community. But the question had been placed on still wider grounds; for the reverend gentleman argued that, if we admit the jurisdiction of the civil power into the church in any form whatever, we must hold by one or other of two opinions. We must declare that the civil magistrate has an inherent jurisdiction in Christ's house; or we must declare that the Church of Scotland is no longer a church of Christ. And he (Mr R.) admitted that in arguing this abstract view of the question, the rev. gentleman had advantages which he (Mr Robertson) would not allow that he possessed, were he to argue the question in reference to the platform of the present establishment. But he took the question on the wide grounds on which the reverend gentleman had placed it. He said that the matter was not, whether the civil magistrate claimed the right, and occupied it in consequence of the compact with the state, or came into possession of it through the iniquitous concessions of the church; for in either case the jurisdiction of the civil magistrate was, on a plain construction of the word of God, altogether inadmissible. Now, if the inherent jurisdiction of the civil magistrate was to be conceded in any one of its forms, he should entirely agree with the reverend gentleman, that the whole civil matter admitted of determination according to the honestly and faithfully applied judgment of the parties inquiring into it; but he hoped it would not be laid down as a maxim, more especially by a national church, and after a uniform adherence to the Confession of Faith for two centuries, that the doctrines of our holy religion, or the government which is essential to principles of that religion do not admit of determination in like manner. Our presbyterian forefathers derived our doctrines and our government from the word of God; and they held that, in the exercise of their duty, it is necessarily incumbent upon them to take that word as a light to their feet and a lamp to their paths. They accordingly drew up a system of church government, and a platform of doctrine more in accordance with the word of God than were desirable to the government of the day, who were favourable to episcopacy. If, then, they did not conceive themselves to be guilty of a dereliction of duty,—if they did not conceive that they made any concession to the civil magistrate which was inconsistent with the rights and liberties of the christian church, when they placed the nomination to particular parishes in the hands of patrons, he was not aware how on this question we could be considered as compromising any of the christian liberties belonging to the church. If the people were interested in the appointment of their ministers, and if it was the duty of the presbytery to see that faithful pastors were settled over God's heritage, he held that it was also the duty of the christian government to see that the objects of the church—the promotion of God's glory and the good of the people—were faithfully carried into effect. If there was any patronage in this country, such as the reverend gentleman alluded to, he (Mr Robertson) would agree with him in thinking it a grievance, which, on grounds of principle, ought to be put down. But according to the constitution and principles of the Church of Scotland, no such patronage existed. He did not hold the system of patronage which did exist to be altogether perfect. He believed it was capable of a limited improvement. He believed that if the Church of Scotland were to lay down rules for the regulation of patronage, the rights of the people to object, and the free and unqualified right of the presbytery to decide on their objections, might be secured; and with all its defects, the operation of the law of patronage might be greatly improved. Why was this not done? He would not say an obstinate, because that was a disrespectful word, but a determined adherence to one particular course, which did appear to him to be inconsistent with the constitution of the Church of Scotland, had resulted in distracting and carrying away the attention of the ministers and elders of the church from that practical, aye, and practicable, improvement which would otherwise have been carried into effect. He held that the right of patronage on the part of a christian state, was quite compatible with a

free and uncontrolled judgment of the presbytery upon grounds of objection stated and alleged; and a free and unlimited right of objecting on the part of the people, for similar grounds to be stated, was not a patronage that interfered with the essential liberty of the christian church, but appeared to be as much in conformity with the Scripture arguments, on which so much stress has been laid, as any other plan which had been pointed out. But on a much higher principle than any principles of human law, he would give a free and uncontrolled right of objecting to the people, and also a right of objecting on the part of the presbytery. He required from both the one and the other, as Christian men, that in the spirit of meekness and gentleness they state substantially their grounds of objection to a presentee. He knew that the Christian religion which had inspired us with a knowledge of the principles of true freedom, was only carried out in its spirit when we did to others in all circumstances as we would wish others to do to us—when we objected to a man by coming manfully forward, and in the spirit of christian love and meekness state in what respect we held him to be unworthy. Something had been said of a compact; but he did not see that in an abstract argument like the present the matter of a compact came properly in. It was said that a compact necessarily involved a written adherence and consent of both parties; but a compact might be formed by deeds as well as by words. Admitting that the reverend gentleman was correct in stating that the act of 1712 was a violation of the compact entered into at the revolution, though with all deference to the high authorities quoted by the learned gentleman (Mr Crichton) he begged, on this point, to bring forward a living authority, who used to be of high repute—he meant Lord Moncreiff—who had given it as his opinion, that while the act of 1695 was ratified by the treaty of union, the act of 1690, chapter 23, which alone had reference to patronage, was not ratified by the treaty of union. But admitting that there was a breach of the treaty of union in the act of 1712, and that the people of Scotland, in consequence of that act, had the right of reclaiming, he must add, that the union of the church and state must ever rest on the perfect liberty and free will of both parties to continue in that state of union. No doubt if the state, by an aggressive act dissolved that union, and imposed such things as the church could not accept, then the state was guilty of sin; but for that sin the church had only honestly and conscientiously to warn the state of the transgression that it committed by such an outrage. In that matter the state was answerable to God, and to God only. In like manner, if the church departed from her standards of faith, and rendered it necessary for the Christian state to disestablish her, and establish a purer faith in her place, then was the church guilty of a grievous error. The state might remonstrate with the church for that error; but if it was adhered to, the state could not interfere without involving herself in the sin of persecution. The church here again was answerable to God, and to God only. Now, to apply this principle to the act of 1712—and he would, for argument's sake, allow that in that act there was a breach of the treaty of union, and that the church was entitled to retain, yet when that act passed, and continued to be in operation, it did not require the form of signature on the part of the church to ratify it. The acceptance of the *beneficium* was equal to a contract. The state, for example, has imposed upon us an income tax, and he would pay that tax according to his means; but he paid it in consequence of his subjection as a citizen of the realm. He did not pay it because it implied on his part any direct contract; but if, instead of having to pay the tax, he had, under the act, accepted a *beneficium*, which he could let alone if he liked, then he must say, that if a contract was not established by such means, he did not know what a contract was. He would not take up the time of the house with the minor part of this question. Something had been said about the treaty of union, to which he had already replied. Something should also be said about the evils occasioned by patronage. He did not deny that evils, and serious evils too, had existed contemporaneously with patronage. How far they were altogether, or exclusively, connected with patronage, he was really in doubt; the coldness and indifference in matters of religion, as had been already observed in the course of the debate, was not confined to this kingdom, but extended over all the civilized parts of Europe; and he was afraid that a truly philosophical mind might look for the coldness and indifference of the last century, in other causes than was to be found in the mere local influence of lay-patronage in

Scotland. And while it is true that that period was comparatively cold and indifferent, he was not sure that they instituted a fair comparison between it and those periods of our church so often referred to by the gentleman opposite. There was, no doubt, a great revival of religion between 1649 and 1660; but he was rather inclined to think, that no patriot, he was not sure if any Christian, would wish to take that period as a model for our church in the present day. They knew that the troublous times of that period, as troublous times were always sure to do, would bring into prominent relief both the good and evil feelings of men; and that many would have served God, not less in ministering to their respective flocks on the mountain side, or in the desert glen, than in the quiet of their own homes; and he would say that, during the dark periods of the last century, there were, no doubt, in the eyes of Him who looketh not on the appearance, many such pastors of the church, faithfully and humbly doing their duty as ministers of the Lord Jesus. One remark uttered by a reverend gentleman, he cordially concurred in. He said that in the case of those who took the same strong views of the subject with himself, it would be a mean, cowardly, and dastardly course of conduct, not in any circumstances honestly and manfully to declare the conviction of their consciences. He did not hold that those principles were consonant with Christian meekness; he did not hold that the manly and open declaration of the truth prevented them, in the least degree, from holding that truth in the simple and gentle spirit of the gospel; but he trusted, that while he gave all due honour to the rev. gentleman for the manly declaration he had made, and for his bold determination to nail his colours to the mast, and to adhere through good report and bad report, to the principles he held to be God's truth, he trusted that he would allow to others on that side of the house, to make the same honest and manly declaration of the opinions which they conscientiously and honestly entertained. He was sure no unworthy motives would be ascribed to any side of the house; and that he would believe that those on his side, who calmly and manfully avowed their principles, might also have the courage and honesty to stand by their consciences, as well in evil report as in good report.

Principal DEWAR supported the motion, and went shortly into the scriptural argument in favour of it.

Dr LEISHMAN rose and said,—I regret that the motion which is now lying on your table, has been brought forward before the report of the non-intrusion committee has been produced, as that report, and the discussion consequent on it, might have thrown some light on the present posture of the church, and helped to show whether it was or was not expedient, in present circumstances, to declare for the abolition of patronage. That committee was appointed by last Assembly, as appears from your minutes, with full power to use all proper efforts for obtaining a settlement of the great question now at issue, on a footing with the principles repeatedly declared and asserted by the church. And it was declared by the Assembly, when they resolved to appoint their committee, “that the present difficulties of this church are of so serious and alarming a character, that a measure fitted to put an end to the collision now unhappily subsisting between the civil and ecclesiastical courts, in reference to the settlement of ministers, ought to receive the recognisance of all who feel that they could conscientiously submit to its operation, if passed into a law.” It thus appears that the non-intrusion committee were given to understand by the Assembly, that the church was placed in a situation of great peril, while her usefulness in various quarters, was impeded and destroyed. They were likewise given to understand, that in such adverse circumstances, it was desirable that a settlement of our unhappy differences should take place as speedily as possible, and that any mode of settlement, whatever might be its particular form, ought to be welcomed by them, which would secure the practical operation of the great principles for which the church has been so long and so strenuously contending. It did not surprise me, therefore, to find that when Sir George Sinclair's amendment on Lord Aberdeen's bill was submitted to their consideration, they should have declared regarding it, on the 2d of October, as their minutes bear—“That the church would accommodate her ecclesiastical procedure to the provisions of such a measure; and farther, that the church would regard it, if immediately obtained, as a great boon, inasmuch as it would unquestionably be attended with several important advantages, in

leaving the office-bearers of the church free to follow the dictates of their own consciences in every case in the settlement of a minister, and preventing the risk of a collision with the civil courts; it being the understanding of the committee, as it is of Sir George Sinclair himself, that the measure is intended to recognise the rights of the church courts in their judicial capacity, to give effect to the objections of the people, if found to be insuperable, in every case in which they may think it their duty to do so, leaving them at the same time at liberty to disregard them." Such was the interpretation which was put by the non-intrusion committee, upon the measure proposed by Sir George Sinclair, and such was the favourable light in which they were led to regard it, when first submitted to them. Do I blame them for the resolution to which they came? Far from it; I honour them for what they did. They acted, on this occasion, the part of prudent and sagacious men; they were evidently alive to a sense of the heavy responsibility which lay upon them; they saw, as they conceived, an honourable way of escape for the church from her present embarrassments and dangers. They made no compromise of their own principles, or the principles of the church which they represented. They did not even conceal that the proposed measure was not the one which they preferred to every other, or that it was not one from which they anticipated the very best results. In the absence of any other measure, however, and hopeless of obtaining any such, they frankly admitted they would consent to act under it, and accommodate their ecclesiastical procedure to its provisions. Unfortunately the negotiations in which the committee were engaged with the government regarding Sir George Sinclair's measure, were not long afterwards broken off. This gave rise, for the vindication of those concerned in them on the part of the church, to the publication of certain extracts from the remarks of the non-intrusion committee. It also led to the publication of Dr Candlish's narrative, Dr Simpson's statement, and to a selection from the correspondence of Sir G. Sinclair. In this way the whole views and proceedings of the different parties engaged in those negotiations, were brought under the review of the church and of the country. And I confess, when I was made acquainted with these, I deeply regretted the termination of the negotiations in question. This feeling, I afterwards found, was shared by a large proportion of ministers and influential laymen, in different parts of the country. I felt no disposition to condemn the course pursued by men who were engaged in what I conceived to be a sincere but difficult attempt to reconcile various conflicting interests, and to put an end to our unseemly and baneful divisions. They might differ as to the means that were proper to accomplish the object they had in view, but in regard to the object itself, I was persuaded that they were all at one, and alike sincerely desirous to promote the good of the church and the best interests of the country. It appeared to me, however, as it did to others, that the negotiations referred to had been broken off in consequence of a mutual misunderstanding between the government on the one hand, and the majority of the non-intrusion committee on the other. This was our strong and honest conviction—a conviction which has been confirmed by what we have since learned; and therefore, having this conviction, and being desirous, by removing so unfortunate a misunderstanding, to remove an obstruction in the way of the negotiations of the church and the government, a declaration, signed by forty-five ministers, all belonging to the Synod of Glasgow and Ayr, was read by myself at the last meeting of that Synod, and afterwards transmitted to the government. For issuing that declaration we have had a copious share of abuse heaped upon us. This has not disconcerted us greatly. It was but what we expected. But we were prepared to bear this, and a great deal more, in the hope that we might be able, by the part we acted, to do the church some good service, or, at least, that it would be hereafter admitted that we had acted with the purest intentions and with a regard to the most perfect consistency. The enemies of our civil and ecclesiastical institutions, who have directed against us their vituperations, would no doubt have been better pleased if we had aided them in their attempts to overturn our venerable establishment, instead of meeting together to uphold it. We can submit to their contumely; but what, indeed, has grieved us is, that some of our personal friends, and some of the ablest defenders of the church, have called in question the propriety of the course we have pursued. They have lamented over our apparent

defection from the cause of non-intrusion, representing us at one time as credulous dupes, and at another time as full of arrogance and presumption. But have we sacrificed, Sir, the cause of non-intrusion? have we abandoned any position we ever occupied? have we done any thing more than the non-intrusion committee themselves did? They thought a particular mode of settlement admissible then; we think that mode admissible still. They conceived that the danger of the church at that period was such as to warrant them to close with the friendly overtures of the government. We do not conceive that the danger of the church is less now. It has increased, and is increasing every day. We therefore are, if possible, more alarmed now than they were, and consequently can fully sympathise with the strong desire they felt and manifested on that occasion, to make any concession consistent with sound principle and the possession of a sound conscience, to restore peace to the church, and to promote her stability, and the stability of the other institutions of the country. The day which would witness the overthrow of the Church of Scotland would, we are all persuaded, be a dark one in the history of this country. God knows, though we are not indifferent to the temporal welfare of our own and of a thousand other families, the sacrifice of this would be regarded by many of us in such a case as the least of our calamities. One main pillar in our social edifice would be overthrown, our noblest institutions would be endangered, every thing would be unsettled, one great change might be expected to lead to another, and the country being overrun with irreligion and political disaffection, we would soon have little to distinguish us as a moral and religious people from the other nations of Europe. But if we have cause to dread the consequences that would result from the destruction of the church, we have cause likewise to dread the consequences that would follow the disruption of the church; and yet it must be clearly foreseen, that if matters go on as they have been doing for perhaps another year longer, a disruption of the church must inevitably take place. Many of us feel that we cannot submit to what we deem the unconstitutional encroachment of the Court of Session. Our spiritual domain has been invaded, we think, at different points, and we are resolved, happen what may, to obey God rather than man. Our loyalty to our queen is based on loyalty to a still higher authority; and we are resolved, with the divine help, to render unto God the things that are God's, as well as to render unto Cæsar the things that are Cæsar's. If, therefore, the conflicting claims of the ecclesiastical courts be not reconciled soon—if a healing hand be not applied to the wounds of the church, and that promptly, these wounds will become incurable, and some of our most valuable members will be cut off, either voluntarily or involuntarily, from the body. The day of trial will come, and should it come, we trust that many of us will be prepared for it, and be enabled, like our fathers, to exhibit to the world an example of suffering patiently for conscience sake. In the mean time, our situation is not, we think, hopeless, nor is it such, I think, as to render it necessary, as our only alternative, to apply to parliament, in accordance with the overture on your table, for the abolition of patronage. The dismemberment of the church, and its consequent destruction, may yet, it is hoped, be prevented by other means, which are more likely to be satisfactory to the different classes of society. The government of the country is friendly to us. Of this I have no doubt whatever. The appointment of the deservedly popular and distinguished nobleman who presides over our Assembly is itself a proof of this; and what could be more amicable and conciliatory—more admirable in every respect—than the tone of the first minister of the crown, when it was announced in the House of Commons, on a recent occasion, that it was the intention of the government to introduce a bill into parliament for the purpose of settling our vexed question. Let us beware of disgusting the government, and alienating them from us by doing anything which could indicate a suspicion of the honesty or the friendliness of their intentions; and what, I ask, could be more insulting to them than for us to declare against a measure of theirs, the details of which are not yet fully before us, and which we have every reason to believe will amount to what the non-intrusion committee have already declared would, if granted, be a great boon to the country? Of course the force of the appeal I now make will not be felt by those who, holding patronage to be sinful, and contrary to the word of God, consider it to be their duty to seek the destruction of it at all hazards; but



it ought surely to be freely responded to by those who are not disposed to seek the abolition of patronage, provided a legislative enactment could be procured, which would, in some way or other, prevent the settlement of ministers in parishes, in spite of the conscientious opposition of a reclaiming people. It is my firm conviction that a legislative enactment of this kind might have been obtained before now, had it not been for the misunderstanding to which I have adverted. What was that misunderstanding? It was supposed, by some of the members of the non-intrusion committee, that, under a bill comprehending Sir George Sinclair's clause, it would not be competent for the presbytery to receive, as an objection to a presentee, or as a reason for the people's aversion or opposition to him, a declaration of their belief that his ministrations were not fitted to edify them, and that it was not for the spiritual good of themselves, their families and the congregation, that he should be inducted among them. This was stated by the late moderator, at an adjourned meeting of the non-intrusion committee, on the 31st of December. On that occasion the minutes bear, that "Dr Gordon stated, that by the word 'aversion,' in his statement to the Solicitor-General, he meant the continued opposition of the people to a presentee, or their declared unwillingness to receive him as their pastor, in contradistinction from reasons. When he puts, hypothetically, the case of the people of a parish being brought to admit, that the reasons which they stated for opposing the settlement of a presentee would not be maintained, and, therefore, virtually to admit that they abandoned their reasons; he did not include among the reasons so abandoned, the belief or conscientious conviction, on their part, that it would not be for the spiritual good of themselves, or their families, or the congregation, that the presentee should be inducted. This belief or conviction cannot in any way be considered as a reason or objection, coming from the parishioners, though the existence of it is in his (Dr Gordon's) mind, a most valid reason for a presbytery refusing to settle the presentee as stated by the people. It is simply a declaration on their part of the honesty of their motives in opposing the settlement, and not an explanation of the grounds of their opposition. Even under a bill allowing the church to give effect to reasons or objections of any kind, or even to the people's adherence to them, she could not be entitled to hold *that*, as a reason or objection, which is really not one in the ordinary construction of these terms, unless it were to be specially provided in the bill, that she was to be held at liberty to treat it as such, and to act upon it accordingly; or, in other words, to give effect, if she saw cause, to the continued adherence of the parishioners, their belief or conscientious convictions, as stated by them, that it is not for the spiritual good of the congregation that the presentee should be selected."

I certainly agree with Dr Gordon, that in order to carry into full operation the principle of non-intrusion, the church courts ought to have power to reject a presentee in consequence of such a sincere and honestly expressed conviction on the part of the people as he has supposed; but so, in my conscience, I am convinced, does her Majesty's Secretary for the home department—as well as Sir G. Sinclair. What does Sir G. Sinclair say at the end of his printed correspondence?

Here I take leave to observe, that, so far as I can understand Lord Aberdeen's bill, the objections which Dr Gordon states (Proceedings, p. 26) on behalf of the people, "that it would not be for the spiritual good of themselves or of their families, or of the congregation, that the presentee should be inducted," is included under the very comprehensive, unambiguous terms of Lord Aberdeen's bill, which provides, that "any objections of any kind," or "any reason against the presentee's gifts and qualities for the said cure or parish," may be recorded, and considered, and given effect to by the church courts, in their judicial capacity. I humbly apprehend, that the presbytery could not themselves originate any such objection to the presentee, but that, if it were urged by the people, they would have a right to sustain it, either if they were conscientiously convinced that the people were right, or (without homologating the conclusiveness of the objection, so far as their own opinion was concerned, (because it prevailed so strongly and so extensively as to preclude the prospect of the presentee's usefulness in that particular district. I may even add, that if my amendment did not allow the presbytery to receive, and record, and give effect to such an objection as is stated by Dr Gordon, I should at once repudiate it as inadequate or nugatory. All I ask is, that the presbytery should have the power to over-

rule that objection in every case in which they think that it is not honestly entertained; and that, in giving effect to it, they should do so with a sense of their moral responsibility as judges before their eyes. But I repeat that, under this limitation, I hold that they would be entitled to set aside a presentee on the ground of such an objection."

This is surely plain language. There is no mistaking its meaning. It shows plainly that there is no real difference, if difference there be at all, between Dr Gordon and Sir George Sinclair; and Sir George Sinclair, it must be borne in mind, though not the accredited, has been, in point of fact, the real organ of the government in the whole of those negotiations. Have we not here, then, a reason for pausing, before adopting as our last resource the motion which has been laid upon your table? I am aware that some in this Assembly go much farther than Dr Gordon. They object to Sir George Sinclair's measure, because it stops short of the total abolition of patronage. They might object, on the same grounds, to the legislative sanction of the veto law, to the Duke of Argyll's bill, to Mr Campbell of Monzie's bill, or to any other measure except the particular one upon which they have set their hearts, and the attainment of which, I hope I may be allowed to say, without offence to any one, appears to me to be as likely as the attainment from the legislature of the people's charter. We are told, indeed, that were we to unite in petitioning, or demanding from parliament the abolition of patronage, this must ere long be conceded to us; but the question is, are we united, as ministers, as elders, or as a people, in regard to the expediency or the necessity of seeking for the abolition of patronage? The aristocracy, as a body, it is well known, are against this—not a few of the office-bearers of the church are averse to it—many of the intelligent and pious members of our respective congregations disapprove of it; while among those who are this evening resolved, it is to be feared, to vote for it, there is a large number who have been led to form this resolution, like the honourable gentleman who seconded the first motion, not because they are opposed on principle to a limited patronage—not because they approve of popular election in the abstract—but simply because, under the influence of that hope deferred which maketh the heart sick, they have been led to say that the system must be destroyed which will not submit to be modified. If, therefore, popular election were established to-morrow, we should be as far from being a united church as we are unhappily at the present moment. I am aware likewise, that some are opposed to what we understand to be the government measure, because it does not embody the veto law, or because it does not give power to the church courts to reject a presentee on the mere ground of the dissent of the people. But that which is not given formally, would, it is believed, be given virtually. This is the declared opinion of Lord Cottenham, the late Lord Chancellor of England. The objectors would be required to state their objections to the presentee, but there would be no limits to the right of objecting. They might object that his ministerial gifts or qualities were not fitted to edify their souls, or that they had a conscientious conviction that it would not be for the edification of themselves or others that he should be inducted among them. After these or any other objections had been stated, it would be in the power of the presbytery to reject him, on the ground of their conclusiveness or validity; but even should they not be convinced that the objections brought forward were valid or conclusive in themselves, the church courts would be entitled to set aside the presentation, on the ground of their being extensively prevalent or conscientiously entertained in the parish. Were a measure of this kind to be granted to us by the legislature, I confess that I do believe every minister among us would conscientiously submit to it. I have never concealed, that I would prefer to this measure, so far as I am personally concerned, the present veto law, or Mr Campbell of Monzie's bill; but with the sad consequences before my eyes of our differences remaining unsettled for some time longer, and being desirous that we should have it in our power, as a united church, to promote the best interests of the souls of our countrymen, I confess I cannot conscientiously refuse that which is offered, because it is not all that I could desire. Before I sit down, I would earnestly entreat my reverend fathers and brethren to consider what may be the result of the vote this evening. The very existence of the church may depend on it. Should that vote imply censure or distrust of the government, they

may be magnanimous enough to disregard this. They may, pursuing the even tenor of their way, proceed to put into execution their declared purpose to introduce such a bill as may be satisfactory, in the language of Sir R. Peel, to the truly moderate men of both parties. Are my reverend friends near me unwilling to lay claim to the character of moderation—not moderation in the party, but in the Christian sense of the word? Should it be otherwise—should the government, after having made, as they conceive, a fruitless attempt to heal our divisions—should they abandon in despair the task they have undertaken, the consequences may be disastrous in the extreme, and some, when in after life they look back upon the dispersion of their flocks, upon the extinction of the light of the gospel in many a secluded village, on the silencing of the Sabbath bell in the glens and remote districts of our native land, when they have experienced a sad proof of the impotency of the voluntary system, and when they see their dis-established church lovely only in its ruins, some who are now present may shed over the remembrance of this evening, tears of bitter sorrow and self-reproach, vainly regretting that they did not avail themselves of the last opportunity which God in his providence afforded them of restoring peace to this distracted church and country.

Dr BRYCE would not detain the house any length of time. He wished to look at a few of Mr Cunningham's arguments. The circumstances which Dr Leishman had dwelt upon were not the circumstances which he would dwell upon. He cared not for what the non-intrusion committee had done,—what Mr Campbell or any one else had done. When he looked to the system of patronage, he saw that it had given to the church a faithful body of zealous pastors, and for a monumental instance, he said "circumspice." Mr Cunningham had said that patronage was anti-scriptural. Now, as the Procurator had said, "Show me that it is so, and I will be the first to abandon it;" so he said, "Show me the same, and I will abandon it too." The election of an apostle had been referred to by Principal Dewar; but that election was not less a miraculous choice by the Spirit than that of the test. The hundred and twenty mentioned were rather to be regarded as the pastors of the church, and not as the people. If it were otherwise, why were not the five hundred that were added to the church admitted to a share in this election? He was astonished to hear a learned Principal give so unqualified a statement as to say that all the reformers of our church were unfavourable to patronage, when Beza declared that the election of Matthias was not to be adduced in favour of popular election? Beza was not in favour of popular election, but had in various places condemned it. Why could not the gentlemen on the opposite side tell what they want? Because they had not made up their own mind. Some were for one thing, others for another; some for giving the election to the heritors and kirk-sessions, others for giving it to the male heads of families, while others, more liberal still, were disposed to give it to every man and woman in the congregation.

JAMES MONCREIFF, Esq., advocate, next rose to address the house. He did not intend to go into all the reasons urged in support of the motion of Mr Cunningham, involving as they did many questions of a difficult and intricate kind. Patronage had no charms for him whatever. He had no favour for it; and he had no hesitation in saying, that the aspect in which it at present appeared, was not calculated to increase the number of its admirers. Whatever was thought of the evils of patronage, they had of late enough of evidence to show, that patronage was not now what it once was. Patronage held to be the presentation to a benefice, but with the ecclesiastical affairs of the parish it had nothing to do. But it was vain to say that patronage had not been used, so as to interfere with the spiritual rights of the people. It was vain to say that there had not been evils in the administration of patronage; for if they were to look at the benches of that house, it was impossible to deny that the evils must have been great which had increased the small minority which so long occupied that side (the right) of the house, to the overwhelming majority which now occupied this (the left), and by which the motion, he had no doubt, would be carried. But let the results of this night's debate be what they might, he had only to say, that with the cause of spiritual independence, and the party on whose side he was now speaking, his heart was bound up, and he had no higher ambition than to see them triumphant in the cause for which they were contending.

Mr E. MONTEITH said, he did not mean to take up the time of the house by lengthened remarks, nor would he have risen at all, but for some remarks which had fallen from the last speaker. The learned gentleman has taunted myself, and others of my friends on the same side, that we do not know the ground on which we stand,—that we cannot explain the reasons why we feel ourselves constrained, on this occasion, to give a different vote to what we gave on the same question last year. In such a case, I would not consider that I did my duty to the church, unless I should enter somewhat into the motion of my reverend friend, and I trust to be able to justify myself to the house, at least to my own conscience, for the conduct I mean to pursue. As it is at all times desirable to be consistent, I would say that I do not go all the length of my reverend friend who moved the resolution. I am not prepared to go with him to the extent of declaring patronage to be anti-scriptural. I have to-day listened with the same attention which I have done on former occasions to the arguments of my reverend friend, and of others who have spoken upon the question, and I am still as unconvinced by them as I have always been. I have been, and still am of opinion, that in those matters which affect the external regulations of the church, much is and must be left to be administered according as the various changes of circumstances which might arise should require. And holding this view, if I saw the necessity, under a particular form of government, for the existence of patronage, I can see nothing in Scripture to negative that principle. I agree with the reverend gentleman who spoke before me, that patronage, as it exists and is exercised in Scotland, involves an unscriptural element; and I have heard no man speak on the subject, on either side of the house, who ventured to defend patronage as it is exercised in the Church of Scotland. If, however, patronage was to be exercised as it ought to be, I cannot see that it is unscriptural. But there are principles in the constitution of the church which have been sanctioned by statute, and which are founded on the first principles of Scripture, and to give up which would be to give up every thing which the church ought to hold,—and these are the principles of spiritual independence and non-intrusion. If we give up these principles, we cease to be a Christian church. If, therefore, patronage cannot exist with the existence of these principles, then patronage should be at once abrogated. The question then is, can they exist together? and I think they cannot. It is, then, not because patronage is in itself unscriptural, but as it is a principle opposed to the principles of spiritual independence and non-intrusion, that I intend to vote for the motion. I have been asked from whence arose the change of circumstances which have led me to this resolution, and shall at once state that the change of circumstances has arisen from my experience as a member of the non-intrusion committee. Since I have been a member of that committee, I have attended all their meetings; and by thus being admitted behind the scenes, I have gained more knowledge in one year, on the subject of patronage and its operations, than I could have gained by ten years' experience in the General Assembly. The committee did all in their power to save patronage, and, at the same time, to save the spiritual independence of the church and non-intrusion; they had tried to save the principle of non-intrusion on the very lowest terms,—upon the principle of the veto law. In reference to the veto law, even Dr Cook himself had acknowledged that he saw that it was working well, although he had at first opposed it. When I look back for a few years, and see the contrast betwixt the principles of some of the gentlemen opposite, as now expressed, differing from those formerly held and expressed by them not more than five years ago, I am astonished at the length to which they now allow themselves to go. Only five years ago, and there could not be found among the gentlemen opposite a single member but would stand up and repudiate the idea of the civil courts making such encroachments as they have done on the rights of the church, and the liberties of the Christian people. Yet since that we have seen a memorial, signed by many of these same individuals, which upheld principles which only five short years ago they would have blushed to acknowledge. From the time when I first discovered from the decisions of the civil courts, that the effect of persisting in carrying out the veto law would be to separate the temporalities from the cure, I expressed my opinion in favour of a revival of the positive call; but I was told that it would be of no use to attempt that mode of settling the question, because the courts of law would no more

trammel patronage by any consideration of the effects of the call, than they would do by the operation of the veto law. It was in consequence of this opinion, expressed to me by a reverend friend, that I was induced to refrain from bringing forward a motion in the Assembly three years ago for the repeal of the veto law. Finding then that we could succeed in neither of the ways of gaining any thing from the courts of law, we made another attempt, and a most lamentable one it was,—an attempt, however, which will be of some service to the experience of our friends opposite, and which I hope they will profit by, as it had nearly the effect of bringing the church into ruin. They tried the effect of a settlement on the principles of the *liberum arbitrium*, and in an evil hour the non-intrusion committee—that very committee of which it has been said that they wished; and tried to embroil the church—for the love of peace resolved to recommend that the church should agree to that principle. This *liberum arbitrium* proposed to give full power to the church to acknowledge as a principle that the assent of the people is necessary to constitute the pastoral relation. Some difficulties arose as to the meaning of the words used to express that *liberum arbitrium*, and at last it came out, through an individual who had been very prominent and influential in the controversy, that, by the words used, it was not intended to express the *liberum arbitrium* at all. The illusion had been dispelled by Dr Gordon, who stated, in the presence of the highest law officer in Scotland, the opinion which the committee had formed of the words which had been used. Sir James Graham, who was said by Dr Leishman to be burning with zeal for the Church of Scotland—Sir James Graham said that he had misunderstood what the committee intended. Had he viewed the matter as the committee say they did, he would never have for a moment thought of it, and that, therefore, the matter must be dropped. If, then, we are asked how we could find it possible for us to vote for the abolition of patronage when we had taken the opposite side last year, we have only to refer to those proceedings before the non-intrusion committee. Why then are we not to be allowed to proceed to secure the abrogation of patronage? Must we stand still, as we are told we should do, till we are able to say what we shall put in its place? This question we at once answer, by saying that our object is to give the election of ministers to the Christian people. This may be called a democratic movement, but I say it is not a democratic movement. If it is so, it is a movement of democracy established by God himself—a democracy established in his word, which declares that no man can be allowed to stand between another man's conscience and his duty to his God. It has been said that we are not agreed among ourselves,—that we are not united as to what we require. It is said that some of us are of opinion that we ought not to trust the Christian people. I never heard of any such opinion being entertained or expressed on this side of the house. But to return to the question, if the government were to inquire at me what it was the church wanted, I would say to them, that now the only cure of the evils which existed among us, was the abolition of patronage. Abolish patronage, then, and put the matter into the hands of the church in the first place, and then will be the proper time to tell the government what it is we want them to do. This may not be held by some of our friends opposite as a direct answer; but I am sure that it is an explicit ecclesiastical answer. We are told that we should not go on at present to urge the abolition of patronage,—that we may possibly put a check upon the government, who are proposing to bring in a measure which, when it came forward, would astonish us. We have been told so for the last twelve months; and they continued to tell us so till the assertion was negatived by the Right Honourable Secretary of State, who, after leading us to believe that every thing was as we wished, at last told us that it was never intended to give us what we had believed was the case. We then went and obtained the assistance of our excellent friend (Mr Campbell), and when a measure, proposed by him, and which we were willing to accept, was on the threshold of giving rise to a discussion which would have brought our case fairly before the people of the country, that very Right Honourable Secretary, who is described by Dr Leishman as burning with zeal in favour of the church, stepped forward, and at once put a stop to the discussion and the measure. If the Right Honourable Secretary has a measure which he believes is to prove satisfactory to the church and the country, why is it that he did not entrust it, or the nature of its provisions, to my reverend friend,

who seems burning with love and zeal for the government? Why is it, that if he be in the secret of the intentions of government, he has not got possession of a copy of the bill, and laid it on the table—at least he might tell us what it is to be. But as he has not done either, I think we may be satisfied it is not such a measure as he could venture to place on the table of this house. We are told, that even if we obtain the abolition of patronage it would reconcile our differences. But it ought to be recollected that we have been unsuccessful in all our former efforts, and we became daily more and more satisfied that our failnres arose from our not striking at once at the root of the matter. We had tried to reconcile non-intrusion and patronage, but we found them to be irreconcilable. We know not what the government intend to propose—we know not what the Right Honourable Secretary may intend; but if the government intend to allow him to ride rough-shod over the Church of Scotland, we tell him boldly that it will only be over the dead bodies of her sons. That is what we ought at once to tell the government. All ought to respond to the call which has been made upon the church to protest against patronage. I hope the call will be manfully responded to on this side of the house, and I trust not one of us will quail under the consequences. I would warn my friends on this side that there is no safety in flight. Be firm, therefore, in the cause; nail your colours to the mast, and victory will be yours. If you yield now, if you submit to be taunted by your opponents, that all your agitation has been a mere bluster; if you allow it be affirmed of you, that when the Court of Session comes to your door, you will forget all your former principles and professions—that you will keep your stipends, and forego the interests of the church; then you will deserve to suffer. But I am sure I speak the sense of the great majority of this house, when I say that, cost what it will, we shall never submit to a settlement of the question on any lower ground than the absolute security of the principles of spiritual independence and non-intrusion. We have seen the principle of patronage in this church kept in abeyance for nearly a century. Even ten years ago, our friends opposite would have repudiated the idea that the principle of patronage could have opened the door of interference to the civil courts, as has since been shown to have been the consequence of its operation. But so long as the principle of patronage remains unchanged, so long must it lead the church to suffer under interferences as unconstitutional as those to which she has been subjected for some years past. If the government are to come forward with a proper measure, as our reverend friend says they will—not the measure of Sir James Graham—not the bill of Sir George Sinclair—(and I would caution my friends in considering any proposed measure, to beware of snakes in the grass)—if government are to come forward with a bill recognising the principles of spiritual independence and non-intrusion, why not at once produce it, and leave us to judge of its provisions? If there be any higgling about terms, depend upon it there is a snake in the grass. Let the government openly declare that they are going to propose such a bill, and though it came short of the abolition of patronage, if it give us spiritual independence, and secure non-intrusion, we shall with gratitude receive it at their hands.

Dr CANDLISH said,—I crave the attention of the Assembly to the terms of the motion which has been put on the opposite side. Pray, what is the motion, Sir? The motion on the table, on the opposite side, is not a motion to dismiss the overtures and petitions laid on the table, but simply a motion declaring that in present circumstances, it is not expedient to go forward. I can perfectly well understand how Dr Leishman and his friends should desire a motion framed in these terms; nay, how they should resist a motion framed in other terms; but how the great majority of those on the other side can support the motion, really passes my comprehension; for while the motion proposes that the overtures should be dismissed, yet it admits by implication, that the principle is recognised. If any gentlemen say no, why do they not move to discuss the overtures simply?

Dr LEE, who was understood to be amongst the dissentients, here rose, and insisted on reading the motion for his own satisfaction. He then read—“The General Assembly, having considered the overtures and petitions, find it inexpedient, in present circumstances, to adopt the overtures.”

Dr CANDLISH.—Moderator, I should be delighted if this explanation should

lead some of the gentlemen to propose a third motion, in plain terms, to dismiss the overtures; but if the overtures are dismissed, the words, "in present circumstances ought to be omitted or modified, because it is evident that the words "in present circumstances" contain a direct implication that the abolition of patronage may be contemplated as possibly a right thing; nay, some of those who vote for the motion may look upon it as a thing desirable, but from considerations of temporary expediency may not think it proper to vote for it at the present time. Now, some of the members on the other side may vote for the motion in this way, as a salvo for their minds. They may vote for the motion to dismiss the overtures in present circumstances, on the ground that these circumstances may change; but there will always be some circumstances which will render it inexpedient to adopt such an overture as this. They trust to the chapter of accidents, that if the circumstances of this year, such as Sir George Sinclair's bill, render it inexpedient to adopt the overture, next year some other lucky accident would turn up in their favour, and render it as inexpedient as ever. But I ask my friends on the other side, whether it is a fair and manly way of meeting the resolution? I will now take leave to refer to a statement by Mr Robertson of Ellon. I perfectly well understand his admission of last year, and the admission he still makes this year. It is not by any means that he holds patronage to be anti-scriptural; but, as I understand him, that he holds it to be wrong that there should not be some security for patrons being Christian men—men in the communion of a Christian church. Whether he holds that the want of that security is anti-scriptural or not, I cannot say. I think my friend Mr Moncreiff admitted as much as that there is something unscriptural in the want of a provision for the Christian character of those who exercise patronage. I have only to ask my friends, I have only to urge upon them to look at this element in the present state of patronage. If they admit that it is wrong or unscriptural for patronage to be exercised by patrons who are not Christian men, on what ground do they arrive at the conclusion, that the patron should be a Christian? Is it not the very same principle that settles the right of the people to the appointment of their minister, and proves that to deprive them of this privilege is alike contrary to right reason and the word of God. I would also notice another argument used by Mr Robertson when he brought in the figure of the two poles,—the spiritual pole, on the one hand, and the civil or secular pole, on the other, and complained of Mr Cunningham for limiting his attention to what he chose to call the spiritual pole, in arguing for the liberty of the people to choose their own minister; and Mr Robertson said that the moment you introduce the other pole, and admit the principle of a civil establishment, you must modify your former principle. He put it in the form of a dilemma,—either the church cannot be established at all, or, if it can be established, then it admits of the introduction of another element into the question, namely, the consideration whether the appointment of ministers might not admit of being decided in another way than by the application of right reason to Scripture. Now, I must tell Mr Robertson that this mode of arguing the question shuts him up either to the principle of voluntaryism on the one hand, or of Erastianism on the other. Take either horn of the dilemma; either the church cannot be connected with the state at all, or if it become connected with the state, it must admit of the introduction of the secular element. One or other of these propositions must be true, according to Mr Robertson's argument. Now, this was the very objection that was pressed against us by the voluntaries during the voluntary controversy; and rather than concede to Mr Robertson's proposition, binding us to admit the civil power to interfere in the affairs of Christ's church, I would adopt the other alternative, and disestablish the church altogether. The voluntaries hold, that it is of the essence of an establishment that there must be introduced into the determination of questions relating to the order of Christ's church, some other element than the merely spiritual and ecclesiastical one drawn from the word of God, and from the application of right reason to the word of God; but our voluntary opponents, in the conclusion to which they come, take the Scriptural view of Mr Robertson's dilemma, holding that the civil establishment of the church is unlawful, if he must take into account the principle implied in his second alternative, namely, some other element than what saith the Scripture, and what says right reason, as exercised on

Scripture? Now, I have only one other remark to make, in regard to Mr Robertson's assertion, that Scripture throws no light on this question. Mr Robertson made short work of Mr Cunningham's argument on this part of the question. First of all, Mr Cunningham considered the nature of the office to which the pastors of the Christian church are appointed, and, subsequently, how their appointment is to be made; but he did not, as Mr Robertson supposes, base his whole argument on the nature of the office; he took into consideration also the nature of the parties concerned in forming the pastoral tie, and the nature of the tie itself; but Mr Robertson mistakes if he thinks that Mr Cunningham jumped from the premise, that the man is to be the pastor of a particular flock, to the conclusion that patronage is anti-scriptural. On the contrary, from the nature of the office to which he is appointed, from the nature of the functions of the presbytery and the people respectively, from these general considerations, Mr Cunningham came to the conclusion, that there are materials in the word of God to warrant us in believing, that it is the will of the Head of the church, that in the appointment of His office-bearers, there can be no interference with the spiritual province of the people on the one hand, and of the presbytery on the other. Dr Candlish, after some other remarks, contended that a careful consideration of the account of the election of the apostles, must lead to the conviction that none but spiritual men—none but the church courts and the Christian people—can have any thing to do with the appointment of Christ's office-bearers. I have no wish, at this hour, to trespass much farther on the house; but I cannot help referring to two arguments in the close of Mr Robertson's speech. I must refer to the singular argument by which Mr Robertson sought to make out, that if there was not an express, there was an implied contract between the church and the state. His argument was, that, allowing the compact had been altered,—allowing that the treaty of union had been infringed by a breach of faith,—still you have virtually consented to the contract, because you have consented to receive the *beneficium* under it. I at once admit that to do that, there was a previous obligation lying on the church to continue in her connection with the state; but she lay under no obligation in the matter so as to indicate that the receiving of the stipend was a virtual consent to the contract. There was a previous obligation lying on the church to continue in connection with the state till she was called upon to do what was sinful, but this implied no virtual consent to the contract any more than there is a virtual contract between a master and his slave, because the slave consents to receive from him his food. The analogy is exactly the same.

MR BRUCE.—The slave is obliged to remain.

DR CANDLISH.—The slave is no doubt obliged to stay with his master. I am laying down the position that the church lay under a previous obligation, in connection with the state. Mr Bruce surely holds that it is scriptural to establish the church. He surely knows that we hold the connection between the church and state to be a scriptural connection between either party; and the obligation is one not easily got rid of,—so that the parallel of the obligation connecting the master and the slave is a correct one; as the slave may not abandon the service of his master, so neither, unless the church be compelled to commit sin, is she at liberty, according to the scriptural arguments for establishments, to dissolve the connection with the state. This being the case, the argument is a good one from analogy, if the argument from analogy is to be allowed, that the church, in consenting to receive endowments from the state, while no one obliges the state to impose the yoke of patronage, implies no compliance on her part, and therefore no sin.

Dr Candlish then, in reference to the argument of Mr Robertson, about the interference of the church with the civil rights of the patron and the presentee, and the alleged injustice thereof, proceeded to contend that it was always admitted, that the state had full control over the temporalities of the church. Surely Mr Robertson did not mean to assume, that the right of dissenting, without assigning reasons, was a tyrannical exercise of power; so far from being so, it formed the very basis of our civil freedom. What would be the security for the freedom of juries, if they were compelled to give reasons for every verdict which they returned? or what would become of the freedom of election, if those in possession of the franchise were called



upon to give reasons for any vote they tendered for a member for parliament? And it ought to be considered, that the state places the church in connection with an endowment, not for the sake of the individuals who are to obtain possession of it, but for the sake of the whole community at large, and of the Christian people, whose right it is to say, that no pastor shall be intruded upon a congregation. One word as to the view taken by my friend Dr Leishman. I cannot but regret that a discussion, which would have been more in place in the non-intrusion committee, should have been introduced here. I admit that the words of the second motion give a latitude to the introduction of almost any thing that a speaker may choose to bring forward—they will cover any thing which members are disposed to call up. My friend, Dr Leishman, under this motion, might have spoken of what is going on in parliament or the town council of Edinburgh, as both are a part of the “present circumstances;” but I regret that he should have mingled up the question we are now discussing, without reference to any government whatever, whether whig, tory, or radical, with a question which could not fail to give a colour prejudicial to us and the cause we are advocating. If Dr Leishman is so great a friend to the peace of the church as he professes to be, and which I sincerely believe him to be, was it for him, the peace-maker, to give to this discussion, for the first time this night, the character of a discussion aimed at a political party. His duty obviously was to abstain from mixing up this question with reference to any government or party whatever; and here I must correct Dr Leishman; for to me I believe he referred, when he spoke of some persons having condemned a government measure before knowing what it was. I believe he referred to what passed in the Synod of Lothian and Tweeddale. Now the overture on the table of the Synod was not an overture condemning any government measure, but was founded on a speech of Sir James Graham’s; and surely it was competent to tell the government that we were not satisfied with Sir James Graham’s views. I, in conclusion, protest against being influenced in the decision of this question, by the mere thought of how it may influence any measure supposed to be in embryo, though not decided upon. We agitated this question last year, when we had a measure on our table in which we were prepared cordially to concur; and we would argue the question now, though we had a measure lying on our table for government as satisfactory as that of Mr Campbell. We are advocating the question of patronage with no government measure whatever before us; and we never could be in circumstances to discuss the question with less suspicion of an intention to run counter to a government measure, as to the magnanimity of which Dr Leishman speaks. I must say that, speaking as I do, in this your Assembly, on the right of patronage, I deem it unworthy of any government to call that magnanimity which would be unworthy of the freedom of debate and the liberty of the subject. Is it to be called magnanimity in a government minister, that he having friendly intentions towards a great national institution, being prepared to bring in a measure to settle her dissensions—that he, influenced in this matter by particular motives, such as a statesman ought to entertain—is it magnanimity that he does not draw back from these friendly intentions, because in the free Assembly of the Church of Scotland, utterance is given to our sentiments on this subject? Dr Candlish then referred to some remarks which fell from Dr Muir, as to God having a controversy with the church, for not entering her protest against the catholic emancipation bill, and proceeded to ask if it was not more probable that God’s controversy with the church was more directly traceable to those disapproving of its present efforts than to an act passed many years ago. There were many reasons for bringing down the anger of God upon us, and we had much cause for humiliation in his sight. It had pleased God, in their attempts to settle the present unhappy dissensions, to shut one door after another; and what was the legitimate inference to be drawn from this, but that He is shutting us up to a mode by which a more effectual door will be opened for our relief—that He is opening up for our comfort full deliverance from the yoke of patronage.

Dr Cook held it to be one of the original rights of the kingdom, that every subject should have freedom in the selection of his religious teachers. Patronage was no infringement of that liberty. Suppose a case: A benevolent man erects a place of worship, having no particular connection with those around him. He does not in-ist

upon those around him coming into that place of worship, or listening to the man he has appointed to minister in it; but he says, "I pity the destitute spiritual condition of those around me, and I offer them an opportunity of hearing the word of God explained and inculcated." If (continued Dr Cook) I take advantage of that offer, I don't give up my religious liberty. There is no restraint put upon me. If I find no advantage to be obtained by it, I leave that place of worship, and exercise my inherent and original right in the selection of the ministrations of a minister by whom I profit. Now an establishment is just superinduced upon the original religious state of mankind. It is a mode devised for conveying through a country the means and opportunities of religious instruction. If there was combined with it an absolute requisition that all who lived in the country where it existed must attend its places of worship, then there would be an infringement of religious liberty—there would be that which, I say, both reason and scripture would condemn. Is there any attempt of that kind in this country?—or has there been any for 100 years? Such an attempt was once made, and persecution was exercised against the people who absented themselves from the parish churches of the establishment. That was tyranny and oppression; and under such an establishment there would have been room for the best-founded and strongest complaints against patronage. But, as the case exists, the people are precisely in the same situation as in America, or in other countries where there is no establishment. The means of religious instruction have been provided; they may take advantage of this; if not, they have the choice of their own pastors, and, in the exercise of their Christian liberty, men have, at different times, departed from the establishment. The great glory of this country is toleration; and while toleration is unfettered, there cannot be that oppression which gentlemen have represented to exist under the law of patronage. There could not be such oppression although patronage was much more arbitrary than it is now. But has it ever been an arbitrary system altogether in Scotland? There has, indeed, been much abuse of it. Is there any system under which abuse has not more or less taken place? Some gentlemen in the debate had said that patronage was every thing, and that the church and people were left totally defenceless. There was a time when an approach was made to that—when an attempt was made to ordain men and settle them in the benefices of the church, in spite of the church. These days have gone past. Now the initiative is in the patron; but he sends over his presentee to the church courts. The church courts have full power to judge of his qualifications; they put their mark upon the man; and when he comes to them in his new capacity, he is tried again, and they may refuse to induct him if they find him unsuitable or unqualified. I have always considered patronage as perfectly consistent both with Scripture and the great principles of civil and ecclesiastical liberty; I am therefore prepared to defend it out and out. I regret that the lateness of the hour precludes me from entering on the dangers which might follow if patronage was absolutely abolished, and the full power of the choice of their ministers lodged in the people. The people are as liable to be deluded and carried away by prejudice as the patrons. In regard to the phrase "*in present circumstances*," contained in the Procurator's motion, I will only say that it is not my business. As far as I see at present, I would not say it was expedient to adopt this overture in any circumstances. I think these words, however, would be much better out of the motion. I give my vote on no secondary consideration; but on the broad plain ground, that I approve of patronage.

Mr CUNNINGHAM then rose to reply, and was received with loud cries of "Vote, vote, from the right side." He said—I am not so unreasonable as to have any intention of making a speech at this late hour of the evening. And I must also say, that I feel so much impressed with the solemnity of the circumstances in which we are placed, and the important issues which depend on the vote to be given this evening, viewed in their bearing on the character and safety of the church,—I say, I feel so solemnly impressed by these things, that I am in no humour whatever for mere dialectic disputation. At the same time, however, there are one or two matters of fact which I would wish to correct, as they have been stated in the presence of this Assembly. I have been accused by the Procurator of speaking in a manner too strong, peremptory, and dogmatical. Perhaps feeling strongly on the subject, I may have spoken strongly also; but if so, the Procurator, I think, is not just the best person to correct

me. For I would appeal to all here, whether he did not go just as far in that direction as I did, and also, whether there was not at least as great a disproportion between his promises and performances as between my promises and performances. Take, for instance, his attempt at turning the letter of Lord Warriston against us on this occasion. He read a letter from that great man which appears in the late edition of Baillie, and his object in doing so was to discourage us from seeking the abolition of patronage. Now, with reference to this letter I would just remark, 1st, That it was written in a very great hurry, Warriston himself telling us that he had not even time to read it over before sending it away; 2d, That it was written when he was labouring under disease, and that is not the best time for founding on a man's incidental expressions; 3d, The principal object of the letter was not to discuss the abstract question of patronage, but to discuss the question, much agitated in those days, whether, after signing the covenant, it would be unlawful for them to have anything whatever to do with presentations from patrons. Some thought it would, Warriston thought it would not, and we think with him. But this is a very different thing from that on which the Procurator founded his argument in favour of patronage. The fact is, that so far from sanctioning his views, Warriston sanctioned ours, for he held that though patronage might be submitted to, we ought to use all our endeavours to get it abolished. And if it be necessary to prove this, the proof may be found in the conclusion of this very letter, which has this day been quoted for an opposite purpose. Warriston actually would appear to have foreseen the use which some men, and, among others, the Procurator, would make of some things in this letter, and, therefore, he concludes it thus:—

“ Brother, I am unwell in my body. I am wearied dictating, and therefore will I end with this memento: that *ye know what consequences useth to be drawn from any of my papers or letters*; and, therefore, that ye will use it as I ordered it, *not to the maintaining of patronage*, wherefrom I wish, and shall labour by all lawful means, to recover the liberty of this kirk.”

And this is the letter which the Procurator brought forward for the purpose of persuading us to approve of patronage! I would now, in a single sentence, advert to what was said by Dr Bryce. That reverend Doctor told us a great deal about the opinion of Beza on this subject, that Beza was not favourable to popular election. Now in answer I have just again to assert what I have already proved, that Beza was favourable to popular election. This is proved by many clear and unequivocal passages in his writings. I shall only read two. They are as follows:—

“ Quoniam nusquam inveni in Christiana ulla ecclesia jam ædificata, ullum esse vel ad ministerium verbi, vel ad *diaconian*, vel ad presbyterii gradum alia ratione quam publica et libera electione promotum, sicut mox dicemus, nisi quum Deo libuit extra ordinem agere;” and again, in the next section *De Electoribus Ecclesiasticis*, he repeats the same sentiment,—“ Iterum repeto quod antea dixi, nunquam receptum fuisse in Christianis ecclesiis jam constitutis, ut quis admitteretur ad functionem ecclesiasticam, nisi libera et legitime electus ab ecclesia cujus intererat.” And he refers in the margin, in proof of this doctrine, to Acts xiv. v. 23; which in his Latin version of the New Testament he translates—“ quumque ipsi per suffragia creasent presbyteros.”

Here the right of the people to elect their ministers is most unquestionably laid down, and the only way to explain the apparent contradiction between these passages, and those quoted by Dr Bryce is just this,—the extracts of Dr Bryce are garbled and mutilated extracts, which distort and misrepresent Beza's real meaning. I do not accuse Dr Bryce of garbling and misrepresentation. Far from it, for I do believe that he knew no more about the matter than he found in Lord Medwyn's speech on the Auchterarder case,—a source to which, as is well known, our opponents in the present controversy have been largely indebted for their authorities. Beza was speaking, in the letter from which the extracts were made, not against the right of the people to choose their own pastors, but against the independent principles advocated by Morellius, that the people ought to exercise a control over the whole affairs of the church: This must be quite clear and obvious to any one who has read the letter; and I defy any one who has read it, to contradict me in saying so. And yet Dr Bryce gathers together the old garbled extracts which he found

in Lord Medwyn's speech, and comes and gravely tells this Assembly that Beza was an enemy to popular election! Mr Cunningham concluded by saying, that, of course, if patronage were abolished, the system succeeding it would be substantially one of popular election.

The vote was then taken, and votes marked, when Mr Cunningham's motion was carried by a majority of 216 to 147.

At length, by the good hand of God upon us, the anti-patronage cause is triumphant; and the General Assembly, after a century of criminal neglect of duty, has revived its protest against the grand master evil that lies at the root of all our troubles and distractions together. Entering as we do of course most cordially, into the gratitude and joy with which this event will fill the hearts of the Christian people of Scotland, we cannot shut our eyes to the fact, that there is much cause connected with it, of humiliation, and shame, and sorrow before the Lord. How slow has the church been to learn her duty in this matter! What a period of long and dreary neglect remains to be mourned over! What untold evils have grown up under the church's eye, without a blow being aimed at the root of them all! How has she rather at last been borne on to this issue by the tide of providence, than advanced towards it, following the dictates of God's word! Some there are, indeed, who congratulate themselves on this, observing with complacency, how we have been shut up by events to every step of our procedure, and to this among the rest. But surely, whatever cause of thankfulness to God this may afford, it is a shame to a Christian church, having the Word for 'a lamp unto her feet, and a light unto her path,' to discern her duty for the first time in the light of providence; to require to be dragged along, step by step, by providential interpositions, in place of intelligently and cheerfully following the dictates of the law and the testimony? If patronage *be*, as the Assembly has now declared, a grievance, why was not this discovery made sooner? Had the Scriptures been as carefully studied as they ought to have been; had the constitution of the church of Christ been better understood, as a free and spiritual society, necessarily excluding all foreign and secular interference with the nomination of her ministers—should we have needed all this shutting up to our duty, for which we admit, however, that we have just the more cause to be grateful, that our requiring it was both foolish and sinful? We have made these remarks, simply to guard our own minds, and those of our readers, against undue elation, and from a deep conviction that the secret of retaining 'those things which we have wrought, and receiving a full reward,' lies very much in humility and self-abasement on the part of the church. At the same time, it would be difficult to over-estimate the importance of the anti-patronage vote in the Assembly, and as impossible to be too thankful to God for it. Even the

most sanguine had not ventured to anticipate the overwhelming majority that appeared on the morning of the 24th of May. Although the tone of the Assembly from its first opening, had raised the hopes of the anti-patronage members,—still these were greatly exceeded by the result. We should suppose that now the most suspicious must be convinced at once of the *honesty* of the church in her past contendings; that she has been seeking, not power for the clergy, but liberty for the Christian people; and of her *determination* also, to stand by her principles and her people at all hazards. To these inferences from the vote, apart from its more intrinsic merits, we attach high importance. Let the hostile press rage as they may;—all the more malignant, the more clearly they see us strengthening our position in the affections of the people. The people themselves will have no difficulty in drawing the conclusions to which we have pointed; and they will rally round the church with greater zeal and energy than ever. Above all, we have now at last got upon the broad *Scriptural* ground, where we may confidently look for the blessing of the great Head of the church. The cause of patronage in Scotland is fast upon the wane. Even the more respectable of the moderate party are now obliged to give up as untenable, the right of nomination in the patron, apart from a spiritual qualification. Our readers will not fail to observe, that Mr Robertson of Ellon, in his attempted reply to Mr Cunningham's masterly speech, repeated his admission of last year, that patronage ought only to be in the hands of members of the Christian church, and declared his readiness to join in any attempt to have the law altered to that effect. Now that the majority of the church have taken the anti-patronage ground, we believe that their eyes will be more and more opened to the force of the arguments against the whole system, from Scripture and from reason. And altogether, (to employ an expression of the Earl of Dalhousie, which has created no small amusement since his Lordship used it in retiring from the Assembly in 1839) we are much deceived if 'the knell' of patronage was not 'rung,' when, at the close of the debate, the General Assembly, to the exceeding great delight of the vast audience assembled to witness the proceedings, resolved, by a majority of 216 to 147, that patronage was a grievance, and that it ought to be abolished.

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TUESDAY, May 24th.

The Assembly was constituted as usual by a prayer from the Moderator. Read Psalm lxxiii. Sung Psalm lxxvii. 2d version, verses 1, 2, 3, and 4.

On the minutes having been read,

Mr CUNNINGHAM said, that as the resolution passed last night, was one which all, whether they approved of it or not, would reckon as constituting an era in the history of the Church of Scotland, he proposed that it should be printed among the acts of the house. Agreed to.

Dr COOK gave in reasons of dissent from the resolution passed last night, and Mr Cunningham proposed and named a committee to answer them. We shall publish the reasons of dissent when the answers are given in.

Mr CRICHTON thought that they ought to follow up their decisions by appointing an anti-patronage committee, to use all the means in their power for securing the total abolition of the atrocious system.

Mr CUNNINGHAM said,—Of course, it was for the house to consider what steps it should take to follow up its resolution; but what these should be, required some deliberation.

Mr BRIDGES agreed with Mr Cunningham, that the subject did require some deliberation, and suggested that the committee which had been appointed to draw up petitions to the Queen and both Houses of Parliament, should also take this subject into their consideration.

This suggestion, we understood, was agreed to.

#### FOREIGN MISSIONS.

Dr BRUNTON, convener of the committee on Foreign Missions, then gave in his report. We give the following extracts:—

“The most striking event by which that year has been characterized, has occurred at

#### “MADRAS.

“In no other part of India was your enterprise so warmly welcomed as at Madras. The native population there not only confided their children gladly and gratefully to your training; but *paid* for the education, and for the Bibles on which the whole of that education was based. So long as there were no avowed cases of conversion, all was smooth and cordial. But in the month of June last, three of the pupils became candidates for the ordinance of baptism; which, after searching examination and affectionate and prayerful communings, was duly administered to them. This event gave rise to the most violent outbreaking on the part of the native population. Almost the whole of the pupils were at once withdrawn from the institution, and the bitterest charges were made against your missionaries, of unfair and unwarrantable tampering with the youthful mind.

“During this sore trial—deprived for a time of the means of usefulness in which they had been accustomed to rejoice—forcibly torn from the objects of their tenderest and warmest affection—covered with obloquy, and threatened with violence by those to whose gratitude they knew themselves to be entitled—your missionaries were strengthened to behave with a firmness and a discretion, with a resignation and a loving-kindness, which bespoke the Christian and apostolic spirit firmly planted in them.

“Through the blessing of Him who sustained them, your missionaries are now beginning to receive their reward. From the obloquy which had been heaped upon them they were defended, at the last public examination of their pupils, by the high authority of Sir E. Gambier, chief justice of the supreme court, who filled the chair on that occasion, and who bore his unqualified testimony to the good faith and fairness with which they have uniformly acted. Peace is, for the present, restored, and confidence is returning. The pupils of your institution are nearly as numerous as before the tumult, though, alas, they are not the same individuals on whom so much affectionate labour had been spent, and of whom so many cheering hopes had been formed.

“The three converts have entered on the necessary course of study for the Christian ministry.

#### “BOMBAY.

“The feature in the intelligence from Bombay, on which the Committee dwell with especial thankfulness and joy, is the renovated health of Dr Wilson. They mentioned in their report last year, that he was about to accompany to Katiawar the two missionaries sent out by the presbyterian church in Ireland. The result of the journey was very disastrous. Mr Kerr, one of the Irish missionaries, was seized with fever, and died. Dr Wilson caught the infection; and, by the first attack, and still

more by a severe relapse, was brought very near to the gates of the grave. No words can tell the extent of injury which the loss of such a man, at such a crisis, must have done to our enterprise. But it pleased the Lord to have mercy on us, and to spare him. He is now so completely restored as to have resumed his duties at Bombay with all his characteristic energy. The committee are happy to have an opportunity of recording their grateful sense of the ability, zeal, and success with which, during the absence both of Dr Wilson and Mr Nisbet, Mr Murray Mitchell has conducted the multifarious labours to which he has been called.

“The mission at Poonah continues, by the blessing of God, to prosper, through the indefatigable exertions of Messrs Mitchell and Aitken.

“CALCUTTA.

“Your noble institution at Calcutta maintains and increases its usefulness. The number of pupils upon the roll exceeds 900.

“The most important fact in its history of the year, is the setting apart two of the native converts, *Mahendra* and *Khoilas*, to the office of catechist,—the first step in the probation through which native candidates for the Christian ministry have to pass. *Mahendra* has been all along regarded by the Congregational Association in Glasgow as their future missionary. His companion, *Khoilas*, has been adopted by the congregation of St Stephen's, Edinburgh. Gopi Nath Nundi, a former convert, who was the first object of their choice, has been made so useful to the United States' presbyterian mission at Futteghur, that he felt it his duty, with the concurrence of Dr Duff, his spiritual father, to attach himself to that mission altogether.

“Three young Brahmins, who have lately been received by baptism into the church at Calcutta, are now assiduously employed in those pursuits, which may, through the blessing of God, qualify them for the Christian ministry.

“As these precious symptoms of the ripening of native agency may probably induce the Assembly to consider whether it be not needful to send further instructions to the presbyteries in India, concerning the *ordination* of native teachers, your committee beg leave to suggest that it may be made matter of consideration at the same time, whether these presbyteries may not be authorised occasionally to confer ordination on a duly qualified European, who may not have had it in his power to go through the full course of academical preparation. It is for the Assembly to decide what powers they may, in such cases, intrust to the presbyteries in India.

“Your committee most gladly and thankfully report, that the cause of *female* education is advancing far beyond their hope. The efforts now making in this glorious enterprise—which is more than half of the missionary work—would, they are convinced, have been premature and abortive, if they had been attempted at an earlier period. Indeed, that such efforts have encouragement at all, they regard as an unequivocal symptom of the progress of an energy which is silently shaking the strongholds of idolatry,—urging on a crisis in the whole religious aspects and feelings of India. The ‘Scottish Ladies' Association,’ by whom your committee are zealously assisted in this great branch of missionary work,—in no respect deterred by its difficulties and dangers,—‘strong in the Lord and in the power of His might,’—have held on their way unshrinkingly, and are already beginning to reap the harvest of what they have sown in faith and hope. To the agents whom they have sent to India, female pupils are intrusted with a freedom and a frankness which no one, however sanguine, could have ventured to anticipate. No restraint whatever is laid on the Christianizing character of the instruction which these children receive. God grant that no restraint may be felt on its convincing and converting power!

“Your committee have to renew their cordial acknowledgment of the co-operation with which the Presbytery of London encourage and powerfully assist your enterprise. Their annual meeting was held on 29th April. The Lord Mayor, who has been from the first a cordial and influential patron of your mission, gave the use of the Egyptian Hall for the purpose, and presided upon the occasion. The meeting was a numerous and effective one. Our brethren in London anticipate that this year's contribution to your fund will be even greater than the last.

“The buildings erected for your institution at Calcutta have amply realised the hope with which they were undertaken. The number of pupils has been more than

double; the proper distribution and arrangement of them have been greatly facilitated; the health of the missionaries and of the pupils has been protected; and the confidence of the natives has been much increased both in the efficiency and in the permanence of your enterprise. The prospect of advantages so very important, produced, two years ago, a request from Bombay for similar accommodations. The request was granted by your committee, on condition that two-fifths of the expense should be defrayed by contributions raised in India. Difficulty in finding a proper site has delayed the execution of the work; but it is now begun, and will require about a year and a-half for its completion. This will bring a very heavy burden, for the present and the ensuing season, upon the funds of your committee. They have earnestly to request that the Assembly will be pleased to recommend this object to the Christian liberality of the people of Scotland.

“Both from Calcutta and from Bombay, proposals have been received, to establish one new station for each, in districts which hold forth very cheering prospects of success. It must depend upon the state of their funds, whether your committee can accept of these offers or not.

“They desire very gratefully to acknowledge the support which their cause has received during the past year. Instead of being obliged, as in their two last reports they have been, to record a lessening of the contributions entrusted to them, they are gratified and encouraged in being enabled to state, that during the last year, the income of the mission has been considerably augmented. While this is owing in part to the more favourable season at which the annual collection on its behalf was made during the last year, your committee would fain regard the foundation of the change as laid more deeply—as laid in a greater fulness of that blessing which alone maketh rich—in that increasing sympathy with missionary effort, which assuredly promotes the spiritual welfare of him who giveth, as well as of those who are the objects of his bounty.

“In name and by authority of the committee,

“ALEX. BRUNTON, *Convener.*”

Dr BUCHANAN moved the approval of the report, and at some length, and with great eloquence, commented on some of its details. It was a delightful feature in the present character of the church, that in all her difficulties she never forgot her duty to her King, but that, on the contrary, her zeal increased with her perplexities. This was a token for good,—a token that their God would yet arise and bless them. In all the circumstances connected with this mission, the leadings of His providence were manifest. The very field itself was providentially chosen. For where could they have got one at once so vast and so advantageous? Might they be enabled, as that great land was now under temporal subjection to this kingdom,—might they be enabled, by God's blessing on their labours and their prayers, to bring it also into subjection to Him who was the Prince of the kings of the earth, the King of Zion! Their missionaries, also, were providentially chosen. Whether they looked to the eminent learning and piety of Dr Wilson at Bombay,—to the indefatigable ardour, and perseverance, and steadfastness, and high moral courage which Mr Anderson had manifested in the difficult and perplexing circumstances in which he was placed at Madras,—or to the apostolic fervour, the lofty eloquence, or the devoted piety of Dr Duff at Calcutta,—to whatever part of their mission, in fact, they looked, they would find cause to thank God for their missionaries. Dr Buchanan concluded by expressing the conviction that, though the fruits of their Indian mission might, to the men of the world, seem small, yet the day was coming when the foundation of idolatry and superstition in that land would be overthrown, and the glorious gospel rise upon their ruins.

Professor ALEXANDER seconded the approval of the report, and stated that he had had the honour of having Dr Duff under his care as a student at the University of St Andrews, and that he then gave high promise of future eminence.

Dr SMYTTAN, H. E. I. C. S., could certify, from personal experience, that a great work was going on in India; and he was fully convinced, that in one or two generations, they would see India christianized, not in name merely, but in reality. Already, among the dark and sable race of India's tribes, there were many, Christians at heart,



who dared not profess the name of Christ before the world; and he had no doubt that ere long there would be many more. It was therefore matter not only of gratification to the government, but to the church, to think that Christianity had been introduced to India, and was bringing many souls to Christ. The missionaries of the Church of Scotland were men of science, as well as of Christian principle and education—they were qualified to mingle with any society; and he rejoiced to say, that they did so. Dr Smytton then paid a high compliment to Dr Wilson, and then read a variety of statistical details, to show the necessity of making an application to the Court of Directors of the East India Company, to increase the number of chaplains of the Church of Scotland in the presidencies. From these details it appears that there are now in the presidencies in connection with the Church of England, 105 bishops and chaplains.

	Bishops.	Chaplains.
Bengal and Calcutta, . . . . .	1	50
Madras, . . . . .	1	29
Bombay, . . . . .	1	23
Total, . . . . .	3	102

while the Church of Scotland had only six chaplains in all. Now, when they considered that a large proportion of their countrymen went to India, and were resident there—when they considered that two-thirds of the officers of the army were from Scotland, and mostly members of the established Church of Scotland—when they further considered that a large proportion of the mercantile population of India were from Scotland—he thought that it would at once appear that it was the duty of the Church of Scotland to take some decided steps for increasing the number of her clergy in India. The only application to the court of directors on the subject, had been made, he understood, in March last. That application, so far as he had learned, had not even been acknowledged; but yet he felt convinced, that if the facts of the case were clearly laid before the court, they would comply with a memorial for an increase of chaplains. They had a committee on the matter, but he believed it had done little or nothing.

Dr BRYCE, in reference to this last remark, said, he had the honour to be convener of the committee in question, and begged to state that that committee had been most zealous and persevering in their labours, with a view to ascertain the actual state of presbyterianism in India, and had just got a number of most valuable returns from all the presidencies, when the commission of the Assembly took the matter into its own hand, and memorialized the court of directors in general terms. He regretted, at the time, that the commission had thus interfered in the matter, because he felt convinced, from what he had learned from the secretary of the court of directors, that if the real necessity for an increase in the number of our clergy in India, as shown by the returns he referred to, had been laid before it, the result would have been very different from what had been the case in respect of the commission's memorial.

Captain DALRYMPLE spoke to the necessity of an increase of chaplains in India, and moved that it be an instruction to the committee, to memorialize the court of directors of the East India Company on the subject.

After a few words from Dr Makellar,

Dr BRYCE said it had been the habit to bring up the report of the committee in reference to the Indian churches, of which he was convener, on the last day of the Assembly, when, being mixed up with other reports, it was huddled over without receiving that consideration to which it was entitled. He was delighted to see the attention which was now bestowed on it, and would be glad to call the committee together, so as to be able to make a report on Friday or Saturday morning.

Dr SMYTTAN suggested an improvement in the mode of managing the Indian business, viz. that both committees should be mixed together, and entrusted to the sole charge of the committee on Indian missions.

Dr BRYCE could have no objection to this, but suggested that the matter should be delayed till the report of his committee had been given in.

The motion of Dr Buchanan was then agreed to, and the other matters dropped.

The MODERATOR then called on Dr Brunton, who stood up. He had extreme

pleasure in tendering to him the acknowledgments of the General Assembly, for the zeal and intelligence which he had devoted to the great cause entrusted to him by the house. There were various important circumstances which must always attract the deepest interest of the Church of Scotland to the proceedings of the General Assembly's committee on foreign missions. It was a particular worthy of notice, that when the apostles were commanded to preach the gospel to every creature under heaven, among the ordinary officers of the church appointed by the apostles, there were not many whose special object it was to proceed to other districts in other lands, to preach the gospel to the heathen. The reason of this might be supposed to have been, that the Christian church being essentially a missionary church, the appointment of special missionaries was left to the free development of the Christian spirit which existed within it from age to age. Various methods had been employed by different churches of different denominations for the spread of the gospel; but he would venture to predict (said he) that the mission over which you preside, will hold an important place in the history of the important missions of our church, as being one founded upon principles entirely new, and eminently successful. While we think of the labours and exertions of such men as Dr Wilson, Dr Duff, and Mr Anderson, in bringing the truths of Christianity to bear upon the various superstitions and idolatries of India, they bring us back to the interesting time, when the labours of the school of Alexandria were directed in that emporium of learning and commerce, to the removal of the superstitions alike of the eastern and of the western world. The Assembly has listened with satisfaction to the report which you have just read. We trace the hand of the Most High in the fruits which have attended your labours. We have it in the success which has attended you, in overcoming every opposition. The Assembly is well aware of the benefits which have attended your efforts. They return you their most sincere thanks for your enlightened efforts, and they unite in supplication to the God of all grace, that your life may be long spared to preside over an institution for the duties of which, your lengthened experience, your enlightened views, Christian spirit, the confiding attachment of our noble missionaries, and the respect and attachment of the church and the country pre-eminently fit you.

OVERTURE TO THE GENERAL ASSEMBLY FOR A DECLARATION AGAINST THE UNCONSTITUTIONAL ENCROACHMENTS OF THE CIVIL COURT.

The Clerk then read the following overture:—

“ It is humbly overtured to the venerable the General Assembly of the Church of Scotland now assembled, by the undersigned members thereof, that the Assembly do, under the circumstances in which the church is at present placed, adopt the following declaration, or a declaration of a similar tenor:—

“ The General Assembly of the Church of Scotland, taking into consideration the solemn circumstances in which, in the inscrutable providence of God, this church is now placed; and that, notwithstanding the securities for the government thereof by general assemblies, synods, presbyteries, and kirk-sessions, and the liberties, jurisdiction, discipline, rights, and privileges of the same, provided by the statutes of the realm, the constitution of this country, as unalterably settled by the treaty of union, and the oath required to be taken by each sovereign at accession, as a condition precedent to the exercise of the royal authority, ‘inviolably to maintain and preserve the same,’—which securities might well seem, and had long been thought to place them beyond the reach of danger or invasion,—these have been of late assailed by the very courts to which the church was authorised to look for assistance and protection, to an extent that threatens the subversion of the said liberties, government, and discipline, with all the grievous calamities to this church and nation, which would inevitably flow therefrom,—do solemnly, and in reliance on the grace and power of the Most High, resolve and agree on the following claim, declaration, and protest: That is to say:—

“ Whereas, it is an essential doctrine of this church, in a fundamental principle in its constitution, as set forth in the Confession of Faith thereof, in accordance with the word and law of the most Holy God, that ‘there is no other head of the church but the Lord Jesus Christ;’ and that, while ‘God, the supreme Lord and King of

all the world, hath ordained civil magistrates to be, under Him, over the people, for His own glory and the public good, and to this end hath armed them with the power of the sword; and while 'it is the duty of the people to pray for magistrates, to honour their persons, to pay them tribute and other dues, to obey their lawful commands, and to be subject to their authority for conscience' sake,' 'from which ecclesiastical persons are not exempted;' and while the magistrate hath authority, and it is his duty, in the exercise of that power which alone is committed to him, namely, the 'power of the sword,' or civic rule, as distinct from the 'power of the keys,' or spiritual authority expressly denied to him, to take order for the preservation of purity, peace, and unity in the church, yet 'the Lord Jesus, as king and head of his church, hath therein appointed a government in the hand of church officers distinct from the civil magistrate,' which government is ministerial, not lordly, and to be exercised in consonance with the laws of Christ, and with the liberties of his people.

"And whereas, according to the said Confession, and to the other standards of the church, and agreeably to the word of God, this government of the church, thus appointed by the Lord Jesus, in the hand of church officers, distinct from the civil magistrate, or supreme power of the state, and consequently flowing directly from the head of the church to the office-bearers thereof, to the exclusion of the civil magistrate, comprehends, as the objects of it, the preaching of the word, administration of the sacraments, correction of manners, the admission of the office-bearers of the church to their offices, their suspension and deprivation therefrom, the infliction and removal of church censures, and, generally, the whole 'power of the keys,' which, by the said Confession, is declared, in conformity with Scripture, to have been 'committed' to church officers, and which, as well as the preaching of the word, and the administration of the sacraments, it is likewise thereby declared, that "the civil magistrate may not assume to himself."

"And whereas this jurisdiction and government, since it regards only spiritual condition, rights, and privileges, doth not interfere with the secular jurisdiction of civil tribunals, whose determinations as to all temporalities conferred by the state upon the church, and as to all civil consequences attached by law to the decisions of church courts in matters spiritual, this church hath ever admitted, and doth admit, to be exclusive and ultimate, as she hath ever given and inculcated implicit obedience thereto.

"And whereas the above-mentioned essential doctrine and fundamental principle in the constitution of the church, and the government and exclusive jurisdiction flowing therefrom, founded on God's word, and set forth in the Confession of Faith, and other standards of this church, have been, by diverse and repeated acts of parliament, recognised, ratified, and confirmed; inasmuch as,

"*First*, The said Confession itself, containing the doctrine and principles above set forth was "ratified and established, and voted and approved as the public and avowed Confession of this church, by the fifth act of the second session of the first parliament of King William and Queen Mary, entitled, 'Act ratifying the Confession of Faith, and settling presbyterian church government.'

"*Second*, By an act passed in the first parliament of King James VI., entitled, 'Of admission of ministers: of laic patronages,' it is enacted and declared, 'That the examination and admission of ministers within this realm be only in the power of the kirk, now openly and publicly professed within the same;' and, while the 'presentation of laic patronages' was thereby 'reserved to the just and ancient patrons,' it was provided, that if the presentee of a patron should be refused to be admitted by the inferior ecclesiastical authorities, it should be lawful for the patron 'to appeal to the General Assembly of the whole realm, by whom the cause being decided, shall take end as they decern and declare.'

"*Third*, By an act passed in the same first parliament, and renewed in the sixth parliament of the said king James VI., entitled, 'anent the jurisdiction of the kirk,' the said kirk is declared to have jurisdiction 'in the preaching of the true word of Jesus Christ, correction of manners, and administration of the holy sacraments;' and it is farther declared, 'that there be no other jurisdiction ecclesiastical acknowledged within this realm, other than that which is and shall be within the same

*kirk, or that flows therefrom concerning the premises;*' which act, and that last before mentioned, were ratified and approved by another act passed in the year 1581, entitled, 'ratification of the liberty of the true kirk of God and religion, with confirmation of the laws and acts made to that effect of before;' which other act, and all the separate acts therein recited, were again revived, ratified, and confirmed, by an act of the twelfth parliament of the said king James VI., entitled 'ratification of the liberty of the true kirk,' &c.; which said act (having been repealed in 1662) was revived, renewed, and confirmed by the before-mentioned statute of king William and queen Mary.

"*Fourth,* The said act of the twelfth parliament of king James VI. ratified and approved the general assemblies, provincial synods, presbyteries, and kirk-sessions, 'appointed by the kirk,' and 'the whole jurisdiction and discipline of the same kirk;' cased and annulled 'all and whatsoever acts, laws, and statutes, made at any time before the day and date thereof, against the liberty of the true kirk, jurisdiction and discipline thereof, as the same is used and exercised within this realm;' appointed presentations to benefices to be directed to presbyteries, 'with full power to give collation thereupon, and to put order to all matters and causes ecclesiastical within their bounds, according to the discipline of the kirk, providing the aforesaid presbyteries be bound and astricted to receive and admit whatsoever qualified minister, presented by his majesty or laic patrons,' the effect of which provisio, and of the reservation in the act of the first parliament of king James VI., above mentioned, is hereafter more fully adverted to; and further declared that the jurisdiction of the sovereign and his courts, as set forth in a previous act, to extend over all persons his subjects, and 'in all matters, should noways be prejudicial, nor derogate any thing to the privilege that *God has given* to the spiritual office-bearers of the kirk, concerning *heads of religion, matters of heresy, excommunication, collation, or deprivation of ministers, or any such like essential censures,* grounded and having warrant of the word of God;" by which enactment, declaration, and acknowledgment, the state recognised and established as a fundamental principle of the constitution of the kingdom, that the jurisdiction of the church in these matters was 'given by God' to the office-bearers thereof, and was exclusive and free from coercion by any tribunals holding power or authority from the state or supreme civil magistrate.

"*Fifth,* The parliament holden by king Charles II., immediately on his restoration to the throne, while it repealed the above-recited act of the twelfth parliament of king James, and other relative acts, at the same time acknowledged the supreme and exclusive nature of the jurisdiction thereby recognised to be in the church, describing the said acts, as acts 'by which the *sole and only* power and jurisdiction within this church *doth stand in the church,* and in the general, provincial, and presbyterial assemblies and kirk-sessions, and acts which may be interpreted to have given any church power, jurisdiction, or government to the office-bearers of the church, their respective meetings, other than that which acknowledgeth a dependence upon, and subordination to, the sovereign power of the king as supreme.'

"*Sixth,* The aforesaid act of king William and queen Mary, on the narrative that their majesties and the estates of parliament conceived 'it to be their bounden duty, after the great deliverance that God hath lately wrought for this church and kingdom, *in the first place,* to settle and secure therein the true protestant religion, according to the truth of God's word, as it hath of a long time been professed within this land; as also the government of Christ's church within this nation, agreeable to the word of God, and most conducive to true piety and godliness, and the establishing of peace and tranquillity within this realm;' besides ratifying and establishing the Confession of Faith, did also 'establish, ratify, and confirm the presbyterian church government and discipline; that is say to say, *the government of the church by kirk-sessions, presbyteries, provincial synods, and general assemblies,* ratified and established by the 116 act James VI., parliament 12, anno 1592, entitled, "ratification of the liberty of the true kirk," &c., and therefore received by the general consent of this nation, *to be the only government of Christ's church within this kingdom;*' and revived and confirmed the said act of king James VI.

"And whereas, not only was the exclusive and ultimate jurisdiction of the church courts, in the government of the church, and especially in the particular matters,

spiritual and ecclesiastical, above mentioned, recognised, ratified, and confirmed, thus necessarily implying the denial of power on the part of any secular tribunal, holding its authority from the sovereign, to review the sentences of the church courts in regard to such matters, or to coerce them in the exercise of such jurisdiction; but all such power, and all claim on the part of the sovereign to be considered supreme governor over the subjects of this kingdom of Scotland in causes *ecclesiastical and spiritual*, as he is in causes *civil and temporal*, was, after a long continued struggle, finally and *expressly repudiated and cast out of the constitution of Scotland, as inconsistent with the presbyterian church government*, established at the revolution, and thereafter unalterably secured by the treaty of union with England; by the constitution of which latter kingdom, differing in this respect from that of Scotland, the sovereign is recognised to be supreme governor, 'as well in all *spiritual and ecclesiastical* "things and causes" as *temporal*.' Thus:—

"*First*, The General Assembly having, in the year 1582, proceeded to inflict the censures of the church upon Robert Montgomery, minister of Stirling, for seeking to force himself, under a presentation from the king, into the archbishopric of Glasgow, contrary to an act of the General Assembly discharging the office of prelatie bishop in the church, and for appealing to the secular tribunals against the infliction of church censures by the church courts, and to have these suspended and interdicted, —and having deposed and excommunicated him in disregard of an interdict pronounced by the privy council of Scotland, the then supreme secular court of the kingdom,—and having at the same time declared it to be part of the subsisting discipline of the church, that any ministers thereof who 'should seek any way by the civil power to exempt and withdraw themselves from the jurisdiction of the kirk, or procure, obtain, or use any letters or charges, &c., to impair, hurt, or stay the said jurisdiction, discipline, &c., or to make any appellation from the General Assembly to stop the discipline or order of the ecclesiastical policy or jurisdiction granted by God's word to the office-bearers within the said kirk,' were liable to the highest censures of the church; although their sentence of excommunication was declared by one of the acts of parliament of the year 1584, commonly called the 'Black Acts,' to be void, yet ultimately the king and privy council abandoned their interference, Montgomery submitted to the church courts, and the statute of the twelfth parliament of King James VI., already mentioned, cased and annulled 'all and whatever acts, laws, and statutes, made at any time before the day and date thereof, against the liberty of the true kirk, jurisdiction and discipline thereof, *as the same is used and exercised within this realm*;' since which enactment no similar interference with the discipline and censures of the church was ever attempted till the year 1841.

"*Second*, It having been declared by another of the 'Black Acts' aforesaid, entitled, 'An act confirming the king's majesty's royal power over all the estates and subjects within this realm,' that 'his highness, his heirs and successors, by themselves and their councils, are, and in time to come shall be, judges competent to all persons his highness' subjects, of whatever estate, degree, function, or condition that ever they be of, spiritual or temporal, *in all matters* wherein they or any of them shall be apprehended, summoned, or charged to answer to such things as shall be inquired of them by our sovereign lord and his council;' it was, by the said before-mentioned act of the twelfth parliament of king James VI., declared that the said act last above mentioned 'shall noways be prejudicial, nor derogate anything to the privilege that God has given to the spiritual office-bearers of the kirk, concerning heads of religion, matters of heresy, excommunication, collation or deprivation of ministers, or any such like essential censures, specially grounded and having warrant of the word of God.'

"*Third*, It having been enacted, on the establishment of prelacy in 1612, that every minister at his admission, should swear obedience to the sovereign, as "the only lawful supreme governor of this realm, as well in matters spiritual and ecclesiastical as in things temporal," the enactment to this effect was repealed on the restoration of presbyterian church government.

"*Fourth*, A like acknowledgment, that the sovereign was 'the only supreme governor of this kingdom over all persons *and in all causes*,' having been, on the second establishment of prelacy, consequent on the restoration of king

Charles II., required as part of the ordinary oath of allegiance, and having been also inserted into the 'Test Oath,' so tyrannically attempted to be forced on the subjects of this realm during the reigns of Charles II. and James II., and the same doctrine of the king's supremacy in all causes, spiritual and ecclesiastical as well as temporal and civil, having farther been separately specially declared by the first act of the second parliament of the said king Charles II. (1669), entitled, 'Act asserting his Majesty's supremacy over all persons and in all causes ecclesiastical,' whereby it was 'enacted, asserted, and declared, that his Majesty hath the supreme authority and supremacy over all persons, and in all causes ecclesiastical, within this kingdom,' the estates of this kingdom, at the era of the revolution, did set forth, as the second article of the 'Grievances' of which they demanded redress under their 'Claim of Right,' 'that the first act of parliament 1669 is inconsistent with the establishment of the church government now desired, and ought to be abrogated.'

"Fifth, In compliance with this claim, an act was immediately thereafter passed, of which the tenor follows:—'Our sovereign lord and lady the king and queen's majesties, taking into their consideration, that by the second article of the grievances presented to their majesties by the estates of this kingdom, it is declared, that the first act of the second Parliament of King Charles the Second, entitled "Act asserting his majesty's supremacy over all persons, and in all causes ecclesiastical," is inconsistent with the establishment of the church government now desired, and ought to be abrogate: Therefore their majesties, with advice and consent of the estates of parliament, do hereby abrogate, rescind, and annul the foresaid act, and declare the same in the whole heads, articles, and clauses thereof, to be of no force or effect in all time coming.' In accordance, also, therewith, the oath of allegiance above mentioned, requiring an acknowledgment of the king's sovereignty 'in all causes,' was done away, and that substituted which is now in use, simply requiring a promise to be 'faithful, and bear true allegiance' to the sovereign; and all preceding laws and acts of parliament were rescinded, 'in so far as they impose any other oaths of allegiance and supremacy, declarations and tests, excepting the oath *de fidei*.' By the which enactments, any claim on the part of the sovereigns of Scotland to be supreme rulers in spiritual and ecclesiastical causes, as well as in temporal and civil, or to any power, by themselves or their judges holding commission from them, to exercise jurisdiction in matters or causes spiritual and ecclesiastical, was repudiated and excluded from the constitution, as inconsistent with the presbyterian church government then established, and still subsisting under the statutes then and subsequently passed, for its security and maintenance, 'without any alteration to the people of this land, in all succeeding generations.'

"And whereas diverse civil rights and privileges were, by various statutes of the parliament of Scotland, prior to the union with England, secured to this church, and certain civil consequences attached to the sentences of the courts thereof, which were farther directed to be aided and made effectual by all magistrates, judges, and officers of the law; and in particular:—

"It was, by an act of the twelfth parliament of king James VI., enacted, 'That all and whatsoever sentences of deprivation, either pronounced already, or that happens to be pronounced hereafter by any presbytery, synodal, or general assemblies, against any parson or vicar within their jurisdiction, provided since his highness's coronation, is, and shall be reputed in all judgments, a just cause to seclude the person before provided, and then deprived from all profits, commodities, rents, and duties of the said parsonage and vicarage, or benefice of cure; and that, either by way of action, exception, or reply; and that the said sentence of deprivation shall be a sufficient cause to make the said benefice to vaiketh thereby.'

"As also, by the fifth act of the first parliament of king William and queen Mary, it was enacted, 'That whatsoever minister being convened before the said general meeting, and representatives of the presbyterian ministers or elders, or the visitors to be appointed by them, shall either prove contumacious for not appearing, or be found guilty, and shall be therefore censured, whether by suspension or deposition, they shall, *ipso facto*, be suspended from or deprived of their stipends and benefices.'

“As also, by an act passed in the fourth session of the first parliament of king William and queen Mary, entituled an ‘act for settling the peace and quiet of the church,’ it was provided that no minister should be admitted unless he owned the presbyterian church government, as settled by the last recited act, ‘to be the only government of this church; and that he will submit thereto, and concur therewith, and never endeavour, directly or indirectly, the prejudice or subversion thereof;’ and it was statute and ordained, ‘that the lords of their majesties’ privy council, and all other magistrates, judges, and officers of justice, give all due assistance for making the sentences and censures of the church, and judicatories thereof, to be obeyed, or otherwise effectual, as accords.’

“As also, by an act passed in the fifth session of the foresaid parliament, entituled an ‘act against intruding into churches, without a legal call and admission thereto,’ on the narrative, ‘that ministers and preachers, their intruding themselves into vacant churches, possessing of manses and benefices, and exercising any part of the ministerial function in parishes, without a legal call and admission to the said churches, is an high contempt of the law, and of a dangerous consequence, tending to perpetual schism;’ such intrusion, without an orderly call from the heritors and elders,—the right of presentation by patrons being at the time abolished,—and ‘legal admission from the presbytery,’ was prohibited under certain penalties; and the lords of the privy council were recommended to remove all who had so intruded, and ‘to take some effectual course for stopping and hindering those ministers who are, or shall be hereafter, deposed by the judicatories of the present established church, from preaching or exercising any act of their ministerial function, which (the said statute declares) they cannot do after they are deposed, without a high contempt of the authority of the church, and of the laws of the kingdom establishing the same.’

“And whereas, at the union between the two kingdoms, the parliament of Scotland, being determined that the ‘true protestant religion,’ as then professed, ‘with the worship, discipline, and government of this church, should be effectually and unalterably secured,’ did, in their act appointing commissioners to treat with commissioners from the parliament of England, as to a union of the kingdoms, provide, ‘That the said commissioners shall *not* treat of or concerning any alteration of the worship, discipline, and government of the church of this kingdom, as now by law established;’ and did, by another act, commonly called the act of security, and entituled ‘act for securing the protestant religion and presbyterian church government,’ ‘establish and confirm the said true protestant religion, and the worship, discipline, and government of this church, to continue without any alteration to the people of this land in all succeeding generations;’ and did ‘for ever confirm the fifth act of the first parliament of king William and queen Mary, entituled, ‘act ratifying the Confession of Faith, and settling presbyterian church government, *and the whole other acts of parliament relating thereto;*’ and did ‘expressly provide and declare, That the foresaid true protestant religion, contained in the above-mentioned Confession of Faith, with the form and purity of worship presently in use within this church, and its presbyterian church government and discipline,—that is to say, the government of the church by kirk-sessions, presbyteries, provincial synods, and general assemblies, all established by the foresaid acts of parliament, pursuant to the claim of right, shall remain and continue unalterable; and that the said presbyterian government shall be the only government of the church within the kingdom of Scotland:’ and further, ‘for the greater security of the same,’ did, *inter alia*, enact, ‘That after the decease of her present majesty, the sovereign succeeding to her in the royal government of the kingdoms of Great Britain, shall, in all time coming, at his or her accession to the crown, swear and subscribe, That they shall inviolably maintain and preserve the foresaid settlement of the true protestant religion, with the government, worship, discipline, right, and privileges of this church, as above established by the laws of this kingdom, in prosecution of the claim of right;’ which said act of security, ‘with the establishment therein contained,’ it was specially thereby enacted, ‘should be held and observed in all time coming, as a fundamental and essential condition of any treaty or union to be concluded betwixt the two kingdoms, *without any alteration thereof, or derogation thereto, in any sort for ever.*’ It being farther thereby provided, that ‘the said act and settlement therein contained, shall be insert and repeated in any act of

parliament that shall pass, for agreeing and concluding the foresaid treaty or union betwixt the two kingdoms; and that the same shall be therein expressly declared to be a fundamental and essential condition of the said treaty or union in all time coming.' In terms of which enactment, this act of security was inserted in the treaty of union between the two kingdoms, as a fundamental condition thereof, and was also inserted in the act of the parliament of Scotland, ratifying and approving of the said treaty, and likewise in the corresponding act of the parliament of England, entitled, 'an act for the union of the two kingdoms of England and Scotland.'

"And whereas, at the date of the said treaty of union, the right of patrons to present to churches stood abolished, by virtue of the following enactments, viz. by the act of king William and queen Mary, herein before mentioned, (1690, c. 5,) the act of James VI. (1592, c. 116,) then standing totally repealed, was only revived, subject to the express exception of 'that part of it relating to patronages,' which consequently remained repealed and unrestored, and 'which,' the act 1690, c. 5, farther bore, 'is hereafter to be taken into consideration.' The part of the act 1592, c. 116, thus left unrevived and repealed, was the provision, that presbyteries 'be bound and astricted to receive whatsoever qualified minister presented by his majesty or laic patrons'—a provision which 'was held to leave the church free to proceed in their collation, according to the discipline of the kirk,' and non-compliance with which only implied a forfeiture of the fruits of the particular benefice, under the immediately succeeding statute 1592, c. 117, whereby it was enacted, that 'in case the presbytery refuses to admit any qualified minister presented to them by the patron, it shall be lawful to the patron to retain the whole fruits of the benefice in his own hands.' This subject having accordingly been thereafter taken into consideration, in the same session of parliament, was definitely settled by an act, entitled, 'act concerning patronages,' whereby the right of presentation by patrons was 'annulled and made void,' and a right vested in the heritors and elders of the respective parishes, 'to name and propose the person to the whole congregation, to be approved or disapproved by them,' the disapprovers giving in their reasons, 'to the effect the affair may be cognosed upon by the presbytery of the bounds, at whose judgment, and by whose determination,' (as is declared by the said act,) 'the calling and entry of a particular minister is to be ordered and concluded.'

"And whereas the foresaid act formed part of the settlement of the presbyterian church government effected at the revolution, and was one of the 'acts relating thereto,' and to the statute 1690, c. 5, specially confirmed and secured by the act of security and treaty of union; yet, notwithstanding thereof, and of the said treaty, the parliament of Great Britain, by an act passed in the 10th of Queen Anne, repealed the said act, 'in so far as relates to the presentation of ministers by heritors and others therein mentioned,' and restored to patrons the right of presentation, and enacted that presbyteries should be 'obliged to receive and admit in the same manner, such qualified person or persons, minister or ministers, as shall be presented by the respective patrons, as the persons or ministers presented before the making of this act ought to have been admitted."

"And whereas, while this church protested against the passing of the above-mentioned act of Queen Anne, as 'contrary to the constitution of the church, so well secured by the late treaty of union, and solemnly ratified by acts of parliament in both kingdoms,' and for more than seventy years thereafter, uninterruptedly sought for its repeal, she at the same time maintained, and practically exercised, without question or challenge from any quarter, the jurisdiction of her courts to determine ultimately and exclusively, under what circumstances they would admit candidates into the office of the holy ministry, or constitute the pastoral relationship between minister and people, and, generally, 'to order and conclude the entry of particular ministers.'

"And whereas, in particular, this church required, as necessary to the admission of a minister to the charge of souls, that he should have received a call from the people over whom he was to be appointed, and did not authorise or permit any one so to be admitted, till such call should have been sustained by the church courts, and did before, and subsequent to the passing of the said act of queen Anne, declare it to be a fundamental principle of the church, as set forth in her authorised standards,



and particularly in the Second Book of Discipline, repeated by act of Assembly in 1638, and that no pastor be intruded upon any congregation, contrary to the will of the people.'

"And whereas, in especial, this fundamental principle was, by the fourteenth act of the General Assembly 1763, re-declared, and directed to be attended to in the settlement of vacant parishes; but having been, after some time, disregarded by the prevailing party in the church, it was once more re-declared by the General Assembly 1834, who established certain specific provisions and regulations for carrying it into effect in time to come.

"And whereas, by a judgment pronounced by the House of Lords in 1839, it was, for the first time, declared to be illegal to refuse to take on trial, and to reject the presentee of a patron (although a layman, and merely a candidate for admission to the office of the ministry), in consideration of this fundamental principle of the church, and in respect of the dissent of the congregation; to the authority of which judgment, so far as disposing of civil interests, this church implicitly bowed, by at once abandoning all claim to the *jus devolutum*, and to the benefice for any pastor to be settled by her, and to all other civil right or privilege which might otherwise have been competent to the church or her courts; and anxiously desirous, at the same time, of avoiding collision with the civil courts, she so far suspended the operation of the above-mentioned act of Assembly, as to direct all cases, in which dissents should be lodged by a majority of the congregation, to be reported to the General Assembly, in the hope that a way might be opened up to her for reconciling with the civil rights declared by the House of Lords, adherence to the above-mentioned fundamental principle, which she could not violate or abandon by admitting to the holy office of the ministry, a party not having, in her conscientious judgment, a legitimate call thereto, or by intruding a pastor on a reclaiming congregation contrary to their will; and farther, addressed herself to the government and the legislature for such an alteration of the law (as for the first time now interpreted), touching the temporalities belonging to the church (which alone she held the decision of the House of Lords to be capable of affecting or regulating) as might prevent a separation between the cure of souls and the benefice thereto attached.

"And whereas, although during the century which elapsed after the passing of the said act of queen Anne, presbyteries repeatedly rejected the presentees of patrons on grounds undoubtedly *ultra vires* of the presbyteries, as having reference to the title of the patron or the validity of competing presentations, and which were held by the Court of Session to be contrary to law, and admitted others to the pastoral office in the parishes presented to, who had no presentation or legal right to the benefice, the said court, even in such cases, never attempted, or pretended to direct or coerce the church courts, in the exercise of their functions in regard to the collation of ministers, or other matters acknowledged by the state to have been conferred on the church, not by the state but by God himself. On the contrary, they limited their decrees to the regulation and disposal of the temporalities which were derived from the state, and which, as the proper subjects of 'actions civil,' were within the province assigned to the Court of Session by the constitution, refusing to interfere with the peculiar functions and exclusive jurisdiction of the courts of the church. Thus, in the case of Auchtermuchty, where the presbytery had wrongfully admitted another than the patron's presentee, the court found, that '*the right to a stipend is a civil right, and therefore, that the court have power to cognosce and determine upon the legality of the admission of ministers, in hunc effectum, whether the person admitted shall have right to the stipend or not;*' and simply decided, that the patron was entitled to retain the stipend in his own hands.

"So, also, the same course was followed in the cases of Culross, Lanark, and Forbes; in reference to one of which (that of Lanark) the government of the country, on behalf of the crown, in which the patronage was vested, recognised the retention of stipend by the patron, as the only competent remedy for a wrongful refusal to admit his presentee, the Secretary of State having, in a letter to the Lord Advocate of Scotland, (January 17, 1752), signified the pleasure of his Majesty, 'directing and ordering his Lordship to do every thing necessary and competent by law, for assisting and taking benefit, in the present case, of the said right and privilege of patrons

by the law of Scotland, to retain the fruits of the benefice in their own hands till their presentee be admitted.'

"So farther, in the before-mentioned case of Culross, the court refused, 'as incompetent,' a bill of advocation presented to them by the patron, for the purpose of staying the admission by the presbytery of another than his presentee.

"So likewise in the case of Dunse, the court would not interfere in regard to a conclusion to prohibit the presbytery 'to moderate in a call or settle any other man,' because 'that was interfering with the power of ordination or internal policy of the church, with which the lords thought they had nothing to do.'

"And so, in the same manner, in the case of Unst, where the party concluded to have the presbytery ordained to proceed to the presentee's settlement, as well as to have the validity of the presentation, and the right to the stipend declared, the court limited their decree to the civil matters of the presentation and stipend.

"And whereas, pending the efforts of the church to accomplish the desired alteration of the law, the Court of Session—a tribunal instituted by special act of parliament for the specific and limited purpose of 'doing and administration of justice in all civil actions,' with judges appointed simply 'to sit and decide upon all *actions civil*,'—not confining themselves to the determination of 'civil actions,'—to the withholding of civil consequences from sentences of the church courts, which, in their judgment, were not warranted by the statutes recognising the jurisdiction of these courts—to the enforcing of the provision of the act 1592, c. 117, for retention of the fruits of the benefice, in case of wrongful refusal to admit a presentee, or the giving of other civil redress for any civil injury held by them to have been wrongfully sustained in consequence thereof,—have, in numerous and repeated instances, stepped beyond the province allotted to them by the constitution, and within which alone their decisions can be held to declare the law, or to have the force of law, 'deciding not only *actions civil*,' but 'causes spiritual and ecclesiastical,' and that, too, even where these had no connection with the exercise of the right of patronage; and have invaded the jurisdiction, and encroached upon the spiritual privileges of the courts of the church, in violation of the constitution of the country, in defiance of the statutes above mentioned, and in contempt of the laws of this kingdom: as for instance—

"By interdicting presbyteries of the church from admitting to the pastoral charge, when about to be done irrespective of the civil benefice attached thereto, or even where there was no benefice, no right of patronage, no stipend, no manse or glebe, and no place of worship, or any patrimonial right connected therewith.

"By issuing a decree to take on trial and admit to the office of the holy ministry, in a particular charge, a probationer or unordained candidate for the ministry, intruding him also on the congregation, contrary to the will of the people;—both in this and in the cases last mentioned, invading the church's exclusive jurisdiction in the admission of ministers, the preaching of the word, and administration of sacraments—recognised by statute to have been 'given by God' directly to the church, and to be beyond the limits of the secular jurisdiction.

"By prohibiting the communicants of the church from intimating their dissent from the call to a candidate for the ministry to be their pastor.

"By granting interdict against the establishment of additional ministers to meet the wants of an increasing population, as uninterruptedly practised from the reformation to this day; against constituting a new kirk-session in a parish, to exercise discipline; and against innovating on its existing state, 'as regards pastoral superintendence, its kirk-session, and jurisdiction, and discipline thereunto belonging.'

"By interdicting the preaching of the gospel and administration of ordinances, throughout a whole district, by any minister of the church under authority of the church courts; thus assuming to themselves the regulation of the 'preaching of the word' and 'administration of the sacraments,' and, at the same time, invading the privilege, common to all the subjects of the realm, of having pleasure to worship God according to their consciences, and under the guidance of the ministers of the communion to which they belong.

"By holding the members of inferior church judicatories liable in damages for refusing to break their ordination vows and oaths (sworn by them, in compliance with the requirements of the statutes of the realm, and, in particular, of the act of secu-

ity embodied in the treaty of union), by disobeying and setting at defiance the sentences, in matters spiritual and ecclesiastical, of their superior church judicatories, to which, by the constitution of the church and country, they are in such matters subordinate and subject, and which, by their said vows and oaths, they staud pledged to obey.

“ By interdicting the execution of the sentence of a church judicatory prohibiting a minister from preaching or administering ordinances within a particular parish, pending the discussion of a cause in the church courts as to the validity of his settlement therein.

“ By interdicting the General Assembly and inferior church judicatories from inflicting church censures; as in one case, where interdict was granted against pronouncing sentence of deposition upon a minister found guilty of theft by a judgment acquiesced in by himself; in another, where a presbytery was interdicted from proceeding in the trials of ministers accused of fraud and swindling; and in a third, where a presbytery was interdicted from proceeding with a libel against a licentiate for drunkenness, obscenity, and profane swearing.

“ By suspending church censures, inflicted by the church judicatories in the exercise of discipline (which, by special statute, all ‘ judges and officers of justice’ are ordered ‘ to give due assistance’ for making ‘ to be obeyed or otherwise effectual’), and so reponing ministers suspended from their office, to the power of preaching and administering ordinances; thus assuming to themselves the ‘ power of the keys.’

“ By interdicting the execution of a sentence of deposition from the office of the holy ministry, pronounced by the General Assembly of the church; thereby also usurping the ‘ power of the keys,’ and supporting deposed ministers in the exercise of ministerial functions, which is declared by special statute to be a ‘ high contempt of the authority of the church, and of the laws of the kingdom establishing the same.’

“ By assuming to judge of the right of individuals elected members of the General Assembly to sit therein, and interdicting them from taking their seats; thus interfering with the constitution of the supreme court of the church, and violating her freedom in the holding of General Assemblies secured to her by statute.

“ By, in the greater number of the instances above referred to, requiring the inferior judicatories of the church to disobey the sentences, in matters spiritual and ecclesiastical, of the superior judicatories to which, by the constitution in church and state, they are subordinate and subject, and which, in compliance with the provisions of the statutes of the realm, their members have solemnly sworn to obey:— thus subverting ‘ the government of the church by kirk-sessions, presbyteries, provincial synods, and general assemblies,’ settled by statute and the treaty of union as ‘ the only government of the church within the kingdom of Scotland.’

“ By all which acts, the said ‘ Court of Session have exercised powers not conferred upon them by the constitution, but by it excluded from the province of any secular tribunal—have invaded the jurisdiction of the courts of the church—have subverted its government—have illegally attempted to coerce church courts in the exercise of their purely spiritual functions—have usurped the ‘ power of the keys’—have wrongfully acclaimed, as the subjects of their civil jurisdiction, to be regulated by their decrees, ordination of laymen to the office of the holy ministry, admission to the cure of souls, church censures, the preaching of the word, and the administration of the sacraments—and have employed the means intrusted to them for enforcing submission to their lawful authority, and compelling submission to that which they have usurped—in opposition to the doctrines of God’s word, set forth in the Confession of Faith, as ratified by statute—in violation of the constitution—in breach of the treaty of union—in defiance of diverse express enactments of the legislature, and in disregard of the oath of their sovereign, from whom they hold their commissions.

“ And whereas farther encroachments are threatened on the government and discipline of the church, as by law established, in actions now depending before the said court, in which it is sought to have sentences of deposition from the office of the holy ministry reduced and set aside, and minorities of inferior judicatories authorised to take on trial and admit to the office of the holy ministry, in disregard of and in

opposition to the authority of the judicatories of which they are members, and of the superior judicatories to which they are subordinate and subject.

“ And whereas the government and discipline of Christ's church cannot be carried on according to his laws and the constitution of his church, as held by the Church of Scotland, and ratified by the laws of the land, subject to the exercise, by any secular tribunal, of such powers as have been assumed by the said Court of Session.

“ And whereas this church, highly valuing, as she has done, her connection, on the terms contained in the statutes hereinbefore recited, with the state, and her possession of the temporal benefits thereby secured to her for the advantage of the people, must nevertheless, even at the risk and hazard of the loss of that connection and of these temporal benefits—deeply as she would deplore and deprecate such a result for herself and the community—persevere in maintaining her liberties as a church of Christ, and in carrying on the government thereof on her own constitutional principles, and must refuse to intrude ministers on her congregations, to obey the unlawful coercion attempted to be enforced against her in the exercise of her spiritual functions and jurisdiction, or to consent that her people be deprived of their rightful liberties.

“ Therefore, the General Assembly, while, as above set forth, they fully recognise the absolute jurisdiction of the civil courts in relation to all matters whatsoever of a civil nature, and especially in relation to all the temporalities conferred by the state upon the church, and the civil consequences attached by law to the decisions, in matters spiritual, of the church courts—do, in name and on behalf of this church, and of the nation and people of Scotland, and under the sanction of the several statutes, and the treaty of union hereinbefore recited, claim, as a right, that she shall freely possess and enjoy her liberties, government, discipline, rights, and privileges, according to law, especially for the defence of the spiritual liberties of her people, and that she shall be protected herein from the foresaid unconstitutional and illegal encroachments of the said Court of Session, and her people secured in their Christian and constitutional rights and liberties.

“ And they declare, that they cannot, in accordance with the word of God, the authorised and ratified standards of this church, and the dictates of their consciences, intrude ministers on reclaiming congregations, or carry on the government of Christ's church, subject to the coercion attempted by the Court of Session as above set forth, and that at the risk and hazard of suffering the loss of the temporal benefits conferred by the state, and the advantages of an establishment, they must, as by God's grace they will, refuse so to do; for, highly as they estimate these, they cannot put them in competition with the inalienable liberties of a church of Christ, which, alike by their duty and allegiance to their Head and King, and by their ordination vows, they are bound to maintain, ‘notwithstanding of whatsoever trouble or persecution may arise.’

“ And they protest, that all and whatsoever sentences of courts and acts of the parliament of Great Britain, in contravention of the aforesaid government, discipline, rights, and privileges of this church, secured by the treaty of union, as an unalterable and fundamental condition thereof, are and shall be in themselves, void and null, and of no legal force or effect, as beyond the powers of the parties from whom they proceed, and in violation of the said treaty; and that, while they will accord full submission to all such acts and sentences, in so far—though in so far only—as those may regard civil rights and privileges, whatever may be their opinion of the justice or legality of the same, their said submission shall not be deemed an acquiescence therein, but that it shall be free to the members of this church, or their successors, at any time hereafter when there shall be a prospect of obtaining justice, to claim the restitution of all such civil rights and privileges, and temporal benefits and endowments, as for the present they may be compelled to yield up, in order to preserve to their office-bearers the free exercise of their spiritual government and discipline, and to the people the liberties, of which respectively it has been attempted so contrary to law and justice to deprive them.

“ And, finally, the General Assembly call the Christian people of this kingdom, and all the churches of the reformation throughout the world, who hold the great doctrine of the sole Headship of the Lord Jesus over his church, to witness, that it is for

their adherence to that doctrine, as set forth in their Confession of Faith, and ratified by the laws of this kingdom, and the maintenance by them of the jurisdiction of the office-bearers, and the freedom and privileges of the members of the church from that doctrine flowing, that this church is subjected to hardship, and that the rights so sacredly pledged and secured to her are put in peril; and they especially invite all the office-bearers and members of this church, who are willing to suffer for their allegiance to their adorable King and Head, to stand by the church, and by each other, in defence of the doctrine aforesaid, and of the liberties and privileges, whether of office-bearers or people, which rest upon it; and to unite in supplication to Almighty God, that he would be pleased to turn the hearts of the rulers of this kingdom, to keep unbroken the faith pledged to this church, in former days, by statutes and solemn treaty, and the obligations come under to God himself, to preserve and maintain the government and discipline of this church in accordance with his word; or otherwise, that he would give strength to this church—office-bearers and people—to endure resignedly the loss of the temporal benefits of an establishment, and the personal sufferings and sacrifices to which they may be called, and would also inspire them with zeal and energy to promote the advancement of his Son's kingdom, in whatever condition it may be his will to place them; and that, in his own good time, he would restore to them these benefits, the fruits of the struggles and sufferings of their fathers in times past in the same cause; and, thereafter, give them grace to employ them more effectually than hitherto they have done for the manifestation of his glory.

“Signed by Thomas Chalmers, Angus Makellar, Walter Paterson, Will. Clugston, John Roxburgh, Norm. M'Leod, James Blackadder, Arch. Bonar, Thomas Burns, Donald Kennedy, Thomas Shepherd, Simon Fraser, John Thain, Alex. O. Laird, William Cousin, Wm. Henderson, Andrew Gray, A. Macbride, Hector M'Niel, Finlay Macalister, Samuel Grant, W. H. Craufurd, J. Baillie, John Laird, Dun. M'Lean, Claud Alexander, Jas. Morison, Robert Johnston, jun., Alex. Balfour, D. Burness, D. Paton, Charles Nairn, James Crawford, jun., Thomas Gun, John Grant, Duncan Macnab, Matthew Dickie, Geo. Hope Monilaws, Thomas Guthrie, James Hamilton, Patrick Guthrie, David Couper, Thomas Doig, John Kirk, Robert Bruce, Henry Dunlop, Alex. Hean, J. H. Montgomerie, Alex. Hutchison, Michl. Willis, William Todd, P. Dalmahoy, R. Ferguson, S. F. M'Lauchlan, David Dewar, W. M. Hetherington, Patrick B. Mure Macredie, Hugh M'Leod, David Carment, William Barclay, R. J. Brown, A. Dunlop, Wm. Bruce Cunningham, James Russell, A. M'Cheyne, W. M'Kenzie, John M'Kinnon, James Noble, Thos. Ramsay, G. Smyttan, W. Stothert, James Thomson, Rob. Buchanan, Rob. S. Candlish, James Bonar, James Thomson, Dun. Campbell, John Stephen, Robert Thomson, James Lumsden, Peter Petrie, William Primrose, Ludk. Stewart, George William Hay, Andrew A. Bonar, Daniel Cormick, Samuel Miller, David Brewster, James Bridges, G. Buchan, Wm. Cunningham, Chas. Mackinlay, David Dickson, Walter Wood, Henry Todd, John Gray, Maurice Lothian, David Waddell, J. G. Wood, Thomas B. Bell, Neil Smith, Jr. An. M. M'Gillivray, H. M'K. M'Kenzie, Wm. Wingate, James Smith, Charles Cowan, Robert Shanks, Robert Gordon, E. B. Wallace, J. Moncrieff, Lewis H. Irving, Wm. Brown, Geo. R. Davidson, Lau. Craigie, H. M'Bryde Broun, Wm. Black, David Reid, James Buchanan, Matthew Barclay, James Forrest, Patrick S. Miller, John Geddes, James Graham, Alex. Forrester, G. Lewis, J. Begbie, John Cadell, H. Fras. Cadell, Peter Learmonth, John M'Kenzie, Francis Japp, J. A. Wallace, Geo. Tough, Alex. Salmon, Thomas Stark, A. B. Parker, William Learmonth, Fred. L. Roy, John A. Ranken, William Muir, Matthew Muir, James Duncan, James Swan, Thos. Blyth, Duncan Campbell, Andrew Kessen, John Pollock, Duncan Matheson, Alex. Macleod, William Jackson, Alex. Stark, Rob. Crawford, John Cochrane, Andw. Brown, Jno. Murray, David Menzies, John Lyon, Thos. Chas. Burns, Wm. Mitchell, D. Williamson.”

Dr CHALMERS spoke as follows:—Moderator, I am glad that the putting forth of a claim of rights should be moved for in the General Assembly. I liked the proposal from the time I first heard of it. And more than ever are we now shut up to the necessity of such a measure. The Court of Session persists in, nay, is fast

multiplying her encroachments. But the crowning necessity for a full and formal representation of our case before the country at large is, that we have been refused a hearing by parliament. The disposition in high places is to leave the church altogether in the hands of the Court of Session, to proceed against her *ad libitum*, or to any extent that might seem unto them good; and this is called leaving the law to its course. They would abandon one court to the entire mercy and discretion of another; and this they term being satisfied with the law as it stands. The question whether each court might not have its own proper and certain limits prescribed by the constitution, or whether these limits might not possibly, yea, have not actually been transgressed,—this is a question which they have not looked at, and will not listen to. Thus given up, thus abandoned, it seems our last expedient to make the solemn appeal which we now meditate to the intelligence, and the conscience, and the good faith of all men. Or rather than our last expedient, Moderator, it is our second last. For to the very last we shall keep hold of those privileges which essentially belong to every Christian church, and not resign them to the Erastianism which is now making head against us. To the very last we shall assert a government in the church distinct from that of the civil magistrate, and placed in the hands of distinct office-bearers; and shall continue to administer that government accordingly. To the very last shall we withstand the powers of this world, should they offer to intromit with, or attempt to overbear us, in those things sacred and things scriptural, which belong exclusively to the kingdom that is not of this world; and, at the expense of every suffering, and of every trial, are we resolved to stand or fall, with these the inherent liberties—~~or would but our rulers examine their own statute book, and they will find them there to be—the constitutional liberties of the Church of Scotland.~~ And I am presumptuous enough to hope that this our church's manifesto, would they but deign to look upon it, may, perhaps, serve to open their eyes. In the report of a speech ascribed to Sir Robert Peel, there seems a strange inadvertency, into which, I am sure, with but enough of time (I am deeply sensible how little he has of that), he never could have fallen. He is there made to complain of the enormous labour that must be gone through to obtain the requisite information; and then refers those who might feel inclined to make a study of our subject, to various documents, which he enumerates thus,—“the different judgments pronounced in the Court of Session, the decision of the House of Lords, *and many pamphlets which had been written on the subject.*” For the part which the Court of Session has had in this complex transaction, it is enough to know its different judgments,—for the part which the House of Lords has had in it, it is enough to know its decision. For what part then, or for whose part is it, to come at the right understanding of which all these pamphlets must be read? The only possible reply is, that these pamphlets were referred to as being the lights, and, for ought which appears, the only lights and informants on our share in the concern. Or, in other words, the many thousand pages of a weary and voluminous controversy must be traversed, ere the part which the church has borne in this transaction can become at all intelligible. Now, how comes it, Sir, that while the different judgments of the Court of Session, and the decision of the House of Lords, are thus appealed to, no account should be made of the judgments and decisions of the General Assembly of the Church of Scotland? Why is our constitutional standing as a court to be laid aside, and altogether forgotten in this argument? Or why, instead of a question between court and court, must it be regarded, as far as we have to do with it, only as a question between so many wrangling ecclesiastics, through whose heats and diversities of sentiment it is impossible to clear one's way? Sir, ours too is a court, like the Court of Session, or like the House of Lords in its judicial capacity, constituted, or at least recognised, by statute; and you have but to do with us as you would with these other courts—look into the statute book for the powers conferred upon us, and to the sentences which we have given forth, and this will of itself throw as much light upon our question, as on any question of theirs, even apart from the perusal of so much as one pamphlet, or the oral examination of so much as one clergyman. Whereas, instead of this, we are farther told in the speech, that ere parliament can see its way, they must have clergy on all different sides of the church examined, that a judgment, if possible, might be formed out of their conflicting testimonies. Now, Sir, if this last be the

right way of proceeding with the church, why is it not the right way also of proceeding with the Court of Session? Why, instead of being satisfied with its judgments, why not call up my Lord Fullerton, or my Lord Jeffrey, or my Lord Moncrieff, to give account of their respective opinions on the one hand, along with my Lords Gillies or Cuninghame upon the other? But this is never done with any court that I know of. The sentence, and the legal effect of that sentence, passed by however small a majority, is the all in all that is proceeded on—not the different views or reasonings of the different members. Why, then, should the church be singled out for another sort of treatment?—the sentiments of her different members only had respect to, not the sentences of her courts, although sentences passed by a far larger majority than in the Court of Session—nay, far larger than can be alleged by the premier himself, backed and supported as he is in the House of Commons, whose decision, at the same time, is omnipotent within its own sphere, although he had but the majority of one upon his side. What means this contrary method of dealing with the church? as if, in her case, and in hers only, every principle of constitutional law might be given to the winds, and, at the arbitrary choice either of courts or of parliaments, her place in the statute book may, *brevi manu*, be cancelled and blotted out at any time, and she be thus treated and disregarded as a thing of no standing whatever in the constitution of these realms.

But, in the reported speech of Sir James Graham, there is a yet stranger inadvertency. We are there told, that the power of the General Assembly is supreme in all matters relating to the established religion of Scotland; and that, in the same way, with respect to all civil matters, the Court of Session had similar authority: but then, that the House of Lords had, higher it would appear than a similar authority, had the highest authority of all, and had decided against us, as if it were competent for the civil court above to do what could not be done by the civil court below—to trench on the otherwise supreme power of the General Assembly in matters relating to religion. At this rate, it would seem as if a cause might change its character or species on its way upward to London—that is, from the purely civil to the ecclesiastico-civil—or rather, that in passing by appeal from one tribunal to another, the court, if not the cause, had changed its character, from the purely civil here to the ecclesiastico-civil there; and that in virtue of this transmutation, the House of Lords could overrule the General Assembly of our church in the matters of its spiritual jurisdiction. Now, it should be understood, that we did not just give up so much as this by our union with England; and, indeed, the very first oath taken by her majesty, and by every other monarch on succeeding to the crown, might have made this sufficiently intelligible. No doubt the very conception or idea of the House of Lords, a constituent branch of the high court of parliament, operates with a sort of glare on the public imagination. But every man who has read De Lolme on the British Constitution, that clearest and most elementary of all books, knows how to distinguish between the legislative and the judicial functions of that noble assembly; and that when sitting as the supreme civil court of these realms, it can no more on that account pass beyond its own legitimate boundary, and exercise authority in things spiritual, than our General Assembly, the supreme spiritual court in Scotland, can exercise authority over things civil. The thing is so extremely obvious, that, were it not for the mists which gather, in the strife of parties, around every controversial question, we might at once ascribe the mistake on this point to a mere slip of forgetfulness. Yet we feel sure that it is a mistake into which neither Burke nor Canning could by any possibility have fallen; and we, therefore, with all confidence, would hazard the assertion, that in the recorded speeches of neither is any such blunder to be found, because a blunder from which the philosophy of their sound statesmanship would have infallibly preserved them. But there are other considerations of far higher and more general importance,—other topics of greatly more urgent and fearful interest, than the misconceptions of individual senators. Let us just look at the present state of matters in Scotland,—the church in the hands of the Court of Session, to be dealt with as seemeth unto them good; or, in the language of two noble lords from their places in parliament, “sustaining the vengeance of such civil penalties as her refractory ministers might bring down upon their heads.” Such, in substance at least, were the reported sayings of these exalted persons, who,

for aught I know, may from their secure and exalted region be calmly looking on, and waiting the result of their experiment. If viewed as an experiment upon the firmness of the church, I can feel no doubt that the result will be a most triumphant one,—an unflinching adherence to principle, whatever be the menaces or the terrors which are brought to bear upon us. But as a patriot,—as a Christian patriot,—even as a steadfast and devoted conservative,—if not in the party, at least in the general sense of the term, as being wholly on the side of our existing institutions, and whose heart's desire is for the stability of our present social and political system;—in all these characters I would implore attention, if not to the effect of these proceedings upon the church, at least to their effect upon the country; and put it to every honest and leal-hearted citizen, whether in or out of parliament, if, instead of thus abandoning the parties now engaged to their present unseemly contest to fight it out as they may, it were not better and worthier far, that the question between them should be taken up as a matter of grave and serious investigation, and on the authority, or under the sanction of well-weighed principle, were conclusively put an end to. For meanwhile the influence of such proceedings on men's minds is truly disastrous. Let me only, as one specimen, instance the calling of the Presbytery of Dunkeld to the bar of the Court of Session, where so many clergy, for acting conscientiously as the administrators of one established and constitutional court, were rebuked in the presence of an assembled public like as many culprits, by the judges and administrators of another,—and this on the principle of vindicating the majesty of law; but I am sure with the effect of weakening its authority, and loosening every ancient hold, either of the law civil or the law ecclesiastical, on the loyalty and allegiance of all men.

But, Sir, this is not the only, and I would say, not the principal or most alarming mischief that is to follow in the train of these proceedings. Let the Court of Session persevere as they have begun,—let them not only threaten, as did the Jewish sanhedrim of old, but fulfil their threatenings,—let them proceed from rebukes to fines, from fines to imprisonments, and from imprisonments to the persecutions and penalties of a darker age,—and all this in the face of an appeal to statutes, and to a statute-book, which both courts and parliaments refuse to look into. Let them hold it enough that they have the physical force upon their side; and let us be told that, though every principle of constitutional law were upon ours, this is no barrier—no protection against them. We have, indeed, been already told so in argument; and that the right cannot possibly lie with the one party, seeing that the might is all in the hands of the other. Let us just carry this principle from the field of argument to the field of action, and see how it will operate. We, Sir, will take no part in the operations of such a field. We, I trust, shall know how to suffer, even as the fathers of our martyred church have done before us,—or, still more purely and perfectly, as was done by the founders and first disciples of the Christian faith. But, Sir, beside the two immediate parties in this contest—the contest of power on the one hand, and principle on the other—recollect that there are hundreds of thousands of lookers-on, who will draw their own lessons, and make their own use of the spectacle that will then be transacting before their eyes. Recollect, Sir, that there are different kinds of physical force, but that it matters not what kind as to the essential character of the proceeding, if put forth in violation of constitutional order,—whether it be the physical force of a soldiery, or a constabulary, or of hundreds of thousands of prison and policemen, on the one hand; or the physical force of half a million brawny arms, upon the other, of men ready to break out on a wild jubilee of outrage and excess, after that their superiors in the commonwealth had exemplified and led the way for them. Let it not be disguised, Sir, that the demagogues of our time have a vast deal of mental as well as muscular strength among them,—many shrewd and far-seeing spirits, of greater reach, and far greater discernment, let me tell them, than those blind and infatuated grandees who are pulling at the same rope for such a prostration of the established church, as would infallibly terminate in its overthrow. Their sagacious auxiliaries, wiser in their generation, and of deeper insight, view the matter more truly. No wonder that they are looking on so benignantly; for, according to their optics, what is now going forward, is neither more nor less than a sort of genteel chartism,—an application, in its



own way, of the physical force principle,—a preparative for the very game which themselves mean to play: Nor will they be slow of coming to the conclusion, that these chartists in high life are not to have it all to themselves. And let our courts of administration see, who are now trampling on the constitutional and solemnly guaranteed liberties of the Church of Scotland—and let parliament see, where our conflict has been ridiculed as but a war of pamphlets, and refused to be taken up as a question of the most sacred rights and the dearest principles,—let them have a care lest, as the fearful result of these proceedings, the course of anarchy is entered on by the multitude below, and this because the flag of anarchy was first hoisted and unfurled in the high places of society. If I know my own heart, Sir, it is not in the spirit of menace, or with the purpose to irritate, that I utter these things. Some might feel so, because the most wholesome truth is often the most unpalatable. Nevertheless, the spirit in which I speak is that of serious and affectionate warning; and the purpose for which I speak is that my old friends the conservatives might be led as fast as possible to quit the egregiously false position they now occupy. I have not forgotten, Sir, their honied words so long as they were out of office, nor yet the bland and benignant smiles wherewith they hailed, nay, helped forward the cause of church extension; and on the principle that one good turn deserves another, I am fain—notwithstanding that, as a party, they now look upon us with an altered countenance—I am fain to offer one consideration, which I think fitted to tell on those feelings of high patriotism by which many, very many, on that side of politics are so honourably distinguished. And let me first tell them, that never were any doings transacted on a public arena seen and read of all men—never were any more fitted to loosen the cement which binds together our social fabric—never any more directly fitted to loosen and unsettle the foundations of all social order, than the doings of these few past years against the Church of Scotland. For, first, Sir, as has been well said by an eminent conservative lawyer, the member of a court should no more be reckoned with for his vote than the member of a jury; and that to punish a court for its sentence is just as glaring a violation of principle, and strikes as much at the root of all justice in society, as to punish a jury for their verdict. The legislature may remodel, or even put down any of those civil courts which itself hath constituted; or may withdraw the recognition itself hath given to those ecclesiastical courts which it may have been pleased to legalise; and so if the Church of Scotland have, by the perversity of her courts, become a nuisance in the land, do disestablish her; and we only wait that deed of the supreme magistrate, which is to strike her out from the place which she now occupies in the national system. But while we stand on our present footing, for any inferior judges or magistrates to lift the hand of violence against us, and that for the part we conscientiously take in the business of her presbyteries and General Assembly,—this, Sir, is greatly worse than for a man in the walks of ordinary life to lift up the hand of violence against his fellows. It is a blow struck, not at a mere individual, but at one in the sacred character of a functionary—an outrage done on the higher platform, and against the higher principles of constitutional law—an act of tyranny having in it the character of rebellion, and so the most directly fitted of aught I know, to let down, as from higher to lower places, the infectious spirit of rebellion and crime, on the ground-floor, as it were, of general society. For again, Sir, what have these advocates and precious friends of order been doing for some years past? They have, if not by direct instigation, at least by their countenance and favour, been encouraging the insubordination both of our lower judicatories and of many individual clergymen—so stirring up all the confusion and anarchy they possibly can within the Church of Scotland. It has begun here: I ask, will it end here? Will this truly perilous example spread no farther? And now that the practice of trampling down majorities has been so conspicuously set, is there no danger of imitators springing up in other quarters, and bidding defiance to the majorities of other courts, even should it be the high court of parliament? But, lastly, we may be told over again of a failure in our analogy, because the civil courts have, while the ecclesiastical have not, the means of enforcement—the very reason, as was beautifully said by my Lord Fullerton, why the constitutional rights of the church, as being the defenceless party, should be all the more sacredly respected. But, Sir, if these be the principles and maxims which are henceforth to prevail—if the weak,

because weak, are thus to be overborne, and every voice of remonstrance from them to be unheard—if the aphorism of “might is right” is now to be acted upon by men in authority—there are men not in authority who may learn from their example, to act upon it too; and in whose doings, when only let slip, over this our fair and well-ordered territory, that saying of holy writ might find its fearful verification, “If such things be done in the green tree, what shall be done in the dry?” God may please, Sir, in the exercise of a wise and holy discipline, thus to afflict our church, and bring it to the trial of her faithfulness,—insomuch that for not giving the things of God unto Cæsar, for her adherence to this sacred principle, she may be made to suffer that worst of all violence, the violence of iniquity under the forms of law; and this, too, because the force of law is on the side of her adversaries. But, Sir, if with this argument of force now in the mouths of senators and magistrates, judgment is to begin at the house of God,—when this very argument, I ask, passes into the mouths of the lawless and disobedient, of the ungodly and sinners, what shall the end be? or where shall tyrants and persecutors appear after that their own wicked and worthless argument, taken up by men who have the strength of millions upon their side, is heard in a voice of thunder, or pours itself forth in some wide-spread war of turbulence and disorder over the face of our commonwealth? I have scarcely broke ground on the subject of our motion; but, in the utter want of strength for doing more, I will now leave it in abler hands—in the hands of men, who, resolute in principle, but not wrathful, I hope, in feeling, will know how to conduct this discussion in a spirit worthy of our cause and of our high question. Sir, if any sentence have dropped from me fitted to stir up one angry or unpleasant sensation, farther than is unavoidable with every difference of opinion, even though the limits of fair and honourable controversy shall not have been transgressed,—but if I have passed in the very least beyond these limits, I am heartily sorry for it; or if I have unwarrantably, because unwarily, excited in the bosoms of any that wrath of man which worketh not the righteousness of God. Sir, there is neither good principle nor good policy in such a proceeding; and most assuredly the last man in our empire whom I should like to alienate from our cause, is he who has the power, and I think the wisdom too, had he but the leisure, to resolve and to extricate the problem of our difficulties. I confess, Sir, that a few brief clauses in his reported speech on the 4th of May, have lighted up a hopefulness within me, because the indications of an incipient sense in his mind of the vast importance, after all, of that question which now agitates the Church of Scotland. Let me quote the following expressions:—“Convinced that one of the proudest acts of any public man would be the settlement of the question upon equitable principles—principles which would preserve the just rights of the people, and maintain also the just rights of the church.” But it is not so much on this that I build; for I am not sure if any Englishman, and at the same time an episcopalian, is qualified to pronounce aright on this part of our presbyterian constitution. But there is another and more general topic applicable to all national churches whatever, and on which I should expect a sound, if but a well-weighed deliverance from his hands; and the following expression leads me to think that it is a topic which will engage his attention:—“Those contests in which civil and religious rights are confounded, and civil and religious jurisdictions confused.” I trust he will be enabled to redd aright the marches between these. And it is my earnest prayer that he may be directed to such a view of this great subject, as shall at once secure to the church her spiritual independence, and at the same time perpetuate those capabilities of usefulness which flow from her connection with the state. A course of reading, a study of the Erastian controversy, or the perusal of one tithe of the pamphlets which have been written on the Scottish church question, to be achieved by a minister of the crown, ere he could arrive at a solution of our difficulties, were, indeed, a most preposterous expectation. We are persuaded that he could find a far shorter road than this to the desired landing-place, and would be able to tell, from a few pages of the statute-book, which of the two parties it was that had broken the law, or which had overleaped, and which had kept within the barriers assigned between court and court by the constitution of this country. If any addition were permitted to this half hour’s task, I should feel tempted to prescribe but one paragraph from Lord Kames, written eight years ago,

and one golden sentence of a speech delivered the other day by my Lord Fullerton. Let me take the liberty of reading these. The following is from Lord Kames:—“ Ecclesiastical courts, beside their censorial powers with relation to manners and religion, have an important jurisdiction in providing parishes with proper ministers or pastors; and they exercise this jurisdiction by naming for the minister of the vacant parish, that minister duly qualified who is presented by the pastor. Their sentence is ultimate, even when their proceedings are illegal. The person authorised by their sentence, even in opposition to the presentee, is, *de facto*, minister of the parish, and as such, is entitled to perform every ministerial function. One would imagine that this should entitle him to the benefice or stipend, for the person invested in any office is, of course, entitled to the emoluments. And yet the Court of Session, without pretending to deprive the minister of his office, will bar him from the stipend, if the ecclesiastical court have proceeded illegally in the settlement. Such interposition of the Court of Session, singular in appearance, is, however, founded on law, and is also necessary in good policy. With respect to the former, there is no necessary connection betwixt being the minister of a parish and being entitled to the stipend—witness the pastors of the primitive church, who were maintained by voluntary contributions. It belongs, indeed, to the ecclesiastical court to provide the parish with a minister; but it belongs to the civil court to judge whether that minister be entitled to the stipend; and the Court of Session will find, that a minister wrongously settled has no claim to the stipend. With respect to the latter, it would be a great defect in the constitution of a government, that ecclesiastical courts should have an arbitrary power in providing parishes with ministers. To prevent such arbitrary power, the check provided by law is, that the minister settled illegally shall not be entitled to the stipend; thus happily reconciling two things commonly opposite. The check is extremely mild, and yet is effectual to prevent abuse.”—*Tract vii. p. 240.* The title of the tract is “ Courts.” The two following passages are also taken from Lord Kames’ “ Law Tracts :”—“ Nor is it inconsistent that two courts should give different judgments to different effects, for both judgments may stand and be effectual. Such contrariety of judgments one would wish to avoid; but it is better to submit to that risk, than to make it necessary that different courts should club their judgments to finish a single case, which has always been found a great impediment to justice.” “ And this leads me to consider more particularly the conflict between different jurisdictions, where the same point is tried by both. This happens frequently, as above mentioned, with respect to different effects. But I see not that there can be in Britain a direct conflict between two courts, both trying the same cause to the same effect. Opposite judgments would indeed be inextricable, as being flatly inconsistent,—one of the courts, for example, ordering a thing to be done, and the other court discharging it to be done. This has happened between the two houses of parliament, so may again happen, and I know of no remedy in the constitution of our government. But in this island, matters of constitution are better ordered than to afford place for such an absurdity. An indirect conflict may, indeed, happen, where two courts, handling occasionally the same point in different causes, are of different opinions upon that point. Such contrariety of opinion ought, as far as possible, to be avoided, for the sake of expediency, as tending to lessen the authority of one of the courts, and perhaps both. But as such contrary opinions are the foundation of judgments calculated for different ends and purposes, these judgments, when put to execution, can never interfere.”

The following is from Lord Fullerton’s recent speech:—“ The pure and sole ground for the interference in any way of the Court of Session with the proceedings of any separate class of courts, is not merely that these courts have committed wrong, and exceeded their proper jurisdiction, but that they have done so by encroachment on ours.” In this brief but weighty utterance of Lord Fullerton, worthy of being enshrined among the most precious memorabilia of legal and judicial wisdom, all the elements of harmony are to be found. Would that it led to such an embodiment as was held forth in promise from the hustings of Perthshire, by Mr Campbell of Monzie, the introducer into the House of Commons of the bill now in dependence, and at the election of Mr Home Drummond, grandson of Lord Kames just quoted, “ that the power of the patron and civil court should cease from the moment that

the presentee was handed over to the church courts," leaving in the hands of the church a power, in the exercise of which she, by every principle of human nature, never would err, save on the side of indulgence to the presentee; and never would come into conflict with the appointment of the patron, save when a great public interest, and for which we could hold up our faces, palpably and imperiously required it. It is the constant leaning of the ecclesiastical courts in favour of the patron's presentee, as exemplified throughout the greater part of last century in the Church of Scotland, which makes it so desirable that a place should be found for the voice of the congregation, or, in the reported language of Sir Robert Peel, that the rights of the people should be secured as well as the rights of the church. Should he give attention to our question, he will be at no loss for the principles on which a sound deliverance might be given; and I promise over and above this, should he cast an eye upon Scotland, and look there for the effects of our controversy, he will find the progress already begun, and a good way entered on, of that infection wherewith violence and injustice are sure to spread themselves from higher to lower places, and which, if suffered to go on, must at length terminate in the dissolution of all social order. It is true that the church, as having been the first victim of that oppression which we call upon him to rectify, is also the first to sustain the inroads of that new spirit of wantonness and insult, which is spreading abroad over the face of society. And, accordingly, we find, what we never found before, ministers liable to be debarred from the use they were wont to have, through the week, of their own churches, by every petty corporation—people turned by heritors in country parishes, when assembling together for sacred purposes, from the sanctuary of their fathers, to hold their meetings in the open air—universities threatened with invasion, as perhaps a grand preliminary to the overthrow of presbyterianism in Scotland. Nay, Sir, the very lairds, if we may judge by recent accounts from East Lothian, have of late been visited with a most extraordinary taste and affection for things ecclesiastical. In short, men of all classes and degrees are beginning to look upon the church as they would upon a play-ground, or an unprotected common, where, in holiday exemption from the dull routine of their ordinary callings, they might enter with unlicensed footsteps, and hold their saturnalia. The thing, when we look to its probable consequences, is alarming enough; but meanwhile, there is just enough of the ludicrous in this new-fledged mania, that, would Sir Robert but interpose aright, and in time, he might yet restore us all to good humour. For myself, I do hope that the experience of the last seven years will not be thrown away upon me. In particular, I shall venerate more than ever, the wisdom which is enshrined in many of our ancient proverbs; and there is one old Latin aphorism which shall henceforth become my adopted favourite—*Ne sutor ultra crepidam*—which might be thus translated for the benefit of those who are concerned—Let all men, whether lairds or lawyers, mind their own business, and leave us to mind ours.

Before sitting down, I would only protect myself from one misinterpretation, as if all along I had been attempting to operate on the fears, not on the convictions, of our adversaries. Sir, I have not entered in detail on the specific grievances set forth in our proposed declaration. This I know will be done, and with all requisite force and amplitude, by others. But we hold it of mighty importance—indeed, such is our confidence in the merits of our question, that we should regard it as a sure stepping-stone to victory, could we gain for it the attention of influential men; nor are we aware of any likelier expedient for this, than by operating, not on their cowardice, but on their patriotism—when we tell them of the lawless unconstitutional proceedings to which we have been subjected, and how directly fitted they are to propagate their own likeness, and spread abroad a similar spirit of violence and lawlessness throughout the walks of private society. People, even statesmen, are so jealous now a-days, of their reputation for intrepidity, that we cannot offer even but a faithful representation of our cause, without the response, heard sometimes we believe, even in parliament, that they will not be bullied nor menaced into a compliance with our views. Sir, we are not bullying. We are not dealing in threats, but in remonstrances; and a remonstrance is not a threat. We are not making an experiment on English courage; that we know would be in vain. We are making an appeal to English justice; and that, we hope, will not be in vain. We are letting the capital of the empire know a case of gross, and griev-

ous, and multiplied oppression, which is now going on in one of the provinces—an oppression which, if not remedied, will have the effect of trampling down the Church of Scotland into utter insignificance—will despoil her of all moral weight—or, better greatly than this, though itself a great and sore calamity, will dis sever her from the state altogether, and that, too, at a time when her services are most needed to reclaim a sadly degenerated commonalty, and, let me add, were never more promising, or at any former period of our history more likely to be effectual for the moral regeneration of our land. It has been asked, why not quit the establishment, or why continue to eat the bread of the state, while unfaithful to her service, or refusing obedience to the authority from which alone ours, as a national church, derives all the temporalities which belong to her. There is some little mistake here, nay, a twofold mistake; for, in the first place, to dispute the mandate of a court that is co-ordinate with ourselves, when they have exceeded their own territory, and made invasion upon ours,—that we should not call disobedience to the state. Nor are we willing to receive our doom, as an establishment, at the hand of any inferior judge or magistrate, seeing that in the understanding of our adversaries themselves, it is on the supreme magistrate that we hold, both for the origin of our national church, and for her continuance. But, secondly, though we therefore wait the decision of the state, ere we quit our connection with it, that decision will not be given against us, but by an act of the greatest national injustice. Sir, we are not eating the bread of the state. When the state took us into connection with itself, which it did at the time of the union, it found us eating our own bread, and they solemnly pledged themselves to the guarantees, or the conditions on which we should be permitted to eat their bread in all time coming. Sir, at the hands of the Court of Session we may be said to be now suffering one half of a very great iniquity; we are not going to homologate this iniquity by doing the other half of it ourselves, or by a voluntary resignation of the temporalities which we have done nothing rightfully to forfeit, although there be enough of strength in the civil power to force them out of our hands. Sir, if government be satisfied with the conduct of her own servants, let them consummate the deed which themselves approve of, and let the act of our deprivation appear in its true character, not as the spontaneous doing of so many simpletons among ourselves, but as a great national act of injustice, a flagrant breach of national honour and good faith. Eating the bread of the state! Are the Brahmins or priests of India now eating the bread of England, or would a British parliament order them to give up their idolatries, or else to resign their own native endowments? If parliament would not do this, as little surely should they say to us, give up your presbytery, or what your only competent court, the General Assembly, holds essential to presbytery, or else give up your parishes. They will not surely treat Scotsmen worse than Hindoos. It has not just come to this yet; but if it should, I trust ye shall be at no loss to know what the part is which becomes us; and when it is, that the principle of a national establishment, to which we still adhere, must give way, and be relinquished for the sake of higher principles, I trust, Sir, that we shall be found from first to last to have acted purely, and honourably, and Christianly, and that the faithful ministers of the Church of Scotland will be enabled to realize the saying, that “wisdom is justified of her children.” (The Rev. Doctor concluded by moving the adoption of the claim proposed in the overture.)

Dr GORDON.—I rise, Sir, in a single sentence, to second the motion which has now been made by my reverend friend. I speak literally, when I say, a single sentence. I feel in common, I hope, with a very large majority of this Assembly, that we are shut up to the necessity of bringing before the legislature a full statement of our claim of rights, and a full statement of the encroachments which, in our apprehension, have lately been made on these rights. I also feel, Sir, that I am warranted, or, I should rather say, authorised, by several of the most respected fathers of the church, who are not members of this Assembly, to say, that had they been in the Assembly they would gladly have appended their names to this overture. And I second the motion for the adoption of this overture, with a hope that I am not willing to relinquish, that when our claim of right is brought before an enlightened legislature—before high-minded and honourable men, they will not refuse at least a patient perusal of that claim; and I have the conviction, which I am as little

willing to relinquish, that if they do give it a patient perusal, they will see the justice, and therefore the policy of acceding to it. But, Sir, if unhappily it should be otherwise,—if they have resolved on refusing to grant what we think reasonable on our part to ask, I feel for one that we are bound as honest men, and as Christian ministers, with all calmness and all respect, but with all firmness and determination, to tell them that we cannot carry on the affairs of Christ's house under the coercion of the civil courts; and however deeply we may deplore the loss of those advantages which we derive from our connection with the state, if ultimately the legislature determine that they will not listen to our claim, then those advantages we must relinquish, because we could not hold them with a good conscience. With these views I second the motion with great cordiality, and leave it in the hands of the house.

Dr Cook, after an introductory remark on the momentous nature of the present crisis in the affairs of the church, said,—The present question involves our dearest and highest interests; and we must all come to the consideration of it under the conviction that much indeed depends on the results that will follow. Sir, the object of the learned Professor's motion, is to induce the house to address the legislature and the public upon the subject which is now agitating the country; but I much fear that the effect of the appeal will not be what my reverend friends on the other side anticipate, but, on the contrary, will tend rather to aggravate the evils which we are all desirous to remedy. It is on this account that I would take a different view of the subject; and with the desire of coming to the same end, I have laid before the house the resolutions now on the table. The church requires that all settlements shall be regulated by the veto act. The law of the land has declared that act to be illegal, and that it is a violation of the sacred duty of obedience to the supreme authority recognised by the state, and vested with all civil powers to conform to it. There are thus two rules addressed to the ecclesiastical courts; and as to these there is a diversity of opinion. One presbytery, for example, adheres to the one, another to the other. The consequence is, that we are practically divided. It is vain to talk of being ultimately separated; we are to all intents virtually separated now, and have been ever since the diversity of rule was admitted. Accordingly we act in conformity to this:—the one part adhering to the veto act, proceeds to the most severe punishment of all who do not so adhere, suspending them from their parishes, as ministers of the established church, or deposing them; the other part, holding that such suspension or deposition is null and void—continuing in communion with those against whom it has been pronounced, and they in their turn being exposed to the infliction of discipline, or to deposition itself, for adhering to what they conscientiously consider to be their imperious duty. When it was resolved upon by the majority to go this length—that is, to punish or extrude from the church every one who differed from them in the manner pointed out—and when, in consequence of this, I took the steps in self-defence, which I did take at the Commission of August, a clamour was raised against me and those members of the church who adhered to the views which we had avowed, as if we had determined to drive from the church those who differ from us; whereas the fact was, that the aggression was all on their part—was being carried every day into effect—whilst our sole object was to know whether we were right in demurring to this, or whether the majority, as they sometimes professed, were for really acting in conformity to the law of the land. We wished to ascertain this, that if such was really the case, we might be convinced of our error, and yield that spiritual obedience which we admit to be due to the church, confining itself within its own avowed and legitimate province. And, notwithstanding all the misrepresentations which it is nearly impossible to conceive could be believed to be consistent with fact, and which were so extensively circulated, we must come to the precise point still, to determine whether, from what we hold in common, we can, with a good conscience, remain united, not in name only, as was the case, till within these few late unhappy years, or whether there be such an essential diversity of sentiment, that whilst it is adhered to, we must separate. This is of moment, not merely with a view to the office-bearers and the judicatories of the church—but, what is of vastly more moment, both in a religious and in a political light—with a

view to the great body of the people, who have been in communion, and are so, with the church, and to the accomplishing the great objects which an establishment, if there is to be one at all, must be sanctioned for effectually securing. What is the object of such an establishment? What, in fact, is the object of all sincere Christian societies and denominations planning to extend the power and influence of true religion? To be instrumental, under grace, in forming as extensively as possible the Christian character, in leading men to that piety, that charity, that mildness of spirit, that gentleness, and that benevolence which render individuals happy, and spread peace and virtue over the whole community. But can these objects be secured as we are now, when many of our ministers who either desert, in a great measure, their ordinary and honourable duties, to agitate through the country, and stigmatize all who do not think as they do, as enemies to Christ, and as betraying the cause of the Redeemer whom they venerate and love,—to withdraw attention from the graces of the divine life,—to stimulate fiery zeal and uncontrolled passions,—in one word, however unintentionally, rendering religion the minister of dissension and of discord, instead of being the minister of harmony and of love. Nor, Sir, is this confined to any one party. It is impossible almost to be cast into the midst of agitation without being agitated—to avoid in such a situation a degree of excitement which withdraws the mind from the solemn and sacred truth by which our life and conduct should be regulated—engrossing us with schemes of aggression or of defence, and forgetting that the servant of the Lord should not strive. Can there be an evil greater than this? or can any true Christian, in his moments of calm and serious reflection, fail to admit that the removal of it would be the greatest blessing which our merciful Creator could confer upon us? It is my most anxious wish that one effort more may be made on the part of us all to be again united, and to put an end to what good men cannot fail deeply to deplore. It is quite evident, from what I have already stated, and from the slightest consideration of the subject itself, that the preliminary step to the possibility of such union as would bind us again together must be a declaration on the part of the Assembly that the veto law, as having involved civil rights, is a nullity—that it must be blotted from our statute-book—and that all the penal judicial proceedings founded upon it be set aside. If this is not conceded, the fierce opposition between the church and the state must continue; and the result of that, if persisted in, must be either a new modelling of the established church, or, what is much more probable, the destruction of the establishment altogether. I am aware that the views of some of the ministers of the church as to the evil of this have been much changed—that they have represented it as, in fact, of little moment—and contend that, by the judicious and energetic working of the voluntary principle, all the good which the church can do might be effected. I view the matter in a very different light; but without entering into any discussion of this subject, it may be naturally observed, that to those who think in this way, there is but slight cause for the resistance which they make to the judgments of the civil courts; they can have very little hesitation about withdrawing themselves from the contest, persuaded, as they are, that by their doing so, the great interests of religion will not be injured. But there are, I trust, many of those on the other side, who venerate the church of their fathers—who are well acquainted, and deeply impressed with the blessings which have flowed from it, and who will not forsake it, unless the imperious call of conscience forces them to do so. Now, were the relinquishing of the veto law an abandonment of principle, they might truly say that they could not depart from that law, and that, obstacle as it must be to a settlement, they must abide by the consequences, however much they may lament them. But I do not understand that the veto law is thus regarded by many who adhere to it. They do not consider that the principle for which they contend is so bound up in it, that it must perish with it. They have, indeed, I may say almost officially, declared that they would have no wish to enforce it—if in any other way that principle could be maintained. Now, if this be the case, it is not asking what a conscientious man must reject when we urge, that as this peculiar mode is in opposition to the law of the land, which every man admits that, when a sense of religious duty is out of the question, he is bound to obey, it should be departed from; it being left open to substitute some of the other many modes which may be devised, and which might be

in harmony with the duty which we owe to the state. It is in this light that I view the matter, and that I am now pressing the vast moment of removing the obstacle which stands in our way of attempting the restoration of harmony and peace. But it will be said that, supposing this done, there are points which cannot be given up; and these, as connected with the great questions which have been within these few years agitated, may be classed under the Headship of Christ, spiritual independence, and non-intrusion. I readily admit, that if the one part of the church denied these doctrines, and the other part held them as interwoven with revelation, and as laid down in it, agreement would be out of the question. If, however, the general doctrines are admitted by us all, the case may be very different. In reference to doctrine, it may be laid down, that it may either be explicitly taught, everything comprehended under it being specifically mentioned and enforced; or it may be considered, though not so laid down, as partly inferred from what is, and thus, in the estimation of those who so think, taught by scriptural authors. Between these two, however, it is apparent that there is a marked distinction. As to the first, there can be no room for dispute on the part of any who really believe in the divine origin of the gospel, and in the genuineness, the authenticity, and the inspiration of Scripture; they are the revelation. As to the other, it may be serious matter of human speculation, most conscientiously held, no doubt; but the inference—it may be as conscientiously held—may not follow,—that applying to the explicit and unequivocal language of scripture the rules of interpretation founded on sound criticism, it does not appear that such language warrants what has been declared—and both the one part and the other may be quite sincere—when they cordially unite in holding the literal doctrine. It is with respect to what may be called inferential doctrine, that there is the utmost room for forbearance and toleration—diversity of sentiment as to it affording new ground for division or separation, if the undoubtedly taught tenet be seriously believed. I am sure that every sound critic who hears me will agree in what I have said—or, at all events, will see the foundation of the distinction which I am now pointing out. Now let us apply this rule to the Headship of Christ. We maintain that we all consider that Headship as part of revealed truth—that whatever our blessed Lord has declared to be the will of God, that we must receive—and that whatever rules he has absolutely prescribed, by these must we be guided. In one word, Christ is the author of our faith—it is revealed by him—and, no authority can be set in opposition to him—or if it be attempted to be so set, it must be resisted—we must obey God rather than man. He who is thoroughly convinced of all this, and who admits the obligations under which he is bound to be guided by it, holds Christ as the head—he is his disciple—and faith in him is the very essence of his Christian profession. We unite on this elevating faith—there is no dispute, in as far as I have proceeded with respect to it. We come to Christ, and we do so that we may learn of him. But most manifest it is that there is no admitted doctrine of the gospel which affords more ample room for inferential doctrines than this—and that they who are agreed as to the principle may be led to very different conclusions. The whole economy by which divine truth is to be circulated and diffused may come under this—and who will dispute that as to that there is almost unbounded room for diversity of sentiment? No one who reads the New Testament can hold that our theory connected with the dissemination and inculcation of divine truth has been laid down there in the precise manner in which the Jewish ceremony was revealed in the Old Testament. Certain general objects are specified and required; but it seems to be left to the judgment of bodies of professing Christians to decide in what manner they shall be secured. This was what was to be expected in a religion destined for all nations, or for the human race, existing under different systems of polity and administration. Accordingly, there have existed for ages different systems of ecclesiastical polity, considered by some as inferentially having the authority of heaven—by others, as merely calculated to produce the most salutary effects upon the moral and religious state of those who live under them. Now, these polities relate to the administration of what has been, absurdly enough, denominated Christ's house; but they are not on this account considered as interfering with his authority, or with what he has enjoined, but the reverse. There could not be a



greater departure from the humane and benevolent spirit of the gospel, and of its blessed author, than to maintain that there is only one form of polity, and that all who do not comply with it, however sincere in their faith, and pious and exemplary in their lives, are opposed to Christ, and are, in fact, acting in direct opposition to him. What I maintain, then, is, that when the general doctrine, that Christ is the head of the church, is conscientiously held, there is nothing wrong in believing that there may be ground for diversity of sentiment as to what is comprehended under that headship, in all cases, or particularly where there are not express and unambiguous declarations of scripture upon the matter; and, consequently, that the members of a church may remain in the same communion,—although they are not agreed under the view of the matter which I have taken, as to the extent of the headship, or as to what must be embodied in it. Holding the head as we all do, it is quite natural and right that the members of a church should, by constitutional means, or by the influence of representation and argument, endeavour that their own notions upon this subject may be embraced by the whole church; but this is merely what takes place as to all points about which men differ—and differ without once imagining that the difference dissolves the social or religious ties by which they are actuated. Much as we have of late heard of *spiritual independence*, and much as has been spoken and written about it, it is still of moment to define it, or to endeavour to form clear notions of what is really included under it. In one point of view, and as relating to individuals, it may be considered as synonymous with the great and fundamental principle of protestantism, that we should be permitted to embrace and to avow what we consider as Divine truth, and that no restraint as to these should be imposed upon us—so that we may follow out what is requisite for the divine life. Now, with respect to this as a general truth, we are all agreed; and we farther agree in holding that, as to what is explicitly revealed in Scripture, we cannot be shackled without a total departure from what the gospel requires. But when we get beyond this, and come to determine by our own judgment, or by what we conceive as following from the letter of Scripture, it is quite conceivable that we may be guided to views and sentiments incompatible with the social union, and with all good government, and in the avowal of which we may, and indeed must be restrained. Every one who has at all studied ecclesiastical history, and who is familiar with the diversity of sects which have arisen in the Christian world, must be familiar with numerous examples of what I am now mentioning. We cannot doubt that the anabaptists, who, soon after the Reformation, disturbed a great part of Germany, were quite sincere in their creed, and believed that they had the warrant of Scripture for it; but there was an imperious necessity to act against them, and the most illustrious of our reformers certainly did so. In like manner, the fifth-monarchy men, under the Commonwealth of England, were serious, but there was no hesitation in proceeding against them; and innumerable other instances might be adduced. Here then, the bond of spiritual independence, or rather the conviction that this bond is incontrovertible, is quite consistent with guarding against the abuse of it, and that by the interposition of civil authority; and it must be left to the understandings of men to determine in what the abuse consists. Let us now go to ecclesiastical government, or to those arrangements the purpose of which is to preserve the purity and to increase the influence of divine truth. It cannot be doubted that public or social worship is a duty both of natural and revealed religion, and our blessed Saviour made provision for the performance of it, and for the instruction of his disciples. From the establishment of Christianity, persons were set apart as the ministers of Christ—provision was made for their being so set aside to the sacred office, and certain duties were enjoined which it was incumbent on them to perform. Although no particular form of ecclesiastical polity is laid down in Scripture, yet there are certain principles common to all forms, and which lead to the different governments for the direction of the faithful. Now, with our Lord and his apostles laid down as connected with these, there should be no interference. The province which it comprehends is quite distinct from civil governments, and we accordingly maintain that this is the institution of Christ. But still the design of it was for particular purposes; and when the question comes to be—how far it may be correct, the answer is to be sought either in the implicit declarations of

Scripture or in deductions from these declarations. Whenever we go from the first to the second of these, we are in the region of opinion, we are entering upon what is human, and with the purest speculation on general principle, we may fall into grievous error, calling for the interposition of authority extrinsic from the church, but entitled to assert itself for the welfare, the morality, and the religion of the great body of the people. This, which is evident in itself, is explicitly taught in our Confession of Faith, and is the authoritative doctrine of our church. Thus it is laid down, that the purest churches under heaven, that is, holding the purest tenets, are subject both to mixture and error, and may so degenerate as to become no churches of Christ. How is this to be remedied? It is plainly through the interposition of the civil magistrate, of whom it is said that he may not assume to himself the administration of the word and sacraments, or the power of the keys of the kingdom of heaven. This is the spiritual province which he cannot directly invade, and upon which, when there is no departure from it, there is not, in this country at least, the slightest attempt at invasion. But still there may be abuse, and accordingly the Confession, which in fact is the only undoubted and properly authoritative standard of our church, goes on to say that the magistrate "hath authority, and it is his duty to take order that unity and peace be preserved in the church—that the truth of God be kept pure and entire—that all blasphemies and heresies be suppressed—all corruptions and abuses in worship and discipline prevented or reformed—and all the ordinances of God duly settled, administered, and observed. For the better effecting whereof, he hath power to call synods, to be present at them, and to provide that whatsoever be transacted in them be according to the word of God." Language could not more clearly convey that, whilst there is spiritual independence, it may be imperative upon the magistrate to interpose his authority as to what is not merely connected with it, but as to the spiritual government itself; and that is taught in the very place in which the line of separation between the spiritual and civil authority is distinctly drawn. To prevent indeed the possibility of mistake, or the slightest ground for urging the plea that with ecclesiastical persons there can be no interference, it is in the same chapter laid down that it is the duty of the people to obey the lawful commands of the magistrate, from which ecclesiastical persons are not exempted. Here, then, it is made apparent that it cannot, consistently with our Confession of Faith, be held that there is not occasionally room for the interposition of the civil magistrate in matters of discipline and spiritual rule, even when it is maintained that the magistrate cannot claim to prevent the administration of the sacraments and the power of the keys; and if so, then it is manifest that it may admit of diversity of opinion when this interposition should take place, or to what extent; that as to these, men may differ, whilst they unite in the great principle by which every theory of this kind is in general to be regulated; and it is as clear as demonstration, that seeking in the assertion of spiritual independence to shut out absolutely and at all times the interposition of the magistrate, is not only, as it would be easy to show, were this the place for it, in direct opposition to the plainest dictates of reason and to the first principles of real government, but is in direct defiance of the doctrine of our own church. The inference from all this is, that there is not in such diversity of sentiment as I have specified, an adequate cause for separation, but that the most conscientious may hold their opinion, satisfied with the privilege of establishing, if they can, that opinion, or take proper steps for doing so. With respect to *non-intrusion* as connected with the appointment of ministers under an establishment, that is merely a matter of expediency, because such establishment is so; and what may be termed the original right as to this matter, does not apply. Most certain it is, that by the law of nature every person may choose his own instructor in religion, as in any thing else, provided that he makes out of his own funds the remuneration for the labour bestowed in teaching him; but if he avail himself of a teacher offered to him gratuitously, he must do so under the conditions prescribed, he being entitled to insist only upon this, that his original right shall not be so interfered with that he cannot again act upon it if he should see cause; and that there shall be no compulsion to use the services of the individual whom he has not himself selected. Under our ecclesiastical polity, great privileges are given to the people, even as to the settlement of ministers provided for

them; but how far this should be carried, or whether it should assume one form or another, is a point about which the best meaning men may differ; and which difference not being, however, of the essence of religion, or rendering it incompatible for those who do so differ remaining members of the same ecclesiastical body. I do not enlarge farther upon this, because I may have a future opportunity of entering more fully into the discussion of it, when the General Assembly comes to consider the numerous overtures relating to patronage, which, notwithstanding all that has been said and written upon the subject, the inferior judicatories still persist in pouring upon it. If, then, the veto law is to be set aside, and if we are to remain united, how are we to act as to the settlement of ministers? It appears to me, that combining the admitted privilege of the people to state all kinds of objections, with the admitted power of the church courts to consider whether, under all the existing circumstances, these circumstances being detailed, a settlement shall take place, there is ample security against the induction of unacceptable and insufficient ministers; and it is open to all who think differently to take every probable and constitutional mode for carrying that security as far as, in the present state of human nature, it can be carried. And all this may be done whilst the great end of a religious establishment, and indeed of every religious association, is kept steadily in view, viz. the dissemination of the knowledge and power of religion, so as to render us conformed to the image of our Maker here, and to prepare us for dwelling with Him hereafter in the blessed mansions which he has prepared for his people. The Rev. Doctor then moved the following resolutions:

“1. That as the act on calls, commonly denominated the veto act, infringes on civil and patrimonial rights, with which, as the church has often declared, it is not competent for its judicatories to intermeddle, the said act is hereby declared to be null and void; and the penal judicial proceedings in the church courts, which have been founded on it, or occasioned by it, be cancelled or set aside.

“2. That whilst the members of this church believe and maintain that the Lord Jesus Christ is the head of the church—that there is a spiritual government committed by him to his office-bearers, distinct from the civil power—and that the intrusion of unqualified or unsuitable ministers is decidedly at variance with the principles of this church—the application of these doctrines to particular points and cases may occasion conscientious diversity of opinion; such diversity, however, affording no ground for those who may so differ separating from each other, or not continuing members of the same ecclesiastical body.”

“3. That such being the case, it is of unspeakable moment to the welfare of the church, and the best interests of religion, that the agitation which has of late prevailed, distracting the minds of men, and fatal to the prevalence and power of vital godliness, should cease, and that ministers should devote themselves chiefly to the regular and assiduous discharge of their pastoral and parochial duties.

“4. That the law of the church, as recognised and sanctioned by the law of the state, being, that in the case of a vacancy in a parish, the members of the congregation, in full communion with the church, may state objections, of whatever kind, to a presentee: that the church courts can judicially decide on these objections, and can determine whether, under all the circumstances of each case, those circumstances being specifically stated in the record, the presentee should, according to their solemn conviction of duty, and on their moral and religious responsibility, be inducted—there exists at present great security against the settlement of unqualified and unjustifiable ministers, whilst ample opportunities are afforded to the office-bearers of the church, as members of the different ecclesiastical judicatories, to propose, in a legal and constitutional manner, any measures which may appear to them calculated to increase that security.

Principal HALDANE of St Andrews, in a few words, seconded these resolutions, after which the house adjourned; and in the Evening Sederunt,

Mr DUNLOP began by alluding to the solemn and important character of the act which the house was called upon to perform. But it is (he said) a subject of gratitude to God, that we should be headed in the steps we have now to take in the path of duty, by two such men as the venerable and venerated fathers who moved and seconded the adoption of our resolution. One of those, a man to whom, if the

deed of a Luther were again to do, the eyes of Europe would turn; and the other, one who, to the gifts, and graces, and gentleness of Melancthon, adds a firmness and a courage which *he* never knew. Following them, I feel great diffidence; but that diffidence has at least not been increased by the address of Dr Cook. I shall not advert much to that address. As to the first part of it, I was unable to ascertain in what sense Dr Cook held the doctrine of the headship of our Lord, excepting that it was a sense which might be compatible with various opposing opinions on the part of others. Again, while he professed himself to be a zealous non-intrusionist, his principle of non-intrusion—the “natural right of man” which—he maintained was, that after a pastor shall have been thrust, it may be by armed force, into a parish, the parishioners should not be intruded by similar force into his church. To the document which has been laid upon the table as the ground of this debate, he did not once allude, evading it by an irrelevant and most weak amendment. He comes forward as the arbitrator and offerer of peace—the restorer of harmony. And what does he propose, as representing the minority with whom we have contended for the last seven years? That if we will rescind the veto law, recal the deposition of the Strathbogie ministers, refrain from deposing other men who have defied the laws of the church, and, in short, undo all our recent actings, he and they will, from their present commanding position, condescendingly allow us to occupy the ground which we refused to occupy in 1834, and permit us to carry on the government of the church on the principles which he then proposed, and which we then repudiated, and, I hope, ever will repudiate. Yesterday we resolved to demand that change in the law to which we deem ourselves in justice entitled. This day we propose to demand, that we shall freely enjoy those privileges to which, under the existing laws, we already have right. Those who preceded me in this debate dealt with the subject on high grounds of principle. I have a humbler task, in addressing myself to its legal and constitutional character, and its relation to acts of parliament. Still those acts are not ordinary statutes. They touch matters of high and holy interest. They are the homage which the kings of the earth have paid to the King of kings—the deeds of nations acknowledging the truths of the living God—bulwarks reared by men in the exercise of the authority which God has given to princes, to fortify and protect the authority which he has committed to his church. I therefore feel confident that, however uninteresting such discussions may in general be, yet, seeing we do not come here to have the fancy excited by eloquence, but patiently, and in stern determination, to do our duty—patiently to learn and know, and maintain the truth—though I may be somewhat tedious in the observations I have to make in endeavouring to view this overture somewhat less in a popular form, I will retain your attention, as I trust I shall receive your indulgence. The points which this overture proposes to exhibit are these:—1. The *recognition*, by the statute law of Scotland, of the exclusive jurisdiction of the church in matters spiritual and ecclesiastical. 2. The absolute *exclusion* of the jurisdiction of the secular courts, or the interference of any secular power. 3. The *statutory injunctions* on the civil courts and officers of justice to aid, in their own province, in carrying into execution the sentences of the church courts. 4. The *securities* for the exclusive jurisdiction of the church, contained in the act of security, the treaty of union, and the oath of the sovereign on accession to the throne. And, 5. The *infringements* on these rights by the act of queen Anne, and the more recent invasions of the Court of Session. After adverting to these points, and endeavouring to present an analysis of the overture regarding them, I shall shortly notice the two modes which are recommended for our deliverance—that proposed by Dr Cook, and that embodied in the resolution of Dr Chalmers.

I. The first point, then, which I have to notice is, the recognition by statute of the spiritual and ecclesiastical jurisdiction of the church courts. This is, in the first place, set forth in our Confession of Faith, which is ratified by statute; and wherever we find *doctrines* ratified by statute and made the law of the land, all the necessary consequences in regard to the practical issues flowing from these doctrines, are placed under the protection of the law; and judges, whatever may be their opinions respecting them considered as theological dogmas, are bound to give effect to them, as being recognised to be truth by the constitution of the country. Our Confession of Faith,

while on the one hand it recognises, in most explicit terms, the submission due within their own province to civil magistrates, to whom have been committed the "power of the sword," *i. e.* civil rule, from which rule ecclesiastics are not exempted, and declares it to be the duty of the civil magistrate in the exercise of the power of the sword, *i. e.* in his own province, to take order for the advancement of the unity and the peace of the church; yet on the other hand it most clearly and distinctly sets forth this proposition, that "the Lord Jesus, as King and Head of his church, hath therein appointed a government in the hand of church officers, distinct from the civil magistrate." In the exercise of this government, there is, as the Confession states, "committed" to these office-bearers "the power of the keys," or spiritual authority, which, as well as the preaching of the word and the administration of the sacraments, it is expressly declared, "that the civil magistrate may not assume to himself." And, therefore, in whatever way the civil magistrate may interfere for the promotion of the gospel, he may not do it by intermeddling with the power of the keys. If there were no other statute on the subject than the act 1690 ratifying the Confession of Faith, that alone would necessarily and absolutely, on the general ground I have just alluded to, exclude the civil magistrate, and all courts holding from the civil magistrate, from interference with ecclesiastical jurisdictions. There are, however, diverse explicit statutes relating to specific points in the jurisdiction of the church. I shall not detain the house by going over all the acts quoted in the overture, but only the more important of these. I will refer, first, to act 1567, c. 12, which was passed at a time when the full jurisdiction of the church had not been acknowledged, for a committee was appointed by it to consider what other points fell to its jurisdiction. In this statute, it is declared that the jurisdiction of the church stands "in the preaching of the true word of Jesus Christ, correction of manners, and administration of sacraments," and "that there be no other jurisdiction ecclesiastical acknowledged within this realm, other than that which is, and shall be, within the same kirk, or that flows therefrom, concerning the premises." Here we have the "correction of manners," that is, discipline, and the preaching of the word, and administration of sacraments, declared to be subjects of the jurisdiction of the church; and then it is enacted that there be "no other ecclesiastical jurisdiction acknowledged within this realm other than that which is, and shall be within the same kirk, or that flows therefrom, concerning the premises." Under the preaching of the word, and administration of the sacraments, is necessarily included the granting commission to preach the word, and administer sacraments; and, indeed, of all other points this is the one which has been kept most universally free from secular control, namely, the giving commission to preach the gospel. It was never asked why the church gave or refused to give permission to a layman to preach the gospel, and till now no civil authority on earth ever put the question.

The next statute I advert to is the act 1592, which—with reference to a previous statute of 1584, acknowledging the king and the king's courts to be competent judges over his subjects "in all matters"—expressly enacted, that "it should no ways be prejudicial nor derogate any thing to the privilege that God has given to the spiritual office-bearers of the kirk, concerning heads of religion, matters of heresy, excommunication, collation or deprivation of ministers, or any such like essential censures, grounded and having warrant of the word of God." Now, here we have the state acknowledging that the jurisdiction of the church in these matters was given by God to its office-bearers, and was therefore exclusive, and free from the coercion of any civil tribunals whatever. The power of the church, then, in these matters, flows, not from the state, but from God himself, and is therefore free from the control of either the state, or the courts of the state, and subject to God alone. This was acknowledged even by the restoration parliament of Charles II. That parliament repealed this and the other relative acts, acknowledging, however, the exclusive character of the church's jurisdiction, as recognised by them. The statute which repealed the act 1592, and the others in favour of the presbyterian church, described them as "acts by which the sole and only power and jurisdiction within this church doth stand in the church, and in the general, provincial, and presbyterial assemblies and kirk-sessions;" and as acts "which may be interpreted to have given any church power, jurisdiction, or government to the office-bearers of the church, their respec-

tive meetings, other than that which acknowledgeth a dependence upon, and subordination to, the sovereign power of the king, as supreme." The parliament of Charles II. thus acknowledged that the jurisdiction of the church, as recognised in the act 1592, stood in the church alone, and recognised no subordination to the supreme secular power of the state. Then, at the revolution, when the Confession of Faith was again ratified, the legislature re-established "the presbyterian church government,—that is, the government of the church by kirk-sessions, presbyteries, provincial synods, and general assemblies, to be the only government of Christ's church within this kingdom." So, then, it is in these several statutes acknowledged by the state, that the only government of the church is in the church, and that the power of the church in regard to preaching the word, collation and deprivation of office-bearers, and the infliction and removal of spiritual censures, flows from God himself, directly to the office-bearers of the church, and is consequently incapable of being controlled by any civil power whatever.

II. I now come to the second point on which I proposed to remark, viz. that there is by statute, and by the constitution of the kingdom of Scotland, an *express* exclusion of the jurisdiction of the secular courts, and of all interference of the civil power with the spiritual and ecclesiastical jurisdiction of the church courts. I must here, however, call the attention of the house for a little to the opposite state of matters in the neighbouring country of England, because much misunderstanding has arisen from erroneously assuming that some analogy exists between the powers of the civil courts in England and those in Scotland, in regard to the proceedings of ecclesiastical tribunals. Indeed, the only *legal authority* which has ever been appealed to in the whole course of the discussion, as warranting the interference of the Court of Session, has been the practice of the Queen's Bench in England. So far, however, from there being any analogy between the two kingdoms, there is the most marked contrast. Observe how totally distinct the foundations on which the two churches stand. When Henry VIII. broke off with the pope, he assumed to himself the powers which the pope had formerly arrogated. It was declared by an act of Henry VIII., that "archbishops, bishops, &c., have no manner of jurisdiction ecclesiastical, but by, under, and from his royal majesty, and that his majesty is the only supreme head of the church of England and Ireland." The church of Scotland, on the other hand, is declared to be subject to no temporal head, but that her office-bearers hold their authority by and under the Lord Jesus Christ. In like manner, by an act of Elizabeth, it was enacted, that "all jurisdictions, &c., spiritual and ecclesiastical, as by any spiritual and ecclesiastical power have been lawfully exercised, &c., be united and annexed to the imperial crown." By the constitution of England, therefore, the king is supreme governor "in *all* causes," spiritual as well as temporal. This, too, is acknowledged by the church of England in her 36th canon, by which it is required that every person entering to the holy ministry, shall acknowledge "that the king's majesty, under God, is the only supreme governor of this realm, as well in all spiritual and ecclesiastical things and causes as temporal; and also in her "Articles," which set forth (Art. 37), that to the king appertains the chief government over all the estates of the realm "in *all* causes." It is by virtue of this supremacy "in *all* causes," that the sovereign's own court or bench exercises control over ecclesiastical as well as over civil jurisdictions. From the sovereign flows in all countries all judicial authority. The sovereign originally exercised justice in his own person; now he exercises it exclusively by his courts; but the sovereign's own court or bench, in which he originally sat in person, and is still held, *fictione juris*, to be personally present, exercises a supreme controlling power over all other courts exercising any part of the jurisdiction flowing from the sovereign. In England, however, the sovereign is supreme not only over all persons, but in all causes; so that the court of Queen's Bench, being the queen's own court, and entitled to keep all the other queen's courts within their proper jurisdictions, is held to have power over all parties exercising ecclesiastical or spiritual jurisdiction, because by the constitution of England, that is held equally with civil and temporal jurisdiction to flow from the sovereign. Now, contrast this with the state of matters in Scotland. The reformation was here brought about by the people; the king did not get the power of the pope; but James VI. subsequently attempted to make himself supreme in ecclesiastical matters, and

commenced the struggle which was only brought to an end at the revolution. It originated in the attempt of Robert Montgomery, minister of Stirling, to force himself, by means of the civil power, into the archbishopric of Glasgow, contrary to an act of the General Assembly. The church inflicted on Montgomery ecclesiastical censures. The king, with his privy council, which exercised in Scotland a supreme controlling jurisdiction, analogous to that of the Queen's Bench in England (a power never possessed by the Court of Session), interdicted the church courts, and suspended their censures. The church disregarded the sentences, and ultimately the king and his council abandoned their interference, and Montgomery submitted to the authority of the church. After this the king endeavoured to regain his power by passing what are usually called the Black Acts, by one of which it was ordained that, "his highness, his heirs and successors, by themselves and their councils, are, and in time to come shall be, judges competent to all persons, his highness' subjects of whatever estate, degree, function, or condition, that ever they be of, spiritual or temporal, in *all matters*," &c. Here the king is declared to be supreme ruler in *all matters*. Then, however, came the act 1592, which established and ratified the spiritual jurisdiction of the church, and rescinded and annulled all acts "against the liberty of the true kirk, jurisdiction and discipline thereof, *as the same is used and exercised within this realm*." Mark these last words. The discipline of the church as "used and exercised," had been exhibited in the case of Montgomery, in a way that drew to it the marked attention of the king and legislature. One of the Black Acts had pretended to annul the sentence of excommunication pronounced against him, but here all acts against the jurisdiction and discipline of the church, "as the same is used and exercised within this realm," are repealed. Farther, in the conclusion of act 1592, it is declared that the act declaratory of the king's supreme judicial power in all causes, should not derogate from the power of the church in matters of heresy, collation and deprivation of ministers, &c.; thus expressly excluding the king, and recognising this jurisdiction as not conferred by the king, but beyond any power which he could exercise. Then, when prelacy was introduced in 1612, and the bishops were compelled by civil authority to admit presentees (not laymen, but those who were already ministers of the church) an acknowledgment was required of all who entered the church, in almost the very words of the canon of the church of England, that the king was supreme governor, "as well in matters spiritual and ecclesiastical as in things temporal." This was done away in 1640, when presbytery was again established. In 1661, however, when Charles II. was restored, and prelacy once more imposed on the country, the king's supremacy "in *all causes*" was redeclared, and an acknowledgment of it introduced into the ordinary oath of allegiance, and afterwards into the infamous test oath. From the mode in which many parties at the present day refer to their oath of allegiance, it would appear that they seem to think, that when they took the oath of allegiance, they were taking the oath as it was in the time of Charles II., by which the authority of the sovereign was recognised to be equally supreme in matters ecclesiastical as in matters civil. They seem to forget that, at the period of the revolution, the acts which contained the oath of allegiance, and the test oath, were altogether repealed. It is one of the strangest circumstances in this controversy, that ministers who have taken, on the requirement of statute law, a clear and explicit oath, in terms which it is impossible to mistake or evade, to submit themselves to the judicatories of the church, should hold themselves freed from the obligation of that oath, by putting on their oath of allegiance, "to be faithful and bear true allegiance to their sovereign," an interpretation identical with that of the rescinded oath of Charles II., which acknowledged a power in the sovereign, annulled at the revolution as inconsistent with the presbyterian government then established, and by those ministers sworn to be submitted to, defended, and maintained. By the first act of the parliament 1690, the statute 1669, recognising the king's supremacy in causes ecclesiastical as well as civil, which had been, in 1689, declared in the claim of rights to be "inconsistent with the establishment of the church government now desired," was abrogated on the ground that the existence of such a power in the king was inconsistent with the government of the church then established. By the same authority, the oath of allegiance requiring an acknowledgment of the king's supremacy in all causes, was al-

tered to that which is at present in use ; in other words, the former oath was repealed, and a different one substituted. So much, then, for the exclusive jurisdiction of the ecclesiastical courts.

III. I now proceed, under the third head, to point out the statutes under which the civil courts are enjoined to lend their aid and assistance, of course within their own province, in carrying into effect the sentences of the ecclesiastical courts.

By the act of 1592, c. 117, it is provided, " That all and whatsoever sentences of deprivation, either pronounced already, or that may happen to be pronounced hereafter by any presbytery, synodal, or general assemblies, against any parson or vicar within their jurisdiction, provided since his highness's coronation, is and shall be reputed in all judgments, a just cause to seclude the person before provided, and then deprived from all profits, commodities, rents, and duties of the said patronage and vicarage, or benefice of cure ; and that either by way of action, exception, or reply ; and that the said sentence of deprivation shall be a sufficient cause to make the said benefice to vaikie thereby."

The same thing was, in substance, declared in 1690, in the first parliament of William and Mary, when it was enacted, " That whatsoever minister, being convened before the said general meeting and representatives of the presbyterian ministers or elders, or the visitors to be appointed by them, shall either prove contumacious for not appearing, or be found guilty, and shall be therefore censured, whether by suspension or deposition, they shall, *ipso facto*, be suspended from or deprived of their stipends and benefices."

By an act passed in 1693, " for settling the peace and quiet of the church," it was " statute and ordained, that the lords of their majesties' privy council, and all other magistrates, judges, and officers of justice, give all due assistance for making the sentences and censures of the church, and judicatories thereof, to be obeyed, or otherwise effectual, as accords."

The provisions of these statutes do not seem to be much attended to in the present day, even by those who profess to be so anxious to obey the law of the land ; for no sooner does an ecclesiastical sentence issue from a church court, than applications are instantly made, in order to procure interdicts from the civil courts, and such interdicts are at once granted, *ex parte*, to prevent the carrying into effect of the very sentences, the execution of which is to be enforced by the civil authorities.

Again, by the act 1695, " The lords of the privy council were recommended ' to take some effectual course for stopping and hindering those ministers who are or shall be hereafter deposed by the judicatories of the present established church, from preaching or exercising any act of their ministerial function, which they cannot do after they are deposed, without a high contempt of the authority of the church, and of the laws of the kingdom establishing the same.'"

IV. The powers thus recognised or conferred by the acts mentioned under the three previous heads, were ratified by subsequent statutes ; and especially by those passed on the occasion of the union with England. So anxious were our ancestors to preserve what had been gained by the blood of their fathers, that when the treaty of union was proposed, they would not grant leave to the Scottish commissioners even to treat of the subject of the church, but made it a specific preliminary condition, that the government should form an unalterable condition of the treaty, or else that no treaty at all should be entered into. This was provided for accordingly by the act of security, which was inserted into the treaty of union. It was ratified by the act of the parliament of Scotland which confirmed the union ; and also by the act of the English parliament for the same purpose, and was to the following effect :— " That the foresaid true protestant religion, contained in the above mentioned Confession of Faith, with the form and purity of worship presently in use within this church, and its presbyterian church government and discipline,—that is to say, the government of the church by kirk-sessions, presbyteries, provincial synods, and general assemblies, all established by the foresaid acts of parliament, pursuant to the claim of right, shall remain and continue unalterable ; and that the said presbyterian government shall be the only government of the church within the kingdom of Scotland." And farther, " for the greater security of the same, That after the decease of her present majesty, the sovereign succeeding to her in the royal government of the



kingdom of Great Britain, shall, in all time coming, at his or her accession to the crown, swear and subscribe, that they shall inviolably maintain and preserve the foresaid settlement of the true protestant religion, with the government, worship, discipline, rights, and privileges of this church, as above established by the laws of this kingdom, in prosecution of the claim of right ;" which said act of security, "with the establishment therein contained, shall be held and observed, in all time coming, as a fundamental and essential condition of any treaty or union to be concluded betwixt the two kingdoms, *without any alteration thereof, or derogation thereto, in any sort, for ever.*" It being farther thereby provided, that "the said act and settlement therein contained, shall be insert and repeated in any act of parliament that shall pass, for agreeing and concluding the foresaid treaty of union betwixt the two kingdoms ; and that the same shall be therein expressly declared to be a fundamental and essential condition of the said treaty of union in all time coming."

In accordance with the provisions of these acts, no sovereign since that period has ever exercised royal authority within Scotland till he had first taken the oath required by them ; and it is worthy of remark, and I have observed it with pleasure, that in three several communications received from her present majesty, she refers to the same coronation oath, as the ground on which she is resolved to maintain inviolate the rights and privileges of the Church of Scotland.

V. It is very sad indeed to think, that only a few short years had elapsed, when the privileges of the Church of Scotland, ratified and confirmed as they were, in the most solemn manner, by the state, were violated, by the passing, in 1711, of the act of queen Anne. By the act 1592, it had been, *inter alia*, provided, that presbyteries should be "bound and astricted to receive whatsoever qualified minister, presented to them by his majesty or laic patrons." At the revolution, this act was revived in all its parts, with the exception of that portion which related to patronage, which it was declared should be regulated afterwards. Thus the astricting clause of the act 1592 was not revived at the revolution, and, therefore, at the present day, that act must be read without the astricting clause. The settlement of the matter of patronage, reserved when the act 1592 was revived by the statute 1690, c. 5, was effected by an act of the same session, viz. the act 1690, c. 23, which abolished patronage as theretofore existing, and vested in the heritors and elders the power of "naming and proposing" the minister, to be approved or disapproved by the congregation, and with the fullest power of exclusively determining the whole question of settlement on the part of the presbytery. By the treaty of union, the act 1690, c. 5, was ratified and confirmed for ever, and not only so, but "all the acts relating thereto," and to the government of the church. The act 1690, c. 23, was therefore ratified as relating thereto, and put the cope-stone on the presbyterian church government ; and, coming as it did under the provisions of the act of security and the treaty of union, it was for ever rendered unalterable. But by the act 1711, patronage was restored, and in it a clause was inserted similar to the one which had been kept out of the act 1592, when revived in 1690. There cannot be a doubt that this was a monstrous invasion of the rights of the Church of Scotland, and a breach of the treaty of union, and the more clearly so, since, according to recent decisions, it has been held, not simply to have restored the right of presenting to patrons, but to have taken away the civil sanction from the powers recognised in the act 1690, c. 23, to be in presbyteries, as the parties "at whose judgment, and by whose determination the calling and entry of a particular minister is to be ordered and concluded." I shall now proceed to the recent cases of interference by the Court of Session. But instead of stating every case, I shall take them in classes ; and the first class to which I shall allude, consists of those relating to the settlement of ministers. (1.) It is not a new thing for presbyteries to refuse to induct presentees. They often, in fact, during the last century, refused to induct presentees, upon the very same grounds on which they refuse to induct them now, namely, the dissent of the people. So firmly, however, was it believed that the civil courts could not interfere, that they never attempted to interfere, even to the effect in such cases of denying civil consequences to the act of the church courts rejecting a presentee, in respect of the dissent of the people. There was, indeed, a class of cases in which the civil courts did interfere, viz., those in which presbyteries, not confining themselves to the eccle-

siastical questions in regard to the admission of the minister, took it upon them to decide who was the patron, and admitted those presentees who were not presented by the proper patrons. Even in such cases, where the church courts unquestionably went beyond their own province, the civil courts never dreamt of coercing the church courts in the exercise of their spiritual functions, or of compelling them to receive and admit the presentee of the lawful patron, but refused to interfere with any matter, excepting the disposal of the stipend. Thus, in the case of Auchtermuchty in 1735, the court found, "that the right to a stipend is a civil right; and, therefore, that the court have power to cognosce and determine upon the legality of the admission of ministers *in hunc effectum*, whether the person admitted *have right to the stipend or not.*" Here, by the words of their deliverance, the court admit that their jurisdiction went no farther than the determining of the civil right; but they would not determine the duty of the church in exercising one single ecclesiastical privilege. The same principle ruled Lanark, in which a crown presentee had been rejected; and it is curious to note the instructions issued by the crown to the then Lord Advocate, differing so widely as they do from instructions more recently given to enforce the settlement of presentees at whatever hazard. The instructions of that day were to the effect of signifying his majesty's pleasure, "directing and ordering his lordship to do every thing necessary and competent by law, for asserting and taking benefit of the right and privilege of patrons, to retain the fruits of the benefice in their own hands until their presentee be admitted." This was the extent of the remedy, therefore, which the crown or the Court of Session took, last century, confined to matters of civil right, and to this extent alone they conceived themselves entitled to interfere. It so remained down till within these last five years; nor is there the authority of a single institutional writer in our law for going beyond this. But since then the progress had certainly been most rapid, and such as almost to go beyond the stretch of imagination. Till these recent times, I repeat, the Court of Session themselves declared that they had no authority to interfere beyond the mere question of civil right. In 1748, the court refused, "as incompetent," a bill of advocacy, presented to them at the instance of the patron, for staying the admission of another than the presentee; and, in the case of Dunse, the court would not interfere to prohibit the presbytery from moderating in a call at large, or settling another man, because this would be "interfering with the power of ordination, or internal policy of the church, with which the lords thought they had nothing to do." I think it would have been well for Scotland if "the lords" had continued to remain of that mind. But let us now see what has happened. In the case of Lethendy, they prohibited the presbytery from admitting a pastor to a charge, irrespective of the benefice. The commission of Assembly directed the presbytery to admit, not on the presentation, but on the call; and when an interdict was obtained and laid before the commission, it nearly unanimously resolved to go on. I remember well the strong terms in which the resolution to maintain the jurisdiction and spiritual independence of the church was expressed by a reverend father, (Dr Brunton, we understood), who, from the tenor of his conduct, in taking a ground different from his former friends, has earned an esteem which they may well envy. He declared emphatically, that he would never submit to the interference of the civil courts in such matters. There might be some pretext for interference on the part of the courts when they could assume that a civil right was likely to be *affected*. But, as if to show that they did not need even that pretext, insufficient as in itself it would be, they have, in one instance, selected a case, which of all others had the least pretensions to this character, and in which, in fact, civil interests were entirely excluded. This was the Stewarton case, relating to a congregation formerly belonging to the Associate Synod, which had joined the church. Their place of worship had been carried away by decree of the court, at the instance of two former members who had left the congregation prior to the union, and they were at the time without a place of worship, without manse, without glebe, without a stipend, without any civil right whatever,—they possessed, in short, as a congregation, no material thing in existence. All they desired was, to have a pastor for the superintendence of the souls of the people, for administering the sacraments, and performing other ecclesiastical duties; and yet in this case an interdict was granted against admitting

a minister to this congregation; and till this day the interdict stands against the Presbytery of Irvine. Need I remind you farther of the case of Marnoch? Here the court gave a direct decree for taking on trials and admitting to the office of the holy ministry an unordained man. I hold it to be a violation of the law to grant a decree for the settlement of an ordained man; but here they went the length of issuing a decree to admit a person who was not ordained—a layman—thus doing, in regard to the free and non-erastian Church of Scotland, what, has never been attempted in the most Erastian of the churches, or under the most despotic of the governments of Christendom. They did so, too, of *consent* merely of the majority of the presbytery, while the question, Whether they possess jurisdiction to give any decree in the matter, is still in dependence in the question with the minority, and is not to this day determined by themselves,—Mr Edwards having been thus admitted to the church under a decree which the court have not yet decided that they had any jurisdiction to pronounce. (2.) The next class of cases to which I shall allude, is that regarding the *quoad sacra* parishes. It is well known that both before and after the passing of the act 1592, the church went on without let or hindrance, in appointing additional ministers to meet the wants of the increasing population, and assigning to them localities for the performance of their duties. That same year the General Assembly established a second minister at St Andrews; and the parishes of North Leith, Prestonpans, Denny, and others, were, at a very early period, erected *quoad spiritualia* by the church courts alone, some twenty, and some thirty years before they had a civil status. It is of moment to observe, that John Davidson, minister of Prestonpans, who had rendered himself in the highest degree obnoxious to king James by pronouncing the sentence of deposition against Montgomery, sat, while minister of that parish, in the Assembly 1596, and bearded the king in a manner that, if he had had the slightest pretence for alleging that he was not a legal member, he would have attempted his removal. Davidson was the person who most strenuously pressed the inquiry into the evils of the king's house, which issued in a report that "his Majesty is blotted with banning and swearing." And yet this man had then no other status than that of a *quoad sacra* minister. In fact, it is well known that long after the recognition of the church by law, a large body of her ministers had no benefices, but were dependent entirely on the voluntary contributions of their people. All the second and third ministers of royal burghs have been admitted by the church courts alone,—the Court of Teinds having never erected a burgh parish till 1782. Almost all the ministers of Edinburgh were included solely by the authority of the presbytery. Not many years ago, this very church (St Andrew's) was erected, and it was collocated in 1801. On the occasion of the case being before the presbytery, they made an application to President Blair, with the view of ascertaining whether it was necessary to go to the Court of Teinds, when he distinctly stated, that as teinds were not concerned, the church had full power to admit additional ministers, and to take them into the church. The Court of Session itself too, took this view down to the period when our present disputes arose. In a case which was decided by them in 1837,—that of the third minister of Stirling, established in 1817, they found not only that the church courts had established a legal charge, but that without passing through the Court of Teinds, it was constituted a civil benefice so as to fall under the operation of the Widows' Fund act. Even the reverend Doctor at the foot of the table, when he moved in 1833 that ministers of the parliamentary churches be admitted to the full status of ministers of the church, did so without any reference to the civil power.

Dr COOK observed, that though, as convener, he had signed the report recommending the act which was then passed, he had stated that he did not agree with the report, so far as regarded the allowing the ministers of these churches to sit in church courts.

Mr DONLOP.—My impression has been different. I had always supposed that Mr Pirie of Dyce, who alone entered a formal dissent, was the only individual who differed from the report. Certainly Mr Pirie has always plumed himself on being the only man who had dissented against that vote; but we now find that the Rev. Doctor is entitled to strip him of part of the honours which for some years he has regarded as peculiarly his own.

Dr Cook.—I signed the report; but with that part which admitted them to the church courts, I differed. My view in signing it was to release them from any annoyance to which they might be subjected by the parish ministers.

Mr DUNLOP.—The committee which made this report, was composed, besides Dr Cook, of Drs Inglis, Mearns, Forbes, Grant, and many other gentlemen on the other side of the house, and also of several judges of the Court of Session, and distinguished members of the legal profession, such as the late Lord President Hope, the present Lord President Boyle, the present Lord Justice-Clerk Hope. I forget them all; but there was a host of judges and lawyers; and not one of them, in the committee, or out of the committee, ever hinted that we were infringing the constitution of the church, or the laws of the land. Then followed the act of 1834, as to the chapel ministers; and I cannot allow this opportunity to pass of congratulating the house, the church, and the country, on the glorious results of that act. During a hundred years before, the population had doubled, and yet little or no increase had been made in our places of worship. It is true that 600 presbyterian congregations had been formed, but only 60 of them were in connection with the Church of Scotland. But though only 60 congregations had been added to the church, up to the time of the passing of that act, there are now within the few years which have since elapsed, 200 additional churches, with perhaps 2000 elders, ministering from house to house, labouring among the people, and instructing them. It is this admirable system, bright with such beautiful blossom, promising such abundant fruit, that the Court of Session would cut down and destroy. They have granted an interdict in the Stewarton case, against the admission of a new minister, the establishment of a new kirk-session, the allocation to them of a district for the oversight of the souls therein, and against, in any way, altering or innovating upon the existing state of pastoral superintendence in the parish; and some of the members of this house are now at the bar of the Court of Session, having been complained of, and sought to be punished by fine and imprisonment, for disregarding that interdict against setting aside a portion of the people to be under a separate ministry.

(3.) The next point in which they have interfered, will surely be held by all as an infringement of what belongs to the church courts alone,—that of preaching the gospel, and administering the sacraments to her people. In the Strathbogie cases they have interdicted the preaching of the gospel, and administration of ordinances throughout a whole district, by any minister acting under the authority of the church courts, thus assuming to themselves the regulation of the preaching of the word, and administration of the sacraments, and invading the privilege, common to all the subjects of the realm, of having freedom to worship God according to their consciences, under the ministers of that communion to which they belong, violating the liberties of the subjects, as well as trampling upon their privileges. Again, in the Culsalmond case, in defiance of the laws of the church, and pending the discussion of the cause before the church courts, they have interdicted the carrying into execution the sentence of a church judicatory, prohibiting a minister from preaching the gospel, or administering sacraments.

(4.) A still more serious class of cases are those in which the courts have attempted to interfere with the discipline of the church. Whatever grounds they may assume to have for interference in other cases, in matters of discipline I confidently affirm they have no show even of right to interfere whatever. Yet they have interdicted the church courts from proceeding against their ministers by libel. They have interdicted the Assembly from deposing a minister found guilty of theft, by a sentence acquiesced in by himself. They have interdicted one presbytery from proceeding with a libel against a probationer, for charges of drunkenness, swearing, and obscenity; and another from proceeding with a libel in the case of a minister who is charged with fraud and swindling. In these two last mentioned cases, one of the grounds on which they have done so is, that there is a *quoad sacra* minister in the presbytery. In one of these cases, too, there is a peculiar inconsistency. The minister of Stranraer, who has obtained this interdict upon the grounds I have already stated, is himself the minister of a *quoad sacra* parish. It is a *quoad sacra* parish, established by the Assembly in 1603; it has never received the authority of any civil tribunal, but is one of the many instances showing that the church exercis-

ed, without cavil, the power of establishing *quoad sacra* parishes. Yet he has got an interdict against his presbytery (in which he and his predecessors have sat since 1603) trying him, because last year the Assembly admitted a second *quoad sacra* minister into their number.

(5.) They have suspended the censures passed upon ministers of the church by their ecclesiastical superiors. They have thus taken upon them the power of the keys, which the Confession of Faith declares the civil magistrate shall not in any case assume. They have, the instant application was made to them, and without hearing parties, granted interdict against the sentence of suspension and deposition passed on the Strathbogie ministers; and all this before they had even themselves decided that they had jurisdiction to entertain the question—that being still pending before them. Before the question, the important question, here involved, had been decided by themselves, they granted this interdict, which is still maintained by them. In adverting to this it will be observed how they are themselves obeying the law of the land. It will be seen what respect they entertain for that law, which we are so often accused of disobeying. By the act 1693 they are ordered to give all due effect to the censures of the church, and they obey the act by suspending the censures which the church has imposed. By the act 1695, it is declared that deposed ministers who shall preach or exercise any of the functions of the ministry, commit a high contempt of the laws, both of the church and of the kingdom. Yet the Court of Session, with reckless and indecent haste, the very day after the Strathbogie ministers were deposed, and on an *ex parte* statement, interfered to protect them in doing what the legislature declares to be a “high contempt” of the laws of the kingdom.

Principal HALDANE thought expressions like these were altogether unnecessary.

Mr DUNLOP.—I admit that it is not necessary for me to use the expressions complained of by the Rev. Principal, and if I had been as cool as when I began, I would not have employed them; but having done so, I see no reason to retract them. I will endeavour, however, to use no language that may tend to irritate; though, I confess, when I view the proceedings that have been adopted towards the church, and the momentous consequences that may result from steps taken by the court with so little consideration, I find it difficult to repress the feelings which I entertain. In connection with the topic I was speaking to, I will take leave to advert to an encouragement given to these men to commit this “high contempt” of the laws of the kingdom, not by a *court*, which may be thought to have some judicial power or authority, but by the executive officers of the state, who, having no judicial power or authority, are of all others the last who should take upon them to decide upon the matter; especially since these statutes to which I have referred, give at least a *prima facie* authority to the censures of the church. These men, by having instituted actions of reduction in the civil court, of the sentences of deposition, show that they feel and know that they must get the censure set aside in some way or other, whether legally or not, before it can be treated as invalid. Yet, in the mean time, without any pretence of a judgment setting it aside, and even before the court had decided that they have jurisdiction to entertain this action of reduction, the Secretary of State, when these men were about to proceed to exercise the functions of the ministry, by admitting a presentee to the parish of Glass, six weeks before the induction, and before it was published to the world when that induction was to take place, when all the information the government had, must have been from the patron, and before there could have arisen the pretence of preventing a riot, marched a body of troops into the district, quartered them for weeks upon an offending people, who were thus subjected to all the evils inseparable from the introduction of soldiers into their families; and all this for no other purpose than to give encouragement and support to those seven men in doing what the legislature, which he should have been the last man to despise and disregard, had declared was a “high contempt” of law.

(6.) Another encroachment on the liberties of the church is common to almost all the recent interdicts of the Court. By the act of 1693, and the act of security, it is required that every minister shall take a vow to submit to the authority of the church courts, and never to attempt to subvert the same. It is obligatory on them

by statute, in order to obtain the benefice—the law requires them to vow obedience to the church courts; yet, in almost every one of the instances in which the Court of Session has interfered, it has done so to compel presbyteries, under the risk of penalties and damages, to disobey their superior judicatories, whom the statute says they shall swear to obey; and consequently, if they obey the Court of Session, to break the oaths which the legislature requires them to take.

(7.) Last of all, we have the attempt made, to interdict freely-elected members of this house from meeting and holding, as by statute they are entitled to do, a free Assembly and taking their seats therein. Now, I ask, are the several matters to which I have been referring, matters civil, and the proper subjects of “civil actions,” which alone the Court of Session can decide? On the contrary, are they not clearly matters spiritual and ecclesiastical, within the exclusive jurisdiction of the church under the several statutes already adverted to? I know not whether the court can go farther; but I know that, on the faith of the lengths they have already gone, we have actions raised before them because ministers have refused to admit to the sacrament of the supper. And I do not think the one class of privileges are safer than the other. If they do the one thing, they are warranted in doing the other also. And remember, it is not confined to the case of the established church alone. The ground on which they held themselves warranted to interdict the execution of the sentence prohibiting Mr Middleton from preaching and administering ordinances in Culsalmond, was, that his being prevented affected his status and position as a clergyman, and that he had a civil right to protect these. The idea that man has a civil right in maintaining his status and position in society, applies as well to the communicant as to the minister; and if a minister can say I have a civil right to maintain this status, so may the communicant. And if a communicant in the established church may do so, with equal propriety may the communicant of any dissenting church. Farther encroachments are threatened on the church, but I think enough has been shown to satisfy the Assembly.

VI. Now, in such circumstances, under these serious and alarming invasions of our religious privileges, and subversion of the government of the church, what is it that the Rev. Doctor (Cook) proposes? As the mode of extricating us from our difficulties, he proposes to rescind the veto act, and go back to the state of matters previous to 1834. Now, supposing for a moment that the veto act were repealed, will this settle all the questions now in dependence? It will not settle the power of the Court of Session to suspend the censures of the church,—to prohibit the preaching of the word, and the exercise of other ecclesiastical functions. It will not settle the questions as to *quoad sacra* ministers; nor the many cases which, since the first collision, forced on us by other parties, they have gone on raising against us, affording opportunity to the Court of Session to give decisions, and lay down principles which must be removed out of the way, if this church is to administer her affairs according to the laws of Christ's house. So that the motion of the Rev. Doctor will not answer the purpose intended by him; and as a basis for restoring peace to the church, it is difficult to understand how the Rev. Doctor should ever have represented it as such. Its sole object seems to be, to afford a defence to the Court of Session, by holding out the church as the first aggressor. The Rev. Doctor did not attempt to justify the recent proceedings of the court as in themselves defensible, or as not being in reality encroachments beyond their own province on the jurisdiction of the church, and in defiance of the law of the land. But he says, that the church, in the first instance, by the veto act, trespassed on the province of the court, and so leaves it to be inferred that the court was entitled to retaliate, by invading the province of the church. It is strange that our friends on the other side defend a court of law and justice on a ground like this. I think the church kept within her province in passing the veto act; but assuming that she went beyond her province in that act, what reason does that give for the Court of Session stepping beyond theirs? Are courts to be looked on as hostile kingdoms which may revenge insult or invasion on the part of each other,—not by simply repelling the attack on their own province, and protecting the bounds assigned to them from invasion, but by levying all their forces, marching into that of the aggressor, and in revenge conquering the territory which of right belongs to it? Surely this is not the light in which a court, bound to ad-

minister law within the limits prescribed to it by the constitution, would wish to be viewed. Surely it is not thus that the Court of Session would desire to exhibit the contrast between a large popular assembly like the supreme court of the church, and a tribunal composed of a few selected judges pre-eminent in knowledge, calm and grave through the experience of years of study,—fit representatives of the law which they are to administer, and which has been described, in this very contest, as “without passion and without prejudice.” It certainly is not in this way that they will establish their fitness for the high function they acclaim to themselves, as the ultimate and infallible redressers of all wrongs. Even as a defence of the court, therefore, the resolution of the Rev. Doctor is of no value; and for any other purpose it is equally useless, while it could not be adopted without an abandonment of the fundamental principles which the church has pledged herself, at all hazards, to maintain.

On the other hand, the proposition submitted to the house from this side, is to abide by these principles,—to take our stand on the statutes and treaty by which these are ratified, and for ever secured to the church and nation of Scotland,—to appeal to the justice of the legislature and people of the united empire against the violation of rights guaranteed by such sacred and solemn pledges; and to make known our calm, deliberate, and most determined resolution not to abandon these, or to carry on the government of Christ's house, subject to a coercion unwarranted by His laws, though at the risk of losing the advantages of an establishment. In this, we might, I think, instead of resistance, have expected co-operation, to some extent at least, from our brethren opposite. They do not deny that the civil courts have, in certain particulars, encroached on our spiritual jurisdiction. They say, indeed, that we have brought this evil upon ourselves by passing the veto act, which they urge us to repeal. Well, be it so; but surely they might, at the same time, join with us in repelling the acknowledged invasion of our common territory. So far from diminishing the force of their remonstrances, such conduct on their part would add to it tenfold, while their leaguings with our invaders to overthrow our unquestioned liberties takes from their advice all weight and authority. What would be thought of the citizens of a state acting as these members of our church now do? Suppose that, of two contending political parties in a nation, the one has vigorously but unsuccessfully resisted an aggression on a neighbouring kingdom,—that it has remonstrated against its injustice, and foretold its evil consequences, but in vain; that the aggression has been made, and that the kingdom so assailed has not only repelled their attack, but is pouring down its hosts to conquer their country in retaliation and revenge. What should we say of the party whose advice and warnings had been disregarded, if, instead of uniting with their former opponents to defend their fatherland against the sword of the invader, and then, after its safety should have been secured, renewing their demand for subduing the injustice which they had condemned, they should not merely remain inactive and neutral, triumphing over and taunting their fellow-countrymen with the injuries which their rash aggression had brought down on them, but should join the invading foe—unite with him in staining the hearths of their native country with the blood of their brethren, and in subjecting it to a foreign yoke, in order that they might see their opponents crushed, and participate in the domination over them? What would be thought of the conduct of these men? And if they would justly be condemned as traitors who were guilty of such revolt against the liberties of an earthly kingdom, and the authority of an earthly crown, what should be said of those who would act the same part with reference to Christ's kingdom, and the authority of Christ's crown? Their highest hopes must be that, in the time to come, their names shall be unknown, and their deeds forgotten for ever. Still, notwithstanding the opposition of our brethren within, combined with the assaults of our foes without, we may well take courage to maintain the noble contest in which we are engaged. I was perhaps, for a time, too much inclined to seek for peace by an abandonment of our position as an establishment, and at once to secure the freedom of carrying on the ordinary labours of a church without molestation, by relinquishing the temporal advantages which were made an excuse, however unjustly, for interfering with us. I have of late, however, been learning another, and I trust a better lesson,—the duty of maintaining,

as long as we can maintain, the vantage-ground we now possess for exhibiting and establishing the true nature of the right connection between a Christian church and a Christian state. Even since this Assembly met, additional motives to this course have been presented to us. Our forefathers secured, in this corner of Christendom, the recognition by the state of the spiritual independence of the church, showing how the church, acknowledging the implicit obedience due to the temporal power in matters temporal, may yet, while supported and aided by the state, conduct her own government; and advance the cause of religion in spiritual freedom and independence, with mutual harmony and peace. They thus obtained for the Church of Scotland a position among the governments of the nations which she has ever since retained. Other free churches who were refused an entrance unless at the sacrifice of their liberties as churches of Christ, seemingly hopeless of attaining it, had begun to oppose all connection whatever between the kingdoms of the earth and the kingdom of the King of the kings of the earth. Almost abandoned by all who, like ourselves, maintained the independence of the church, the powers of the world deemed us an easy prey, and strove to drive us from our stronghold. From the very walls erected for our security they have assailed us, and the guards set to protect us have used the weapons intrusted to them for our defence to conquer and enslave us. But the din of the contest has recalled the multitudes who had almost forgotten our existence, to a sense of the importance of the post which we occupy. The sympathies of Christians in every part of the world are turning towards us. In this Assembly, from England, from Ireland, from America, from Switzerland, from Prussia, we have encouragement, by letter or the personal presence of ministers of the gospel, all deeply sympathizing with us in our struggle for the rights of the church of God in connection with the kingdoms of the earth. Defending the citadel which, as a protestant establishment we possess, we afford a rallying point to the Christian world; and through it the churches of Christ may yet establish themselves in the fortress of the world's power, and obtain, universally, a national recognition of the free and rightful dominion of our great Head and King.

DAVID MILNE, Esq., advocate, rose on the other side. He said,—After the speech you have heard, and the luminous document now on the table, I feel a difficulty in rising to offer a few reasons for the vote I intend to give this night. I am aware of the undivided attention that my learned friend who has just addressed you has given to the subject; I am aware that for years it has occupied his undivided attention; and I feel a good deal the responsibility of my position in assuming to argue the points he has taken up, in opposition to the views he has expressed. I therefore claim the indulgence of the house while I explain the grounds on which I take my stand. I am glad of one statement made by the reverend and learned gentleman who first spoke on this subject to-day, who told us, when speaking of the power by which the rights of the church had been trampled on, to look to the statute-book of the land for it; and I am glad to see also, that on the very first page of the document on your table, it is acknowledged, that to the statutes of the realm we are indebted for the rights and liberties we possess; and on the very last page of the document the General Assembly “set forth” that “they fully recognise the absolute jurisdiction of the civil courts in relation to all matters whatsoever of a civil nature, especially in relation to all the temporalities conferred by the state upon the church, and the civil consequences attached by law to the decisions, in matters spiritual, of the church courts,—do, in name and on behalf of this church, and of the nation and people of Scotland, and under the sanction of the several statutes, and the treaty of union herein before recited, claim, as of right, that she shall freely possess and enjoy her liberties, government, discipline, rights, and privileges, according to law, especially for the defence of the spiritual liberties of her people, and that she shall be protected therein from the foresaid unconstitutional and illegal encroachments of the said Court of Session, and her people secured in their Christian and constitutional rights and liberties.” Now, if I held that the encroachments here complained of were occasioned by the power which is here acknowledged, I could go along with my reverend and learned friend in the arguments he raised upon it; but holding as I do, that to something more serious and alarming the evils and dangers of which we complain can be traced, it must be allowed that the subject is one which is fit for



discussion. One oversight struck me in the speech of the Rev. Doctor, when addressing you on the co-ordinate jurisdiction of the civil courts, viz. he overlooked the distinction which there is between the legislative and ministerial functions of the House of Lords. I ask, is there not the same distinction in this court? Here we have judicial and ministerial functions also. But this will not be denied, and the question then comes to be, how are these distinctive functions to be defined and distinguished? In support of the argument of a co-ordinate jurisdiction, reference has frequently been made to the Court of Exchequer. But here I beg to remind my friends who use this illustration, that the barons of exchequer frequently exercise ministerial and judicial functions; and even in the Court of Admiralty, to which reference has also been made, its decisions have been subject to complaint. What is the question upon which this collision has taken place? The right of presenting ministers to benefices. It relates confessedly to matters of a civil description, also of an ecclesiastical description. On the one side, the church says, "she will not receive or admit a presentee contrary to the will of the people; we shall refuse to examine him with a view to induction, if the congregation have dissented." And, on the other, the Court of Session says that, notwithstanding that dissent, you are bound to examine him, and, if qualified, to induct him. Now, this is not the time of day to dispute that the church is under an obligation to examine and induct, notwithstanding such dissent; for the statutes have been well dissected and ransacked. Dr Chalmers admitted last night that the veto act was an encroachment, though the least possible one, upon the rights of patrons. In what way could it be so, except by introducing a new condition or element which the law itself did not authorise? Suppose I make it out to be the law that the church is bound to examine and induct, notwithstanding dissents, who is to blame for the encroachments and other evils which have resulted from the veto? If the civil courts are entitled by law to look into this matter, we are bound to yield to their decisions, whether we acquiesce in their soundness or not. What is the law on the point? The whole matter rests upon perhaps not more than three acts—1567, 1592, and 1712. The act 1712 is still the law which must guide the civil courts; and it says that the rights of patrons shall be restored as in former times, and the presbyteries shall be bound and astricted to receive whatever qualified person may be presented by the lawful patron. It refers us to former laws. Now, in the act 1592, there is a positive obligation imposed upon the church courts, if the presentee be *qualified*, to induct him. I presume *qualified* ministers means *ordained* ministers, as distinguished from mere probationers. Then the act 1567 applies to *unordained* men, *i. e.* probationers; and it declares that the examination and admission of ministers are only in the power of the kirk, the presentation being always reserved to the lawful patron. The learned gentleman went on to argue the point concerning the presentee's qualifications, which could only be ascertained by a personal examination of the presentee. He contended that the church had no right to enact the veto law; that the civil courts had done nothing blameworthy, or that rendered them obnoxious to the charge of acting recklessly or with indecent haste, preferred against them to-night; that those who opposed the way in which the church was seeking to carry out its principles, were not to be considered as hostile to those principles themselves; and that the church must endeavour to obtain its objects in a lawful manner, the manner becoming all men, churchmen as well as others. He concluded by stating, that he would vote for Dr Cook's resolution.

Mr CARMENT said, the argument of the legal gentleman on the right hand he would not meddle with, but leave it to the legal gentlemen on the left hand; but strongly as the learned gentleman thought he had fortified himself in his position, he, (Mr Carment), although no lawyer, could undertake to demolish it in one single word. The whole argument stood upon a clause in an act which is not in the statute-book of the kingdom; it was repealed, and never was enacted again; and that was all he thought necessary to state in reply to the learned gentleman's speech. It would be presumption in him (Mr Carment) to attempt to add anything to the able expositions they had already heard of the document now lying on the table, and which were so clear that no man but one wilfully blind could object to the statement. Now, as he was a plain country clergyman, and a kind of a practical man, he would

take it home with him, and use it in his own neighbourhood. He would therefore just ask Dr Cook, when, since the days of the resolutions and protesters, it was ever heard of in the church, that a minority set itself up to resist and control the decisions of a majority of the church? It was a perfect absurdity, and contrary to all reason and common sense, to say that a majority of a representative body was to be controlled by a factious minority. The reverend Doctors (Cook and Haldane) had made pathetic appeals to them in behalf of peace and unity. Their appeals seemed to imply, according to their understanding, that peace and unity were all on the other side of the house, and that this side of the house ought to yield everything, in order to go along with them. Now, if they were such lovers of peace and unity, and according to their own admission, had no conscientious convictions in these matters, why did they not go along with the majority now, as they did for a considerable time, when they showed that they had no conscientious scruples on the veto law. With his convictions and principles, on the other hand, he would feel himself to be a traitor to his Queen, and his country, and his God, were he to yield, as they wished him to yield, to any civil court on the face of the earth, or to any act of parliament, in the matter of the headship of Christ. When conscience was concerned, no man was entitled to lord it over the conscience of God's heritage; and until their consciences were convinced, which could only be on grounds derived from the word of God, they could not recede one single inch from the position they were now occupying. The reverend Doctor (Cook) and his friends were loud in their professions of non-intrusion and spiritual independence; but he had no confidence in faith without works; and he was afraid that all their professions were but *vox et præterea nihil*. He had heard a remark from an old and valued friend (Rev. Dr Muir) last night, that the nation had sinned in passing the Roman catholic bill, and might go on sinning as much as it pleased; for that was the meaning of the statement, although not the words. He had taken as deep an interest in opposing the Roman catholic emancipation bill as that reverend doctor could possibly have felt; but after the exhibition his friend had made in the house last night, he (Mr Carment) would expect to see him arm in arm with the popish bishop on the streets of Glasgow. There was one fault in which some of our own friends seemed to indulge; they say, "Oh you need not petition parliament, for they won't listen to you." Now he would like to cite some cases which might tend to give them encouragement. There was the case of the three children mentioned in Scripture—they heard the sound of the dulcimer, and might easily have fallen down to the golden image; but no; they would not sacrifice their religious principles, and they were therefore cast into the furnace, and that was just the very way in which God worked out his own glory. And there was the case of Daniel. But there was one very remarkable point to which he wished to allude. In the book of Hosea, the Lord said of his church, 'I will allure her into the wilderness, and there will I plant my vineyard.' Was not this a very extraordinary place to plant a vineyard? This was the way with the church; she was now in the wilderness, but God was planting the vineyard. The church had enjoyed more of the favour and presence of God of late, than for the last hundred years. He had seen it in his own parish, and others. He had seen souls converted to God, and was convinced that the Lord was visiting his church. God has said,—"And I will give 'the valley of Achor for a door of hope.'" Here, without being critical, or frightening his friends, by making them think that he was going to preach, there were two things implied. The valley of Achor was a part of the land of Canaan, the land promised to Abraham and his seed. It was therefore in this way a door of hope. But it was in the valley of Achor that the Israelites had been punished for the accursed thing which was hid in the tent of Achan. Now, this was a token for good; for it is said in the 89th Psalm, that when his children forsook his law, he would visit their faults with punishment. Now, it seemed to him that they were entering on the valley of Achor; and, indeed, it should have been entered long ago. Mr Carment concluded by reading the last six verses of the 89th Psalm.

Mr JAMES MONCRIEFF said, that he had heard nothing from the other side of the house to prevent them from coming to a unanimous vote to night. The Rev. Doctor who moved the amendment had recommended harmony, and he knew no

better way of restoring it, than uniting in the overture which had been laid on the table. Indeed, the want of unanimity seemed to proceed entirely from a misconception of the nature and import of the document to which the resolutions before the house referred. They had not indeed much excuse for misunderstanding it, for a simpler document could not well exist. It was no laboured argument; it was a mere deduction of statutes of the realm, and a narrative of undoubted facts. He had never seen a paper better fitted for its purpose; for in this plain and simple form it embodied the whole substance of the present controversy, and set forth, in characters no one could fail to understand, both the spiritual principle of ecclesiastical independence, and the constitutional safeguard by which it has been secured. It was not, however, as seemed to be supposed, a mere declaration of non-intrusion. The subject of it was much wider. It was a solemn protest against the encroachments of the civil courts, not in the settlement of ministers merely, but in matters confessedly ecclesiastical, in which the church was by law supreme. Now, the reverend and honourable gentlemen opposite had most carefully avoided meeting in any direct form the subjects of complaint in this declaration. The overture set forth that the church by law was supreme, and that the interference of the civil courts was by law excluded, in all matters spiritual; and it states, that in certain specific instances, the civil courts had interfered in matters spiritual, and so encroached upon the rights of the church. Now, to his surprise, the resolutions of the Rev. Doctor opposite, and the speech by which they were prefaced, were entirely silent as to whether these alleged encroachments are either true in point of fact, or justifiable by law, if true. The opposite party were bound to say, whether they either denied that the acts complained of concerned spiritual matters, or whether, if they did concern such matters, they held them to be legal or competent. They have done neither. They admit that in matters spiritual, the church is supreme; but they will neither admit nor deny that the acts complained of encroached on the spiritual province. The learned gentleman opposite (Mr Milne) had thus avoided the whole question now at issue. He had referred to the cause of the contest, as determining it. In truth, the cause of the contest had nothing to do with the present question. It might be as true as the learned gentleman maintained it to be, that the veto law was illegal, and that thus, in the origin of the contest, the church was in the wrong; and yet every word of the overture might be perfectly well founded. The matter complained of was excess of jurisdiction, and encroachment on jurisdiction belonging exclusively to the church; and that, not in the judgment in the Auchterarder case, but the subsequent proceedings of the court. No excess of power on the part of the church could give ecclesiastical jurisdiction to the Court of Session. Whether the veto law was an interference with civil right, might be a question; but the question raised here was, whether the acts complained of were an interference with ecclesiastical functions. Were they, or were they not? Let them answer categorically. Was ordination a matter civil? Was the pastoral cure civil? Was the administration of the sacraments civil? Were the censures of the church civil? Was the representation of this house civil? If they were, then the complaints in this overture were most unfounded. But let honourable members say so, if they thought so. They could not venture to maintain a position which would leave nothing spiritual within the church. But if not—if these be matters spiritual—then, as the civil court has beyond all question interfered in these matters, they have encroached upon the province of the church, and infringed her constitutional privileges. This was really the question, and the only question. All, therefore, that his honourable friend had said might be granted, for it was only a pleading on the Auchterarder case. If it were all granted, it would not and could not follow that the civil court could, consistently with the constitution, interfere in matters spiritual; and as they had done so, and the gentlemen opposite could not deny they had done so, this overture should be passed unanimously. The reverend Doctor (Cook) had proposed as an amendment certain resolutions which did not touch in the remotest degree the subject of complaint in the overture. They embraced substantially the motion which he proposed and carried in 1833. But as the law was now interpreted, he was not sure that even this was a legal resolution for the church to adopt. The resolution bore that it was competent for the people in the settlement of a minister to state

objections of any nature to the presentee. Now it was distinctly laid down by the majority of the judges in the Culsalmond case, that it was illegal for the church to provide that such special objections should be stated at the moderation of the call; or before the service of the edict. They had distinctly intimated an opinion that the regulations passed in 1834, which were copied from the reverend Doctor's own motion were illegal and incompetent. So that even the reverend Doctor himself, on his own principles, was not safe from the law as now interpreted; and even were the secession, so often recommended, to take place, the decisions complained of would continue to fetter the church even in functions which were admitted by the gentlemen opposite to be possessed by her exclusively. He did not believe any such secession would ever be found necessary. He never had. He was convinced that the church, if true to itself, was certain to triumph. But suppose it otherwise. On what footing could the reverend gentlemen opposite carry on the church? Submitting to the Court of Session in matters ecclesiastical, they could not pronounce a censure which the court might not review, and if they murmured, an appeal to this night's vote would effectually silence them. They could maintain no discipline within the church, for they have urged the doctrine within these walls, that belief in the injustice of the sentence entitles the party to disobey it. They were hardly entitled to speak of rebellion, who admitted that constituted authority might be resisted by all who conceive that its sentences proceed on inadequate grounds—a sentiment subversive of all order or government. Whatever might be the result of this night's vote, the document on the table would go down to posterity as a noble memorial of what the Church of Scotland claims to be by the laws and constitution of this realm; and for such a solemn vindication of her privileges their descendants would bless with gratitude the manliness and the wisdom of this venerable house.

Mr ROBERTSON of Ellon commenced by making a few remarks relative to the observation of Mr Moncrieff, that the competency of the General Assembly to pass the sentences they had done had been admitted by his (Mr Robertson's) friends. He was not aware that any such admission had been made by any one on that side of the house; but if it had been, it must have been *per incuriam*. The argument held by him and his friends was, that the church courts were not competent to give certain sentences. In reference to the overture now before the house, it was a document of great length, and contained the history of all the proceedings connected with the church, which had taken place in the Court of Session for a number of years back. As that voluminous document had only been put into their hands that morning, if his friends opposite considered that on his side there was a lack of argument, they ought rather to attribute that paucity to want of time than to the nature of their cause. The gentleman who had opened the debate after the adjournment had gone over the history as contained in the paper before them, and he would venture a few remarks on the observations with which he had accompanied it. He had endeavoured to show that in the Confession of Faith they had a basis on which to found the arguments which had been advanced in the document in question. He had told them that the Confession of Faith laid down in plain and distinct terms the duties of the civil magistrate in reference to matters of religion; and, as distinctive from these duties of the civil magistrate, the Confession of Faith declared that the government of the church was separate from that of the civil magistrate, and in the hands of officers deriving their authority from the great Head of the church. This was true; the Confession of Faith laid down these two general distinctions; but it left them in the dark as to the precise line of demarcation between the two jurisdictions; it did not point out the essentialities of the one, and the essentialities of the other. But, farther, the Confession of Faith did not merely declare that the Head of the church had appointed a government in the church distinct from that of the civil magistrate, but it also declared the specialities of that government which had been adopted into and ratified by statute,—namely, appointing the government of the church to be by kirk-sessions, presbyteries, provincial synods, and assemblies. Now, though thus descending to specialities did not abrogate or get rid of the general principle of a separate government, yet it limited, by another authority, the general principle laid down by the Head of the church. Again, Mr Dunlop had said that, by the act 1690, the appointment of ministers was to be vested

in the heritors and kirk-sessions, who were to present the minister to the people for their approbation, and that the presbytery were to judge of the whole matter ; while it was now proposed to give the appointment to the communicants. It was thus evident, that the government of the church was not always regulated by the same general principle ; but that they must carry along with them the limitations to which circumstances give rise. Mr Dunlop had argued that the civil power had no right to interfere in any thing which flowed from the nature of the church constitution. He supposed this referred to what was held to be points of discipline ; and Mr Dunlop had referred to the exclusive power of the church in the deprivation and collation of ministers. The act quoted declared that nothing in it should be held to derogate, in these respects, from the power given by God to the officers of the church, and grounded on the word of God. The phraseology of the act is thus very guarded in expression. It does not say that the power of collation, deprivation, &c., is grounded on the word of God, but it reserves that power to the church so far as it is so grounded,—that there is to be no interference with what God has given to the kirk. Now, in the act, deprivation and collation are placed side by side ; and if the absolute meaning of the term used is to be taken in the one sense, so must it be taken in the other. What then was collation ? Does it mean collation to the cure, or to the benefice, or to both ? By a comparison of two of the acts quoted, it would be found that in the one, the presbytery were bound to receive and admit a qualified presentee, and it was allowed on all hands that this applied to ministers already ordained, who were to be received and admitted without examination ; but in the other act, the presbytery were to take the presentee on trial and examination. The power of collation and deprivation, therefore, given by the act 1690, could not apply to both. By an act of 1584, which was an act applicable to episcopal rule in Scotland, his majesty was authorised to appoint a bishop as commissioner to examine into the qualifications of ministers, and to proceed, when necessary, to deprivation ; and as this act had not been repealed by any subsequent act, it would appear that even under the charter of presbytery, his majesty might appoint a commission to proceed to deprivation. It did not take away his majesty's power of appointment, that the power of the bishop had been transferred to the presbyteries and assemblies. It was true, that in the claim of rights, restoration of a presbyterian government was insisted on ; but nothing was said as to the particulars of that government ; and the correspondence of the commissioner with the king afterwards on the subject of patronage, showed that the presbyterian church government was not in the act of settlement *per se*. It had been said that there was a breach of the act of union in the act of 1712 ; but in the treaty of union there was nothing whatever said about patronage, and therefore the act of 1712 could not be a breach of the act of union. But if patronage were included in the treaty as in the act of 1690, would it not be a breach of the union to take the election of the minister from the heritors and kirk-sessions, and give it to the communicants ? If the collation of ministers referred to the cure, and not to the benefice, so far as the church courts were concerned, might it not be an infringement of the rights of the presentee to the benefice, if the presbytery had previously presented a minister by the exercise of the *jus devolutum*, and inducted him into the cure ? Under such circumstances, many might be ready to say that there was really some ground for an interdict. [Mr Robertson then went over the different interdicts mentioned in the overture, noticing the general character, and pointing out several specialities that applied to [some of them.] In regard to the case of Stewarton, he would state now what he had stated before, that if it could be shown that the civil courts had interdicted the church there from preaching the gospel, dispensing ordinances, and exercising discipline, then he for one would most willingly admit that the civil power had encroached on the prerogatives of the church. But viewing that case as he did, mixed up with synods and presbyteries, and involving points of a civil character, he did not see that in granting an interdict, the civil court did any thing beyond its proper influence and control. With regard to the case of Strathbogie, he denied that the majority of that presbytery had preached the word, dispensed ordinances, and exercised discipline, on the authority of the civil court, and contended that they did so after their suspension and deposition, entirely on their own responsibility. He had been mentioned as having given

counsel to the presbytery of Strathbogie. He denied it. He was not in the counsel of the Strathbogie case; but it appeared to him, that if the ministers of Strathbogie had preached the word before they received the interdict from the civil court, they would have excluded themselves from civil consequences, and—

Major STEWART of Pittyvaich.—I rise to order. The reverend gentleman is wasting the time of this house quite unnecessarily. He is trespassing on my manor, the subject which is to be taken up to-morrow.

Mr ROBERTSON.—Very well—I shall not trespass any further on the gallant gentleman's manor.—Mr Robertson, then, in reference to the general interdict in the Strathbogie case, said he held that that interdict was an incompetent one, incompetent on the part of the civil power, inasmuch as it condescended on certain specialities which did not perhaps fall within the province of the civil power to take cognizance of. But he held at the same time, that in applying for that interdict, the majority of the Presbytery of Strathbogie did nothing but what was right. Upon the general question of those interdicts, he did not see that the church had any very just title or good reason for going forward, and, by a declaration like that on the table, to interpose another obstacle between the church and any settlement that might be effected. He would not go over the other interdicts one by one, but would confine himself to the case of Auchterarder; and in reference to that case, it appeared to him to be absolutely impossible that there could be a settlement of the differences that it had given rise to, until their first acts were rescinded. In conclusion, he would just ask, in reference to Dr Cook's first resolution, was there any thing in it to which the General Assembly could not consistently agree? He held that there was not. After referring back to the unfortunate differences that prevailed in the church from 1650 to 1690, and the depositions which took place in the course of that period, he contended that it would be well for the church now to copy the example which was set by the church then; and, on the principle that there had been nothing but constructive grounds of difference, seek to heal the breach which now unhappily prevailed. Holding as he did that the only grounds of difference between them were constructive, he believed it to be quite possible, without any compromise of principle on either side, to effect a settlement of the question. But it might be said, that the peace was all to be from his side of the house. Now, he hoped he would never utter with his lips what he did not feel in his heart; and he would state then, as he had stated before, that he was willing to do anything he could, short of an absolute sacrifice of principle itself, to get peace to their beloved Zion; and if the unhappy differences could but be reconciled, he would rejoice in it with all his heart. Before that peace and reconciliation could be effected, they must go to the legislature. Let them go there in time. Let them go and make the best settlement they could, if they could not make the best settlement they fully wished. The question never could be settled in that house. There were elements in the differences that made it impossible to get a settlement in that house. The legislature, and the legislature alone, could adjust them; and he implored the house to think of this in time, for his fear was, that if they delayed any longer, they would lose the last opportunity of removing those obstructive elements that now stood in the way of a full, and a fair, and a permanent reconciliation.

Principal LEE explained, that the phrase "qualified" in the last clause of the act 1592, could not mean ordained, because of 46 presentations issued by his majesty within a year after the passing of that act, 27 were in favour of persons not ordained.

Dr R. BUCHANAN thought, in respect to the tone of the discussion, that it was a good omen of the final issue of the present ecclesiastical contest, that, notwithstanding of the many causes which had been in operation for some years to inflame men's minds, the Assembly had been enabled to conduct a discussion involving difficulties so momentous, with so little bitterness. He hailed also with unmingled satisfaction the circumstance, that they had gone on for many hours in a debate upon a question which had so deeply agitated and divided the church, without having heard raised the odious and offensive imputation (with which they were wont to be assailed) of rebellion. Was it a concession that that charge was unjust and could not be repeated? He was, however, greatly disappointed at the manner in which the overture

had been opposed. On first reading it, he had anticipated that no party or individual in the Assembly would venture to assert, either that the ecclesiastical jurisdiction for which it contends was not granted by the statute law of the land, or, being granted, that it has not been invaded; but that a direct answer to it would probably be evaded. That anticipation was proved correct, when Dr Cook intimated, some days ago, that the overture was to be met by a series of resolutions, which being on a different subject, would enable him conveniently to avoid controverting its positions. And if his anticipations were realised by the tabling of those resolutions, they were still more confirmed by the speech with which they were introduced. If that speech was remarkable for any thing, it was for studiously avoiding the definition of any principle, or the controverting of any matter of fact. The Doctor had, no doubt, assured them of the soundness and orthodoxy of his faith in the great doctrine of the headship of Christ; nay, he had even gone the length of asserting, that if he disregarded the authority of Christ over his church, he would do so only at the expense of being not only cast forth from the Church of Scotland, but from the Christian world. Now, here was, no doubt, a strong assertion of the general doctrine; but when they came to consider how he would expound and apply the doctrine, so as to show what power and authority Christ had in his church, there was an utter blank, a total absence of all information on a point so important. If, however, the doctrine of the headship of Christ was a mere imagination, that had no practical bearing in the affairs of the church, of what use was it that that dogma was in so formal and impressive a manner received in our standards? and why, for the sake of maintaining it, did our fathers so gladly consent to shed their blood? If it was so immaterial a thing, they had died as fools die, and had contended for a mere fiction, an airy nothing. The Rev. Doctor was not more satisfactory on the subject of non-intrusion. The whole comment of his non-intrusion views was not more tersely than correctly described in the following words by a previous speaker. He said, we "had come simply to this: A man comes in and takes possession of my house, and he is no intruder, because I may march out into the street." This was the whole amount of the non-intrusion of the Rev. Doctor. There is no intrusion upon the people, because if they like not the minister who is forced upon them, they may withdraw from the church. The only other point of moment in the speech of the Rev. Doctor, was an appeal to them to lay aside their divisions, and to come to a common understanding; and he founded his appeal on this view, that there was really no occasion for differing at all. Now, unquestionably, upon his view of the great doctrines of the headship, there seemed to be no possible pretext for their ever having differed at all; but if those on his (Dr Buchanan's) side of the house held that the headship of Christ was no impalpable imagination, but a great practical reality, a truth bearing immediately on all the concerns and conduct of Christ's church and kingdom,—if it was under Christ, as the king of Zion, that they sat in that Assembly, and that they exercised all the functions belonging to this office,—then, unquestionably, they could not allow any set of men, whether civil or ecclesiastical, to trample those powers, derived from the Lord Jesus, under their feet; they could not agree with men who would insist on having those powers disregarded and despised. But while those on his side of the house had these views, and must necessarily be divided from men who hold such opinions as those he had described, he was not aware that there was any necessity for their being divided from them. With the views which they (the evangelical party) held of the headship of Christ, they could not consent that the civil power should come within the sacred territory of the church; but their opponents, however loose and accommodating their views might be, had no such attachment to the invasion of the civil or the ecclesiastical jurisdiction, as to insist, on that ground, on dividing from their brethren. If the latter succeeded in satisfying the legislature that, by the constitution of this kingdom, the civil power had no standing in the church of Christ, the moderate party were not so much in love with the Erastian principle as to insist on a schism and secession, in order to secure that Erastianism should be maintained. He must say, therefore, that while the evangelical party, with the views they held, could not homologate such doctrines as were held by those on the opposite side, he saw

no such difficulty on their part. With regard to the succeeding speeches, it appeared to him, that the whole of the speech of the honourable gentleman who spoke first on the other side of the house in the evening session, and the first part of the speech of Mr Robertson, were entirely identical. Their sole object and design appeared to be to make out the position that, because there was in certain statutes what they called a binding and astringing clause, in other words, because, as they alleged, there was a certain duty imposed by a certain statute, which the church had refused to perform, therefore it was to follow, that the civil courts were warranted in invading the jurisdiction of the church, at the expense of violating all those statutes by which the church's inherent jurisdiction was confirmed, to carry their vengeance over the prostrate liberties of the Church of Scotland. He would not enter on any minute criticism to show that what they called an obligation was so qualified and limited as to bring it ultimately and entirely within the jurisdiction of the church. Even considering that the church had refused to implement the obligation in the statute, he would meet them by saying, that they had made out nothing that could justify the encroachment of the civil court in the face of statutes almost innumerable, declaring that in all those matters in which they had specifically interfered, the jurisdiction of the church was unassailable. Another argument of Mr Robertson was, that because the sentence of the church courts affected a civil right, therefore the civil courts were warranted to interfere. This had been answered ten thousand times, and the answer was so obvious that it was difficult to understand how it could be refused by any man. He denied that there could be any such thing as distinct jurisdiction, or that there could be any sentence passed whatever, either civil or ecclesiastical, that did not, directly or indirectly, affect some civil right or interest; and if every sentence which in any degree affected a civil right was to be reviewed and reversed by a civil court, then there could be no such thing as a separate jurisdiction existing in any court in the world. But instead of meeting the question in this way, he should go back to the facts of history, to the past decisions of the courts of law, and ask those gentlemen how they could reconcile this position with the fact, that for 150 years the courts of law had uniformly maintained the distinction for which the church now contended? What did the gentlemen opposite say to the numerous facts laid down in the body of the overture, to the views taken by Lord Kames, and also the other day by Lord Fullerton, who had expressed, in admirable language, the very views contained in the statement on the table? After calling upon the opposite party to meet them on the ground of past decisions in this matter the reverend Doctor proceeded to say, that Mr Robertson had made certain admissions, which he thought it due to himself should be proudly and publicly noticed. He made this important admission, that though he did seem to vindicate a number of interdicts which the Court of Session has been fulminating against us, there did at least come from that high eminence one interdict, of which he had no doubt that it was incompetent, illegal, and unconstitutional. That was the interdict against the preaching of the gospel by ministers appointed by the church, within the seven parishes of Strathbogie. Now it would appear after all, they differed with Mr Robertson about the interdicts of the Court of Session, not in kind but in degree. And he must say, when his reverend friend admitted that the Court of Session has thus made an encroachment, not only on the church, but on the liberty of the subject, they might expect that he would be prepared to join in admitting that there was some reason for protesting against these encroachments, and in calling upon the legislature for protection. He had admitted that they had made one violent encroachment upon the constitution of this kingdom, and the religious liberties of the people; and he thought if he had gone over all that is in the overture, he would have found another class of cases fully as deserving of his condemnation. He had endeavoured, along with Mr Milne, to trace the proceedings of the Court of Session to the binding and astringing clause; but having already referred to the answer which might be given to this, he should ask, what had the binding and astringing clause to do with the Stewarton case? What had it to do with the setting of a pastor over the cure of souls of certain of the inhabitants of a district? What had it to do with violent outrages such as these? Between these cases and the law of patronage there was not the



slightest connexion; and he felt confident, that if Mr Robertson had addressed himself to the proceedings of the civil courts, he would have found other cases in which they had overstepped their jurisdiction. But there had been appeals made by Dr Cook and Mr Robertson—appeals made to their feelings of love and concern for the unity and peace of the Church of Scotland. This was an appeal which, when made on proper grounds, he knew there was no man on his side of the house who would not meet it with heart and soul. He was satisfied there was no man there who did not long and pray for the peace of their Jerusalem—who did not pray that she might become a quiet habitation—a tabernacle that would not be taken down. But their belief was, that to abandon that great doctrine which the memorial on the table embodied, and the security which it recites—their conviction was, that to abandon that fundamental article of the Church of Scotland, would be not to secure but to betray, not to defend but to destroy. He had already said, from the exhibition of the views of the gentlemen on the other side, there was nothing to hinder them from agreeing with them, (the majority); and it was not unreasonable to ask them, especially as they on this side held their position as a matter of conscience. He did not say that the gentlemen on the other side did not hold their views most conscientiously; but, according to their own showing, it was not a matter of conscience in such a sense that the views of the majority were satisfied, they (the minority) could find it impossible, according to the views of church policy, to act upon. There are matters, said the reverend Doctor, to which they can agree to go with us, but there are principles which we cannot abandon to go with them. Now, when these principles were held by the vast majority of the church—when they were the prevailing principles of the Assembly,—surely it was not unreasonable that they should ask their friends on the other side of the house to concur with them in seeking that this question might be settled, so as to preserve along with them the unity, the peace, and the entireness of the Church of Scotland. Let this consideration weigh with them, in restraining those influences which, in late times, had been in operation, and, by God's help, the matter might be adjusted. They dared not abandon the position on which they that evening stood, as embodied in that memorial; and he would say this, in the face of the Assembly—in the face of Scotland, and of the whole Christian world—and he said this, not because his feeble voice was uttering these words, but because, in adopting the memorial, they would utter the voice of the Church of Scotland, and long after all within these walls had no abiding place on earth, it would be cherished and regarded as a testimony and witness for His kingdom and crown, who was not only King of nations, but King of saints. The reverend Doctor concluded by supporting the motion of Dr Chalmers.

The call for the vote now became general on both sides of the house, and Dr Bryce, Mr Gray of Perth, Mr Thomson of Dundee, and Professor Alexander, attempted in vain to speak. Mr Thompson persisted till he obtained a hearing, when he appealed to the justice of the house to hear Dr Bryce.

Dr BRYCE said, that looking to the present position of the church, he had just to consider whether the motion that had first been laid upon the table, or the last, was most fitted for getting them out of their present unfortunate position; and if he adverted for a very little to the overture, and confined himself almost entirely to the motion of his reverend friend (Dr Cook) he would not be considered as shrinking from the statements in that overture, or afraid to encounter the arguments by which it was supported. He thought that the only post of safety for the church to take in present circumstances, was that pointed out in the resolutions of Dr Cook, because he felt fully persuaded that the only source of the danger in which the church is at present involved, arose out of that enactment which his reverend friend called upon them to find to be illegal, and altogether to blot out of the statute-book. Till that was done, it was useless, and worse than useless, to lay on the table an overture containing a statement of general propositions, and general doctrines and principles, and call upon the legislature, on these grounds, to prevent such evils from recurring. He would just take this single ground in endeavouring to satisfy the house that the course pursued by the church was illegal, and, by consequence, that the course taken by the civil courts was every way legal and competent; for he held that the one was co-relative with the other, since, if the church acted wrong, it followed that the civil

courts had not stepped beyond their domain. He had maintained from the first that the church, on the contrary, had trespassed on the civil domain, and, in what it had done, had violated the statute law of the land, of which the Confession of Faith formed a part. He maintained that the church was still pursuing a course inconsistent with what was there laid down; and, on the other hand, he maintained that the conduct and course pursued by the Court of Session were what that statute imposed upon it. He found in that statute, namely, in the Confession of Faith, that it was the province of the civil magistrate to take order that all abuses in doctrine and discipline be remedied. He repeated that this right of the civil magistrate to interfere in the church for the redress of abuses, was distinctly laid down by a statutory duty in the Confession of Faith; and he asked how the judicial authority thus delegated to the civil magistrate in his official capacity was to be exercised, unless he came to the knowledge of the abuses which it was his duty to correct, by having a complaint against the grievances formally laid before him? Now complaints of this kind had been made to the civil magistrate, and what did the church do in these circumstances? Why, it punished the parties complaining for doing the very thing which the Confession of Faith empowered and entitled them to do; and when the Court of Session reviewed that complaint, what course did they pursue? Why, just a course which was one of the most common in the whole judicial procedure of that court. They granted an interdict, and it was at that stage where the matter still rested. They did not settle the question of jurisdiction, nor any other question. So far from that, they might perhaps still find the interdict unnecessary, or possibly they might find the deposition of the seven ministers of Strathbogie, passed by the Assembly a year ago, to be every way legal and competent,—a decision which would be a serious matter for these men, and for more than these men. Without meaning, in the slightest degree, to introduce anything into the debate, which the reverend gentleman who spoke last characterised as having been conducted in a Christian spirit,—without wishing to disturb that spirit, he must say that he could not but regard the breach of an interdict as a violation of the law of the land. The Rev. Doctor proceeded to argue that the very fact of the magistrate's power in spiritual things being embodied in a civil statute, entitled the Court of Session to interpret the clause to which he had referred in the Confession of Faith. Who else was to judge of the power of the civil magistrate, as thus ordained in a civil statute? He next remarked, that it was seldom he had occasion to differ with his friend Mr Robertson, but he could not on the present occasion go along with him in making an exception in regard to one of the interdicts in the Strathbogie case. He held that the law of the land had imposed upon the established ministers of the church certain duties to perform; and having imposed these statutory duties, it will and must give protection to every minister of the establishment in the discharge of these duties. When their province was invaded by any party in the church, the civil courts were entitled to step in for their protection; and it was here he differed from his friend Mr Robertson. The interdicts which had been granted, were granted in virtue of the statutory bonds to which he had referred. They could not have been granted against independents, or any other class of dissenters, who might go where they pleased, and preach how they pleased, and set up their tabernacles, or put up their timber churches wherever they chose; but in the case of ministers of the established church, the civil courts would protect one party from the illegal interference of another. He concluded by recommending Dr Cook's resolutions, by adopting which the house would remove the only obstacle to the restoration of the peace of the church.

Mr GRAY of Perth (who rose amidst loud cries of "vote" from the right side of the house) commenced by observing, that when Dr Bryce traced all the powers of the civil courts, all the interdicts issued by the Court of Session, and all the proceedings of the rebellious brethren, to the Confession of Faith, the Rev. Doctor neglected to apply the whole doctrine of the Confession as he went along. According to that part of the Confession of Faith in which the Rev. Doctor had found the right of the civil courts to interfere in spiritual matters, he ought to have mentioned that the rule by which the Court of Session should have issued its multitude of interdicts, must be the word of God. And Dr Bryce should have told them whether

the Court of Session had decided according to the word of God, when these questions were before them. However, Dr Bryce did not tell them that, because he would have required to mention, that the rule according to which the Court of Session proceeded, was not the word of God, but the famous, or rather the infamous act of queen Anne. The Rev. Doctor also took for granted, that the civil magistrate mentioned in the Confession of Faith is the Court of Session. He forgot, too, to tell them that in the chapter of the Confession from which he quoted, the civil magistrate is permitted to call synods, and to be present in them, and to have certain powers in reference to their proceedings. The Rev. Doctor's argument, therefore, must go to the extent of admitting the Court of Session's right to be present in its official capacity in the General Assembly. He (Mr Gray) apprehended, therefore, that it was not by any means so clear as the Rev. Doctor imagined, that the civil magistrate mentioned in the Confession of Faith is to be understood to mean the Court of Session. This confusion of ideas on the subject of the power of the civil magistrate did not seem peculiar to the Rev. Doctor. They had seen some strange things in the newspapers lately on this subject; something about a country laird,—he forgot his name, and the name of his farm,—but he was a country laird, and a justice of the peace; and he took it into his head that he must be the person mentioned in the Confession of Faith, who had power to call synods, and be present at them. Now, it was needless here to enter upon any exposition of the views held by the church upon the subject of the powers of the civil magistrate as defined in the Confession of Faith. The civil magistrate is to do all that is competent for him to do, as a civil magistrate, in order to promote the peace and unity of the church, and to promote orthodoxy of doctrine, and correctness of discipline in the church. But the question remains, what is the competency of the civil magistrate in spiritual matters? And it was necessary to refer to other parts of the Confession in order to find out that. They would there find a distinction laid down, which Dr Bryce had overlooked; the distinction betwixt *circa sacra* and *in sacris*,—betwixt allowing the civil magistrate to interfere in matters *about* the church, and to interfere in matters *within* the church. The former was permitted to the civil magistrate, but the latter was disallowed. The Confession does not give the civil magistrate the power of the keys. But the Court of Session had been assuming the power of the keys, and going beyond their own province. They had assumed the power of the keys, which were expressly reserved by the Confession, on the authority of the word of God, to the office-bearers of the Lord Jesus Christ. Mr Robertson had admitted, and he thanked him for the admission, that in the case of the general Strathbogie interdict, the civil magistrate had assumed the power of the keys. Of course, he (Mr G.) was not quoting Mr Robertson's words; he was merely putting his own construction on the words, and he thought he was right. Mr Robertson, in his view, admitted that the general interdict was an encroachment on the jurisdiction of the church, concerning the preaching of the gospel, and the administration of sacraments. And it was surely not going too far to presume that this was admitting that the civil magistrate had assumed to himself the power of the keys. At all events, that was his (Mr Gray's) view, and he was glad of the admission made by his friend on that particular point. He only regretted that when Mr Robertson was stating his views on the general Strathbogie interdict, he did not favour the house with his opinion on the other interdicts granted by the civil court,—of those interdicts which prohibited them from proceeding against a man who had been guilty of theft, or from exercising discipline upon a licentiate of our church, who was accused of drunkenness, profane swearing, and other vices. Whatever distinction his reverend friend's acute mind might discover between them, he (Mr Gray) could find none betwixt invading their jurisdiction, either as regarded the exercise of discipline, or the permitting or prohibiting of the preaching of the gospel. The reverend gentleman concluded by remarking that they had prepared themselves for whatever might befall them if their constitutional principles were not approved of and secured by those who have the power.

The vote was then taken, and the result was as follows:—For the first motion, Dr Chalmers', 211; for the second motion, Dr Cook's, 110; majority for the first motion, 131.

On the announcement of the vote, it called protracted and enthusiastic cheering from the galleries.

The house adjourned at about half-past two on Wednesday morning.

### WEDNESDAY, May 25th.

The General Assembly met at eleven o'clock, and was constituted by reading Jeremiah, chap. xxxi. and singing Psalm lxxii. 1, 2, 3, & 4. The General Assembly then heard the report of the committee on Church Extension, which was read by Mr Cochrane. It stated that the funds of the committee have considerably decreased within the last year, a circumstance which may be traced to the divisions in the church, and which is greatly to be lamented, as it cramps in no small degree the whole efforts of the committee, and hinders the alleviation of the great spiritual destitution that exists in many parts of our land.

Principal HALDANE moved the adoption of the report, and the thanks of the house to the two conveners of the committee, Drs Simpson and Buchanan.

WILLIAM BROWN, Esq. of Kilmardinny seconded the motion, and Dr Gordon, Moderator *pro tempore*, tendered the thanks of the house to the conveners?

#### EMPLOYMENT OF PROBATIONERS.

Dr CLASON gave in a report from the committee on the employment of probationers. The funds of this committee are in a flourishing state—already amounting to L.420. The society had two objects in view—first, the assistance of weak congregations—that is, those who were not able to support their own ministers; and second, the employment of probationers in destitute parts of the country. Various sums have been given to supply the spiritual destitution in different parts of the country, and the exertions of the committee have met with great success.

Dr BROWN moved the thanks of the house to Dr Clason for his exertions in the Christian cause in which he had been engaged.

Mr PAULL of Tullynessle seconded the motion; and the Moderator returned the thanks of the house to Dr Clason, and paid a high compliment to him upon the success of his exertions.

Dr CANDLISH moved that a committee be appointed to report to a future diet of the Assembly about the best means of uniting these schemes into one great home mission.

#### CASE FROM LINLITHGOW.

This was a case of reference to the Assembly for advice. The facts are simply these:—Linlithgow is a very populous and extensive parish. A number of the parishioners, anxious to obtain the services of an additional ordained clergyman, entered into subscriptions themselves, and raised subscriptions from others, in order to build a new church. About L.280 were raised within a very short period, and the committee of management having learned that the people were in favour of the Rev. Mr Edgar, offered to subscribe a bond of L.80 salary, and to proceed with the new church with all convenient speed. In these circumstances, the committee petitioned the presbytery to ordain Mr Edgar as missionary in the parish—two of the heritors who subscribed the bond and the petition having themselves guaranteed a part of the stipend.

Dr CANDLISH was glad to find that the presbytery was unanimous as to the propriety of ordaining the missionary, and under all the circumstances he held that the Assembly should instruct the presbytery to proceed with the missionary's ordination, and allocate him a parish *quoad spiritualia*, and proceed accordingly.

Principal DEWAR seconded the motion.

In answer to a question from Dr Makellar,

Mr IRVINE said, the people were quite unanimous in favour of Mr Edgar.

The motion was then unanimously agreed to.

#### KILMARNOCK CASE.

This was a case in which several appeals had been taken against a sentence of the Synod of Glasgow and Ayr, relative to the presentation of the Rev. J. G. Smith of Fintry to the second charge of the parish of Kilmarnock.

Mr COOK, advocate, appeared for the Duke of Portland, patron, the presentee, and also the minority of the presbytery of Irvine; Mr Crawford, advocate, for the objecting parishioners; Mr Dickie of Dunlop for the Presbytery of Irvine; and Mr Moncrieff of Kilbride for the Synod.

Dr CANDLISH would suggest brevity to the counsel, from the number and importance of the cases before the Assembly.

Mr COOK stated the case. On the 30th of September last, a presentation in favour of Mr Smith was laid on the table of the Presbytery of Irvine, and sustained. A roll of communicants was ordered to be made up, and on the 15th October it was laid on the table and adjusted. On the 4th November the call was moderated in, and numerous signed. The roll contained 419 male heads of families, of whom 164 dissented; leaving a majority of 91 in Mr Smith's favour. After the dissents had been tendered, special objections were given in by certain parties. These were, 1st, That Mr Smith's views of divine truth were superficial and inadequate; 2d, That he had preached in the pulpit of a suspended minister in Strathbogie, which had excited a feeling against him; and, 3d, That his settlement in Kilmarnock, from the feeling of the people, would be injurious to the congregation and the church at large. The presbytery, at a meeting on 11th November, entered into the consideration of the objections, when the objectors requested time to prove the second objection; but this was not admitted by the counsel for the presentee. The presbytery at that meeting resolved that it would not be for edification to translate Mr Smith to Kilmarnock. The patron and presentee having appealed to the synod, the synod resolved that the case be remitted to the Presbytery of Irvine to take proof of the objections. Against this sentence both parties appealed to the General Assembly. Mr Cook at some length went into his reasons against the sentence, both of the presbytery and synod, on the ground chiefly that a majority of the communicants was in his favour, and that the objections were untenable as special objections.

Mr CRAWFURD, for the objectors, said the call was only signed by 45, while the dissents were 164, and therefore the special objectors being 108, the presbytery had a right in this, a case of transportation, to exercise a sound discretion in the matter of Mr Smith's settlement. Mr Crawford went at considerable length in this view of the matter, and urged strongly on the Assembly, from the whole circumstances of the case, that it would not be for edification to translate Mr Smith to Kilmarnock. He held his preaching in the pulpit of a deposed minister to be a powerful objection, not only to Mr Smith's settlement, but as affecting in a very high degree his usefulness in the present state of opinion on this subject in the church, and particularly in the parish of Kilmarnock. He submitted that on this objection alone the General Assembly ought to affirm the sentence of the Presbytery of Irvine.

Mr DUNLOP said the case was now so fully before the house, that it was not necessary, he thought, to hear the other parties.

Mr DICKIE declined entering into the case, after the able exposition of it by Mr Crawford.

Mr MONCRIEFF said, as the sentence of the synod had been appealed from by both parties, it was necessary to say, that the synod held the course they had taken to be the correct one, and that which they still think the General Assembly ought to follow. The synod found that the objectors had got no opportunity to prove their objections, while it was right and proper they should have had such an opportunity. The objectors alleged that Mr Smith's views of divine truth were, so far as they could judge, superficial and inadequate for such a charge as that of Kilmarnock; and it would be great injustice to the people of Kilmarnock to deprive them of the opportunity of proving their objection. Parties were removed.

Mr CUNNINGHAM said that this case, not being that of a mere probationer, but one of translation, did not require the consideration of the special objections. It was contended by the learned counsel that it was not a case of translation. It was true that it was not fully before them as a case of translation, and therefore, it was incompetent for them to find that the settlement ought to take place. But it was a case of translation thus far, that they were in circumstances in which it was competent, if they thought right, to decide that it should not take place. The sentence of

the Presbytery of Irvine was a competent one; for they could not appoint commissioners to the Presbytery of Dumbarton without having taken into consideration all the circumstances of the case, and made up their mind to the effect that the translation, so far as Kilmarnock was concerned, was expedient. There were also sufficient materials before the Assembly for the further conclusion, that the sentence of the Presbytery of Irvine was well founded—based on the real facts of the case, and a right consideration of the circumstances. Nearly one-half of the whole heads of families in full communion with the church dissented openly from the settlement; and they gave in certain reasons as the ground of their objection. That was at least a very serious and important element in every case of translation. There was nothing in the reasons on which they professedly based their dissent, that should diminish their sense of the weight of it. And it was the law of the church, that in such a case of translation, the church courts are entitled to exercise a very large share of discretion. The general spirit of the law is, that translations were rather to be regarded with suspicion; and parties seeking a translation were bound to make out that it tended to the *magis bonum ecclesie*. That being the general principle, he felt warranted by the circumstances to conclude that it was not for the good of the church that Mr Smith should be settled as minister of the second charge of Kilmarnock. The ground was as follows: Mr Smith was living happily and usefully at Fintry; and when presented to a charge in a large and populous town, a large measure of opposition was manifested to the settlement, such as must in its nature throw very serious obstacles in the way of his usefulness. More weight was to be given to this opposition than in ordinary circumstances; for of late years many influences had been at work tending to discourage the male heads of families from dissenting. Besides, it was not a mere naked dissent without reasons. He did not found upon these reasons; he did not consider them as strictly special objections, according to the veto law; they embody only a statement of the views of the dissenters: and therefore he used them only as one of the elements which helped him to form a right judgment on the case. He could conceive reasons of dissent to be founded on such temporary or mistaken grounds as would detract from their weight. But the reasons in this case contained nothing that led him to entertain an unfavourable impression of the views, motives, and character of the dissentients—nothing that would in the least detract from the weight of the fact of their opposition. Without meaning to adopt them, or give judgment upon their validity, and still less upon their truth in regard to the presentee, he thought that the dissentients had really and deliberately contemplated the question set before them, and that their views and feelings had been running in a channel, and towards an end, which afforded favourable views of their character. They confirmed his impression, that as temperate men, they had been carefully considering whether it would be for the interests of religion that Mr Smith should become one of the ministers of Kilmarnock. He saw no ground for remitting to the presbytery to consider those objections. He therefore moved, that the Assembly sustain the dissents and complaints, reverse the judgment of the synod, affirm the sentence of the Presbytery of Irvine, find that it would not be for edification that Mr Smith should be settled in Kilmarnock, nor any further steps taken in his translation.

Dr Cook could not see, in the arguments of the reverend gentleman, any grounds for agreeing to the position assumed by him, and finding that the reverend presentee should not be inducted. What was the veto law? It gave to the people the power of dissenting; but in this case the presentee was not vetoed according to the veto law. And would it be said that, after going through this ordeal, he is to be tried a second time, on the score of special objections, which even the reverend gentleman (Mr Cunningham) has stated, are not to be founded on in disposing of the case before the Assembly. He says the people have expressed an unwillingness to receive the presentee, and has founded upon the large proportion of persons in the congregation who have dissented; but if the man was not condemned by the veto law, and since there are no valid special objections against him, he conceived that he should be inducted. It was certainly not a matter of surprise, that in a population of 14,000, there should be some persons dissenting to the settlement of a presentee; and he believed there were

few cases of induction of any presentee, in which the same objections might not apply,—viz. that he had been dissented from by some of the parishioners. For this very reason, power had been given to the church courts to shield presentees from these unnecessary objections. But there was another argument used by the reverend gentleman on the opposite side. He said that the man was useful in his own parish, was much beloved, and was doing good, and therefore should not be translated. But did not this afford a strong presumption that if they put him into another situation, the same results which had gained him the favour and endearment of his own people, would also gain him the favour of those who are now said to dissent against him. If this were agreed to, it would countenance the proposition that, in every case of a zealous and faithful minister, the door of promotion was shut against him. Now, it was the general and approved rule in all other cases, that in appointing persons to the discharge of the most important and difficult part of the work, they selected for it the man who had discharged the less difficult part of the work in the most efficient manner. In reference to the suspicions alleged against the presentee, the learned gentleman stated that they would not stand for a moment before a jury of the civil court, and how much more should they guard against adopting them as an ecclesiastical judicatory. He should like every judgment of the Assembly should go forth so strongly marked by justice, that all men would say, These are judges who well merit the trust which has been reposed in them. Should they act contrary to justice, however, they would soon be regarded as a court not to be trusted; and if this opinion were once formed, it would be attended by a diminution of that influence, through which, under God, they had hitherto moved the minds of men to receive the truths of religion. He begged to propose that the Assembly should sustain the dissent and complaint, reverse the finding of the Synod of Glasgow and Ayr, and remit to the Presbytery of Irvine, with instructions to proceed with the induction of Mr Smith according to the rules of the church.

Mr PAULI of Tullynessle seconded the motion of Dr Cook.

Mr A. DUNLOP said, that they seemed to be all agreed that the sentence of the Synod of Glasgow and Ayr was altogether indefensible. The question then resolved itself into this, whether the sentence of the presbytery ought to be affirmed. He could not agree with the motion that had been made by the Rev. Doctor, and had no doubt at all in concurring with Mr Cunningham, that the sentence of the presbytery ought to be affirmed, and he should therefore second the motion to that effect. He could not agree at all that the veto act was intended to supersede the special objections of the people, whenever they thought proper to bring them against a presentee. That was the standing law of the church, and to set it aside would not only deprive the people of their right, but the presbytery of their discretionary power, in reviewing the whole circumstances of a case, to take into consideration such special objections as might in their judgment render a presentee unsuitable for the parish to which he has been presented. After referring to the large proportion of the congregation opposed to the settlement of Mr Smith, while only forty-five individuals had come forward to sign the call in his favour, he proceeded to say, that in the matter of translation, he quite agreed with Mr Cunningham in thinking, there is a free discretionary power in the church to settle whether a presentee should be translated or not. Reasons required to be shown before the church courts, ere they could be called upon to translate a minister from one parish to another. This was the law of the church; and an act of parliament, of 1719, was passed for the express purpose of checking translations; and that act provided, that if the patron present a person whom the people will not accept, and the presentee be the minister of another charge, the *jus devolutum* shall take effect, as if no presentation had issued at all; and when a patron presents a placed minister, and the man is not settled, his right of presentation falls; and the reason is, the uncertainty whether an individual already in a charge will accept of a presentation, or be allowed to do so. He could not do so until he received the sanction of the church courts; and he (Mr Dunlop) thought it wrong in the presentee to accept of a presentation, and in the presbytery to sustain it, till the call was concurred in by the congregation to whom he is presented. He held that the practice of accepting of presentations in these circumstances, was irregular, because the consent of

the church courts was necessary to the acceptance. He next referred to the respective powers of the presbytery loosing, and the presbytery admitting, a presentee, and cited the case of Mr Mercer, who, on being presented to Currie, was objected to by the people, on the ground of his having opposed the originators of the secession; and the objection was sustained, and the translation refused, not by the presbytery which Mr Mercer was leaving, but by the Presbytery of Edinburgh, into which he was presented. Acting on the same same grounds, he (Mr Dunlop) could have no hesitation at all in refusing to translate Mr Smith, being satisfied, from the statements that had been made, that the settlement would not be of advantage to the religious interests of Kilmarnock, and the peace and edification of the parish.

The state of the vote was then declared to be, first and second motion, when the first was carried by 152 to 78; majority 74. The Assembly adjourned at half-past five till seven o'clock.

### EVENING SEDERUNT.

The Assembly met at seven o'clock, and proceeded to hear the deputation of the presbyterian synod of England.

The Rev. Mr MACNAUGHTAN of Paisley reported, as one of the commissioners appointed to attend the presbyterian synod of England, that the deputation had been present at the meeting of that body in April last, and were highly gratified with the many instances exhibited to them of the prosperity of the presbyterian churches in England. The deputation were received with that courtesy which could not but be regarded by them as a mark of the affection and esteem entertained by their English brethren towards the Church of Scotland. It was gratifying to them to witness the increase of the presbyterian church in England, and they had no hesitation in saying that under the blessing of God and the zeal and perseverance of the ministers of that church, there was a prospect that the principles of truth embodied in our standards, would ere long have a deeper interest, and occupy a larger space in the English mind. After one or two farther remarks, Mr Macnaughtan introduced a deputation from the English presbyterian synod to the Assembly.

Rev. Mr CAMPBELL of Manchester, said,—Moderator, I regret, not less for the sake of this very venerable Assembly than for my own, that the unexpected absence of my reverend father, our moderator, has imposed upon me a duty he would have so much more efficiently discharged. At the same time, however, it is with much pleasure, although with much trepidation, that I find myself for the first time addressing the General Assembly of the Church of Scotland. There are many reasons why I should feel delighted to appear in this venerable court; and, certainly, not the least of them is, that now a closer union subsists between the two churches than existed for near two hundred years. Another reason that delights me is, that the union between us is based upon the principles which I advocated ever since I went to England, viz. a perfect independence and equality between the two churches. O he must be ignorant of history, or devoid of imagination, of heart, and of piety, whose feelings do not kindle when he knows that he belongs to the church of the Ambroses, the Ashes, and the Arrowsmiths; of the Bates, the Baxters, and the Burroughs; of the Cartwrights, the Calamys, and the Carryls; of the Gales, the Gouses, and the Godwins; of the Humphreys, the Howes, and the Henrys; of the Marshalls, the Mantons, the Flavels, the Newcomes, the Heywoods, and the Heyricks, with the whole of the puritan divines besides—men, in their day, the brightest stars in the galaxy of literature, and among the noblest that ever ministered in the temple of God; men who though dead yet speak, in those ponderous folios, not more massy in form than in substance, from which succeeding generations have drawn the grace, the fervour, and the unction of their theology. And although circumstances, to which I need not further allude, have laid the temples in which our fathers worshipped in partial ruins, and though that place of renown which they watered with their blood, has suffered the blighting of a winter of nearly two hundred years, yet our trust is in God that he will not always leave our beautiful house in ruins, and that a spring season of grace will yet arrive to revive and cause to flourish amongst us his own fertile vine. And,



indeed, Moderator, we have already had indications, not to be mistaken, that God has not forgotten the prayers of our puritan fathers, nor are we altogether living upon the fame of our ancestors, or idly dreaming as to the future. We are, on the contrary, aiming to do all that is in our power to realise our expectations. At our late meeting of synod, various measures were originated, and some of them also consummated, for this purpose. We received into union with us, two whole presbyteries, possessing the same creed, polity, ritual, and orders with ourselves; and now all the presbyteries in England, who hold and love the principles of our puritan fathers, stand united in a holy bond of brotherhood, prepared, in the strength of God, to fight valiantly for the truth, and disseminate our presbyterian polity, and our Calvinistic creed, or rather our scriptural theology, and our apostolic form, throughout the length and the breadth of the land. Having thus been united among ourselves, we have begun, as will ever happen in a united loving orthodox body, to look around for other similar bodies with whom to enter into union; and it happened, most providentially, that while we were thus disposed, there was a most highly respectable body, consisting of five hundred congregations, professing our own faith, and maintaining almost all our distinctive forms, who were at the same time with brotherly feelings looking towards us. Some private communications had taken place between individual members of both communions, in which the strongest desire was evinced for a closer fellowship, if not for a *bona fide* union. In order to avail ourselves at once of this favourable conjunction, we appointed a deputation to attend the next annual conference of the body to which I have alluded, to explain our principles, to ascertain theirs, and to do every thing, in short, that in them lies, to promote a union from which so very much of good must result to both parties. The project, as you perceive, Moderator, is quite in its infancy, and therefore it would be improper in me to dwell upon it at greater length. I may, however, take this opportunity of saying, that the sectarian, unchurching, anathematizing spirit manifested by a certain too-well-known party in England, is doing much to compel others to look around for the best position in which to meet them. And I do verily believe that the conviction is daily gaining ground, that we occupy the very position in which the battles of the reformation must again be fought. In regard to myself, Moderator, I must say, that whatever be my hopes or my fears on other matters, there never crosses my mind the shadow of a doubt that presbyterianism is destined, in the good providence of God, to be the bulwark of salvation for England, against the invasion of popery from without, and the defection and mutiny of Puseyising traitors from within. And, Sir, if a contest must arise, why then let it come. God defend the right, and I have no fear for the issue. I should certainly prefer, if permitted, to live at peace with all men. But I will not purchase peace at the expense of truth. I will not, and I cannot, live at peace with men who anathematize my church, calumniate my fathers, deny my own ministry, excommunicate my flock, and make an ignorant, an immoral, or a heretical priestling, as the case may be, the arbiter of salvation. We have already lived so long in peace, that some may fear we have almost forgotten the use of our weapons. And just as happens, when you view our wooden walls laid up in ordinary, and our brave defenders engaged in mere holiday excursions, a fear is apt to creep over one, that in the day of danger they may be found awaiting. But, as in the one case, I have no suspicion that, should the occasion demand it, "the meteor flag of England will yet terrific burn," and the sons rival their sires, "who for a thousand years have braved the battle and the breeze;" I have just as little suspicion in the other, that should we require again to unfurl the blue banner of the covenant, there shall speedily rally around it hearts as brave and arms as stalwart as of yore, to maintain the rights and the prerogatives of the Prince of Peace. There is another subject which occupied our attention at our late meeting of Synod, which I am anxious to mention, because I am certain it would afford not only you, but the Church of Scotland at large, very sincere pleasure, and that is the institution of a college for the education of our own ministers. I need not occupy the time of this house by showing the importance, indeed necessity, of our possessing, as an independent branch of the church of Christ, all the institutions essential to the welfare of a church. Our anxious desire is to become a native English church in ministry and membership. This, however, we never can become so long as we

continue dependent upon Scotland for the supply of our ministers; nor, for manifold reasons which must strike every one, can we ever expect to prosper until we cease to occupy our present anomalous position of a Scotch church in England, and become in name and in reality a *bona fide* English church. Actuated by these considerations, we have appointed a committee to collect all the information they can for our future guidance. As soon as we have fairly determined to commence the undertaking, we shall take the liberty of sending down a deputation to request our kind Scottish friends to aid us. There is one class of gentlemen among you from whom we are certain of very handsome subscriptions. I mean those members of the Church of Scotland who have contributed to the funds of the prelatie college of Perth. I see by the papers, that Dr Terrot, prelate in this city, has been informing his English friends, that some decided presbyterians were subscribing to the Perth prelatie seminary. I wish the Doctor would publish his subscription lists, as we really should feel inclined to insist that these very liberal gentlemen should double their subscriptions for us. Besides, it would be but fair, that as "decided presbyterians," (that is the Doctor's phrase) have subscribed for the prelatie institution, decided prelatists should subscribe for ours. We shall certainly give them an opportunity; and as reciprocity is the order of the day, or, as you call it in Scotland, "giff gaff," I have no doubt we shall return south with heavy purses and light hearts, for I feel that the weight of men's purses and hearts are commonly in the inverse ratio of one another. But whether we receive aid from Scotland or not, we are so convinced of the importance of having the means of educating our own ministry, that through the grace of God we are resolved to make the attempt. In connection with this subject, there is another I am anxious to press upon the notice of this house. Indeed, I have been commissioned to do so, and that is to intreat of the ministers and elders of the Church of Scotland, that they would train their young more especially in the principles of their own church. Your young men come up to us most wofully ignorant of presbyterian principles,—incapable, in fact, of assigning any reason more valid for their being presbyterians at all, than that they were born within the geographical limits of Scotland. In former times such ignorance might not tell so disastrously against their stability in the faith of their fathers. But from circumstances with which you are all familiar, no man can expect to remain long in England at the present day, without having his principles on church polity asked. I speak from personal knowledge when I say, that the most persevering, and not always the most honourable, attempts are made to proselytise the members of the Church of Scotland in England to other communions; and it is with sincere grief I must add, that owing to the grievous ignorance in which they have been suffered to grow up, such attempts are but too often successful. I do not wish to assume the liberty even of suggesting what I should consider the best means of remedying this evil. I must confess, however, that while I have read with great pleasure, and, I trust, profit, some of those series of lectures which have been delivered in your large towns upon voluntaryism, popery, and some other subjects, I have looked in vain for a course of lectures upon presbyterianism. I own this has surprised me. As I have not been in Scotland for some years, I am also ignorant whether you have introduced into your Sabbath schools and young men's classes an admirable little catechism on presbyterianism, written principally by some of our Irish friends, and which a well-known Scotchman and devoted presbyterian in Manchester—I mean Robert Barbour, Esq.—has, with his usual munificence and patriotism, not only published at a very cheap price, but distributed gratuitously in thousands throughout England and Scotland, and the colonial churches. There is just one suggestion, or rather request, which our Synod has made upon the matters at present before me, and that is, that you would give all your young men who go up to England, not only certificates of character and of membership, but also letters of introduction to our ministers in the towns to which these young men may go. I am certain, if fathers and mothers were to know the temptations to which their sons will be exposed when they visit our large towns, they could not rest in peace until they had placed them under the guardianship of some pastor or Christian friend. We feel intense anxiety upon this subject, and in order as much as in our power to remedy the evil, we have written a circular to every minister in Scotland, requesting them

to aid us. May I implore my brethren to act upon our suggestions, and thus prevent the ruin of many a promising youth, not only in his temporal prospects, but even in his eternal hopes. There is just one other subject with which I have been entrusted, and which in one word I beg leave to submit to this court. Our hearts have bled for the present condition of the Church of Scotland, and long, anxiously, and prayerfully have we considered what it was our duty to do in order to aid you. We have not yet the political weight possessed by our warm-hearted and enthusiastic friends across the channel; but we yield not even to them in our love to the Church of Scotland, and in our desire to manifest our love in the most effective form. At our late meeting of Synod, we deliberated as to what we ought to do. Some thought, that petitions to parliament in favour of what you call non-intrusion and spiritual independence would be the most efficacious method we could adopt to aid you; the great majority of us, however, took a different view of the matter, and thought that there seemed no rational ground of hope for a satisfactory adjustment of the conflicting elements so fiercely at war in this kingdom, but by the church at once and firmly moving forward to the ground occupied by your martyred fathers,—I mean the ground of anti-patronage. I need not tell this house, that on coming to this conclusion, we were not and cannot be supposed to have been actuated by factious or party motives; we altogether disclaim such unworthy influences. Nothing but the sincerest love to the Church of Scotland led us to pass those resolutions, which, according to the appointment of our Synod, I now beg leave to lay upon your table. Of one thing, before I sit down, I beg leave to apprise you, that whatever God in his providence may have destined to be the result of this struggle, so far as one man can answer for his brethren, you will ever meet, in the English presbyterian church, with sympathy in your sufferings, support in your difficulties, counsel in your perplexities, and triumph in your victory. And this I say, not as a party man, or in a party spirit, but as standing at the bar of your venerable Assembly, and owning you all as brethren in the Lord.

The Rev. ROBERT WALLACE, Birmingham.—I feel that the cause, of which I am an unworthy representative, is one claiming and deserving of the attention and sympathy of this venerable Court. It is intimately connected with the best, the eternal interests, of thousands—your sons, your daughters, and your parishioners, who have gone out from amongst you; it is a cause in whose principles, for they are your own, you can exercise the fullest confidence; and with regard to which your hope, just in proportion to the degree of your confidence in its scriptural principles, cannot fail to be, that it will be honoured as an instrument in advancing the glory of God, and spreading abroad the savour of the Redeemer's name. Independent of these general grounds, on which our Church in England claims, and, I cannot doubt, has the cordial sympathy of every member of this venerable Court, there are certain peculiarities in her position and circumstances, in virtue whereof, she seems to me at present an object specially deserving the attention of this Court, and of all right-minded presbyterians. Ours is an infant cause. Presbyterianism in England is indeed no new thing: it is as old, at least, as the days of the covenant, and the days of the Westminster Assembly; but its growth has not been in proportion to its age. From the encroachments of a soul-destroying heresy, which, at one time, more or less affected all the churches of the reformation, its growth or advancement hath been long fatally impeded. And now, though centuries old, presbyterianism in England is still an infant cause, when the breadth of the country is considered, and the number of our churches, the harvest to be reaped, and the paucity of the labourers. But I am thankful to say, I would cherish a feeling of devout thankfulness to the great Head of the church, that though an infant, it is a reviving cause. It is certainly not manifesting the signs of dotage, but, for some years past, of youthful life and vigour. Our churches are being increased,—our congregations enlarged; presbyterian principle is becoming known and loved amongst us for its scriptural character and primitive simplicity; and a delightful spirit of catholicity, and love, and activity, seems to have been infused into our ecclesiastical courts. Nor is our cause a useless one in that particular land where Providence has cast our lot; on the contrary, we believe it a needed one,—needed by our coun-

trymen located in England; and not only so, but needed in England itself,—needed for the assertion and maintenance of high Christian principle, and the dissemination of the whole truth as it is in Jesus, in this day when Puseyism, a name interdicted in the town from which I come, but which I may be allowed to mention here, cometh in like a flood, and threatens to overspread the land. We feel that in being privileged, under God, to raise the standard of simple presbyterianism against its superstitious errors and practices, in England we are in a noble field; and we can only regret that we do the duties of it so poorly. Once more, ours is calculated to be a most influential cause,—influential for good to the church of Christ in general, and to the church of our fathers in particular. Only assist us in attaining the position in society we ought to occupy, in reclaiming the wanderers from our fold, and in setting our principles fairly and fully before a discriminating public, and, for charity, we shall have some measure of influence over the wealth of England, and, for wholesome and scriptural legislation, we shall not be without influence over the government of England. For these various reasons, I do think our church has a peculiar claim on the best countenance and sympathy of this venerable court. I rejoice that they have been extended to her. I rejoice in the way they have been extended to her. We feel honoured by the character in which you have been pleased to recognise us,—that of an independent church. We rejoice in the mutual intercourse now subsisting betwixt us. We believe it will issue in good,—in strengthening and invigorating the true presbyterian principles,—and, alongst with it, advancing the glory of God and the good of souls throughout the land,—and which we sincerely hope that nothing will ever occur to disturb or prevent,—“For behold how pleasant a thing it is for brethren”—those perfectly united in principle and in faith—“to dwell together in unity.” There are two important matters in which the mind of our Synod is deeply interested, and to each of which I will devote but a single sentence. First, there is the subject of border marriages. The manner in which the divine ordinance of marriage is desecrated on the Scottish border—the dishonour thereby shown to God, and the guilt and misery accruing to individuals—are matters which must be familiar to most of the members of this court. We beg your attention to this crying evil, and to unite with us, as your wisdom may dictate, in moving the legislature for the remedy of it. Next, I have to express to you the sympathy of our Synod with this church and nation on the grievous desecration of the Lord’s day, now witnessed amongst you in the running of railway trains on that day. Our eyes are indeed in a great measure familiarised with this sin; and we must acknowledge that familiarity with it has a natural tendency to make men forget its sinfulness. Blessed be God, we have been enabled to resist that influence; and, eye-witnesses, in some measure, of the sin and its train of evils, we are here to bear our testimony against it, and to animate you in your exertions. Such is the importance our Synod attaches to this matter, that, chiefly at the instigation of an honourable baronet, who, by his exertions in behalf of God’s day, hath won for himself a more honourable character than mere rank or title can confer,—I say, at his instigation our synod agreed to address a memorial on the subject to this venerable court, the first three short paragraphs of which I shall now, with your leave, read. [He here read the extract.] May I be allowed, in a single sentence, to express the sincere sympathy of the English Synod and English presbyterians with the church of their fathers, in her present tossed and troubled state. I feel that by the decisions come to in this Assembly last night and the preceding, the Church of Scotland now occupies a position in virtue of which she is an object of admiration rather than of sympathy; and were I to indulge my own feelings, I should rather speak in the language of congratulation on the sure ground you now occupy, than of sympathy on account of remaining difficulties. Of course I cannot now speak of the reception which the decisions referred to have met with in England, although I can imagine the joy and satisfaction with which they would be hailed. But this I can say, that in your difficulties and trials you have had our cordial and prayerful sympathy. We acknowledge that we have got a new love, even the presbyterian church in England, and that she has the first claim upon our interest and exertions; but still we have not forgotten our first love—the church of our principles, of our fathers, and of our native land. But I am sure that I express the fact when I say,

that tears of sympathy, yet not of despair, are often shed amongst us, when we remember Zion, her trials and her difficulties; that joy brightens many a countenance, and fills many a heart, when we hear of her labours and her witnessings; and that I only give utterance to the unanimous feeling of my fathers and brethren in the ministry and in the eldership, and of our people, when I say, "If I forget thee, O Jerusalem, let my right hand forget her cunning. If I do not remember thee, let my tongue cleave to the roof of my mouth; if I prefer not Jerusalem above my chief joy." The deputation having been heard,

Principal DEWAR rose.—He said that he had always been gratified to receive the communications of their brethren the deputation from England, and to hear their statements as to the progress of religion there, especially within the presbyterian church. He was gratified to receive them as brethren in the Lord; he rejoiced in their prosperity, and he prayed for their increasing confidence and growing success in the high works of the Lord. He rejoiced in the high position to which the presbyterian church of England had been called. He knew England well; he knew the need it had of able and devoted men to carry on the cause of Christ there; he knew the state of spiritual destitution in which many thousands there were placed; and he rejoiced to think that a presbyterian church was now going to enter that land, many parts of which had been long and sadly neglected. The reverend Principal then went on to suggest that their English presbyterian brethren should not longer continue to be what he called a mere appendix to the Church of Scotland, but that they should change their name and take up a position independent of the Church of Scotland, though still continuing in affectionate intercourse with her. This would give their church an Anglican character. It was not for him to say what the name ought to be, but he would suggest some such name as "the Church of England Reformed." After some farther remarks, the reverend Principal concluded by a warm and affectionate recommendation of their English brethren to the fatherly care of their heavenly Father.

Dr CANDLISH said,—Moderator, I have to propose a resolution acknowledging the high sense we entertain of the expressions of sympathy conveyed to us by our English brethren, and the deep interest they take in the affairs of this church; and also the high sense which we entertain of the value to both churches of this reciprocal intercourse. There are various topics on which I feel it would be interesting to enlarge; but I will content myself with briefly adverting to only a few of those. First of all, I warmly re-echo the sentiments of my reverend father who preceded me in regard to the extreme importance of the presbyterian church which our brethren represent, assuming out and out the character of an Anglican church, and not longer remaining a mere pendicle of the Church of Scotland. When a proposal for a more intimate connection between our brethren in England and the church at home, was made by me before the Assembly some years ago, there were many of our brethren in England who were hostile to this view. They seemed to have a hankering after a sort of fancied respectability, which they received from being considered a part and parcel of an established church; but I rejoice to think that the Assembly, while responding to the desire of fellowship between the church at home and our brethren in England, did not accede to that view of the footing on which it should be placed; for I apprehend that the respectability and usefulness of that body in England, instead of being increased, would have been compromised by their standing on the footing of a mere foreign pendicle of an established church. To me the other position is far more attractive and noble when they are unendowed and unestablished; but yet an independent presbyterian church, standing by themselves apart from all other churches, saving only in so far as, in the true catholic spirit, they cultivate brotherly love with all the churches throughout the world, who hold the head, even Christ. I do think the suggestions of Principal Dewar are eminently important for completing this arrangement. I think our brethren in England should drop the phrase, "in connection with the Church of Scotland." Not that they should cease to have that connection; I desire to have such a connection perpetuated; but that they should not hold themselves as in any other sense connected with the Church of Scotland, than do the presbyterian church of Ireland, the presbyterian church of

America, and all other presbyterian churches throughout the world. I am not sure that the precise name which my reverend father suggested, may be the one most suitable for our brethren to adopt. There is some kind of suspicion attaching to that kind of nomenclature at this moment, which it might be well for them to avoid. We hear of the reformed catholic church in Scotland,—a title I cannot but regard as somewhat anomalous. I demur to the name of the reformed church of England; but I see no objection to their adhering to their present name, dropping the term, “in connection with the Church of Scotland,” and calling themselves the Presbyterian Church of England, in the same way as our brethren in Ireland. I rejoice that our brethren in England are becoming more and more thoroughly imbued with the noble and elevating spirit which animated them of old; they had the field occupied before, and have now more than ever the incentive, as there is the necessity to occupy that platform, and assume that position again. I can refer to decisions of the courts of law which seem to point out the presbyterian church of England as the successors of the puritans of old. This property has been wrested from their hands by those who hold unsound doctrine, but now our brethren in England, the only organised body of protestant dissenters in that country, have the field before them, and are unfurling the standards of ancient puritanism in England. The times call for this; and there is little doubt, if we read the signs of the times aright, for events rush upon each other so quickly, that the occurrences of centuries are crowded into years,—there can be little doubt that, in God’s providence, their noble efforts will be attended with success. We have seen the spirit of Laud revived; but we see also the spirit of those men who met and confounded the popish tyranny of Laud, and laid it prostrate in the dust. Our brethren in England have a noble enterprise before them. They have it now in their power, with the blessing of God, to gather together the scattered fragments of presbyterianism and puritanism, and to raise once more the standard of presbyterian truth in England. And I believe that around the standard they thus raise, they will rally many who feel that they are paralysed by their dispersed and broken condition, and the want of an organised government, and that they are unable to meet with energy the inroads of the man of sin, whether directly, through the agency of his own proper church, or more indirectly, through the agency of traitors in the protestant church. Then there is the encouraging token of a contemplated union with the calvinistic methodists of Wales, which will strengthen them by the addition of five hundred congregations—congregations holding substantially the same doctrine with the Confession of Faith—which have been trained up in the admiration of the calvinistic doctrine—and a form of government substantially, I believe, equivalent to the presbyterian. Then look at the state of dissent in England—at the godly men among the independents, who are longing for a rallying point—many of them presbyterians at heart, and would rejoice in the opportunity of putting themselves in connexion with a presbyterian government—a system which places the office of the ministry in a state of perfect independency, in consistency with the spiritual privileges of the Christian people. In these circumstances, I doubt not that the blessing of God is in store for the presbyterian church in England. It is matter of satisfaction that our brethren in England are contemplating the establishment of a college for the training of their own youths. It is a sickly plant that is always deriving its growth and nourishment from the parent stem. I venture, in the name of this Assembly, to assure our brethren, that if they come down to Scotland to apply for aid and encouragement in this good work, whatever reception they may obtain from Puseyites, or from presbyterians in Scotland who subscribe to episcopal colleges, they will meet a cordial reception from the Assembly of this church. Let me give one suggestion to our English brethren on this point. Let them not postpone this good work, from aiming too soon at great things. I would suggest what has been in my mind for a year past, as to the best course in regard to this subject; and I take this opportunity of doing so, as I think such a suggestion should be put forth in the hearing of this Assembly. I would not aim at an entire college, which would require a large supply of funds, and probably incur the delay of years. By the adoption of a very simple machinery indeed, they have it in their power, with the expenditure of a small sum, not only to begin a collegiate system, but to do so with-

out a year's delay. Let them plant down in London a professor of theology chosen by themselves—one in whom they have the fullest confidence, to superintend as a religious master the studies of those coming forward to the ministry. As to the preliminary classes, let the student attend the University of London—much as we dislike the constitution of that university from the want of religious instruction within its walls. We may suppose that university or the King's College made use of. The want of religious superintendence and instruction which is chargeable on the London University they might supply by such an arrangement as has been proposed in the appointment of a professor of theology. In the London University or the King's College, they have a full preliminary curriculum formed to their hand. In making this proposal, I say not that they would not be better to have all these classes in a college of their own; but I entreat them to consider if such an attempt would not postpone this great object, when they might realize it with much less expenditure of means, and with far less delay of time. After some further remarks on this subject, and suggesting that probably two professors might be appointed, Dr Candlish proceeded to observe that such an institution would be of great value in drawing multitudes of students from all parts of England, who, being placed under the superintendence of a presbyterian professor, might be led to come out as ministers of the presbyterian church. Let our brethren in England get into their church English ministers, and they will be in a fair position for doing much service to the cause of the protestant church in England. I look chiefly to that agency for the resistance which must speedily be offered to the reign of the Man of Sin which he is setting up in this country, both within and without his own church. And in venturing to say that they should begin with such things, in training men for the ministry, I say they should avail themselves of machinery already prepared to their hands, even although it be conducted on principles of which they cannot altogether approve, but the deficiency of which they can in some measure supply, rather than wait till they establish this college of theirs. I have only to advert to two other points; and one of them is in regard to the complaints that have reached us from the sister church in England, as to the state of the marriage law on the borders. I believe this appeal will meet with a cordial response from our own ministers on the borders, many of whom feel the evil as much as the brethren in England. I have no doubt, from what we have heard, that this evil is the fruitful and fertile source of much degrading vice and misery; and I do hope, that means will be used by the legislature to remedy this grievous abuse. The other communication from our English brethren is in regard to the list of ministers of the Synod, and the proposal that no members of our church should leave Scotland without a special introduction to some one or other of the ministers of the English Synod. Sir, the amount of guilt which lies at the door of the Church of Scotland, for the loss of her sons who have gone from beyond her pale, without a friend, without a counsellor, without a guide, ready to become the prey of every seducer, and to fall into every temptation and snare,—the amount of guilt which the church has incurred by this neglect cannot be easily estimated; and it requires much humiliation to meet the exigency of such guilt as this. There must be some effective means devised and provided against this evil. None of our members must be allowed to leave Scotland—and especially no young man, about to be introduced to the snares and temptations of life, must be permitted to leave our parishes without a special and affectionate recommendation to some brother in the Lord, who may watch over him in regard to the interest of his immortal soul. This must be done if we are careful of their spiritual welfare, and if we would strengthen the hands of our brethren in England, and if we would not accumulate more guilt on our heads in this matter. Some of our English brethren labour in large towns, and can bear testimony to the danger of young men being introduced into the snares and follies of a large mercantile city without a guide,—without a friend to counsel them, and tell them how they may avoid these snares and temptations. I hope this will be remedied; and duly recognising the English presbyterian church as an allied church, that whenever one of our members crosses the border, he may be placed under the superintendence of some one or other of the ministers of the Synod in whom we have confidence, and to whom we can confidently commend his spiritual oversight. I will say nothing of the sympathy and the con-

gratulations expressed in regard to our present struggles; or of their testimony to the essential doctrine of the headship of the Lord Jesus Christ, in its practical application to the government of the church and the liberties of the Christian people,—implying an entire deliverance from the yoke of patronage. These things are calculated to encourage our hearts and strengthen our hands; and with such testimonies, multiplied in this Assembly from one and another, and from a third and a fourth church, bound to us by a common ancestry and a common faith,—we cannot but see more and more that, in our present contendings, and holding our present principles, we are set up as a spectacle to all the earth, and may, by God's providence, if we do not prove false to him and to ourselves, be the rallying point for piety and presbyterianism throughout all Christendom. Dr Candlish concluded by moving a resolution acknowledging the expressions of sympathy and interest conveyed to them by their English brethren, and the sense the Assembly entertain of the importance and advantage of such friendly intercourse as happily subsisted between them.

The MODERATOR, adverting to the deputation, said,—When you consider the vast amount of business still to come before the Assembly, I feel assured that you will not impute it to any improper cause, if I confine myself to a few words, in expressing the high satisfaction of the General Assembly in receiving the deputation. It is impossible that any church can be united to us by ties more intimate than the Presbyterial Synod of England; and while our hearts are affected in a deep degree by your expressions of kindness and good will towards us, and the great interest you manifest in the Church of Scotland, we can assure you that it is our anxious desire to make every possible return in our power, of counsel and good will. Remembering the warm and heartfelt delight I experienced twelve months ago, when the members of a deputation from this church, of which I was one, appeared before you in London, I cannot express to you the satisfaction which I individually have felt at seeing you day after day present in this place; and I now feel it to be a high honour and happiness to be the organ of conveying to you the sentiments of this Assembly. We consider your position as one of the utmost importance. We sympathize in your many difficulties; we rejoice to think that your prospects have brightened; and we are delighted to hear of your growing success, your zeal and fidelity, and the Christian discretion of your proceedings. By going on in the same faithful, zealous, and judicious course, we entertain the hope that you will not run in vain, neither labour in vain. We commit to you our brethren, our children, and our friends, who go forth from among us and settle among you. You have already heard the expression of our desires on that subject. We do not ask you to confine your labours to them, but, as you have opportunity, to preach the gospel to all men, not in a proselytising spirit, nor as entering into other men's labours. At the same time, we commit the cause of presbyterianism to your keeping in England, trusting that under all circumstances you will exhibit the value of presbyterian principles, showing that you can have a perfect system of ecclesiastical rule where all the brethren are equal—that the deepest feelings of piety may find expression in the simplest form of worship—and that the highest and most mysterious doctrines of our Confession, when professed in sincerity, are indissolubly connected with a humble, self-denying, and universal charity.

The Assembly then took up the

#### FALA CASE.

The parish of Fala having become vacant in October last, the town-council of Edinburgh, as patrons, presented the Rev. Mr Monro, then of George Watson's Hospital. It was publicly alleged, however, that he had previously entered into something like a compact with the patrons, pledging himself to the support of certain views, in return for the presentation. The Presbytery of Edinburgh upon this refused him a presbyterial certificate till they had made inquiry into the real circumstances of the case, and appointed a committee for that purpose, which immediately put itself into communication with Mr Monro, and obtained from him the letter which he sent to one of the patrons, and in which it was rumoured he pledged himself to the support of certain views. The committee then found that there was in



the letter something even more objectionable than a compact, viz., unsound doctrine relative to the power of the civil magistrate in things ecclesiastical. The letter was as follows:—

(Private.)

G. Watson's Hospital,  
11th Oct. 1841.

"DEAR SIR,—In consequence of a conversation I had with Mr Stewart on Saturday, I am desirous of having an opportunity of seeing you to-day in reference to Fala.

"Although I entertain decidedly what are called evangelical opinions as to doctrine and preaching, I am yet as decidedly opposed to the views of those who think that the Scriptures lay down any thing authoritative as to the election of ministers, and that lay patronage is anti-scriptural. I view the whole matter as to the choosing of pastors as one of Christian expediency, and consequently believe that, in different circumstances, different methods may be adopted.

"As to obedience to the law, I think my views must satisfy the most scrupulous. *I am clearly of opinion that it is the duty of ministers to obey implicitly and bona fide the laws as interpreted by the Court of Session and the House of Lords, in all things both civil and ecclesiastical, or if their consciences would be violated by so doing, immediately to resign their charges as pastors of the established church.*

"Such being my real sentiments, perhaps you will have the kindness to consider whether I am likely to meet with the support of the committee.

"I would not of course like to be proposed on Tuesday, unless I was pretty sure of being successful.

"Will you be kind enough to say verbally to the bearer at what hour between two and four I could have the pleasure of seeing you.

"With many thanks for your very great kindness, I am, in haste, yours very respectfully,  
"THOMAS MONRO."

The committee, upon fuding this the purport of the letter, offered Mr Monro the benefit of any explanation he might feel disposed to give, and, with the view of assisting him, put several questions fitted to draw out his real meaning. His answers and explanations, both then and subsequently, however, were not at all satisfactory to the committee, who, in the circumstances, recommended the presbytery to refuse granting the certificate in the mean time, and to refer the whole case to the synod, before whom it accordingly came. The synod, in turn, referred the case to the General Assembly.

Mr PENNEY, advocate, was heard at considerable length for Mr Monro, after which the house proceeded to deliberate on the subject.

Mr EADIE of Dunn said there were two reasons why it was desirable that the matter should be put an end to—the one was, that the individual concerned had already suffered sufficiently for his imprudent conduct, and the other was, that by longer delaying the presbyterial certificate, the parish of Fala, already too long without a pastor, would be still longer left unsupplied. He therefore moved, that the General Assembly approve of the careful superintendence of the Presbytery of Edinburgh over the probationers within their bounds, and in this particular case, instruct them to grant Mr Monro the necessary certificate. After a pause,

Dr CANDLISH rose.—The case which is now under the consideration of the Assembly is one of considerable difficulty and of delicacy; and in directing the attention of the house to it for a short time, I shall not attempt to follow the learned counsel through all the arguments he has adduced in the course of his pleading; but I shall simply endeavour to put the Assembly in possession of those difficulties which, as the origin and cause of it, presented themselves to the Presbytery of Edinburgh, and which seemed to them to require that the matter should be, as it now is, referred to the General Assembly; and these difficulties still stood in the way of their granting to Mr Monro the required presbyterial certificate. The Assembly will observe, that the question before the house by this reference is, whether the Presbytery of Edinburgh should *in hoc statu* grant the certificate to Mr Monro? What may be the bearing or effects of the deliverance which the General

Assembly may see it proper to give in answer to this question, it is not for us at present to discuss. Looking to the fact, that, as the case now stands, the Assembly could not grant the certificate, and to the probable decision of the Assembly, we cannot shut our eyes to the effects which must be produced, both as affecting the parish of Fala, and the presentee, Mr Monro. We all feel the difficulty of entering into the discussion of the ulterior questions on which the deliverance of the Assembly in this case may have an ultimate bearing. In the outset, then, I must say, that, in my own opinion, and I speak as the representative of the Presbytery of Edinburgh, and of the Synod of Lothian and Tweeddale, or at least a large majority of the members of these courts, that the original statement made by Mr Monro in his letter to Mr Dunbar, was obviously and undoubtedly a statement containing unsound doctrine—doctrine radically and essentially unsound. I will only read the passage in Mr Monro's letter, to which the charge of containing unsound doctrine applies. [Having read the third paragraph of the letter, Dr Candlish proceeded.] If there are any individuals in this Assembly who, after reading this passage as it stands in the letter, will say that they are ready to homologate it, I have no argument to urge with them,—if any of them say that they are ready to adopt it as their own, I have no argument for such individuals. But I fondly cherish the belief, that without some qualifications and explanations, there is not a member of this Assembly who will take it as it is, in the obvious meaning of the words which are there used, and say that it is either a wholesome or a harmless statement of doctrine. It involves doctrine utterly unsound as regards the government of the Church of Scotland. I will not pretend to say what was the intention of Mr Monro in writing the passage, or what the opinion was which he formed of its purport; I speak simply of the obvious and unequivocal meaning of the words which he has used. I admit that it is quite possible that a man may, in expressing his opinion—an opinion which he believes to be correct—inadvertently use words implying a doctrine which he does not at all intend to convey. I am quite satisfied of this, but it will not in any way alter the plain and obvious meaning of the words used. The words in Mr Monro's letter expressly contain an assertion of the jurisdiction of the civil magistrate in matters which are ecclesiastical. For if it be “the duty of ministers to obey implicitly and *bona fide*, the laws, as interpreted by the Court of Session, in all things, both civil and ecclesiastical,” it is of necessity certain—limited to what extent soever it may be—it is certain that there must be a jurisdiction of the Court of Session and of the House of Lords in ecclesiastical matters. It is no matter, in regard to the real meaning of the statement ascribing that jurisdiction to the civil courts, and which made it the duty of the minister to obey these courts—it is no matter whether it be assumed that the ascribed jurisdiction arises from an inherent right in the civil magistrate, or whether it arises out of a compact with the state in the establishment of the church. Whether it be alleged to arise from the one source or the other, both are alike contrary to the government and doctrine of the Church of Scotland, whose standards unequivocally declare, that, neither by inherent right nor by compact, can the civil power acquire jurisdiction, however limited, in ecclesiastical matters. It was of no use to refer, as had been so often done, to the alternative used in the passage of the letter. Independent of the alternative, the statement unequivocally ascribes to the Court of Session the same jurisdiction in ecclesiastical that it had and exercised in civil matters; and inculcated on both the same degree of obedience; the obedience due to the civil courts in civil matters was declared to be also due in matters ecclesiastical. Here then is an essential unsoundness in doctrine,—a direct violation of the doctrines contained in the standards of the church. It placed civil and ecclesiastical affairs on precisely the same footing in reference to the jurisdiction of the civil tribunals. If the jurisdiction was limited by the claims of conscience in regard to the one, the same limitation was applied in the case of the other. The claims of conscience were made to apply equally to civil and to sacred matters. I have already said that the production of this letter was frankly and openly conceded, and I do not mean to qualify in any way my former commendation of the manner in which it was produced; but I have no sympathy with the doctrine, that the letter was a confidential

and private one, and that Mr Monro might have been justified in refusing to give it up to the committee of the presbytery. I hold that whatever passes between a patron and a presentee in reference to a presentation, should on all occasions be patent to the church courts. If this were not the case, what security would the church possess against the injurious influences of undue compacts between patrons and presentees, against which it is the duty of the church to be constantly and peculiarly upon her guard. Such then being the principles deducible from the obvious and undeniable meaning of the words of the letter of Mr Monro, the Presbytery of Edinburgh considered that they were entitled to call for a retraction of the words, not merely as they might possibly be understood by some, but a retraction of them in their plain and obvious sense and meaning. Mr Monro, in the course of his communications with the committee, seemed to imagine that there was some sort of intermediate stage between things which were held to be spiritual, and things which were held to be civil. These intermediate matters Mr Monro called ecclesiastical matters; but his views on this point were vague, and no satisfactory explanation of the meaning of the idea was communicated to the committee. His opinion, so far as it was understood, seemed to be, that spiritual matters might be so involved with civil affairs, attached to them by civil statute, that they would become what he calls ecclesiastical matters. But even were this idea of Mr Monro's a tangible or correct one, it would not have relieved the presbytery of the duty which they held to devolve upon them in reference to the terms of the letter. They wished to get at the precise facts which were meant by the use of language, which in itself, was perfectly plain as to its meaning; and had he avowed this new opinion as the doctrine which he meant to avow, even this I would have held to be unsound. The statute law may attach civil effects and civil consequences to any spiritual act or spiritual matter; for instance, ordination—a purely spiritual matter; but that spiritual act could not be rendered the less spiritual by any opinion or any decision of either the Court of Session or of the House of Lords. In a conversation which the committee had with Mr Monro, and which conversation gave rise to the second query put to him, Mr Monro seemed to have another way of explaining the matter, which was decidedly inconsistent with that which he had given at first. But the point the committee wished to arrive at was an explanation from him as to how he came to recognise the right of the civil power to interfere in any way whatever, and however limited the extent—and what he meant by saying that, in certain circumstances of that interference, it would be a duty to resign. But their endeavours to arrive at these explanations were unsatisfactory. He dwelt on the alternative form of his proposition, as not involving the assertion of resignation being an absolute duty, but all his explanations failed in producing what the committee desired. They desired to know to what extent he acknowledged the jurisdiction of the civil courts in matters which he called ecclesiastical, and to what extent he acknowledged it in matters avowedly civil. In these circumstances the committee put it to Mr Monro, that, as he might have used the original expression hastily, and in particular circumstances, whether he did not see it now to be his proper course of duty, when he saw what his language fairly implied, to retract the expressions. The learned counsel made allusion to this case, as if it were similar to those which are called matters of honour among men; but I will show you the real plain sense of the matter. We found a young man who stated that he had not sufficiently studied the matter in question; that he was not a proficient in the subject; we found him making a statement involving sentiments obviously unsound; we could get no satisfactory explanation of the matter; we tried to convince him of his mistake in various conferences; we did not require him to admit that he had any intention of doing what he really did do, but we did expect that, in the case of an intelligent young man, when his error was pointed out to him—when it was shown him that his doctrine was unsound,—we expected that he would have retracted. He did certainly, after the matter had been sent from the presbytery to the synod, send in a letter, so far making a retraction, but he put it on the ground that his original statement had been misunderstood, and not, as he ought to have done, on the ground of the statement having carried with it an obviously unsound doctrine. I

will repeat what I said before, that a retraction on the ground of the matter being misunderstood, is a very different matter from a retraction on the ground of being now satisfied of the error of the original statement. Suppose a minister, in preaching or writing, used inadvertently a sentence which affected an essential doctrine of the gospel. Suppose the sentence a Socinian one; would it be a satisfactory retraction to say that the sentence was retracted because it was liable to be misunderstood—would that be satisfactory? No. If such a person was sound in the faith, and saw that the sentence could have only a Socinian meaning, it would not imply he was a Socinian, although he freely admitted his error and retracted. It might be that Mr Monro imagined there was no heresy in saying that the civil courts had a jurisdiction by compact, and imagined that it would be heresy if he said they had an inherent jurisdiction; but I hold that it is equally heretical in either of these views. It does not matter whether we ascribe jurisdiction to the civil magistrates or civil courts as inherent in them, or as possessed by compact. The assertion of either view is unsound doctrine. For a member of this establishment to propound and act upon the opinion, that the civil magistrate has jurisdiction in things ecclesiastical, not inherently, but by compact, is contrary to the Confession of Faith, which is ratified by act of parliament, and to many statutes which it is the honour of this Assembly to have put forth in vindication of the constitutional rights of the church. It is a question of difficulty. I fear that those difficulties which prevented the Presbytery of Edinburgh from at once granting a presbyterial certificate, are not yet removed. I would not propose that we should again call upon Mr Monro, either for any further explanation, or for any retraction at present. I think that this Assembly doing so, would be placing Mr Monro in the most painful and embarrassing circumstances, in which he would be indeed subjected to very serious temptation. But these difficulties remaining, I do not see how the Assembly can give any other deliverance than remit the case to the presbytery, with instructions to refuse a presbyterial certificate. There are two views which may be taken of such a refusal. 1st, There is in it something immediately affecting the standing of Mr Monro as a probationer in this church. But in regard to this view, there is great room and occasion for very large indulgence, and for a large consideration of the circumstances in which he was placed, and the pleas which he has argued. I am by no means disposed, either to think or say, that deliberately and of set purpose Mr Monro really holds the unsound doctrine which his words convey. I believe there is in his mind on this subject a very great degree of confusion—a want of information—of clearness and intelligence of apprehension. And therefore I would be inclined to say, that it would be hard to deal with Mr Monro, in reference to his standing as a probationer in the church, either summarily or severely, for what on this occasion he has done. I cannot but entertain the hope, that further study—a further examination of the subject—a more mature consideration of all the views which have been placed before him, and, in particular, the consideration of these things after he was relieved out of the very embarrassing position in which he now stands, if Mr Monro were free to give the powers of his mind unbiassed to the investigation of the whole subject, he would come clearly to understand what the doctrine of the church is upon this subject, cordially to embrace and avow it, and as unequivocally to see and to acknowledge the erroneous character of his own statement. I would give him time for all this. I would not propose at once to proceed against him as heretical in the matter of the government of this church. I remember that he is but a young man, only a candidate for the office of the ministry, that it is but of late those subjects have been studied in our colleges, or begun to be made the subject of inquiry by candidates for the ministry—and the haste in which he states that his letter was written—I am willing to cherish the hope and expectation that ultimately, on fair and full consideration, Mr Monro will come to understand what the Presbytery of Edinburgh mean, and wherein he has really expressed what is contrary to the standards of the church. 2d, But there is another view; and with it we are more immediately concerned. Mr Monro asks a certificate for the purpose of prosecuting before another presbytery (Dalketh) his presentation to Fala. Even if the result of our refusal of a certificate should turn out inevitably to be that he cannot

obtain possession of the charge of the parish of Fala, undoubtedly it were a want of feeling that would be altogether inexcusable, to have no sympathy with a man in such circumstances. But even such a result should not interfere with our discharging what may seem to be the present course of duty; and seeing that he used such language on such an occasion, and when the effect undoubtedly was the obtaining of a presentation,—in these circumstances Mr Monro cannot claim, and ought not to receive, a presbyterial certificate. It will be admitted on all hands that the granting of a presbyterial certificate, which, when the benefice lies in a different parish from that in which the licentiate resides, is the first step in the process, does not merely imply a regard to the moral character of the individual applying, but whatever circumstances may come out as affecting the views he holds, and the course of conduct he is likely to pursue. Undoubtedly a result, in many views, such as it would be an utter want of feeling not to deprecate,—that we should lay an arrest upon one entering the office of the ministry,—in some views, even such a result, if inevitable as flowing from the sentence which I have pointed at, might not be altogether a matter of regret. It can be no benefit for a man to enter on the charge of a parish, even unintentionally and ignorantly hampered and fettered by a statement of views which imply what is unsound, and which, whatever he might have originally intended, involve him in what is practically erroneous. If we are met, in the statement of these things, by the assertion that there are many in this church who sympathize with Mr Monro in his view, I can pay no regard to it. If there be such men, I cannot help it. But if they come forward and avow similar views, we can have no alternative than to treat such sentiments, whenever avowed and acted on, simply according to the laws of the church. But even acquitting Mr Monro of *intentionally* holding unsound doctrine, that does not of itself render it proper that he should receive the certificate. Without Mr Monro's being aware of this, the thing might have such a bearing on the parish of Fala as might make it no matter of satisfaction either to the parish of Fala or to Mr Monro himself. Mr Monro may not have been aware of it, but the mere fact of this being the case will not render it proper either to grant him the certificate, or to expedite the settlement. With these views, I cannot see how the General Assembly can do otherwise than instruct the Presbytery of Edinburgh not to grant the certificate, unless Mr Monro retract what he has advanced, or make a satisfactory explanation.

JAMES BLACKADDER, Esq. seconded the motion. Mr Monro stated that he was a candidate for Fala in the month of August. This, however, was not announced in public to the Lord Provost and Town Council of Edinburgh at that time; and he could not see how Mr Monro could be regarded as a candidate at all till the eve of the election. A member of the Town Council had called on Mr Monro to ascertain his views. Mr Monro replies in writing; but he writes this letter, not to Mr Stewart, whom he should have addressed, but to Mr Dunbar. This was an extraordinary letter. The first thing that struck him was, that it was marked "private;" it was intended to express his sentiments, and yet it was marked "private." But Mr Monro did not regard it as private, for it was circulated through the Town Council, and it was the means of his receiving the presentation. He thought the sentence of Dr Candlish was very lenient. The reverend gentleman who had proposed the other motion seemed to deplore the want of ordinances in Fala. He (Mr Blackadder) deplored that as much as the reverend gentleman, but who was to blame for that but Mr Monro himself? The people of Fala had petitioned for a most respectable gentleman whom they all knew; had he been appointed, there would have been no vacancy at all, and no cause for complaint. Who then is to blame? Certainly not the church courts—certainly not the Presbytery of Edinburgh. The people of Fala had been treated in a very extraordinary way; the prayer of their petition had not only been refused, but it had been so in a most uncivil manner.

Dr Cook then rose and said—He thought the question was fairly and competently before the Presbytery of Edinburgh, as to whether or not they would grant Mr Monro his certificate. He thought therefore that they were quite entitled to take up the matter. He thought that there was a great want of caution in Mr Monro's first statement, viz. that it was the duty of ministers to obey implicitly the civil

magistrate in all matters both civil and ecclesiastical. He agreed that it was not proper to obey the magistrate in all cases, whether civil or ecclesiastical; and since Mr Monro had held the contrary doctrine, it was the duty of the presbytery to do what they did. He considered, however, that there was a great degree of vagueness in the doctrines which related to this point; and even in the Confession of Faith expressions were used which might not convey to the mind of a young man the meaning which was now put upon them. Mr Monro's error, therefore, might have originated in ignorance, so that the presbytery was bound to see what he meant by the expression, or to see if he himself knew what he meant; for people sometimes stated what they did not mean. If this gentleman had been called upon to retract what was distinctly explained to him to be heretical doctrine, and if, notwithstanding that explanation, he still adheres to his opinion, that, he thought, would be very wrong; and the presbytery would have done justly in refusing him his certificate. "As to the meaning of the term 'ecclesiastical,'" continued Mr Monro, "in my letter to Mr Dunbar, it seems to me that in the interpretation of statutes, cases may arise where it may be doubtful whether the matter properly belongs to civil or spiritual jurisdiction; and that in such cases the civil courts have practically the power of determining for themselves what comes under their own jurisdiction." Well, this was all that Mr Monro meant by the term "ecclesiastical;" and it was not easy sometimes to draw the line of distinction between the civil and spiritual. "Such were the cases which I had particularly in view when I used the term 'ecclesiastical.' I did not mean to express or imply any opinion, that by the constitution of the country, or any laws affecting the established Church of Scotland, spiritual matters come under the jurisdiction of the civil tribunals." Here was an explanation—he did not say whether it was satisfactory or not, but it moved them (the Assembly) out of the position in which they were placed. He told them that he never meant any such thing as this. He came forward afterwards, and in another letter said, "I beg leave to express my regret if any unguarded expression in my hasty letter to Mr Dunbar has led any member of presbytery to suppose that I do not fully and sincerely hold the doctrine, that 'the Lord Jesus Christ, as King and Head of his church, hath therein appointed a government in the hands of church-officers distinct from the civil magistrate.' Any opinion in any way militating against this I solemnly disavow, and never intended to express." The Rev. Doctor (Candlish) stated that this was merely a change in Mr Monro's mode of expression, but that it did not imply that he had really changed his mind. Now he would be inclined to put a different interpretation upon it, and he would suppose, that from the light he had received, he had come to understand this doctrine much better than before; and was there any one at all acquainted with the youthful mind who did not every day meet with examples of this? Young men viewed matters in a very different light after they had received information, and they not unfrequently changed their mind completely. Now he would ask this, if there had never been any original statement by Mr Monro,—that is, if he had made his first declaration in the terms in which he wrote to Dr Candlish, he would ask if any man for one single moment would have imputed unsound doctrine to him? He thought from the second declaration, that this young gentleman had escaped from the meshes of heresy, and had come to view the matter as he ought. But he contended, that when this explanation was given, the Presbytery of Edinburgh were not the final judges of the matter; it was quite competent for the Presbytery of Dalkeith, when the other legal documents were laid upon their table, if they were convinced that he was sound in the faith, to receive him, even though he might have no certificate from the Presbytery of Edinburgh. He (Dr Cook) had great doubts of the necessity of presbyterial certificates; he had not received one, and he had sat in the house for many years, when no such thing was thought of. But what was the way in which the Presbytery of Edinburgh should have proceeded? Why, what would be the effect of refusing it? As Dr Candlish said, the effect would be to deprive him of the living to which he would otherwise have been entitled.

DR CANDLISH.—No, no; I said that that *might* be the effect.

DR COOK said he thought the leaning of the Doctor's argument was that it would

actually deprive him of it. But even if it only might be so, there was one, and only one, legal and constitutional mode of proceeding,—they should have labelled him for heresy, and given him every opportunity of defending himself; but if they refused him this, they might blast his prospects in life, and destroy his status in society. He held, therefore, that this was not a constitutional mode of proceeding on the part of the presbytery. In conclusion, Dr Cook said, on these grounds he could not go into the views of the reverend gentleman who had made the motion, because he (Dr Cook) held that satisfactory explanations had been given; such at least, as they were not entitled to throw overboard, without remitting them to the Presbytery of Dalkeith. He held also that the Presbytery of Edinburgh were not entitled to refuse absolutely a presbyterial certificate, but were called upon, in the circumstances, to leave the matter to the judgment of that court before which this presentation would be laid.

Mr ROGER of Denino.—I shall not detain the house but for a very few minutes, for I have not very much to say. Of the young man I know but little; but in this letter of his—this incompetent letter—there is not an expression but one that might be espoused by this side of the house. The expression is this, that the duty of ministers is to obey implicitly and *bona fide* the laws as interpreted by the Court of Session and the House of Lords, “in all things civil and ecclesiastical.” “*Civil and ecclesiastical*,” Sir, is the expression. Now, if the House of Lords were to tell us what we are to teach, I could not obey them in that, for I would build my faith on the text in spite of a gun. This objectionable expression is may-be excusable, though; for the letter, ye see, Sir, was a private letter, sent to a friend; and little did the young man think, when he wrote it, that it would be laid before this Assembly; little did he think that his composition was to be laid before us, and that we were to sit in judgment upon it. Therefore, Sir, you are to excuse the expression. But the expression in this awfu’ letter is a legal one, and it is not expected that our students are to be fine legal scholars. I have had many students through my hand in my day, Sir. I have been forty years a minister of the Kirk of Scotland, Sir, and examined many students in that time; and you know, in examining students, we have rules to go by, and to the rules we must abide. Now, Sir, I do not think any of the rules require us to examine students in law—in civil law. What would you think, Sir, if, when one of our students was being examined, we should say—“By the bye, Sir, are you quite competent to explain Erskine’s Institutes?” And what is the sum and substance of this young gentleman’s offence? Why, nothing more nor less than a legal want of knowledge. It is not denied that his qualifications are sufficient, as a student of God’s truth; therefore the amount of the charge is just his deficiency of legal knowledge, which the law does not require. Another thing—this awfu’ letter has put me in mind of a poet who wrote a poem on nothing. Now, Dr Candlish, in objecting to the faulty expression, like the poet, has made a speech out of nothing. Dr Candlish may be a very clever man—and I daresay he is a very clever man; but were he a mere presentee, and not one of the ministers of Edinburgh with a large stipend, I’m not sure if he would have done any better than this young man. The amount of his offence, as I said, is just the deficiency in the art of legal knowledge; and if we ministers from the country were to come under the judgment of you ministers in the towns, I’m not sure but we would ha’e little chance. I see Dr Candlish is laughing at that—he’s a very clever man—he can raise a very large structure on a very small basis, and that’s a mark of genius. Well, the end o’t is just this—a want of legal knowledge; and I think the case should be dismissed, and the presbytery instructed to grant the certificate with all possible haste.

Mr CUNNINGHAM agreed substantially in what Dr Cook had laid down as the law of the church in cases of this kind, and he thought that the house would agree in this, that the general view of ecclesiastical law, laid down by Dr Cook, was a pleading of the merits of the document laid by Dr Candlish on the table. The leading practical difference between them was, whether, in the present position of the case, the Presbytery of Edinburgh ought to grant or refuse a presbyterial certificate. Dr Candlish’s motion implies that the presbytery are not entitled to grant, *hoc statu*,

a certificate. Dr Cook says it is. In the event of this matter being brought out thoroughly and satisfactorily in the Presbytery of Dalkeith, the want of a presbyterial certificate from the Presbytery of Edinburgh would be no bar to his attaining it ultimately. Mr Cunningham then, at considerable length, supported Dr Candlish's motion, and contended that on various grounds they were specially called upon to guard against the presentee attempting to explain away the great truths of the standards of the church, for the sake of conciliating the views, or obtaining the votes, of patrons.

Dr HILL remarked generally, that if their young men were to be subjected to a system of inquiry far more severe than was ever practised in the history of the ecclesiastical procedure, the effect upon the country, especially in present circumstances, would be extremely injurious to the character of the church. He admitted that Mr Monro's statement was indefensible, and thought it must have been very hastily drawn up. He did not suppose that there was any individual on that side of the house, any more than those opposite, who out-and-out would maintain the statement Mr Monro had made in his letter. Mr Monro's explanations might not be held to be very satisfactory, and there might be a difference of opinion in regard to them. He (Dr Hill) thought there was a degree of severity in the motion of Dr Candlish, which made it impossible for him to concur in it. Nor did he know whether he could altogether agree in the motion of his reverend friend (Dr Cook) at the foot of the table; for, looking to the statements of Mr Monro, he thought they could not blame the Presbytery of Edinburgh for the watchfulness which they had manifested in regard to this case. We are bound to attend to the sentiments of our probationers, and to see that in all respects they go forth to the church qualified for the office they are to hold; and it is of very material importance that in matters of this kind they should be well prepared, more especially in the circumstances in which the church is now placed. Dr Hill here spoke of the serious consequences which must accrue to Mr Monro's character, standing, and prospects, if the certificate were refused. He trusted Mr Monro would be instructed to appear before the Presbytery of Edinburgh, and give them such satisfaction as they might require, leaving them to act according to their conscience.

Mr CARMENT, in a few remarks which were inaudible, was understood to deprecate the practice of pledging presentees to a particular line of policy.

Mr ROBERTSON of Ellon began by remarking that both the letter and the statement of Mr Monro were unsatisfactory, and he was not at all surprised that the presbytery should feel very great jealousy in dealing with the matter; but he apprehended that the case now came before the Assembly in a shape in which it ought to be competent for them to pronounce a clear and definite judgment—yea or nay. He was not called upon to defend the original statement, which, he was prepared to say, was indefensible. Still it was to be observed that in the statement there was an alternative clause, and that they must read both clauses of the statement together. According to the laws of the church, it was heresy to maintain that the civil magistrate ought to have power in any matter ecclesiastical whatever; but suppose that a libel were founded on the statement, and that the doctrine which he had now expressed formed the major proposition of the libel, and that the statement of Mr Monro were set down as the minor proposition, he (Mr Robertson) did hold, that in dealing with such a libel it would be necessary to inquire into the amount and effect of the alternative clause, as in that clause almost every thing is comprehended under the term ecclesiastical, and it might turn out that the error of Mr Monro would resolve itself into the mistake of a word. He did not say this was the case; for he held that the presbytery had full grounds for dealing most jealously with this case; but supposing that the explanation given by Mr Monro was given in good faith, it appeared to him to be a complete retraction; and therefore he felt inclined to support the motion made by the reverend Doctor at the foot of the table. But observe, the point is this,—if the Assembly is to come to a resolution by which Mr Monro is to be refused the presbyterial certificate, then, I say, in plain common sense, and in the principles of unchangeable justice, any motion like that must be followed by another motion which must find Mr Monro guilty of some crime. You are not entitled



to overlook the bounds of justice, and condemn a man before he is legally deprived of his rights and privileges. I say, that if the charge of heresy is true as against Mr Monro, it must be dealt with in a manner entirely distinct from anything connected with the church of Fala, and as if that church had never existed. You must resolve to serve Mr Monro with a libel, founded on the charge of heresy itself, irrespective of any connection with the presentation to Fala; you must go forward and find the libel relevant, and afterwards put it to proof. Mr Robertson went on to remark, that while he gave Dr Candlish the utmost credit for the tenderness he had expressed towards Mr Monro, believing that his feelings came from the depths of a sincere heart, he thought the course which the Rev. Doctor intended to pursue in this case was not a course of kindness. The case is now ripe for judgment to one of two effects,—either that the presbytery must find Mr Monro's statement satisfactory, and consequently that there is no ground for refusing to grant him his presbyterial certificate; or, now that inquiry has been instituted—now that the gentleman has been repeatedly before them, it is no longer tenderness, it is no longer kindness, it is no longer justice, either to Mr Monro or to the church, if they are dissatisfied with his explanation, to withhold from him a regular trial according to your forms of process. Your motion must be to send down instructions to the presbytery to serve Mr Monro with a libel. On every principle of fairness and manliness, you are shut up to one or other of these two alternatives.—you must either go the length of serving him with a libel, or you must grant him the presbyterial certificate; but don't talk of tenderness if you refuse him this.

Mr GRAY of Perth said, that after the strong statements and charges of injustice which had come from the other side of the house, he wished to put in the view of the Assembly some of the difficulties which occurred to his own mind in this case. Let the Assembly bear in mind that our friends on the other side have admitted that the letter and statement of Mr Monro are indefensible. The statement is universally admitted in the Assembly to contain heresy, and he requested the attention of the house to this admission. But while this admission was thus universally conceded on all sides, he also requested the Assembly to look to the circumstances in which the statement of unsound doctrine was made by this presentee. It was made when he was a candidate for a vacant parish, and before the patron had exercised his right of presentation, and it was in virtue of the statement he made that he afterwards became the presentee. The statement, which was admitted on all sides to be inconsistent with the doctrines contained in the Confession of Faith, was that which procured for Mr Monro the presentation to the parish of Fala. The gentlemen on the other side had overlooked this view of the case entirely; and Mr Robertson's indignation would have swelled out less strongly had he looked to this aspect of the question. There was another difficulty which occurred to his (Mr G.'s) mind. Supposing that Mr Monro became the minister of Fala, one of the questions he would require to answer at his ordination was, "Have you used any improper means for procuring the call to this parish?" Now, it was admitted on all sides of the house, that Mr Monro had obtained the presentation by making a statement of unsound doctrine; and it was all very well to sympathise with him in the consequences to which he had rendered himself liable; but did the gentlemen opposite make no account of the tenderness that was due to a presentee who had acted as this gentleman had done, when they considered the painful position in which he must find himself when he required to answer the question to which he (Mr Gray) had just referred.

The LORD PROVOST of Edinburgh said that, having assented to the election of Mr Monro, although he strongly disapproved of the letter he had written and the statement he had subsequently made, he (the Lord Provost) felt that he could not vote against granting him the certificate.

Mr PAUL of Tullynessle seconded Dr Cook's motion.

Dr CANDLISH replied.—When a man comes forward seeking the cure of souls, or a step necessary to the obtaining of such a cure, it is a totally distinct question from whether he should be libelled or not. Notwithstanding the appeal of Mr Robertson to justice, justice required them to deal first with the question before them, viz., if Mr Monro be entitled or not to a presbyterial certificate. Mr Ro-

bertson had mistaken the order of these two things. He (Dr C.) was not to be twitted or taunted for untenderness when he considered himself bound to refuse, at all events at present, a presbyterial certificate, but saw no peremptory obligation, at least immediately, to proceed against Mr Monro for unsound doctrine. In that there was neither injustice nor an affectation of tenderness, but a fair and straightforward course. Mr Monro asked a presbyterial certificate in certain circumstances. He had been led and tempted, in order to obtain a presentation to the cure of Fala, on the very eve of the appointment, and in a letter addressed to one of the patrons, to put forth a statement which some characterise as unsound, and which no man had dared to say was defensible. That statement had not been satisfactorily explained, nor in any fair sense retracted. He (Dr C.) could not therefore in conscience, as a member of the Presbytery of Edinburgh, or of the General Assembly, give a presbyterial certificate to a man to promote the views of that statement. Let it not be said that they were deciding the whole question of whether he should be the minister of Fala or not. It was not before them. Dr Hill thought it indispensable that Mr Monro should again appear before the Presbytery of Edinburgh, and give a satisfactory answer to them; but that was neither equity nor expediency. The house should determine whether he should receive his certificate. He (Dr C.) by no means meant to say that Mr Monro might not have farther explanations to give; but let him give them, if he saw cause, to the Presbytery of Dalkeith. He (Dr C.) felt very deeply the solemnity of the case before the house. It was to be disposed of, not on the ground of considerations personal to Mr Monro, or any other individual, but in such a way as might maintain the character of the church, and be a salutary warning to all such as are candidates for charges. It was a solemn thing, that in seeking a presentation, one of their licentiates had been led to give forth a statement tending to obtain the presentation, which no man in the Assembly could defend. It was desirable, for the character of the presentees, and for the sake of the people in the parishes, that the Assembly should lift up a protest against every such transaction.

Dr BRYCE could not agree to either motion. He was inclined to move, simply, that the Presbytery of Edinburgh be instructed to grant the presbyterial certificate.

The vote was then taken, when it stood—First motion (Dr Candlish's), 181; Second (Mr Robertson's), 88; majority, 93.

The Assembly dismissed at half-past one, to meet on Thursday at eleven o'clock.

#### THURSDAY, *May 26.*

The General Assembly met to-day at eleven o'clock, and was constituted by reading Malachi chap. iii., and singing Psalm cxv. verses 12, 13, and 14.

Mr FERRIE gave in reasons of dissent from the decision in the case of Mr Smith and the Presbytery of Irvine.

Dr COOK gave in the following protest:—"We, ministers and elders who subscribe this paper, being members of the General Assembly, enter our solemn protest against the judgment of the Assembly rejecting certain resolutions appearing to us eminently adapted to restore peace to the church, and adhering to the veto law—such adherence, by the acknowledgment of the majority, not being effectual to the maintenance of their principles, whilst the said act has been declared by the highest legal authorities to be contrary to the law of the land. Deeply interested in the welfare and stability of our national church, we lament that the efforts which we have anxiously made to unite all its members, and to put an end to the collision between the civil and ecclesiastical courts, have been defeated, sanguine as we were in the hope that the Church of Scotland might thus again have been rendered the instrument of diffusing, in the most efficient manner, the knowledge, the influence, and the consolations of religion, and of confirming those within its communion in the duty which, as good citizens and members of the establishment, they owe to their country."

Mr DUNLOP moved that the protest be remitted to a committee to answer. He must say that the reasons seemed as irrelevant as the motion itself was. The question involved was not the repeal of the veto law, but whether the church should

adopt certain resolutions expressing their opinions and determinations relative to the encroachments of the civil power on the privileges of the church. The gentlemen opposite had themselves admitted the incompetency of the interdicts in certain of the cases. They joined in condemning the interdicts in the Strathbogie case against preaching in their parishes, suspending the spiritual censures of the church courts, the reponing of ministers deprived of their spiritual functions, and also the interdicts against the deposition of these ministers, except in so far as their civil rights were interfered with. So far therefore, they seemed to agree with the other side of the house; and, as to the *quoad sacra* ministers, they seemed to admit that the interdicts were equally beyond the jurisdiction of the civil courts, except in so far as regards their sitting in the church courts. He therefore called on his friends opposite to join with him in resisting these encroachments. Our friends opposite cannot blame us for not repealing the veto law, because we have never admitted it to be illegal.

#### ASSEMBLY'S LIBRARY.

Dr WELSH read the report of the committee on the Assembly's Library. It acknowledged a number of donations of books; and stated that the committee had made purchases at sales to the extent of L.190. The committee proposed, in order to raise a fund to increase the library, to recommend to each parish to make a donation of one guinea, and an annual subscription of one shilling, besides such donations as could be procured. They urged the propriety of every author connected with the church, presenting a copy of his publications to the library. Their modesty might make them view their works as not worth presentation, but let them remember that even a leaf might throw some light on the history of the country to after ages.

Dr COOK approved of what the committee had done, and would give them every assistance. He had often felt the want of such a library, and they could not too highly estimate the value which it might be to posterity. He hoped it would yet prove a most valuable acquisition to the church, and to all who were engaged in literary pursuits.

Dr CANDLISH was afraid he might not be able to fulfil the wishes of the committee, as he feared many of his publications had already gone to the four winds of heaven. But he would now recollect, that even if their publications amounted to only half a page, posterity might be illuminated by their lucubrations. The greatest efforts had been made by the convener and committee, to increase the library, but their efforts had not been responded to as they ought to have been. The small sum proposed to be collected from parishes, would render it difficult of collection, and he thought a different plan might be adopted. A small tax on members of the house, and those attending the Assembly, might produce a steady revenue. For instance, a shilling might be charged for the ticket of all members of Assembly, and from the ministers and elders not members, who attended the sittings. This would not be a heavy tax, and would raise a considerable sum. The reverend gentleman concluded by proposing the thanks of the Assembly to the convener and the library committee—to the Society of Writers to the Signet, and their librarian, Mr Laing, for taking charge of the Assembly's books, and to all the donors of the library. This was unanimously agreed to.

#### PUBLIC ACCOUNTS.

Mr JAMES BRIDGES laid on the table an abstract of the public accounts of the church, for the year ending April 1842. In submitting these accounts, Mr Bridges said he would congratulate the house on one thing in connexion with them, and that was, an improvement that had taken place in regard to the Centesima fund. That was a very old fund: it had in some measure been neglected and forgotten, but was now put into a state of action, and likely to be devoted to the purposes for which it was originated at first. The accounts, as now printed and laid on the table, would be found at the office of the agent for the church, where copies of them might be obtained; and here he might be allowed to remark, that the more these accounts were investigated, the more they would all be satisfied that the funds had been managed in a most satisfactory manner.

Mr Dundop paid a high compliment to the zealous and faithful labours of the

committee on public accounts, especially to Mr Bridges its convener, and moved a vote of thanks to them, which was seconded by Professor Hill, and unanimously agreed to. The committee was also re-appointed on the motion of Mr Dunlop, with instructions to other committees to send in a state of their accounts each year before the 7th of May.

APPOINTMENTS FOR PREACHING ON SABBATH.

The Rev. Mr Guthrie, Edinburgh, was appointed to preach in the forenoon, and the Rev. Mr Bell of Kennoway, to preach in the afternoon of Sabbath first.

THE CASE OF HOLDING COMMUNION WITH THE DEPOSED MINISTERS.

The clerk then called the names of eleven ministers who were reported to the Assembly's Special Commission as having held communion with the deposed ministers of Strathbogie, by receiving the elements of the Lord's Supper at their hands.

These were the Rev. Mr Robertson of Ellon; Rev. Charles Hope of Lamington; Rev. James Bryce, D.D.; Rev. John Wilson of Walstein; Rev. W. Cushnie of Raynie; Rev. James Grant of Leith; Rev. John Cook of Haddington; Rev. Robert Stirling, D.D. of Galston; Rev. Thomas Hill of Logie, Perth; Rev. George Peter of Kemnay; and the Rev. William Mearns, missionary, Glenrimes.

It was stated in behalf of Mr Mearns, who did not answer to the call, that he had gone from home four days previous to the time the summons was left at his house. With this exception, all the gentlemen named, who were not members of court, took their places at the bar.

On the motion of DR CANDLISH, the four of those ministers who were members of court, were put to the bar, viz., Mr Robertson, Dr Bryce, Mr Hope, and Mr Wilson.

DR COOK then read the following protest:—

"We, the undersigned ministers and elders of the Church of Scotland, members of the General Assembly of that church, now convened, while it will ever be our earnest desire and endeavour to maintain inviolate the rightful authority of her several judicatories, and while we shall on every occasion cheerfully submit to these judicatories in all matters in which, according to the fundamental principles of our established constitution in church and state, it is competent for such judicatories to judge and determine, have yet felt ourselves constrained to protest; and we did, and hereby do, protest against the competency of the said General Assembly to entertain any motion for maintaining, as a legitimate ground of ecclesiastical censure, the charge preferred in the report from a minority of the Presbytery of Strathbogie, now on the Assembly's table, against certain ministers of this church, namely, that they have held ministerial communion with parties alleged to be deposed from the office of the holy ministry, being convinced that the said charge, if regard is had to the peculiar circumstances of the case, and to the statutory foundations of the Church of Scotland, involves nothing inconsistent either with the faithful performance of ministerial duty, or with the subordination properly due by individual office-bearers of the church to her constitutional judicatories; and feeling bound, moreover, whatever judgment the Assembly may pronounce upon the principles, to act as circumstances may require, in accordance with our convictions of duty, as herein expressed.

(Signed)

"GEORGE COOK.

"ROBERT HALDANE."

DR BRYCE said, Under the shelter of that protest, and with that respect for this house which I hope I shall always retain, I will now take my place at the bar.

It was then asked whether the report of the Presbytery of Strathbogie, on which the reverend gentlemen had been cited, should be read, or whether it should be held as read.

MR BISSET of Bourtie thought that as it was a very long document it should be held as read.

ALEXANDER EARLE MONTEITH, Esq.—Provided the gentlemen at the bar acquiesce in this.

MR BISSET thought it would be more orderly that as that report had been sent down to presbyteries to inquire into, if the proceedings of the presbyteries with re-

gard to it were read; though it was not necessary to read the whole of the report, the *acta* of the presbyteries under that remit were necessary to be read.

Dr CANDLISH had just to say on that point; that this case had come before the General Assembly in two shapes, viz. 1st, In the shape of two reports from the Presbytery of Strathbogie, one by the special, and the other by the ordinary Commission; and then, 2d, The case had come before the Assembly in the way of reports from presbyteries, or appeals from presbyteries. It was now, therefore, deemed desirable that the case should be brought up in either of these ways; in this there was no irregularity or impropriety. Some of their brethren would remain over, if it were necessary, but the case was before them, by the single document of the report of the Presbytery of Strathbogie to the Commission; it was therefore thought advisable to take up the case on this ground, so as to place all their brethren on the same footing.

The gentlemen at the bar were then asked what they had to advance, when Dr Bryce, handing over the following statement, said, that the only reply which they had to make to this question was contained in the paper now to be read.

The Clerk then read the following protest:—

“We whose names are subscribed, appear at the bar of the General Assembly, in obedience to the citations we have received requiring us to answer to a charge preferred against us, of having held communion with ministers in the Presbytery of Strathbogie, alleged to have been deposed by a previous Assembly from the office of the holy ministry; and having been called on to answer to the charge—we feel constrained, in the first place, with all deference and respect, to remark on the very extraordinary circumstances in which this call has been made on us. The notice served on us has been so unusually short, amounting to only two days in the case of some of us living in the remote parts of the country, as to preclude the possibility of our making any of the arrangements necessary for our defence. Certain witnesses, as we are given to understand, have been cited, in order to prove an allegation made against us, but as their names have not been communicated to us, we have not had the opportunity always afforded to the meanest criminals, of inquiring into their character, or rebutting their evidence. And, above all, though some of our number are members of this house, we have been sisted at the bar to answer to a charge which the house has not yet pronounced to involve matter of judicial procedure. These circumstances, we apprehend, amount to a plain violation of the authorised and established procedure of this church in such cases, and of the rules of justice observed in every regularly constituted court, and would fully justify us, in perfect consistency with honesty and uprightness, in demanding a regular trial, in terms of the form of process. Passing, however, from this subject, and leaving the house to take charge of its own dignity and character, so far as these may seem to it to be involved in the unusual mode of procedure adopted, to which we have taken the liberty to advert, we have no hesitation in admitting the truth of the allegations made against us respectively, of having held communion in the most holy ordinance of our religion, with the individuals named. But we at the same time distinctly disclaim the construction put on this act, as either a desecration of the sacrament of the Supper, or as in any other way inconsistent with the views we should cherish, or the duties we owe, as ministers of the church.

“We are all well aware that sentence of deposition was passed by last General Assembly against these individuals, but it appeared to us that that sentence was, in the circumstances, inconsistent with the recognised constitution and principles of this established church; that it implied an excess of jurisdiction, and was incompetent, and null and void. These views are held, in common with us, by a large minority of the members of this house, who have unhesitatingly avowed them in the face of the Assembly, and, like ourselves, acted on them as occasion offered.

“When we held communion, then, with the individuals named in the charge preferred against us, we considered them not only as entitled to exercise all the functions of the ministry which they had received from the Lord Jesus, but as ministers of this Church, in full possession of their status and privileges.

“In these circumstances, we hold that the conduct we have pursued does not involve matter of judicial procedure or ecclesiastical censure; and in obeying the cita-

tion of the house, by appearing at their bar, we protest that we are not to be held as admitting either the relevancy of the charge to infer, or the competency of the court to inflict such censure.

"In conclusion, we beg to assure the house of our unfeigned regret that the conscientious views we have expressed, and unreservedly acknowledge having acted on, are opposed to the settled convictions of so many of our fathers and brethren.

"We respectfully crave that this statement may be entered in the records of the house.

(Signed)

" JAMES BRYCE, D. D.

THOMAS HILL.

ALEX. CUSHNY.

JOHN COOK, A. M.

ROBERT STIRLING, D. D.

JAMES ROBERTSON.

CHARLES HOPE.

GEORGE PATON.

"Edin. 26th May 1842.

JAMES GRANT, D. D.

JOHN WILSON."

Mr DUNLOP then said, that the complaint of these gentlemen in their protest, of the shortness of the time of citation, was an objection which, in point of form, might have some weight, but in reality it had none, for they must see that the case had been referred from the Commission, so that the time allowed them was, in point of fact, as long as they could have desired. Then they had no hesitation at all in at once and explicitly acknowledging the charges brought against them; there was, therefore, no hardship inflicted upon them in this respect. He would then ask them if they had any further statement to make. The preliminary point was, whether this charge involved censure at all.

The Moderator said he was commanded by the Assembly to ask whether they had any further statements to make.

Dr BRYCE.—I have only to ask, in the name of my brethren and myself, whether the protestation now given in, is to be entered in the journals of the house? If so, it will speak to posterity, and we have nothing more to say, and nothing more to do.

Dr CANDLISH said,—Moderator, I shall have credit for sincerity when I say, that I have undertaken the opening of this business in the Assembly with a due sense of the solemnity and responsibility of the task. I had expected, and should have hoped, that our brethren at the bar would have put the Assembly more fully in possession of their views on the precise question now before the Assembly, viz., whether the course they were alleged to have followed, and which they have now acknowledged at our bar, is or is not censurable according to the laws of the church. I shall begin what I have to say with at once mentioning, that any motion with which I may conclude will be limited to a motion on this precise question,—whether the conduct of our brethren is in itself censurable or not according to the laws of the church; and I shall reserve for after consideration the steps which ought to be taken, should the General Assembly be of opinion that that conduct is censurable in the way of further dealing with our brethren at the bar, and, above all, in the way of determining what precise kind and amount of censure ought to be inflicted for those offences that have been committed. The discussion, in the first instance, I entreat the Assembly to bear in mind, is to be viewed as an abstract discussion; and I am glad that the question comes before the Assembly, in the first instance, in such a shape as this, viz., that the question before us will rather involve the discussion of great principles, than any matters mixed up with the particular individuals at the bar. What may be the course of conduct incumbent on the church, in reference to our brethren who have appeared at the bar, is matter of after consideration; but in the mean time we are discussing a question simply of constitutional law, as to whether the conduct of those brethren is or is not censurable. I think this consideration will give to any discussion that may take place, a certain tone of calmness which might otherwise have been disturbed, and that we shall be enabled to consider the question very much as we might consider an abstract point raised for our deliberation in regard to the duty of individual ministers, in obedience to the authority of the church. Now, I am bound in the first place to observe, that this case is competently before the Assembly. If our brethren at the bar had pleaded that they had suffered any inconvenience, or were subjected practically to any injustice, by the mode of citation being so summary,—if they had pleaded

that it was essential to the preparation of this case, that longer time should have been allowed them, I presume that this Assembly would not for one moment have thought of proceeding now with the case. It will be observed, however, that while our brethren put in a plea to the effect, that the witnesses cited could not be subjected to an examination, sufficient to test their truth and competency, these witnesses are at the same time to all intents and purposes superseded. The objection on this point, which is the only real objection, so far as substantial justice is concerned, they have at once superseded, by admitting the fact alleged against them. The only point, then, in reference to the question before the Assembly, which can possibly require to be discussed, is, whether this fact alleged against our brethren at the bar, is of such a nature that it requires to be proceeded with in the ordinary way of libel, or of such a nature as admits of summary dealing. Now I will at once say, that we are, in discussing this question to-day, to put out of sight a great many topics which have been brought forward in reference to the conduct of our brethren who have held communion with the Strathbogie ministers. It has been said often in the course of these discussions, that our brethren, by holding communion in so solemn a way, with the deposed ministers, desecrated and profaned the ordinance of the Lord's supper. I do not wish to vindicate all the expressions that have been used in reference to this matter. Some of them, perhaps, might have been better spared; but the charge has been brought against them, that by their conduct they have desecrated and profaned the ordinance of the Lord's supper. And then again they have been charged with homologating what the Strathbogie ministers did, by equally making themselves responsible for the very same offence for which the Strathbogie ministers were deposed. Now, I would put both of these allegations in this position, that they are rather inferentially drawn from what our brethren did, than necessarily implied; that between the performance of the mere act of holding communion with the deposed ministers, and the inference to be drawn from that act, there is unquestionably room for a process of reasoning, and what is still more important, there is room for such explanations and understandings being come to, as may take the fact directly before us out of the category of facts implying such grievous consequences. I shall not illustrate this in reference to the desecration of the ordinance of the supper; but in reference to the other allegation, that of homologating the deeds of the deposed brethren, I may remind the Assembly, that the precise offences for which the Strathbogie ministers were deposed were, first, Their preaching and dispensing the ordinances while under a sentence of suspension pronounced by the Assembly; or, in other words, their violating a sentence of the Assembly directed immediately against them, and presuming to preach and dispense ordinances, when deprived of the only authority that could possibly warrant them to do so, in connection with the established church. Secondly, That to protect themselves in this position, they applied to the civil courts, and brought in the arm of civil authority, to interfere with the discipline of this church, and to stay the censures duly pronounced against them. These were the two aggravated offences for which the ministers of Strathbogie were deposed. Now, I am quite prepared to make out by fair argument, that the conduct of our brethren at the bar virtually implies an acknowledgment on their part that they homologate all that our Strathbogie brethren did. This may be made out; but I entreat the Assembly to observe, that this is not what is necessarily implied in the simple act itself which they have performed. For I can very easily conceive that our friends at the bar might have altogether disapproved of the conduct of the Strathbogie ministers in preaching and dispensing ordinances while under suspension, and appealing to the civil courts, and that, if placed in the same circumstances, they would not have followed the same course of conduct; while yet, believing that the sentence of deposition was either unscriptural, because not sanctioned by the great Head of the church, or, as they plead themselves, incompetent, because pronounced in a matter in which the church had no jurisdiction. And in these circumstances they might feel themselves warranted in setting at nought the sentence of the Assembly, and holding these ministers as still ministers of the established church. I hope I have made this distinction plain: and I take the liberty of saying this as an answer to a great deal of declamation we hear from our friends opposite, when they profess to be willing and anxious to brave and

challenge us to proceed against them, as having already put themselves in the same position with those men whom we have deposed. It is not mere declamation, nor is it the utterance of language merely uttered in the heat of discussion, nor any thing short of the actual doing of the very same thing literally, that places any of our brethren in the same position with the Strathbogie ministers; so that our friends around us cannot so easily as they think, either in the judgment of common sense, or of the constitution of this church, homologate what the Strathbogie ministers have done, or put themselves precisely in the same position, so as to shut us up to the absolute necessity of taking precisely the same steps; for, let it be remembered, nothing but the actual performance of these offences would have justified the Assembly in proceeding to such extremities. It is not merely our brethren saying they approve of what the ministers of Strathbogie did, nor is it merely their acting as if they approved of it, that puts them in precisely the same position with their deposed brethren. Nothing will accomplish this but thus actually doing the very thing that the Strathbogie ministers did, and for which they were deposed. And I presume, Sir, that if any minister here were found doing the very thing for which the ministers of Strathbogie were deposed, we have not changed our mind as to the heinousness of the offences, nor relaxed in our determination to assert the authority of Christ, by punishing them to the utmost. Viewed in this light, what is the construction that may be put upon the act committed by our brethren at the bar? What does it imply? It implies this, and nothing more, that they have disregarded a solemn sentence of the Assembly pronounced in a case of discipline; in short, the offence of contumacy. No doubt it may be fair enough in argument, and in remonstrating with these our brethren, to endeavour to point out to the world, and above all to them, what we think is fairly implied in their conduct by construction, and what inferences may be drawn from it; but that is a different thing from putting upon their conduct the utmost latitude of interpretation we might be warranted to give to it, such as is analogous to what is known in criminal law under the phrase of constructive treason. There were formerly certain things which used to be held to imply treason against the supreme power in the state, but which yet did not in themselves amount to the levying of war or other treasonable act, but simply were held, by fair construction, to involve the treason. I need not remind the Assembly that the charging the offence of constructive treason has been regarded as the height of tyranny, from which the people of this country are now happily delivered—that now the charge of constructive treason is unknown—that it is not enough to say of a man that he has done something fairly to imply the guilt of treason, unless that directly a treasonable act is committed by him against the state. Viewed legally, it may seem to imply the character or guilt of treason, to homologate the guilt of treason, while yet it would be oppression and tyranny to deal with it according to that application. The offence must be received as it is in itself, and not in the light of the construction that may be fairly put upon it. Our brethren at the bar have not been in a position in which they could possibly commit the same offence with the ministers of Strathbogie. A man might be in a position in which he could not commit the crime of treason, and yet he might manifest great sympathy with traitors, and have a desire to give them the right hand of fellowship. To put upon that, however, the construction of its implying treason, will not place him in a position to commit the treason, and would not be a fair mode of procedure towards him. Now it is the same in this case. Our brethren at the bar have not had a sentence of the Assembly directed personally against them, and involving suspension from any of their functions, which, in spite of that sentence, they have continued to exercise. Neither have they at all gone the length of calling upon the civil courts to interfere in their own behalf, or in behalf of others, in the way of resisting the progress of ecclesiastical censure; so that they have not been in a position in which they could possibly commit these offences. They have manifested sympathy with rebels against the authority of this church, and, with all submission, rebels against a higher authority still; they have shown a great deal of sympathy with them, and of desire to give them the right hand of fellowship, and therefore gone to the very verge of what is consistent with a due regard to the authority of the church; but all that admitted, they have not been in cir-



cumstances to commit precisely the same offence, and therefore their offence is not in the same category with that for which the ministers of Strathbogie were deposed. In short, to return to the point, the offence has been acknowledged by our brethren, as the offence of contumacy, and nothing more; and it does not necessarily involve more. It may be that we may be compelled ultimately to rise from the course of further proceedings on their part, to apply the very worst construction to what they have done which the offence itself could possibly warrant. They may have intended to homologate all that the Strathbogie ministers have done, and may show by their subsequent conduct that they had so intended it; but we have not that before us now, and we are not called upon to take it into consideration. It is on this ground of the offence charged against our brethren, and which they have acknowledged as the offence of contumacy or a disregard of the authority of the supreme court, that we may conclusively proceed against all parties so situated in a summary manner. It may be found necessary for the integrity of our authority, and our defence against inroads upon it. It is a general principle applicable to all bodies self-governed, that the offence of contumacy must be more summarily disposed of than other offences, and for this good reason, that the offence itself so directly calls in question the authority of the body, that for its own defence and vindication it is compelled to have recourse to instant procedure. It is a general principle applicable to all bodies, that they are entitled to do whatsoever is necessary for the vindication of their own authority, and to do it promptly. And it is on this principle that courts of law summarily punish contumacy; and on the same principle it is competent to the Assembly to punish the offence, especially when that contumacy is connected with the encouragement of schismatic and divisive courses. The justification of immediate procedure, and the necessity of it, becomes more palpably apparent when the offence is not only a setting at naught the ecclesiastical authority in this church, but directly leading to the rending of this church asunder, and to leave her a prey to those very divisions against which we are all sworn to protect her. The Rev. Doctor proceeded to strengthen this statement, that all who encouraged divisive courses in the church should be treated in a summary manner, by a quotation from the act 1708, "for suppressing schism and disorders in the church." This act recognised the power of summary procedure in the case of presbyteries and synods, and, in regard to two individuals there named, it handed over this power to the commission, therefore, *a fortiori*, the Assembly could exercise that power itself. Having thus explained the view which I hold the Assembly may be called on to take of the fact which our brethren have acknowledged, the light in which it must necessarily be regarded, and the category in which it must be placed, as justifying summary procedure, I must advert to what I hold to be implied, even according to this limited view, in the offence itself. I am not disposed to view it as a light offence. I need not tell this Assembly that it stands on a distinct footing altogether from the act of those who have been guilty of preaching in these parishes, to the encouragement of ecclesiastical disorders, but by no means implying the holding of communion with the deposed ministers, as the act now acknowledged by our brethren at the bar undoubtedly does; and that they cannot but think, in all the circumstances of the case, that it is an act of serious responsibility. I must repeat what I have often said before, that after all the explanations our brethren have given in, I cannot see what obligations they were under to violate so frequently the authority of the General Assembly of this church. I can easily see various strong motives, most of them highly honourable, which might induce our brethren at the bar to take this step, and which might make them feel that they could not, in the circumstances, do otherwise; but surely, to justify an act of direct disobedience and disregard of the solemn sentence of deposition, something more is needed than the existence of a motive, in many points of view, perhaps, honourable and commendable. Surely there must be lying upon the individual a direct religious obligation, of stronger force than the religious obligation which binds obedience to the authority of the church. Let it be remembered, that every minister of this church confessedly lies under a solemn obligation, ratified and confirmed by a vow, to submit to the supreme authority of the church; and surely the obedience which he owes, in virtue of that obligation, to the supreme authority of the church, cannot possibly be set aside, except by pleading another obligation equally direct, equally religious,

equally imperative and indispensable. Neither will it do to dwell on various considerations of honour or feeling, or even of a religious nature, that may account for the act having been committed. It is incumbent on those who did it to make out clearly and fully the exact obligation lying on them. To take the illustration of the parental relation:—beyond all doubt, disregard of the parental authority cannot possibly be vindicated by any consideration merely arising out of the way in which that authority is exercised; neither can it be vindicated merely upon a sort of feeling that it is incompetent, because our sympathy has been excited in favour of those whom such pointed authority has treated too severely; not even if the pointed authority should, in the case of others, have been stretched beyond its competent limits, and with undue harshness in the case of others, will that be a vindication of me in disregarding that authority, so long as it is not brought to bear incompetently against myself. Our brethren at the bar plead their disobedience to the sentence of this Assembly, not on the ground of its being an unjust sentence—a hard and oppressive sentence. They could not constitutionally urge any such plea as this. It is not that it is harsh or oppressive that they do so. But they rest their defence on the ground that the sentence is incompetent. Even if it be admitted, however, to have been incompetent, that incompetency in reference to others will not justify them, when it is not brought to bear against themselves. There is another defence which has been made on the part of some. The breach which has been committed is put upon the ground that the sentence of the General Assembly, being a violation of the compact between church and state, and being an exercise of authority beyond its powers, the same is null and void, and has no existence. Now, it seems to me that this dealing with the case is somewhat summary. And if the authority which they say they admit they are bound to obey, has performed an act which in their judgment is wrong, incompetent, and a breach of contract, and sinful, the brethren don't entertain the question which is so said to be incompetent and sinful, but they get rid of it by assuming that this act of the church is to be held as having never been performed at all. If I am ordered by my lawful superior to do a thing which is contrary to law, there is then laid upon me the obligation of determining, as a question of conscience, what I am to do when the authority to which I am lawfully subject has exercised such powers; and I am not at liberty to shift from myself the responsibility of that position, by assuming that the thing itself is wrong, incompetent, or sinful, and is not done at all. This thing is deliberately done by the church; it cannot be recalled, and is not non-existent. There it stands, and there it must stand, whether it be a breach of contract—whether it be sinful, or incompetent, or however bad it be. This question is not to be disposed of by believing or assuming on the part of any one that the act of the church is altogether obliterated. Still it is my lawful superior who has done so; and though it may lay open the question of whether I shall rebel or go forth, I must still entertain the question of the thing being done by an authority to which I am subject. I am not to get rid of it by assuming that they never did it at all. The thing to be considered is, what is my duty?—how far can I satisfy myself with protesting as to how far I can come under his control? But with all this I cannot say that the thing is a nullity, else I would get rid of all conscientious obligation whatever, even though it should be in cases of controversy between God and man. For when man issued orders which the apostles could not obey, and though they did obey God rather than man, still they did not put aside these orders as having never been issued at all. Therefore I think, as to the question which was raised by the brethren who disapproved of the deposition of the ministers of Strathbogie, on whatever ground they disapproved of that deposition, still the fair question is—the church of which I am a member having done that which is sinful, what is the course which is then incumbent on me? Certainly I am not to treat it as non-existent. No; there it is, and I must deal with it as standing there, and not to be obliterated. After all, it may be possible, in some given circumstances, by protesting and washing my hands of all responsibility, and if not required to perform some overt act, thereafter to submit. This may be possible, but if not, there is no alternative. It is not for the purpose of shutting up our brethren at the bar with any painful deliverance that I state the case in this way, but I state it as the true view of the conduct they have

pursued. I cannot see that they were bound in conscience, or that they were at liberty, as ministers of this church, to take the course which they have done. They have been aggrieved in conscience by what the church has done, but they are not on this ground entitled to assume that the thing was never done at all. There must undoubtedly be a painful question raised, but it could only be settled in two ways,—either they must wash their hands by protesting against it, and calling in the secular power, or they must submit to their ecclesiastical superiors; for if they set their authority aside, they had no alternative but to go forth from the communion of the church, and put themselves under the protection of whatever other powers they thought fit. I will conclude by expressing my deep sense of the solemnity of the discussion in which we are this day engaged; and at the same time express the measure of relief which I find in remembering that we have now only to discuss the question in an abstract form, as a case of conscience, or a breach of the ecclesiastical laws. I am glad that, in the mean time, we are to leave out of sight what line of proceeding it might be incumbent on the General Assembly to adopt in finding the conduct of these gentlemen censurable. All this is to be reserved. But still we have to deal with an offence which, however we may restrict and limit the construction put upon it,—and while we do not view it as of the same grave nature which called for the deposition of the Strathbogie brethren,—still, under the circumstances in which the gentlemen at the bar were placed, it is a grave offence, and one involving serious responsibilities. The step which the Assembly found itself compelled to take last year, was one which unquestionably, whatever men may say to the contrary, was taken with great reluctance, and not without a foresight of the difficulties in which it might possibly involve the church. But I venture to say, that the church having vindicated her authority in the way she was imperatively called on to do, the last General Assembly would not, of its own accord, have had recourse to any other proceeding calculated in the slightest degree to aggravate the disorders in the church, and postpone the hope of a satisfactory adjustment of our differences. And I did at one time expect—and I hope our brethren will note it in reflecting upon the past—that our friends in the minority, giving us credit for what we have professed, when we affirm that we have done no more than our duty, would not be unwilling to respond to our earnest hopes that there might yet be an adjustment of our differences. Feeling this, I did cherish the hope that our brethren of the minority would have taken long time in making up their minds, before they had adopted measures which could not fail to increase the embarrassment of the church, and plunge us still further into trouble. I will not allude at length to what took place last year; but I may be allowed to say, that still there is ample room for pause before matters are hurried to an extremity. I have no right to intrude on this Assembly the expression of the strong feelings I entertain on the subject; but I must take the liberty of saying, that whatever obstacle the act performed by last Assembly has, on the one hand, thrown in the way of adjusting our difficulties, on the other hand I can see no reason why the minority should put additional obstacles in the way of that settlement, and that they should continue to do so. The principles which we hold respecting the headship of Christ, and the application of the doctrine of his Headship to the regulation of the affairs of his church—these we hold unalterably, and cannot compromise them, come what may; and if we must be driven to extremity, and our brethren cannot reconcile our position to their consciences, I for one am prepared to take all the responsibility of going to extremity. But considering the solemn circumstances in which we are this day placed, I will not abandon the hope, that whatever judgment the Assembly may pronounce in regard to the offence which has been acknowledged by the brethren at the bar—whether it be censurable or not—I say, I will not abandon the hope, that the pause which will ensue after pronouncing the judgment, will not be a pause in vain. I beg to move, “That the General Assembly find that the acts with which the ministers at the bar are respectively charged, are censurable, and that the said ministers having individually acknowledged that they committed the several acts respectively alleged against them, are liable to censure therefor; and resolve to appoint a committee to deal with the said ministers, and to report to the Assembly at its meeting on Monday,

and cite them respectively to appear personally at the bar on the said day at eleven o'clock forenoon.

Dr MAKELLAR seconded the motion of Dr Candlish.

Mr BISSET believed that the spectacle at the bar was, in the eyes of the country, worth all the speeches, and all the arguments, and all the pamphlets, which have come out, or can come out, upon the subject. The minority did not intend to detain the house by speaking against the speech of Dr Candlish, but sheltered themselves under the protestation given in by Dr Cook. It would not, therefore, be held by the house, that because they were not to move against what Dr Candlish had advanced, that they were without arguments to overthrow it.

Professor ALEXANDER said, that the principles of the majority were essentially derived from a popish source, more worthy of a Roman catholic than of a reformed protestant church, and fundamentally dangerous to the Christian rights of the people of Scotland. They would override and overrule the minority by an unchecked and irresponsible spiritual despotism. He felt obliged to oppose their principles and actings, because he was sincerely attached to the great leading doctrines of civil and religious liberty, which they were bound to cherish and protect, both within and without the Assembly.

Mr CUNNINGHAM said, that the majority were prepared to disprove the violent allegations of Professor Alexander,—to prove upon unquestionable evidence that there was nothing popish or despotic in their principles,—nothing but what was in accordance with the Word of God and the standards of the church, and fitted to promote the cause of civil and religious liberty. But he understood, that after the authorized intimation of Mr Bisset, the discussion was to stop.

Dr Candlish's motion was then agreed to without a vote. The Moderator, Dr Gordon, Dr Makellar, Dr Buchanan, Dr Candlish, Mr James Buchanan, and Mr Dunlop, were appointed the committee. Judgment being intimated to the parties, Mr Robertson gave in the following protest:—

“We, the undersigned, protest, that in agreeing to meet in conference with the committee which the General Assembly has just appointed to deal with us, which course we have adopted out of the deepest feelings of respect and deference towards this venerable house, we shall be held as thus acquiescing under the reservation which we hold to have been secured to us by our protestation already given in, and put in the records of the Assembly.” Signed by all the parties at the bar.

The Assembly then adjourned until half-past six.

### EVENING SEDERUNT.

The Assembly met at half-past six o'clock, and agreed to take up the

#### DAVIOT CASE.

Mr Maitland, advocate, appeared for the presentee (Mr Clark); the Rev. Mr M'Intosh, for the Presbytery of Inverness; and Mr Heriot, advocate, for the dissentients.

Mr MAITLAND said, he was happy to think, from the view he took of the case, that it would not be necessary for him to inflict a speech on the house. The deliverance of the presbytery which brought the case here, was the following:—

“Inverness, 3d May 1842.—The presbytery, having considered all the circumstances of the case, resolve to report the same to the General Assembly, and that a reference to the statement and minute of the presentee, requesting them to make a representation of the objects and motives of the dissentients, and of the religious state of the parish, the presbytery agree to grant to parties extracts of any minutes relative to Daviot, which may be in the records of the presbytery, so as to establish the undeniable fact, that from 1817 up to Mr M'Phail's death, there did exist a lamentable defection from ordinances among the people of that parish; but the presbytery cannot say that the present veto is to be traced to the spirit generated by this defection, nor will they declare but it may have had an influence in the matter, leaving it to parties still to establish, by competent proof, any other facts relative to the state of the parish, which the presbytery resolve to transmit to the Assembly as a part of the report, and decreed accordingly.

“Inverness, 11th May 1842.—The presbytery, after serious consideration, resolve to report this, as a disputed case, to the ensuing General Assembly for their instructions thereanent, including in the report the whole proof now closed, and the extracts from the former minutes which have been required and allowed to parties.”

He did not at all feel it necessary to go through the details of the proceedings which had led to that deliverance in the presbytery. He might state generally what would not be disputed in any quarter, that the presentee in this case received his presentation unasked, and he considered it his duty and privilege to maintain it so long as he thought there were no good ecclesiastical grounds for abandoning it. The learned gentleman went on to state, that the population of the parish of Daviot is 1700; the number of communicants is only ten. He did not at present think it necessary to go into an inquiry as to the cause of this singular phenomenon. He simply stated the fact to the house, as affording ground for inquiry into the state of the parish, and into the cause of this phenomenon, before it was held that there was a case in which to apply the letter of the veto law. Now, certain proceedings took place, when the presbytery came before the Synod of Moray; and the following was the deliverance:—

“The synod dismiss the dissent and complaint, and affirm the deliverance of the presbytery; and whereas, in the course of pleading at the bar, it has been insinuated that schismatical opinions and practices prevail to some extent within the bounds of the Presbytery of Inverness, instruct the said presbytery, if they see cause, to inquire into the truth of such allegations with the least possible delay, and to proceed thereanent according to the rules of the church.”

All parties ultimately concurred in this deliverance; and, accordingly, under the injunctions and authority of the synod, certain inquiry and investigation took place. A long proof was led, and the result was now before them in the evidence taken. Now, on the part of the presentee, he did not say that the proof was conclusively in his favour, nor that the case was in a situation in which it could be enjoined on the presbytery to proceed with the settlement of his client; but he said with great confidence that a case was made out for inquiry. Whether the presbytery had dealt with the dissentients as they ought to have done, or whether the proof they had led justified their opinion that the schismatic principles of the people had nothing to do with the veto, were questions into which he did not think it necessary at present to enter, because there was here a case plainly calling for inquiry. Perhaps the house would permit him to suggest that farther inquiry should be made into the state of the parish, reserving the rights of all parties entire; and if the house approved of this proposal, it might send down a commission of its number to inquire into the state of the parish generally, and report to the Commission in August, when the Commission might be enjoined to proceed with the reference, and give a final decision in the case. Such a course would meet with the entire approbation of the presentee, Mr Clark; and in the hope that some such suggestion would come from the house, he would not proceed with the case.

Dr CANDLISH said,—He had a suggestion to make, which might possibly meet the views of all parties in the Assembly, and the views of the parties at the bar, and supersede the necessity of going into the case. His proposal was in terms of the suggestion made by the counsel for the presentee, and it would have the effect of removing for the present all questions regarding the relevancy of the evidence taken in the case. He proposed that, in the mean time, considering the peculiar circumstances of the parish of Daviot, the Assembly should appoint a commission to proceed to the parish, and make inquiry into the condition of it. This would not involve the slightest departure from the strict letter of the act on calls; the whole case would be reserved; and no unreasonable delay would be occasioned, as the Assembly could order the case to be finally disposed of by the Commission in August. Dr Candlish then moved, in effect, that considering the peculiar circumstances of the case, and reserving the whole question whether the presbytery should go into the inquiry, the Assembly appoint a commission to visit the parish of Daviot, and inquire into the state of the parish in reference to the opposition to the settlement of Mr Clark, and that they be instructed peremptorily to report to the Commission in August; and remit the case to the Commission, with power, at that or a subsequent meeting, finally to decide in the case.

Mr Maitland, for the presentee, and Mr Heriot, for the dissentients, acquiesced; and the motion was agreed to.

CASE OF MR CORKINDALE.

This case, which came up by appeal from a sentence of the Synod of Glasgow and Ayr, reversing a deliverance of the Presbytery of Glasgow, was next called; when there appeared for the Presbytery of Glasgow, appellants, Dr Buchanan and Messrs King and Gibson; for the Synod, Drs Begg, M'Farlane, and Hill, and Mr Campbell of Kilwinning.

Mr KING stated the case for the appellants. It appeared that in February last, Mr William Alexander Corkindale, a licentiate of the Presbytery of Glasgow, had received from the crown a presentation to the parish of Ladykirk, in the Presbytery of Chirnside. Subsequently to this, he applied to the Presbytery of Glasgow for a presbyterial testimonial. From some information relative to the terms in which that presentation had been conveyed by Sir James Graham to Mr Corkindale, Mr King proposed that the granting of the certificate should be delayed till next meeting of presbytery. At the meeting following (1st March) Mr Corkindale appeared, when Mr King referred to an allegation that in the letter of Sir James Graham, which accompanied the presentation, there were certain conditions, expressed or implied, on which he was to accept it, and on these grounds it was moved and carried that the certificate be refused, and a committee appointed to inquire into the allegations. This committee accordingly met, and a meeting of presbytery of the 30th March gave in a report, which contained the following passage:—

“ Mr Corkindale attended the meeting, and gave in a written statement, which having been read, the convener was instructed to docket and keep *in retentis*. The committee finding that the account which Mr Corkindale gives in this written state of Sir James Graham's letter, differs from what has been reported by others, asked if he had any objection to produce the letter itself? Mr Corkindale stated that there were two reasons why he could not produce the letter. 1st, He understood that it would not be agreeable to Sir James Graham himself that he should do so. 2d, Being a private document, he felt he could not produce it without a breach of confidence.”

The written statement referred to above is as follows:—

“ It will be in the recollection of the committee, that I stated at last meeting of presbytery, that Sir James Graham had put no questions to me as to my views of church matters, and imposed upon me no conditions whatever; and that the report in a certain newspaper, respecting his communication to me, was utterly unfounded.

“ I stated farther, that the presentation to Ladykirk came to me without any solicitation on my part; that I was not even aware at the time that the parish was vacant; and that, whatever might have been said of me to Sir James, by the friends who brought me under his notice, I did not know who these friends were.

“ To these statements I still adhere; and I shall be happy if the committee is pleased with this distinct repetition of them, so as to remove the obstacle which now exists to my obtaining a presbyterial certificate.

“ I do not feel myself at liberty to lay before the committee any private letter which I may have had the honour to receive from Sir James Graham. It appears to me, that any correspondence of a private and confidential nature which may have taken place between the secretary of state and myself, cannot be produced without violating, not only the dictates of courtesy, but the principles of honesty and integrity. At the same time, I owe it to my feelings and duty, to assure the committee that my declining to lay before them the correspondence referred to, does not arise from any apprehension of the consequences which my doing so might bring upon myself; neither do I think, from any of the remarks which were made by members of presbytery, in regard to the meaning of the act against simony, that my duty to the church requires me to do so. This much, however, I will take it upon me to say, in addition to what I have already openly stated, that the terms in which the home secretary's letter to me is couched have been grossly misrepresented; and that they neither express an understanding that I will follow a particular line of conduct upon my being ordained to the ministry, nor an expectation that I will take my

direction from civil in opposition to ecclesiastical authorities; neither do they contain allegations, expressed or implied, against the Church of Scotland, or any of its judicatories.

“ I have already, on being licensed, solemnly pledged myself to submit to the government and discipline of the church; and I am ready, in the event of my being ordained to the ministerial office, to renew that engagement, and to promise that I will be subject to the presbyteries and superior judicatories of this church, wherever God in his providence may cast my lot.”

The committee, at a subsequent meeting, examined the Rev. Mr Brydie, and gave in to the presbytery the following notes of his evidence:—

“ Mr Brydie attended, and being asked, stated that he had seen a letter, which Mr Corkindale, who showed it to him, gave him to understand he had received from Sir James Graham. The letter was written in a cramp hand, so that he could not read it, but Mr Corkindale read it to him: That taking into account the side in church politics which Sir James Graham is understood to take, Mr Brydie understood him in the letter to say, that he hoped Mr Corkindale would be a faithful minister of the gospel, and an example to his people,—and that, in the event of his accepting of the presentation, he would be protected in his rights and privileges as a minister of the Church of Scotland. In answer to a question proposed by a member of committee, Mr Brydie farther stated that his impression from this was, that the protection referred to what might be Mr Corkindale's position after becoming a minister of the Church of Scotland. Being further asked, Mr Brydie stated that his impression was that the spirit of the letter was to this effect, viz., that Mr Corkindale was to obey the law of the land, and the crown would defend his rights: That, owing to the view which he had of Mr Corkindale's sentiments, it never occurred to Mr Brydie to think that the word ‘ protection ’ had a reference to Mr Corkindale's conduct before he might be settled; but taking into account Sir James Graham's views of church politics; and had he thought of the matter, he must have concluded that the word ‘ protection ’ had a different meaning, viz. that it had a reference to the period preceding, as well as subsequent, to the induction. Cannot say that the word ‘ protection ’ was in the letter, but something to that effect: That after the letter was read to him, such was Mr Brydie's impression of its import, that he immediately remarked, to Mr Corkindale, ‘ it is evident from that letter, that Sir James Graham considers a certain party in the church as rebels.’ That there were expressions in the letter which he cannot pretend to repeat, but which left on his mind the impression that, according to Sir James, there were parties in the church who were not setting an example of order, and regard to peace.”

The report by the committee to the presbytery on the 30th of March, concluded in the following words:—

“ The committee having considered these statements, find that a private letter was received by Mr Corkindale, from Sir James Graham; and although Mr Corkindale disclaims the idea of there having been anything in that letter expressing either an expectation or a condition, the fulfilment of which might be inconsistent with his duty to the church, yet it appears to have been so worded, as in the present circumstances of the church, to have left a different impression on the mind of Mr Brydie. In these circumstances, the committee deeply regret that Mr Corkindale should have felt himself precluded by any consideration, from laying the letter before the committee—a letter which, it appears, he has nevertheless shown to others.”

After considering it, the presbytery approved of the report; against which Principal M'Farlane and Dr Hill dissented, and complained to the synod. When the case came before the synod in April, it was carried, “ that the synod sustain the dissent and complaint, reverse the deliverance of the presbytery, in so far as it can be regarded as refusing or delaying to grant a presbyterial certificate to Mr Corkindale, and instruct the Presbytery of Glasgow to give Mr Corkindale a testimonial in due form.”

Against this deliverance, Mr King for the Presbytery of Glasgow, appealed to the General Assembly. Dr Begg and Principal M'Farlane were heard in behalf of the synod.

Dr BUCHANAN replied for the appellants.

Parties being removed,

Mr EARLE MONTEITH said,—I have listened with considerable attention to the statements from both sides of the bar; and though it may be a case for a court of conscience, I would be disposed to look upon it through the eye of the civil law; and doing so, the conclusion to which I have come is, that no ground has been stated for refusing the presentee his certificate. But I think, that under all the circumstances of the case, not only can no blame be imputed to them for the steps they have taken, but they have done their duty in taking it; and we should approve of it. I cannot help thinking that there is a great deal in the remarks as to the suspicious nature of the communication which has been received by this presentee; but still I cannot forget that, as a judge between party and party, I have certain functions to perform, and therefore I can only look at what appears upon the record, and not to any suspicions, unless they are supported by evidence of a nature to weigh with the court. The learned gentleman continued to state, that the fact that a letter had been addressed by the Secretary of State to a presentee, was an unequivocal circumstance, especially in the particular position in which the church was placed; and when they found that in that letter there were certain circumstances which made it private and confidential—so much so that the presentee would not produce it—the suspicions which existed were magnified. When these circumstances, therefore, were brought under the notice of the presbytery of the bounds, they did no more than their duty in prosecuting the investigation which they had done. He did not know what might be the powers and duties of a court of conscience; the definition of these he would leave to the reverend fathers and brethren around him; but as a man of the world, he would say, they would go a great length were they to force an individual to produce a private communication, by which any case could be made out against the person to whom it was addressed. Being adduced, it might inculpate the Secretary of State; but surely the receiving of that letter, which was not said to be accompanied by the demand for any pledge, could not be held as anything chargeable against the presentee. If the circumstance, therefore, of a presentee having received a letter, was to entitle a court of conscience to ask this letter, he would conceive that it would be a large stretch of power on their part. But, at the same time, he stated this with a qualification as to the circumstances under which the letter was written. It was written about the time of issuing the presentation; he was bound to presume it was not written before it, and therefore could not be regarded as a contract between patron and presentee. At the same time, it was unquestionably an unusual thing for a Secretary of State to address a letter to a presentee, and especially one of whom he knew nothing. Under the circumstances, he considered it was the duty of the presbytery to inquire into the matter; and at the same time, it was the duty of this presentee to do everything in his power to satisfy the minds of the presbytery; and should there be any thing in the letter to impose an understanding on his part, that there might be an improper compact between him and the patron, then, as a dutiful son of the church, he should have applied to Sir James Graham for leave to produce that letter, and had he so applied, and Sir James had refused, then he would say that he was not entitled to show that letter, and the presentee would stand blameless at the bar. But the presentee had not done this. It had been said from the bar, no doubt, that the presentee had heard from a friend that the production of the letter would not be agreeable to Sir James Graham; but still his duty as a faithful son of the church was to write to the Secretary, and state the difficulty he was in. It might be said that in this they would be dealing hard justice with him; for if there was any thing in the letter which should not meet the light, it would be putting upon the patron the odium of refusing to allow it to be seen. On the other hand, it must be said that, by the course he had followed, he was acting as a man of honour in saving his patron; still, as a man of the world, he (Mr Monteith) could not exculpate the presentee, or as a son of the church, he should have gone a step further than he did, and then he would have stood nearly above suspicion. In going over the case, it appeared that there were certain allegations as to the manner in which the presentation was received. What they were was not stated, but they were of such a nature that the presbytery considered themselves entitled to refuse the certificate which had been asked,



and appointed a committee to investigate the matter. The committee of presbytery proceeded in the discharge of its functions, and examined Mr Brydie. As to this gentleman, they had no reason for saying whether he had behaved in this matter ill or well. The letter had been shown to him by Mr Corkindale, —a circumstance which was to be taken as evidence that he was a confidential friend of the presentee. Whether Mr Brydie bruited its contents abroad of his own accord, he could not say, but if he did so, he certainly could not help condemning him. The contents, however, did get abroad somehow or other, and Mr Brydie was called before the committee. Being, as he believed, a licentiate of the presbytery, Mr Brydie could not of course feel himself at liberty to refuse the information which the committee of presbytery demanded of him, and on that ground, therefore, he saw no reason why the conduct of Mr Brydie should be condemned. The charge on the record was to the effect, that the presentee received from Sir James Graham a letter containing something that was suspicious; not that he had done any thing to homologate the contents of that letter; and the only evidence adduced as to what this letter contained, was that given by Mr Brydie. Now, it did appear to him that that evidence was the very least that it was possible to bring forward. Mr Brydie seemed to be a conscientious, straightforward man, as he at once stated that he viewed the letter through the spirit of prejudice; for he went on to say, that though he could not tell absolutely what was in the letter, yet, taking into account the church politics which Sir James Graham was understood to hold, he understood its contents to be so and so. He was under the prejudice that Sir James Graham must have meant something, because he understood Sir James Graham to hold certain church politics. He appeared, indeed, to have looked at the letter through the spectacles of prejudice and prepossession. Now, he must say that if he had been addressing a jury in a case such as this, he would have felt it his duty to urge that the existence of this prejudice must go far to discredit the testimony of this man. That the reception of this letter by Mr Corkindale was a very suspicious circumstance, he at once admitted: but according to the facts before them, he did not see that there was anything to inculpate either Sir James Graham or the presentee, because the latter was certainly entitled to say that he would extend his protection to this individual. He was led to suppose that Sir James Graham would extend protection to all according to the law. It was not the duty of Sir James Graham to make the law. He was only bound to execute the law as already in existence, and he hoped that he would do so to the very letter. It would be seen from the record that Mr Brydie spoke only of impressions left on his mind. Now this was all exceedingly loose; he did not give the words of the letter, but merely his own impressions,—something indefinite, —a mere shadow of a shade. After this, he went on to speculate about the word “protection.” He spoke of “protection” being extended to Mr Corkindale, but on being cross-questioned, he could not say that the word “protection” was in the letter at all. The evidence was clearly that of an honest man, but given in circumstances that showed he was speaking under the effect of prejudice and prepossession in his mind. He could not as a lawyer take that kind of sundry evidence as proof of the contents of the letter. It might be asked, how then was the presbytery to get the contents of the letter? He would say that, in proceedings like these, if they could not get them without breaking through the law of evidence, then they could not be got at all. The proper way was to get possession of the letter; and if there was no machinery in the church courts for effecting that object, then it was clear that the letter could not be obtained. After referring to the power in civil law by which documents could be called up, he observed, that if no such machinery existed in the church, here was an obvious defect in that respect. This case he regarded just as another instance of the practical grievance of patronage, of which they had heard so much. Mr Monteith then proceeded to consider if there were any grounds for refusing the certificate to Mr Corkindale. It was not said there were any other grounds than the one alleged as to the letter; and that he considered no ground at all. After some observations in reference to the decision in the courts below, in which he stated that the motion of Principal Macfarlane in the presbytery was not the proper antagonist motion to that made for the approval of the report, he

proposed the following motion :—“ That the General Assembly approve of the conduct of the presbytery in instituting an investigation, but find that, under the circumstances, there is no sufficient reason for the refusal of the presbyterial certificate; while, at the same time, the General Assembly concurs with the presbytery in regretting that the presentee did not apply to the Secretary of State for leave to produce the letter for the satisfaction of the presbytery.”

Principal HALDANE said he had great difficulty in approving of the conduct of the presbytery. He did not wish to use harsh terms, or to speak of inquisitorial conduct displayed, as he thought, by them in this matter; but he is inclined to propose that they dismiss the appeal, refuse the sentence of the presbytery, and enjoin them to grant the certificate.

Mr W. COOK said he would be extremely sorry to divide the house on the latter part of the motion, expressing regret that the presentee had not seen it his duty to produce the letter. He was perfectly willing to approve of the conduct of the presbytery, but he could not give his consent to the expression of regret.

Mr BUCHAN of Kelloe remarked that it was a simple expression of regret that Mr Corkindale had not applied to Sir James Graham for permission to produce the letter.

Mr CUNNINGHAM said that this was a point of great delicacy, and one which he was not inclined to surrender. They all knew very well that of late transactions of a peculiar kind had been going on between patrons and presentees, and which were regarded by the church with jealousy and suspicion. The Presbytery of Glasgow felt a suspicion in regard to the present case, and very properly instituted an investigation; and he held it was the duty of the church courts generally to watch such proceedings with jealousy and suspicion. In this case there was reason to believe that the patron had written a letter bearing on the principles of the present controversy in the church. The presentee refused to produce it, from an understanding that there was some intimation, directly or indirectly, that it was the patron's desire that the letter should not be produced. That circumstance surely warranted some suspicion; and surely the Assembly were entitled to express their regret that a very suspicious case of this kind was not so fully cleared up as they could wish it to have been. It was nothing more than a becoming expression of the watchfulness which the church, in its present attitude, thought right and proper to assume,—not that they attached great deal of weight to it, but simply that it was an expression of their views and feelings, and an exhibition of the vigilant manner in which they looked upon these matters; and he would fain hope that the result of this night's discussion would be to read a lesson to the patrons in general, and their protégées, and to Sir James Graham in particular and his protégées, against such transactions as these, and against writing letters which they did not wish to come before the church courts, and in the absence of which the courts were prevented from exercising their censures upon presentees entering into pactions, for want of evidence. If patrons and probationers would not abandon such practices, he hoped they would take more pains to conceal them.

Mr MONTEITH said he disapproved of the conduct of Sir James Graham in writing the letter, which was a suspicious circumstance; but, at the same time, the Assembly meant not to go a step further than to express their regret that it was not produced, and this was the whole amount of the clause objected to.

Mr CUNNINGHAM said the motion was not intended to express any censure against Sir James Graham.

Mr RHIND was glad that Mr Cunningham had retracted what he (Mr Rhind) had understood to be the construction he put upon the latter clause of the motion, namely, that it was intended to read a lesson to pastors and presentees.

Mr MONCRIFF, advocate, thought this was a very clear case, and that there need be no division of opinion upon it. It was quite clear that they could not refuse the certificate to Mr Corkindale. It was equally clear that the presbytery was not in a position to require him to produce the letter; and he was inclined to go farther, and say that there was no proof that Mr Corkindale had acted in this matter but in a way perfectly proper. At the same time he could not but admit that the inquiry had been quite competent, whether a letter had not been written to the presentee in reference to the presentation; and that it was a matter for the church to regret that the patron should write a letter, which was of such a nature that it could not be shown.

After some remarks from Mr Milne and Mr Monteith,

Mr HETHERINGTON said, that the young man, for his own sake, and in vindication of his own conscience, ought, if he was a high-minded and honourable man, to have requested the patron either to allow him to produce the letter, or take back the presentation.

Dr COOK objected, that while they came to this conclusion, they did not include in it any instructions to the presbytery to grant the certificate.

Mr MONTEITH said, the motion was an expression of the opinion of the Assembly, in as far as the subject-matter of the case had been before them. Of course, he believed that the presbytery would proceed to grant the certificate; but suppose that, in the mean time, the letter itself should come up, or something should occur to give a new aspect to the case, was the Assembly to give such an instruction in the face of circumstances that might emerge?

Dr COOK said, that in that way, they would never settle any case at all. Should new matter emerge, the presbytery were perfectly competent to take it up on its own merits; but if they came to a decision like the present, and then withheld the practical application of it, they would never decide a case in the world.

Dr CANDLISH begged to remind the house that the only question that had been brought before them was that of granting or withholding the presbyterial certificate. This was the only question that had come before the presbytery, who never had the merits of the question fully and fairly before them in any other shape. He saw no reason why the presbytery should not grant the certificate; but the Assembly could not go farther without foreclosing the right of judgment which the presbytery would have, in the event of the case assuming a new form.

The motion was ultimately agreed to without alteration.

The house adjourned at half-past eleven o'clock.

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### FRIDAY, *May 27th.*

The Assembly met at eleven o'clock, and was constituted by reading Deut. chap. vi., and singing Psalm lxxviii., verses 4, 5, and 6.

His Grace the COMMISSIONER presented to the Assembly the answers which he had received from her Majesty, in answer to the Assembly's congratulatory address to her Majesty, on the birth of the Prince of Wales, and the Assembly's reply to the Queen's Letter.

Mr ROBERTSON gave in the following reasons of dissent against the decision of the house in the debate of Tuesday—"The undersigned dissents from the deliverance of the General Assembly anent the overture of certain members of Assembly, reclaiming against alleged recent encroachments of the civil courts upon the jurisdiction of the church, for the following reasons:—

"1st, Because, in as far as the alleged encroachments have reference either to interdicts issued against proceeding with the settlement of a vacant parish, to the exclusion of the rightful presentee, or to injunctions served for the trial of the qualifications of any such presentee, and in the event of his being found fully qualified by the presbytery for his reception and admission,—the dissentients hold, that, on every fair principle of construction, a conjunct view of the several acts of parliament founded upon in the overture, is so far from showing the reservation of an exclusive jurisdiction to the church in the matter, that it most distinctly involves the admission of the jurisdiction of the civil courts.

"2d, Because, in as far as the foresaid encroachments refer to the disallowing, by the civil court, of sentences of suspension and deposition, held to be incompetent,—that court, in the judgment of the dissentient, has not intermeddled at all with the spiritual censure, properly so called, or so much as even pretended to give any new authority to the parties suspended or deposed for continuing in the exercise of their ministerial functions, but has simply found, as the dissentient submits it was perfectly entitled to find, that an unconstitutional and therefore incompetent spiritual censure can neither directly nor indirectly have any civil effects.

“3d, Because, in the case of courts believed to be viciously constituted, the dissentient cannot hold—be the encroachments civil or ecclesiastical—be they the courts of an established or a voluntary church,—that an interdict against their proceedings, while the vicious constitution complained of and believed to exist, still continues, is an incompetent interference on the part of the supreme civil court.

“4th, Because, although in the view of the matter taken by the dissentient, the Court of Session, in granting what is called the extended interdict in the case of Strathbogie, did transgress the limits of their legitimate jurisdiction, he nevertheless holds, that the church is not entitled to reclaim against this proceeding, inasmuch as the civil court did not thereby (regard being had to the peculiar circumstances of the Strathbogie case) invade any province of jurisdiction properly belonging to the courts ecclesiastical; it being the dissentient’s decided conviction, that, in the circumstances above referred to, it was the duty of the civil magistrate, on the showing of the Confession of Faith itself, though not in his judicial, yet assuredly in his supreme legislative capacity, to grant the fullest protection to the ministers of Strathbogie.

“5th, Because the deliverance of the Assembly on the overture aforesaid, in implying, as it necessarily does imply, a fixed determination on the part of the Assembly to adhere to the act anent calls, and to maintain in full force the penal proceedings which have been instituted under that act, appears to the dissentient, at least, to throw an obstacle in the way of the healing of our unhappy differences, which, if we look at the matter in a constitutional point of view, even the legislature itself may be found to be incapable of surmounting.

“(Signed) “JAMES ROBERTSON.”

“*Edinburgh, 25th May 1842.*”

Dr CANDLISH moved that the committee formerly appointed on the overture, should be instructed to prepare answers to the above reasons of dissent, if they saw cause. But his own impression was, that it would not be necessary to answer them.

After hearing the report on overtures, the Assembly proceeded to take up the following report of the Committee on Education, which was read by Dr Dickson, convener:—

#### REPORT.

“The duties of the committee naturally divide themselves into two distinct portions,—the first directed to the settling and maintenance of schools by aid from the funds at their disposal,—the second to the promotion of elementary education in general throughout the country, not by pecuniary encouragement, but by every other practicable means.

“For many years from the commencement of this scheme, the operations of the committee were limited to the settling and maintenance of schools in the neediest localities; and to this they were directed by the General Assembly instructing them to provide ‘additional means of education in the Highlands and Islands, and in the large and populous towns.’ Their object was to find out those situations in which no means of education existed, and to establish there the novelty of a properly conducted school. While this was the sole aim of the committee, they were not essentially distinguished from any of the private societies constituted for educational purposes,—such as the Society for propagating Christian Knowledge, or the Gaelic School Society. The purpose was benevolent; it was formed in the spirit of our holy religion; and there was the less readiness to look beyond it, as the means were never found of compassing it in its whole extent.

“The church, however, always stood in a different relation to education from that of any private society; and by degrees the feeling arose, that the committee needed not to be confined to the part originally assigned to it, but that it had better represent the church in the whole scheme of duty which it owed to the education of the country. Its measures began, accordingly, to bespeak that enlarged notion of its office; first, in 1835, the tenth year from the appointment of the committee,—when they announced their purpose to provide for the instruction of schoolmasters, in order to raise the elementary education of the country at large. Soon after, they began to receive and to prepare for publication the reports of presbyteries on the state of schools within their bounds. Much

correspondence then ensued with the government on the educational necessities of the country. In all this they acted not as a private society, which could have no proper title so to act,—but as representing the church in the whole extent of its care for education. The General Assembly did not expressly convey to the committee that general concern in all that relates to education, but gave its sanction to these and other measures of the like import, and nothing more explicit was necessary.

“ The committee having these two distinct objects before them, it may be supposed that it forms a point for their consideration, what proportion of their exertions ought to be bestowed on each. In reality, however, there is no room for any question on the subject. In the maintenance of schools, they can go no farther than the fund at their disposal permits; but there is no such limit to those measures by which the second object may be promoted, for it is always practicable in their position to do much for the benefit of education in general, without the application of pecuniary means.

“ They now proceed to state what has been accomplished in each department in the course of the last twelve months.

“ 1. As the fund is chiefly requisite for carrying on the first branch of the scheme, its present state, and its progress during the last year, fall to be noticed under this head.

“ It is with much satisfaction that the committee announce the very ample support which, in this respect, they have received in the course of the last twelve months—the income for the period from 15th April 1841 to 15th April 1842, having reached the large amount of L.5790, 14s. 9d.

“ With the exception of a legacy of L.100 from the late Mrs Baillie of Drylaw, the contribution has not been aided by any sums of unusual amount; it appears to have been mainly indebted to the great number of the ordinary parochial collections.

“ It is farther pleasing to observe, that for many years past the income has steadily increased, and that it now considerably exceeds the largest amount it had attained in any year from the commencement of the scheme.

“ The committee acknowledge with gratitude this token of the Divine favour to the measures in which they are engaged; and they are thus encouraged to hope that a disposition is forming in the public mind, from which they may reasonably expect a still larger assistance in extending the blessing of a Christian education among the poor.

“ The expenditure of the last year amounted to L.4635, 17s. 10d., so that there remains a surplus in the income of the year, of L.1154, 16s. 11d. Let it not be forgotten, however, that this surplus scarcely replaces the deficiency\* in the income of the preceding year; and if that use for it were wanting, it will be seen from what follows, that others of a pressing nature are awaiting it.

“ The schools now maintained upon allowances to the masters from the funds of the committee are in number 143; and they are reported to afford instruction to upwards of 13,000 pupils.

“ Of these schools, it will be seen from the appended list, that twenty-three are situated in towns, or in the needy suburbs of towns,—of which four are in Glasgow, two in Greenock, two in Aberdeen, three in Perth, two in Dundee. And very numerous are the applications for more schools in these and other towns, yet unanswered, and awaiting a farther increase of the means at the command of the committee. They desire it to be known, that there is no class of the population for whom they are more anxious that their funds should be available than the poor of the large and populous towns. To these they are aware, that the schools at no great distance are often inaccessible, from inability to defray the customary charges. But even when this is not the case, there is, in the situation of many teachers in these localities, much that calls for protection. Nowhere is the unprotected teacher,

\* The deficiency was occasioned by there having been no general collection for this scheme for a period of one year and ten months; and by the accounts for the year, embracing only ten months' income and twelve months' expenditure.

in cases where his success is not considerable, less honoured for his calling, because nowhere, in such cases, is it less regarded as a liberal occupation: in some manner, it is rather viewed as a common shift for gain, than as an object of ingenious choice; and it is there where, for that reason, the status of the schoolmaster often reaches to its lowest point. On this account it is, that teachers in these circumstances need the benefit of such countenance as this committee can bestow, were it only by receiving them into a known connection with their scheme. On this account it is, that while some of the teachers so received are observed to derive a considerable emolument from school fees, the committee do not think it fit to reduce the allowances of such teachers from their fund,—the continuance of that benefit being plainly necessary to meet the peculiar disadvantages of their situation.

“For the same reason it is considered in general a favourable circumstance to schools in these situations, when they are taken into connection with kirk-sessions or education societies. They are seen to derive thence advantages quite independent of that aid to the provision of the masters which is the immediate bond of the connection.

“The other schools are chiefly settled in the Highlands and Islands, and very often in the most sequestered parts. This is noticed at present, as it suggests a difference in the inducements that have led to the establishment of this class of schools from those that have operated in regard to town situations. The common motive to the establishment of schools in rural places, has been the impossibility of teachers finding in the school-fees, which the people can afford to pay, anything like a sufficient means of maintenance; nay, it is sometimes necessary there to instil the very idea that education is a needful thing. These are the chief forms of the necessity which exists in country situations. On the other hand, it is observed that teachers are there more apt to be esteemed according to the importance of their office, than they sometimes are when located among the lanes and alleys of the towns; consequently there is less need of making any provision for their benefit merely upon that account. Different reasons have been found for the settling of schools in different situations. But always there have existed strong reasons for the committee's interference in that manner; and in no case where these have ceased to exist, have the schools been allowed to be continued.

“If the inducements to the establishment of schools have been various, so also, it may be noticed, are the occupations of the people for whose children they have been provided. It is supposed that the whole 12,217 pupils reported last year may be distributed somewhat as follows:—

Of the agricultural population, chiefly small crofters,	5354
Fishing population,	3301
Mining population,	514
Manufacturing population,	781
Miscellaneous town population,	2267
	12,217

“The situation of these classes is farther varied by such circumstances as these, that some are in sequestered localities, and form a community having very little intercourse with any other, while others are not so secluded from the commerce of the world; some are not likely to witness any change in their places, occupations, or habits, for the present generation, while others have the prospect of an emigration to foreign countries,—the latter not an unimportant case, when it is considered that, from the parishes in Skye and North Uist, in which there are Assembly schools, upwards of two thousand have removed to Canada and other colonies within the last twelve months. Then, how has this diversity of circumstances affected the education which has been offered by the committee? In no degree whatever. To one and all they offer the same plan of education precisely—namely, an education which consists of instruction in reading, writing, and accounting, and, above all, the truths of the Christian faith. The reason is, that it is not deemed to be the proper business of elementary schools to educate specially for particular circumstances or callings, but rather to supply that general education which is necessary to men in all situations;

and this universal necessity is found most plainly in our holy religion—opening up the way of salvation by the Redeemer, and also in that command of the sources of knowledge which is given by the possession of the other common elementary branches.

“ In some schools, it is observed, the instruction extends to subjects more advanced; a number of the pupils being taught Latin, French, and mathematics. Sometimes it has been asked whether there be any propriety in teaching these branches in such localities,—whether that kind of education be fitly placed among the objects of a fund originating in the manner of that which the committee administer,—whether the public sympathy, which yields so abundantly to the call of the church in this matter, can be supposed to have contemplated a case not presenting the feature of an absolute necessity. The question being not unfrequently repeated, it may not be improper to repeat the explanation,—namely, that the best teachers of the elementary branches are generally those who are capable of teaching more, and that the best receive from the committee only the same amount of salary as the most ordinary; that the higher branches are not intruded, but only placed at the acceptance of the small number that apply for them; that so far from the teaching of the higher branches prejudicing that of the lower, it is observed that the latter are most effectively taught in those schools in which the attention of the teacher is occupied with both; that the better educated pupil probably leaves his native place and improves his condition in the world, and that instances of this kind occurring in a neighbourhood strengthen the disposition of the people to education in general, and stimulate to laudable desires and exertions. If such, then, be the manner and the effects of this particular application of the fund, the application cannot be thought inconsistent with the strictest destination to charitable purposes. But is there really such a strict destination in the case? It is supposed not. The General Assembly instructs the committee to deal with education in every manner, even the most liberal, in which it becomes the church to deal with it; and the public is understood to give its support to their endeavours to act accordingly. For these reasons, when the better instruction in question happens to be desired by the poorest, it has not been the practice of the committee to withhold it; nor has it apparently been the wish of the public that it should do so.

“ The schools are, as usual, under the notice and superintendence of the ministers and presbyteries.

“ A considerable number of them were, besides, inspected last year by two members of the acting committee, the Rev. Mr Lewis of St John's, Leith, and the Rev. Mr Elder of St Paul's, Edinburgh; also by the Rev. Mr Lewis of St David's, Dundee, a member of the General Committee. They visited in all twenty-eight schools in the counties of Argyll, Perth, Inverness, Ross, and Caithness. To these gentlemen the task was one of peculiar interest,—education and the state of the population in respect of it, having long engaged not a little of their attention. For the same reason their inspection was highly beneficial to the schools, by the suggestions which they threw out for the assistance and direction of the teachers. For this important service the committee desire to express their grateful acknowledgments.

“ Some of the schools in Argyllshire were also inspected last year by the secretary of the committee.

“ It is proper to repeat each succeeding year, that many of the schools on this scheme, though instituted several years ago, have never had the benefit of such inspection from the committee; and that many of them have been visited but rarely—those, for example, in Orkney and Shetland, and the Outer Hebrides, of which there has been no special inspection for the last fourteen or fifteen years. The committee at the same time repeat their conviction of the value and necessity of a frequent inspection; and they indulge a hope that, in the course of the ensuing year, this may be in some manner, and without any burden to their fund, which it might not be well fitted to bear, provided for all or the greater part of the schools on this scheme.

“ One circumstance may be here noticed as affording an indirect testimony to the efficient teaching of the schools on this scheme,—the frequent promotion of the teachers to parochial and other endowed schools. This has gone on to a greater extent than usual during the last year. The inducement is, the greater amount of

salary attached to the latter class of schools,—the minimum in their case being precisely the maximum in that of schools on the Assembly's scheme. The removal of approved teachers is of course an inconvenient and displeasing occurrence to the people on the spot; but it is less so to the committee, who are not without an interest in the prosperity of the schools which are thus preferred, and behold in this frequent transference an acknowledgment of the merits of the teachers that occupy their own. They cannot be unwilling that their schools should be known as so likely to afford a passage to others more desirable; they are aware, indeed, that, to the knowledge of that fact, they have sometimes been indebted for the best teachers on their establishment. They only wish that the advancement of the teachers took place at an earlier period of their connection with the committee, when the choice might be made with equal safety and assurance. The merits of the teachers first become known at the Normal Seminary, where they attend not merely to acquire, but to give evidence of their ability for teaching. The committee would recommend to the patrons of the schools in quest of able teachers, that they would turn their attention to the Normal Seminary as much, at least, as to the other schools on this establishment throughout the country. The test of qualification in that seminary is complete: the qualification is commonly in a great measure formed there; and it is fit that the abilities there produced for the service of education throughout the country should be thence directly derived. If the schools on this scheme afford excellent teachers, it is often in a great measure because they have had the benefit of a period of training at the Normal School.

“In the course of the last year eight schools were added to the scheme, increasing the obligations of the committee to the amount of L. 125 per annum.

“This is an inconsiderable addition; but they trust it is well understood that the number has been limited only by the amount of the fund at their command, and not by the extent of the necessity.

“Every year brings accumulating proofs of the prevailing want of the means of elementary education throughout the country. The evil is not alone in the Highlands and in the towns: it is everywhere,—everywhere if a proper estimate be made of the value of the education which is given at many schools, offering a show of instruction little better than delusive. From the most favoured districts, cases presenting strong claims to aid are ever and anon brought forward; and from other places the instances are still numerous of a destitution as dark in its complexion as any which the committee have hitherto relieved. It is enough to say that the latter occur in the large towns, and in those remoter, secluded parts of the Highlands, where social life, in all its outward circumstances, sinks perhaps as low as anywhere within the civilized world. This destitution, in its whole extent, the committee could wish to lay before the public, as well fitted to rouse to greater efforts of benevolence; but they cannot. Looking to their own reports in former years, they find the destitution chiefly designated in one way,—by figures, which cannot of course represent the evil in the colours best fitted to move a disposition to relieve it. The parliamentary reports, though abounding in useful information, are not more satisfactory for this particular purpose. The inquiry of 1834 was limited to the ascertainment of the number of schools, and the amount of attendance at different times in the year; but the general state of education among the people was left to an uncertain inference from these facts. The returns to parliament in 1841, show the different schools in each parish, their attendance, constitution, administration, and the system of instruction pursued. But here, too, the investigation was limited to the school-room and the school-registers; whereas, to find the actual state of knowledge among the people, it behoves to be extended to their households, and to take under survey the circumstances of their daily life and conversation. It is in that manner that reports must be produced, capable of awakening an adequate interest in those privations of which so many instances come under the notice of this committee, only to pass from them unrelieved. Among the instructions to inspectors issued by the committee of council on education, there is one,—that occasional inspectors may be desired to make inquiries “respecting the state of elementary education in particular districts.” May it not be hoped that, when this intention is followed up in those districts with which this committee is principally concerned, it will produce a sort



of information not at present to be found elsewhere, and perhaps not more useful to the committee of council than it is likely to be to this committee in the prosecution of their objects. The means will then exist of showing to the public more distinctly the exact form and pressure of the evil which they are called upon to remedy.

“ Sometimes the committee have been solicited to establish and maintain schools, on the promise that the parish will return a yearly collection to the fund, of the amount, or nearly the amount, expended on the school. On this proposal the committee desire briefly to explain their views.

“ It seems to originate in their own rule, that parishes having schools from this scheme shall contribute a church collection yearly to the fund; and in the practice of inquiring as to the probable amount of that collection, and regulating thereby in some proportion the amount of the allowance to the teacher. The condition is so reasonable, that it is always agreed to, and seldom not implemented.

“ It is not, however, simply in consideration of that condition being agreed to, but mainly of the unusual necessities of the parish, that the maintenance of schools is ever undertaken. Were the contribution the only requisite, would not these consequences ensue:—that few parishes would not find use for their collections within their own bounds, and require their application there,—then there would cease to be a general fund applicable to those poor districts in which self-relief is impracticable;—that the parishes would then no longer propose, in supporting this scheme, an object of benevolence, but simply their own benefit;—and that contributions having that narrow, private destination, are much more likely to fall away than when they are called forth by the better, it may be said by the steadier, principle of Christian philanthropy. The Committee would not then be in a situation to accomplish any of those things for which they were first appointed, and which still chiefly influence the sympathy of the public. But the principle that actually sustains this scheme is different, and indeed well understood throughout the church. Private needs are not neglected by those that give it their support; but there is at the same time another satisfaction in the privilege of contributing to uphold an enterprise of extensive and general usefulness.

“ 2. Under the second branch of the proceedings fall to be noticed those that relate to the promoting of schools not in connection with this scheme, the superintendence of education throughout the country by presbyteries, and the special preparation of teachers for their calling at normal schools.

“ (1.) When the due provision for instruction is reported to the Committee as wanting in any locality, the first inquiry is, whether there be any latent means on the spot, which, if called into action, might supply the want, or contribute to do so. That is the natural source of remedy; and until it has been exhausted, there is no call either on charity or policy to offer any other.

“ The want must sometimes be ascribed simply to indifference on the part of the people. In so far as that disposition may be the effect of a depressed and rude state of life, it cannot, of course, be removed by any such measures as it is the business of this Committee to employ. But when it is traceable to other causes, the Committee are not without an influence by which it may be at least diminished. Much may be done by pastoral admonition, and much by the presence of a teacher fitted to command attention to what he professes. Both of these means have been occasionally employed, on the suggestion of the committee, and not without much of the desired effect.

“ Something may be expected also of individuals interested in the locality, and disposed and able to provide for its proper education, when the people themselves are not in a capacity to do so. But it is remarkable how few are the instances of this mode of benevolence in Scotland. Much more frequent is the case of benefactions for the maintenance of the poor,—an object prior, no doubt, in the order of necessity. Still, it is remarkable that in Scotland, where education is so much an object of attention, so little should have been done to promote it in this manner. In the county of Dumfries, for example, there are at least thirty-five different mortifications for the poor in the management of kirk-sessions, while there are no more than thirteen for purposes of education. It is seldom that the committee find an

opportunity of suggesting this direction to benevolence. More frequently it is in the power of the ministers of parishes to do so; and much to be desired it is, that every such occasion were improved.

“ Sometimes, also, the required relief may be expected from the parish at large. From the funds under the management of kirk-sessions, allowances may be granted to the teachers for salaries, or to the poor children for payment of school wages, or for the purchase of school books. This appears to take place more especially in the towns and *quoad sacra* parishes. The committee have availed themselves of every opportunity to encourage this mode of benevolence; and they are gratified to think that in that manner, the supply of school books, in particular, on the plan described in the Report on Presbytery Returns for 1841, has been brought more within the reach of the poorest of the children.

“ Lastly, in the class of local efforts may be named the County Associations, of which mention has been made in former reports. One of these has now been established in the county of Ayr, on the plan proposed, and promises to do much for the improvement of the schools within the bounds. As it is chiefly through the interest of presbyteries in this matter, that the formation of others may be expected, the Committee have lately again addressed the presbyteries on the subject.

“ On the whole, however, it must be owned that the influence of the Committee in determining local exertions has not yet been nearly so considerable as it is capable of being; and that this part of the scheme, indeed, has been much less developed than any other. It is probable that the case may be somewhat altered hereafter.

“ (2.) The General Assembly last year recommended to the church a change, not in the mode of conducting the superintendence of schools, but in the mode of reporting it. By statute, by acts of Assembly, by custom, and by the necessity of the case, this superintendence has been exercised by the ministers of parishes as well as by the presbyteries of the bounds; but hitherto only the presbyteries have reported their examinations; and their reports have not travelled beyond the sphere of observation proper to them as presbyteries. The superintendence of ministers, however, ranges to different objects; and it was fit that they also, in order that the church superintendence in its whole extent might be represented, should make known what they may have noticed within their respective parishes.

“ The points to which these parochial reports may be expected to apply are suggested in a communication which the Committee lately transmitted to ministers on this subject; not that it is meant each report should address itself to all these points, but to such of them only as may be judged to offer the principal occasion of remark. They trust this is sufficiently understood; otherwise they may be supposed to have suggested many inapplicable or unnecessary questions.

“ The report of the church superintendence for the present year will therefore consist of two parts, that of the presbyterial, and the parochial, reports,—the latter likely to prove a branch of no inferior interest or importance.

“ The Committee are here reminded of the co-operating inspection of schools lately provided for Scotland by the privy council committee on education. When that arrangement was first proposed to the church, part of the plan was, that the reports of inspection should be, ‘from time to time, communicated to this committee.’ A report accordingly by the inspector, Mr Gibson, on the state of schools within the bounds of the Presbytery of Haddington and Dunbar, was lately transmitted by the council committee on education, and it is now herewith laid before the General Assembly.

“ (3.) The normal school has been already so frequently described in its objects, management, and general course of procedure, that it is only needful at present to state the extent of its operations during the last year.

“ The total number of pupils admitted in that time was sixty-two.

Placed and maintained by Committee,	23
By the Society for Promoting Christian Knowledge,	7
By pupils themselves,	32

“ Of those who left the seminary in the course of last year, and who had been placed there by the Committee, part were appointed to schools on this scheme, part

had already been in the charge of such schools, and part were induced to accept employment as interim teachers throughout the country,—the latter class, consisting generally of those who had afforded the least gratifying proofs of ability, while under instruction and trial at the seminary.

“ This school, it is proper to notice, has lately assumed a new feature in the instruction it now affords to the female pupils in a necessary branch of female education—that of needle-work—now so commonly found in all schools that command the means of giving it.

“ The female department of the seminary has, like the other, come to be employed for normal purposes, the resort to it of female teachers having commenced almost with its establishment. Ten female pupils are now in attendance.

“ The adoption of this branch implies the recognition of a principle in school education which the Committee had not before introduced, or seen introduced into their normal school, or any other on their scheme. It gives to the normal school so far the distinguishing character of what is called a school of industry. No provision of a corresponding kind, that is, of instruction in the particular modes of industry which are to form their future occupation, has yet been made in any of their schools, for the male portion of the pupils. But there is an obvious difference in the cases, that warrants and calls for a different management; and while adhering to the principle, that the great business of school education should be the general culture of the mind by religious principle, useful knowledge, and good habits, irrespectively, to a great extent, of the future calling in life,—it is conceived that the branch in question may be consistently and beneficially admitted, in all places, into the scheme of female education.

“ The whole seminary continues under the able direction of Mr Oliphant.

“ It has been usual to notice in these reports the state and progress of the kindred seminary in Glasgow. Such an institution could not exist without inspiring the committee with a lively interest in its proceedings. But that interest, as may be supposed from the circumstance about to be noticed, is much increased on this occasion. The constitution, government, and methods of the Glasgow seminary having been formerly described in the words of the managing committee, all that need be stated in regard to it at present, respects the extent of its operations during the last twelve months. The total number of pupils in that time under training is said to have been about forty. Some have gone abroad; but the greater part have settled as teachers at home.

“ The committee now crave the attention of the General Assembly to a matter of as great importance as any that has ever occurred in the course of their proceedings,—not merely as it comes in a proposal proceeding from the government of the country, but for its extensive bearings on elementary education, and on the future direction of the efforts of this committee.

“ They have, on many former occasions, made it a subject of regret, that the normal school under their superintendence, directed though it was by the ablest masters, never had succeeded in attracting other pupils than such as aimed at rather an inferior class of schools, and even these in very small numbers, unless when brought forward by the encouragement of an allowance for their maintenance. This they have attributed to the insufficient appointments of the school for its peculiar purposes, and that again to the want of funds to render it all that it behoved to be in order to attain the ends proposed. The limited extent of the success might have other causes; but though the voluntary resort might not increase even when these disadvantages were removed, still there was a clear necessity for upholding such institutions, even when the resort could only be secured by a small provision for the maintenance of the pupils. In the least sanguine view of the matter, ampler accommodations were required, and a larger annual expenditure, to follow out the purposes of the institution in anything like their due extent.

“ The committee reported to the last Assembly their desire to remodel the normal school, so that it might either attract more pupils at their own expense, or enable the committee to maintain more at theirs; and for that purpose to apply to government for aid from the public funds. Soon after, they presented a memorial and petition to the education committee of the privy council, praying that it might please

their lordships to 'grant from the funds at their disposal, a sum for the erection of a building suited to the purposes of a completely formed normal school; and also to grant a sum towards its maintenance on such a scale as may ensure the competent education of the teachers under training, and the extension of such education to as many teachers as may serve to convey the desired improvements to elementary education generally throughout the country.'

"On occasion of presenting this petition, the convener and secretary, at the request of the committee, proceeded to London, to afford any farther information that might be required regarding the constitution, management, present state, or prospects of the institution. These gentlemen having had the honour of an interview with Lord Wharnclyffe, president of the council, his lordship expressed a cordial desire to assist the Assembly committee in the prosecution of this important object, and explained the terms on which the council committee would propose that such assistance should be given. In the mean time, however, a similar application having been presented in behalf of the Glasgow normal school, under circumstances of still greater necessity, it had occurred that an arrangement might be made that should embrace both cases under one grant to the Assembly committee. But before this could be proposed, it was necessary that information should be obtained regarding the financial state of the Glasgow seminary.

"Afterwards, when that information was obtained, the committee had the honour to receive a communication, transmitting the following minute of council:—

“December 21, 1841.

“The Committee of Council on Education had under their consideration the report of Mr Gibson, her Majesty's inspector in Scotland, on the present condition of the Glasgow normal seminary, and the correspondence of the Glasgow Educational Society, memorializing their Lordships for further aid to defray a portion of a large debt incurred by the Society, in the erection of their buildings, and by the annual expenses of the schools. Their Lordships likewise received from Mr Gibson a written report (hereto appended) on the present state of the Society's finances. Their Lordships, moreover, took into consideration the correspondence and memorials of the Education Committee of the General Assembly of the Church of Scotland, praying that their Lordships would be pleased to grant aid to that church, to enable it to establish and conduct model and normal schools in Edinburgh. Their Lordships also referred to their letter to Mr Gibson, directing him to communicate with the Education Committee of the General Assembly, and with the Committee of the Glasgow Education Society, on the foregoing memorials and correspondence; and they received from Mr Gibson a written report of the results of his communications with these two bodies.

“Resolved—That L.5000 be granted to the Education Committee of the General Assembly of the Church of Scotland, to enable them to found model and normal schools in Glasgow, on the following conditions, viz.:

“1. That the Glasgow Education Society convey the site and buildings of their normal seminary to the General Assembly, in trust for ever, as model elementary schools (for the children of the poor of the city of Glasgow,) and as a normal school (for the instruction and training of schoolmasters of elementary schools, for the children of the labouring classes), to be maintained and conducted by the General Assembly.

“2. That this L.5000 be appropriated to defray a portion of the debt incurred by the Glasgow Education Society, on condition that the remaining creditors have no claim on the buildings of the Society, when conveyed to the Committee of the General Assembly, and that the Committee of the General Assembly be restrained from effecting any mortgage on the buildings for the remaining debt.

“3. That the Committee of the General Assembly become responsible for the remaining debt, as reported by Mr Gibson, but for no other liabilities whatsoever.\*

“4. That the draft of the deed by which the Glasgow Education Society convey their schools to the General Assembly, be submitted to their Lordships, before it

\* Amount of the debt reported, L.10,677.

is executed, in order that it may be examined by their counsel, and that the deed be not executed until it has been approved by their Lordships.

“ 5. That the inspection of the Glasgow model and normal schools by her Majesty's inspector be secured in the trust-deed.

“ Resolved—That L.5000 be granted to the Education Committee of the General Assembly of the Church of Scotland, to enable them to erect a building, for model and normal schools in Edinburgh, on the following conditions, viz.

“ 1. That the General Assembly raise L.5000 in addition to the L.5000 granted by this committee, and that the whole of these sums be expended on the erection of the model and normal school buildings, and on the purchase of a suitable site.

“ 2. That the plans of the proposed buildings be prepared by their Lordships' architect, in accordance with the instructions of the Education Committee of the General Assembly, and be submitted to their Lordships, and approved by them, before the buildings are commenced.

“ 3. That the site and buildings be conveyed to the General Assembly of the Church of Scotland in trust for ever, for model elementary schools (for the children of the poor of the city of Edinburgh), and for a normal school (for the instruction and training of masters of elementary schools for the children of the labouring classes), to be maintained and conducted by the General Assembly.

“ 4. That the draft of the deed of conveyance be submitted to their Lordships, in order that it may be examined by their counsel, and that it be not executed without their Lordships' approval.

“ 5. That the L.5000 be not paid to the education committee of the General Assembly, until the building is erected—until it is conveyed to the General Assembly—until the deed is registered—nor until all expenses incurred in the erection of the building are defrayed, excepting what will be liquidated by their Lordships' grant.

“ 6. That the inspection of the model and normal schools be secured in the trust-deed.

“ Resolved—That Mr Gibson having reported that the education committee of the General Assembly are willing to appropriate the sum of L.500 per annum to each of the above-named institutions, their Lordships also grant L.500 per annum to each of these two schools, on the following conditions:—

“ 1. That the whole of the school-fees collected from the children, and the fees paid by the young men in attendance on the model and normal schools, together with any local subscriptions, be appropriated to defray the annual expenses of these two establishments.

“ 2. That the General Assembly grant L.500 per annum, in addition, towards the annual expenditure of each of these two institutions.

“ 3. That if at any time hereafter it shall appear to the committee of council on education, that the said model and normal schools at Glasgow or Edinburgh, or any of them, are not satisfactorily maintained and conducted by the General Assembly of the Church of Scotland, the annual payments of the committee of L.500 to each of them may be discontinued, either wholly or in part, as the case may be, or for such period as the committee may determine, and resumed at the pleasure of the committee, whereupon the conditions of these grants shall again be obligatory.

“ 4. That a rector be appointed to each establishment.

“ 5. That before proceeding to the appointment of this rector, or of the head-master of each of the several model schools, the education committee of the General Assembly shall confer with the committee of council on education, communicating the names and testimonials of the candidates, and suggesting the names of the most eligible candidates, and that the concurrence of the committee of council shall be necessary to any appointment.

“ That the committee of council may at any time withdraw their concurrence in the appointment of the rector, or of any head master, who shall then cease to hold office in the school.

“ 7. That the committee of the General Assembly furnish such reports on the regulations, management, discipline, and financial condition, of each establishment, as the committee of council may require.

“ The reply was conveyed in the following minute of the committee.

“11th February 1841.

“The General Assembly’s Education Committee having considered the communication of the Lords of the Committee of Council on Education, dated 31st December last, with the minute of Council therein referred to; and having also had before them the several applications which they have made at different times to the Council Committee in behalf of the normal school in Edinburgh, cannot but feel in the highest degree gratified that their Lordships have resolved to appropriate so large a sum out of the fund at their disposal, towards the establishment and support of seminaries for the education of teachers; that they have recognised the need of more than one seminary of that description, and point to the two localities best suited to the purpose; and that they propose to place both schools under the superintendence of the church,—an arrangement agreeable to the whole educational system of Scotland.

“The Committee further entirely acquiesce in the propriety of the conditions on which their Lordships propose that the intended grant should be made, with the exception after-mentioned, and express their willingness to co-operate zealously in promoting the object in view. This, the Committee are assured, will best be effected, especially so far as regards the contributions to be provided on the part of the church (which must be raised in addition to the yearly sum of L.5000 required for their existing schools) by previously obtaining the sanction and authority of the General Assembly.

“The Committee therefore resolve to report the communication of their Lordships to the ensuing General Assembly, with an earnest recommendation to the Assembly to adopt immediate measures for making a general and strenuous effort throughout the bounds of the church, in order to raise the amount necessary to enable the committee to avail themselves of the very liberal proposal of their Lordships.

“They do not entertain a doubt that the General Assembly will fully appreciate the importance of securing the offered boon; and that they will adopt measures which will enable them to accept it.

“Awaiting, therefore, this necessary aid from the General Assembly, the committee, in the meantime, desire to express their most grateful acknowledgments to the council committee, and to report to their Lordships that they only thus delay the commencement of the proposed subscription, in order to render its success more sure.

“At the same time, in regard to the condition above alluded to, the committee have respectfully to solicit the reconsideration of their Lordships.

“In a communication from the council committee, of date the 16th of July 1840, the committee were assured that the ‘committee of council will not require any other conditions’ (in regard to normal schools) ‘than those which are required from the promoters of elementary schools which receive aid from the parliamentary grant.’

“The inspection to which these schools were open, was an inspection which was not to interfere with ‘the discipline or management of the schools.’

“But in the conditions proposed to be attached to the present grant, it is not only provided that, ‘if, at any time hereafter, it shall appear to the committee of council on education that the said normal and model schools are not satisfactorily maintained and conducted by the General Assembly of the Church of Scotland, the annual payments of the committee of L.500 to each of them may be discontinued either wholly or in part, as the case may be;’ but it is also proposed that ‘the committee of council may at any time withdraw their concurrence in the appointment of the rector, or head master, who shall then cease to hold office in the school.’

“To the first of these conditions the committee do not object, understanding that it does not import any right of control or interference in the management of the schools, beyond the simple withdrawal of the annual endowment. The latter provision, however, appears to them to be inconsistent with the principles laid down by their Lordships in their former communications, and to involve an interference with, and control over, the management and discipline of the school, which, they venture to flatter themselves, is not intended; and in which they are convinced that the church would not acquiesce.

“ It will, therefore, gratify the committee to learn that in this particular the council committee are willing to modify the conditions prescribed in the minute of 31st December.

“ In regard to the appointment of the rector, the committee understand the proposed arrangement to be, that the name of the person chosen by the Assembly committee be communicated to the Council committee, without whose concurrence the appointment does not become effectual. To this the Assembly committee cordially assent.”

“ The subsequent correspondence on this subject was as follows :—

“ ‘ Committee of Council on Education,  
Council Office, Whitehall,  
February 28, 1842.

“ ‘ SIR,—The committee of council on education direct me to acknowledge the receipt of your letter, dated the 12th of February, enclosing a minute of the education committee of the General Assembly of the Church of Scotland, dated the 11th of February, in relation to their Lordships' communication of the 31st of December 1841, proposing the basis on which the committee of council were prepared to co-operate with the Church of Scotland, for the establishment of two normal and model schools, for the promotion of elementary education chiefly in Scotland.

“ ‘ My Lords direct me to express their satisfaction that their confident anticipations that the Church of Scotland would be disposed cordially to embrace this opportunity of putting forth energetic efforts for the improvement and extension of elementary education in Scotland, in co-operation with the executive government, are fulfilled by the entire tenor of the minute of the education committee of the General Assembly.

“ ‘ My Lords, in defining the mode in which that co-operation might, with due respect to the church, be rendered harmonious and effectual, deemed it expedient that its terms should be defined with considerable precision, and they are gratified that the general principles on which they rest, are entirely satisfactory to the Education committee, and that all the details, with one exception only, are equally approved.

“ ‘ I am to explain that the passage referred to, as contained in a communication from this committee, dated the 16th of July 1840, in which their Lordships stated, that ‘ the committee of council will not require,’ (in regard to normal schools,) ‘ any other conditions than those which are required from the promoters of elementary schools, which receive aid from the parliamentary grant, had relation only to grants for the erection of school-houses, whether of normal or elementary schools.

“ ‘ The committee of council have not made any annual grant to elementary schools, and they have not required any condition in relation to grants for the erection of normal schools, different from those which they have invariably required from the promoters of the building of elementary schools, who have received aid towards their erection.

“ ‘ But their Lordships having determined, whenever annual grants are sought, to reserve for the executive government the power of co-operating with the ecclesiastical or other authority or body to which such annual grants may be intrusted, so as to enable the state to preserve a salutary harmony between the proceedings of the civil and ecclesiastical, or other authorities ; and, with that view, they have inserted the condition with regard to the withdrawal of the annual payment, under certain circumstances.

“ ‘ Upon consideration, my Lords do not consider it to be absolutely essential that, in addition to that provision, which would clearly entitle them to withdraw the annual grant, in case of the schools being placed in the hands of a master under whom they are not satisfactorily conducted, their Lordships should attach peculiar importance to the power of ‘ withdrawing their concurrence in the appointment of the rector or head master, who shall then cease to hold office in the school ;’ especially as it is their Lordships' desire, at the period when they reserve the power of interference, to employ it as the means of securing, at all times, harmonious co-operation.

“ ‘ My Lords desire me, therefore, to assure the education committee, that they will

have much satisfaction in withdrawing this clause, if, upon consideration, the education committee do not perceive that it is in all respects consistent with the operation of concurrent and harmonious counsels. I have the honour to be, &c. (Signed) J. P. KAY SHUTTLEWORTH. (Addressed) To JOHN GORDON, Esq., Secretary of the Education Committee of the General Assembly, &c."

12th March 1842.

"SIR,—Your communication of the 28th ultimo having been laid before the General Assembly's education committee, I am directed to express their satisfaction in learning that the committee of council on education, in the regulations accompanying the grants for normal schools, only propose to act in harmonious co-operation with the Assembly's committee, by whom the schools are to be "maintained and conducted."

"In reference to the clause which the Assembly committee took the liberty to bring under their Lordships' notice, namely, that which relates to the removal of the rector, they still, with deference, think that the ends in view will be best secured by its withdrawal; and beg to express their grateful acknowledgments of the readiness with which their Lordships have proposed to meet their wishes in this respect.—I have the honour to be, &c. (Signed) JOHN GORDON. (Addressed) To J. P. KAY SHUTTLEWORTH, Esq., Sec. Edn. Committee of Privy Council."

"This important proposal of the privy council committee is now submitted to the deliberate consideration of the General Assembly; and the committee await whatever direction the Assembly in its wisdom may be pleased to issue in regard to it.

"They may only, in concluding, express their own earnest desire to behold the establishment of well organised seminaries of this description; not only because they will furnish teachers better fitted than can be otherwise obtained for the business of elementary education, but because they have a strong tendency to advance those engaged in it to their proper place in public estimation. This is desirable as a matter of due satisfaction to the teachers: it is desirable, also, because the public interest in education itself will always be in some degree proportioned to the honour shown to those devoted to its service. Can it be doubted, that in this respect, matters are not in Scotland exactly as they ought to be?

"In conclusion, while the committee would anew urgently press on the ministers and other office-bearers and members of the church, at once the claims of this scheme to still more liberal support, on account of the still lamentable want of the means of elementary education still prevailing throughout their native country, and the value of the education which it is so desirable that the rising generation should in every district receive,—they would with equal earnestness solicit the renewed and fervent prayers of all who wish well to the temporal and, above all, the spiritual interests of the rising generation, for that blessing from on high to rest on the teachers and the taught in their schools, which can alone secure the faithfulness and success of the one, and the Christian tuition of the other.

"Signed in name and by appointment of the committee,

"DAVID DICKSON, *Convener.*"

Principal DEWAR moved the adoption of the above report, as follows:—

"That the General Assembly feel highly gratified by the increasing success of this scheme, and in the support which it had received from numerous congregations in the church, which, under the blessing of God, had benefited so large a portion of the community. That they approve of the various plans proposed for increasing still farther the means of elementary education throughout the country, and in the increasing zeal of presbyteries, ministers, and individuals in the cause. That they accept the proposal of the privy council, record their high sense of its value, and offer their grateful thanks to the council for its beneficent intentions,—enjoin on the committee to endeavour to raise the funds necessary on the part of the church, for taking advantage of the generous offer of the privy council,—and earnestly recommend ministers, presbyteries, and synods, to give their aid to the committee in promoting this scheme, which they trust will receive encouragement from the Christian people,—and that the thanks of the Assembly be given to Dr Dickson, the convener, and the other members of the committee, for their zealous exertions in the cause."



Dr BUCHANAN said, he had great pleasure in seconding the motion which Principal Dewar had proposed, and he hoped they would excuse him if he adverted for a moment to some particulars connected with this scheme on education. It must be peculiarly gratifying to notice the greatly increasing success of this important scheme in which the church was now engaged. Notice had been taken on a late day, that the multiplication of the church's schemes, so far from diminishing the funds of each particular one, on the contrary, greatly increased them; to none was this remark more applicable than to the General Assembly's Education Scheme. While this scheme stood alone, its funds did not exceed L.2000 a-year; now that it is associated with four other great schemes, its funds are on the borders of L.6000, that is, three times larger than when it stood alone. This was particularly encouraging; but they must not allow themselves to adopt the conclusion, that the education was adequate to the destitution in many parts of the land. The number of scholars, in one point of view, and when they were looked at by themselves, might be considered as large; but when they compared them with the prevailing destitution, the number was small. Thirteen thousand scholars rescued from mental darkness, were a large number; but when they saw ten times the number growing up without any instruction whatever—sunk in ignorance and degradation, the call was stronger than ever. And here he must remark, that the mode of procedure brought forward in the report, was scarcely so efficient as it might be. Strangers, and those who had not examined the subject, might imagine, that the whole of what was done was the expenditure of L.6000 a-year, and the education of 13,000 children by the Church of Scotland. This was most erroneous; for it left out of view the exertions made by individual parishes. He did not believe that there was one newly erected church but had its schoolhouse, and instruction for the children belonging to it. In the report which the convener had laid upon the table, a very important place had justly been assigned to the establishment of normal institutions in Edinburgh and Glasgow. Of the Edinburgh one, he (Dr Buchanan) could not speak, not having had the opportunity of making himself acquainted with its mode of proceeding and its results; but the Glasgow one he had minutely examined, and he must take leave to say that its supporters deserved the greatest gratitude at the hands of the Church of Scotland. He needed not revert to the danger in which they were ten years ago, of having their system of education stripped of that which constituted at once its safeguard, its honour, and its glory. Now, the way in which they prevented this was, the establishment of normal seminaries on a totally different system. Those who wished to overturn the Scripture system durst not at once attack the parochial schools; but they thought that if they obtained the ascendancy over the minds of the teachers, their point would be surely, though slowly gained. He remembered—and it must be gratifying to the Moderator that he now presided over that Assembly which was to hear of his admirable conduct—he remembered that to his (the Moderator's) own personal exertions, the first movement to prevent this disastrous result was owing. He remembered when he (the Moderator) was a minister in Glasgow, the expression he used in an impressive lecture he had addressed on this subject to the many who were congregated to hear him,—“If you wish,” (this was the substance of Dr Welsh's advice,) “to prevent these consequences, you must *anticipate the law*. A normal institution is evidently a desideratum in the present state of things. We must not then let it be set up by those who wish to subvert the scripture system; let us get before them,—let us take the ground, and gradually, but surely, the state shall be drawn into our train; the government will give us their support.” This, continued Dr Buchanan, was the course you proposed—this the prophecy you uttered; and it must be highly gratifying to you to fill the Moderator's chair, now that in the presence of this Assembly the fulfilment of this prophecy is recognised; it must be gratifying to hear that the government of our country *has* been drawn into our train—that it has come forward to assist these two great and valuable institutions, and has, by an annual grant, engaged to secure their stability. He hoped that a recommendation to enjoin presbyteries to raise funds in support of these institutions, would meet with approbation. He must tell, in vindication of those connected with the Glasgow institutions, how so large an amount of debt rested upon that seminary. The first cause was, that in Glas-

gow they had every thing to do for themselves in the beginning; they had not only had the institution to set up, but they had also to maintain it, and consequently the revenue fell far short of the expenditure; and he had to remind the Assembly that certain gentlemen connected with the institution had expended on it not less than L.7000. He would say, that the great benefit this institution had done was in consequence of first occupying the ground of scripture education. Another claim upon their gratitude arose from the sacrifices which had been made in order to maintain and further it. But to show its efficiency, he would advert for a moment to the testimony of the late president of the council's committee on education, he meant Lord Lansdowne. The testimony he bore was this—"I do not from personal knowledge pretend to be able to speak precisely on the point (that is, the value of the institution of normal schools in England), but my information leads me to this conclusion, that whatever is worth having in our English seminaries we have got from your institutions in Glasgow." And now, in conclusion, he would advert to the encouraging prospects of the institution. Government is to grant, on certain conditions, the sum of L.10,000, and L.1000 annually, for its farther maintenance; and there was little doubt that if the church did her duty, government would do the same to aid her in her efforts for educating her increasing population. (The reverend gentleman then quoted a passage from the report, to show the destitution that still prevailed.) He might just mention, as a specimen, one of some facts, which a more careful statistical inquiry would bring out. His own parish contained about 10,000 people, in one of the poorest districts of the city. The congregation with which he was connected had in the course of instruction about 1400 children. This, to be sure, was a very large number; but yet there were, besides, 532 children above six and under sixteen years of age, who were not at school, and were unable to read. Here was a specimen of the destitution which prevailed, and he was persuaded that if the church took the same method of inquiry, they would check an evil which was growing up, and which would otherwise be subversive of morality, and most injurious to religion. He was persuaded that if this were done, they would find the government ready to meet and aid them, and thus they would realize the enlightened and patriotic scheme of the founder of this church, of having an education adequate to the wants of the country. He hoped that what then only existed as a devout imagination in the mind of Knox, as was stated of the Reformer's plans, would soon come into operation, and be recognised as a blessed and valuable reality.

ALEXANDER HUTCHISON, Esq., said, they were aware that he had frequently pressed upon the attention of the house the importance of the suggestions which had now been made, viz. an inspection of the schools. It would be well to insert in the motion, not only a recommendation, but an injunction to this effect. He would recommend that the inspection of these schools should begin in right earnest; they should not allow, as was the case, some schools to be fifteen years without inspection. They must send down a committee to inspect the schools independently of the parochial clergymen and the presbyteries. He agreed with Dr Canning in wishing that an inquiry should be made as to the means of education in Scotland, and that they should go over to the Highland districts, and report as to the state of education there. He would state a fact of which the General Assembly was not aware; in the Highland districts, Gaelic, the only language the people understand, was not honestly taught in the parish schools. Nay, he had a most extraordinary fact to communicate, that there were parishes in the Highlands where the teachers themselves did not understand Gaelic, and one teacher had actually been taken from Dumfries-shire solely because he did not understand Gaelic, in order to banish Gaelic from the parish. He was consulting with a friend; but he was afraid that the act 1803 would not object to a teacher, even though he did not understand Gaelic, if he was qualified to teach the various branches required of any parochial schoolmaster. In the case of a preacher, it would be a valid objection, if in a Gaelic parish the preacher did not understand Gaelic. Now the same should apply to schoolmasters. In case his statement should be contradicted, he would particularise. In the parishes of Tarbat, Tongue, Farr, and Rogait, no Gaelic was taught, and in one of these parishes the teacher was brought expressly from Dumfries-shire for the very

purpose of banishing Gaelic from the country. This statement, he hoped, would satisfy some members that an inquiry should be made as to teaching the children their own language. What was the use of coming forward year after year and telling the house that they were teaching Latin, Greek, Hebrew, and so on, when they did not teach them their own language. He hoped that this suggestion would be adopted.

Professor ALEXANDER proposed that these suggestions should be made to the committee. No doubt they were important, but the house had enough of business, and its time should not be taken up with these things.

Mr CARMENT, Rosskeen, said, that instead of contradicting or controverting the statements made by Mr Hutchison, he had not told the one-tenth part of what was the fact. In his own parish, the Gaelic language was not taught in the parochial school, but there were other schools throughout the parish in which it was taught. Inspections by the presbytery were the best, but they were not very jealous; so they sent invitations to the government inspectors to visit their schools. But these inspectors went through the Highland parishes at railroad speed; sometimes an inspector would go through the schools of a whole parish in one morning. That's inspection for you. Now, he was sure that all the members of the presbytery were willing to have an inspection, and he wished it was an efficient one. Even in his parish there were hundreds who could not read the Bible; it was on Scripture grounds that he wished for this inspection; and, therefore, if they wished to do good to the souls of their people, it should be the care of every minister in the Highlands to have the Gaelic taught to the children, so that parents who could not read might have the Scriptures read to them morning and evening by their children.

Principal DEWAR proposed that the secretary, Mr Gordon, should be included in the vote of thanks, as his name was inseparably connected with this valuable scheme.

Mr M'GILLIVRAY of Lairg complained of the heritors getting teachers from the south, when the only language of the country was Gaelic, which they could neither teach nor speak. Heritors seemed to think that teachers from the south were better qualified than others. He did not know what was to make them so; on the contrary, he thought that the want of Gaelic disqualified them from teaching in no small degree. He could not say with Mr Carment, that the Gaelic was taught in his parish, even though it was one of the most thoroughly Gaelic parishes in the Highlands of Sutherland. On this account he deeply regretted to say, that many, many families were deprived of the privilege of keeping family worship, as they could not read the word of God in their own language—(Owing to the exceedingly low tone in which the venerable gentleman spoke, we could only catch a few of his remarks, which, however, were warmly responded to by those near him, and called forth their approbation.)

Mr CUNNINGHAM thought that the suggestions with regard to teaching Gaelic might be of great use, and it would be well to consider it; but in respect of a more general and efficient inspection of the schools, he thought they should speak more authoritatively on the subject, and he did not think it at all unbecoming in the house to express its recommendation of a more vigilant inspection.

The MODERATOR then addressed Dr Dickson. He said he had now the pleasure of tendering him the cordial thanks of the General Assembly for the deeply-interesting document which he had just now presented to the house. The Assembly approved of the able, the zealous, and the long-continued attention which he had paid to the subject of education; and they rejoiced that, amid the multifarious and arduous duties which he was called upon to perform as the minister of one of the largest parishes in Scotland, he had yet found opportunities of attending to this most important subject. They rejoiced at and were peculiarly grateful for the zealous spirit which animated him, and which so distinguished him in the forwarding of every good work. They were deeply sensible of the obligations under which he had laid the Church of Scotland and the country at large by his devoting so much of his valuable time to the subject, which the Assembly had placed more immediately under his direction and superintendence. They were under still deeper obligations to him for the

trouble he had taken in going to London, in company with Mr Gordon, the secretary, a gentleman who had been long and honourably connected with the institution, with the view of bringing the subject before the committee of the privy council on education; and they congratulated him on the success of his mission. By the munificence of a generous and enlightened government, a grant of L.10,000 has been obtained for the establishment in Scotland of two normal schools, and a further grant of L.1000 a-year for their support. These grants were procured by your recommendation, and they are worthy of a generous government and an enlightened people; and they will constitute a new era in the history of education in this country. We hope that the success of the negotiation, which was so happily brought about by your exertions, will have the effect of stimulating the people of Scotland to a cheerful, a prompt, and a liberal contribution in furtherance of the cause, and thus show that the interest which government has taken in the promotion of education among us is appreciated by the people of Scotland. This was the more to be anticipated, when they considered the extensive liberality of the past year to the various schemes of the church, and when they farther considered that there was already in existence among us one of those excellent normal schools, an institution which is considered to be a model of such seminaries, not only in Scotland and in England, but on the continent of Europe. This question was of the greatest importance to the country, and the General Assembly were very desirous of impressing on the minds of all, that it is a matter deeply affecting the honour of the Church of Scotland, and the cause of scriptural education in this country, that the people should cordially respond to the call of the government. This was said in no sectarian spirit, or from a wish to engross to the church the sole management of the schools; but it was considered as highly advantageous for the purpose of promoting the cause of education in the country, and for the interests of religion, that the Church of Scotland should be enabled to keep her proper place in every measure by which the progress of education may be promoted in the country; and we entertain the sanguine hope that by united exertion the ultimate purposes of scriptural education may be fully realized, that a complete system of national education may be established on the basis of there being a sufficient number of schools, a sufficient number of properly qualified teachers, and an effective system of superintendence.

Dr MACKAY of Dunoon read the report of the committee on the reprinting of the Gaelic Scriptures; and for the revising of the present authorised edition. The report stated that the committee had been engaged in devising the best mode of accomplishing the object of their appointment; and their proposal was to obtain the aid of all the ministers in Scotland who were versant in the Gaelic language. There were six synods where the Gaelic was wholly or partially used, and they proposed to give portions of the Scriptures for revision to each of these synods. A seventh portion they would entrust to the Gaelic ministers in other synods; and the committee, with one minister added from each synod, would finally revise the whole. The ministers speaking and using Gaelic, connected with the church, were 228.

Mr THOMSON of Dundee moved the thanks of the Assembly to Dr Mackay, for the great care and diligence he had exhibited in preparing the report for the Assembly. They were all aware that the object in view would require great patience and perseverance in its accomplishment. But he hoped that when the measure was accomplished, it would, in a great measure, make up for the present lack of Gaelic teaching in the Highlands. He deeply regretted the apathy existing on the subject of this admirable language, which those who did not understand it deeply regretted the want of—a language which he held to be a treasure in the land, and the preservation of which he considered as a point of the utmost importance to the country.

Dr DEWAN seconded the motion of thanks to the committee; but as, from some mistake, the committee had not had an opportunity of considering the report sufficiently, he thought he would suggest that the approval of it be in the mean time delayed.

After some conversation, in which Dr M'Kellar, Dr Candlish, and others, took part, the vote of thanks was agreed to, and the consideration of the report delayed.

Dr BRYCE gave in reasons of dissent from the decision in the Kilmarnock case, regarding the translation of Mr Smith.

## CASE OF THE REV. DAVID WILSON.

When this case was called,

Mr HAMILTON PYPER appeared for Mr Wilson, and gave in the following answers to the petition and complaint, which were read by the clerk.

“Answers for the Rev. David Wilson, Minister of Stranraer, to citation given him to appear personally in the General Assembly, on Friday, 27th May 1842.

“The respondent has, according to the citation served upon him, been cited upon a warrant granted in consequence of an appeal and reference for the Presbytery of Stranraer, ‘to appear at the bar of the General Assembly, at present sitting in Edinburgh, on Friday the 27th of May current, to answer for you, (the respondent’s) conduct in serving the interdict against the said presbytery proceeding with the libel at their instance against you (the respondent) complained of in the said reference;’ and he now makes appearance, in compliance with that citation, and respectfully answers:—

“*First*, That in applying for the said interdict, the respondent exercised his undoubted right as a British subject to apply to the supreme civil tribunal for redress against a wrong within its cognizance, and that the competency and propriety of that application have been established by the fact of the interdict craved having been granted *ad interim*.

“*Secondly*, That the grounds on which that application was made were in themselves competent and well-founded; and,

“*Thirdly*, That he denies the competency and jurisdiction of this Assembly, on whose citation he has now appeared, in respect that this is not a full and lawful General Assembly of the Church of Scotland, but is composed to a considerable extent of persons called *quoad sacra* ministers and elders, and others who have no legal right to be constituent ministers thereof, while other persons who have right to sit as such ministers have been excluded therefrom; and, therefore, whatever steps may be taken either on the reference from the presbytery upon which this citation has proceeded, or on the appeal from the deliverance of the Synod of Galloway on 26th April last, or whatever deliverance may be given by this meeting anent the subject-matter of said reference, citation, and appeal, the respondent protests for all remeid competent in law against the same, if these shall be in any degree to his hurt or prejudice. In respect whereof, &c.”

Mr PYPER.—I attend here on the part of Mr Wilson; and considering what has been done at previous meetings of this Assembly, when I consider the resolutions that have been come to, I think I shall best discharge my duty to my client by referring you to the answers just put in and recorded, and leave the case in the hands of the Assembly.

Mr DUNLOP said, the objections taken to the jurisdiction of this Assembly in this case were the most extraordinary that could have been brought forward; inasmuch as there was a minister of a *quoad sacra* parish objecting to the competency of the court because it contained *quoad sacra* ministers! The parish of Stranraer was allocated by the Presbytery of Stranraer, sanctioned by the General Assembly, and was never sanctioned by the Court of Teinds. It was, therefore, a parish under the authority of the General Assembly, and the members of the Presbytery of Stranraer had sat in that court unchallenged for a century and a half. Now, if the members of that presbytery had held *quoad sacra* parishes, they sat in the General Assembly, and in doing so, it was with the opinion of President Blair, one of the most profound lawyers and sound judges that ever sat on the bench of Scotland. He begged to move, that the house repel the objection, and ask the party at the bar whether or not he had anything to say on the merits. Agreed.

Mr PYPER said, if the case was to be taken up on the merits at all, it must be stated by a party from the presbytery. He (Mr Pyper) had nothing farther to say, than to intimate that he did not acquiesce in the sentence just pronounced.

Mr DUNLOP said, the house would now observe the circumstances in which that case had been brought forward. Here was an individual charged with certain acts of fraud. He presents a claim for suspension and interdict to the Court of Session,

and craves "that the court would suspend the whole proceedings of the Presbytery of Stranraer in reference to the complainer," and "further to prohibit, interdict, and discharge the said presbytery" from "proceeding on or taking cognizance of the pretended libel!" against the complainer, "or carrying into effect, in any respect, the resolutions of the presbytery," to "libel the complainer at their own instance;" and then he went on to give what he called "a statement of facts," concluding with certain pleas in law, which he (Mr D.) would go over.

"The whole proceedings in this matter are nullified by the participation in them of Mr Robert Donald, a *quoad sacra* minister, and his elder, who have no legal status in church courts, as constituent members thereof.

"It is illegal and incompetent for a presbytery within the established church to introduce or receive among its members any persons whatsoever, other than the proper parochial ministers within its bounds, and elders representatives of kirk-sessions also within the bounds; and no ecclesiastical court, supreme or inferior, has power to order, authorise, or carry into execution, such an alteration in the constitution of a presbytery.

"Ministers of chapels of ease, and of churches which are not among the number of the original parish churches of Scotland, or have not been made such by authority of the Court of Teinds, have no right or title, as such, to be or become members of presbyteries.

"The libel served upon the complainer being raised at the instance of a body which is not a legal presbytery within the church, but composed, in part at least, of such chapel ministers, is not a writ upon which any trial or other proceeding can competently follow, but is *funditus*, null and void.

"The Presbytery of Stranraer, who are the prosecutors of the said pretended libel, not being a legal presbytery within the established church of Scotland, and therefore not being parties competent to institute a process of libel as prosecutors, or to entertain it as the judges, the whole proceedings attempted to be taken against the complainer are illegal and inept, and ought to be interdicted as craved."

The object of this was nothing more nor less than to stay the discipline of the church from pronouncing sentence on an individual charged with serious immoral practices. Now, as far back as the year 1582, it was decided, by an act of the Assembly, that if any minister of that church should illegally apply to the civil court for power to stop the discipline of the church, he thereby became liable to the extreme censure of the church, and it was expressly declared that he was to be dealt with summarily. Undoubtedly the present case was one which incurred this censure, and certainly it ought to be summarily dealt with. Here was a minister of that church, libelled for an immoral act, calling on the civil court for power to coerce the church in the exercise of her undoubted spiritual functions, which was nothing less than calling on the civil magistrate to use the "keys," which, according to the standards of the church, he may not assume. This involved not only a violation of the authority of the church in the exercise of her spiritual jurisdiction, but also a denial of the great fundamental doctrine, that the Lord Jesus Christ was King and Head of the church. The Assembly were now called upon to proceed in the name and by the authority of their King and Head, to use the keys; and he must express his sincere conviction, that they would be guilty of deep dereliction of duty, indeed, if for a moment they were to delay doing so. Mr Dunlop then made a motion to the effect, that Mr Wilson had, by the act of applying to the civil court in the circumstances, thereby become liable to be visited by the highest censure of the church; but before proceeding to pass sentence, appoint a committee to deal with Mr Wilson, and report on Monday, citing Mr Wilson to appear at the bar.

Dr Cook held that no minister of that church had a right to apply to the civil court for power to stop the church in the exercise of their discipline, but in the present case he was afraid there were other elements which ought to be specially considered. If the church had in any way vitiated or corrupted its constitution, by admitting into its courts men who had no proper right to be there, there could be but one opinion on the matter, and that was, that however sound the general principles were which the learned gentleman had laid down, they would not apply. The sentences of that court must affect the civil status and right of ministers, conveyed to them

not only by the church, but by the civil courts; and that being the case, there was no other remedy to which a person so affected could have recourse, but by application to the civil courts to interfere. Persons holding these views were entitled to say, "We conceive that the court is vitiated by parties sitting in it who have never been recognised by act of parliament, and therefore when an attempt is made by the church to wrest from us our civil rights and privileges, we must go to the civil court as the only constitutional way in which our rights can be protected." It might turn out that all the notions about *quoad sacra* ministers were wrong, but in the mean time that point was not settled,—it was a matter of dispute, and while it was so, he held that those who held themselves affected by it were entitled to avail themselves of the civil court, without becoming liable to be excommunicated. Dr Cook then made a motion embracing these views.

Mr CARMENT of Rosskeen supported Mr Dunlop's motion.

Mr CUNNINGHAM also supported Mr Dunlop's motion, and contended that Mr Wilson had no right whatever to appeal to the civil court in the circumstances.

Mr Dunlop's motion was agreed to.

#### LETHENDY CASE.

This was a reference from the Presbytery of Dunkeld, stating that they had agreed to serve a libel upon Mr Thomas Clark, preacher of the gospel, residing at the manse of Lethendy, charging him with the crime of drunkenness, profane swearing, and other vices; and that there had been served upon the presbytery copies of an interim interdict by the Lord Ordinary on the bills at the instance of Mr Clark. It was, therefore, agreed at a meeting of presbytery, on the 10th May, "That in respect of the interim interdict served at the instance of Mr Clark upon the individual members of presbytery this day, and the answers given in by Mr Robertson in name of the said Mr Clark, the presbytery did, and hereby do, refer the libel against him at their instance, and his answers, and the said interdict, with the whole case, *simpliciter*, to the ensuing General Assembly.

Mr Cook, advocate, appeared for Mr Clark.—It would not be necessary, after what had just passed in the case which the Assembly had now disposed of, that he should make any lengthened statement to the house. He admitted, on the part of his client, who had been served with a libel at the instance of a body purporting to be the Presbytery of Dunkeld, that in certain answers which he had given in he had declined the jurisdiction of the presbytery. He admitted also that Mr Clark had applied to the Lord Ordinary for an interdict against the presbytery's proceeding with the libel against him, on the ground of the illegal constitution of that court. On the part of his client, he now adhered to that declinature of the jurisdiction of the court, on the ground stated in the answers lodged to the libel in the presbytery of Dunkeld; and if it was not irregular in the bar to refer to what passed in a previous case, he would remark that he had been surprised to hear it stated in this court that it was illegal and incompetent in any minister or licentiate of the Church of Scotland to question the jurisdiction of an ecclesiastical court before which he was arraigned. He maintained that any minister or licentiate of the church was legally entitled to challenge the competency of the court before which he was arraigned, just as he was entitled to challenge the competency of the charge on which he was arraigned; and that it was equally competent for the party against whom the charge was brought to apply for an interdict debarring that court from proceeding against him. But the prejudicial question was, whether the presentee was entitled to go into the Court of Session and try that question? He was quite willing to abide by the decision of the court on that question, if it could be established that there was any thing in the position of a minister of the Church of Scotland which debarred him from seeking for redress in a civil court; then, undoubtedly, he was quite willing to abide by that decision; and if such a decision were given, and he should still persist in denying the competency of the court, then he would be fairly chargeable with contumacy, and render himself liable to the consequence. But on the part of Mr Clark he contended that every minister and licentiate of the Church of Scotland, and every British subject in this part of the empire, was entitled to challenge the competency of any court whatever to entertain any charge made against him; and on the part of his client, he resisted

the jurisdiction of the court upon that ground. He knew nothing disqualifying a minister of the Church of Scotland from exercising the privilege which belonged to every British subject; nor had he heard any thing in the house which went to show that this was the case; and he meant, therefore, to adhere to the declinature of the jurisdiction of the court, and, if necessary, to follow out the interdict.

Mr DUNLOP said that the house must approve of the very judicious way in which the learned counsel at the bar had made his statement. But in regard to the statement itself, it was impossible that any different course could be followed in the present case than they had adopted in the case they had just disposed of. This was a charge against Mr Clark, accusing him of diverse acts of drunkenness, profane swearing, and other vices. The presbytery of Dunkeld resolved to serve him with a libel; and he went to the Court of Session as a licentiate of the church—having nothing but his spiritual character, derived from his status as a licentiate; he went in this capacity to the Court of Session, and called upon them to interdict the church courts from proceeding with the libel against him, on the ground that it was incompetently constituted. Now, he did not say that there might not be certain circumstances, in which it would be competent for the Court of Session to determine on the constitution of the church courts, as in questions concerning mere temporalities; he did not say that, for the specific purpose of enabling them to decide on questions concerning the manse or the stipends, the Court of Session might not be entitled to look at the constitution of the ecclesiastical court, and give judgment accordingly within their own province, but within their own province alone. But the learned gentleman maintained that it was the right of every British subject to apply to the Court of Session for protection from any court whatever that might proceed against him on a charge, if it was found that the court was incompetent. Now, apply this to a trial for a criminal offence before the Court of Justiciary, where, on the same ground, it might be contended that it was competent to go to the Court of Session, and ask an interdict against the other court's proceeding in the trial, because the Lords of Justiciary had not taken the oaths, or because they were proceeding in the case without the cognizance of the lord advocate. The Court of Session would never look at such a proposition; because the Court of Session were just as little entitled to deal with the sentences or the competency of the Court of Justiciary in criminal cases, as they were to interfere with the church courts in causes ecclesiastical. It was not, therefore, to be expected that in the present instance the Assembly should deviate from the course they had pursued already, merely because exception had been taken to their competency. But there is another reason why we should adhere to the course we are pursuing. On this very day, since we met, a decision has been pronounced in the civil court in the case of Strathbogie. The Lord Ordinary, Lord Ivory, having reported the case to the court, and no answer having been given in by us, seeing we could not acknowledge their jurisdiction, and Lord Ivory having reported the case to the court, stating that it was his own decided opinion that the court had no jurisdiction in the matter,—Lord Fullerton concurred entirely in that opinion, and proposed that the opinion of the other judges should be taken on the question. The two remaining judges—there were only *two* remaining judges, the case having been thought so clear that it was unnecessary to take the opinion of the other judges—were opposed to this view, two against two; but Lord Ivory, who reported the case, having now no opinion, these two were the actual majority; and, consequently, they affirmed the interdict. In these circumstances, here was additional reason for maintaining the position they had assumed, and following out the course they had adopted, as office-bearers of a spiritual kingdom. He should, however, propose, that in the present case the deliverance should not be the same as in the former. He did not think they were called upon to deal any farther with Mr Clark. The last Assembly remitted to the Commission to libel him, and a committee was appointed to deal with him, but without any effect at all; for so far from yielding to his fathers and brethren, the very first step he took was a renewed act of still more gross defiance, by craving the interference of the civil authority in a still more sacred affair. It was, therefore, altogether unnecessary to propose to deal with him; and the motion he had to make was, that the Assembly should find that the act charged against Mr Clark is proved



by the production of the interdict which has been laid upon the table; and that Mr Clark is deprived of his license as a preacher of the gospel; and that the usual prohibition be given to all ministers of the church against receiving him into their pulpits.

Major LUDOVICK STEWART.—Moderator, As Mr Dunlop has told you the interdict against my sitting as a member of this house has been confirmed, I rise to say that as an office-bearer in the Church of Scotland, I appear here in the discharge of a public duty; and nothing on earth can make me contemplate yielding obedience to a temporal tribunal in any matter interfering with my duty to the church. Moderator, I thought the days of legal persecution were at an end, but they are again returning, if they have not already arrived; but it has no terrors for me;—the walls of a prison have no terrors for me,—none whatever. The walls of a prison cannot shut out the Bible from me. None of the gentlemen on the opposite side of the house would refuse to allow me the use of the Bible; and if I am allowed to take the Bible to prison with me, the prison will have no terrors for me. The only terror would be that I should ever desert the cause of the Church of Scotland, when I am brought before those eloquent gentlemen who will speak against us. My only fear is that I should ever be brought to desert the cause of the church, or contemplate the yielding of one atom of the principles for which the church is now contending. That is my only reason for fear,—lest I should trample upon these principles, and my God should forsake me. The gallant Major, who was not distinctly heard, was understood to express his confident hope that the Assembly would support and sympathize with him; and he sat down amidst loud cheers.

Mr DEWAR, another commissioner for the Presbytery of Strathbogie, said he was resolved at all hazards to persevere in the course he had adopted, and remain faithfully attached to the Church of Scotland, and to those principles which had been so strenuously advocated by the Assembly.

Mr EARLE MONTEITH said the church had reason to congratulate itself that these interdicts had fallen upon the heads of men who were so firm as the gallant Major, and the reverend gentleman who had just addressed the house. It appeared that the privileges of the church were to be infringed and violated, and members of that house were to be prevented from taking their seats in the Assembly, by the interdicts of the Court of Session, or at least that the interdicts shall be held over the church *in terrorem*. It was high time for them to speak out.

Mr JOHN HOPE asked what this had to do with the case of Lethendy?

Mr MONTEITH said, that it had to do with the constitution of the house, and the question had been brought before the house, by two gentlemen personally interested in the matter; but if it was not the pleasure of the house he would not proceed further, although he thought the circumstances might fairly warrant their noticing it at this stage of the proceedings. They were not to be bound by exact forms in a great crisis like the present; and he could not help saying, although a member of the legal profession himself, that of all the circumstances which had arisen out of the collision between the civil and ecclesiastical courts, the most lamentable they had yet seen was the law of the country trampled under foot by these interdicts of the Court of Session. For the last three years they had seen interdict after interdict issued by that court. He did not blame the court itself; and it was well that it should be understood that the Court of Session were not so much to blame as was generally supposed; for they had pronounced judgment when called upon in a *prima facie* case. Certainly they ought not to pronounce such judgments in cases beyond their own jurisdiction; and they ought to have ascertained whether they had jurisdiction in the matter, before they proceeded to grant these interdicts at the instance of parties applying for them. But when these parties procured the interdicts, it was their bounden duty to follow them up, and not bring the law of the country into contempt by allowing the interdicts of the supreme civil court of this country to be trampled upon with impunity. Their sole object appeared to be to give countenance to the cuckoo cry of rebellion against the law of the country, which they had raised against the proceedings of the church—a cry which of late had become fainter and fainter, and was now only heard rumbling in the distance. They were formerly told they were traitors to their country, and rebels against the law of

the land, and men who ought to be driven from the pale of the established church. This language was now nearly laid aside. It was but within the last four-and-twenty hours that Mr Robertson of Ellon, one of those who had been loudest in the cry against them, declared that he for one considered that the Court of Session had gone beyond its jurisdiction in interdicting the preaching of the gospel of Christ,—and, what is more, that although the ministers of Strathbogie had not done wrong in going to the Court of Session, yet the Court of Session itself was unquestionably wrong in granting the interdict which they issued; and therefore the ministers of Strathbogie had led the Court of Session into the error, and been the means whereby the law of the country was brought into contempt.

[Dr BRYCE here rose, and said that Mr Robertson's sentiments were not to be held as those of his side of the house. Mr Robertson was not the mouth-piece of his party; and he (Dr Bryce) disclaimed his admission. The cry of rebellion was becoming weaker.]

He (Mr Monteith) confessed that he owed an apology to the Court of Session for expressing his surprise, that in the vital question which had come before that court this morning—a question vital to the constitution of the church and of the country, and one which interfered with the General Assembly as a court of resort, the Judges had not even thought it necessary to take the opinion of the other Judges. They knew that in any matter of the slightest doubt—in any twopenny-halfpenny case of entail which became the subject of the slightest doubt, it was the custom of that court to consult their brethren. But when, for the first time in the history of the country, a question is brought forward of the utmost importance that could be brought before the court—a question involving the constitution of the Assembly, not less than the constitution of the country,—it is disposed of at once by one division of the Court of Session. It was worthy of remark, that all these cases, in which interdicts had followed, had proceeded from one division of the court, which had never consulted the other Judges. Technically these interdicts were granted by the Court of Session, but in reality they only proceeded from three out of thirteen Judges. But while there was so much talk of rebellion, how did it happen that not one of the subjects of these interdicts had ever been taken to the supreme court of the kingdom, the House of Lords. The only question which had gone there was that of Auchterarder,—and it must be understood, that the decision in this case did not in the slightest degree affect the question now before the Assembly; and this would be distinctly seen from the statement of the Lord Chancellor on the subject. These interdicts stand upon the decisions of three Judges, which bear the weight of all. He knew it might be said that the interdict of this day necessarily followed from the interdicts which had been already pronounced; but the only effect of them would be to plunge the church deeper and deeper into difficulty. In short, he did not see why, on the same principle that these interdicts had been granted, they might not interdict the Assembly from sitting at all; and it would appear that if any gentleman on the opposite side had made an application to this effect, it would have been treated in the same way that the other applications have been treated. This might appear strong language, but he did not make it for the purpose of finding fault with the Court of Session. The Judges, he believed, were acting conscientiously in their view of the law of the land; but the only mystery was, that in a question of this sort, which was without former precedent, and against all analogy of the law of the land, the Judges found it so extremely clear, that they did not think it necessary to take the judgment of their brethren. This was the insoluble mystery. But this decision was in reality pronounced by two Judges only, for one of the three dissented from the decision, on the ground that the civil court had no authority in the matter; a fourth, by the forms of the house, was not present, who would also have dissented, and thus the judgment might be said to have been pronounced by two against two. But yet the decision of these two Judges would have the effect of interfering with the proceedings of the General Assembly, which he held to be as supreme and independent in ecclesiastical, as the Court of Session was in civil matters. He hoped the gentlemen who had procured these interdicts would not let the matter drop, but follow them through other stages in the Court of Session. He did earnestly trust that they would be put to the test; and, though the effect of it might be that the

reverend gentlemen, and the gallant Major from Strathbogie, might be immured in the cells of the Calton, still I trust that these interdicts will be put to the test. I hope the issue may be that, if complained on, the court will thus assert its dignity for the violation of its interdicts, not by a paltry fine, but by imprisonment; and though it may result in temporary imprisonment to these gentlemen, he felt confident that in the appeal to the court of last resort—the House of Lords, they would be secure and protected.

Mr COOK of Laurencekirk said, that the purport of Mr Monteith's remarks would be to represent the decisions of all inferior judges as null, until they were carried to and confirmed by the highest law court of the land—so that judgments of the Lord Ordinary or Court of Session, were of no avail, unless supported by the supreme legal tribunal of the land—the House of Lords. But (said Mr Cook) the learned gentleman has told us that there is some reluctance on the part of the individuals at whose instance the interdicts have been granted, to follow them out and obtain the judgment of the highest court. But let me remind him that no appeal was made to the supreme court. And whose fault was it? It surely is not expected that we are to carry the case to the House of Lords. In all the cases between patrons and presentees on the one hand, and the church courts on the other, the former have got a decision in their favour; and it is not for them to appeal to another court against a sentence given in their behalf; nay, if there has been any reluctance to obtain the judgment of the supreme civil court, it is not for those against whom Mr Monteith's censures have been directed to obtain, but the gentlemen on his own side of the house. The learned gentleman seemed to invite the terrors of the civil law; but perhaps he might find it prudent not to carry that language too far. He seemed to think that our object was to terrify gentlemen on his side of the house by these interdicts; but let me ask the object of him and his friends, in attempting to conuss, not us, but the party at whose instance the interdicts were granted, into applying by petition and complaint for punishment to those who have broken these interdicts. These gentlemen have shown a remarkable degree of forbearance; they have abstained from applying for any redress for the breach of their interdict, and it seems most extraordinary to urge them to a contrary course. Believing, as I do, that the constitution of the church is not at stake, and that it is safe in the hands of those who have the charge of its protection—that it is safe in the hands of the individuals who have sworn to protect it—safe with the exalted individuals whom her majesty has called to her counsels, who have sworn their determination to support it—believing, as I have said, that the constitution of the church is not at stake, much less involved, in the question before us, I submit that this discussion is irrelevant, and I take the liberty of suggesting a motion to the effect, that under present circumstances, the synod should sist procedure till the matter at issue is decided by the competent court.

Mr MONTEITH made a few explanatory remarks to the effect that, while he held the Court of Session to be independent in civil matters, the General Assembly was not the less the supreme judge in ecclesiastical matters.

Mr BRUCE of Kennet said, he could not see the use of serving these interdicts, unless it was for the purpose of intimidating the church. He had a whole pocket-full of them. Some of them he had broken, others he had not broken, and there were some of them that he did not know whether he could break or not. He would tell those who served the interdicts, that he would not interfere with the civil rights of any man, but at the same time he held he was bound to obey his ecclesiastical superiors in church matters. It was pitiful to serve these interdicts in such numbers without following them up; and he should like to know the meaning of them. He got an interdict not to go to Strathbogie and molest the ministers within the bounds, but he went to Keith to assist at the communion, and certainly he had no intention of molesting, nor did he molest, any one. They held a kirk-session, and admitted sixty-three communicants, which was reported to the presbytery of Strathbogie. Now he would like to know if he broke the interdict on that occasion. He cordially agreed in the observations of Mr Monteith.

Mr DUNLOP conceived that this was a serious matter, not only for the Assembly, but for the Judges of the Court of Session, and the constituted courts of the

country; and he felt it so, from the desire which he had to maintain the respectful feeling and deference towards the law of the land. No appeal had been made against these interdicts, because no man was suffering by them; but let any of them be carried to the extent of imprisonment, and they would immediately carry the case to the supreme civil tribunal in the country. Interdicts had been served on 200 or 300 individuals, and they had been set at defiance. Those who had so set them at defiance should be punished, and severely, for disobeying the orders of the court, and thus bringing its authority into contempt with the public in other matters; and yet, notwithstanding this disobedience, no one had been molested in consequence. He entirely concurred in the remarks made by Mr Monteith, as to the passing of the interdicts that day. There had been three Judges, one of them dissenting, and a fourth not present in form, also opposed to the interdict, viz., Lords Fullerton and Ivory—and he need not allude to the high legal character of those eminent Judges; but here they stood two to two, one of them having no vote in the matter, and they, for the first time in the history of this court, or in the history of Scotland, assumed a jurisdiction which did not belong to them. This he deeply regretted, as calculated to bring matters really within their jurisdiction into contempt. In the north of Scotland an interdict from the supreme court was of less weight than from the sheriff, and the people, in receiving it, were wont to say, “Oh, it is only an interdict from the Court of Session.” He hoped that some party would have the manliness to bring the matter to an issue, and if those infringing were guilty, let them be punished.

Mr Cook then withdrew his motion, and the motion of Mr Dunlop for depriving Mr Clark of license was agreed to.

#### CAMBUSNETHAN CASE.

This was a reference from the presbytery of Hamilton, regarding the case of Mr Archibald Livingstone, minister of Cambusnethan, which has been so often before the Assembly. Dr Begg, Mr Buchan of Hamilton, and Mr Moncreiff, appeared for the presbytery, and Mr Maitland, advocate, for Mr Livingstone, who also appeared.

Mr BUCHAN said, the facts were so well known, that he would merely give a sketch of the proceedings. In 1838, Mr Livingstone entered into an arrangement with the presbytery of Hamilton, in which he at first acquiesced, but afterwards brought the case before the Assembly, and the decision of the presbytery was reversed, and the presbytery directed to inquire into certain charges against Mr Livingstone. The presbytery preferred a libel against him, to which he objected and appealed,—and in 1840 the Assembly's Commission found the libel relevant, and remitted to the presbytery to proceed to the proof. The presbytery did so, and found Mr Livingstone guilty of five separate acts of theft. Mr Livingstone appealed to the synod, which found four of the charges proven. Mr Livingstone then appealed to the General Assembly, and in the regular way this appeal should have been heard last year, but Mr Livingstone did not appear, and the Assembly, though they found that the case could not then be competently taken up, except under the appeal, allowed protestation that the appeal had been fallen from, and that the judgment of the presbytery, as altered by the synod, was consequently final. Mr Livingstone immediately applied to the civil court, and obtained an interdict, preventing the presbytery from proceeding further in the case. At the meeting of presbytery on the 26th April last, Mr Livingstone appeared by his agent, and declined altogether their jurisdiction in his case, and held that they were not entitled to proceed in it, because of the want of jurisdiction—of the existence of the interdict—and because he had raised an action of reduction in the Court of Session of the presbytery's proceedings. In these circumstances, the presbytery referred the matter to the Assembly.

Mr MAITLAND said, the statement of the reverend gentleman rendered it unnecessary for him to say anything on behalf of Mr Livingstone. The reverend gentleman had stated the course which Mr Livingstone had taken, and that course he meant to follow. He had demurred to the jurisdiction of the presbytery, and he had followed it up by two different proceedings in the Court of Session. The interdict prohibited all church judicatories from proceeding in any way against Mr Livingstone, and from

deposing him, or passing any ecclesiastical sentence regarding him. The reverend gentleman had thus gone to the civil courts for protection, and he had so far got it against proceedings which he deemed to be illegal. In these circumstances he had appeared at the bar in answer to the citation, but he would not enter into the merits of the case. He had sought, and so far got, a civil remedy, and, let the ecclesiastical consequences be what they might, he announced his intention to adhere to his course of procedure.

MR CUNNINGHAM said, they were all aware that Mr Livingstone had been convicted of theft by the presbytery of Hamilton, and the synod had confirmed the decision. An appeal had been taken and had been fallen from, and it was then the obvious duty of the Assembly to have proceeded to deposition. By the omission of the presbytery to report the case, it could not competently be gone into last year, and it was delayed; but it was now in the proper position, and the Assembly were ready to give judgment. The interdict, like the others, was founded on the sitting of *quoad sacra* ministers in the presbytery, and the action of reduction was brought to declare the proceedings of the presbytery null and void. The question now is, if we shall allow these proceedings to stand in the way of the Assembly's discharging its duty? The Assembly has already answered this question in the abstract, as well as in particular cases. It has determined that the interdicts of a civil court shall be held as of no effect whatever, the only notice we take of them being to disregard them, and to show them that we despise them. They are issued by an authority which has no right to interfere with or attempt to stop the exercise of discipline in this house. The house was as ready in this case as it was in any of the other cases, and he hoped they would show that they were so. They discharged their whole duty in regard to these illegal interdicts of the Court of Session by disregarding them and trampling them under their feet. The facts were, that Mr Livingstone was convicted of theft; he appealed, and fell from that appeal. The decision of the presbytery thus became final, and there was now no other mode of procedure than that of deposing him from the office of the holy ministry, and he would move accordingly.

Immediately on Mr Cunningham resuming his seat, Mr Livingstone, who was sitting behind the bar on the agents' seat, made a sudden and hurried start towards the door. This being observed by some of the members on the left side of the house, a cry was got up of "Lock the door, lock the door." The officer, who was within the house, immediately made to the door, but before he could get it shut, Mr Livingstone was at his side, and applied his shoulder stoutly to the door, in order to press it open. This was resisted by the officer, who succeeded in getting the door locked, Mr Livingstone being still within.

MR MAITLAND complained to the Moderator that Mr Livingstone had been most improperly prevented from leaving the house; and

DR CANDLISH moved that the Moderator direct the obstruction to be removed; upon which the Moderator ordered the door to be opened; and he instructed the officers to lock no door whatever without instructions from the proper authority.

Mr Livingstone was then allowed to retire.

After prayer by the Rev. Dr Dewar, the Moderator pronounced the sentence of deposition; Mr Livingstone, on being called, not making his appearance.

#### CASE OF MR DUGUID OF GLASS.

A petition and complaint having been presented to the Assembly by three elders and forty-nine male communicants of the parish of Glass, complaining of the settlement by the deposed ministers of the Presbytery of Strathbogie, and Mr Edwards, in the parish of Glass, and craving relief, Mr Duguid was cited to appear. He accordingly appeared at the bar, with Mr Hamilton Pyper as his counsel. Mr Crawford appeared for the petitioners.

MR H. PYPER.—The question in this case depends on the validity of the act of deposition pronounced by the General Assembly of last year, on the seven ministers of Strathbogie. I do not expect to be able to convince this house of the incompetency and nullity of that sentence; and therefore I will merely read the short plain answer of Mr Duguid to the citation:—

"1. That Mr Duguid was legally admitted and ordained minister of the parish of

Glass, by the presbytery of Strathbogie, at their meeting, held on the 21st April last. 2. That the alleged deposition of the Rev. Messrs Walker, Thomson, Allardyce, Mason, and Cruickshank, and deprivation of his licence of Mr Edwards, who were present at that meeting as ministers of the said presbytery, and by whom, as constituting a lawful meeting of the presbytery of Strathbogie, he was so admitted and ordained, is null and void, so that the respondent is vested with the undoubted status and character of minister of the said parish. 3. That, therefore, the present application is in itself incompetent and illegal."

Mr DUNLOP moved that the Assembly rescind, and declare to be, and to have been, void and null, the proceedings complained of, and the pretended settlement of Mr Duguid as minister of the parish of Glass; declare that the said Mr Duguid is not, and never was, a minister of the gospel, or the minister of Glass, and in respect of his having taken ordination from the hands of deposed ministers, deprive him of his license as a preacher of the gospel, and declare him incapable of accepting of a call from any congregation, or of being presented to any charge.

Dr COOK stated, in conformity with the protestation formerly given in, that he, and those who agreed with him, could not acquiesce in that sentence. He would have to enter his protest in the usual way.

Mr H. PYPER.—I do not acquiesce in that sentence, and take instruments.

Mr CRAWFORD had been instructed by a body of the elders, communicants, and parishioners of Glass, to convey to the Assembly their humble and earnest request that such means as might be considered most expedient would be taken for the spiritual provision of the parish.

Mr DUNLOP said that the subject would of course fall under their consideration.

After some impertinent attempts at irrelevant interrogation on the part of Mr Ranken, elder, the Assembly adjourned at five o'clock till seven.

### EVENING SEDERUNT.

The Assembly resumed business at seven o'clock, and proceeded to the consideration of the

#### CULSALMOND CASE.

The facts of this case are simply these. On the 22d of September 1841, a meeting of the presbytery of Garioch, Aberdeenshire, was held at Pitcaple, when a presentation, with relative documents, was laid on the table from Sir John Forbes, the patron of the parish of Culsalmond, in favour of the Rev. William Middleton, as assistant and successor to the Rev. Ferdinand Ellis. The presbytery resolved to prepare a roll of communicants, male heads of families, and fixed the 6th of October following, specially to consider several matters anent the presentation. At the meeting on the 6th, a roll of male heads of families was produced, and Thursday, October 28th, was fixed as the day for moderating in the call. The presbytery met at Culsalmond on the 28th accordingly, and after the usual preliminaries, the call was produced and read, was signed by all the elders, three of the heritors, and by forty-one parishioners, male heads of families. It was then moved, seconded, and carried, "That dissents be received," Mr Bisset dissenting from the motion in his own name, and in the name of all who might adhere to him, and protested, "That it shall not compromise his sentiments as to the veto act, nor the rights of the patron and presentee accruing to them respectively from the presentation and relative document formerly sustained by the presbytery." Dissents to the number of seventy were then received, which, being a majority of the male heads of families on the roll, Mr David Mitchell, advocate, Aberdeen, on the part of the dissentients, craved, "That the presbytery would now proceed, according to the act on calls, and the instructions to presbyteries thereanent, with a view to the ultimate rejection of the Rev. William Middleton, the presentee to Culsalmond." This craving was met by the agent for the presentee, Mr David Milne, advocate, Aberdeen, who craved that the presbytery sustain the call, in respect that the act anent calls was illegal. Parties being removed, a motion was made in terms of Mr Milne's craving, which was met by another to the effect that the presbytery "sist procedure, and report to the General Assembly;" and on a division, the first motion was carried by

7 to 5, from which sentence Mr Garioch dissented, and protested for leave to complain to the synod of Aberdeen. Mr Mitchell protested against the sentence, took instruments, and craved extracts. In terms of the sentence, the presbytery then fixed Thursday the 11th of November for Mr Middleton's induction. Special objections to the presentee were then handed to the clerk by Mr Garioch, but returned with the remark that "the record was closed." On the 11th of November the presbytery met in the manse of Culsalmond, and proceeded with the preliminary steps for Mr Middleton's induction. On the final edict being served, and no objections being lodged, the presbytery were about to proceed to the church, when Mr Mitchell craved extracts of the whole proceedings, and took instruments. The presbytery then proceeded to the church; but such was the feeling of disapprobation manifested by the people assembled, that they could not proceed with the induction there, but returned to the manse, where it took place with closed doors. The appeal was brought before the synod of Aberdeen, at its meeting on the 13th of April, when, after a long discussion, it was ordered, by a majority of 69 to 50, "that any interference with Mr Middleton's settlement, can neither be consistent with justice, nor tend to edification"—the preamble to the resolution being, to dismiss the complaint and appeal, being "incompetent and inconsequential, from their having been taken exclusively on the confessedly illegal ground that the presbytery had refused to give effect to the dissents." Against this finding protests were taken, and in this state the case came before the Assembly.

The Rev. Mr BISSET of Bourtie appeared for the majority of the presbytery and synod.

The Rev. Mr GARIOCH of Old Meldrum for the minority of the presbytery and synod.

Mr COOK, advocate, appeared for the patron and Mr Middleton.

Mr CRAWFORD, advocate, for the appellants.

Mr CRAWFORD stated the case in a speech of great length, in which he went fully into the history of it, and denounced the proceedings of the presbytery as illegal and unconstitutional. He founded chiefly on an act of Assembly of date 1732, which provides, that no presbytery can ordain a presentee, when an appeal has been taken in opposition to it, until that appeal shall have been fallen from or discussed, and disposed of by the supreme court of the church. The presbytery, in terms of this act, may proceed to take a presentee on trials, while an appeal was pending, but nothing more. Mr Cook contended that by this act the presbytery of Garioch were bound to sist procedure in the case of Mr Middleton, until the appeal taken by the dissentients were disposed of; and their refusing to do so he held as a violation of the laws of the church, and on that ground alone, although there were none else, the Assembly would be entitled to find the proceedings null and void. In reference to the protest, and offer of special objections, which were refused, he contended that there was evidence enough that they had been legally tendered, and ought to be held as such. Mr Crawford concluded by an eloquent appeal.

Mr Cook followed for the majority of the presbytery, and defended their proceedings at great length. He argued that the majority were perfectly entitled to disregard the veto act, seeing that it had been declared to be illegal by the House of Lords, and *ultra vires* of the church, and to proceed with Mr Middleton's settlement, the same as if they were ordained to proceed by an order of the civil court.

Mr GARIOCH spoke at some length on the merits, and argued that the people of Culsalmond had acted in this case throughout in a manner that reflected the greatest credit on their Christian principle, and warm attachment to the church of their fathers. He concluded by an eloquent appeal, and sat down amid much applause.

Mr BISSET addressed the court at considerable length, and made several curious statements about the proceedings in the parish. He was twice called to order by the Procurator; but was allowed to go on.

Mr PAULL of Tullynessle also defended the majority of the presbytery from the bar; and Dr BROWN followed on the other side.

Parties were then removed.

Dr COOK.—The Culsalmond settlement was to me at first sight a very perplexing one; and it was not till after much consideration that I could escape from its difficul-

ties. The simple question before the Assembly is the point brought up before the synod of Aberdeen, viz.—as to whether the settlement should proceed or no,—that is, as to the precise question whether it should be considered as coming under the veto law, or going against it. I am disposed to go along with the sentence of the synod. I do acknowledge that there was much in the commencement of the proceedings in regard to this settlement that did appear very extraordinary. I thought that the presbytery of Garioch had but one alternative,—either to obey the veto law, or to say that they were not to obey it. I disapprove of their at first giving out that they were to act according to the veto, and then at a subsequent stage of the proceedings disallowing that law. In entering, however, upon the consideration of the merits of the case, whatever I may think of the presbytery's conduct, I must come to the point itself, and on the general principles which I hold, decide that point. But there comes in here the other most remarkable circumstance, that after the persons had dissented, they came forward and took a new ground, and offered to the presbytery to state special objections to the presentee. I need not say to the house, which is perfectly acquainted with that law, that if these dissentients appeared and dissented at the moderation of the call, they were precluded from offering these objections. The directions attached to the veto law provide that such special objections shall not be offered, unless the number of the dissentients is below the majority. The question comes to be, whether had these dissentients departed from their original ground, and taken a new ground resting upon what was the old law of the church. And if they had done so, I could have found no justification for the presbytery not attending to these special reasons, and proceeding on them. Several of the findings in this case appear altogether erroneous. I do not think the people got justice in being shut up to such objections as could be offered after the edict was served. Objections to be offered then, must be proved *instantly*. We have many instances of this. And it is most obvious that the great beauty of the law was, not that objections be brought forward to be instantly substantiated, but that objections be brought forward, which could be seriously and maturely considered, and on which the presbytery could give a deliberate judgment. I think that it was most explicitly, according to the veto law, the right of the communicants to give in objections of any kind; and provision was made in the regulations attached to that law, finding that a different diet should be appointed for considering those objections. If this is the law, it is no sufficient thing to say that the people had the full power of asserting their rights, when they were shut up to the precise point of bringing them forward without any preparation. I was very much perplexed with this. It did appear to me that the presbytery did wrong in not receiving the special objections of these dissentients. This pressed long upon my mind in regard to the case; and I took it for granted that the dissentients had entered on a new ground. Their not receiving these objections was a valid objection to the proceedings of the presbytery. The difficulty was removed by what was stated, that the dissentients, while they offered these special objections, reserved to themselves the privilege, in case the reasons should be found not sufficient, of falling back upon their dissents, and resting their plea on the ground that they had a majority of dissents. Whenever they took that ground again, it appeared to me that they had cut themselves off from what I thought was their ground before, and that therefore the presbytery, whatever views they entertained in regard to the veto law, were entitled to say that they could not, under these circumstances, receive their objections. When we get rid of all this, the case comes to this point, whether the settlement was carried on in the way prescribed by the church. I think it was regularly carried on. I don't say that those who adhere to the veto law can say that it was so carried on. I don't expect that they will acquiesce in this settlement. But I am clearly of opinion that I am bound, after giving the matter the most serious consideration, to consider this as a good settlement. But I cannot go the length of affirming the whole of the sentence of the synod of Aberdeen. I think their last finding was inconsistent with the views I entertain of the constitution and law of the church. I would therefore move, that the Assembly dismiss the dissent and complaint, and affirm the sentence of the synod of Aberdeen, in so far as the settlement of Mr Middleton is concerned, so that it shall not be disturbed.



Mr DUNLOP contended, that, independent altogether of the veto law, and the violation of that act and its regulations by the presbytery, there were sufficient reasons on other grounds why it would be necessary for the house to rescind this settlement. He held, that the refusal of the presbytery to receive the special objections was not competent; and the Rev. Doctor, who did not assert that it was so, seemed to hold, as he did, that there was sufficient evidence of the dissents being offered. The notarial protest he regarded as good evidence that an appeal was tendered and refused; and he could not sufficiently deprecate the idea of a presbytery being allowed to stop up the channels of justice, by standing in the way of an appeal from their judgment. The presbytery having gone on acting under the veto law, and called on the parties to dissent,—after a majority of dissents, they then threw it aside altogether. They found that there were a majority of dissents, and then they declared them to be useless. They used it in so far as it would keep out the special objections, and then they treated it as so much waste paper, in so far as it referred to the dissents. This was certainly strange justice; and if it could be supposed that the presbytery allowed themselves to get dissents, not to make use of the dissents, but to prevent them from having the right to make special objections—if he thought that was the character of the proceeding, he must say there had scarcely occurred, in the annals of that court, a case of more gross and iniquitous judicial procedure. After some other observations in reference to the proceedings of the case, he came to the conclusion that a clearer case never came before a court. The only result they could arrive at was to reverse the proceedings and rescind the settlement. There were other matters to consider in regard to the presentee; and he considered they had sufficient materials before them to decide the case out and out. The conduct of the presentee in lending himself to the proceeding, and in allowing himself to be settled contrary to the laws of the church, was sufficient to show that it was not for edification or the good of the parish to settle him in Culsalmond. He had rendered himself disqualified, and therefore ought to be rejected. The conduct of the synod it might also be necessary to take under consideration. It was always competent to the members of a superior court, if any malversation of affairs took place in an inferior court, to take it into consideration. That, however, was not mixed up with the question at present, and ought to be considered at another time. In the motion he was about to submit, he had gone on the principle that where there was one good ground for the conclusion come to, it was unnecessary to state their reasons, though these might be of great force. Mr Dunlop then moved as follows:—

“That the General Assembly sustain the complaint and appeals against the sentence of the synod of Aberdeen, complained of and appealed against, and reverse the same; also sustain the complaints and appeals against sentences of the presbytery of Garioch, including those set forth in the notarial instruments in process, and reverse the said sentences: Find, that independent of the violation of the act and regulations anent calls, the proceedings of the presbytery are liable to fatal objections, and in contravention of the laws of the church, particularly in so far as the presbytery refused to receive special objections, and refused to receive the complaint and the appeal respectively tendered thereupon, and proceeded to the settlement of the Rev. William Middleton notwithstanding thereof; and in respect of these objections, rescind and make void the said settlement of the said Rev. William Middleton, as minister, assistant and successor, of the parish of Culsalmond; and, further, find that the said Rev. William Middleton has by his conduct disqualified himself as minister to the said parish, and reject him accordingly; *quoad ultra*, reserve consideration of the proceedings in this case, in so far as respects the conduct of the majority of the presbytery, and of Mr Middleton.”

Mr ROGER of Denino made a few remarks to the effect, that the veto act was the cause of this and all the other difficulties of the church, and that the settlement of Mr Middleton was regular and valid.

Mr CARMENT said he was sorry to have heard one of the gentlemen at the bar appealing, in the circumstances in which he was placed, to the principles of eternal justice. If the presbytery had had a real eye to this, they would have acted in a different manner from what they had done. They had seen many melancholy instances in the church, in times bygone, of the intrusion of ministers upon reclaiming con-

gregations. He would just mention here, from personal acquaintance with the circumstances of a parish in his neighbourhood, that it had lain waste for five-and-twenty long years during the reign of moderation. A seceding chapel had been built in the parish; but it had since been shut up, as in March last the parishioners had a minister appointed in accordance with their will, and all the people were now returning to the parish church.

Mr COOK of Laurencekirk thought the presbytery ought to have allowed the people an opportunity to state special objections, but said he would support Dr Cook's motion.

Mr MILNE felt a difficulty in voting for either motion, and stated, that he was gratified that the motion of Mr Dunlop did not proceed upon the veto, which he hoped indicated that the Assembly were not willing unnecessarily to press the veto.

Mr CUNNINGHAM said that their friends on the other side were all at sixes and sevens as to the grounds on which their motion should rest, and as to the principles on which it ought to be defended. It was satisfactory to find such a diversity of opinion amongst them; and it was also satisfactory to find that there was a universal admission, on both sides of the house, that the people were fully entitled, on this occasion, to state special objections. He adverted to this latter circumstance the more particularly that it was a matter of general notoriety that the question was, in another shape and form, tried in another court, that court having gone beyond its proper jurisdiction in judging of the ecclesiastical regularity of the proceedings. The majority of the Judges in the Court of Session decided that the presbytery had acted regularly, because, forsooth, the people had no right on the day of call to give in special objections. But it had been admitted on all hands in the Assembly, that the presbytery had acted irregularly in this matter, which shewed that, in this court, ecclesiastical law was better understood. He would not dwell upon the grounds by which Dr Cook had got over the difficulties in the case. The Rev. Doctor admitted the right of the people of Culsalmond to give in special objections; but he thought that, somehow or other, they had forfeited it. It was totally unreasonable and untenable to say, that by any act of theirs, such as had been founded on, the people of Culsalmond had been deprived of what was their right by the laws alike of the church and of the land. And, therefore, the only grounds upon which Dr Cook could connive at, or account for, the proceedings of the presbytery of Garioch were removed. They had heard another ground, though it was not one urged by Dr Cook, but to which he was rather opposed, which was, that there was no evidence that these special objections had been offered or given in time. Now that they were offered in time was proved to a large extent by the record of the presbytery itself. It was perfectly proved by the notarial protest now on the table, which had been before the synod, and was now before the house; and it was also proved by the minutes of presbytery and the declaration of the minority. Besides they had the ground upon which the presbytery had put the case, viz. that the record was closed,—a ground so fallacious that it was not taken up and urged by any man on either side of the house. Under these circumstances there was the most abundant evidence that the special objections had been refused, and that the minority appealed and protested against them. This he held to be the most conclusive and ample evidence on that point. The only means of redress which the conduct of the presbytery had left open to them was that which they had taken,—a course of procedure recognised by the forms of the house, and now before them. Some misapprehension existed on the other side as to the statements of Mr Dunlop, who held that, even if there had been no other irregularities in the procedure of the presbytery, they had ample reasons to rescind the settlement upon the veto act. But there were ample grounds for so rescinding the settlement, irrespective of the veto act. It was worthy of note, that in discussing this case before the Court of Session, the allegation—that the people had no right to give in special objections, was based upon the argument that there was something about these objections in the veto act, and therefore the objections were held to be vitiated, and were null and void. Yet the legality of those objections, or the right of the people to give in such objections at that time, on a denial of which the decision of the Court of Session in the Culsalmond case was partly based, was admitted by every man on both sides of the house. Under these circumstances, he held it would be right

in the house to remove such a ground as this from the veto act. Although he held the argument founded upon it to be thoroughly despicable, still it might be becoming to take the passage regarding these regulations out of the veto act, and let them stand as part of the laws of the church on some other ground, that the Court of Session might no longer have this paltry excuse to found upon. Therefore he would separate that which was said to be illegal from that which was admittedly and confessedly legal. He would support the motion of Mr Dunlop.

MR RHIND, advocate, said it was unnecessary to speak to the merits of the case, as it was evident that the two sides of the house would decide, as the presbytery and the synod had done, on their opinion of the propriety of maintaining the veto act, after it had been declared illegal. He thought, however, that whatever irregularity there might have been in the proceedings of the presbytery, there was still left an opportunity of lodging objections at the return of the edict. That was not done; and as the matter now stood he had no other expectation than that the house would just proceed as they had done until the cause of difference itself was removed. In answer to Mr Cunningham's remarks upon the judgment pronounced in the Court of Session, in the Culsamond case, he had only to say that, whatever the reverend gentleman might think of the grounds of their judgment, he was bound to treat and speak of them with respect. This he had not done, and he (Mr R.) had just heard that, on that very day, members of the house, themselves lawyers and judges, had used language calculated to bring into contempt the decisions of the supreme tribunals of the country. He could not repress the indignation he felt when he heard it was stated that the interdicts of those courts were no better than pieces of waste paper. Gentlemen opposite spoke of the aggressions of the civil courts, when they themselves went before them with their disputes, and when the courts told their judicial mind, it was called an aggression. The Court of Session required no defence from him, but he looked upon these attacks as among the most lamentable effects of the church controversy, for it was nothing more than a pretence to speak of the Court of Session, when his learned friend opposite knew well that the attack was through them equally directed against the Legislature and the Crown itself. It had been said by a distinguished ornament of this country, that he did not know the use of a standing army, if it was not to keep the twelve judges of England in their seats at Westminster Hall, as the true guardians of the civil and religious rights of the people. That house owed its existence, and sat under the protection of the law, and he trusted to hear no more of this sort of language, which, notwithstanding its subversive character, would not serve the purpose it had in view.

MR BRUCE of Kennet spoke in favour of Mr Dunlop's motion.

DR CANDLISH replied shortly, and held that Mr Middleton's acceptance of the parish was participating in the conduct of the presbytery.

Professor ALEXANDER moved that the Assembly reduce the settlement, and send the case back to the presbytery to take the special objections. Mr Tait seconded the motion.

Mr MILNE seconded Dr Cook's motion.

The vote was then taken on the motions of Mr Dunlop and Professor Alexander, when 214 voted for the former, and 8 for the latter. Dr Cook then allowed the second motion (Mr Dunlop's) to pass without a vote.

The Assembly adjourned at about two o'clock.

### SATURDAY, *May 28.*

The General Assembly met at eleven o'clock, and was constituted by reading John chap. xv., and singing Psalm lxxv., verses 14 and 15.

Professor ALEXANDER gave in the following protest:—

“I protest against the judgment of this General Assembly in the case of Culsamond —

“1st, Because it is an outrage on common sense, and a violation of the plainest principles of justice, to punish a man for the faults of others, as the said judgment in effect has done.

“2d, Because the *ratio decidendi*, while laying grounds for censuring the presby-

tery of Garioch, offers no plea or justification whatever for punishing the presentee to Culsalmond, by depriving him, without trial, of his just and legal rights.

“3d, and lastly, Because the judgment, if drawn into a precedent, will introduce a new and hitherto unheard-of rule and principle of ecclesiastical law, and open a wide door for the grossest injustice, and the most grievous tyranny and oppression, by enabling presbyteries to defeat the just and legal rights of every presentee who, on private or other grounds, may happen to be obnoxious to them, and this by the easiest yet strange process, that of committing irregularities in conducting his settlement, and so, according to the principle established in this judgment, they may compass, through their own wilful error, the ends of injustice and oppression.

“ANDW. ALEXANDER.

Dr BRUCE laid on the table reasons of dissent against the deliverance of the Assembly in the case of Mr Clark of Lethendy, and Mr Wilson of Strainraer.

Dr COOK gave in the following reasons of dissent against the vote in the Culsalmond case, signed by himself and about 60 other members:—

We ministers and elders who subscribe this paper, members of the General Assembly, dissent from the judgment in the case of Culsalmond, tearing up the settlement of the Rev. Wm. Middleton, as assistant and successor in that parish—

1. Because this judgment implies that the proceedings in reference to that settlement were in opposition to the veto law, which law having been declared by the supreme courts of the kingdom to be illegal, the presbytery did not consider themselves as bound to regard.

2. Because, as the dissentients professed to be guided by that law, the regulations attached to which declare, that special objections shall not be given in when there is a majority of dissents, as there was in the present case, they were cut off upon the ground which they had themselves taken, from bringing forward special reasons or objections at the moderation of the call, on which account it might have been that they did not dissent, or protest, from the resolutions of the presbytery not to receive them

3. Because there still remained an opportunity previously to the induction, of which they did not avail themselves, to state objections to the life and doctrine of Mr Middleton, and of proving, if they could, that these objections were well founded.

A committee was appointed for printing an edition of the Gaelic Bible.

The Assembly heard the report of the trustees for managing the Widows' Fund, which was read and given in by Dr Gordon. On the motion of Dr Makellar, the report was approved of, and the thanks of the Assembly communicated by the moderator to Dr Gordon, for his most valuable services.

The Assembly heard the report of the Committee on the Supplementary Orphan Fund, which was read and given in by Mr Paull of Tullynessle. On the motion of Mr Cook of Laurencekirk, seconded by Mr Cunningham, the report was approved of, and the thanks of the Assembly communicated by the Moderator to Mr Paull, for his unwearied efforts.

The Assembly heard the report of the committee for examining the record of the committee for managing the Royal Bounty, which was read by the Clerk and approved of.

#### REPORT OF THE NON INTRUSION COMMITTEE.

Dr Gordon read the following report:—

“The chief part of the proceedings of your Committee during the past year having been published some time ago, it could serve no useful purpose to detain the Assembly by now resuming a detail respecting matters which are already publicly known. Referring, therefore, to the printed documents accompanying this report, and to other publications, which contain the most ample information, the committee will advert to the circumstances which have occurred with great brevity, and so far only as is necessary to afford them an opportunity of stating the general views by which they have been guided, and the actual position of the important business entrusted to their charge, now that they are called to resign it into the hands of the Assembly.

“By the resolutions of last year, appointing this committee, the Assembly resolved, ‘That they will continue to maintain inviolate the great and fundamental principle, that no minister be intruded into any parish contrary to the will of the congregation, and that no legislative measure can be regarded as satisfactory to this church, or as a measure in which the church can acquiescē, which does not enable her to carry that principle into full practical effect, or which interferes with her exclusive jurisdiction in all spiritual matters.’ They farther resolved, ‘that the measure proposed in the bill of the Duke of Argyle does substantially provide for the maintenance and practical application of the principle of non-intrusion, as asserted by this church;’ and they accordingly ‘appointed this committee to watch over the progress of the bill of the Duke of Argyll, or of any other bill which may be introduced in reference to the subject;’ and, under a certain specified modification, they direct the committee to give encouragement and aid, so far as in their power, to the passing of the said bill, with the modification just adverted to, and generally to use all proper efforts for obtaining a settlement of the great question now at issue, on a footing consistent with the principles repeatedly declared and asserted by the church.

“Upon entering on their duties, the committee found that the progress of the Duke of Argyll’s bill must be for some time necessarily suspended, in consequence of the dissolution of parliament, which took place a few weeks after the rising of the Assembly; and, at an interview with which the Duke of Argyll, soon thereafter, honoured the committee in Edinburgh, he explained that it would not be expedient to resume the subject, in the short session which was expected to be convened in August, but that his intention was to re-introduce his bill when parliament met for the despatch of business, after Christmas. In the mean time, his Grace pressed upon the notice of the committee a matter which they believe to be one of more practical importance than perhaps any other connected with the furtherance of the church’s object, and one to which it has since been their endeavour to give all the attention in their power. While his Grace expressed (as he had uniformly done on all occasions), his confident anticipation of the ultimate and complete success of the church’s cause, he stated that he was ‘particularly anxious to direct the attention of the committee to the extreme and almost universal ignorance concerning the whole subject, which still prevailed in the minds of the members of both houses of parliament, and to the means that might be employed for communicating information to those who must be called upon to legislate upon the vital interests of the Scottish establishment.’ With this view, he suggested various means that might be used; and, in particular, he recommended that ‘a succinct and clear explanation of the object and position of the church should be drawn up and printed;’ which, when the proper time arrived, he would endeavour to bring under the notice of the members of the upper house.

“As proceedings in parliament were unavoidably postponed for a considerable period, it is obvious that, in so far as regarded the members of the legislature generally, the preparation of a document of the nature described by the Duke of Argyll might, without detriment, have been for the present deferred. But a change having just taken place in the councils of her Majesty, it occurred to the committee that it was their duty to address themselves without delay to the new administration, and to endeavour, if possible, to open up such a direct and unreserved communication with her Majesty’s ministers, as might serve to convey to their minds correct views respecting the real position and objects of the church. The committee, accordingly, lost no time in preparing a “Memorial addressed to the members of her Majesty’s Government,” which was presented in London, in the month of September, by the moderator and a select body of commissioners, accompanied by several other gentlemen, who joined the deputation from different parts of Scotland, with the view of expressing more strongly the respect with which the committee were desirous of approaching her Majesty’s government.

“The committee could not but be aware that, besides the very general ignorance amongst members of the legislature, referred to by the Duke of Argyll, there had been very serious misunderstandings created, and very strong prepossessions of an unfavourable nature, excited in many quarters, and that, from obvious causes, these adverse influences had obtained access to the minds of not a few of the members of

the cabinet. The object of the memorial now presented was limited to an endeavour to remove these misapprehensions. The committee did not in it attempt to explain or vindicate the principle of the church, which had been brought into question, or to treat of the various forms under which it might be recognised by the legislature, because they conceived that these were topics much better fitted for personal conference; and they entertained the hope of establishing a friendly and unreserved communication with the government in regard to them. In this hope, however, the committee were, unfortunately, to a considerable extent disappointed. The memorial of the commissioners was received, by the Right Honourable Baronet at the head of her Majesty's government, with great courtesy; but, while he expressed his readiness to hear whatever might be said on the part of the deputation, or to receive any further written communications, neither he nor any of the leading members of the cabinet afforded to any of the deputation an opportunity for that full interchange of views and sentiments which the committee deemed so desirable. In these circumstances the committee had no choice but to leave the memorial to produce any impression it was fitted to make, and to trust to the effect of time and of farther consideration and discussion, to bring out the plain justness and reasonableness, as well as the obvious public expediency, of granting what is indispensable to the character, and to the very existence, of the established church.

“It was at this early stage of their proceedings, that the committee were diverted from the course they were pursuing, by a negotiation which, with its consequences, has since occupied the greater portion of the intervening period, and which, at one time, threatened to involve the affairs of the church in no small embarrassment.

“That Sir George Sinclair undertook the negotiation referred to with the best intentions there can be no reason to doubt; and it is not necessary that the committee should impute blame, in regard to the conduct of it, either to him or to any others of the parties engaged. The whole circumstances and details attending the negotiation have been given to the public at so great length, and the questions to which it has given rise have been so fully discussed and exhausted, that the committee cannot entertain a doubt that the mind of the church is now thoroughly made up in regard to the whole matter;—so that to resume it here would be not less irksome than unprofitable. One observation alone, it is necessary to make. Circumstances which have since occurred, and the opinions which have been expressed on all hands, in regard to a measure of the nature understood by the committee to be contemplated, have very strongly confirmed them in the conviction, which they stated at the time, that even were such a measure conceded, in the fullest sense of what has been called the *liberum arbitrium*, it would form a settlement of the most undesirable kind; and that a just regard to all the great public interests involved, render it the duty of the church strongly to represent and urge the practical evils attending such a settlement, with the view of preventing a measure of that nature being brought forward or passed into a law.

“Within a very few weeks after the commencement of their dealings with the honourable Baronet who has been named, the committee became satisfied that the government were still labouring under essential misapprehension as to the nature of the measure which the principle and the necessities of the church required. They, therefore, so soon as this discovery was made, earnestly applied themselves to the removal of the existing misunderstanding; and, by means of a printed ‘Statement,’ which was officially communicated, as well as by correspondence and otherwise, they sought to correct every erroneous impression, and to induce the government to come to a sound and satisfactory conclusion.

“Those who have access to know the amount of misconception and prejudice which have been most unfortunately excited against the object and proceedings of the church, can scarcely be surprised that these efforts of the committee failed in their desired result. The committee, however, are greatly misinformed and deceived, if the general effect of the whole of these somewhat harassing discussions, in which they have been involved, has not been to produce a very strong and general impression of the most beneficial kind,—not only serving to illustrate and render palpable the precise nature and import of the church's principle, in a way that could scarcely have been otherwise effected, but tending to satisfy the minds of all practical men, of

the perfect sincerity of the church's professions, and to convince not a few that, without a clear and ample recognition of the fundamental principle of the church, the present difficulties must necessarily terminate in the ruin of the best interests of the country.

“ So soon as the committee ascertained, in an official form, that the government were not yet prepared to bring forward any measure of a satisfactory nature, they lost no time in recommending to the Duke of Argyll that his bill should be again introduced, in one or other of the houses of parliament,—which they did at two successive interviews with which his Grace honoured deputations of their number, when passing through Edinburgh on his way to London, in the month of January. At this period, however, the Duke of Argyll, not being in possession of all the information relative to the views of government which was before the committee, and being naturally anxious not to embarrass the new ministry by any independent movement that was not absolutely necessary, stated that, before determining on the re-introduction of his bill he was desirous to have an opportunity of satisfying himself, by personal communication with her Majesty's ministers, that they were still unprepared to do what was satisfactory; and Mr Campbell of Monzie, who was present at both interviews, and was referred to by his Grace, expressed himself to a similar effect.

“ The committee—having thus, as they conceived, effectually cleared themselves, by means of the documents and various other proceedings which have above been generally referred to, from all entanglements arising out of Sir George Sinclair's negociation, and having now put the business of the church into the course of being restored to what, under existing circumstances, was unquestionably the most advantageous footing,—they have not had occasion to take part in any subsequent proceedings. The time has been occupied (the committee believe very profitably) in the diffusion of the documents previously issued by the committee, as well as of other publications, and in the public discussions which have thereby been called forth; but nothing has occurred which appeared to the committee to require interference on their part; and they are possessed of no official information in regard to any thing which has subsequently taken place.

“ But though the committee have no farther proceedings of their own to report to the Assembly, it may be expedient that they should remind the house, in a few sentences, of the more important events which have since occurred.

“ The committee understand that the result of the Duke of Argyll's personal inquiries, in London, was to bring his Grace, after a few weeks, to the same conclusion to which the committee had previously come, in regard to the intentions of the government; and that Mr Campbell of Monzie likewise found himself necessitated to adopt the same conclusion, in consequence of the inquiries instituted by him. The Duke of Argyll accordingly intimated to the House of Lords, before Easter, that he should reintroduce his bill immediately after the recess; and his Grace, at the same time, executed the intention which he had expressed to the committee in the month of July, by addressing a circular to all the members of the Upper House, in which he strongly recommended to their attention the ‘ Memorial ’ and the ‘ Statement,’ which had been presented by the committee to her Majesty's government. Mr Campbell also made a motion in the House of Commons for a committee of inquiry; and it was thereafter arranged between the Duke of Argyll and him, that his Grace's bill, instead of being introduced in the Lords, should be commenced in the Commons, which has accordingly been done; and the state in which that matter now stands is known to all the members of the Assembly.

“ It has been a subject of very just regret, that the discussion which was anticipated on the second reading of the bill, was not allowed to proceed on the 4th instant. At the same time, the committee have reason to believe, that the preparations which were made for that discussion, together with the other measures which had been adopted, so far from being thrown away, have been productive of very important effects; and there can be no reason to doubt, that, should the deliberations in which her Majesty's government are understood to be now engaged, not issue in the production of a measure satisfactory to the church, Mr Campbell will, on the 15th of June, resume his bill, and press it to a division in the house, under very favourable circumstances.

“ The committee are warranted to state, that the result of all that has taken place during the past year, has been to produce, in many of the most influential quarters, a very considerable modification of the views and sentiments which were previously entertained, in relation to the church. That that modification of opinion and feeling has yet proceeded to such a length as to admit of the church, speedily and by general concurrence, obtaining a satisfactory extrication from her present difficulties, the committee are far from being prepared to assert. The great object of the explanations which they have offered to the government, and to public men generally, has been to impress them with the belief that the church is necessitated to contend for a plain practical principle,—fundamental to the Scottish presbyterian church, and familiar to her people,—a principle which, whether it be applicable to other countries or not, is indispensable in Scotland, and, in its general application there, eminently conducive to the public welfare,—a principle which, at all events, is held as matter of conscience by the great body of the members of the church, and which they cannot, therefore, in possibility abandon, let the result of their conscientious steadfastness be what it may. The truth, and justice, and weight of these representations are now, undoubtedly, in some good measure appreciated by many who were formerly disposed to treat them with total incredulity; and if it should once be resolved that the principle of the church is to be conceded, the committee find it difficult to persuade themselves that the enlightened statesman at the head of her Majesty’s government should desire the concession to be made in the form which is most strongly deprecated by all parties; and still less can they believe it possible that he should, for one moment, tolerate the idea of attempting to impose upon the church some ambiguous or incongruous measure, calculated only to perplex and confound men’s minds, and which, while it would itself prove a subject of fresh contention, would serve, most certainly, to prolong and increase all the existing confusion. If Sir Robert Peel is to interpose at all, it must be believed that he will do so vigorously and effectually, and that he will propose no settlement but one calculated to conciliate and compose men’s minds from the first, and afford a just and reasonable prospect of restoring permanent tranquillity to the country.

“ A movement has very recently been made by some members of the church, which, so far as it may have any influence, seems little calculated to aid the government in arriving at the sound and desirable conclusion which has just been hinted at. The committee would attach no importance whatever to the movement, were they assured of its being as well understood in London as it is in Scotland; and they trust that the proceedings of the present Assembly will serve to place this matter, as well as others, in its true light, and to save all parties from the possibility of being led into any practical mistake in regard to it.

“ The only real evil which can befall the church is, that she should falter in adherence to her fundamental principle; but, through the mercy of her great Head, she is now, in truth, more firmly united in adherence to that principle, than she has ever been at any former period. The principle itself is plain; and the duty of the church, in regard to it, is not less plain. She must abide by her principle, and leave the issues in the hand of Him, who alone knoweth the end from the beginning, and whose counsel shall stand. May He, of his infinite mercy, still show favour to this long favoured and guilty land, and make the Church of Scotland yet to be for a blessing to this people, and for His praise in the earth!

(Signed) “ By appointment of the Committee,

“ ROBT. GORDON, Convener.

Dr CANDLISH said, I will not at present enter into the details contained in the report now laid upon your table; but I reserve my right, in the event of explanation or remark being rendered necessary from what occurs in the course of the discussion, to address the house. I rise simply, in the mean time, for the purpose of vindicating what it seems to me the right of the Assembly to adopt in reference to this report, and the important subject to which it alludes. I shall not, therefore, enter into any detail respecting the modes of settlement that have been under discussion during the past year; but I shall just suggest, for the consideration of the house, the arrangement which may possibly be the best for the ensuing year. I will humbly propose that the Assembly, if they see cause, approve generally of the re-



port now given in. Of course we cannot well ask the Assembly to approve particularly and specially of every particular act of the non-intrusion committee; but we are entitled to expect from the Assembly that at least they substantially agree to the principles on which we have conducted our procedure, and give a general approval of this report. And in regard to the future, I would humbly suggest, that as in consequence of the proceedings of this Assembly, the state of matters in reference to this question is somewhat changed, we may have a much simpler machinery for conducting our affairs in the time to come. The Assembly are aware, that during the past year, we have had, in connection with the difficulties of the church, a committee, called the non-intrusion committee, and a special commission; the object of the non-intrusion committee being to take charge of any negotiations with government, or any public proceedings that affected the question; and the object of the special commission being to take charge of those parishes which, in the mean time, require the special superintendence of this church, in consequence of the state into which they have been brought by the proceedings taken in the exercise of discipline, and also to watch over the legal processes in which the church is engaged. Now I would humbly suggest that we may have a simpler machinery for the year about to commence. In regard to the law proceedings, I think we may leave that for the present out of view, as some special arrangement thereto may at a subsequent date be proposed. But in reference to the negotiations with government, as to any steps that may be taken for settling the church's affairs, and in reference to the superintendence of those parishes in which some degree of confusion has been introduced, I would propose that these two objects be committed to the same body; or, in other words, that, instead of re-appointing the non-intrusion committee, we should appoint a new special commission, and give them instructions in regard to what they are to do in reference to those two matters, and what they are to aim at in the settlement of the church's affairs. I propose that these instructions should be somewhat general,—that they should consist of a general intimation that they are to be guided in all their proceedings by the terms of the several deliverances pronounced by the General Assembly on that head. Upon this subject I take it that there are three deliverances of the Assembly, which it will be essential for the special commission to have in view. The first of these deliverances is, that in the carrying of which I specially rejoice, and which will give joy and gladness to the hearts of all our friends,—I mean the deliverance of Monday night, marking the mind of this church, that patronage should be abolished. The second deliverance which this special commission will have to look to is the important one of Tuesday night, asserting the independence of the church in her spiritual jurisdiction, as exclusive of the interference of the civil courts. The third deliverance that must be kept in mind by the special commission will be that which, I trust, the General Assembly will now come to,—a general approval of the non-intrusion committee's report. With these three deliverances in their eye, their instructions will, I think, be sufficiently explicit. One word as to the last of these deliverances, which I anticipate will be passed to-day, approving generally of the committee's report. In such a deliverance I would hold these two things to be involved; first, a declaration that a settlement on the footing of the Duke of Argyle's bill, or something substantially equivalent, is the only settlement we can point out as in the slightest degree an adequate settlement. The other thing involved in the deliverance, I propose, is the explicit and express condemnation of any legislative measure founded on the plan of the *liberum arbitrium*. The report of the committee, after setting forth what was understood to be the measure proposed by government—though that afterwards turned out to be a misunderstanding—recorded their opinions as follows:—“Circumstances which have since occurred, and the opinions which have been expressed on all hands, in regard to a measure of the nature understood by the committee to be contemplated, have very strongly confirmed them in the conviction, which they stated at the time, that even were such a measure conceded, in the fullest sense of what has been called the *liberum arbitrium*, it would form a settlement of the most undesirable kind; and that a just regard to all the great public interests involved, renders it the duty of the church strongly to represent and urge the practical evils attending such a settlement, with the view of preventing a measure of that nature being brought for-

ward or passed into a law." Now, I certainly expect that the Assembly do specially approve of this report by the committee as to the *liberum arbitrium*, and that the special commission will be instructed, in terms of your deliverance, to hold themselves bound to carry on any future deliberations on this ground. What may be the precise duty of the church, if such a measure were forced upon her, the committee do not say; but they go the length of saying, that it is the duty of this church to deprecate such a measure as the *liberum arbitrium*. It will be better for us rather to suffer a little longer the evils we are under, than give countenance to the passing of such a measure. I trust the Assembly will agree, that the merely delusive charms some people have been holding out to us of the probability that if we behaved ourselves very quietly, and said nothing about patronage,—that if we kept ourselves quiet and submissive, and thus allowed the zeal of our friends to cool,—that then Sir Robert Peel and the government would come forward and give us this great boon, a settlement on the principle of the *liberum arbitrium*,—that the mere risk of disturbing these arrangements, and making vain those delusive expectations which have been held out to us, will not prevent the church from reprobating such a mode of settlement, and urging its evils for the very purpose of preventing such a measure being passed into a law. With these explanations, and reserving to myself the undoubted right of reply, if in the discussion any thing should occur calling for explanation, I have to propose the following motion:—

“That the General Assembly approve generally of the report given in, and resolve to entrust the business hitherto under the charge of the special commission, and of the non-intrusion committee, to the special commission to be appointed at a future diet, with reference to the present difficulties of the church, instructing them to have respect to the several deliverances of this Assembly on the state of the affairs of the church, and to be guided in all their proceedings and deliberations by the spirit of these deliverances.—the understanding being, that the deliverances to be thus kept in view are, the declaration that patronage is an evil, and ought to be abolished—the assertion of the church’s spiritual independence—and the approval of the principles laid down in the report of the non-intrusion committee.”

Before I close I must be allowed to propose an act of justice in which I am sure I will have the full concurrence of all those who approve of the principles on which the church is endeavouring to settle her affairs,—I will have their concurrence in rendering a debt of justice to some of our distinguished friends in high places, who have proved themselves the true benefactors of the Church of Scotland, and the truest patriots of the day. I need scarcely refer to the debt of obligation under which the church lies to the Duke of Argyll. I need not refer to what the Assembly acknowledged last year—the obligations we lie under to his Grace for the bill he introduced to the House of Lords; but it cannot be so fully known to the Assembly as to the members of the non-intrusion committee, to what extent the church is indebted to the Duke of Argyll, far beyond his public acts, which alone have appeared in the newspapers of the day. We can speak to the disinterested, and zealous, and devoted labours of his Grace, both privately and publicly, in obtaining and giving information, getting us access to the ears of influential men, and in various ways, but for which we would not have had the advantage of making our cause known in high places. And I cannot pass from this topic without acknowledging the debt of gratitude under which this Assembly lies to another member of the house of Argyll—to a scion of that house, who, yet scarcely at the years of maturity, has put forth one of the best vindications of the church in our day. The indefatigable energy of that young nobleman in availing himself of his access to the peers of the realm, in diffusing among his peers all the information in his power, whether by conversation or otherwise, and his many and arduous exertions in our cause, cannot be fully known to this Assembly; but they are equally deserving of the gratitude of the church with the public service he has rendered us as a “peer’s son.” Then, without dwelling upon the debt of gratitude we owe farther to the connection of the same noble family, by whom the motion for inquiry was made, and by whom the bill was to be introduced into the House of Commons, I cannot but advert to the great loss we sustained by the delay of the discussion which was expected to take place on that evening. I do deeply regret that, though the second read-

ing of the bill had been postponed, a discussion at least did not take place on that occasion. Had that discussion been obtained, we would have had, for the first time, in a full house—for those present would bear testimony to the deep interest felt on that occasion—an opportunity of having our principles fully and nobly vindicated by the noble friend who introduced the measure, and by those of our countrymen to whom, on former occasions, we have been indebted,—by Messrs Rutherford, Maule, and Stewart. These men were fully prepared to stand up for the cause of our church in the face of Englishmen, and to vindicate, in their presence, our constitutional principles, and to enforce upon their attention all that Scotland claims for her ancient free church, and her free people. Mr Rutherford would undoubtedly have given an able, elaborate, and influential exposition of the law of the case; and though it is satisfactory to think that during the present session of parliament the mere cuckoo-cry of rebellion and resistance to the law is not so much heard in the house as in days gone by, yet it would have been infinitely better if a full explanation of constitutional law could have been given by one so well able to elucidate the subject. I need not remind the house of the importance of the services of another individual, for whose administration of the patronage of the crown, when he was in office, the people of Scotland owe a deep debt of gratitude, and which they could never sufficiently acknowledge. He, a staunch friend of popular rights, backed by the assistance of his friend and coadjutor, the member for Renfrewshire, would have made the claim of the people of Scotland heard, and would have demanded in their behalf the full recognition of their ancient privileges. I must not omit another friend of our cause, who would have seconded Mr Campbell's motion,—I mean Mr Plumtre, not a countryman of our own, but on that very account the more worthy of our gratitude, whose attachment as an Englishman, is peculiarly valuable, because it rests on his conviction of the bearing which our question has on the great cause of evangelical truth, and the preaching of the gospel. I regret the loss of what these distinguished friends would have urged on our behalf. But there is a good time coming yet; and our champions will not grudge the trouble of again girding themselves for the battle. After again expressing his regret at the loss to this cause by the debate on the second reading of the bill not going forward, and stating as matter of encouragement that Mr Campbell's motion would have been seconded by an English Conservative member, as the friend of evangelical religion, the reverend Doctor went on to contend for a proper settlement of this question as the only one that could be satisfactory, that would give peace to the church, or enable them to lay down the weapons of agitation, and resume the quiet labours of their office in their parishes. He would have full confidence in the ministers of the church, that they would not give their consent to any miserable, wretched measure, but that the people would have reason to place confidence in their pastors, that they would stand by the principle, that no one can be intruded into a congregation contrary to their will.

Dr LEISHMAN then rose, and after referring in brief terms to the recent declaration by forty members of the synod of Glasgow and Ayr in favour of Sir George Sinclair's clause, said,—In approving of that clause we are not singular. It has met with the approval of many members of this house, and of some of the most influential members of the non-intrusion committee itself. It has been approved of and concurred in, not only by some of the most munificent contributors to the church's schemes,—not only by a large body of ministers in different parts of the country,—but, what is of more importance still, it has met with the unqualified approbation of some of the best friends of the church in both houses of parliament, and also of her Majesty's government, who are sincerely desirous to heal the differences in the church, and arrange them so as to prevent a schism, or, it may be, to prevent the destruction of the church itself. But we have been blamed. For what have we been blamed? For usurping the functions of the non-intrusion committee? That is the measure of our offence. Before we took any step in the matter at all, that committee had become unstable. The members were divided among themselves; negotiations with government were broken off; it was, in fact, a defunct body; and, in moving in the matter at all, it was to enable that committee to remove the misunderstanding that prevailed regarding it. Surely there was nothing wrong in this. In the synod of Glasgow and Ayr we knew there was a large body who held the prin-

ciple of non-intrusion on the same grounds on which it was held by the majority of this house; but holding also, that the proposal of Sir George Sinclair might be accepted without doing violence to their consciences, they thought it their duty in the present crisis to speak out. It is a mistake to suppose that we have occupied lower ground than the non-intrusion committee. The measure we declared we would submit to, is the measure which the non-intrusion committee offered to submit to. We have declared, that should the people state as an objection to a presentee, that he is not fitted to edify them,—that his ministrations are not such as would edify them and their families,—it should be competent for the church courts to reject that presentee on these grounds alone. If the General Assembly is of opinion that the possession of such an amount of power as this would enable them to carry into effect the principle of non-intrusion,—if they could accept such an amount of power rather than let the church go down, we are not to be blamed more than the non-intrusion committee; and, however we may differ in some points, we should all agree in this, that we are not to be blamed more than them. But it has been objected, that our movement has obstructed the progress of Mr Campbell of Monzie's bill. Had this been the case, the extreme anti-patronage section in the church ought to be grateful to us at any rate. But we did not obstruct the bill. I would have regretted very much had it been so, for I agree with my friend opposite, that Mr Campbell's bill would have been a far greater benefit to the church and to the people than the *liberum arbitrium*. But as to the passing of the bill, no man who knows any thing of the circumstances connected with it, but is aware of the fact that it had no chance of passing at all. Are we, then, to reject a measure which the church can conscientiously accept, when there is no positive prospect of getting anything more? Time in these circumstances is everything. To take the offer in time is our wish,—and I owe it to myself, and those with whom I have acted in the matter,—to make this explanation. I feel, Sir, that I owe a debt of gratitude to her Majesty's government for the offer they have in effect made. I make this statement without reference to party or political opinion, no such feeling being allowed to prevail in this Assembly. But I owe it to her Majesty's government to vindicate them against the imputations that have been by some cast upon them; because I believe they are unworthy of them. Her Majesty's government have had a difficult part to act. They see the civil and ecclesiastical courts arraigned against each other,—they see us divided against ourselves—one party tendering advice, another refusing it,—they see our friends in different parts of the country, holding different opinions of our conduct,—nay, more; they see our friends, on whose advice they have been wont to lay much weight, also divided as to the merits of this contest. They see all this, and seeing all this, I ask, is it to be wondered at that they hesitate? Of the desire of the government to promote the religious welfare of this country I never had a doubt. Time will show that this is their honest desire. And time will prove it also, if we do not precipitate a settlement of our difference beyond the reach of human power—of human wisdom. I do not ask the Assembly to believe that I know any thing more of the intentions of the government than any other member in the house. I am not the organ of her Majesty's government: but it is my firm conviction, that if the church be found willing to accept such a mode of settlement, government is prepared to offer it, but nothing more, by embodying in a bill a provision—a clause, to the effect that, if the communicants of any vacant parish object to a presentee on the ground that he is not calculated to edify themselves and their families, it will be the duty of the church courts to reject them. Government will do this, but it will not do more. And should such a provision not be accepted by the church, the government is not prepared to force it, but they will give no other measure. As I said already, I would like Mr Campbell of Monzie's bill better. I would have liked the Duke of Argyll's bill better; but I call on my reverend fathers and brethren to say, if they are to risk the safety and peace of the church, when the only alternative held out is a measure which, if it do not embrace all that they could wish, is still a measure of non-intrusion. I ask my reverend fathers and brethren if, when they have the offer of a bill which they can receive with a good conscience, and which is sufficient for all practical purposes of non-intrusion, they would be acting wisely and prudently to refuse it.

Mr BRUCE of Kennet then rose, and, in the course of a long speech, explained the grounds on which he had dissented from the report of the committee. He gave a detailed account of his journey to London, and how it happened that he preferred the principle of Sir George Sinclair's proposal in opposition to the opinions of the majority of the committee. When he waited on the premier, along with the deputation from the committee, he was not aware that any negotiations had been going on with Sir George Sinclair. It was only after he returned that he learned there had been such negotiations; and on being made acquainted with all the circumstances, he saw it to be his duty to approve of Sir George Sinclair's proposal. It was not, he owned at once, that substantial measure of non-intrusion which he could have wished; but it would secure the people against the intrusion of unacceptable presentees, and that was a great deal. If he were not fully satisfied that it involved the principle of non-intrusion, he never would have agreed to it; but believing, as he did, that it did involve that principle, it met with his approval. It had been objected, that it would put too much power into the hands of presbyteries. He did not fear the consequences of that power. For the last eight or ten years he had been in intimate connection with church courts, and he would there state, not as an elder, but as a simple communicant of the church, that he had always found a disposition in these courts to support the rights of the people. He did not like the term *liberum arbitrium*, because he did not rightly understand what the words meant, residing as he did in the country, and its being now so long since he was at school. Plain language would be better understood, and a plain clause like Sir George Sinclair's would be intelligible to all. The measure which he would propose, and which he thought would be received with satisfaction as a measure of non intrusion, was one which would leave the church courts at full and uncontrolled liberty to reject the presentee in every instance, in respect that the objections and reasons, though not in themselves conclusive in the judgment of the presbytery, nor such as the court homologated, were yet entertained by such a proportion of the parishioners, as to make it in the opinion of the presbytery, inconsistent with their duty, or with the spiritual interests of the parish, to proceed with the settlement of the presentee in this particular congregation,—the measure being unambiguously expressed to free the proceedings of the church courts from civil control, and to permit objections of every kind, on the part of the communicants, that the ministrations of the presentee, in the minds of the objectors, could not edify them and their families; the presbytery and other church courts setting forth in their deliverance, on their conscience as honest men, whether or not the objections be a casual prejudice. And the deliverance of the presbytery might be,—that the presbytery, having heard the reasons and objections stated by the parishioners, and finding these objections and reasons entertained so strongly by such a proportion (either majority or minority) of the communicants, and having taken into account all the circumstances of the case, and having due regard to the edification and spiritual interests of the parish, and that it is not consistent with their duty to proceed with the settlement in this parish, and therefore reject the presentation. Mr Bruce concluded by an appeal to the house to embrace the present opportunity of settling their differences, lest another of the kind should not occur.

MR EARLE MONTEITH conceived that this was the most important part of the business before the Assembly, because the deliverance of that day would be regarded by her Majesty's government as an indication of the mind of the church upon the question. He should conceive he was not a true and faithful friend of the church who would go to the consideration of this subject with any other feelings than those of conciliation; for they could not disguise from themselves, that if division was to continue, the question would not be as to the triumph of one party over another, but the disestablishment of the national church, leaving the country open to the progress of atheism and infidelity, and resulting, it might be, in a political revolution. He would therefore proceed to the consideration of this question with the deepest anxiety, and the desire to discuss it altogether apart from party politics; and much as he might differ with the honourable gentleman who had just sat down, upon the topic of secular politics, he decidedly agreed with him in this, that these politics should have no place in the consideration of this question. He was

particularly struck with the remark of the reverend Doctor who had introduced this discussion, and had introduced it too in a tone which was most creditable to him, and which he would hail as an omen for good;—he was struck with the remark, that government was placed in a most difficult position, and that every allowance should be made for it. He responded to that sentiment, for he believed that government was placed in a position of great difficulty; not of the greatest difficulty, however, because he conceived that the position of their predecessors in office had been much more so. And he would take the liberty of saying, that friendly as he was to the late government on political principles, he thought the change would be a beneficial one for the church; and while he lamented their removal as a secular politician, he did not feel regret at it as a churchman. He felt that the present government stood on a vantage ground, on which the late government did not stand. And however much he might differ in politics with the honourable baronet at the head of her Majesty's councils, he had too much confidence in his sagacity, his high-mindedness, and his patriotism, not to be assured that he would endeavour to secure to the country the advantages and blessings of one of the most valuable of her institutions. He cared not what government it was; but he conceived that whatever administration would satisfy the lawful, the reasonable, and the just wants of the church, would be a government exercising its authority for the good of the country. But the very circumstance of the government being in that difficult position which had already been noticed, just constituted the difficulty in the church. What was the source of their difficulty? Was it not disunion and disagreement amongst themselves in the church? The source of these difficulties lay not in the constitution of that church, but amongst other causes. They lay in the reading of the statutes by the civil judges; and after the instances which had been given, it had misled many of their reverend fathers and brethren on the other side of the house, into the conscientious belief that the constitution of the church did not secure the liberties of the church in that way that for nearly three hundred years, they on his (Mr Monteith's) side had read and understood that constitution. He wished to speak of the gentlemen on the other side of the house with the utmost conciliation. The differences which existed between them now did not originally exist, but they had been fostered by different circumstances, and only three or four short years had elapsed since they were of opinion that it was then the bounden duty of the church—as it had been always the opinion of those on his (Mr Monteith's) side of the house—to stand up and protect her against the interference of the civil power. He wanted them to adhere to the principles which they held only three years since; and should they do so, the other differences between the two great parties were not, he would hope, of such a nature that they would not be reconciled. And he did feel, that if they were met by the other side of the house in a spirit of conciliation, he had no doubt that, under God's blessing, this painful case might be brought to a successful termination. But don't let them increase those difficulties towards a settlement, by entertaining intestine divisions in their own camp. In stating this, he alluded to his friends on the same side with himself, and more particularly to the reverend Doctor (Leishman) who had commenced the discussion, and whose movement, in conjunction with his friends, the reverend Doctor conceived would facilitate the operations and strengthen the hands of Government. The reverend Doctor had asked a question. He had asked if any thing had been done for which he was entitled to blame at the hands of the church? Now he (Mr Monteith) conceived it was due to these gentlemen to say that he would answer the question this way. He did not blame them any more than he blamed himself and the other members of the non-intrusion committee. He blamed himself as a member of that committee. They should take a portion of blame to themselves; and while they alluded to that movement which had recently taken place on the part of the reverend Doctor, they should, at the same time, allude to the very unhappy circumstances which had taken place amongst themselves, and which, for a short time, had involved them in much difficulty, and had nearly ended in the destruction of the great object which they had in view; and while he concurred in planning that movement, he did not blame them more than himself. In fact, he blamed others less than himself; for he and the other members of the non-intrusion committee stood

on a vantage ground which the others did not possess; and they should have known better than have got into these difficulties, which had entangled them for weeks on weeks. They felt the greatest difficulty in regard to that clause which the reverend gentleman had alluded to, and he now felt that, for a time, they had got into the trap into which the reverend gentleman had fallen, in believing that it went farther than it really did. He would say, therefore, don't let them fall again, by misinterpreting that clause, into the difficulties from which they had just emerged. He wished for no recrimination, but the object of this movement would be merely to make a temporary arrangement, while the exertions of the majority of the church were devoted to settle this important question on a basis which would be not only satisfactory to the church but to the people of Scotland, and which, above all, would be a permanent settlement. But this most desirable result could not be obtained by any measure which had not the fullest confidence of the church, and which would not secure in the fullest sense her spiritual independence, and the religious rights and privileges of her people. Short of this they could entertain nothing, and hope for nothing. Keeping this principle in view, it would not be wise in the government to give any measure which would be deprecated by the leading parties in the church, for it would not heal the dissensions which existed. The principle of Dr Leishman, then, was deprecated by the majority, and it was deprecated by the gentlemen on the other (the moderate) side of the house, who had stated, that of all the modes of settling this painful question, the most objectionable would be that which would vest more power in the hands of the church herself. He felt that the proposition of giving more power to the church was a matter of extreme delicacy. It was not only inconsistent with the rights and liberties of the people, but would be particularly dangerous as regarded the church, for it would lower the position which she had maintained, and give a reason for the people to say, that while you have been fighting under the banners of the people, and for the people, you have been fighting for power for yourselves. They might not mean this, and they might with consciousness of justice deny it. But still, if the result of this struggle should be, that the church got more power, they would not convince the people that they had not sought it, and thus would they alienate their affections, and destroy their own usefulness. Since the proposed measure, then, was deprecated by both sides of the house, surely it was not wisdom, and it was not expediency, to hold out any inducement to the government to introduce it. The reverend Doctor and his friends might say, that in taking this measure they do not entirely approve of its principle, and that it does not fully secure the spiritual rights of the people; but still, after all, it is something that may be exercised beneficially towards the people; and though it does not bind them to accept it in full, it is at least an instalment. Now, he conceived that honesty was the best policy; and till they could go to the government with a measure that would permanently settle the question, they were using the government unfairly to treat with it at all; and by thus treating with it, in place of diminishing the difficulties of the government, they were in reality increasing them. It would give them a power which would be decidedly unpopular with the people, and would not put an end to the dissensions. Therefore, if they did go to government, let them state fairly what were the opinions of the Assembly, upon which alone it could be settled satisfactorily. They should desire, above all things, to see the question fairly settled, provided it was settled on true non-intrusion principles. But the difficulty seemed to be to define what the principle of non-intrusion really was. With some that principle seemed to be, that a clergyman should not be intruded on the people;—and with others, that the people should not be intruded on the clergyman. In the plan advocated by Dr Leishman, it was alleged that the church courts would receive power to protect the people, but those on his side of the house wanted to procure power to the people to protect themselves. Therefore nothing short of giving the people the full power to assent and dissent, would be satisfactory, and those embodied the only principles upon which the question could be settled consistently with the constitution of the church. Perhaps he was not entitled to make any suggestions to Dr Leishman, but he had experience in the matter, from having fallen into the same mistake; and he would, therefore, strongly urge him to look to the

germ and effect of his principle, before he urged it upon the government. Let them keep in view that the assent and dissent of the people was necessary to the constitution of the pastoral relation; and could they secure this principle, and be secured from the interference of the civil power, he would be glad to receive such a measure from any government. The learned gentleman then briefly expressed his doubt that the government would be prepared to give any measure such as Dr Leishman contemplated, or at least with the interpretation which the reverend Doctor put upon it. The non-intrusion committee had interpreted such a clause to mean what Dr Leishman believed it to mean; but to their astonishment, they found, from a letter addressed to Dr Candlish by a person who took a lead in that discussion, and to whose opinion they were bound to pay the deepest respect—he referred to the then Dean of Faculty, who told Dr Candlish in that spirit of fairness and integrity that became him, that he would fairly warn the committee that the clause meant nothing more than the Earl of Aberdeen's bill. Now, he (Mr Monteith) thought that Dr Leishman, from the tone he had shown, was not a man who would venture to put his own reading of the clause in opposition to the opinion of this eminent individual; and his reverend friend would forgive him for saying that he (Mr Monteith) would rather adhere to the reading of the first Judge of the Second Division of the Court of Session, than to the reading of the reverend Doctor. And thus he thought they ought to view this suspicious clause. This clause formed the subject of a great deal of controversy between the government and the committee, who felt themselves drawn more and more into the meshes with which they were environed, till Dr Gordon, who was the champion of the committee, extricated them by bringing out the principle that the assent of the people was necessary to the formation of the pastoral tie, and that nothing but the consent of the people to the pastoral relation would be satisfactory; and whatever Dr Leishman and his forty friends might think of the clause, her Majesty's Secretary of State for the Home Department gave as his decided opinion, in the reply he made to Dr Gordon's letter, that if he had understood that that meaning of the clause formed the basis of the negotiation, he never would have entertained the proposal. He (Mr Monteith) gave the Home Secretary credit for the manliness and frankness of that declaration; and he was satisfied that government had not entertained that view when they entered into this negotiation; and it was but justice to say, that government had no intention to deceive the church in the matter. But it was said, that if the church did not accept of some such measure, they would destroy the establishment, and they ought to throw the people overboard; but he said, that if they did consent to take such a measure, and throw the people overboard, they would destroy the establishment. And he held that by so doing they would subvert one of the fundamental principles of the church, which was equally guaranteed by the constitution of the country and of the church, that the people have a right to give their assent to, or to withhold it from, the formation of the pastoral relation. After referring to the admirable manner in which this principle had been brought out in the scriptural argument by Mr Buchanan of the High Church, Mr Monteith, after remarking on the impolicy of Dr Leishman and his friends asking for a lower measure than the principle to which the church was entitled, referred to the universal feeling existing in London, amongst all political parties, against giving more power to the church courts; and to the preference given to the proposal rather to increase the power of the people, which was at least much more likely to receive the support of the friends of civil and religious liberty. And he called upon the Assembly to make known to the government, in an honest and straightforward manner, to say that they will be satisfied with nothing less than the principles for which the church was contending. In regard to the *liberum arbitrium*, he could not conceive that the enacting of that principle bound him to abandon the establishment. He would exercise that power for the good of the people, and fight to the last drop of his blood to procure for the people the privilege to which they were entitled.

Mr BAIRDGES hoped that the appeal which had just been made to this side of the house in favour of union would be generally responded to, and especially by the learned Doctor who had spoken second in the debate, (Dr Leishman), and whom he would call his reverend friend, as he recognised in him one of the stout band of thirty-three anti-



patronage men, who had declared for abolition at a time when the masses and majorities of the church went quite another way. He (Mr B.) begged to cast his mite into this blessed treasury of union; for he could most cordially unite now with reverend friends and fathers, even should less than this right thing be given to the church by the government, now that the church had declared for the righteous thing, and had told the state what was its duty, what alone it ought to do in accordance with Scripture and right reason. From no declaration of the reverend Doctor indeed did he more strongly dissent, than from that which he had made the other night, when he said, that if the Assembly passed an anti-patronage resolution, it would be barred from accepting any thing short of anti-patronage, and would absolutely shut up the government to give either that or nothing. Quite the contrary. So long as the church did not declare for the righteous thing anti-patronage, men might have difficulty in going along with it in its vetoes and mere non-intrusions, because these left the country and the state in ignorance of that which was the only righteous settlement of the question—the extinction of the civil encroachment on the spiritual rights of the church, which patronage under every modification must ever be. But when the church had, as it now had, declared for the abolition of patronage, it had done its duty so far; it exhibited before the state the true and faithful settlement of its difficulties; it called in the state to do its duty, by abolishing patronage. It lifted its testimony for the truth; and if, under such circumstances, the state refused to do its duty, and refused to emancipate the church from this civil thralldom, the sin was not with the church,—it was with the state. At its door lay the sin of oppressing the church of Christ; and if it offered to the church any thing less than the full truth, the only consideration for the church was, whether the measure offered was reconcileable to conscience. If it was, the church might righteously submit to it, always protesting that it was not the fulfilment of its just rights and expectations, denouncing the unrighteous thing which was still left within its bosom, and continuing to seek its removal, but never rejecting this lesser thing, because, forsooth, it had declared for the arrangement which was perfect. So far, then, from participating in the Doctor's fears, or approving of his declarations on this point, he (Mr B.) saw in the late anti-patronage resolution the removal of the great difficulty which previously embarrassed anti-patronage men; and he rejoiced to be able cordially to unite in the measure proposed by Dr Candlish,—a remit to a new special commission to superintend the carrying into effect of all the Assembly's resolutions of this year. Having thus disengaged himself from one class of so-called anti-patronage men, he begged to do the like in regard to another, with whose sentiments he could by no means sympathize. These were the individuals calling themselves anti-patronage men, who opposed the church in its struggles for spiritual freedom. What! is not the freedom of the people just a portion of the freedom of the church; and can that man really be for the freedom of the people—the part, who opposes the freedom of the church—the whole? It is impossible. These men knew nothing of what they affirmed. They were not true anti-patronage men; they were the spurious brood of anti-patronage—the mere Samaritans of the party; and in the hour of need they constantly deserted the cause. There were always “present circumstances,” under which they could not support the abolition of patronage. And here he would advert to an expression that fell the other night from his respected and admirable friend, Mr Makgill Crichton, who said that the church had been in sin in passing the veto law, because it thereby in effect gave its sanction to patronage. He was loth to admit that the church had ever sanctioned patronage, or had on this occasion done so. The vindication of the veto law was, that it represented, not patronage, but the call of the people. This was its vindication to the anti-patronage men, who should hold it as not binding upon patronage one way or other, or as either sanctioning or rejecting it; and it was its vindication to the state and to the civil courts; for the church never did pretend, by any of its acts, to touch upon or regulate patronage or any other civil right. There was yet another class of persons to whose views it was necessary to pay some attention, and these were the little knot of ecclesiastics who objected to the popular principles, because they trenched upon the governing power of the church. This charge betrayed equal ignorance of the constitution of the church and of the principles of the anti-patronage men. No

right anti-patronage man ever dreamt of giving a governing power to the people. The forming of the pastoral relation did not in the least lie with the people. The presbytery, in our church, like the bishop in diocesan churches, alone did this. They alone judge whether it is for edification that any settlement should take place. They alone ordain or admit. All we say is, that the Christian people have of divine right—a right as divine as that of the presbytery in its peculiar function—a right to choose or call the minister who shall labour among them, and that the presbytery cannot, without a violation of a divine right, settle any man among them who has not this call. But the presbytery judge overhead of the call; and they may reject the most unanimous call, and refuse to settle a minister whom every man and woman in a parish desire, if they shall deem it not for edification that he shall be settled. How unjust, then, is it to charge us with seeking a governing power for the people, or advocating any encroachment by them on their ecclesiastical superiors. With Mr Monteith I agree in one point, namely, that it is a spiritual right which we are seeking, and only for spiritual and Christian men. Believing, as we do, that no right can belong to any individual in a Christian church which is not rested on Scripture, we do hold that this of the Christian people is a scriptural and spiritual right belonging to them, gifted to them by the great Head of the church, and indefeasible and inalienable; and we only wonder how any of them who agree in this opinion can so far agree with patronage as either voluntarily to desire it, or merely to seek its abolition because they cannot get it restrained. If the right of the people be spiritual, it cannot be legitimately interfered with by any intervening civil thing, which patronage is. The church, however, has now taken the right ground; and it is of less consequence than ever what individuals may think on this point. The church has done its duty: let the state see that it does its duty. The church is now clear; and it is to be hoped, that by and by at least, if not now, the state will renounce the sin of upholding the evil of which the church complains. One word in conclusion as to the *liberum arbitrium*; and that is, that while every church court ought undoubtedly to have a *liberum arbitrium*,—a free right to judge independently of any civil intrusion in every case, it is to be remembered, that that right, even if conceded to the church courts, would do nothing necessarily for the people. The *liberum arbitrium* may emancipate the church courts, but it does not emancipate the people. All the oppressions of last century, all the violent settlements which then took place, were effected by means of the *liberum arbitrium*; and so if that were revived, there might be freedom for the people in one presbytery, but there might be slavery for them in another. At Garioch there might be intrusion—at Glasgow, non-intrusion; here one thing, there another;—the church a mere parti-coloured thing, without uniformity or principle; taking its cue in every place merely from the character of the predominant party; and this therefore was a most undesirable settlement. Mr Bridges concluded by expressing an expectation that the new negotiations would lead to much good; particularly if the church ceased from telling the government how little she would take; and had no more higgling affairs, in which each party cheapens down the other, as in a Dutch sale, splitting hairs, and driving a hard bargain with one another. If the church, on the contrary, went boldly to the government, and told what was its duty, called upon it to do that, showed to public men what was scriptural and right, and made them aware of the sin and danger of refusing it, then, sooner or later, there was no fear of the issue. The church and the people of Scotland must be delivered. And it was a most blessed thing that the church was in a position to act on this high principle, the best and safest of any.

Dr LAWRIE said, he belonged to no party in the church, and was ignorant of the movement that had been referred to till he came to Edinburgh. When asked to sign the paper subscribed by the promoters of that movement, he had done so, because he had long desired and prayed for such a movement as was now in progress, and he considered such a movement as an answer to prayer. He had no doubt that the government intended to bring in such a measure as was now contemplated; and founded his hopes on the impressions conveyed to his mind by communications received by the leaders of the movement from government. The forty friends who had been referred to were, he was glad to say, now to be multiplied by ten,—they were now 400. He most willingly adhered to the principles they espoused; and he

was sure, from the feelings of the people in the part of the country to which he belonged, and from the sentiments of many clergymen, that the measure would be acceptable to many in the church and country.

Mr W. S. MONCREIFF threw out some insinuations against the majority of the committee, as having attempted to get quit of the minority. Both Mr Bruce of Kennet and Dr Candlish concurring in denying these, Mr Moncreiff apologized.

Mr MACKENZIE of Inverness remarked, in reference to an observation that the movement of the forty brethren was in answer to prayer, that answers to prayer must be in accordance with the word of God; and that they were not bound to adopt impressions of their own as to answers to prayer, if they were not consistent with the word of God. The Assembly, he went on to remark, were not called upon to dictate to government what was their duty; but the duty of a Christian church was to ascertain, by prayer, and faith, and humiliation, what was the mind of God. He humbly thought that the church had taken up the position which the Lord, the Head of the church, would have had her to take long ago; and that when she had fallen from that position, no wonder that divisions and distractions had arisen, because the church had fallen away from her first love. If the Church of Scotland maintained the position she now occupied, she would receive the sympathy and prayers of all the right-hearted people of Scotland, not only of her own communion, but of their brethren in dissenting connections, and of the true church of Christ everywhere.

Professor ALEXANDER noticed the argument employed on the other side of the house, that those on his side should go over to those opposite, because they could not on conscientious grounds come over to them. There was a great fallacy, a great sophism, permit him to say, in this way of putting the argument. We conceive that we are standing up for the Christian rights and liberties, not only of the church, but of the people in Scotland; and we have sworn faithfully and truly to defend these to the uttermost; and we can on no account abandon the principles we hold, without a sacrifice of our conscientious convictions. Convince us that we have taken up wrong or erroneous views of the constitution of the church, as interpreted by the judicial courts of the country, or by the legislature; show us that we have made a wrong interpretation of the constitutional law and liberties of the church; and then, as obedient sons of the church, and as dutiful subjects, we will submit ourselves, if we conceive it to be consistent with the word of God, to that declaration of the church's constitutional law and liberties. He hoped that he had now put himself and his friends right with the other side, and that they would hear no more of surrendering their principles to members opposite. The learned Professor proceeded to contend at some length, that those who condemned patronage as unscriptural, could neither come in nor remain in the church consistently under patronage. Several members repeatedly spoke to order, reminding the learned Professor that the subjects of patronage and spiritual independence had been introduced into the motion, not by way of argument, but of simple statement; and that the opinion of the house having been formally expressed on these topics, it was now unnecessary to debate them anew. He ultimately consented to withdraw the remarks he had intended to make, and concluded by counselling the church to unity and peace.

Dr COOK approved of some things in the motion, and disapproved of others. He went heartily along with the motion in expressing disapprobation of the *liberum arbitrium*; and he also objected to the renewing of the special commission with powers which he held to be illegal and unconstitutional, and to their being instructed to keep in view the subjects of the repeal of patronage and spiritual independence. He thought the commission should be left without instructions, which committed the house to these principles. He might not think it necessary to divide the house; but for his own vindication, would move, that the special commission be not renewed, as being a novel and unconstitutional body in the church; and that if it is appointed, no specific instructions be given to it respecting patronage and spiritual independence.

Mr GUTHRIE observed, that it was not often he and the Rev. Doctor agreed, but he cordially went along with the Rev. Doctor in his opposition to the *liberum arbitrium*; and if the Rev. Doctor would commence an agitation against that principle

in the church, he (Mr Guthrie) would most heartily render him all the assistance in his power.

Dr BRYCE could not imagine that the parliament would listen for one moment to the church seeking a new law, while they were in disobedience to the old law. He asked, whether, in the conferences held with government (although the report did not bring it before the house) they met in no quarter with the assurance that, come when they pleased, seeking non-intrusion, anti-patronage, or anything else, they would get nothing until they repealed the veto law, and reposed the ministers of Strathgogie? Would the committee say that that matter was not moved in their committee? In the publication of Sir George Sinclair, it was stated by him that he drew out the draught of a letter for the signature of those ministers, respecting which he had had the greatest difficulty in getting the non-intrusion committee to agree, or even to take it into consideration.

Dr COOK.—I have only made the motion for the purpose of having it seconded, and not for the purpose of dividing the house.

Dr CANDLISH.—As to what fell from Dr Bryce, it is enough to meet it with the simple saying, that Dr Bryce is mistaken. There is no such statement in Sir George Sinclair's correspondence, excepting only that he had a conversation with one or two members of committee, in their individual capacity, on that subject, and that it was expressly stated on all occasions, that the reposing of the deposed ministers could not be mixed up with the settlement of the general church question, and never could be entertained in the way of a condition of that settlement. And in the interview with the Solicitor-General, in reference to the Strathgogie ministers, it was stated (the minutes bear) by Mr Cunningham, that any question as to these ministers cannot at all be affected by any measure for the settlement of the church question, and that the same applies to the presentees who are affected. This subject had never been under the consideration of the committee, because they had no power to take it up. As to the other question of Dr Bryce, whether we were met in high places with the answer that we could have no legislation until we repeal the veto law, and rescind all its penal consequences,—I have first to meet it with an express and explicit contradiction, or to answer his question in the negative. We were not met with these asseverations. As to Dr Cook's motion, I am not called upon to consider at present the question relating to the special commission. At the same time, it is extraordinary that Dr Cook should propose to appoint a committee for church affairs with no instructions at all. What kind of settlement does he mean but a chaotic mixture of contrary elements. If this is peace, it is not solitude, but confusion doubly confounded. We do not profess that the primary object of this committee is to restore peace. It is to secure that, if possible, the church shall be allowed to maintain, in connection with the establishment, her principles. And if it were once made consistent with the law of the land, that our principles would be given effect to, our brethren on the other side would have no more objection to act with us than they had to do so before these troubles arose. No man, I presume, wishes the restoration of peace at the expense of principle; and the difference which we say is between the minority and us is, that if their principles are declared to be the conditions of the establishment, we must go out, and schism is inevitable; whereas, if our principles are recognised as such, there is no possible reason for their going out, and peace may be thus restored. We do not ask them to sacrifice their principles. We are determined to accept of nothing which will not allow the full and undoubted recognition of our principles. Dr Cook's motion is just this:—"You have carried, by an overwhelming majority, that patronage is a grievance,—you have carried, by an overwhelming majority, that the spiritual independence of the church must be maintained, and the encroachments of the Court of Session resisted,—these are the deliverances of the Assembly. But just have the goodness, for the sake of peace, to rescind them all, and appoint a committee independent of them all." I must speak one word on the section of the 40 or 45, or 400, as one of its supporters has termed it. I would regret exceedingly if any thing which has been said, or which may be said, on this subject, should hurt the feelings of any of those concerned in that movement. I do not propose to attach blame to them individually; but I cannot shut my eyes to the fact,

that they have greatly injured the church; although I am willing to believe, and I do believe, that many of them, at least, are in reality very little, if at all, separated from us, and that when the clouds of misunderstanding are cleared away, as in this very Assembly they have partly been, they will be found fighting side by side with us. The 40, or 45, as they were at first stated, are now swollen to the number of some 400. If there be 400 of them, where are they? Are they in this Assembly? Are there 40 here? Where are their names? Why are they not published? Why don't we know who they are? What is the use of alarming the church, and the people, and the government, by a great work about a section increasing from 40 to 100, 200, 300, 400, anonymous individuals, who will not lay aside their incognito and condescend to avow themselves? We have, however, a sample of the names. They were publicly announced in an inferior judicatory of the church:—Mr Storie of Roseneath, Mr Wylie of Carluke. I have the greatest respect for these gentlemen; but who ever believed them to be non-intrusionists? They belong to the section of Dr Muir. Another name is that of Dr Barr of Port-Glasgow; and don't we remember how a year or two ago he rose in his place to support Lord Aberdeen's bill? These are samples of the first batch of the forty, and now of the 400. It is certainly cajoling us somewhat too much to say there are 400 of the same mind as Dr Simpson and Dr Leishman, who have come to them from the non-intrusion ranks, when, in fact, for aught we know, they may all be recruits from the opposite side. In that case, it is all gain to us,—they are nearer to us, and I have no objections to their recruiting men from that side of the house: certainly from this side, to judge from this Assembly, they beat up for recruits nearly in vain. Dr Laurie opened his communication to us with great professions that now we were to get at the secret of the matter. I have no means of knowing in what part of Scotland Dr Laurie resides, but he seems to have made but poor use of the last two or three days, for, late as he became acquainted with this matter, he might have got more materials. But that he should come to town in utter ignorance of all this movement, is passing strange. It is most extraordinary, and indicates a seclusion and retreat which I heartily envy him. He seems to have been spending the life of a hermit, and never learned the most common information. We get too much of the newspapers—Dr Laurie gets too little; for if he had got more, I am not sure that he would have been so simple when he came to Edinburgh as he seems to have been. He seems to have read nothing of what has more or less occupied a portion of the press for months. After all, he gives us, first, not a name—still beautiful anonymous men; and, second, he did not proceed upon suppositions, but on certainties. And what did he give us for certainties? He did not profess to have even a private letter from Sir G. Sinclair; but he told us that at a conference yesterday (how many were present I know not—what private letters were read I know not) there were certainties read and assurances given from the government; and he told us that a government measure was coming down some fine summer day soon. And he said he would give us the grounds of his assurances, but they are safe and snug with him still. If he meant to give any confidential information to this Assembly under seal of secrecy, he need not fear lest his confidence be betrayed. No secret—nothing will be revealed—for happily nothing has been told. But to consider this matter with greater seriousness, I take the liberty of assuring Dr Laurie, that it is not possible for any man, not versed in diplomacy, not skilled in the vague generalities of statesmen's letters, to come for the first time in contact with these semi-official government communications without being egregiously misled. I do not say this to blame the government. It is the inevitable result of this kind of correspondence. If I wanted a proof of it, I might take up Sir G. Sinclair's letters, and read a host of specimens from thence. Even when men are perfectly honest, yet when corresponding on a subject so delicate as this, it is scarcely possible, until the actual bill is put in writing, to avoid misunderstanding. I will state to the house a passage in my own experience. I remember perfectly well when the late Dean of Faculty honoured me with an interview, after a very long conversation, in which we agreed wondrously, I told him that when he had put it down on paper we would see that we disagreed. Days, weeks, months passed, and then at length the Dean's views were committed to black and white, and the difference became as clear as day.

Until a bill be actually introduced and tabled, it is impossible to apprehend its precise meaning. Surely, then, it is the obvious course of policy to wait till then, and not to invite a resumption of negotiations, which are putting us in a false position, which are threatening to undermine the confidence of our people, and to loosen our connection with them. My friend Mr Bridges threw out some seasonable remarks against the committee's seeking to obtain a minimum measure. With all deference, I would ask Mr Bridges if we have been *compelled* to entertain the miserable suggestions, is this *our* fault? No, Sir, these negotiations were forced upon us,—they were not *our* seeking; and if we have been absolutely compelled to entertain them, the fault is none of ours. Sir, if we had been left to our own course, we would have gone forward to the government, and told them what we wanted as honest non-intrusionists, but now we are met by these statesmen, these *amici curiæ*, as they call themselves, with the proposal that we should acquiesce in the very least and most miserable measure of non-intrusion to which we can bring our consciences to submit. Sir, it is most miserable to force us to these things; it is most miserable to say, “Can you by any possibility submit to this measure? Can you bring your consciences to acquiesce in it? Would you remain in the church under it? Can you *exist* under it?” Yes, Sir, these were paltry dealing in a statesman; and I most heartily hope that the right honourable individual who presides over her Majesty's councils, and whose sagacity and firmness no one can call in question, will be preserved from the miserable policy of coming to the great national institution of the Church of Scotland, and dealing with it on the miserable terms of higgling like a huckster, by bringing down our demands to the lowest possible terms. He has said that it would be a proud thing for any statesman to bring the Church of Scotland out of her difficulties, and so it would; but let him beware of settling the question in any way which will barely permit us to remain in the church, or in any way which will *force* us to remain when we would much rather go out. Let him beware of leaving us in the church dishonoured, degraded, stripped of the confidence of our people, and precipitated into that very crisis which the forty seem so much to deprecate. On these grounds, then, I hope the Assembly will have no difficulty in agreeing to resolutions condemnatory of the *liberum arbitrium*, and will seek a full *bona fide* non-intrusion measure which shall not only give liberty to the church courts, but freedom to the people. I hope, then, it will be reconsidered by those who would urge the committee to renew their negotiations on any such footing, and that it will be seen advisable to negotiate upon the broad ground of anti-patronage. Sir, we stand in this Assembly for the first time these many years,—yes, for the first time this century,—upon a footing that will—that *must* command the confidence of the Christian people of Scotland. We have broadly protested against patronage, and declared it to be a grievance; we have resolved to adhere to the independence of the church; and we have pledged ourselves to defend the rights of our people, and we shall honestly perform what we have said; we are not going to “keep the word of promise to the ear, and break it to the sense.” Sir, we have taken our stand against the encroachments of the civil courts; and is it consistent with the noble attitude in which we are placed to allow men, whether in office or out of it, to beat us down, and to deal with us in this miserable way—trafficking and huckstering compromise—as if they were imposing some twopenny tax, or laying upon us some trifling impost? No, Sir, let us deal largely and liberally; and let us bring statesmen to do so too; for it is a great question of principle. Let us deal with it, not considering it as only affecting *my* interests, or whether *I* can remain in the church, but a question affecting the interests of generations yet unborn,—a question of principle, involving in it the liberty of the church and the constitution of the state.

Dr Candlish's motion was then agreed to without a vote.

#### THE DISTRESS IN THE COUNTRY.

Mr DUNLOP craved the permission of the house to bring under their notice a subject of the deepest importance—one which was first brought under their consideration by the letter which had been presented by the Right Honourable the Lord Commissioner from her Majesty the Queen. The committee to whom the matter

had been remitted had taken into their serious consideration the most efficient means of carrying into effect her Majesty's wishes in regard to the collections for the poor; and they had come to the conclusion, that the best mode which they could suggest for this purpose, would be the appointment of a central committee in Edinburgh, to whom all the funds raised by collections or contributions in the different parishes in Scotland should be transmitted, and that the funds should thereafter be allocated to the different districts requiring assistance. It was essential, for the proper success of the measure, that this should not be done simply by a committee of the General Assembly or of the church, but that they should endeavour to unite the benevolent of all denominations—that the committee to take the charge and management of the funds to be raised should consist of all denominations, who would be expected to unite in carrying out the wishes of our common Sovereign. Although the appointment of a permanent chairman might have the appearance of, and perhaps give the committee too much the character of, an exclusive one, yet he would venture to propose as chairman of the central committee, a nobleman whose high character and benevolence would be sure to render him acceptable to all, and whom it would be a high honour to have associated with them in such a benevolent work,—he meant the noble person through whom the communication from her Majesty was transmitted,—and who would be proposed for the office, so soon as, by the dissolution of the General Assembly, it was competent to do so. In the mean time, for the purpose of arranging the preliminary matters, and for inviting all denominations to a participation in the benevolent work, he would propose as an interim committee all the members of Assembly connected with the presbytery and city of Edinburgh,—and as interim chairman he would suggest the Lord Provost of Edinburgh. The collection it was deemed advisable to have on the earliest possible day, and that it should take place on the same day in all parishes where a collection for the same purpose had not already been made. It was presumed that the third Sabbath of June would not be too early, and that it would afford sufficient time to have it intimated in all the parishes in Scotland. The motion was unanimously agreed to, and it was ordered accordingly.

Here Captain Dalrymple threw the house into disorder by an intemperate and unmannerly attack upon Mr Cunningham; till having for some time persisted in defending his language, and finding himself deserted by his friends, he was compelled to retract and apologise. The matter then dropped, and the Assembly adjourned at a quarter before seven o'clock.

### EVENING SEDERUNT.

The Assembly met at half-past seven o'clock.

Mr DUNLOP read the report on Weekly Collections.

In answer to a question by Mr John Cook,

Mr DUNLOP stated that, in the event of any minister opposing the agent's visiting the parish, the agent would nevertheless feel himself authorised to hold meetings, and form associations according to the instructions of the committee.

The report was unanimously agreed to.

### PETITION FROM RHYNIE.

A petition was read from the missionary and elders of the parish of Rhyndie, stating that they had been deprived of the use of the hall they had been accustomed to worship in; that they had anxiously endeavoured to obtain a more convenient place of worship; that every spot of ground in the parish was interdicted from their use by the proprietor; that they had got a site for a temporary church in the next parish; and they now prayed for the sanction of the Assembly to it as their place of worship.

Dr COOK said, he had a letter in his possession from the minister of the parish of Auchindoir, wishing him to state at the bar of the Assembly on his account, that he craved time until he should see what steps were necessary to be taken in the circumstances, so that the procedure might be in accordance with the laws of the church and the law of the land.

Mr WRIGHT, missionary from the parish, in behalf of the petitioners, said,—In supporting the petition now read, I have little to offer beyond the facts that are stated in that petition. The congregation in Rhynie found the accomodation so small in the hall which they had occupied for two years, that they made an attempt to get a larger place, and with that view they applied to his Grace the Duke of Richmond, sole proprietor of the parish, for a feu in the village. The application to his Grace was signed by 600 individuals. It was answered immediately, that his Grace could not comply with the request. Then we tried to purchase a property from one of the tenementers in the village, and were about to proceed with the house, when the contractors were served with an interdict from the sheriff. We at once yielded to the interdict, as it was connected with a civil matter, and we tried the case in the civil court. The sheriff-substitute gave decision, that the purchase was a legal one. The case was appealed to the sheriff, and he gave decision against us. We then made search amongst the title deeds of the property of the village, to see if we could get an independent feu, but we found that it was altogether impossible to hold property in the parish. Nor was this all. We were not even permitted now to meet in the hall, and next Sabbath we were forced to preach in the open air. We have used every possible effort to get a place, but we have been unsuccessful. Within half a mile of the parish of Rhynie there is a very central and convenient place, where we next thought of getting a place erected. We applied to the proprietor, Harry Leith Lumsden, Esq., for permission to erect a wooden house. Most willingly he took the circumstances of our case into consideration and granted our request. The tenant also was agreeable. The situation is on the outskirts of the parish of Auchindoir, about three miles from the parish church of Auchindoir, and very near the church and village of Rhynie. As to the letter from Mr Reid, the minister of Auchindoir, which has been read to you, our intention to build a place of worship there has been known for ten months. It was matter, in fact, of perfect notoriety; and in anticipation of a favourable consideration of our petition by the Assembly, the ground to build the place has been ordered,—all the carpenters in the district for ten miles round, the farmers, and labourers, have offered their services gratuitously to erect it,—and in ten days after, if your decision is favourable, the work will be commenced, and the week after next will be erected. The number of the congregation amounts to from 400 to 500. It would be more had we room to hold them. The congregation have been exposed to great inconvenience by having the hall taken from them. It belongs to a society of gardeners, the committee of which hold principles opposed to ourselves. Until within the last two weeks, we were permitted to worship in the hall; but now we are turned out—not that the hall was required for any other purpose. for it continues empty, but for the sole object, as I believe, of depriving us of the accomodation. It may be to damp the spirit of the congregation; but I am glad to say, Sir, that instead of that being done, it seems only to have nerved them, and now they will go forward with more vigour than before. I may be also permitted, Sir, to mention the spirit of humility and grateful prayer that pervades this congregation. There is nothing of violence amongst them; but rather of deep and earnest prayer that we may be brought out of our present difficulties, and that they might have the privilege of hearing the plain, simple truths of the gospel of Jesus Christ. They have shown a strong attachment to this doctrine. Not because of any party feeling are the people attached to each other in this congregation, but from a feeling far above that,—they seek the glory of God. If we look at their contributions to the cause of God, this will also appear; for they subscribed during the last two years fifty guineas to the Assembly's five schemes, and in the parish we have two associations in furtherance of these schemes—one of adults, the other of juveniles. Nor are they of the class of extensive farmers, but rather of the humbler class. Though poor, they are honest,—they are regular in their contributions, and regular with their prayers; and, with the great majority of them, family-worship is regularly kept in their families. On behalf of this congregation I would most earnestly beg that this house may not allow us to be cast off. We are now exposed to oppression from many quarters, and under the open canopy of heaven we are now worshipping God. I have no wish to injure any man,—we would not wish to injure any neighbour, and I cannot



think that it would be to the injury of Mr Reid that a place should be erected on his borders; nay, rather, it would be to his injury were he to proceed in opposition to us, the feeling of the people being so strongly in our favour.

Mr MILLAR of Dundee thought the very fact that the congregation had raised fifty guineas in two years, while during the previous ten years but one collection had been made, and that was for education, taken in connection with the great increase of the congregation, was quite sufficient to warrant them in granting the prayer of the petition. With regard to the letter from Mr Reid, craving time until he could get his brethren consulted, he (Mr Millar) would say, that the opinion of the Assembly would be the best and cheapest he could get, and that opinion ought not to be delayed. He moved that the prayer of the petition be granted.

Principal DEWAR seconded the motion.—I cannot see what injury can be done to Mr Reid's congregation by another minister preaching on his border. And here I must take leave to notice, that the gentleman who has given them the site is worthy of all praise. He has also given a site to the congregation in the parish of Cul-salmond. I applied myself personally to procure a site for the people, because I witnessed the circumstances in which they were placed on the 16th of January last. In obedience to the orders of my ecclesiastical superiors, I preached to the parishioners of Cul-salmond in January last, when there was from six inches to a foot of snow on the ground, and I had the privilege of preaching in the open air to a dense multitude of people. I feel satisfied that if the gentlemen who oppose us in this matter could have but witnessed the scene which I witnessed on that memorable day—and it was a memorable day to me—they would see cause to change their views. But they did oppose us. No gentlemen in the parish would grant us a site, and had it not been for Mr Lumsden of Auchindoir, one would not have been obtained there at all; but when we applied to that gentleman, he not only gave us a site, but said he regarded it as a privilege and an honour to have a church on his property. I hope, therefore, this Assembly will record a vote of thanks to that gentleman, while they grant the prayer of the petition from Rhynie.

Major STEWART of Pittyvaich bore testimony to the efficient manner in which the missionaries to the parishes of the deposed ministers had discharged their duty. In some sense these districts of country might be called unfortunate; but in respect of the good that had been done, and was still doing, by the Assembly's missionaries, they might be called fortunate indeed. 'Tis true, we cannot worship God under the roof of the church of our fathers, and which is still our own; but God is not confined to one temple and to one place; and we can worship God as well by ourselves, in our closets, or by the side of the quiet stream, or under the shelter of the heath-clad hill, as under the roof of any of the splendid churches in this splendid city. A gentleman on the other side said last night that we had not been called upon to endure suffering in these districts! What, was there nothing to suffer from being branded as a rebel? Is it not suffering, for one who has been a magistrate for twenty-five years, and who served his country for thirty years, to be returning to his own district with the brand of a rebel stamped upon his untarnished name? Is it not suffering, for a field-officer—one who has the name of Stewart, and is a lineal descendant of the Marquisate of Bute, and who has four sons fighting the battles of their country in foreign lands—to have the escutcheon of his family blotted by the interdicts of a civil court, served by a sheriff-officer in the peaceful retirement of his home, and to the alarm of his family? Is it not suffering, Sir, to be obliged to know that my sons who are abroad may have their father's name brought before them in a foreign land as a rebel; and can it be, Sir, that we in such circumstances have no suffering? I do feel it—I do suffer from it; but I am determined to obey the laws of my God, be the consequences what they may. This, Moderator, I cannot pass unnoticed; and as to the term of being in rebellion against the laws of my country, I throw it back to the Court of Session, or to whatever quarter it came from, with the utmost possible indignation and contempt.

Mr PAULL of Tullynessle thought the petition should be referred to the Commission, so as to give Mr Reid time to adopt what steps he might consider necessary in the circumstances.

Mr DUNLOP said, the case before them was one of intense interest to the church.

Here was a congregation driven from the church of their fathers by the arm of the civil power, and, while they yet maintained that church, must seek for the administration of ordinances in another. The individual who was superior of the parish—of the pews and leases—had an overpowering sway in the disposal of them, and he had driven these people from the parish of Rhyndyke—from the place where they were anxious to meet and worship God. He had been asked for a piece of ground within a reasonable distance, and even that had been refused. That was a state of things which could not have been expected to occur in, he would not say a Christian land, but in a land where there were to be found the common feelings of humanity. Had the same persecution been directed against a Roman catholic, or a Socinian, or a Mormonite congregation, a cry would have gone forth against the proprietor, which would have rung in his ears wherever he went. Yet so it was, that these men had been persecuted; and he could account for it on no other ground than the strongest hatred to evangelical truth.

Professor HILL rose to order. He thought that the imputation of motives had been given up by the opposite side.

Mr DUNLOP imputed no motive. He merely stated that he could account for the conduct of these men, who persecuted the church, on no other grounds than their strong hatred of evangelical truth. As to the petition, he could not see any reason for refusing it. With regard to the missionaries, they were as hard-working, God-fearing ministers of the church as were within her sanctuaries; and they had not only preached the gospel, but preached it in those parishes in the country deprived of the services of one of the most distinguished biblical critics of the age (Dr Candlish.) Mr Dunlop, in conclusion, urged the house to grant the prayer of the petition.

Mr CARMENT of Rosskeen, after a few remarks, moved that the Assembly grant the prayer of the petition *instanter*.

Mr ROBERTSON of Ellon thought that this was not altogether to be determined as a question of feeling. There was a constitutional law to be taken into account. As to the motives of those who opposed the building of this place of worship, it should be remembered that feelings on both sides had been strongly excited. They were told that this congregation had been driven out of their parish, and that the deposed minister had been protected in his charge. He would like to know how such a state of things existed. It was now twelve months since the deposition took place, and in six months the presbytery of Strathbogie might have exercised their *jus devolutum*. He wished to know why this had not been done.

Mr DUNLOP said, the interdict which had been served upon them the day after the deposition took place, had prevented them from exercising this right. Although, as to spiritual matters, this interdict was just so much waste paper, still the Assembly could not, in the face of it, proceed to fill up the vacant parishes.

Mr ROBERTSON would not enter into the discussion of this point at present, but still he held, by the admission of the opposite side, the interdict affected spiritual matters as well as temporal. He should like to know why the merits of the interdict, in a spiritual sense, had not been tried?

Mr DUNLOP said, parties were at present engaged in discussing this point.

Mr ROBERTSON continued—The civil courts, he thought, had no other object in view in acting as they did than the peace of Strathbogie and of the Church of Scotland. The decision in the Strathbogie case would be the first gleam of hope which had dawned upon the present strifes. It was said that the delay requested was great, but it should be recollected there was a division amongst the heritors of Auchindoir, which was the reason that this delay was requested. It was all very well to say they despised the interdicts of the court; but he thought it would be better to get the heritors to go along with them. The old Scotch saying, "that a feud with the Douglas was not to be coveted," applied particularly in this case. He put it to the house if it was not the law of the church that, when a new place of worship was to be erected, the heritors of the parish were cited, and an endeavour made to get their consent before proceeding. In conclusion, he thought, if they persisted in their opposition to the heritors, it would raise feelings which would be more easily excited than allayed, and which, if excited, would not tend to calm the strifes which at present agitated the church.

MR BELL, in a few words, seconded the motion of Mr Carment.

MR MEIKLEJOHN said, that more than two-thirds of the parishioners of Rhyrie adhered to the parish minister, in spite of the deposition pronounced against him.

MR JAMES MONCREIFF remarked on Mr Robertson's apparent anxiety to avoid unnecessary collision with the civil court, while at the same time he taunted a presbytery of the church for not breaking an interdict in a matter where both sides admitted that it was unnecessary, and that it would be unbecoming. The only question now before them was, whether they would grant leave to the parishioners of Rhyrie to worship God according to their consciences in connection with the established church. The application no doubt was, in the circumstances, a strong and unusual one, but it was so only because of the strong and unusual attempt on the part of the heritors to deprive the poor parishioners of those ministrations which the Church of Scotland was willing to afford them. Such conduct was most disgraceful to those concerned, and no one could stand up to defend it. If the Marquis of Breadalbane had done the like, if he had so yielded to the influence of party spirit, what an outcry would have been raised against him.

After some further conversation, the vote was at last come to, Mr Paull refusing to withdraw his motion to delay the matter to the August Commission, though earnestly pressed to do so. Mr Carment's motion was carried by a majority of 152 to 60.

#### PAUPERISM.

MR DUNLOP said, that, since last report was given in, there had been no government measure proposed requiring the interference of the committee; and, considering the all but universal distress and depression which had existed last year, the committee recommended to the Assembly to adhere to its last year's resolution. He would not now trespass on their time, by entering on this subject, as he did not anticipate any discussion regarding it. He would merely enumerate the various kinds of remedies which had been proposed. The remedy of one class was a simple increase of the means of physical relief, raising a large fund for distribution among the poor, and thus merely contributing to the improvement of their physical condition. Another class looked for relief from political changes alone. And, however wild and vain such hopes were, the distress, if unrelieved, might drive men to such a course, and thus overturn the constitution of the country. Another method of relief was that sanctioned by the General Assembly last year, as affording the only efficient means by which the physical sufferings of the people could be permanently relieved, —viz., not merely to administer physical relief, but also to afford them increased means of intellectual, moral, and religious improvement. This alone would teach them that feeling of independence, and those habits of forethought and providence, which would enable them to lay up something for the day of distress and misfortune. This was the only method by which, ultimately, either their physical or moral well-being could be secured. He could easily expand on this subject, but at this hour on Saturday night he would not. He merely begged to propose that they should adhere to their resolution of last year, and direct it to be transmitted to her Majesty's ministers.

After some remarks from Mr Buchan of Kelloe, deprecating our English commission of inquiry, in which Dr Cook agreed with him, Mr Dunlop's motion was agreed to without a vote.

#### REPORT ON SABBATH OBSERVANCE.

This report was read by Dr Muir. It went at great length into the law of the case, as regards the relations of master and servant, brought out in the case of the boy Phillips. Special reference was made to the opening of the Edinburgh and Glasgow railway, and a proposal was urged to memorialise her Majesty, and to petition parliament and the postmaster-general.

DR CANDLISH complimented Dr Muir on this able report. He would wish, however, that the Assembly should reserve for after consideration the law of the question, to which the report so largely referred, and also as to the instructions which should be given to the committee for the ensuing year.

The Assembly adjourned at half-past eleven o'clock till Monday.

MONDAY, *May 30th.*

The Assembly met to-day at ten o'clock, and after reading John chap. xvii. and singing Psalm lxxii. verses 17—19, the Moderator, alluding to the very long list of business to come before the house, urged upon the members the necessity of being brief, and of attending to the standing orders of the house in all respects.

Mr PAUL of Tullynessle gave in reasons of dissent from the decision in the case of Rhyrie.

On the clerk calling for the report of the committee on bills,

Mr DUNLOP said, he understood on Saturday night that the meeting of the committee was refused, or had he thought otherwise he would have divided the house upon the question. He would have endeavoured to prevent such a question being brought forward on the last day of the Assembly, and with such a mass of business as they had before them. He would, therefore, move that the report be not received.

Captain DALRYMPLE considered the question which he wished to bring forward, of so much importance, that he would not be doing his duty if he did not move the bringing up of the report. He was actuated by no personal feeling towards Mr Cunningham, or any other of the gentlemen to whom his overture referred, but he was guided by a conscientious conviction of the conduct to which it referred as the means of greatly aggravating the difficulties of the Church of Scotland, and at the same time of widening the breach between the parties in the church more than any other thing which had yet occurred.

Professor HILL seconded the motion, that the report be not read. He hoped the honourable gentleman would not press the question on the house, although he must admit that he was ignorant of what its nature was to be, because he held that the arrangements for this day, made by the committee of business, ought not to be disturbed.

Dr LEE also urged Captain Dalrymple to withdraw his motion; and

Captain DALRYMPLE begged it to be understood, that although in deference to the agreed-on order of business, he would withdraw his motion, he did not shrink from what he held to be a duty he owed to the church; because he held it to be his duty to do all he could to put an end to a system of conduct which was proving so injurious to the church.

The clerk then called for the report of the committee appointed to confer with the ministers charged with having held communion with the deposed ministers of Strathbogie, and the *eleven* ministers took their places at the bar, viz. Messrs Robertson, Bryce, Stirling, Grant, John Cook, Thomas Hill, Peter Wilson, Hope, Cushny, and Mearns.

The report was then read.

The MODERATOR inquired if the gentlemen at the bar had anything farther to say upon the subject.

Mr ROBERTSON said they had a paper to give in, which they wished read and recorded.

Dr BRYCE then gave in the following statement:—

“ We, the parties hereunto subscribing, in again appearing at the bar of the General Assembly, with reference to the charge, which we have already admitted, of having held ministerial communion with certain ministers of the presbytery of Strathbogie, alleged to be deposed from the office of the holy ministry. did, and hereby do, enter our protest, that in thus yielding obedience to the citation served upon us on Thursday last, we shall not be held to have fallen from our former protestation by which we have solemnly denied the competency of the General Assembly to sustain as a ground of ecclesiastical censure the charge which has been preferred against us, and, consequently, the validity of any sentence of censure which the Assembly may think fit to pronounce upon such premises; but that it shall be clearly and distinctly understood that our compliance with the orders of the house in the matter referred to, proceeds exclusively from the deep feelings of respect which we entertain for this venerable court, and from the anxiety which we trust that we have ever mani-

fested, and that we shall ever continue to manifest, to be submissive in all things, for the sake of the peace of our beloved church, to the injunctions of our ecclesiastical superiors, unless in the case where our opposition to such injunctions is founded on a clear and imperative sense of duty.

" JAMES BRYCE, D. D.	JOHN WILSON.
" ROBT. STIRLING, D. D.	C. HOPE.
" THOMAS HILL.	JAMES ROBERTSON.
" JOHN COOK.	WM. MEARNS.
" JAS. GRANT, D. D.	GEORGE PETER."
" AL. CUSHNY.	

" EDINBURGH, 30th May 1842."

Dr MAKELLAR.—I deeply lament the necessity under which I find myself placed of bringing forward a motion which the necessity of the case seems to require at our hands. I deeply regret that it should have become a duty to move for a sentence of this house against our brethren who are now at the bar. The sentence which I mean to propose is, although in a modified degree, of a penal character. I lament the necessity of this, but not because I am not convinced of the grievous nature of the offence they have committed. I am, however, glad to find that, in the protestation which they have seen it to be their duty to place on the table of this house, they have seen it right to express their earnest desire to secure the peace and prosperity of our church. I am sure that I give the gentlemen the utmost credit for their sincerity in this statement; but I cannot avoid saying that they have mistaken and misapprehended the proper way of restoring peace to the church. It must, I think, appear evident to every intelligent, reflecting, and right-hearted man, that these brethren have been proceeding in a path which, so far from restoring peace, is calculated to increase the difficulty and disunion which already prevails in the church, and have not taken that course which will best tend to promote the glory of God and the good of the Church of Scotland. It must be manifest to all, that the gentlemen at the bar have been proceeding in a course of conduct which is in direct opposition to the legitimate authority of this house, and in direct violation of the authority of the church. I formerly pointed out the mistake into which so many are apt to fall, in supposing that the views expressed by the majority of this house are not the views of the Church of Scotland. This idea lies at the root of most of the mistakes which have been committed by ministers of this church in reference to the deposed ministers of Strathgogie. I must again repeat, that the majority of this house is the Church of Scotland. There is no other legitimate mode of arriving at the mind of the Church of Scotland, in reference to this subject, than an appeal to the decision of the majority of this house—there is no other way of showing the will of the church but by the majority of the Assembly. I do not claim infallibility for the majority of the church, but I desire to say, and I say in the sight of God and of man, that we earnestly desire to do what is right, and that in all the proceedings which we adopt, and in all the objects we seek, we are actuated by a solemn conviction of what we hold to be the authority of the word of God. It is now quite apparent that the time has come when it is required of us to give a decisive expression of our condemnation of the course of conduct which has been pursued by the gentlemen now at the bar of the house. They have already told us that they have acted from a sense of duty. They may conscientiously believe so, but in that feeling we cannot sympathise with them. We hold an equally conscientious conviction that they have entirely mistaken the proper path of duty. We hold that they have done what must greatly hinder the adjustment of the present differences and difficulties,—that they have thrown additional obstacles in the way of that adjustment, and I pray to God that they may all be soon brought to a right mind on the subject, and that they will not continue to persevere in a course which must of necessity greatly increase the difficulties and dangers of the Church of Scotland. I repeat, that I am deeply grieved at the necessity which lies upon me of submitting a sentence to the house against these brethren. One of these gentlemen is a co-presbyter of my own, and one with whom I have always had the most kind and friendly brotherly inter-

course, and I could have wished that that intercourse should have ever been maintained. I regret that any thing should have occurred to cause a separation between us, or to render our intercourse more cold and reserved than before; and I hope that the obstacle which for the present interferes with our intercourse may be soon removed, and our feelings and our intercourse be restored to their wonted amity. I have, therefore, to propose to the house, that the eleven ministers now at the bar be suspended from the exercise of their judicial functions as members of presbyteries, and all other judicatories of the church, until after the first Wednesday of March next. There is no doubt a degree of severity in this sentence, but it is necessary to hold out to the church and to the country, that the Assembly has seen and must punish the offenders somewhat in accordance with the aggravated character of the charge against them. We do not wish, however, to hinder them from discharging their duties as ministers of the gospel, except in the church courts; but it is absolutely necessary for the church to testify against the conduct they have pursued in opposition to the injunctions of the supreme court of the church. I therefore submit the motion, in the humble confidence that it will meet with the approval of the General Assembly.

Mr BUCHAN of Kelloe seconded the motion. It was with sentiments of the deepest sorrow that he saw the necessity of coming to such a decision in regard to these reverend gentlemen, but he trusted the example now set in regard to the proceedings against them would have a salutary effect, not only on the church but on the gentlemen themselves, and bring them to a sense of the evil of the conduct they have pursued—a line of conduct which has vastly increased the already serious difficulties in which the church was placed. He hoped this would open their minds to the evil consequences of their proceedings, and bring them to admit the power of the majority of this house, who constitute the Church of Scotland. He hoped it would put an end to the mistaken and absurd idea that the majority is not the Church of Scotland. The motion was properly of a modified character, and he hoped they would be able to restore the reverend gentlemen to their proper status at an early diet.

Mr MONTEITH.—I feel myself placed in a very painful and delicate position on the present occasion; and although I do not intend to conclude by proposing any other motion, I feel it a duty which I owe to myself and to the church, to state the grounds on which I cannot see that I will properly discharge that duty if I should give my assent to the proposed sentence. I am here placed in the solemn position of a judge in the superior ecclesiastical court. As a judge, therefore, I am bound to uphold the laws of this church, and to support the character and dignity of this house. I see a very great difficulty in the position in which the church is now placed. I see the magnitude of the difficulty, and I therefore hold it to be the imperative duty of every member of the Church of Scotland to do all in their power to prevent these difficulties from being increased. As a member of this house, in my legislative and ministerial capacities, I am willing to go as far as any member of it in the way of conciliation, not only as regards the gentlemen now at the bar, but also as respects the unfortunate gentlemen who now stand deposed in consequence of their ecclesiastical offences. I would hail with delight the very first, and even the slightest approach on their parts towards an acknowledgment of the injury they have committed against the church of their fathers; and I feel myself bound to discharge a duty I owe to my own conscience, by saying that I am ready to meet any such approach in the spirit of Christian charity, which ought ever to distinguish a Christian assembly. I hold, however, a double capacity as a member of this General Assembly; and though I am thus prepared for conciliation in my legislative and ministerial capacity, yet as a judge, I have a different duty to perform, and that duty does not permit me to give way to those feelings which might otherwise actuate me,—it does not entitle me, from any considerations of expediency or conciliation, to consent to anything which does not completely and sufficiently vindicate the laws of the church and the authority of this house. I differ, therefore, from my reverend friend who brought forward this motion, and I regret that I have felt it my duty to oppose it so far, on the ground of its not being one of greater severity. It is, I admit, the bounden duty of the church to mingle mercy with justice, but the extension of that

mercy ought to have its limits. The sentence proposed seems to have been founded on the views which were so eloquently expressed by a reverend gentleman (Dr Candlish) the other day, who pleaded on the side of mercy, and seemed to have a wish to extenuate the offence. But while I listened with pleasure, as I always do, to the reverend gentleman, I was never less satisfied or less convinced by his reasoning. It may be that I am not sufficiently versed in the technicalities of ecclesiastical law to be able properly to appreciate his arguments, but what that reverend gentleman seemed to me to hold as the greatest offence in the case of the deposed ministers, does not appear to me to be in the eye of the law the greatest. These men were deposed upon two grounds,—the first of which was, that they had appealed unto Cæsar from the decision of the church—they had tried to arrest the arm of the ecclesiastical law by the power of the civil courts. This was undoubtedly a great ecclesiastical offence, and as such deserved severe punishment; but there was another offence on which they were deposed—an offence of a much more serious nature than the other. They were charged with laying an unholy hand on the ark, by administering the holy sacraments, and thus desecrating them. I may be wrong in point of the technicalities of the law; but I think there is more room for apology in regard to the first branch of the charge than there can be in respect of the second. That some gentlemen may be mistaken as to the constitutional laws of the church, does not at all surprise me, when I see the Judges of the land holding a similar opinion, and saying it is so clear that they do not see the necessity of giving the question a more ample consideration. But though I see somewhat of an apology for the first offence, I can find no palliation for the latter—that when the church had deprived them of that commission by which alone they had the power of administering the sacraments, they did all in their power to desecrate these holy ordinances. The charge against the gentlemen now at the bar, is, that they, by their acts and deeds, gave their countenance to these deposed ministers; and although they are not connected directly in the identical offence of these deposed gentlemen,—although they have not as yet appealed to the Court of Session against the church—and I hope the day has not yet come when they will so appeal to the civil court, for if they do so against a minor sentence, I fear there will be no course left but that of proceeding to the full extent of the punishment. Although not directly connected with the offence, they had given their countenance to those who did commit it, and ought to be held as art and part in it. I must say, that in my opinion they are, by so doing, guilty art and part of the offence charged against the others, of desecrating the holy sacraments, by their having received the sacrament at the hands of those who had done every thing in their power to desecrate these holy ordinances, and to bring them into contempt in the eyes of the Christian people. When it is the duty of every good Christian and good subject of the church to preserve the sanctity of these ordinances, and when worthless demagogues in various quarters of the country are bringing the sacrament of the holy supper into contempt—when that sacrament is administered by men who have no commission so to do—in the eye of the church, the men now at the bar have been guilty of doing a deep and vital injury to the cause of religion. That is the offence which chiefly weighs with me in this matter. For the former charge against the deposed ministers, in the present circumstances of the church, I can find some apology; but for the latter I can find no palliation whatever. We should not, therefore, allow any views of expediency to interfere with our duty to the church, and therefore it is that I hold that the sentence should have been more severe than it is proposed to be made,—it should have suspended them from the power of administering that sacrament which they had been art and part in desecrating. I will not, however, found a motion on the view that I have taken of this case, for I am unwilling to put the house to a division. I do not wish to put myself foremost in the ranks against conciliation. I court conciliation, but I would not conciliate at the expense of the church. I would not have discharged my duty if I had not come forward as I have now done, and boldly stated what my opinions and feelings on this subject were. The conduct of the gentlemen, I admit, has been characterised by good feeling, and their appearance at the bar is much in their favour: though they have entered their protest, they have not attempted to defend their conduct, which may lead us to believe that they are, to a certain extent, con-

vinced that their conduct has been wrong. This conduct exhibits a very different appearance from what might have been anticipated from the speeches delivered in the inferior courts, and therefore it ought to be taken into consideration in proposing the necessary punishment. I repeat, that I am placed in a painful situation; yet I could not have satisfied my own conscience if I had not stated what I have now done.

Professor ALEXANDER said he could not agree to the motion now proposed. He would concede to the reverend mover of the motion, and concede it to the fullest extent, that the majority of the General Assembly is the Church of Scotland; and he did not think there was a single individual on his side of the house who would maintain the absurd principle, that in a well-constituted government the majority was not the government itself. He was glad that Dr Makellar had, on the other hand, conceded that the church was not infallible, and, therefore, on the exercise of its legitimate authority—he would rather say in the exercise of its authority as a church—it will be admitted that, not being infallible, it may pass beyond the boundary of its legitimate rights, within which alone their power could be exercised in a free country such as this. He held, in common with all his friends on this side of the house, that the church had gone beyond its legal and constitutional rights, which, as a church, they possessed; and if a difference of opinion as to this arose, he would ask the gentlemen of the law how the difference was to be explicated? When there exists a difference of opinion as to the constitution of the Church of Scotland among the members of that church, by what means are they to get the right interpretation of the statutes? He did not hesitate to say that in such circumstances the question could only be determined by an appeal to the proper interpreters of the statutes; and in a question of this kind, where the church is one of the parties brought under the obligations of the statutes, and when the legislature itself is the other party, the appeal can only be made to the superior tribunals of the country. He was astonished at the opposite party charging him and his friends with being Erastian, because they held this doctrine. The very gentlemen opposite themselves are appealing to the legislature in consequence of this difference of opinion; and why should it be called Erastian to appeal to the courts appointed by the legislature, and not Erastian to apply to the legislature itself? If there could be any charge of Erastianism at all, it must apply as much to the gentlemen opposite as to those on his side of the house. It was necessary, when a difference of opinion arose, to apply to a higher authority than ourselves, for it was absurd to say that we could be the judges in our own cause. It was said that there had been an appeal to Cæsar in spiritual and ecclesiastical affairs, but the gentlemen who make the charge are guilty of begging themselves, in saying that the appeal is made on a spiritual question. We hold what they call a spiritual matter to be properly a question for the civil courts to decide, and not a question for the church at all, on this plain ground, that as their legitimate authority could not by possibility come on in a judicial way in this matter, (and therefore there must be some court to determine the question in such a way as to peril the true Christian rights and liberties of the church,) the church is entitled to resist, and to go to a higher tribunal; and if the highest determine the matter, so as to be also an invasion of the church's rights, then the last appeal was to the legislature; and if the legislature did not determine the matter in a way to which the church could agree, then the separation of the church from the state was the only course left for them to follow. No civil or religious liberty could exist in the country, except on these principles. But there was no doubt the majority would decide this question as they had done the others. He lamented the proposed sentence, not only as affecting the gentlemen themselves, but as affecting the parishes of which they were the guardians, and the religious rights of the people. If they were deprived of their judicial powers, a great injury would be inflicted on their Christian flocks. Such a sentence was inexpedient and imprudent, and it will add to the impression which has gone abroad, that there is a determination to cast out portion after portion of the one side of the house. While his side of the house was charged with attempting to put the other side out of the church, the other side were casting out a great number of their brethren from the service of the Church of Scotland. All their conduct was guided on arbitrary prin-



ciples and arbitrary judgments. They are giving the dissenters a great handle against the Church of Scotland; they will not only say that it was not a scriptural church, because it was not voluntary, but, because it held and exercised arbitrary power, it was dangerous to the religious and civil interests of the country, and would drive them to stronger efforts to pull down the establishment altogether. He did not wish to see a single member on the other side out of the church,—they had been eminently useful in their sphere, if they would keep their proper sphere. I have no sympathy with those who wish them out, and I would say of them, as Paul said to the centurion, “Except these abide in the ship, ye cannot be saved.” He concluded by saying he would do all in his power to prevent arbitrary, tyrannical, and unconstitutional procedure in the church.

Dr CANDLISH.—It will not be necessary that I should occupy much of your time, after the excellent speech of my learned friend. I have to express my cordial satisfaction at a considerable part of what has been said by Professor Alexander, and I hope that what he has said may tend in some measure to restore peace to the church. I admit that it may be necessary to vindicate the sentence which has been proposed, because there is in it an apparent leniency. I must say that I take a very serious view of the offence charged against the gentlemen at the bar, although what I said the other day might seem to be somewhat of a palliative. Far from it. As to the extent and character of the offence, there cannot be any palliation. There lies upon our brethren at the bar a great and heavy responsibility, not only as they are charged with a very serious ecclesiastical offence, but also in a moral and in a spiritual point of view. I cannot by any means acquit these brethren of what seems to me to be calculated to bring the sacraments into disrepute,—in plain terms, to desecrate these ordinances. Mr Monteith seemed to think that I had drawn a distinction between the appeal of the Strathbogie ministers to the civil courts, and their desecration of the sacraments, and that, while I aggravated the guilt of the former offence, I seemed to palliate the guilt of the latter; and that I seemed to look upon the case of the men now at the bar to be less heinous than the appeal to the civil courts. I never could bring my mind to separate the two points of their conduct. I did not view them apart, but I took them both together into consideration, in deciding on the case as to the ground of the punishment inflicted by the church courts; and the line of distinction which I drew between the case of the brethren at the bar and the deposed ministers was, that I thought the brethren here were not directly concerned in either of the offences; that they had not directly violated the sentence of the church by dispensing the ordinances,—or by appealing to the civil courts; and that, though their offence apparently was, that they homologated the offence of the Strathbogie ministers, I thought that, in the first instance, the case should be treated as one of contumacy, and decided summarily. Had we been disposed to take up the case on the higher ground,—had we taken the case in the grave and serious point of view that Mr Monteith has done, we must have proceeded against them by libel in due form;—we must in that case have censured them by libel. But the ground on which we now go, is such as to enable us to decide the case in a summary manner. They have committed a breach of the sentence of the supreme court of the church, although that sentence was not directed specially against themselves. But their conduct had a tendency to lead to insubordination; and the best way in which we could properly vindicate the authority of the church, and put a stop to the encouragement such conduct would give to schismatical courses, was to treat the case as one of contumacy, as a case of disregard to ecclesiastical authority. Such cases rarely involved any other than such a sentence as that which has been proposed. Contumacy is generally punished by affecting the status of the individual as a ruler in the church. In any other way of treating the case, we must have proceeded by way of libel; but taking it as a case of contumacy, it was competent for the Assembly to dispose of it summarily; and as the contumacy has a tendency to bring the government of the church into contempt, it is fit and proper that we should make the sentence affect the status of the offenders as rulers in the church. We do not propose to suspend them *sine die*, nor do we say it is for two years, or even one year. We propose that it should be within the year; and when I have established the case to be one in which we have the power to decide summarily, all the other considera-

tions are merely questions of degree. Considering the aggravated nature of the offence, and its purely gratuitous nature, and looking at the consequences, we may have a difficulty in agreeing as to the sentence; but as it has been professed, it makes it competent for them to be restored on their making satisfaction to the infringed laws of the church; and should they not do so before the time of suspension expires, they will, at its termination, be restored to their usual status without the necessity of farther procedure than submission to the sentence being held as an acknowledgment of the authority of the church. I have on these grounds made up my mind to vote for the present motion; and as the question affects the judicial authority of the church, I have resolved to acquiesce in the limited sentence of suspension. I have witnessed with much satisfaction the appearance of the brethren, both now and before, in accordance with our citation; and though they have protested, so as to reserve their right of acting as they think proper, and deny the competency of the Assembly, they have laid down no rule of future procedure, which we look on as an indication that they will take time and pains to deliberate.

Mr ROBERTSON, from the bar, then intimated that they did not acquiesce in the sentence. But in the protest given in, they reserved their right to take instruments in the clerk's hands, and crave extracts, if they should require to apply for it.

Mr DUNLOP, in reference to Mr Mearns, proposed, that in respect that he was not a member of the church courts, his case should be remitted to the Commission. Agreed.

#### CASE OF STRANRAER.

Dr GORDON, for the committee appointed to hold a conference with Mr Wilson of Stranraer, reported that Mr Wilson had intimated through his agent, Mr Peterkin, that he could only consent to a conference on condition of Mr Peterkin being present. To this the committee would not consent; and on intimating that resolution to Mr Peterkin, he wrote a letter in reply, to the effect that Mr Wilson still declined the conference; and further, that having put himself into Mr Peterkin's hands, Mr Peterkin had applied for suspension and interdict on his own responsibility; also, that he made application that said suspension and interdict should be continued, and which had been granted on Friday. The committee (Mr Peterkin continued) would therefore see, that whatever offence, real or imaginary, may have been committed, Mr Wilson was entirely free from all blame in the matter.

Mr HAMILTON PYPER appeared for Mr Wilson. Mr Wilson was also present with his agent Mr Peterkin.

Mr DUNLOP, before proceeding with the case, wanted to correct a mistake which had been made, by stating in the records that Mr Robertson, for himself and the other reverend gentlemen at the bar, did not acquiesce in the sentence in their case. It was not competent for a party at the bar to make such a statement, as they had no right to say that they did not acquiesce in the sentence of the court. They could take instruments and crave extracts, but that personally. He therefore moved that the clerk be instructed accordingly.

Dr BRYCE then protested against the sentence, for himself and all who might adhere to him, and took instruments in the hands of a notary public.

Mr DUNLOP, in reference to the case of Stranraer, now wished to ask Mr Wilson whether or not he renounced and discharged the whole of the proceedings taken by Mr Peterkin in his name?

Mr PYPER wished to know, before Mr Wilson answered the question, whether a party at the bar was not first entitled to be heard by his counsel?

Mr DUNLOP had no objection to counsel making any statement in the first place, but reserved the right to put the question to Mr Wilson afterwards.

Mr PYPER then stated the whole case for Mr Wilson, contending that as Mr Wilson had denied the competency of the presbytery of Stranraer to adjudicate in the case at all, on the ground that its constitution was vitiated by the admission of at least one *quoad sacra* minister into that court, it would be folly in the Assembly to pronounce sentence until that point were settled in the civil court. He also denied that Mr Wilson had ever got an opportunity of legally disproving the charges made against him.

Mr EARLE MONTEITH, in reply to Mr Pycer, argued, that if the house for a moment entertained the objection that *quoad sacra* ministers were not entitled to sit in church courts, they would be conceding a principle which struck at the root of the very establishment itself. They had heard a great deal of declamation, eloquent declamation, from the bar, about the rights of the British subject. Now he begged to say, that if the church went beyond her constitutional power, it was not only proper on the part of the civil court, but the civil court was bound to vindicate its own authority. The question, in the case before them, however, was one with which the church had to do ecclesiastically, and Mr Wilson had had every opportunity of defending himself if he had chosen to do so. He was then at the bar of an ecclesiastical court; and if his argument in defence were admitted, it would involve the monstrous proposition, that, no matter what the crimes might be that were committed within the church, so long as a minister of a *quoad sacra* parish sits within our church courts, those crimes may be committed with impunity. That would be a state of things which would end in the destruction of the establishment itself.

After a few remarks from Mr MACDUFF RHIND and Mr BRUCE of Kennet, who contended that if *quoad sacra* ministers had no right to sit in church courts, the moderate side of the house would also be compromised by the election of Dr M'Leod as Moderator in 1838,

Mr DUNLOP said, he now wished to put his question to Mr Wilson, viz. Does Mr Wilson renounce and discharge the proceedings done by Mr Peterkin in his name?

Mr PYCER.—Mr Wilson has now left the court, Sir.

Professor HILL made some observations, which were not heard.

Mr DUNLOP said,—Mr Wilson had been called upon to speak to the competency of the court, and also to the meeting, but he declined to do both. Sentence was then passed upon him. They had offered to hear him also after he had been found guilty in terms of his own confession,—and they had offered to hear him in arrest of judgment. What more could have been required? After noticing some of the points on which the preliminary objections had been taken, he said, that it had been argued by counsel that they were an incorporation of the state; but he begged, in reply, to say, that they were not an incorporation of the state, but a church of Christ, founded on the authority of His word, and, in virtue of that authority, sitting there in judgment. They took nothing from the state, and the state had no right to control their acts as a church. He admitted that from the state they had certain civil privileges, and for these they were always ready to comply with the conditions on which they were held; but never would they recognise the right of any party in that church to go to the state, and ask the civil magistrate to assume the power of the keys, over which he had no control. That was what Mr Wilson had done in this case, and for that alone, independently of the charge to which he had pleaded guilty, he had exposed himself to the censure of the church.

Mr CUNNINGHAM then rose, and, without a single word, proposed that Mr Wilson should be deposed.

The motion being seconded,

Dr MAKELLAR offered up a most earnest and impressive prayer, after which,

The MODERATOR, in the midst of the most solemn silence, read the sentence of deposition.

The Assembly heard the report of the committee on the examination of students and trial for license.

The Assembly heard the report of the committee for revising the constitution of new churches, which was read by Mr Robert Johnston; and, after some discussion relative to a clause in the constitution of Renfield church, Glasgow, was approved of.

On the motion of Mr CUNNINGHAM, the words "shall sustain the call and" were ordered to be omitted in the veto regulations.

Mr ROBERT DONALD dissented against the transmission of the veto regulations to presbyteries.

The Assembly appointed a committee for managing the royal bounty.

The Assembly appointed the Commission for the ensuing year. To consist of the members of the Assembly, with the addition of Dr Brunton.

## ROYAL BOUNTY COMMITTEE.

The committee for managing the royal bounty for the ensuing year was then appointed. After the reading of the names,

Dr CANDLISH said, that it would be a matter of some importance that this committee should not content itself with the mere management of the royal bounty as it had been in use to do; but that their sphere of operations should be extended to the effect of their making endeavours to increase the amount of the royal bounty, so as to make it commensurate with the wants of the districts of Scotland to which its distribution was applied. He did not see that the royal favour should be always limited to the sum of L.2000, which might in former times have been adequate for the purpose. But the fact was well known that the committee had been obliged to refuse grants from this fund to certain places from which applications had come, and which were equally entitled, from their circumstances, to a share. He would therefore propose that instructions be given to the committee to endeavour to obtain an additional grant for the benefit of the Highlands and Islands of Scotland. He was of opinion that such a representation, coming from the General Assembly, would not be neglected in the proper quarter.

Mr CARMENT, in seconding the motion, said, it might also be an advantage if one yearly collection were made in all the parishes in behalf of the parties to whose religious instruction this grant was given.

The motion of Dr CANDLISH was agreed to.

The Commission was then appointed for the ensuing year, with the addition of the name of Dr Brunton.

Mr MONCREIFF, advocate, observed that he had been looking over the manuscript records of the church, and was struck with the immense amount of information on the subject of the church's history, and recommended to the church the important advantage to be derived from their preservation in a careful state.

The committee on the subject of more frequent communion was then appointed, Mr James Buchanan to be convener.

The committee on the home missionary objects of the church was also appointed, Mr Charles Brown being appointed convener of that department of it regarding the bringing forward of probationers and young men for the ministry; and Dr Candlish to that for the assisting of weak congregations.

Dr THOMSON of Dundee proposed a vote of thanks to Dr Candlish, in connection with this committee, which was unanimously agreed to.

## CLAIM OF RIGHTS.

Mr DUNLOP then brought forward the printed statement on the subject of the spiritual jurisdiction of the church, and non-intrusion, with the alterations made by the committee to whose revision it had been subjected. He would propose that this declaration, as now amended, be declared the statement of the church on that important question to which it referred. He would also propose that a memorial be drawn up and presented to her Majesty, founded on the principles of the declarations. He proposed this on the ground that it behoved the church to lay before the state the claim of the church's rights, and the most proper quarter to go with that statement was her Majesty the Queen, the supposed head of the state. He proposed that the Commission be also appointed to circulate the document as extensively as possible, throughout the bounds of the Christian world, where it would be of interest and advantage that its principles should be made known; and also that it be circulated throughout the country by means of presbyteries, in the most efficient way the special commission may direct.

Mr MAITLAND MARGILL CRICHTON said, he hoped he would be permitted to say a single sentence in seconding the motion just now proposed to the house, and which he believed would be acceded to by the house unanimously, without another word in its support. He (Mr Crichton) had been prevented, by the chastening hand of Divine Providence, from attending any of the business of the Assembly since the vote adopting this claim of rights had been agreed to on Tuesday; and it had greatly grieved him that he had not been permitted to take a part in all the deliberations

and proceedings throughout the sittings of the Assembly, in order to have shared in the proceedings as much as in the responsibilities attaching to those acts to which the Assembly has given a solemn sanction. He wished, however, to express to them how much he desired to have a full share in the responsibility of sending out to the world the document under consideration, and which is to be transmitted extensively throughout the bounds of the Christian church. That able document contained an admirable digest, not only of the law of the case, but a full and concentrated statement of the arguments of the case. Its adoption by this house, was an honour not only to the church which sanctioned it, but the sentiments which it avowed were an honour to the modern Warriston by whom the document was drawn up. He (Mr Crichton) was persuaded that that gentleman's name would stand connected with this document, and be remembered with gratitude by the church, long after all in the Assembly had gone to their fathers. In particular, it was a document which would speak to posterity as to the nature of that contest in which the church of the present day had been engaged for the liberties of the Christian people, the accomplishment of her internal purity, and the maintenance of her undoubted privileges as a great protestant institute of this country. The country was therefore bound to look upon it in this two-fold light, as giving a faithful statement of the principles on which the church had felt herself bound to contend for her internal purity, and, in the second place, a compendious statement of the reasons which the church, as a great protestant institution, argued in support of the spiritual independence of her judicatories in accordance with the principles of reason, the spirit of the law of the land, and of her constitution as established by the revolution settlement and the treaty of union. He regretted very much that the motion made by Mr Dunlop did not propose the sending copies of this document, so important in its nature, to all the members of the legislature. He could not understand the meaning of this omission. It would surely not be denied that they needed light upon the subject, and as surely would this document, if put into the hands of all the noble peers and commoners, enable them to attain a competent knowledge of the subject, much more easily, and, at the same time, much more satisfactorily, than by a perusal of all the documents which Sir Robert Peel so kindly proposed to them to study. He would conclude by merely stating his satisfaction and thankfulness that he had been enabled again to take his place in the Assembly, and to state his opinions upon the momentous questions now before the house.

Mr Cook, Laurencekirk, considered that the last speaker had in some degree broken through an understanding come to, on the faith that they (the moderates) were to offer no opposition, at this stage, to the document being received. He trusted, therefore, that the house, if disposed to accept the document, should do so without further discussion.

Mr BRUCE of Kennet would only say, that the perusal of this document had given him very great pleasure, and that he thought the house was bound to express to the writer (Mr Dunlop) their decided approbation of the manner in which it had been drawn up, and their feeling of satisfaction with that gentleman for his zeal and devotedness to the interests of the church in this matter.

Mr DUNLOP hoped his friends would not, for reasons of propriety as well as expediency, sanction such a proposal. The Assembly were presumed not to know who was the author of this document, and therefore a vote of thanks could not be properly tendered to any one.

Dr BUCHANAN submitted to Mr Bruce that as the document had not been remitted to any particular individual, to propose a formal vote of thanks to Mr Dunlop was not strictly in accordance with practice. Besides, he could see that his object had been already answered by the feeling which pervaded the house in reference to Mr Dunlop's services.

The motion of Mr Dunlop was unanimously agreed to.

#### FOREIGN CHURCHES.

Dr CANDLISH gave in a report of committee on correspondence with foreign churches. It recommended that the letters received from the presbyterian churches in Canada and the United States should be answered, and that correspondence

should be resumed or commenced with the following churches:—The church of Holland, the French church, the church in the cantons of Switzerland, the Evangelical Society of Geneva, the Waldensian church, the churches of Prussia and Hungary, the Irish presbyterian church, the English presbyterian church, the Wesleyan methodists, the Calvinistic methodists of Wales, and the several other bodies of orthodox presbyterian dissenters.

The report was approved of, and a standing committee appointed to carry it out.

#### OVERTURE ANENT "QUOAD SACRA" PARISHES.

Mr DUNLOP stated, that this was an overture calling on the General Assembly to declare her determination to maintain those principles on which they had admitted *quoad sacra* ministers to the enjoyment of all the rights and privileges possessed by the other ministers of the church. Such a declaration they were, in his opinion, called at this time to make, not only because of the intimation made by Dr Cook on the first day of the Assembly, but also because attempts had been made in different parts of the country to exclude these ministers from the exercise of their proper functions as members of church courts. It was contended by some, that the constitution of church courts was vitiated by the introduction of *quoad sacra* ministers into church courts—that presbyteries had no right to allocate particular districts to the care of these ministers without the sanction of the Court of Teinds, which, in its turn, was precluded by an act of parliament from ever considering the question of disjunction, unless it had the consent of the heritors possessing three-fourths of the valued rent of the parish. Thus the absolute, irresponsible, arbitrary power in this matter, was vested in the heritors possessing three-fourths of the valued rent—a small proportion, so far as number was concerned. In the Barony parish of Glasgow, for instance, according to calculations made in the year 1834, there were between two and three thousand heritors, and yet three-fourths of the valued rent was in the hands of five individuals; and the claim now made was, that these five had power to prevent the erection of a single additional church in the parish, and put down the whole twenty new kirk-sessions in Glasgow. It was impossible to view these things without alarm, the claims made were so sweeping and monstrous. Thus the members of the presbytery of Irvine had been charged with the crime of giving a charge of the souls within certain bounds to a minister and kirk-session; and a petition was presented to the Court of Session, calling on it to "inflict such censures by fine, imprisonment, or otherwise, as they might consider necessary and proper." In this petition and complaint, the proposition was laid down, that the right which the parishioners had in maintaining the constitution of the church was a civil interest, and that that civil right pertained to all the parishioners, whether they belonged to the church or were dissenters from her communion. So that, according to this petition, any dissenter in the parish was entitled to come forward and say, I insist on retaining the services of the one parish minister to all the inhabitants of the parish, and I, a dissenter, insist that, in following out this principle, you shall quash the 18 or 19 *quoad sacra* ministers and kirk-sessions in the Barony parish of Glasgow, that the whole 120,000 souls in that parish shall have no pastor but Dr Black, and no kirk-session to rule and exercise discipline but the kirk-session over which he presides. Mr Dunlop then proceeded shortly to state the argument in favour of recognising the ministers of *quoad sacra* parishes as legal and constitutional members of church courts. The act of parliament 1592 sanctioned, approved, and ratified the General Assembly, synods, presbyteries, and kirk-sessions appointed by the kirk. And in that year, 1592, there were many ministers members of Assembly who had no benefices, who were not at all endowed. Among those composing what was called the chapter of Glasgow, out of thirty-two there were only six endowed; all the rest were unendowed; and yet they were approved by the act 1592 as true and proper ministers of the Church of Scotland. And down so late as the year 1642, in a great many of the royal burghs, there was no endowment at all, and yet the rights of these ministers were undisputed. In the books of discipline, also, the members of church courts were declared to be the pastors, doctors, and elders of a province, who were appointed to bear rule over particular congregations. Then they had in their favour the universal usage and practice of the

church from the year 1592 up till the present moment. Mr Dunlop here mentioned a large number of cases in which the church had erected parishes *quoad spiritualia*, without waiting till she got them erected *quoad civilia*,—and her right to do which had never been questioned. He also referred to the institution of second charges in royal burghs, the propriety and legality of which had never been questioned by competent authority. Now, however, a new light had sprung up, and the admission of *quoad sacra* ministers into church courts was found to be a desperate invasion of civil rights, a grasping at power on the part of the church, such as had never been before heard of! The error was, that *quoad sacra* ministers had ever been excluded from church courts, not that they were now members of them. And this till lately seemed to be, at least within the church, a pretty general opinion. In 1830 the General Assembly remitted a petition regarding the admission to church courts of ministers depending on the royal bounty, to a committee for thorough investigation; and among the names of the members of that committee we found Dr Inglis, Dr A. Thomson, Principal Baird, Dr Grant, Professor Meiklejohn, Dr Mearns, Dr Forbes, Dr Gordon, Dr Macfarlane, Dr Cook, Dr Chalmers, Dr Lee, and Dr M'Leod, the then Lord President Hope, the then Lord Justice-Clerk Boyle, the then Dean of Faculty Hope, Lord Cockburn, Sir Henry Jardine, and many others. This committee was thus composed of the heads of the church, the bench, and the bar, and the report they gave in recommended that the ministers of parliamentary churches should, by a declaratory act, be declared constituent members of the courts of the church. Such a declaratory act was passed by a General Assembly of which no less than five Lords of Session were members—viz., the present Lord President, Lord Gillies, Lord Moncreiff, Lord Murray, and the present Lord Justice-Clerk; also the present Solicitor-General and thirty-nine other members of legal professions. All these concurred in the act; in fact the whole Assembly was unanimous, with the exception of an Aberdeenshire minister, Mr Pirie of Dyce. Mr Dunlop then proceeded to quote the opinions of the late Lord President Hope, of Sir James Stewart, and of Lord President Blair, in favour of the right of *quoad sacra* ministers to sit as members of church courts. The extracts he read were very strongly and conclusively in favour of such a right; they could scarcely have been more strongly expressed. Mr Dunlop also referred to two other acts which have been lately passed, and which were of great importance in this matter. The first was an act which had passed Lord Cuninghame and President Hope, with reference to Lady Glenorchy's Church. In the act of parliament which had been obtained for the purpose of altering the will of the founder, so as to bring the institutes of Lady Glenorchy into conformity with those of the General Assembly, in that act, the act on calls was word for word recited. And the second act was that with regard to the Highland schools, which proceeded upon a recognition of the right and proper division of parishes which had taken place. Mr Dunlop concluded by expressing his confidence that the church,—whatever the decisions of the civil courts might be, and he had no reason to hope they would be favourable,—would refuse to abandon her unendowed ministers, but would maintain them in all those rights and privileges to which they were so well entitled, and which their Lord had bestowed upon them. He thought, moreover, that not only should they announce their determination to stand by their brethren, but they should strongly recommend the church extension committee to take immediate steps for getting rid of that obnoxious clause in the act 1707, which prevented the Court of Session from exercising a discretionary power in the division of parishes, without the consent of the heritors possessing three-fourths of the valued rental.

Mr CUNNINGHAM seconded the motion, and would just say that its adoption implied, that whatever the Court of Session might do in the Stewarton case, it was the determination of the church to pay no regard to any decision on such a point coming from such a quarter; as they were thoroughly persuaded that the decision of the question, as to the nature and extent of the powers conferred by ordination, belonged not to the Court of Session, but to the courts of Christ's church.

GEORGE BUCHAN, Esq. of Kelloe, considered that this was certainly called for. The ministers of *quoad sacra* parishes he considered as of the highest importance indeed, and he would be very sorry to see these parishes consigned for one moment to

the will of the proprietors; for if this were done, almost every *quoad sacra* parish would be done away with by the heritors. The excuse sometimes urged for opposition to these parishes was, that if the ministers went on in this way, assigning one parish after another, they did not know where they would stop. He could only ascribe this to the ferment in men's minds, which extended to the very aristocracy. There was need of spiritual harmony rising among them, instead of that spiritual dissension which had so long existed; the state of the country called for it; and the more these *quoad sacra* parishes were multiplied, the more was the spiritual welfare and harmony of the country advanced. They must recollect that when the storm should be allayed, government would come forward and support them according to the promise given by Sir Robert Peel when out of office; and he trusted the time was not far distant when the *quoad sacra* parishes would be placed upon a government basis, and have all their rights, both temporal and spiritual, secured to them.

Dr COOK said, that nothing would give him greater pleasure than that endowments should be secured to the *quoad sacra* parishes; but he saw no use whatever in bearding the Court of Session by anticipation. If, when the sentence of that court was given, they should find it to be unfavourable, there might be circumstances connected with it which might justify them in acting as they were doing: but to disregard their sentence by anticipation, and to declare beforehand that they were determined not to obey the law of the land, was the very thing to do substantial injury to their cause. He would therefore guard himself against being included in this declaration.

Dr BUCHANAN said, he had no wish to prolong the discussion, but from what had fallen from Dr Cook. The reverend Doctor had said that there was no occasion for this declaration. Now, he thought there was very great occasion for it. Had there not been before now, in this very Assembly, attempts made to impede their proceedings, and all of them founded on the incompetency of *quoad sacra* ministers? Having these facts before them, he was surprised that the reverend Doctor should say that there was no occasion for this movement; and when they saw how much use was made against the church of her allowing sentences to come from other courts, and then protesting against them when they came forth, could any one say that they were premature in taking this step?

Dr HILL said it was just the reason adduced by the reverend Doctor that made him think they should suspend this declaration. Supposing a decree were to come from the Court of Session, adverse to these principles, of what use would this declaration then be? He regretted the tone of speaking which was assumed by the opposite side. If the reverend Doctor (Buchanan) wished to allay the agitations and disorders at present in the church, that was not the tone which he should have adopted. He had no intention to take a part in this discussion; but in a day like this, when they were loaded with business, he conceived it right to complain of the honourable and learned gentleman who proposed the measure, for having dilated at such length, and for having spoken so long to willing ears without having communicated any new information.

Principal DEWAR said, that one of the most distressing circumstances of the present time was the opposition which was given to *quoad sacra* ministers. There were some circumstances of a very distressing kind, but the darkest to his mind was the opposition given to the *quoad sacra* ministers. What was the ground of opposition? They had for many years exerted themselves to get churches erected, and churches were at length reared, parishes were assigned them, and much good has been done by these means; and he would have supposed that men of all stamps would rejoice at it,—men of liberal and conservative politics,—heritors and proprietors, magistrates and statesmen, all, he supposed, would have rejoiced at it. In regard to their sitting in church courts, he wished always to stand upon the footing of the word of God when it was possible; he did not wish to raise the legal argument, but when Scripture said that it was the duty of pastors not only to teach, but to rule in God's house, that was the word of God, and he would go according to that alone.

Mr PATRICK MILLER of Dundee rose to ask one question. Many of his own personal friends were *quoad sacra* ministers, and he wished to ask a question which some of his reverend fathers on the other side might be able to answer, and it was



this,—supposing that from certain patrimonial and other constitutional considerations they were to see cause to go over to the other side of the house, and vote on that side, would their votes be refused and protested against as illegal?

MACDUFF RHIND, Esq. said, he rose to make one observation, and in doing so he wished his friends on the other side distinctly to understand that they (the moderates) entertained no ill feeling towards the *quoad sacra* ministers, but believed that they were of the greatest benefit to the interests of religion. That was unquestionable. If there was one thing that he lamented more than another, it was the arrest put upon the church extension scheme, and the establishment of those *quoad sacra* ministers in all their rights and privileges; and no man would be more rejoiced than himself if the decisions of the civil courts were favourable to their establishment. He must deprecate any allusion to what may have been done by the judges in the exercise of their judicial functions. They (the judges) had no feeling against the *quoad sacra* ministers. They had not allowed their minds to be ruffled by the agitation of the present question, and he saw no reason, therefore, for agreeing to such a declaration as this. He had seen a temper pervading both sides of the house which gave him great reason to hope that the settlement of that great question was not far distant.

Mr ANDREW GRAY, of Perth, supposed that during the course of the recent discussions, his friends opposite had received more accurate information of the principles of their brethren on that side of the house, and that it was in consequence of this that they displayed an increase of a conciliatory spirit. They exercised the pastoral office in obedience to the command of Christ; they walked not upon the ground of expediency, which was the course proposed by Dr Cook, but on the ground of Christian right and principle; they refused to intrude ministers, because it was contrary to Scripture, and proceeding on the same ground of God's word, they should declare that the pastoral office was one which cannot be divided, and that this was a principle which cannot be abandoned. If his brethren fully understood that this was a matter of conscience with them, as well as the other, they could not have had that protest from Dr Cook at the beginning of this session of Assembly. Some of his moderate friends had said they would rejoice if the Stewarton case were decided favourably. Some time ago, however, a memorial, subscribed by Dr Cook, displayed a very different feeling, when it expressed, if not a wish that the *quoad sacra* ministers should be turned out of the church, at least a very confident hope that the civil courts would find their status not secure.

Mr COOK of Laurencekirk, said, that the conciliatory tone which Mr Gray had spoken of, arose not only from their understanding better the principles on which their friends on the other side acted, but also by his friends understanding better the principles which they (the moderates) held. If they held that they acted according to the word of God, so did they (the moderates); and in all the steps of the great question now at issue, they were guided by the convictions that they were called on to take these steps in accordance with the word of God. Both of these questions were questions about the interpretation of statute. If it were not so, why did his learned friend (Mr Dunlop) appeal to statute? If not, why did he attempt to convict the judges of inconsistency? They were not the interpreters of statute; and if those who were the interpreters of statute decided in a certain way, they thought they were acting in accordance with the word of God, when they rendered obedience to these decisions.

Mr DRUMMOND of Cambray said, that the *quoad sacra* ministers were no farther dependent on statute than that they were recognised by it. The church was not created by statute; she was merely recognised by it; and thus it was with the *quoad sacra* ministers.

The declaration was then agreed to without a vote, and the house adjourned till seven o'clock.

#### EVENING SEDERUNT.

The Assembly met at seven o'clock.

The Assembly heard and approved of the report of the committee for revising synod books.

## SINGING IN CHURCHES.

The Assembly took up the overtures anent the improvement of the psalmody.

Mr BRIDGES, after some observations, moved—

1. That the General Assembly, considering the importance of conducting the praises of God in the church in due manner, do recommend to all members and kirk-sessions, to impress upon the Christian people the duty of exercising themselves and training the youth, so that this solemn part of public devotion may be more and more calculated to elevate the pious feelings of the people; and to call the attention of schoolmasters and teachers throughout the country to the duty of rendering singing a part of instruction in schools.

2. The General Assembly having called for the overtures anent the improvement of singing in churches, approve generally of the principle thereof, and resolve that it should be an especial instruction to the Assembly's committee on education to take the matter into consideration, and either take steps for the practical improvement thereof itself, or remit to a sub-committee of its number, with power and instructions to do so.

Captain RAMSAY agreed with all the overtures, but hoped that the proposed committee would do nothing to encourage bands in churches.

Mr CARMENT could not understand the use of bands at all. They were a popish invention.

Mr GEORGE LEWIS thought that the Assembly should recommend to the educational committee to take charge of the publication of a musical volume of national Scotch psalmody.

Mr COOK and Dr HILL also supported the overtures. Agreed.

## CONCERT FOR PRAYER.

The Assembly then called for the memorial respecting a concert for prayer.

Dr CANDLISH.—On the invitation of a society in Glasgow last year, a proposal of this kind was made and responded to in Britain, the Continent, and America, for a period embracing ten days. It was brought before the notice of last Assembly, and the Assembly, without committing itself to the letter, expressed itself generally favourable to such an idea. The same society at Glasgow, encouraged by the success of their former proposal,—by the way in which it was hailed by the Christian churches at home, abroad, and in America, have been induced, considering that the same exigency for prayer continues,—that the state of the world and of the church still calls for such an exercise, to adopt a similar measure during the present year, and have sent up a memorial to this Assembly, craving, not indeed its explicit sanction of the precise plan they have adopted, but a general deliverance, tending in favour of the principle upon which their plan proceeds. I think that the Assembly will have no difficulty in renewing this year the general expression of approbation which the Assembly of last year gave. I will admit at once, that it might possibly lead, if pushed too far, to inconvenience, if a private society were to establish, as it were, an annual concert for prayer,—fixing upon a certain period to be observed by all the churches. The assumption of such an authority thus to prescribe, as it were, more or less authoritatively, a time to be devoted to prayer by all the churches, might lead to inconvenience. Circumstances might occur in which it might be painful for churches or individuals either to concur, or refuse to concur. It is always a somewhat delicate proposal. But I am informed, on the part of this society, that any such intention to dictate to the Christian world is not intended by them, but that the proposal for this year proceeds, partly upon the experience of the manner in which the proposal of last year was so universally agreed to, and partly also because the circumstances of the time, of the church, and of the country, are such as to require it. Now, while it is the privilege of all the churches of Christ to be free from the obligation of observing stated times, or days, or seasons, beyond what God has appointed, it is also their privilege (and it is essential to their liberty) that they be free to observe such seasons, whenever God seems in his providence to call upon them to do so. And if we look at the regulations which prevail in various churches in Christendom, and at the aspect of the political world, especially at the

way in which God is evidently chastening our land, and other lands, in visiting us with afflictions of a temporal character, so that the attention of the present Assembly has been very particularly called to the destitution of the poor, we cannot but admit that there is an equal call in the providence of God for such an exercise this year as there was during the past year. I think, therefore, that I may call upon the Assembly without any difficulty, to sanction such a general approval of this measure as was given by the General Assembly of last year. I hold in my hand a memorial of this association. It is addressed "To the children of God scattered abroad throughout the world." It begins thus,—“The Lord having been graciously pleased to bless the concert for prayer last year, as a means of spiritual refreshment to the souls of many of his own people, and various applications having been made for its renewal this present year (1842), the society with whom the former proposal originated feel themselves called upon, in the providence of God, to meet these requests.” It concludes,—“It is proposed, God willing, that the space of time between 8th and 17th (October inclusive, be set apart for united prayer among the people of God throughout the world; and it is understood and agreed that the hour betwixt eight and nine in the morning, and eight and nine in the evening, or as near that as possible, shall each day be given to prayer for the object mentioned in the address.” I place the motion which I am to propose upon this ground, viz., that the Lord has evidently been pleased to own as a good thing the concert for prayer which was proposed and adopted during the last year,—many Christians, many Christian congregations, and many Christian churches, having felt themselves refreshed by it; and also, that the Lord in his providence, whether we look to the state of the church or the world, is evidently calling upon us still to plead for similar mercies, and, moreover, such a proposal tends to knit in one the hearts of those who are separated by locality and by outward religions profession. I have to propose the following motion, viz.

“The General Assembly having under their consideration the petition of the Society in Glasgow for promoting the Revival of Religion, with the second memorial for a proposed union for prayer, which had been transmitted to them by their committee of bills, approve cordially of the principles on which the memorial proceeds; and while they consider it a cause of thankfulness to the Hearer of Prayer that a similar call was so well responded to during last year, earnestly recommend this memorial to the consideration of the ministers, elders, and members of the church.”

Agreed.

#### OVERTURE ANENT THE EXAMINATION OF STUDENTS.

Mr CUNNINGHAM stated that there were two overtures on this subject brought before the Assembly, and he would first state that their object was to direct the attention of the Assembly to the necessity of examining the students connected with the church, in the history, constitution, and character of the Church of Scotland. The necessity of such a measure was apparent to all, when they took into consideration the amount of ignorance which prevailed to so unfortunate an extent as to the standards of this church, its constitution, and many important facts in its history. He was prepared to prove that great ignorance prevailed on all these matters. He could not blame too severely those students who showed such ignorance, such deplorable ignorance, on these points—seeing that this ignorance had been displayed in a marked degree in various pamphlets which had been put forth in connection with the church controversy, by members of the House of Lords, by Judges of the Court of Session, and even by many members of this house. The first great evidence of this ignorance to which he would allude was, that which was entertained as to the meaning and terms of the Confession of Faith. They maintained the gross error, that the Confession of Faith warranted the right of every civil magistrate to interfere in matters ecclesiastical. By this interpretation every Judge of the Court of Session, and every inferior judge, considered himself entitled to interfere with the ecclesiastical affairs of the church, and even the Justices of Peace put in their claim to the title of civil magistrate, to the effect of taking on themselves this power. Now he believed, that no man who had any acquaintance with the question had a doubt on this point, and that the church in acknowledging the power of the civil magistrate in the affairs of the church, meant the supreme head of the government, in whose person

the sovereignty of the nation was vested. The church had no intention of vesting such a power in every inferior magistrate, whose jurisdiction entitled him only to exercise law as the superior power had laid it down. Moreover, the church in conceding this authority, maintained that the magistrate had no other standard but one for his guidance and direction in such interference. That standard was the word of God, and not the law of the land. He repeated, that there was not a shadow of ground for inferring anything in the meaning of the Confession beyond this, that the civil magistrate was bound to take the word of God for his standard of judgment, and that the magistrate referred to there did not mean any inferior judge or dignitary,—those powers were regulated solely and exclusively by the law of the land. In this way the functions of the Court of Session, being regulated by the law of the land, and in no respect having reference to the word of God, that court must necessarily be excluded from exercising a judicial interference with the internal economy of Christ's House. In the face of all those clear distinctions, however, it was a melancholy fact, that very many ordained ministers of this church displayed an utter ignorance of the fundamental principles of this church in regard to these points.

MR AITKEN of Minto, apparently feeling sore at this part of Mr Cunningham's speech, interrupted him; but the house sympathizing with the speaker, met the interruption with cries to proceed; on which

MR CUNNINGHAM went on. There was another point, he said, on which very great ignorance of the principles of the presbyterian church prevailed. Many maintained that the power of the people to elect their own ministers was essentially and fundamentally a principle which belonged to the congregational or independent churches. Many of those who had entered into controversy with the independents, knew how that argument was used by them; and to think that men who professed to be ministers of the presbyterian church should give in to what was a mere congregational sophism, was indeed most extraordinary. We maintain that this is a power which has all along been acknowledged as a fundamental principle of our church. This principle was held by Calvin and Beza, and is to be found in the First Book of Discipline; and has been maintained as really and truly a presbyterian principle, by all the eminent divines of this church, who have contended with the independents from time to time. One fact, which was well known, he could not refrain from adverting to, viz. that the present Lord Justice-Clerk, when Dean of Faculty, actually admitted that that power which so many of the ministers of the church have admitted as more properly a congregational principle,—of the people to elect their pastors, was clearly and unequivocally admitted by the Second Book of Discipline. Another evil in connection with this ignorance had been lately felt, in the refusal of many of their ministers to yield obedience to the church in matters spiritual, and their setting at defiance the orders of their ecclesiastical superiors. The general principle, no one, he believed, would dispute; but there was no denying that there were many who practically, and to all intents and purposes, set at nought the authority of this church, as if they had not bound themselves to yield submission to their ecclesiastical superiors. He intended to propose as a specific part of his motion, a reference to this particular point. Officially and judicially, we have become acquainted with the case of one licentiate of the church, who has avowed the opinion that the clergy are bound to obey the civil courts in all matters, whether civil or ecclesiastical. This was a singular exhibition certainly, and one which might well spread alarm into the minds of all the friends of the purity of the church, and cause them to feel the necessity of adopting measures for removing the danger. He did not mean to inquire how far the law against simony might be brought to bear upon such cases; but there was no necessity for concealing the suspicion which the church now felt with reference to the negotiations between patrons and presentees. Those transactions might, in certain cases, be of a very harmless and inoffensive kind; but it was easily to be conceived that there was great danger to be apprehended to the church by transactions which affected the character and the usefulness of a presentee, because of their bearing on the means by which the patronage had been exercised in his favour. The church was bound to look on such transactions with great jealousy, and to do all that lay within her power to put an end to such tampering. He begged to move, "That the General Assembly enjoin all presbyteries to be careful in the examination of all their

students, licentiates of the church, as to the standards, history, and constitution of this church; and that a committee of the General Assembly be appointed to report as to what means should be adopted for securing from candidates for licence, obedience to their ecclesiastical superiors and the law of the church, and to proceed against simony."

Dr HILL said, this motion was unnecessary in every point of view, except to show that there was a great desire for abundant legislation. He agreed that the church ought to be careful of the acquirements of students, but he thought the motion unnecessary in that respect. The reverend gentleman also deplored the ignorance of the ministers of this church, and yet he proposed to intrust to her ministers the office of being the instructors of the students.

Mr CUNNINGHAM said, that the examination of students on such points would not be altogether useless to such ministers as Dr Hill alluded to. It would force them to look into the questions on which they examined the students. This remark would apply to professors of divinity as well as to ministers.

Mr JOHN COOK was disposed to call some things which Mr Cunningham regarded as evidence of ignorance, to be evidence of sound knowledge. He was quite disposed to take Mr Cunningham's explanations of the Confession of Faith; but what, he would ask, were the Judges of the Court of Session and the sheriff courts but the servants of her Majesty, who administered the law for her. As to the civil magistrate being guided by the word of God, he did not deny that; but Mr Cunningham knew, as well as he did, that this church even did not guide its decisions by the word of God in all cases. There were the laws of the church, and to these reference was constantly made by the Church of Scotland, in the decisions of its courts, as the standard of judgment, without reference to the law of God. At the commencement of his speech, Mr Cunningham complained of the ignorance of the Judges and the members of the House of Peers. Did he mean to examine them as well as students? He did think that the laws of the church were quite sufficient for the purpose of overtaking all that was lamented, without any new legislation. With regard to the transactions between patrons and presentees, these certainly demanded the constant care of the church. But he held that a patron must inquire into the character and principles of a presentee. He believed that any privilege of patronage in the hands of ministers on the other side of the house would be exercised under the same care. They would be very careful of admitting any one who did not uphold the principle of the church's independence. But if wrongful acts did take place, the present machinery was able to overtake them.

The motion was then agreed to.

The report on the liquidation of the debt of the church was moved by Mr Bonar. It stated that L.2719 had been paid off last year. There was still a debt of L.1200 due to the agent, besides a sum of L.600, making in all the sum of L.1800.

#### THE CULSALMOND CASE.

The Assembly was next called on to resume consideration of this case relative to the presbytery of Garioch, when the presbytery appeared at the bar, and Mr Middleton, with Mr Cook, advocate, as his counsel.

Mr DUNLOP said he would propose that, from the advanced period of the evening, and the matters that were yet before them, the hearing of this cause, of which the principal points were already decided, should be left to the Commission.

Mr BISSET complained of the inconvenience of keeping the whole presbytery so long from their parishes; but after some conversation, it was agreed that the case be taken up first by the Commission on Tuesday; leave being granted to such of the members of presbytery as required to go to the north in consequence of previous engagements.

#### MUCKAIRN CASE.

Mr MACLEAN of Glenorchy stated the reference in this case—that a summons of declarator had been raised by the officers of state, and by Mr Mackenzie, presentee to the parliamentary parish of Muckairn, against the presbytery of Lorn, praying to have it found that the patron (the crown,) or the presentee was entitled to the fruits of the benefice, and that the presbytery should also pay L.1000 of expenses.

Mr PATON, advocate, appeared for Mr Mackenzie. He said, that in 1838 a leet of four was given to this parish by Lord John Russell—that a majority of the people were in favour of Mr Mackenzie, who, in consequence, received the presentation—but that, in consequence of local influence, he was vetoed by a majority of the people. Under these circumstances, Mr Mackenzie sought his civil rights in a court of law; and he (Mr Paton) trusted the Assembly would deal with him as they did with Mr Young of Auchterarder, who had never been deprived of his license.

Parties being heard and removed,

Mr DUNLOP said,—Last General Assembly directed Mr Lachlan Mackenzie to be libelled for previous actions against the presbytery of Lorn. That deliverance cannot be recalled. The Commission appointed a committee to deal with him; but from peculiar circumstances that committee could not deal with him, so that they did not give in their report till the last meeting of the Commission in March, when it could not carry into effect the direction of the Assembly. It could only lay the libel on the table of the next Assembly, that they might further the process. In the mean time, Mr L. Mackenzie had raised an action in conjunction with the officers of state, and as far as I understand it, it noway calls for the interference of this court. It is simply directed to the object of getting the stipend, so that no new offence has been committed. But still there remains the ground of the proceeding directed to be carried out last year. There is no reason to recall the sentence of last Assembly. They ought simply to refer it to the Commission to libel him, if they see cause.

The counsel (Mr Paton) explained that the deliverance of last Assembly was an instruction to libel Mr Mackenzie only if the Commission saw cause; and that the ground of that instruction was an interdict, which has since been fallen from.

Dr HILL thought it a hard measure to repeat the old deliverance, if the cause of it did not now exist.

The motion of Mr Dunlop was then agreed to.

#### SABBATH OBSERVANCE.

The Assembly called for the Report on Sabbath Observance.

Dr CANDLISH called the attention of the Assembly to the urgent necessity and importance, 1. Of a very great enlargement of the Sabbath Observance Committee for next year; 2. Of additional instructions to that committee; and, 3. Of a better organization in regard to the conduct of its affairs. He wished to make no reflections on the report which was read on Saturday night, for it contained a great deal of valuable matter,—details of the exertions of presbyteries, synods, and voluntary associations,—and also some very valuable legal pleadings in regard to the state of the law in Scotland on Sabbath observance. Along with the whole house, he felt the utmost obligation to the convener of that committee for the preparation of the report. At the same time, the report distinctly admitted, at least by its silence, that during the past year, when the whole of Scotland, and all the Church of Scotland, from one end to another, had been agitated and convulsed on the subject of Sabbath observance, when new kinds of Sabbath profanation had been threatened and commenced, the General Assembly's committee had taken no one step, presented no one memorial, made no inquiry, done nothing in the matter. He had no wish to cast reflections on the past, or open up discussion respecting it; he stated that circumstance only as the ground of the proposal which he had to submit to the Assembly. The committee had not been sufficiently alive to the exigency of the danger. He would now suggest what seemed to be the fitting procedure for the future. 1. Now that the subject of Sabbath observance is come into such a predicament, it is quite essential for the Assembly to have a standing committee, formed on as large a basis as the other standing committees of the church in reference to the other great schemes. Those large committees consist of a very great number of members, much more than are contained in the present Sabbath observance committee, and generally embrace all the members of the presbyteries of large towns. He would propose, as the first arrangement for next year, that the committee be greatly enlarged—be made a standing committee, similar to those just refer-

red to; and in particular, that it embrace the whole presbyteries of Edinburgh and Glasgow, (and, if need be, any other important presbyteries), as those which are chiefly interested in the present heinous offence of Sabbath desecration, against which it is the duty of the church to protest, and for the ceasing of which it is the duty of the church to pray and labour. 2. He would next suggest that the Assembly give instructions to that committee to attend particularly to the running of railway trains on Sabbath. There, in the mean time, the battle of this cause was to be fought; and that in the way not only of legal proceedings, but also of appeal to the consciences and interests of directors and shareholders. He would rejoice in the repetition of the instruction given to the committee last year, to persevere in their inquiries respecting the state of Sabbath observance in different parts of the country. 3. He would also take the liberty of suggesting, that Mr Fairbairn of Salton should be officially connected with the committee. For the most part, in the conduct of the affairs of those committees, a great deal depends on the individuals who are responsible to the Assembly. And when Sabbath observance was so urgent and important, and when the cause had arrived at such a crisis, it must be desirable that there be more persons responsible to the church for its management. The house would be aware of Mr Fairbairn's services in this cause while he was a member of the presbytery of Glasgow. Those services had been, to a considerable extent, lost, in consequence of his removal to a country parish. Without in the slightest degree affecting or superseding the services of any other individual in this department, he would rejoice if there could be interested in it, in some official way, some such men as Mr Fairbairn of Salton, whose services in this cause, both by his pen and his individual exertions, are well known to the church. If there were two or three men officially responsible for this matter, it would probably be better conducted.

Mr GOLDIE hoped that the members of the presbyteries of Haddington and Dunbar would be included in the proposed committee, because it was now evident that a railway would pass in that direction to Newcastle, and if the running of Sabbath trains on the Edinburgh and Glasgow Railway is not stopped, it was probable, —especially as there would be direct communication from Newcastle to London, —that a similar profanation of the Sabbath would be committed in the east of Scotland.

Principal LEE would rejoice in the appointment of any individual or number of individuals who would give more effective attention to the subject than had been rendered to it by any former committee. For several years he had acted as convener of it. Indeed he first moved for the appointment of a committee on that subject. And he remembered very well the feeling of extreme mortification with which he received returns from several presbyteries, which now express the greatest regret at the neglect shown to this subject. He would not mention the names of any of those presbyteries. But he begged to refer to one, which said that no change whatever had occurred during the incumbency of any members of the presbytery, except such as was favourable to the observance of the Sabbath. And yet, according to his own personal acquaintance with the condition of that presbytery, whereas twenty years before that report was given, no mail coach or other conveyance had run throughout its bounds, at least three coaches had passed through it every Lord's day, conveying all manner of communications, and employing a great many persons.

Mr BRIDGES reminded the house of the recommendations contained in the report of the committee, to the effect that a memorial to the shareholders of the Edinburgh and Glasgow Railway should be prepared, and a deputation appointed to present it to the meeting of that body in August next: and further, that petitions should be transmitted to both houses of parliament on the subject. He begged to suggest that these recommendations should be adopted.

The motion of Dr Candlish, with the suggestions of the committee referred to by Mr Bridges, were then unanimously agreed to.

Dr GORDON presented a memorial from the association of Carlisle for the observance of the Lord's day. That association was formed of Christian men of different denominations, who, without compromising their distinct principles, adhered to

each other very cordially in the great and holy cause of Sabbath observance. There was nothing peculiar in their memorial, except the very respectful way in which it spoke of the great moral influence of the General Assembly of the Church of Scotland. It expressed great satisfaction that the General Assembly of last year had taken up this cause, and that, on the recommendation of the Assembly, the inferior judicatories had also taken it up; and it concluded with the expression of a hope that the influence of the Assembly would go far to put down that desecration of the Sabbath which had lately begun in Scotland, and which, the memorial bore testimony, had done so great injury in England. It had been transmitted to him by a member of the Associate Synod, who expressed in the most Christian manner, his anxious wish, that whatever differences might exist between the Church of Scotland and the bodies of dissenters in this country, they might all unite heart and hand in the great common cause of the Sabbath.

#### SPECIAL COMMISSION.

Mr DUNLOP then moved the re-appointment of the special commission, with certain variations in their instructions, the most important of which was, the omission of the words "to enjoin on said presbyteries to conform themselves to such advice and direction,"—in order thereby to avoid the misunderstanding as to the nature of their appointment,—the object not being to coerce presbyteries, but to shield them in the exercise of their functions, especially from the interference of the civil power.

Dr COOK objected.—They were constituted under sessions, presbyteries, synods, and general assemblies; the powers given to these courts were quite sufficient for the purposes they were intended to serve; and if these were not sufficient, there was a total failure in the constitution of presbytery. But there was no such thing; the church had been carried on admirably since the days of prelacy, and they never vested in any body of men the right of exercising powers totally inconsistent with the powers of presbytery. It was of vast importance, therefore, to resist all such innovations, for where were they to stop? Had they power to erect a new court encroaching to itself the powers of all the other courts, and to go forth to any part of Scotland, undefined, unsettled, doing he knew not what, and bringing about the overthrow of all ecclesiastical order? If there were complaints, were there not proper courts to go before? It was said, to be sure, that there were peculiar cases arising from peculiar circumstances, for which peculiar provision must be made. Were they qualified to make this provision? He contended that they were not; they had a certain fixed ecclesiastical polity which they could not alter; but if they had power to elect their commissions, and give them any power they chose, then there was an end to all order, to all stability, in the Church of Scotland. He therefore strenuously opposed it. It was brought on last year at a very late hour, and then it had, as it were, struck upon his ear; but late as it was, he entered his protest against it; and now the more he thought of it, the more convinced was he, that it was most unconstitutional, and most subversive of ecclesiastical polity. On these grounds he would resist it; for he thought they were departing from the ground which had been occupied by their fathers. *They* knew of no special commission; they had powers given them by the church and state; they might talk of Erastianism, but he said that no established church could be free in some degree from the control of the state. Was there not an act passed by parliament recognising the church? If not, then it clearly followed that the church had no constitution at all. They might say, "We'll make a new ecclesiastical polity, and through that exercise the affairs of the church." He deprecated this, for he saw that there would be no end to it, and it was fraught with danger to the church itself. They (the moderates) were for upholding the ancient government of presbytery; they were standing in the good old way of their fathers. Gentlemen on the opposite side might laugh; but did *they* pretend to say that *they* were walking in the good old steps of presbyterianism? He did oppose this with all his might and main, and it was a matter of consolation to him that he had stood by the presbyterian polity, and had opposed that which tended to its overthrow.

Mr CARMENT said, no one could suppose, for a single moment, that this commission was more unconstitutional than the riding committees of former days. The



Rev. Dr (Cook) had said that this was a trampling under foot the rights and liberties of the people of Scotland; these committees did so in truth, and not only so, but they trampled on the rights and liberties of presbyteries; and he had not heard that this special commission had done any such thing. On the contrary, it was appointed to defend the Christian rights and privileges of both presbyteries and people. It was intended to vindicate the rights of the people, whereas the riding committees were appointed to trample on them, and there never was any grumbling at their appointment.

Mr DUNLOP observed that the Rev. Dr (Cook) had proceeded on a total misconception of the state of matters. [The learned gentleman then read an act which recognised the special commission, and ratified its powers.] Even if the special commission *did* supersede the labour of presbyteries, they had the custom of their fathers to go upon. He knew that synods were managed for several years by commissions, and they rarely differed in this, that the predecessors of the gentlemen opposite issued their special commissions to supersede presbyteries, and trample on the rights of the people. These things were done regularly and uniformly, without any objections; but now, when they proposed to appoint a commission in a more modified form, and for a different purpose, it was strongly objected to.

Some conversation then ensued as to the propriety of closing the debate, and the special commission was appointed without a vote.

#### LAW COMMITTEE.

The PROCURATOR then proposed the appointment of a law committee, to consult and advise with him on the church cases now in dependence, or which might come to be in dependence, before the law courts. While neither the General Assembly nor the Commission was sitting, he was unwilling, in such times, to take upon himself the responsibility of being the sole adviser of the church in reference to these matters. He begged leave to move for a committee, which he named.

Dr COOK remarking that it was a one-sided committee,

The PROCURATOR said that it was necessarily so. It would be absurd to place on the list the names of any member of the minority of the church, who were opposed to litigation altogether.

Mr WALTER COOK.—I never saw a more one-sided committee in my life.

Mr DRUMMOND of Cumbræ.—And I never saw a better reason than that assigned for making it so.

The Procurator's motion was then agreed to.

It was then proposed to elect Mr Young, agent for the church, clerk to the committee, but this was opposed by Mr Bridges and Mr Cunningham, on the ground that Mr Young being connected in his official capacity with both sides of the house, it was unadvisable to connect him with one. At the same time Mr Young was highly complimented by Principal Lee, Dr Cook, Mr Cunningham, and others, for the very admirable and efficient manner in which he discharged his duties as agent.

#### SEAT-RENTS.

The report of the committee on seat rents was then given in and approved of, and the committee was re-appointed. As such rents, however small, are now on all hands admitted to be, in upwards of 800 of the churches of Scotland, utterly illegal, the Assembly resolved, in accordance with a report of the seat-rent committee, 1. To order a proclamation to this effect to be read from all the pulpits of such churches, that none of the heritors may any longer pretend ignorance, and that all the people may be stirred up to understand and maintain their just rights. This proclamation will therefore be read, at least, from the pulpits of all ministers upheld by teinds. If any of such ministers shall hesitate to discharge this vitally important duty, and to stir up their people to resist this imposition, we trust that some member of the presbytery or synod of the bounds will see to the fulfilment of the Assembly's injunction. 2. The Assembly resolved to prohibit all ministers and elders from engaging in this traffic on the pretence of aiding the poor's funds, or on any ground whatever.

We are confident that in many parts of Scotland, especially in the north and west,

these resolutions will be regarded as amongst the most important which have been adopted by this remarkable Assembly. At the same time, whilst such illegal taxes are resisted and removed, we trust the Christian people will only, in consequence, feel more strongly their obligations to give their free-will offerings for the advancement of the cause of Christ in our own land, and in all lands. What has become of this question in regard to Edinburgh?

#### FORM OF PROCESS.

The PROCURATOR then gave in the report of the committee on the Form of Process. The first clause recommended that all ministers charged with heresies or immoral offences, should be suspended from the exercise of their ministerial functions, from the period of their being libelled to the termination of their case.

Dr COOK could never approve of this alteration. It was just substantially condemning a man before he was found guilty, and nothing could be more shocking. Suppose a combination against a minister's character,—a libel was obtained—the minister was then hung up, and deprived of his status, and yet in the end he might be found perfectly innocent and pure. He had known many such cases; and he had no doubt there were thousands of them. It was condemning a man to punishment before he was proved guilty; and that was a course which had been followed in only one court of which he knew,—viz., the inquisition. It was a great punishment for an innocent man to be removed from preaching the gospel to his people;—it was no slight matter to be suspended in any circumstances,—in circumstances like these, the poignancy of a good man's grief would be aggravated. He would conclude by saying, that it would be a matter of great pain to him to retire from the Church of Scotland, which, in all probability, he would soon do, if he saw her gradually departing from those great principles of civil liberty which she had always maintained, and which he (Dr Cook) trusted she would always maintain, and reckon it her glory to maintain.

Mr CUNNINGHAM said, that notwithstanding the very strong terms in which Dr Cook had spoken of this proposed alteration, he was not in the least ashamed to say, that it was he who had made the proposal in committee, and he thought it was still well deserving the favour of the house. And it was on this ground that he thought there was something grossly scandalous, something most offensive to all moral feeling, in allowing a man to whom strong suspicion of guilt attached, and who was believed by all the parish to be guilty—there was something very offensive in still allowing that man to occupy a Christian pulpit, and to dispense the ordinances of the Christian religion. For instance, in the recent case of the minister of a parish not far distant from Edinburgh: that man was found guilty by his presbytery in August—the sentence was appealed, and confirmed by the Commission in November—again appealed and again affirmed by the General Assembly in May; and yet, during all that time, although he was notoriously known and universally believed to be guilty, he continued to serve as minister of the parish. Anything so scandalous and offensive ought to be put down. As to the alleged injustice done to an innocent man by such an alteration, he did not see much in it. If injustice was done at all, it was done in libelling the man, and the suspension would be a very slight addition. Moreover, he did not see how even an innocent man, under the grievous burden of a libel, could address his people, and administer the ordinances to them. It would rather be a great relief to his feelings to be prevented from doing so under circumstances of such a suspicious nature; and he thought it was only those who were really guilty who could have the hardihood to officiate in these circumstances as minister of the parish. Dr Cook had compared the church courts under the operation of this alteration to the inquisition, as the only analogous case which he knew. Now, the fact was, that it was the course universally followed with regard to commissions in the army and navy. It was felt there, that whenever men were accused, and a breath of suspicion rested on them, they were not fit to hold the king's commission. How much rather should that be the case in the church of Christ. As to the case which Dr Cook had supposed, of a combination against a minister's character, it was not a very probable one. Such cases might occur in the history of the world, but as to the occurrence of thousands of them, he could scarce give credit

to that. There might be one case in a century, but presbyteries were not so fond of libelling as to cause many of them. The great difficulty was to get them to libel at all.

Mr RHIND opposed the motion.

Mr MONCREIFF would not have consented to this change if he had thought it was to be unjust to individuals. But the necessity for something like the proposition, arose out of a principle of expediency which, in all civilized countries, was more or less acknowledged. The accusers would be put out of a very difficult position; and who would deny that the position of the people was not, in such circumstances, equalled only by the disagreeable predicament of the clergyman, unless he were suspended by an overt act of his judge from ministering the ordinances to his parishioners, who, if they believed the charge was true, must feel scandalized by such an act?

Principal LEE said, this overture would place the minister accused in the advantageous position of being able to demand a trial and investigation. In the case of civil or military officers, the same principle and rule was applied the moment a charge of a dishonourable kind was brought against them. He could not conceive a greater degradation than that imposed on a sensitive minister, innocent, it might be, of being compelled, in spite of the charge and suspicion against him, to exercise his ministerial functions. How any man could do so, their own feelings would enable them to perceive. Those who in this house admire the supremacy of the civil law, should admire its introduction in this case. It would enable the person accused to demand a speedy trial. He thought the resolution ought to be adopted.

Professor ALEXANDER suggested that the adoption of the rule might be made voluntary in presbyteries.

The PROCURATOR.—We can never agree to have one rule in one place and another in another.

After some discussion on this part of the overture, it was agreed to, without a vote, as were the remaining portions of it.

The committee on the form of process was also reappointed, on the motion of the Procurator.

Mr MACDUFF RHIND gave in the following reasons of dissent, against the resolution “that every minister libelled, whether for heresy or immorality, shall, from the date of the service of the libel, be suspended from the functions of his office till the decision of the case on the merits:”

“1. Because this innovation, if adopted, will not only alter the present practice of the church courts, but invert all recognised principles of criminal justice and procedure, by making one of the highest ecclesiastical punishments precede both a judgment on the relevancy and a proof of the libel. 2. Because the proposed overture is contrary to the provisions of act 1690 chap. 5, whereby the sentence of suspension is only to follow as the penal consequence either of contumacy (in not appearing) or of guilt formally proved. 3. Because although, in particular cases, evil may arise from a clergyman exercising his functions when under a charge of heresy or immorality, the general rule proposed would do great injustice, by striking both at the innocent and the guilty, and would expose every minister of the church to the risk of being served with a libel at the instance of any individual who might conceive malice or ill will against him, and of being instantly suspended from his holy office upon false and groundless charges, to the great injury of his feelings, character, and usefulness. 4. Because having regard to the present situation of the church, there are strong grounds for apprehending that the proposed rule might be converted into an instrument of tyranny and oppression, inasmuch as it might be extended to libels founded on differences of opinion regarding church government, which might be represented as containing matter of heresy, but which can never be so considered according to a sound construction of the standards of the church.”

(Signed)

“MACDUFF RHIND.

“Edinburgh, May 30, 1842.”

Mr CUNNINGHAM moved the approval of an overture presented, founded on the act 1817, as to non-residence of ministers within parishes. His motion was substantially, that the accession to one office should occasion the demission of another, and that on the appointment of a parish minister to a principalship or professorship,

or *vice versa*, the resignation of his charge should be sent to the first ordinary meeting of the presbytery of the bounds; failing which, he might be served with a libel. He begged also to move that the overture be transmitted to presbyteries.

A GENERAL FAST.

Dr MAKELLAR referred to various overtures presented from time to time to this house, on the subject of a national fast and day of humiliation, and said, that though the danger of not carrying it out properly, must always operate against such a project, still the sense of its propriety, and the church's duty in reference to it, had induced him to propose it for the adoption of the Assembly. When they looked not only to the troubles with which God in his providence had visited their own church, but also to the perils and distresses with which he had chosen to visit our guilty land, in the total depression of business of all kinds, and the withdrawal of men's ordinary occupation, by which thousands on thousands had been deprived of the means of subsistence and the necessaries of life, he thought there was a call upon this house to make such a demonstration, and to induce the people to come before God in the attitude of supplication, that he would bring them to a right and proper frame of mind, and that he would be pleased to withdraw his chastening hand. He believed the proposal would have the support of all good men in the country, and he would therefore propose that Thursday the 21st day of July next, be set apart as a day of humiliation and prayer.

Mr RANKINE of Glasgow said, that as representative for a large manufacturing city, he could not agree to this proposal, and he felt himself bound to oppose it out and out. He had no objection to lay aside a whole day in the country parishes, where it would not be a matter of much consequence; but in a city such as Glasgow, with an immense labouring population, the setting apart of one whole week-day in this manner, was a greater evil than many of them seemed to think. Besides, an evening service would answer just as well. He could not forget, too, the scenes of rioting and drunkenness which the letting loose of a large promiscuous population had always caused; and for these reasons he would press upon the Assembly the necessity of pausing before they adopted such a resolution.

Mr BUCHAN of Kelloe said, that the national fasts formerly appointed by the church had been met at the time with this self-same objection; but the days so appointed were always kept with remarkable decorum and propriety. They all acknowledged that the chastening arm of divine Providence was discernible in the distress and danger which existed, and that mere human means could not avail for their removal, unless the divine blessing were also invoked by the good and Christian-minded of our land.

Dr COOK concurred in a great measure with what Mr Rankine had stated. It was well known that the setting aside of particular days in this way was the cause of much idleness and dissipation. He had no objection that a particular Sabbath be devoted to this particular object. The appointment of a particular day was, besides, in such a community as Glasgow, and indeed in all large towns, the cause of great loss; and it was not to be supposed that great religious efforts were to be effected, from keeping the poor out of one day's scanty remuneration.

After a few words from Principal Dewar,

Dr CANDLISH begged to move, as a formal resolution, to the following effect, as the deliverance of the house; and he hoped the church would not refuse to invite the co-operation of other Christian bodies:—

“That the General Assembly appoint Thursday, the 21st day of July next, to be observed as a day of solemn humiliation and prayer, with respect to the distress of the country, and the destitution which exists among the working classes, and that the concurrence of other bodies of Christians be invited in carrying out the object in view; and that the Moderator be instructed to prepare a pastoral address on the subject, to be read from all the pulpits of the church.”

The motion was agreed to.

## CLAIM OF RIGHTS.

Mr DUNLOP moved, that the Moderator should request his Grace the Commissioner to present to her Majesty the bill and claims of rights adopted on Tuesday, and to the House of Lords the petition for the abolition of patronage.

The MODERATOR having conveyed the request of the Assembly to his Grace accordingly,

The LORD HIGH COMMISSIONER said,—I shall have the honour of transmitting the address to her Majesty, and likewise the petition; but I desire to be distinctly understood, that, in so doing, I express no approbation of it.

The business of the Assembly being now over, the Moderator addressed the house as follows:—

REVEREND FATHERS AND BRETHERN,—The duties which brought us together having now been terminated, little more remains than that the Assembly should be dissolved in the same great name in which it was constituted. Before proceeding, however, to this closing act, it is becoming that, in conformity with the custom of preceding Assemblies, we should compose our minds for a little to such reflections as may appear suitable to the solemn circumstances connected with this our time of parting. No one could have wished more anxiously than myself, that the giving utterance to the feelings and purposes of this impressive hour should, with the other duties of this office, have been committed to one more worthy. I can only express the hope, that the forbearance which has hitherto been so kindly shown, and for which my deepest gratitude is due, may be continued to the end.

In looking back to the subjects which have occupied our attention, and to the spirit which has marked our proceedings, it is impossible, I think, not to feel that, while there is much cause of continued humiliation to the church in the aspect of Divine Providence in reference to us, and while each individual will find reason to abase himself in the thought of his own short-comings, there is at the same time much to encourage and cheer us, and to fill our hearts with confiding and rejoicing gratitude to the Most High.

In this respect, the increased interest that is exhibited by the people of Scotland, in reference to the great schemes by which the church is endeavouring to promote the cause of religion and humanity, and the gratifying intelligence which has been laid before us respecting the success with which the divine blessing is crowning our labours in almost every department of usefulness, cannot be contemplated without stirring us up to break forth with the voice of joy and praise. Among Jews and Gentiles, and our own countrymen throughout our colonies and dependencies, or among the men of other lands, good news have come to us from our agents, and missionaries, and ministers, from many and far distant countries; and in our own land, and under our own eye, new agencies of usefulness are coming into operation with every prospect of advantage, and plans formerly sketched are receiving their full development. Efforts are put forth, under the sanction of the Assembly, in one department to secure youthful talent and piety wherever they are found united, for the work of the ministry; in another, the probationary services, once little more than a name, of our youthful licentiates, are directed at once towards supplementing the labours of the stated ministry, by preaching the gospel to the poor, as crowded together in our lanes, and ports, and manufacturing districts, or scattered over our mountain wastes. Churches and schools also still continue to be erected, and the assistance that we have long sought from government has at last been granted, in a form and with a liberality that promises to give a new life and soul to the whole system of education in our land.

Many are too apt to look upon the General Assembly in the character merely of a popular court, possessing certain legislative and judicial powers, and to form their opinion of it as it fulfils its functions in these particulars. But the Assembly is to be considered in a higher and holier aspect—even as the ordinance of God for the leading and guiding of this church. And in this light it is surely something greater and better than an arena for contending parties upon particular questions of government and discipline, as they successively occur. It is to be considered as the supreme guardian of the interests of the church, whose highest office is to call forth and

direct the Christian energies of what constitutes the church, for the advancement of all the ends of the kingdom of Christ.

In this respect great injustice is often done to the character of the Assembly. In regard to plans for the employment of what is intrusted to us by the Christian liberality of the nation, there is generally an all but entire unanimity of sentiment. All are of one mind, and consequently little time is occupied in the discussion of subjects where all are agreed. Our proceedings, therefore, upon these subjects figure but little in the public eye, and they are consequently little taken into account in the opinion formed of us. And yet in reality the proceedings in reference to these, constitute the most remarkable characteristics of the Assembly. In these departments the labours of individuals are employed from Sabbath to Sabbath. They occupy our thoughts, our prayers, our labours. The mere figures which indicate the amount of what has been collected, evince a degree of energy on the part of committees, diligence on the part of ministers, affectionate interest on the part of congregations, which could not be secured without the expansive power almost imperceptibly, and therefore the more potently, generated in this house, and informing the most remote regions of Scotland. And then, again, the treasure thus collected is not laid up in a napkin, but, by a series of vigorous acts, the result of long and extensive inquiry and consideration, it is distributed over all the world in a variety of shapes—dispelling ignorance and vice at home, diffusing the knowledge of the glorious gospel abroad,—drawing down the blessings of those that are ready to perish upon us.

And here I cannot but remark, we have the essential excellence of the presbyterian system brought before us, in its possessing a principle of unity, not nominal or formal, but real and operative, collecting the wisdom of all in its representative character, and diffusing it with the power of the whole body, as concentrated in the supreme court. Scope is thus given for the working of all the diversity of gifts bestowed by the Spirit upon all the members of the body of Christ. In this manner nothing is isolated, nothing is lost. The thought that springs up in the humblest member of the church, when tried and proved, becomes the wisdom of all; and the benevolent or pious impulse of a single breast is translated into the deed of the whole body; there being thus the freeness of individual operation, and the authority and energy of collective wisdom.

I believe it may be with truth affirmed, that the Church of Scotland has been honoured to exhibit a farther development of the advantages arising from the constitution of the Christian church; and, at all events, that it may be safely said, that no established church of the reformation can be compared with our own church in the present day, in the zeal and success with which, *as a church*, her schemes of good are conducted. In other churches, both in our own country and on the continent of Europe, much good, no doubt, is accomplished; but much is left to the separate efforts of individuals, or of the members of separate congregations, or of unrecognised associations; and the collective wisdom and energy, and the united prayers, of the whole body, are not called forth. In this way much is lost from the absence of channels of intercommunication: the eye says in vain unto the hand, I have need of thee; and the hand to the feet, I have need of you; even the zeal that finds scope is not always duly regulated or directed to the best ends, and many plans of good are altogether neglected. And surely there is matter of abundant thankfulness, that another spirit and a better system have arisen or been formed in our land.

But we must at last approach another class of subjects, that have been contemplated with very different feelings. I confess that it is not without much anxiety and apprehension that I do so; for it is not deceitful embers we have to tread upon, but burning coals, that have spread conflagration throughout all our land. Even in regard to these topics, however, it is of importance to remark, that they do not involve a difference so essential as necessarily to lead to a disruption of our system. No heresy has been maintained that demands excision. In every point of doctrine and worship we are at one. And even in government and discipline the cause is as much, and more, without than within, that prevents our dwelling together in unity. Amidst all our divisions, I have marked with intense delight the readiness with which all agree in any plan of palpable good, in any improvement in our proceedings, from whatever quarter it may come recommended. Many illustrations of this might be offered.

Our sovereign, through her noble representative, gives expression to her benevolent wish, which, more powerful than a command, has already led to preparations for touching the springs of the sympathies and liberality of all our parishes and congregations. A peasant spectator marks a defect in our devotional exercises, which he communicates to one of our members; the feeling spreads around, and morning after morning the melody of joy and health has been heard in our Assembly; we now speak to one another not merely in the words of discussion and debate, but we speak also to one another in psalms and spiritual songs, making melody in our hearts unto God.

Even in regard to the subjects respecting which we differ, that diversity has been expressed with not more of warmth than might be expected in such a meeting, and, with some scenes that it would be well to forget, a better and a kindlier spirit is obviously beginning to prevail.

In regard to the acts of this Assembly connected with the subjects referred to, though I would be unwilling to mar the feelings of the present hour by referring to them in a controversial spirit, I may be allowed to offer my warmest congratulations to the church and country upon their adoption. Principles that practically have been held in abeyance for upwards of a century, are now proclaimed with no uncertain sound; and the views of the fathers of our first and second reformation have been once more advanced with a decision that constitutes the present a third epoch in the history of our national church.

The important duties which called you away from your families and your flocks are now at an end, and we must now return to the routine of our common labours. Our character as rulers still, indeed, adheres to us, and in other departments we will be called upon to fulfil what is required in that capacity. But it is of importance to recollect, that the duty of ruling in the church, and the special acts performed in the character of rulers, are not an end, but a means, and that regulations and courses of policy are valuable only in so far as they promote the great ends of the gospel ministry, in bringing souls to Christ, and in building up the body of Christ, that is, the church.

Here, then, is the first duty incumbent upon the ministers of the gospel to promote the cause of the Redeemer among men, preaching the gospel, being instant in season and out of season, and in keeping in full operation all the machinery for carrying into effect the ends of our ministry.

They that rule, but not in word and doctrine, even the elders of our church, have an important part to perform, as the connecting link between the clergy and the people, in strengthening the hands and encouraging the hearts of their pastors. A high character belongs to you. See that ye act worthy of it, adorning the doctrine of God our Saviour, and seeking and satisfying yourselves with nothing less than a double portion of the honour to be bestowed upon them that rule well.

To both is entrusted, and specially to the ministers of the everlasting gospel, the office of maintaining, in Scotland, the high moral and religious character of our people, affording to all the sons of Scotland, who have the gifts and graces, opportunities of raising themselves in the service of the Lord, or in promoting the interests of society in the varied walks of usefulness, or in adorning, by knowledge and virtue, the humblest situations in life. From the cabins of our sheepfolds, and the workshops of our artizans, the pride and ornament of our nation have gone forth. And if you cannot have all the happiness of soothing the rising aims of youthful genius, you may at least take care that knowledge may be diffused, and those principles instilled which have raised Scotland to what it is in the scale of nations, and by which there have been found in our humblest cottages, inmates whose hearts have beat in unison with the highest aspirations, and whose intellects have mustered the most exalted efforts of genius, and this, without interfering with the discharge of every-day duties, or turning the mind away from the simplicity of the gospel. And you have not to preach the truths of the glorious gospel as isolated individuals; your labours are illustrated by forming a part of an enlightened scheme by which the high ends of civil government are connected with the higher ends of a Christian church, and all the advantages arising from the most perfect scheme of civil government, and exhibited under the nobler aims of a religious institution on the one hand, and where

the efficacy of the gospel is shown forth, when all its distinctly promised advantages are enjoyed, in kings being its nursing fathers and queens its nursing mothers, on the other; so that, while all our movements are kept unfettered, we may render unto the commonwealth greater service as Cæsar's freemen than we could possibly render as Cæsar's slaves.

Amidst these labours you have the studies also to pursue which may prepare you for the duties of your office, and some may find leisure to produce the works that may contribute to the advancement of the public mind, and prove an ornament in the annals of learning and science. Still, however, I am aware that Scotland for the present must have a working rather than a profoundly learned clergy. Nor is this perhaps greatly to be regretted, as the work of winning souls must ever rank the highest in the scale of ministerial arts. Indeed, the rarity of literary monuments is the highest testimony to the merits of the Scottish clergy as a clergy. For in all départements, reference may be made to productions, each in its separate place inferior to none of a like description, showing what our church might have been if its ministers had devoted themselves to the pursuit of earthly renown. Nor are our clergy without their reward. For, when comparing our efforts with the monuments which have been reared by other churches to their literary fame, and to the works they have produced, the Scottish clergy may point to the people of Scotland, and say,—this is our work, not written on tables of stone, but on the fleshly tables of the heart. This is indeed above all Greek, above all Roman fame,—a monument *perennius ære*,—an epistle known and read of all men,—a work, too, that is not to remain behind us, to excite the admiration merely of those who may come after us, or even to stimulate their ambition to like efforts, but when we rest from our labours this our work will follow us, and prove for ever our joy and our crown.

To bear a part in this noble enterprise is enough to animate us all. Let us then go forth from these walls, with united prayers that each of us may be enabled to fulfil our part. And in proceeding to the exercise of our respective duties on the romantic shores, the remote islands, the cultivated valleys, and the wilder uplands of our beloved country, let us carry one another in our hearts, and be united in soul, while separated in flesh,—united in prayers for each other's welfare, and in carrying out one great work under the same eye, towards the same end; trusting that, upon the revolution of another year, we may meet together in another Assembly to talk of our separate doings; or, if we do not again meet on earth, trusting and praying that we may all meet at last in the general assembly and church of the first-born above.

MAY IT PLEASE YOUR GRACE,—I am instructed by the General Assembly to inform your Grace, that their deliberations have now been brought to an end.

We beg to return to your Grace our warmest acknowledgments for the kindness and courtesy you have shown to us as individuals; and we are in the highest degree gratified by your constant attendance in our court, and the marked interest you have manifested in our proceedings.

Your wishes and prayers, and efforts towards restoring peace to our Zion, have made an impression upon our minds that no time can obliterate. We pray to God that they may be crowned with complete success, and we rejoice to believe that, to all your other privileges and advantages, you have earned the blessing promised to the peace-makers, for they shall be called the children of God.

His Grace the Lord High Commissioner then said :—

Right Reverend and Right Honourable,—The time is come when I have to dissolve this Assembly. It is not fit that the reverend gentlemen who are members of it should be longer detained from those pastoral duties in their several parishes, for the exemplary discharge of which the clergy of the Church of Scotland have ever been distinguished. It will be my duty to make known to her Majesty the proceedings which have been adopted in this Assembly. I congratulate you upon the continued success of some of the most valuable schemes of this church. And I cordially thank you for the many acts of personal respect which I have received at your hands.

Right Reverend and Right Honourable,—In name of her Majesty, and by her authority, I dissolve this Assembly; and I appoint the next Assembly of this church to be holden here on Thursday the 18th May 1843.

The Moderator then prayed, and Dr Lee having read part of the seventh chapter



of the Hebrews, and the Assembly having, as usual, engaged in singing the last three verses of the 122d Psalm, "Pray that Jerusalem may have," &c.; the apostolic benediction was pronounced, and the Assembly separated at about two o'clock in the morning.

## COMMISSION OF ASSEMBLY.

TUESDAY, *May 31.*

The Commission of the General Assembly met on Tuesday morning in St Andrew's Church, shortly after 11 o'clock. Principal Dewar acted as moderator.

### THE PRESBYTERY OF GARIOCH.

The court then took up the case of this presbytery. The parties being cited, there appeared at the bar, Mr James Bisset, Mr John Wilson, Mr Alexander Cushny, and Mr James Peter, with Mr Peterkin as their agent.

Mr BISSET, after a short interval, wished to ask what was the charge which the court had against them?

Mr DUNLOP.—The gentlemen at the bar are already aware that the General Assembly has already disposed of the merits of this case when it was before them on a previous occasion; but it was reserved, so far as respects the proceedings of the presbytery in reference thereto, and the specific acts which they had committed. These acts the presbytery were now called on to speak to, as charges against them for inducting Mr Middleton into the parish of Culsalmond, so far as their proceedings had reference to that matter. They were called to speak to these acts, as inferring the censures of this court.

Professor ALEXANDER.—It is clear that the parties cannot object to any charge or indictment which is not defined. Where is the alleged misdemeanour charged against them? They could not defend themselves against undefined acts of conduct which were not stated as criminal acts.

Mr DUNLOP said, that the parties were charged with acts, in their judicial character, which violated the constitution of the church, in so far as they had refused to receive special objections offered by the parishioners of Culsalmond against the induction of a presentee, and had otherwise violated the laws of their ecclesiastical superiors. The Assembly had already decided, that this was irregular conduct on the part of the presbytery, and that they had been guilty of malversation of office, for which the parties were now called to the bar for their defence.

Mr JOHN TAIT thought the parties should know whether their conduct was irregular as to their violation of the veto, or as to refusing to receive special objections.

Mr CUNNINGHAM said, the distinct and formal charge against the parties was, that they had been guilty of certain acts of ecclesiastical irregularity, in so far as they had refused to receive special objections, and a protest and appeal against Mr Middleton's induction. This was a charge, in addition to the grave charge of having violated the terms of the veto, and taken part in the forcing of a minister on a reclaiming congregation; so that there were actually a great variety of charges of ecclesiastical disorder and irregularity, against which we now call on them to make what defence they have.

Professor ALEXANDER still thought it was unjust to bring men to the bar altogether in the dark as to the charges to be brought against them.

Mr J. COOK begged to offer his dissent against the competency of entertaining a charge of departure from the terms of the veto act as a ground of censure and punishment against the members of the presbytery.

Mr PETERKIN put it to the house if there could be any charge against the parties at all, seeing that nobody appeared for the minority of the synod of Aberdeen, who were properly the only competent complainers in this case.

Mr DUNLOP said that this was a correct statement of the law of the case, but he

apprehended that the Assembly, having already so far decided in the case, the objection could not be properly pleaded now.

Mr BISSET said, the Presbytery of Garioch could not be properly said to be at the bar. The case was remitted to the Commission of Assembly, who in their turn sent it to the Assembly, which has once more sent it to the Commission; but the Commission should recollect, that in the interval, the proceedings of the presbytery had been sanctioned by the synod of Aberdeen; and he humbly maintained that the question before the house was not the conduct of the Garioch presbytery, but the conduct of the synod, which had homologated their proceedings.

Mr DUNLOP.—Yes, but the Assembly have had clear enough evidence that the irregularities and contraventions of the law of the church had their origin in the presbytery of Garioch, who, antecedent to the synod, had done those acts which the house considered matters of charge.

Mr BISSET maintained that the synod of Aberdeen, the majority and the minority, were, according to the minutes of the Assembly, parties to this case, and that one of them (the minority) were complainers against the presbytery of Garioch. They had not appeared to support that complaint.

Professor ALEXANDER insisted that all the parties interested must appear at the bar; if they were not, he would move the simple dismissal of the case in consequence of that defect. Perhaps the irregularity is allowed, however, because of the *nobile officium* of the General Assembly; but if that was not pleaded, he maintained that the case was not substantially before the house.

Mr D. MITCHELL, advocate, Aberdeen, had no objection to save further discussion by sisting himself as a party.

Mr PETERKIN.—Has Mr Mitchell a mandate?

Dr CANDLISH.—Mr Mitchell does not need a mandate. He is agent for the parishioners of Culsalmond.

Mr RANKINE seconded the motion of Professor Alexander; but the parties having ultimately withdrawn the objection, the case was proceeded with.

The following statement was then handed in by Mr Bisset as a defence of the parties:—

“The presbytery of Garioch desire to express their unfeigned regret at the very unfavourable view which has been taken by their ecclesiastical superiors, of their proceedings in the Culsalmond settlement. They plead guilty to having abandoned the veto act, at a point where they were required to do what has been judicially declared, and what they believe, on their faith as Christian men, is in violation of the duty of presbyteries. But no one could be taken by surprise by this step, because they had previously intimated, in a public manner, that it was contrary to their solemnly entertained views of obligation to give effect to a majority of dissenters without reasons. Regarding the church and state as parents, to both of whom they owe duties, they hope the filial piety will not be severely condemned which led them to put off to the latest hour openly breaking with either. When through a morally imposed necessity they abandoned the veto law, they fell back on the constitutional law and practice of the church previous to 1834; and the work of Mr Dunlop on Calls being in the hands of members, they found it stated by that gentleman, that the meeting for the moderation of the call being in *hunc effectum*, presbyteries were not at liberty on that day to enter on the consideration of special objections; and they knew that in his evidence before the patronage committee of the House of Commons he had stated:—‘Those acts (1592) make it obligatory on the presbytery to admit the presentee, if by them found qualified for the particular charge, *if he was already a minister*, provided he had been already admitted to the proper function of the ministry; and in such a case I hold that if the presbytery found him qualified, they could not have rejected him in respect of the non-concurrence of the congregation, but were bound and astricted to receive him. I think, however, this absolute obligation, imposed by this act 1592, applied exclusively to the case of the presentee having been already admitted to the function of the ministry.’ The presbytery of Garioch had unanimously found Mr Middleton qualified for this charge seven years before. Dr Cook’s regulations of 1834 have been pleaded against the presbytery, but they take leave to represent that

these regulations never became the law of the church, nor has the presbytery been able to hear of a single case in which, apart from the veto act, they were ever acted on. At the time when the motion was made for sustaining the call, they neither knew, nor had they imagined, any obstacle to Mr Middleton's induction, but the majority of dissents; nor did they hear of any special objections until a considerably later stage of their proceedings. It has been cruelly averred that the presbytery rejected special objections when tendered, though every one present at the meeting must be cognizant of the fact, that not incidentally, but at very great length, and in the plainest language, they explained to the assembled congregation the grounds on which they were prevented that night from considering them, and that they were only deferred until the subsequent meeting. They were told, that not only objections to life and doctrine, but those of every kind, could be received, deliberately considered, and impartially cognosed on; and if any one say this was impossible on the morning of the day of settlement, they reply, that on the 11th November they went to Culsalmond with the determined purpose of postponing the act of admission, should objections requiring a full or lengthened inquiry be produced. That the presbytery did not refuse a second dissent, and complaint, and appeal, they submit was clearly established by the parole evidence of the minority of the presbytery, when, at the bar of the synod, as given in the appellant's case, the minority never impeached the fidelity of the ministers; and they allow that they are not aware whether their instruments of dissent, complaint, and appeal, ever reached the hands of the moderator or clerk, or even those of any member of court, while the majority most solemnly declare that they never did so. In conclusion, while they deplore that the deductions which they have reached, derived from reason and revelation, differ as to ecclesiastical obligation so greatly from those of brethren whom they are bound to respect, they would be using only feigned words if they stifled their answer. Believing them founded on the will and word of God, they hold them in unaffected sincerity, and must be prepared, because they do so, to suffer the loss of all things rather than conceal them. The consciousness of having acted, whatever imputations have been or may be cast on them, for the good of the people of Culsalmond and the peace of the church, and according to their understanding of the statutes, they cannot lose, with whatever punishment they may be visited; but they believe the sentiment so eloquently expressed a few days ago by a learned Professor in this house, and then received by his friends with such paramount favour, will not in this case be practically abandoned—'That to punish a court for any sentence judicially pronounced by that court, is as gross an act of tyranny as to visit a juryman with pains and penalties for any verdict which he feels himself bound in conscience to return.'

(Signed)

"ALEX. CUSHNEY.

"JAMES BISSET.

"And, as authorised, for ROBERT LESSEL,

"and ROBERT FORBES.

"JOHN WILSON.

"THOMAS BURNETT.

"JAMES PETER.

"GEORGE PETER."

MR DUNLOP did not see that this statement should be entered in the minutes. It was enough if it was in the process.

MR DUNLOP conceived, that the only length which the Commission of the General Assembly could consistently go, was to declare the irregularities preferred against the presbytery of Garioch proved, in as far as they had proceeded to the induction of Mr Middleton in the face of objections specially offered by the parishioners of Culsalmond, and also in the face of an appeal, and that this conduct was worthy of the censure of this house; and farther, that the Commission appoint a committee of their number to deal with those gentlemen, and to report the result to the Commission, which meets in August next. In support of his motion, Mr Dunlop observed, that the greatest fault of which the Garioch presbytery had been guilty, was, that they refused to receive special objections lodged in their hands by

the parishioners of Culsalmound against the presentee; and that, after that, they had also refused to receive a dissent and complaint at their instance, and protesting against their proceeding farther with the induction. These they would not receive, nor minute on their records as having been offered. In this way the presbytery had effectually stopped up the channels of justice to the parishioners, and, according to the laws and practice of the church, were clearly guilty of malversation of trust. They were clearly and indisputably guilty of a violation of the act 1732, which specially provided against a presbytery proceeding to the induction of a presentee in the face of an appeal by the parishioners. They were no less guilty of a direct violation of the veto law. He thought that the only proper means to be adopted was, as he proposed, to cite the presbytery *apud acta* to appear before the Commission in August next, and that the committee be in the mean time left to adopt such steps as they may think proper in dealing with the parties. Their proceedings had been of a very gross and grievous character, and fully warranted such a proceeding on the part of the church.

Mr J. COOK asked, with what parties were the committee to deal?

Mr DUNLOP.—The majority of the presbytery, of course.

Mr COOK.—The presbytery have all along solemnly stated that they never saw the protests and appeals said to have been given in, and that they never were lodged in their hands. In that case, he could not see the propriety of appointing a committee to induce them to confess an error which they never were guilty of. Nor were they guilty of an error, in his opinion, for refusing to give effect to the regulations of the veto. The only point on which the house could make out a charge of irregularity, was that regarding their neglect to give effect to the act 1732 anent appeals. But the committee could even there only deal with the presbytery as to their understanding of the meaning of that act. But that difference could never imply that the presbytery had been guilty of a grave offence, to warrant the church, in the event of their not acknowledging their error, in serving them with a libel, and deposing them from their office.

Dr CANDLISH could not admit the principle laid down by Mr Cook, that the mere denial of the fact that objections had been lodged, was sufficient to put an end to the necessity for inquiry. In every case where a minister was libelled, it would be found that the facts were denied by him. Did that supersede the necessity of proving the facts charged against him? He saw no reason for not prosecuting the investigation of this case in the way ordinarily adopted in such cases. It was admitted that the act 1732 declared that no presbytery could proceed to carry through an induction in the face of a dissent and appeal on the part of the people. That law had been neglected in the present case. As to Mr Cook's statement, that the commission of such an irregularity did not imply more than a difference of understanding between them and the parties at the bar, he could not agree. It implied more than that, and demanded the solemn censure of the church. It was, in fact, a clear case of malversation of office, and on this principle it was that their brethren had been brought before the bar of this house.

Professor ALEXANDER saw no ground for charging the parties with malversation of office. As to the very word, their conduct appeared to arise from an error of judgment. Unless it appeared upon the indictment *prima facie* that the motives of the parties must have been of a corrupt and dishonourable character, there could be no clear ground for such a procedure as that now proposed. But on the face of the record it was impossible to discern a trace of such motives; the indictment was grounded entirely on surmisings, constructions, and inferences from certain acts which, in their judicial capacity, the presbytery had done. At all events, the utmost which their conduct deserved was a mild rebuke, and a warning not to fall into similar errors in future.

Mr COOK begged to move that the Commission cannot find in the acts of this presbytery any grounds for a charge against them.

Mr FORBES, Boharn, maintained that all that was charged against the parties had arisen out of the veto law, but for which this charge would never have been heard of.

Mr CARMENT of Rosskeen, and Mr DRUMMOND of Cumbray, both stoutly urged

the necessity of proceeding according to the laws of the church, and for the vindication of the principles to which the church had so often and so solemnly given its sanction.

Professor HILL must state, that nothing had come to their knowledge sufficient to justify them in condemning the presbytery of Garioch. If it was an act of irregularity, and that was the most that could be said of it, it would not justify a higher censure than that proposed by Professor Alexander, viz. a rebuke, and a warning as to their future proceedings.

Some conversation having ensued as to the taking of the vote,

Mr COOK said he would not divide the house, knowing the amount of business before it, if it were minuted that Mr Dunlop's motion was agreed to without a vote.

This was agreed to, and a committee was appointed to deal with the parties, and to report by next meeting of Commission.

Mr BISSET, for himself and the other parties at the bar, protested for all remeid competent at law, and took instruments accordingly. He said, he and his brethren were quite prepared to meet with any committee the house might appoint. He was about to make some additional statements, when he was told that he was out of order.

#### MR MIDDLETON'S CASE.

The case of Mr Middleton, presentee to Culsalmond, was then taken up. Parties having been called, Mr Middleton appeared, along with Mr Cook, advocate, as his counsel.

Mr COOK requested to know if the parties at whose instance his client was cited were here to support their petition and complaint.

Mr CUNNINGHAM said, the Assembly had already heard the petition against the party at the bar, which had been reserved for further consideration to this Commission. The charges found proven against that individual were, that he had taken advantage of the whole of the proceedings of the presbytery of Garioch, for the purpose of having himself inducted minister of Culsalmond, and he was brought up now, to give him an opportunity to state anything in his defence.

Mr COOK said, it humbly appeared to him that Mr Middleton would in this case be placed in the same position as the parties who had committed the acts for which they had been found liable to censure, and that injustice would be done to him thereby. How was Mr Middleton to know that the act for which the Garioch presbytery were brought before the bar of the Assembly was to be condemned as an act inferring the highest censure of the church? He would not be presumed to know, but that the decision of the synod of Aberdeen would be approved of by the Assembly. Up to this point of time there had been no decision as to whether the synod and presbytery had done a wrongful act. He waited till the Assembly had so decided; and surely after that decision, and the censure recorded against Mr Middleton therein, the Commission were not called upon in any view of the case to award another, in addition to the one passed on Friday, declaring Mr Middleton disqualified from accepting the presentation in this particular parish.

Mr CUNNINGHAM, in opposition to the learned counsel, would maintain that the Commission was called on to take further steps in this important matter. No doubt the Assembly had already found the proceedings of the presbytery irregular, and inferring censure, and condemned the conduct of the synod in regard to these proceedings; it was also perfectly true that the General Assembly had already found that Mr Middleton, by virtue of his homologating and taking advantage of all the proceedings of the presbytery, had in this way disqualified himself from accepting the presentation to this parish; but it was equally true that the Assembly were bound, in consistency with their former decisions, and with their other resolutions, to find the presbytery punishable with ecclesiastical censure, in so far as they had the power to carry that censure into execution. The presentee, in being a voluntary party to these proceedings, has violated the laws of this church, and the church was bound to exercise its ecclesiastical authority against him also, in attempting to force himself into a parish contrary to the wishes of the people, who reclaimed against his admission. He would therefore move that the Commission of the General Assembly prohibit and discharge Mr Middleton from exercising his ministerial functions within

the parish of Culsalmond, and that a committee (the same as in the previous case,) be appointed to deal with him betwixt and the meeting of this Commission in August next, and that Mr Middleton be cited *apud acta* to appear at that time.

Dr HILL said, he dissented from this motion altogether, as he had done on the previous case, and for this reason, that even if there were grounds of censure against the presbytery, it was absurd to punish Mr Middleton for what was no act of his. They surely did not expect that Mr Middleton should have been a reclaiming party against the proceedings of the presbytery. By punishing Mr Middleton, they would make the proceedings of this Commission appear in a very strange light over the country. He would not divide the house by proposing an amendment to Mr Cunningham's motion, but would simply enter his dissent against it.

The motion was agreed to without a vote, Mr Middleton protesting for all remeid competent at law.

#### CASE OF MR MEARNS.

The party in this case being called, Mr Mearns appeared at the bar.

Mr CUNNINGHAM said there was a difference between the case of Mr Mearns and the other ministers placed at the bar for holding communion with the deposed ministers of Strathbogie, he not having preached within the parish churches of any of these ministers. The charge against him was his admitting one of them to his pulpit at Glenrinnies.

Mr MEARNS stated, that he should have appeared along with his brethren at the bar of the Assembly on Thursday, but that he had left home before the citation was served upon him. He might state, however, that he had yesterday given in his adherence to what his brethren had done, and he had simply to say, that to these proceedings he still adhered.

Mr CUNNINGHAM, in moving a resolution in this case, stated that in two particulars Mr Mearns was differently situated from the others who had been already dealt with by the Assembly. Being only a missionary on the royal bounty, an alleviation of punishment was necessary, he having no status as a member of any church court, and exercising, in consequence, no judicial functions. He would therefore move that Mr Mearns be suspended for the space of three months from the exercise of his ministerial functions, and that this decision be intimated to the committee for managing the royal bounty. The other difference in the case of Mr Mearns was, that instead of entering the pulpits of any of the deposed ministers, he had allowed one of them to preach from his pulpit, implying thereby that he still considered him a minister of this church, in spite of his deposition, and capable of exercising his ministerial functions.

Mr BISSET considered he was entitled to call on the Commission to prove in what respect Mr Mearns had offended against the laws of the church, before they passed the sentence of suspension, now proposed. In the debate which took place on Saturday eight days, in reference to the repeal of the act 1799, the house would remember that more than one member of the house had stated that they had violated that act of the church, not once, but on many occasions. Principal Dewar, Dr Hill, and other fathers and brethren, had boasted of such violations of that act, in admitting to their pulpits men who were not ministers of this church. He (Mr Bisset) would assume for once that the sentence of deposition was proper and right in the case of Mr Cruickshank of Mortlach, still he was entitled to assume the office of a minister, not as belonging to the Church of Scotland, but as an independent pastor, which he was entitled to do from the great and numerous signed requisition presented to him by his parishioners, wishing him to continue their minister; in that view the whole crime charged against Mr Mearns, was his admitting to his pulpit an independent minister, as other members of this house had done on their own confession. This was the amount of his guilt, the head and front of his offending. He knew that this act of debarment from his pastoral functions would be the means of creating an unhappy schism in that district of country where Mr Mearns laboured, and where he was much liked.

Mr MAITLAND MARGILL CRICHTON objected to the leniency of the sentence proposed by the house in his absence, on the ministers at the bar on Monday. The

church should no doubt always endeavour to combine moderation with firmness, and temperance with strict discipline; and although it was not necessary for the church to exercise the full extent of its authority in this matter, she might have vindicated herself, and in a much more dignified way, in the maintenance and expression of those great principles to which she had pledged herself to give effect. In allowing these men to retain their ministerial status, he conceived the church displayed a faltering step. Why, it was not in their judicial functions, of which the church had deprived them, that they had held communion with the Strathbogie ministers, but in their ministerial capacity, which the church had yet allowed them to retain. He would vote for Mr Cunningham's motion, at the same time that he felt bound to express his regret that the church had not dealt more firmly with the parties.

The motion, as in the former cases, was carried without a vote, Dr Hill dissenting, and Mr Peterkin, on the part of Mr Mearns, protesting for all remedy, &c.

#### THE CASE OF KETTLE.

The parties in this case were Mr Maitland Makgill Crichton, who appeared for himself as appellant, Mr Penney, advocate, for the presentee, Mr Maitland Heriot, advocate, for the objectors; and Mr Macfarlane of Collessie, wished to appear for the Synod of Fife, but the court would not assent to this, he not having agreed to the motion which was agreed to by the Synod.

MR MAKGILL CRICHTON.—Moderator, although, in point of form, the only appellant at the bar of this venerable house, this arises from a mere technical inaccuracy, in consequence of the reasons of appeal, by the Rev. Messrs Cairns, M'Gillivray, and Anderson, not having been printed in terms of your regulations. That I am in the situation of an appellant at your bar, arises from no more weighty cause than the casting vote of the moderates of our provincial synod. The members of the synod of Fife were equally divided in opinion; and the single vote of Dr Ralph, who has come from England to enlighten our Fife presbyteries, gave authority to a judgment of which the practical effect would be to quash all inquiry in the case. I shall not require long to detain the house, for although the principle involved is very important, the facts of the case are contained within a very narrow compass. The Rev. William Reid, minister of Inveriel, received a presentation from the crown to the vacant parish of Kettle. I do not here enter upon the subject of the home secretary's conduct in this case, because I do not wish that Mr Reid's case should be prejudiced by the conduct of the patrons. The cruel and contemptuous treatment which the people of Kettle received at the hands of this functionary are sufficiently notorious in Scotland, and I allude to it simply to shew that there is no *prima facie* case, in the conduct of the patrons, to cast improbability upon the charge of tampering, and to discourage investigation. The call was moderated in upon 1st April last. No dissents under the veto law were tendered. It would, however, be unfair thence to draw conclusions favourable to the settlement. The people of Scotland, Sir, look upon the veto law, in its practical operation, to be a dead letter, and no protection to them. They know that the exercise of their privilege to dissent would probably lead only to expensive and vexatious litigation in the civil court, and to a settlement at the point of the bayonet. You find, accordingly, that in many parts of Scotland the people, although suffering under grievous despotism, in the intrusion of unacceptable presentees, have not resorted to the veto law, as affording any protection. Take the call, however, as an indication of public feeling, and you will find the settlement to be far from harmonious. Out of a parish numbering about 2,300 souls, (of which, however, about one-third are dissenters), how many of the large congregation attending upon 1st April came forward to sign the call? They were as follows—17 out of a body of 194 heritors, of whom only three, I believe, are members of the congregation, the remainder being dissenters or non-residents, and therefore not be counted among the actual callers; not one elder; 30 heads of families, out of a roll of 150; and out of the whole body of ordinary communicants, just five; being in all sixty names on the roll, but only forty-six of these members of the congregation. Mr Reid has printed a copy of the call, bearing 111 signatures. The additional names, however, were procured afterwards, as concurrents to the call: not one of them came forward on the day appointed, although the most ample op-

portunity was afforded. If a scrutiny be made, it will be found that some of those who sign as heads of families, are not upon the communion roll. Special objections to the presentee were in due time presented for eleven objectors, two of whom are elders, and two considerable heritors in the parish,—special objections, depending upon their own proper merits, and not upon the numbers who subscribed them; it was, I understand, not thought necessary that they should be signed by a greater number. The objections are very short, I shall read them; “That he held doctrines inconsistent with the Confession of Faith regarding the headship of Jesus Christ; and that he had departed from his former opinions on non-intrusion, to obtain a living, and entered into a compact with the patron, to exercise his judicial functions as a member of the church courts, for the supremacy of the civil power over the ecclesiastical jurisdiction of the church.”

At the very next meeting of presbytery, the objectors followed up their case by an offer of proof, and by furnishing a list of witnesses whom they desired to be cited by warrant of the presbytery. Thus the objectors shewed great promptitude and fairness in conducting their case, and a desire to afford to the defender all due information. The objectors also called upon Mr Reid to produce the correspondence which had passed between him and the home-office, in connection with the presentation to the parish of Kettle, and craved of the presbytery a diligence for recovery of said correspondence. Mr Reid did not produce the correspondence, and to this day has withheld all communication upon the subject. It has been alleged by the friends of Mr Reid that the correspondence upon the part of Sir James Graham is marked *private*, and therefore ought not to be called for. Sir, I protest against such a principle; what connection has Mr Reid with Sir James Graham, except that of presentee? “what’s Hecuba to him, or he to Hecuba?” The sole relation between them is that of presentee and patron; and it seems monstrous to maintain that the documentary evidence of improper tampering, or, it may be, of simoniacal practices, may be withheld by the presentee from the inspection of that ecclesiastical court to which he is bound to submit himself, because one or other of the parties has chosen to mark *private* on his letters. I call upon this house to order from Mr Reid production of this correspondence, and I feel that his refusal to produce it, even at the request of the objectors, does give rise to increased suspicion, and renders the necessity of strict investigation more imperative.

It was moved by the members in the presbytery who desired a full and prompt enquiry, to refer the case for advice to the ensuing synod, as to the form by which the objectors are bound to follow out their objections. The friends of Mr Reid, instead of meeting our motion for a reference by a counter motion not to refer, carried, by a small majority, the incompetent motion, that the objectors could only proceed against Mr Reid by libel; thus at once deciding the whole merits of the preliminary question before us.

The moderates in the Synod of Fife seemed resolved, in incompetency and absurdity, to outvie the Presbytery of Cupar, for, by the casting vote of Dr Ralph, it was carried that the objectors could only proceed by libel,—that the objections must be held as fallen from, unless a regular full-grown libel (without time for precognition or due enquiry) should spring like Minerva from the brain of Jupiter full-armed, and be laid at the very next meeting of the presbytery; and last, not least in absurdity and incompetency, they ruled by this decision, that a trial by libel, in a form that implied, in case of conviction, the deposition of Mr Reid from his office and status of minister of Inveriel parish, in Kirkaldy presbytery, should be tried in the presbytery of Cupar. It is obviously of the last importance in the present circumstances of the church, when a system, upon the part of patrons, of tampering with the consciences of probationers is known to exist, to afford the most prompt and ready method of investigation which our laws will admit. It has been alleged that, under the regulations of the act 1834, respecting calls, a libel is in this case imperative. The very contrary, however, will be found to be the case.

Turn to the provisions for the disposal of special objections, and you will find it declared by the eleventh regulation, “That if the special objections so stated affect the moral character or the doctrine of the presentee, so that if they were established, he would be deprived of his licence or his situation in the church, the objectors shall



proceed by libel, and the presbytery shall take the steps usual in such cases." It is thus plainly declared, that it is only in regard to charges necessarily inferring deprivation of office and status in the holy ministry that a libel is required. The first objection appears to me to infer a charge of heresy, and if it is insisted in, I do think that under the veto regulations a libel would be necessary. The second and third objections do not necessarily imply deprivation of the office and status of ministers of the gospel; nor, unless proved in the most aggravated form, would they lead to that result. It is therefore plain that the objectors are entitled to go to proof upon the 2d and 3d written objections, without libelling the presentee. It was urged in the courts below, that, in the immediately succeeding regulation (the 12th) it is stated, "12. That if the special objections relate to the insufficiency or unfitness of the presentee, for the particular charge to which he has been appointed, the objectors shall not be required to become libellers," and that it is here implied that all other objections whatsoever must be tried by libel. The answer appears sufficiently obvious, viz. That these being objections which do not necessarily imply deposition from the office and status of minister, may form strong special grounds against his translation to the new parish, especially if it be in seeking to prosecute that translation that these objections have emerged, and that therefore the objections are included under the twelfth regulation.

But supposing that the regulation last quoted does not include such objections as have been stated in the case of Kettle, the only conclusion thence to be derived, would be, that your regulations were not sufficiently comprehensive—that there is a hiatus in their provisions, by which a large class of objections is left unprovided for. This one thing is plain, viz. that by the express terms of your eleventh regulation, a libel is not required, except when the special objections necessarily infer deprivation of the status of minister. The objectors have no interest and no wish to insist in their objections, except to the extent of preventing his settlement in the parish of Kettle. They are averse to engage in so invidious, and at the same time so cumbersome, tedious, and expensive a process. If this venerable house shall affirm the findings of the presbytery and synod, which, in the face of the church's own regulations, preclude the objectors from proceeding except by a tedious and expensive process, they will probably decline, under these circumstances to proceed—will the church in that case be justified in allowing the settlement to proceed without further investigation? It is expressly provided by your law, (Act Assembly 1759,) that if any fama arise respecting alleged simoniacal practices, the church court shall itself institute a searching investigation, and yet the judgment of the synod, now under review, requires that, failing the immediate production of a libel, the settlement shall forthwith proceed. Whatever may be the decision of this house, I am assured it will not affirm the mass of incompetency, absurdity, and contradiction, contained in the judgment of presbytery and synod. Even should you find, as I confidently believe you will not, that trial by libel is the only competent form of procedure for the objectors, you surely will feel constrained in that case, to direct that a thorough investigation should be made by the presbytery. It is of the first importance at once to check the dangerous course of tampering on the consciences of licentiates, which many patrons are disposed to follow. If the church be firm, the patrons will be forced to pause in their pernicious career,—I see my friend Mr Bruce of Kennet smiles his dissent to this view. Sure I am, however, if in the face of firm and faithful dealing, and exposure by the church, they persevere in the corrupt course, it will render patronage doubly hateful, and add another impulse to the national enthusiasm for its destruction.

Mr HERIOT was then heard in a few words for the objectors.

Mr PENNEY was also heard for the presentee, who, he maintained, had no wish to shrink from investigation. Mr Reid had received what he would term a very substantial call from the parishioners. The special objections were the result of a family conspiracy to keep out the presentee. It was nothing else than a compact by the Heriot family, who, with their dependents on the estate, and the aid of three non-residents, were the only parties to it. Mr Penney was about to produce a numerous signed requisition lately got up in favour of Mr Reid, when

Mr CRICHTON objected to it being received as a paper on the table of the house.

Mr CUNNINGHAM.—Mr Crichton is quite right; but I apprehend counsel is at liberty to use this document as part of his speech.

Mr PENNEY proceeded.—The document was signed by every male head of a family in connection with the church, except the Heriot family, and those who signed along with them the special objections, and by three hundred and one communicants, not heads of families, and sixty-three heritors, some of them, however, not connected with the church. He was ready to prove this statement, should the Commission order it to be gone into by the presbytery.

Mr MAKGILL CRICHTON.—I have little to state in the way of reply, indeed, Sir, I am not sure that I should again have trespassed upon the attention of the house, but for the rather strange course adopted by the learned counsel in the conclusion of his speech, when, with rather a theatrical impersonation of virtuous indignation, and somewhat in king Cambyses' vein, he accused the objectors of preparing charges which they shrunk from establishing, and summed up by suddenly producing a hitherto unheard-of petition, which he alleged contained an almost unanimous expression of desire from the people of Kettle for the immediate settlement of Mr Reid. The charge of the objections originating in a compact by the Ramornie family and a few of their dependants, was made in the court below, and has been brushed up and brought out again by Mr Penney almost as good as new. It is utterly unfounded in fact. The objections, I understand, were drawn up on the evening previous to the moderating in the call; there was, therefore, no opportunity afforded to the parishioners in general to sign as objectors. Having been prepared by one of Mr Heriot's family, it was natural they should be signed by all the qualified members of his family who desired an investigation. These objections are also signed by James Home Rigg, Esquire, of Tarvit and Downfield, an elder in the adjoining parish of Cupar, and a considerable heritor in the parish of Kettle. Mr Penney seemed about to implicate him in some way as a branch of the Ramornie compact, but he never implemented this part of the exposure. He reminded me of the anecdote told of the celebrated John Clerk, who was pleading a bad case with some dexterity, before the Court of Session. Upon his attention being called by the court to a weak point in his case, he said, "Oh, my Lords, I'm just coming to that," but he took care to forget, and he never came to that. Sir, even according to the statement of Mr Penney, about one-half of the objectors are independent of, and have no connexion with, the Ramornie family. Besides, the special objections are to be judged by their intrinsic merits, and are equally entitled to investigation had they been signed by one individual. Mr Penney, in a burst of virtuous indignation, whether under the influence of the silver penny, or the gold penny, I know not, accused the objectors of making grievous charges against the character of his client, and then shrinking from the duty of establishing the same by proof. Sir, the objectors, in the exercise of their undoubted privilege and duty as members of the congregation, have given in special objections, and demanded an investigation into the existing *fama*. So far from declining a proof, they, with extraordinary promptitude, gave in a petition to the very next meeting of presbytery, a petition stating the course of proof they meant to pursue, and furnishing a list of the witnesses they intended to adduce. Is justice to be obtained in no case, except by the syllogistic and cumbrous form of a libel? Sir, we know of too many cases in the history of this church, where the trial by libel, with all its accompanying technicalities and delays, has been made a screen for protecting delinquent ministers, and wearying out the patience of the people, by heavy expenses, and interminable procrastination. It is not true that the special objections, by their vagueness and want of specification, leave the presentee in the dark, as to the time, place, and nature of the offences charged against him. The charges are distinctly put, and are known to refer to matter of a recent date, extending only a few months back from the lodging of the objections. The objections, taken in connection with the line of proof indicated, and the list of witnesses produced by the objectors, do furnish the presentee with all that substantial justice requires to enable him to prepare for his defence. Sir, I do not know what course the objectors may pursue, if, in the very face of your eleventh regulation, formerly quoted, you leave them the painful alternative of adopting the invidious, tedious, and expensive course of trial by libel, or of

falling from their objections. I think it highly probable that they would adopt the latter alternative, and cast upon this house the responsibility of quashing, or of pursuing the investigation. Sir, the learned counsel concluded by reading as part of his speech, what he chose to term a petition from almost the entire congregation of Kettle, praying for the speedy induction of Mr Reid. Sir, this alleged petition is entitled to no weight or consideration here. To the assertion of the learned counsel, that it contains the signature of every male head of a family within the parish, except the objectors, I give the most direct and positive denial and contradiction. If it were true that the people of Kettle desire the settlement of Mr Reid, why has the expression of their wish been so long repressed? It was on the first of April that the presbytery met for the moderation in the call, and on that occasion every facility and encouragement was given to the assembled people to sign the call. The miserable result was just 46 of the congregation, and a few non-resident or dissenting heritors. It was upon my motion that the presbytery allowed some additional time, in the vain expectation that some additional callers might appear. Until this day no such zeal has appeared; and even during the eight days that the call remained thereafter with the session clerk for signature, all the whipping and spurring alleged to be used, produced scarcely fifty concurrents to the call. Nearly two months by the calendar have elapsed since that period,—ample time existed for a new-born zeal on the part of the people being allowed to express itself in favour of the presentee to the Assembly. The alleged petition has been produced, not by your committee on bills, but after the rising of the Assembly, and during the hearing of the cause, without notice or premonition, from the pocket of Mr Penney. Ah, Sir, “there are more things in heaven and earth than are dreamt of in your philosophy.” This petition is produced at the eleventh hour, that it may produce the effect of a surprise, when there is no time for subjecting it to scrutiny. There is something behind the screen with which it is not intended that this house should become acquainted. I, as well as Mr Penney, have heard some rumours about this petition. The painful circumstances which detained me from the Assembly during the greater part of last week, have also necessitated me to come from, and return to, my native county during each of the last two days. The report has, in consequence, reached me, that extraordinary exertions have been made by certain parties in Kettle parish to get up a petition in favour of Mr Reid; that the signatures of men, women, and children have been solicited, including a number of voluntary dissenters, who are opposed to the very existence of our established church. I cannot be expected to speak to a petition which I have now seen for the first time. Two things I observe, however, at the first glance, that a number of the signatures are in the same hand-writing, and that the females appear to outnumber the males. If it is thought worth while to subject this petition to a scrutiny, I believe it will be found to be as I have described, and to have attached to it the signatures of a considerable number of voluntary dissenters, who would rejoice to see this house stultify its recent declarations of principle for the reform and liberty of the church, by quashing inquiry in this case, who have an obvious interest in encouraging an unpopular settlement in Kettle parish, that the dissenting churches in Kettle and the neighbourhood may be filled, and have their spare seats let. Sir, I leave the case with confidence with this venerable house, convinced that whatever course you may take, it will be one which will result in an immediate and searching investigation. If, after the noble and faithful course pursued by our reforming General Assembly, you fail to give them practical effect, by causing prompt inquiry to be made into every alleged case of corrupt interference upon the part of the patron, and of unfaithfulness upon the part of your licentiates or pastors, it will be to stultify your proceedings, “to keep the word of promise to the ear, and break it to the hope.”

Dr CANDLISH thought that Mr Penney had travelled a good way out of the record, in speaking of any thing beyond the question before the house, which was the law of special objections as applicable to this case. The acceptability or non-acceptability of Mr Reid had nothing to do with the matter. He apprehended that it was enough if the special objectors had a standing in the parish, and that the presbytery were bound to look into these objections without compelling the objectors to have recourse to libel. He apprehended that the parties could make nothing of the first charge against Mr Reid, of holding views inconsistent with the Confession on the

headship of Christ; but the other counts were certainly worthy of investigation, viz. his abandoning his opinions for a living, and entering into a compact with the patron to pursue a certain line of conduct in the church courts. He could not give in to the idea that these charges required a libel, which was a clear denial of justice to the parishioners; had the charges inferred deposition, a libel would have been necessary, but he could not see that they went that length. He would propose to the house a motion to the effect, that the Commission reverse the sentence of the synod, and sustain the appeal; and that it be remitted to the presbytery to allow the special objectors to proceed to a probation on the second and third charges of the objections.

Dr HILL could not see how, if Mr Reid had been guilty of the things charged against him, he ought not to be deposed.

Mr CUNNINGHAM said that was a question which a probation would settle. Perhaps matter may be brought out which will render it necessary for the church to proceed against Mr Reid for heresy. On the other hand, the charges may be so extenuated or modified by the evidence, that the church may not find it necessary to proceed further in the matter. A libel at this stage was not therefore necessary.

Mr COOK was of a different opinion. He did not believe that the statements could be extenuated by circumstances. They amounted to a charge of simony, and there was no doubt that simony was punishable with deposition. He thought that, in entertaining this charge in the way proposed, the house was taking a very extraordinary and very dangerous course.

Dr CANDLISH said, the charges, if proved, might infer no more than that it was inconvenient to induct Mr Reid into the parish of Kettle.

Mr SCOTT MONCREIFF thought they would be objections to his induction into any parish.

Mr COOK begged to move that the complaint and appeal be dismissed, and that the sentence of the presbytery be affirmed; and that the case be sent back to the presbytery of Cupar, with instructions that, if no libel be laid before them by the last Wednesday of July, they shall proceed to the settlement of Mr Reid with all convenient speed.

This motion was seconded Mr S. Moncreiff.

After a few words of discussion, the vote was taken, and the motion of Dr Candlish carried by a majority of 50 to 19.

The Commission adjourned at half-past four, till Wednesday at twelve o'clock, in the Trustee's Hall.

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### WEDNESDAY, *June 1.*

The Commission met to-day in the Presbytery Hall, St David Street.

#### ADDRESS TO HER MAJESTY.

Dr LEE said, the court would be in possession of the alarming fact that another atrocious attack had been made on the life of her Majesty; and he considered it to be the duty of this court to present an address to her Majesty, congratulating her on her escape. There was, he should think, but one feeling of horror in their minds that such an attempt had been made, and but one feeling of the necessity and propriety of sending an address of this kind. Agreed to.

#### MR BREWSTER OF PAISLEY AND THE MILITARY.

This case came up upon a reference from the presbytery of Paisley, and had reference to the withdrawal, by the commanding officer of the 79th regiment, stationed in Paisley, of the military from the Abbey parish of Paisley, on the days that Mr Brewster preached.

Mr BREWSTER did not appear to state his own appeal. Mr Lockhart of Inchinnan appeared for the presbytery, along with Dr Burns, and stated the reference at considerable length. The case arose out of a paragraph which appeared in a Paisley newspaper on the 29th of January last, to the effect, that the commanding officer of the 79th regiment, stationed in Paisley, had withdrawn his men from the

church on the days on which Mr Brewster preached, because of certain references to the military which were deemed most insulting; and that, by virtue of an arrangement made with Mr Macnair, the colleague of Mr Brewster, when he does not preach in the church, service is performed by him before the soldiery in a school-house, fitted up for the occasion. Mr Brewster objected to the matter being discussed with closed doors, as the presbytery proposed; and, addressing the audience then present, said, he suspected it was urged by him (Mr Lockhart) as he was ashamed to let the facts go before the public. A committee was appointed to meet with the commanding officer, to obtain information as to the nature of the offence alleged against Mr Brewster. He requested and obtained, in April, additional power, so as to extend their inquiries generally into the demeanour and ministrations of Mr Brewster generally. At the next meeting, (4th May), Mr Brewster protested against the presbytery having proceeded in his absence, and appealed to the Assembly. The report of the presbytery was then given in, and stated the substance of the information they had acquired. Major Riach stated, that on the 9th January he heard Mr Brewster preach from the words, "Thy will be done." The sermon appeared to him to be of a very inflammatory character, especially considering the state of the manufacturing population of the town at the time. The sermon was not such as he would have expected from a minister of the gospel of peace. The conduct of Major Riach and Captain Lawrie in withdrawing their troops had been approved of at head quarters. The committee reported, that in their communications with individuals, now or formerly connected with Mr Brewster's church, the result was to satisfy them that many had been compelled to leave his ministry on account of his introducing violent language and political dissertations into his sermons. The committee observe:—"It was farther reported to the committee by the gentleman just referred to, as well as by others, that Mr Brewster had been in the habit of applying unseemly language to the military, and sometimes in their presence designating them as human tigers, beasts of prey, white slaves, instruments of oppression, &c. It was mentioned as another instance of the coarse and indecorous language in which Mr Brewster permitted himself to indulge in the pulpit, that, in delivering a violent sermon, full of worldly politics, in which he had dilated on the tyrannical character of rulers in general, he had stigmatised the reigning monarchs of Europe, and talked of the Russian bear, the Austrian hyena, &c. With regard to the landholders and aristocracy of our own country, many abusive terms had been applied to them. Not unfrequently had Mr Brewster held them up to his hearers as murderers of the poor, as a set of heartless blood-thirsty plunderers, who have robbed the people of the *land*—their inalienable inheritance—and ought to be made to deliver it back, having no better title to it than a slave-owner has to his slaves. Mr Brewster had, it was further testified, ventured to disparage, from the pulpit, several of the schemes of the church, not only discouraging the congregation from contributing in their behalf, (thus setting at naught the directions of the General Assembly,) but representing that the heathen, proselytized to Christianity through the missionary efforts of the church, are made twofold more the children of hell than they were before. In regard to the sanctification of the Sabbath, and the duty of family worship, it was likewise reported that Mr Brewster had uttered sentiments of an offensive nature; and compared those who have taken a lead in recommending such good practices, to that of the hypocritical pharisees of old. Exhibitions of the above objectionable description had, it was stated to the committee, been made by Mr Brewster, even on sacramental occasions, so as to create disgust in the congregation, to induce one highly respectable individual to leave the church in a painful state of feeling, without going to the communion table, as he had intended, and others to desert the Abbey church altogether, or on the Sabbaths when it is Mr Brewster's turn to officiate. Mr Brewster's conduct in preaching in a Chartist church in Glasgow, and in attending Chartist and other meetings, where violent language was used, and where scenes of questionable propriety were enacted, had likewise, it was stated to the committee, been felt as very offensive, as hurtful to his ministerial usefulness, and as altogether unbecoming his character as a clergyman. It was farther represented, that while much of Mr Brewster's time had of late years been spent in attending political meetings, and

in delivering political harangues, he had not been in the habit, during a long incumbency, of visiting his parishioners as a minister, or of directing his pastoral efforts to the spiritual edification and consolation of the sick and the dying." Mr Brewster objected against the decision of the presbytery requiring him to produce the objectionable sermons by the next meeting. On that day Mr Brewster appeared, and declared that he declined to produce the sermons. The presbytery resolved to hold another meeting with him, to see if he would yet produce them, against which decision he dissented and appealed. On the 16th of May they again met, and Mr Brewster having again refused to deliver up the discourses, it was resolved that the whole case be referred to the Assembly, in order to their obtaining directions as to their future proceedings, and to ask authority to proceed in the matter, in the face of any protests which Mr Brewster may be pleased to take.

In answer to the Clerk,

Dr BURNS said, that Mr Brewster had taken ten complaints, and fallen from them all, he presumed, as he had not appeared.

After some conversation, it was agreed that it be minuted that Mr Brewster had not appeared, and that the standing orders had not been complied with, his papers not being printed.

The decision on the merits was delayed, till it should be seen if Mr Brewster might appear.

#### SOUTHEND CASE.

In this case, which was an appeal against the proceedings of the presbytery of Kintyre, and certain deliverances come to by them, with the view of libelling Mr Donald Campbell, minister of Southend parish, for drunkenness, Mr Penney appeared for Mr Campbell, and Mr Maitland for the presbytery. Besides Mr Campbell's there was also an appeal by the presbytery, which was rejected at once as informal, being an appeal from a decision of the presbytery itself. The court decided that both appeals must be held to be fallen from.

Dr CANDLISH said, this was one of the cases which tended to show the propriety of the alteration in the form of process proposed by the procurator in cases where a party was charged with any flagrant crime. It was improper in a high degree that a man charged with the offence here brought, should, during the investigation of it, continue to exercise his ministerial functions. It was not, perhaps, proper to prohibit and discharge the minister here indicted from altogether discharging the duties of his office, so soon after the alteration had been made; but, at the same time, it was not proper that those parties in his parish who could not sit under his ministry, nor receive sealing ordinances at his hands, should be left entirely unprotected; they should not be compelled to do so, and it was the duty of the presbytery to give supply of ordinances to them, independent of the minister, who might occupy his own pulpit if he pleased. He would, therefore, move that the presbytery of Kintyre be appointed to give supply of sermon, and to dispense ordinances, if they shall see cause, to such of the people of the parish of Southend as do not choose to be under the charge of Mr Donald Campbell; and further declare, that the proceedings of the presbytery in regard to the libel are final, and appoint them to proceed with the case, in the face of all appeals, till it be ripe for judgment.

This motion was unanimously agreed to.

#### MR BREWSTER'S CASE.

Dr BURNS said, that the court having waited so long for Mr Brewster, he could not appeal more to their patience to wait longer. He would suggest, however, that his reasons of appeal should be read.

The PROCURATOR said, it would be against the standing orders to do so, but Dr Burns might read them as part of his speech.

Dr BURNS then went over them, and declared them altogether frivolous, and intended merely to stay the course of justice. He (Dr Burns) trusted the court would take up this case along with that of the chartist church, which, it would be observed, the presbytery had virtually conjoined in their report. Mr Brewster's main reason of dissent was, that the presbytery had proceeded in his absence,

whereas he had been entreated once and again not to leave the court. It was a strange enough fact, that his objection to the proceedings in the chartist church case was, that they were conducted with open doors, and in the case of the military he objected that the proceedings had been gone into with closed doors. He (Dr Burns) had done all in his power to get full justice to Mr Brewster in the decision of this case; but really the course he adopted, and the objections he started at all points, had completely worn out their patience.

Mr CARMENT thought that the very least they could do in this case was, to suspend Mr Brewster from the exercise of his ministerial functions. As the presbytery of Paisley feared his speaking, that would shut his mouth at once. He begged to propose a motion to this effect, until at least he made a retraction to the presbytery.

Dr CANDLISH.—The court must, of course, sustain the referenees. The case, after what they had heard, was clearly one inferring the necessity of a libel against Mr Brewster. The duty of the presbytery was to get some heritors or parishioners of Abbey parish, to prosecute a libel, and, if not, they must themselves do so. Mr Brewster was certainly charged with grievous offences; and he (Dr Candlish) was exceedingly inclined to give in to Mr Carment's proposition of suspending Mr Brewster as a minister of the church. He was also clearly guilty of contumacy,—first in refusing to obtemper the order of the presbytery to produce his discourse, and next in not appearing here to-day in support of his appeal. He would propose, as the formal deliverance of the house, That the commission sustain the reference from the presbytery, and remit to them, enjoining them to serve a libel on Mr Brewster; and in the event of no heritor or parishioner of the Abbey parish coming forward to do so, that the presbytery take the case into their own hands. And, in the mean time, that Mr Brewster be suspended from the exercise of his ministerial functions until next General Assembly, and that the presbytery meet on Friday next, to intimate the same to Mr Brewster.

Agreed to.

#### THE URQUHART CASE.

This was an appeal on the part of Mr J. D. Smith, minister of the parish of Urquhart, against the relevancy of a libel served on him by the presbytery of Abertariff for very gross immorality. Messrs Penney and Cook appeared for the presbytery and Mr Crawford for the appellant.

Mr CARMENT (pointing to the three counsel) said, if he was spared, he would never rest till he had got counsel altogether excluded from the bar of the house. No reform was ever more needed than that.

Mr COOK entered at great length into the form of the libel; but the case is not of such a character as to warrant its being given particularly. Mr Crawford spoke for the presbytery, and Mr Penney replied for the appellant.

Mr CARMENT said, the objections to the form of the libel were merely intended to throw obstacles in the way of judgment. He would regret very much if any further delay should occur in bringing this case to a speedy issue, as the people could not be expected to remain under the ministry of a man charged with such crimes.

The PROCURATOR proposed certain alterations on the libel, to which the counsel for the appellant agreed. He then moved that the Commission sustain the relevancy of the libel, and remit it, as amended, to the presbytery of Abertariff, to proceed against Mr Smith according to the laws of the church. This motion was carried unanimously.

#### BERNERAY CASE.

This was an appeal, and answer thereto, against a decision of the presbytery of Uist, rejecting a petition by certain parishioners of Berneray, calling on that presbytery to investigate certain charges affecting the moral character of Mr J. Bethune, minister of that parish.

On the motion of Mr CUNNINGHAM, it was agreed to order the presbytery of Uist to institute a presbyterial visitation, to inquire and report on the state of the parish.

An appeal of no public interest was next heard from a decision of the presbytery of Fordyce, and dismissed.

The Commission adjourned at six o'clock till Thursday at twelve.

THURSDAY, 2d June.

MR BREWSTER'S CASE.

The Commission met to-day at twelve o'clock, when Mr Brewster, whose case was decided on Wednesday, appeared at the bar, and stated; that he wished to offer a few observations in explanation of his absence on that day. He was in Edinburgh on Friday, the second day of the Assembly's meeting, and continued all next week, waiting for the bringing on of his cases; that he was obliged to go home from the state of the town, but before doing so, he had applied to Mr Dunlop, convener of the committee for arranging the Assembly's business, and that gentleman assured him, that neither of the cases would be brought on before Wednesday. He then left Edinburgh, requesting two friends to watch the progress of the business, and let him know when his cases were put on the roll. On Wednesday morning he received letters from each of these gentlemen, intimating that his cases were put on the roll for that day. He instantly prepared to leave Paisley, but missed the train which connected with the Edinburgh railway train of eleven o'clock, and consequently did not reach Edinburgh till five in the evening. When he came to the place of meeting he found that the Commission had adjourned, and he learned that his cases had been disposed of. He was somewhat surprised at this; and in the circumstances he wished to enter an explanation of his absence on the records, and at the same time, he trusted to be allowed to enter a protest against their decision.

Mr DUNLOP could corroborate Mr Brewster's statement so far as he was concerned; and he regretted that he had not been present yesterday, as he could have informed the Commission that Mr Brewster was anxious to be present at the discussion of his case. In these circumstances he saw no reason why they should not hear Mr Brewster now upon the merits.

This was agreed to; but some conversation arose as to the effect this would have upon the sentence, supposing Mr Brewster should shake their confidence in the judgment pronounced yesterday. It was agreed that, if that were to happen, they would suspend the execution of their sentence till the meeting of the Commission in August; and then cite all parties to give the case a hearing.

Mr BREWSTER thanked the Commission for this unexpected indulgence, and proceeded to state his defence for preaching in the chartist church, Glasgow. He had been asked by some parties to preach a sermon which he had preached before in behalf of an emigrant society. He agreed to do so; but said he should like to have a better lighted church than the one in which he preached before. They offered him the chartist church, on which he said, before preaching there he must have the consent of the minister of the parish, which was applied for, and at once granted by Dr Muir. He therefore went and preached there, as he would have done in the Pope's pulpit, or in a theatre, without conceiving that he made himself responsible for the religious opinions of the persons who worshipped there. At the same time, he could say for the two men who preached there, that though one was a carpenter, and the other a shoemaker, yet he would not fear to place either of them side by side with the best minister of the Church of Scotland. He read several extracts from their printed sermons, to show the character of their preaching. It was a fearful thing for the church of Scotland to think that the people had now no confidence in the poor man's church, and that, by the united consent of the congregations, they were actually ordaining pastors for themselves, such as the Church of Scotland was compelled to do in other times. He was then proceeding to comment on the ill treatment he received from the Glasgow Presbytery in reference to this case, when he was told that the conduct of the Glasgow Presbytery, and indeed the preaching in the chartist church, formed no ground of the sentence pronounced against him,—that he had better direct his attention to the other parts of his defence. He then proceeded to his preaching to the military, and his conduct before the Paisley presbytery in reference to that subject. He admitted that he had been a little excited against the presbytery when they proposed to consider his case with closed doors; but on leaving the meeting, he distinctly told them that he would obey their summons when they wished him to attend. Instead of summoning him, however,



they investigated the whole case without once asking him to be present,—without allowing him to hear or to cross-question a single witness. This was an objection to the proceedings which, he thought, was of itself fatal to their competency. He did not wonder at the commanding officer, or men of his class, finding fault with his preaching, but he was ready to defend every word he had said by the Bible; and, in opposition to the officers, he could have the testimony of every soldier in the barracks, that they were satisfied with his preaching, and that they considered it to be the gospel. He did not say that all soldiers were human tigers; he applied it to the armies of despotic states; but he admitted saying that they were made the instruments of oppression,—that they were little better than slaves,—and he had warned his people that no man ought to enlist and sell his moral as well as his physical liberty; and the consequence had been that, notwithstanding all the distress in Paisley, they had hardly been able to get a single soldier. With regard to the charge, that he preached worldly politics, he said that his accusers preached worldly politics as much as he did; they preached submission to the civil power without any one questioning them; but when he preached justice for the oppressed, and bread for the hungry, then he was found fault with. He utterly denied having ever designated the aristocracy as heartless murderers of the poor; but he did insist, as he had ever insisted, that they had no such absolute unqualified right to their land, as to deny a sufficient supply of food to the poor. He was glad that the church courts were now coming round to be of his way of thinking. There was another charge against him, of having spoken in one of his sermons of the Russian bear, and the Austrian hyena. There was a slight mistake here: what he said, was, “the Russian bear, the Austrian puppet, the Hanoverian hyena.” With regard to the refusal to produce his sermons, he was ready to do so now, and had always been so; but when he appealed from the sentence of the presbytery on the ground of the irregularities before referred to, he held that he would have compromised his appeals, had he admitted their jurisdiction in any subsequent step. The reverend gentleman concluded an address of two hours’ duration, by calling upon the Assembly to dismiss the reference in both cases.

Dr CANDLISH had listened with much attention to the reverend gentleman’s speech, and he thought nothing had fallen from him which could induce him to change or modify the resolution come to yesterday. It was plain that for Mr Brewster’s own sake a libel was indispensable, that a full and fair investigation should be made, when Mr Brewster might be fully heard both on the relevancy and the proof. He must say, that what he heard from the bar, instead of shaking his opinion of yesterday’s sentence, strongly confirmed it. He must say, that he had heard statements as to his style of preaching, which was altogether at variance with his opinions of the maintenance of good order and the right exercise of discipline.

Mr CUNNINGHAM agreed with Dr Candlish, that, for Mr Brewster’s own sake, there must be a libel. It might be that, in the long run, Mr Brewster might be able to show that there was nothing in his sermons but what was set forth in the strong statements of the word of God against oppression and tyranny, and against tyrants and oppressors; and if rash language were used in commenting upon them, he must say for himself that he had some sympathy for a man who, in the present times, brought these strong statements of the word of God to bear upon society, and he would not be disposed to construe harshly any rash or indiscreet expressions that might be made use of in such discourses. But, in the mean time, he thought the sentence ought not to be altered.

The sentence being intimated to Mr Brewster, he attempted again to address the court, but the Procurator would not allow him to proceed. He then protested for all remed competent in law, and took instruments.

#### KIRKDEN CASE.

On a reference from the Presbytery of Arbroath, desiring advice on the question whether, in the continued absence of Mr Carruthers, against whom a libel has been raised, charging him with intoxication, it was competent to proceed if his agent were present?

Mr DUNLOP moved, that it is competent to go on with the case in the absence of

Mr Carruthers, and empower the presbytery to proceed, notwithstanding all appeals, until the case is ripe for judgment.

The motion was adopted.

On a reference from the Presbytery of Fordyce, to the effect that the assistant employed by the minister of Enzie (who is disabled from the performance of his functions), was not resident in the parish.

The Commission found that no adequate supplies were made for the discharge of the ministerial duties in the parish, and resolved to empower the Presbytery of Fordyce, in the event of the minister not providing a resident assistant, to do so themselves with the aid of subscriptions.

The Commission then finally adjourned at five o'clock.

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The following remarks on the Anti-patronage Report by Mr Rhind were omitted in their proper place. —

MR RHIND, advocate, said, that he would give no reply to much of the eloquent, but declamatory and vituperative speech of his honourable friend, Mr Crichton. He would chiefly confine his observations to one branch of the great constitutional argument, viz. that to which he had just been personally challenged, the argument raised against patronage, and the act of Queen Anne, from the terms of the revolution settlement and the act of union. It was necessary, first of all, to ascertain correctly what was to be understood when the words "standards of the church" were used in the discussion. There was the church before its establishment, and the presbyterian church after its establishment. Now, whatever opinion might have been held by some churchmen, or whatever views were contained in the books of discipline, regarding the election of ministers, it must be admitted that these books were not the standards of the church. The true standards of the established church of Scotland were acts 1592 and 1690, with the Confession of Faith. It was clear, (however the church might at times have expressed herself) that in those enactments and standards which the legislature and the church had jointly adopted, patronage, in some shape or other, had always been sanctioned. Accordingly, when these affairs came to be solemnly settled, the legislature did not leave the matter in the hands of the church, but passed the act 1690, chap. 23, which so far altered the initiative in the hands of the patrons "as of late exercised in this realm," as to put the nomination into the hands of the heritors and kirk-session. But it was altogether a mistake to say that that act abolished patronage; it was a transference merely from one party to another, and was so held to be by Mr Crossbie, and other early leaders of the anti-patronage party. The principle of patronage still remained a part of the constitution, only a new modification of it was introduced. That was unquestionably the settlement of the revolution; and the question to be resolved, whenever a breach of faith was proclaimed, was just whether the return from the patronage of heritors and elders to the ancient rights of the patrons under Queen Anne's act, was an infringement of the revolution and union settlements? Now, in regard to the additional stability given to act 1690, by the treaty of union, the great argument on the other side was, that the union act rendered the whole provisions of 1690 unalterable, and that it was thereafter beyond the power of the British parliament to legislate in the matter for the Scottish church. But when they looked at the act of security itself, as engrossed in the act of union, it would be found that it was not the matter of the settlement of ministers that was declared to be unalterable. The great jealousy then was of any alteration, of the true protestant religion, and of the presbyterian church government by the introduction of episcopacy; and, accordingly, it was the preservation of the protestant presbyterian establishment, and its government "by kirk-sessions, presbyteries, and general assemblies," which formed an essential and fundamental condition of the union. Now he (Mr Rhind) admitted that, if there had been any attempt to alter in its fundamental principles, or to overthrow the revolution settlement, there might have been no room for the question, whether the subsequent and incorporated legislature, whatever might be said as to its powers, could have urged anything whatever in justification of a broken treaty. But, since the union was completed, they had a

century and a half of experience that England had honourably fulfilled, and would continue to fulfil, all the conditions of the contract. He knew that the Assembly had protested against the act of Queen Anne, but whatever plan they might have preferred, it was enough to say that the Assembly of 1713 did not thereafter allege that the constitution of the church had been altered. They, on the contrary, "thanked her Majesty for maintaining the presbyterian government of the church as by law established." Was that, he asked, the language of sufferers under a broken treaty? But the act of Anne was said to be an infringement of act 1690, inasmuch as the patrons had received compensation. No doubt, compensation was due under that act to the patrons; but his (Mr R.'s) answer was, that, in point of fact, it was never paid. The heritors and elders kept the right of presentation in their own hands, and kept back the compensation from the patrons. By act 1690, a certain compensation was given "in lieu of the right of presentation." Then, in a subsequent part of the act, there was secured to them their right to the teinds, under burden of the augmentations of ministers' stipends. But that these were not, and were not understood to be, given as a compensation, he begged to refer to an authority which should have some weight in that house,—he meant that of the commissioners of the Assembly in 1735, who, when asking the restoration of act 1690, had stated expressly, that in lieu of the right of presentation, the patrons had obtained a recompence, (referring to the compensation actually due,) and that they were also "allowed to retain the temporal benefits of patronage, which they had formerly enjoyed." He (Mr Rhind) was ready to admit that they had been permitted to retain, to a certain extent, what was their own property,—a property which, as Mr Crichton well knew, had been conferred upon some of the nobility for their services towards effecting the reformation. But the question was, did they receive the recompence to which, under that act, they were entitled, as in lieu of their undoubted right of presentation? No such thing. For twenty years the heritors and elders, while they enjoyed in the mean time the patronages, did not pay their stipulated value. These were the parties who had been truly guilty of enjoying at one time "both the purchase and the price;" and accordingly the act of Anne, in its preamble, stated as one ground for its enactment, over and above the heats and divisions which prevailed, that, as on the one hand, the stipulated price had not been paid, and consequently no renunciation granted on the other, as, in short, the conditions of the act 1690, ch. 23, had not been fulfilled, the act of Queen Anne justly restored to the patrons their ancient rights of presentation. That was the true history of this act; and he asked, did those who said they would adhere to the essential conditions of the union, wish to revive the act 1690? If so, let them say it; but if some other way is intended, it was plain that their supposed essential condition was equally broken through. In that respect, the Assembly in other days acted more in consistency with their views,—they sent up petitions and passed resolutions restricting their demand for a return to the way of settling ministers which obtained at the union. But now every one had his infallible specific for the evils of patronage,—either the communicants, presbytery, kirk-session, or popular election, which the church had never practically adopted, and of which Dr Thomson of Perth had said, in seconding a motion against patronage, that "he believed if it was adopted, it would bring a curse upon the Church of Scotland," and added, that "patrons had been exercising their powers with a sacred regard to the best interests of the people,—that was a fact which could not be called in question, and he rejoiced to declare it." The motion before the house had, however, been framed so as to gain the support of these very opposite views. But if they submitted to parliament a general claim for the abolition of patronage, they would be told that in petitioning against any alleged grievance, they ought, as reasonable men, to state at the same time their practical remedy. They would be told, as the learned Procurator had already said, of a period not long gone by, when, in parliament itself, the disfranchisement of certain privileges was made contingent on the passing of a specific mode of election in its place. He thought that, in any view, and upon principle, the proposal would be rejected; but it was not upon the constitutional view of the question alone that he thought so. He thought his friends would do him the justice to believe, that if there was a way by which the religious interests of the people would be better promoted, or if there truly did exist a high-handed and

unmitigated patronage, he would not be found its defender. But it was distinctly patronage so restricted that the nomination did not oblige either the presbytery or the people to admit or receive a presentee unless he was properly qualified. Whatever might have been the low state of religion in Scotland for part of last century, it could not be said to be caused by patronage, but was the same in other countries, greatly from the revolutionary and democratic spirit then abroad throughout Europe. It was often said, that the presbyterian church could not stand with patronage. It had stood and flourished with patronage for nearly three hundred years. It was unfair to charge upon the patrons those evils which their own relaxed system had engendered; and not upon them only, but the whole class to which they belonged had been systematically assailed. But no men knew better than did the parish ministers of Scotland, the practical good and the beneficial influence exercised in their respective districts by the resident gentry of the country; and even if it were true, which he could not admit, that there was now any growing suspicion of aristocratic interests, the church was the last quarter from which so dangerous, disorganizing, and democratic a movement should be urged onwards. He remembered that when the subject was debated last year, it was said by Dr Chalmers, that there was no analogy between democracy in the state and democracy in the church. Here was the analogy—that a restless desire of change, the characteristic of both, commenced by an almost simultaneous movement, and had each been marked by the setting of one class of society against another, and by the same crusade against prescriptive rights and established authority. There was no proof that the people wished the abolition of patronage; on the contrary, so far as that house itself was an index of opinion without, it was remarkable, that while in 1833 the burgh members were almost entirely against patronage, they were now nearly unanimous in its favour. Where, then, was the call or expediency for throwing loose the present constitution of the church, which had produced such blessed effects upon the interests and religious character of Scotland? He entreated the Assembly to think of the hopelessness of the cause with parliament and the country, of the arrest the claim might put, in the mean time, to a settlement on other grounds, and of the delicacy and danger of their present position. They stood upon an eminence before the face of the Christian world; and of them it would be said, if they passed the motion, and acted in accordance with it, that they were willing to peril the whole blessings of the establishment in a course of reckless and destructive agitation.

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#### ERRATA.

P. 9.—In Dr Cook's motion on the Strathbogie commission, for "the General Assembly do not sustain," &c., read "the General Assembly do not *in hoc statu* sustain."

P. 49.—For "a portion of the 142d Psalm was sung," read "Psalm cxlvii, verses 1, 2, and 3, were sung."

P. 117.—Among the names of those who signed the "claim of rights," delete that of "John M'Kinnon."

P. 217.—For "Mr John Hope," read "Mr James Hope, junior, W.S."

P. 217.—For "Psalm lxxv." read "Psalm lxxx."

## STATE OF THE VOTES.

1. Strathbogie Commissions.—II. Resolution as to the Interdict against the Strathbogie Commissioners.—  
 III. Patronage.—IV. The Claim of Right.—V. Translation to Kilmarnock.—VI. Case of Mr Munro,  
 Presentee to Fala.—VII. Case of Culsalmund.—VIII. Petition from Rhyne.

### SUMMARY OF VOTES.

**I.—STRATHBOGIE COMMISSION,**  
 1. To sustain Commission from Presbytery, and  
 not to receive the Commission in favour of  
 Messrs Walker and others, (Mr Dunlop's) 215  
 2. To sustain *in hoc statu* the Commissions of  
 neither of the parties, (Dr Cook's) 85  
 Majority 130—

**II.—RESOLUTION AS TO INTERDICT AGAINST  
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 Candlish's) 178  
 2. That the motion be not adopted, (Dr Cook's) 76  
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**III.—PATRONAGE.**  
 1. Patronage is a grievance and main cause of  
 our present difficulties (Mr Cunningham's) 216  
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 Patronage (Procurator's) 147  
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**IV.—CLAIM OF RIGHT.**  
 1. To adopt the claim, (Dr Chalmers's) 241  
 2. To declare the act on calls null and void, and  
 approve the law of the church as recognised  
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 the settlement of presentees, (Dr Cook's) 110  
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**V.—TRANSLATION TO KILMARNOCK.**  
 1. Not for edification to settle Mr Smith, (Mr  
 Cunningham's) 152  
 2. To proceed with the induction of Mr Smith,  
 (Dr Cook's) 78  
 Majority 74—

**VI.—THE CASE OF MR MONRO, PRESENTEE TO  
 FALA.**

1. Instruct Edinburgh Presbytery not to grant  
 certificate, and remit to Dalkeith Presbytery  
 with instructions, (Dr Candlish's) 181  
 2. That the Edinburgh Presbytery were not enti-  
 tled to refuse a certificate, but were called  
 upon to leave the matter to the judgment of  
 the Dalkeith Presbytery, (Mr Robertson's) 88  
 Majority 93—

### VII.—CASE OF CULSALMUND.

1. Not to disturb the settlement of Mr Middle-  
 ton, (Dr Cook's)  
 2. In respect Presbytery refused to receive special  
 objections, rescind the settlement, (Professor  
 Alexander's)  
 3. Reduce the settlement and remit to Presby-  
 tery to receive the special objections.  
 The vote was taken on the second and third mo-  
 tions:  
 For *second* motion - - - 214  
 For *third* motion - - - 8  
 Majority 206—  
 And then the *second* motion against the *first* pass-  
 ed without a vote.

### VIII.—PETITION FROM RHYNE.

1. To sanction erection, (Mr Dunlop's) 152  
 2. To refer Petition to Commission in August,  
 (Mr Paul's) 60  
 Majority 92—

## I. SYNOD OF SUTHERLAND AND CAITHNESS.

Mr Duncan Maegillivray, at Lairg . . . . . 1 1 1 1 1 0 2 1  
 Mr Peter Davidson, at Stoer . . . . . 0 0 1 1 1 1 2 1  
 Patrick Tennent, Esq., W.S., Edinburgh . . . . . 1 1 1 1 0 0 2 0  
 Mr Hugh Mackay Mackenzie, at Tongue . . . . . 1 1 1 1 1 1 2 1  
 Mr William Findlater, at Durness . . . . . 0 0 1 1 1 1 2 1  
 James Bridges, Esq., W.S., in Edinburgh . . . . . 1 1 1 1 1 1 2 1  
 Mr William M'Kenzie, at Orlrick . . . . . 1 1 1 1 1 1 2 1  
 Mr Charles Thomson, at Wick . . . . . 1 1 1 1 1 1 2 1  
 Mr Thomas Gun, at Keiss . . . . . 1 1 1 1 1 1 2 1  
 Robert Johnston, jun., Esq., W.S., Edinburgh . . . . . 1 1 1 1 1 1 2 1

## II. SYNOD OF ORKNEY.

Mr Peter Petric, at Kirkwall . . . . . 1 1 1 1 1 1 2 1  
 Mr Adam Rettie, at Eric and Rendall . . . . . 1 1 1 1 1 1 2 1  
 James Howden, Esq., jeweller at Edinburgh . . . . . 1 0 1 1 1 1 2 1  
 Mr Thomas Blyth, at Birsay and Harray . . . . . 1 1 1 1 0 0 2 0  
 Mr Peter Learmonth, at Stromness . . . . . 1 0 1 1 0 1 2 0  
 Robert Omond, Esq., physician in Edinburgh . . . . . 1 0 1 1 0 0 2 1  
 Mr George Ritchie, at Rousay and Egilshay . . . . . 0 0 1 1 0 0 0 1  
 Mr James Brothie, at Westray and Papa Westray . . . . . 0 0 1 1 0 0 0 0  
 Charles Cowan, Esq. of Valleyfield . . . . . 1 1 1 1 1 0 2 1

## III. SYNOD OF SHETLAND.

Mr John Bryden, at Sandsting . . . . . 0 2 2 0 2 2 0 0  
 Mr Alexander Stark, at Sandwick . . . . . 0 1 1 1 1 1 0 1  
 Charles Hay, Esq., younger of Laxfirth . . . . . 0 0 0 0 0 0 0 0  
 Mr John M'Gowan, at Nesting . . . . . 0 0 0 0 0 0 0 0  
 Mr William Stevenson, at Northmavine . . . . . 0 0 2 0 0 0 0 0  
 Isaac Bayley, Esq., S.S.C. . . . . 0 0 2 2 0 2 0 0

	I.	II.	III.	IV.	V.	VI.	VII.	VIII.
Mr Duncan Maegillivray, at Lairg	1	1	1	1	1	0	2	1
Mr Peter Davidson, at Stoer	0	0	1	1	1	1	2	1
Patrick Tennent, Esq., W.S., Edinburgh	1	1	1	1	0	0	2	0
Mr Hugh Mackay Mackenzie, at Tongue	1	1	1	1	1	1	2	1
Mr William Findlater, at Durness	0	0	1	1	1	1	2	1
James Bridges, Esq., W.S., in Edinburgh	1	1	1	1	1	1	2	1
Mr William M'Kenzie, at Orlrick	1	1	1	1	1	1	2	1
Mr Charles Thomson, at Wick	1	1	1	1	1	1	2	1
Mr Thomas Gun, at Keiss	1	1	1	1	1	1	2	1
Robert Johnston, jun., Esq., W.S., Edinburgh	1	1	1	1	1	1	2	1
<b>II. SYNOD OF ORKNEY.</b>								
Mr Peter Petric, at Kirkwall	1	1	1	1	1	1	2	1
Mr Adam Rettie, at Eric and Rendall	1	1	1	1	1	1	2	1
James Howden, Esq., jeweller at Edinburgh	1	0	1	1	1	1	2	1
Mr Thomas Blyth, at Birsay and Harray	1	1	1	1	0	0	2	0
Mr Peter Learmonth, at Stromness	1	0	1	1	0	1	2	0
Robert Omond, Esq., physician in Edinburgh	1	0	1	1	0	0	2	1
Mr George Ritchie, at Rousay and Egilshay	0	0	1	1	0	0	0	1
Mr James Brothie, at Westray and Papa Westray	0	0	1	1	0	0	0	0
Charles Cowan, Esq. of Valleyfield	1	1	1	1	1	0	2	1
<b>III. SYNOD OF SHETLAND.</b>								
Mr John Bryden, at Sandsting	0	2	2	0	2	2	0	0
Mr Alexander Stark, at Sandwick	0	1	1	1	1	1	0	1
Charles Hay, Esq., younger of Laxfirth	0	0	0	0	0	0	0	0
Mr John M'Gowan, at Nesting	0	0	0	0	0	0	0	0
Mr William Stevenson, at Northmavine	0	0	2	0	0	0	0	0
Isaac Bayley, Esq., S.S.C.	0	0	2	2	0	2	0	0



	I.	II.	III.	IV.	V.	VI.	VII.	VIII.
Mr George Tough, at Ayton . . . . .	1	0	1	0	0	0	0	0
Mr John Turnbull, at Eyemouth . . . . .	1	1	1	1	1	1	2	1
Mr Thomas Smith Goldie, at Coldstream David Milnc, Esq., advocate, yr. of Milnegraden	2	0	2	2	2	2	0	2
Mr James Hope, at Roxburgh . . . . .	1	0	2	2	1	0	0	2
Mr John Gifford, at Nenthorn . . . . .	2	0	2	0	2	0	0	0
Frederick Lewis Roy, Esq. . . . .	1	1	1	1	0	1	2	0
Mr John Richmond, at Southdean . . . . .	0	2	2	2	2	2	0	0
Mr David Aitken, at Minto . . . . .	2	0	2	2	2	2	0	2
Mr John A. Wallace, at Hawick . . . . .	1	0	1	1	1	1	2	0
John Paton, Esq. of Crailing. . . . .	2	2	2	2	2	2	0	0
William Oliver Rutherford of Edgerston . . . . .	2	0	2	2	0	2	0	2
Mr Walter Wood, at Westruther . . . . .	1	1	1	0	0	1	2	1
Mr David Waddell, at Stow . . . . .	1	0	1	1	0	1	2	0
David Dickson, Esq., of Hartree . . . . .	1	1	2	1	0	1	0	1
Maeduff Rhind, Esq., advocate . . . . .	2	0	2	2	0	2	0	2
Mr John Campbell, at Selkirk . . . . .	2	2	2	2	2	2	0	2
Mr George Ritchie, at St Boswell's . . . . .	2	2	2	2	2	2	0	2
Robert Boston, Esq. . . . .	2	2	2	2	2	2	0	0
George William Hay, Esq., of Whiterigg . . . . .	0	0	1	1	0	1	2	0

## VI.—SYNOD OF DUMFRIES.

Mr Hugh M'Bryde Broun, at Brydekirk . . . . .	1	0	1	1	0	1	0	0
Mr William Nivison, at Kirtle . . . . .	0	2	2	0	2	0	0	0
Sir Patrick Maxwell, Bart., of Springkell . . . . .	0	0	0	0	0	0	0	0
Mr Angus Barton, at Castleton . . . . .	2	2	2	2	0	2	0	0
Mr Adam Cunningham, at Eskdalemuir . . . . .	2	2	2	2	2	2	0	0
Alexander Harley Maxwell, Esq. . . . .	2	2	2	2	0	2	0	0
Dr Robert Colvin, at Johnstone . . . . .	1	1	2	1	1	1	2	1
Mr Thomas Hunter Thomson, at Dalton . . . . .	2	2	2	2	2	2	0	2
Mr William Little, at Kirkpatrick Juxto . . . . .	0	0	2	0	0	2	0	0
John James Hope Johnston, Esq. of Annandale, M.P. David Johnstone, Esq. of Rigglicads, writer, Dumfries	0	0	0	0	0	0	0	0
Mr George Smith, at Penpont . . . . .	2	2	2	2	2	2	0	2
Mr Robert Wilson, at Tynron . . . . .	2	2	2	2	0	0	0	2
Andrew Lorimer, Esq. . . . .	2	2	2	2	2	2	0	0
Mr George Greig, at Tinwald . . . . .	2	2	2	2	2	2	0	2
Mr George John Duncan, at Kirkpatrick Durham . . . . .	1	0	1	1	1	0	0	0
Mr Robert Crawford, at Irongray . . . . .	1	1	1	1	1	1	2	1
Mr Robert Gillics, A.M., at Carlaveroek . . . . .	0	0	0	0	0	0	0	0
Mr James Brown, Holywood . . . . .	0	0	1	1	1	1	2	0
Mr James Swan, Torthorwald . . . . .	1	1	1	1	1	1	2	0
Archibald Hamilton, Esq., writer in Dumfries, a member of Council . . . . .	0	0	2	2	2	2	0	0

## VII.—SYNOD OF GALLOWAY.

Mr Samuel Smith, at Borgue . . . . .	1	1	2	1	1	0	2	1
Mr John M'Millan, at Kirkcudbright . . . . .	1	1	2	1	1	0	2	1
Dr John Whitson, at Crossmichael . . . . .	1	1	2	1	1	0	2	0
Mr William Poole . . . . .	0	0	1	1	1	0	2	0
Andrew Storie, Esq., W.S., residing in Edinburgh . . . . .	0	0	2	0	0	0	0	0
James Morgan, Esq., S.S.C., Edinburgh . . . . .	2	2	2	2	0	2	0	0
Mr Peter Young, at Wigtown . . . . .	2	2	2	2	2	0	0	0
Mr Alexander Forrester, at Sorbie . . . . .	1	1	1	1	0	1	2	1

	I.	II.	III.	IV.	V.	VI.	VII.	VIII.
George James Laurie, D.D.	0	1	2	0	2	0	0	0
Stair Hawthorn Stewart, Esq.	0	0	2	2	0	0	0	0
William Wingate, Esq., Glasgow	1	0	1	1	1	1	2	1
Mr Thomas B. Bell, assistant and successor, at Leswalt	1	1	1	1	1	1	2	1
Mr Robert Donald, at Sheuchan Church	1	1	1	1	0	1	0	1
Mr William Tod, schoolmaster at Kirkmaiden	1	1	1	1	1	1	2	1
Mr William Black, merchant, residing in Stranraer	1	1	1	1	1	1	2	0

## VIII.—SYNOD OF GLASGOW AND AYR.

Mr Ebenezer B. Wallace, at Barr	1	1	1	1	0	1	2	0
Mr Robert Paton, at Straiton	1	1	2	1	0	1	2	0
Mr Thomas Burns, at Monkton	1	1	1	1	0	1	2	1
Mr James Symington, at Muirkirk	1	1	2	1	0	1	2	0
Mr Robert Houston, at Dalmellington	1	0	1	1	0	1	0	0
Mr James Fairlie, at Mauchline	1	1	2	1	0	1	2	0
Claud Alexander, Esq. of Ballochmyle	1	1	2	1	1	1	2	1
George M'Micken Torrance, Esq., George Square, Edinburgh	0	0	1	1	1	0	0	0
John Barclay, Esq., manager of Catrine Cotton Works	1	1	2	1	1	1	2	1
Adam Hunter, Esq., merchant in Ayr	1	0	1	1	0	0	0	0
Mr Matthew Dickie, at Dunlop	1	1	1	1	0	1	2	1
Mr George Colville, at Beith	2	0	2	2	0	2	0	0
Mr Robert Ferguson, at Fenwick	1	1	1	1	0	1	2	1
Mr John Hamilton, Gaelic Church, Saltecoats	1	0	1	1	0	1	2	1
William Howieson Crawford, Esq. of Crawfordland	1	1	1	1	0	1	2	1
Patrick Boyle Mure Maerddie, Esq. of Pierceton	1	1	1	1	0	1	2	1
John Allan Rankine, Esq., writer in Irvine	1	1	1	1	0	1	2	1
Mr Robert Stevenson, at Middle Parish, Paisley	1	0	2	1	0	0	2	0
Mr James Graham, at North Parish, Paisley	1	1	1	1	0	1	2	1
Mr Alexander Salmon, at Barrhead	1	1	1	1	0	1	2	1
Mr James Falconer, at Martyrs' Parish, Paisley	0	0	0	0	0	0	0	0
Mr John Monro	0	0	1	1	1	1	2	1
Mr William Muir	1	1	1	1	0	1	2	1
Matthew Muir, grain merchant in Paisley	1	1	1	1	0	0	2	1
Mr James Smith, at Greenock	1	1	1	1	0	1	0	0
Mr James Drummond, at Cumbray	1	1	1	1	0	1	2	1
Mr John Dow, at Largs	1	1	1	1	0	1	2	1
Mr John Gray, merchant in Greenock	1	0	1	1	1	1	2	1
Mr William Buchan, at Hamilton	0	0	1	1	0	1	2	0
Mr Hugh Dewar, at Stonehouse	1	1	1	1	0	1	2	0
Dr James Begg, New Monkland	1	0	1	1	0	1	2	1
Mr William Jackson, at West Airdrie	1	1	1	1	0	1	2	0
Mr David Paton, at Chapelton	1	1	1	1	0	1	2	1
William Clark, M.D., of Moffat	1	0	1	1	0	0	2	1
William Collins, Esq., Glasgow	1	1	1	1	1	1	2	1
Mr Andrew Borland Parker, at Lesmahagow	1	1	1	1	0	1	2	0
Mr David Burness, at Wiston and Robertson	1	1	0	1	0	1	2	1
Mr Thomas Stark, at St Leonard's, Lanark	2	2	1	1	0	0	2	0
Thomas Rennie Scott, Esq., Castlemains	2	2	2	2	2	2	0	2
Allan Elliot Lockhart of Cleghorn, Esq.	2	0	2	0	0	0	0	0
Dr John Muir, at Glasgow	1	1	2	1	0	0	2	0
Dr Michael Willis, at Glasgow	1	1	1	0	0	0	0	1
Dr Matthew Leishman, at Govan	1	0	2	1	0	0	0	0
Dr Robert Buchanan, at Glasgow	1	1	1	1	0	1	2	1
Mr John Cochran, at East Cumbernauld	1	1	1	1	0	1	2	0



	I.	II.	III.	IV.	V.	VI.	VII.	VIII.
Mr Peter M' Morland, at Glasgow	0	0	1	1	0	0	2	0
Mr John Park, at Cadder	0	2	2	0	0	2	3	0
Mr David Menzies, at Glasgow	1	1	1	1	0	1	2	1
Mr John Reid, at Glasgow	1	1	0	1	0	1	2	0
Mr John Lyon, at Banton	1	1	1	1	0	1	2	0
James Buchanan, Esq., merchant in Glasgow	1	1	1	1	0	1	2	1
John Geddes, Esq., merchant in Glasgow	1	1	1	1	1	1	2	1
Henry Dunlop, Esq., merchant in Glasgow	1	1	1	0	0	0	2	0
John Gordon, Esq., merchant in Glasgow	1	1	1	1	0	1	2	0
John Bain, Esq., merchant in Glasgow	1	0	1	0	1	1	2	0
Andrew Ranken, Esq., merchant in Glasgow	2	2	2	2	2	0	0	2
Rev. Alexander Hill, D.D., Prof. of Theol. in said Col.	2	2	2	2	0	2	0	2
Alexander Drew of Shlawfield, Esq.	0	0	2	2	0	0	0	0
Mr Matthew Barclay, at Old Kilpatrick	1	1	1	1	0	1	2	0
Mr William B. S. Paterson, at Kilmarnock	2	2	2	2	0	2	0	2
Mr William Dunn, at Cardross	1	0	0	1	0	0	2	1
Mr John Pollock, at Baldernock	0	1	1	1	0	1	2	0
William Brown, Esq., of Kilmardinny	0	1	2	1	0	1	2	0
John Wright, jun., Esq., merchant in Glasgow	0	0	1	1	0	0	2	0
Robert Duncanson M'Kenzie, Esq., of Caldarven	0	0	2	0	0	0	0	0

## IX. SYNOD OF ARGYLL.

Mr John Macdougall, at Lochgoilhead and Kilmorich	1	0	2	1	1	1	2	1
Mr Alexander Macbride, at North Bute	1	1	1	1	1	1	2	1
Mr Duncan Campbell	1	1	1	1	1	0	2	0
Charles Mackinlay, Esq., heritor in Rothsay, and residing there	1	1	1	1	1	1	2	1
Mr Duncan M'Nab, at Campbeltown	1	1	1	1	1	1	2	1
Mr Hector M'Neil, at Campbeltown	1	1	1	1	1	1	2	1
John Grant, Esq., merchant in Campbeltown	0	1	1	1	1	1	2	0
Nathaniel Harvey, Esq., bank agent in Campbeltown	0	0	2	2	0	0	0	0
Mr Alexander Cameron, at Kilchoman	0	0	1	1	1	1	2	0
Mr Colin Hunter, at Portnahaven	1	1	1	1	1	1	2	0
James Crawford, jun., Esq., W.S., Edinburgh	1	0	1	1	1	1	2	1
Mr Duncan Campbell, at Inverary	0	0	2	0	0	0	2	0
Mr Dugald Campbell, at Glassary	2	0	2	2	0	2	0	0
James Hunter, Esq., residing at Lochgilphead	2	2	2	2	0	2	0	0
James Blackadder, Esq., upholsterer in Edinburgh	1	1	1	1	1	1	2	1
Mr Donald M'Naughton, at Duror	2	2	2	0	0	0	3	0
Mr Duncan M'Lean, at Glenorchy	1	1	1	1	1	1	2	1
John George Wood, Esq., W.S., Edinburgh	1	1	1	1	1	1	2	1
Mr Neil M'Lean, at Tyrie	0	0	2	2	0	0	0	2
Mr Neil M'Lean, at Ulva	0	2	2	2	2	2	0	0
Mr Donald Stewart, at Tobermory	0	2	2	2	0	2	0	0
Dr George Gray, Professor of Oriental Languages, University of Glasgow	2	2	2	2	2	2	0	0

## X. SYNOD OF PERTH AND STIRLING.

Mr John Waddell, at Burrelton	1	1	1	1	0	1	2	1
Mr Andrew Kessen, at Lethendy	0	1	1	0	1	1	2	1
Mr John M'Kenzie, at Dunkeld	1	0	1	1	0	0	0	0
John Murray, Esq., 24, Ainslie Place, Edinburgh	1	1	1	1	1	0	2	1
Mr Alexander Campbell, at Weem	2	2	2	2	0	0	0	0
Mr Alexander Robertson Irvine, at Foss	2	2	2	2	2	2	0	0





	I.	II.	III.	IV.	V.	VI.	VII.	VIII.
Captain Thomas Shepherd, residing at Straloch	1	1	1	1	1	1	2	0
Dr William Henderson, physician, Aberdeen	1	1	1	1	1	1	2	1
David Chalmers, Esq. of Westburn, one of the members of the Council of Aberdeen	2	2	2	2	0	2	0	0
Dr Robert James Brown, Professor of Greek in Marischal College	1	1	1	1	1	1	0	1
Mr Robert Milne Miller, at Aboyne	0	0	2	2	2	2	0	2
Mr William Ingram, at Etcht	0	0	2	0	0	0	0	0
Mr James Watson, assistant and successor at Tarland	0	2	2	2	2	2	0	0
James Hope, jun., Esq., W.S., Edinburgh	2	2	2	2	0	0	0	0
Mr James Paull, at Tullynessle and Forbes	2	2	2	2	0	2	0	2
Mr Robert Meiklejohn, at Strathdon	0	0	2	2	0	0	0	2
Mr Alexander Low, at Keig	2	2	2	2	0	2	0	2
Dr George Cook, Professor of Moral Philosophy in the University of St Andrews	2	2	2	2	2	2	0	2
Mr James Robertson, at Ellon	2	2	2	2	2	2	0	2
Mr Francis Knox at Tarves	2	0	2	2	2	2	0	0
Mr Hercules Scott, Professor of Moral Philosophy in the King's College and University, Aberdeen	0	2	2	2	2	0	0	2
Mr James Bisset, at Bourtrie	2	2	2	2	2	2	0	0
Mr Thomas Burnett, at Daviot	2	2	2	2	2	2	0	2
Mr John Wilson, at Premnay	2	2	2	2	2	2	0	0
Captain James Elphinstone Dalrymple, at Westhall	0	0	2	2	2	0	0	2
William Macdonald, Esq. of Ormiston	0	0	2	2	2	2	0	2
Mr James Welsh, at New Deer	2	2	2	2	2	2	0	0
Mr John Morrison, at Old Deer	2	2	2	2	2	2	0	2
Mr James Yuill, at East Parish Church of Peterhead	1	1	0	1	1	1	0	1
Mr John Anderson, Mormond village, Strichen	2	2	2	2	2	2	0	2
Mr George Ramsay Davidson, at Drumblade	1	1	1	1	1	1	0	1
Mr Joseph Thorburn, at Forgleu	1	1	1	1	1	1	0	0
Neil Smith, jun., Esq., merchant in Aberdeen	1	1	1	1	1	0	2	1
Mr Johu Innes, at Fordyce	0	0	0	1	1	0	0	1
Mr Robert Shanks, at Buckie	1	1	1	1	1	1	0	1
Dr Jas. Russell, elder, St Luke's Church, Edinburgh	1	1	1	1	1	0	2	1
John Fraser, Esq., Provost of the burgh of Cullen	0	0	2	2	0	2	0	2
Rev. James Bryce, D.D., late of Calcutta, now residing in Manor Place, Edinburgh	2	2	2	2	2	0	0	2

## XIV.—SYNOD OF MORAY.

Mr David Dewar, at Bellie	0	0	1	1	1	1	2	0
Mr Harry Leith, at Rothiemay	0	0	0	0	0	0	0	0
Major Ludovick Stewart, residing at Pittyvaich	0	0	1	1	1	1	0	1
Mr Lewis William Forbes, at Boharm	2	2	2	2	2	0	3	2
Mr William Asher, at Inveraven	0	0	0	0	0	0	0	0
James M <sup>c</sup> Innes, Esq., S.S.C., Edinburgh	2	0	2	2	2	2	0	2
Mr William Grant, at Duthill	2	2	2	2	0	2	0	2
Mr James Grant, at Cromdale	0	0	0	0	0	0	0	0
The Right Hon. Francis William Earl of Scafield	0	0	0	0	0	0	0	0
Mr Alexander Brander, at Duffus	2	2	2	2	2	2	0	0
Mr Francis Wylie, at Elgin	2	0	2	2	2	2	0	2
Adam Longmore, Esq., residing in Edinburgh	2	0	2	2	0	0	0	0
Archibald Bonar, Esq., banker in Edinburgh	1	0	1	1	1	1	2	1
Mr Mark Aitken, at Dyke	0	0	1	1	1	1	2	0
Mr Peter Ferries, at Edinkillie	0	0	0	1	1	1	2	0
Henry Tod, Esq., W.S., Edinburgh	1	0	1	1	1	0	2	1



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