

CHAPTER VIII.—REMOVAL OF MASTERS FROM OFFICE.

§ 1. NONCONFORMITY.—§ 2. POLITICAL DISAFFECTION.—§ 3. INEFFICIENCY.—§ 4. SEVERE DISCIPLINE.—§ 5. OTHER CAUSES OF REMOVAL.—§ 6. REMOVAL IN TERMS OF THE EDUCATION ACT.

THE power of removal has an important bearing upon the question of tenure of office, and the following cases have been culled from the records as specimens of the causes and circumstances under which teachers have been deposed.

§ 1. A frequent cause of removal was 'nonconformity,' the position of *conformity* varying according as episcopacy or presbyterianism was the established form of church government for the time. At the Reformation all schoolmasters were required to sign, under pain of dismissal, the Confession of Faith: a notable, and perhaps the earliest, instance on record of refusal is that of Ninian Winzet, the schoolmaster of Linlithgow, with whom, in May 1561, Mr John Spotswood, superintendent of Lothian, and Mr Patrick Kenloquhy, minister of Linlithgow, held 'diverse conferences to make him confess his errors;' he, however, continued 'obstinate,' and was deprived of his situation.¹ In the Assembly of the kirk, held at Edinburgh on Christmas 1562, Mr Robert Cumyng, schoolmaster of Arbroath, was deposed for 'infecting the youth with idolatry;'² seven years later, Mr Ninian Dalzell, master of the grammar school of Dumfries, was accused by the Assembly of 'privily professing Papistry, and corrupt-

¹ Certane Tractatis, p. xii.

² Booke of the Universall Kirke, 25. In 1563 the kirk ordained that teachers who do not profess 'Christ's true religion' shall be removed from their office: Ibid., 33. The municipal authorities sometimes hunted heresy with hardly less zeal than even the kirk. Thus, in 1562, the council of Edinburgh strove hard to depose the master of the high school as an 'obstinate Papist.' Burgh Records of Edinburgh.

ing the youth with erroneous doctrine in sundry points;'¹ the Assembly, having found him guilty of apostasy from the 'true religion of Jesus Christ, and of corrupting the youth of his school with Papistry,' suspend him until they have as much experience of his good life and behaviour as of his defection and apostasy; further, he is ordained to confess publicly his offence, by going to Dumfries and other places where he has abused the simple people, confessing and revoking his errors, and craving pardon of God and the kirk, under pain of excommunication;² in the meantime, one of the school doctors, if sound in religion, is ordered to teach the school. It was not an age of toleration; there was no 'conscience clause;' scholars as well as masters were punished for nonconformity: in 1587 the General Assembly ordain that no scholar who refuses to subscribe the religion presently established and professed by the mercy of God, and to participate in the sacraments, shall be admitted by masters into schools.³ Nor was there any respect of persons: all, high and low, must conform—be educated in the true religion: in 1601 the Assembly 'earnestly dealt' with his majesty for the purpose of getting his daughter removed from the company of Lady Livingstone, an obstinate Papist; the king promises to 'transport her to his own house.'⁴

Masters of schools who did not subscribe the Confession of Faith and the Covenant, in 1640, were deprived of their office,⁵ and parents contumaciously refusing to conform to the church government then established were bereft of the management of their children, provision being at the same time made for educating them according to the prevalent opinions: in 1645, the Marchioness of Douglas, being accused of 'malignancy,' is peremptorily ordered by the presbytery of Lanark to 'sequester' her children; and a committee is appointed to take steps for educating them;⁶ in 1648 the Marquis of Douglas is commanded not to 'reduce' his son

¹ Booke of the Universall Kirke, 25. ² Ibid. ³ Ibid., 693.

⁴ Ibid., pp. 964, 968.

⁵ Acts of Parliament, v., 272.

⁶ Annals of Parish of Lesmahagow, p. 153.

from Glasgow without the consent of the presbytery, and to 'purchase' a pedagogue who shall be approved by them.¹ Scotland enjoyed more toleration during the government of the Commonwealth than at any other period before the Revolution. During Cromwell's vigorous rule in our country, all denominations were protected in the exercise of their religion except the Roman Catholics: in 1655 and 1658 it was enacted that no Papists might keep a school in Scotland.²

The Restoration was soon followed by the conscience-degrading Declaration, by which teachers were required to sign a bond declaring it unlawful for a subject to enter into leagues and covenants, or to erect 'council tables.'³ This oath, which was intended, according to the zealous presbyter Mr Robert Wodrow, to 'put the gravestone upon the covenant,'⁴ pressed with great severity against schoolmasters, many of whom were removed from office for refusing to submit to 'black prelacy.' A few cases of demission or removal, in consequence of nonconformity to the episcopal church government which was now established may be mentioned: in 1664 the council of Forfar are requested to depose Mr John Ford, schoolmaster of the burgh, in respect that he 'spoke certain words against the present government in the church, and has not his testimony from the archbishop of St Andrews, in conformity with the Act dated 29th October 1662,' requiring the brethren to take notice that expectants and schoolmasters shall not officiate without the licence of my lord archbishop; the council declare that they cannot 'goodly discharge' Mr Ford until the cause alleged against him be proven;⁵ in the end, however, the clerical authorities were too strong for the poor schoolmaster, who, on 1st November, had to deliver the 'kye of the school dore' to the provost.⁶ Another sufferer for con-

¹ Annals of Parish of Lesmahagow, 156. Cf. also *supra*, pp. 83, 84, 85.

² Acts of Parliament, vi., part ii., 827, 877.

³ *Ibid.*, 1662, c. 54, vii., 405; 1663, c. 17, vii., 462. These two Acts were rescinded at the Revolution by Act 1690, c. 57, ix., 198.

⁴ History of the Kirk, i., 267 (2d ed.).

⁵ Burgh Records of Forfar.

⁶ *Ibid.*

science' sake in these bad times was Mr David Skeoch, who in 1674 had been removed from the office of master of the grammar school of Linlithgow 'on account of his refusing to abstain from attending conventicles;' two years later, having received an offer of the mastership of the grammar school of Paisley, he signifies (24th August 1676) his willingness to accept it—'if he may have security of trouble from superior persons;' the council agreed that 'two baillies sall speak to the Earl of Dundonald and Lord Ross for procuring his security of trouble from the bishop;' some trouble was experienced on his settlement, however, as he did not enter on his office till 5th December following.¹ In 1675 the synod of Aberdeen order the presbyteries to summon all schoolmasters within their bounds to take the promise of canonical obedience, under pain of removal.² In June 1676, Mr James Anderson is suspended *ab officio et beneficio* as doctor of the grammar school at Ayr, because of his refusal to sing the doxology;³ in the same town, in 1680, the masters of the grammar school and Scots school were obliged to demit their office for not conforming to the church government.⁴ On 2d January 1679, the privy council write letters to the archbishop of St Andrews, and to the bishops of Aberdeen and Edinburgh, requesting them to cite all schoolmasters in their dioceses, and inquire if they had taken the oaths appointed—compelling such as had not complied to obey, under pain of deprivation;⁵ in obedience to this request, the town council of Edinburgh, at the instance of the bishop, on 21st February 1679, cited Mr Alexander Heriot, master of the grammar school, Mr James Scott, younger, doctor of the school, Mr George Sinclair, master, and Mr George Allan,

¹ Burgh Records of Paisley. He demitted at Whitsunday 1678.

² Synod Records of Aberdeen. 'I, A. B., promise that I will render to my ordinary, by the mercy of God, Lord Bishop of Aberdeen, and his successors, canonical obedience, and to them to whom the government is committed over me, following with a glad mind and will their godly admonition.'

³ Burgh Records of Ayr.

⁴ Ibid.

⁵ Wodrow's History, iii., 3.

doctor, of the grammar school of Leith, and Mr Alexander Strang, master of the grammar school of the Canongate, who, compearing in the council chambers, were informed by the provost that, if they did not obey the government of the church by bishops between this date and 1st March next, they would be deposed. The master and doctor of the high school refused to conform, and accordingly were deposed; but Mr George Sinclair, we learn, satisfied the bishop of Edinburgh, and retained his office.¹

Parliament, in 1681, passed an Act requiring all persons in offices of public trust to take an oath—the infamous oath called 'Test,'² which led to severe fining, cruel treatment, and bloody executions of many who refused to take it. This Act was passed, like the Declaration, in order not only to 'overturn the solemn covenants,'³ but, what was worse, to extinguish personal liberty. We quote one case which explains the tenor of the Test, and shows the formality and even solemnity with which the poor schoolmaster of Ayr swallowed it in 1683. Having at first refused, like so many of his brethren, to take it, he was deposed, but was afterwards prevailed upon to recant and subscribe the Test on 21st December 1683, when he was reponed in his office. 'I, Mr William Rankin, master of the grammar school in Ayr, subscribing upon my knees, solemnly swear in presence of the eternal God, that I sincerely profess the true Protestant religion contained in the Confession of Faith, and believe the same to be founded on the written Word of God; I swear that I will adhere thereto during all the days of my life, and shall endeavour to educate my children therein, and never consent to any change contrary thereto; I disown all principles or practices, popish or fanatical, contrary unto the said Protestant religion and Confession of Faith; and for testification of my obedience to my most gracious sovereign, Charles II., I do affirm and swear, by this my solemn oath, that the king's

¹ Burgh Records of Edinburgh.

² Acts of Parliament, 1681, c. 6, viii., 243.

³ Wodrow's History, iii., 297.

majesty is the only supreme governor of this realm, over all persons and in all causes, as well ecclesiastical as civil; and that no foreign prince or pope hath any jurisdiction, ecclesiastical or civil, within this realm; therefore I do utterly renounce and forsake all foreign jurisdictions, and promise that, from henceforth, I shall bear faith and true allegiance to the king's majesty, his heirs and lawful successors, and defend all rights and prerogatives belonging to the king's majesty, his heirs and lawful successors. I further affirm and swear, by this my solemn oath, that I judge it unlawful for subjects, upon pretence of reformation, or any other pretence whatsoever, to enter into covenants or leagues, or to convene in any civil assemblies for consulting in any matter civil or ecclesiastic without his majesty's special express licence, or to take up arms against the king or his commissioners; and that there lies no obligation on me from the national covenant, or the solemn league and covenant, or any other manner of way whatsoever, to endeavour any change in the government, either in church or state, as it is now established by the laws of this kingdom; and I promise and swear that I shall, with my utmost power, maintain his majesty's jurisdiction foresaid against all deadly; and I shall never decline his majesty's power and jurisdictions, as I shall answer to God. And finally, I swear that this my solemn oath is given in the plain genuine sense and meaning of the words, without any equivocation or mental reservation, or any manner of evasion whatsoever; and that I shall not accept or use any dispensation from any creature whatsoever: so help me God.—W. Rankin.¹ Many teachers refused to take the oath; thus, in 1682, a doctor of the grammar school of Perth, being 'not at freedom to take the Test,' demits his office.²

The change of government at the Revolution led to a change of tests, but not to their abolition; oaths now against Roman

¹ Burgh Records of Ayr.

² Burgh Records of Perth. His brother at St Andrews has no scruples; in 1684 the master of the grammar school takes the 'oath called the Test:.' Burgh Records of St Andrews.

Catholicism, and in defence of presbyterianism, instead of episcopacy, were imposed, and led in their turn to depositions. In 1689 a proclamation was made excluding Papists from all offices, civil or military;¹ and in 1700 it was declared that no Papists were capable of acting as schoolmasters.² In 1690 it was statute that no schoolmaster shall be admitted to that office, or allowed to continue therein, without subscribing the Confession of Faith;³ the Act was ratified at the Union, with the addition that the schoolmasters must conform themselves to the worship presently in use in the church, and never endeavour directly or indirectly to prejudice the same.⁴ Space permits us only to refer to two or three cases of removal under this head: On 1st May 1716, the master of the grammar school of Dundee was deposed for 'committing practices contrary to the Confession of Faith,' teaching his scholars a catechism not approved by the church, deserting the communion and joining a schismatical meeting, in which he officiated as an elder.⁵ On 14th August 1717, the master of

¹ Acts of Parliament, 1689, c. 7, ix., 16.

² *Ibid.*, x., 218.

³ Acts of Parliament, 1690, c. 25, ix., 163.

⁴ *Ibid.*, 1706, c. 6, xi., 402. See also *supra*, p. 82, § 4.

⁵ Burgh Records of Dundee. The following case may be read in contrast: the council of Dunfermline was in advance of the age when they appointed a schoolmaster in spite of the kirk session, who opposed the nomination because he did not attend *their* church. On 12th October 1767, the council and kirk session having met for appointing a doctor of the grammar school, the council stated that they were unanimously of opinion that they have only to consider the moral character and qualifications of the candidates, and accordingly proposed Mr Andrew Donaldson as a proper person for the office. The kirk session, who had inquired of Mr Donaldson whether he would attend public worship in the Established Church, and having not yet obtained his answer, moved that the appointment be delayed until he promises to that effect. The vote was put, 'proceed or delay,' and the whole council voted 'proceed;' and the kirk session dissented and left the meeting; whereupon the council being fully satisfied of Mr Donaldson's moral character, and of his qualifications in point of literature, unanimously elected him as usher of the grammar school: Burgh Records of Dunfermline. Mr Donaldson attended the church of Mr Ralph Erskine, and, according to his gravestone, was an accomplished scholar and of good character.

the grammar school of Banff was deposed for refusing to subscribe the Confession of Faith and Formula.¹ The ecclesiastical and municipal authorities continued till the latter part of the eighteenth century to guard with more or less jealousy against admitting a burgh schoolmaster into office until he proved himself 'sound in the faith:' in 1719 the council of Fortrose resolve to admit no schoolmaster who is not well inclined towards the present establishment in church;² in 1738 the rector of the grammar school of Dundee 'qualified' by signing the 'Form';³ in 1802 the presbytery of the Chanonry of Ross report that the masters of the Fortrose academy qualified by subscribing the Formula in their presence.⁴

The law requiring burgh, as well as parochial, teachers to subscribe the Confession of Faith and Formula, appears to have fallen almost into desuetude in the case of the former class of teachers towards the end of last century. From the year 1800 to 1860 the number of instances in which they actually subscribed are comparatively few—being five times at the burgh school of Anstruther Easter, twice at the grammar school of Brechin, six at the grammar school of Jedburgh, and four at the Peebles grammar and English schools. Whether they subscribed at Burntisland grammar school, Dundee high school, Kirkcaldy burgh school, Lanark grammar school, and Port-Glasgow burgh school, has not been ascertained; but there is no evidence in the records during that long period—from 1800 to 1860—that the teachers in any other burgh school than those already mentioned subscribed the Formula, or were enjoined to be members of the Established Church in conformity with the Acts of Parliament. How completely the practice of burgh teachers being required to be members of the Established Church fell into disuse will appear from the fact that in 1861, of the one hundred and thirteen teachers in schools subject to the administration of the magistrates and councils—that is, schools not falling

¹ Burgh Records of Banff.

² Burgh Records of Fortrose.

³ Burgh Records of Dundee.

⁴ Presbytery Records of Chanonry.

under Act 43, Geo. III., c. 54—only fifty were members of the Church of Scotland,¹ the rest being dissenters. But every burgh teacher was liable to be called upon to qualify to the church, under pain of dismissal, till 1861, when it was enacted that it should no longer be necessary for them to sign the Confession of Faith or the Formula of the Church, or profess their willingness to submit themselves to the government and discipline thereof.²

§ 2. Schoolmasters were obliged to give satisfaction to the civil as well as to the ecclesiastical government. The government of the Commonwealth ordered that schools in Scotland should be supplied only with schoolmasters well affected to the government settled by law.³ Parliament, in 1690, ordained that every schoolmaster shall take the oath of allegiance to the king and queen;⁴ in 1693 it was enacted that masters and doctors shall swear the oath of allegiance, and subscribe the 'assurance,' which declares that William and Mary are sovereigns, as well *de jure* as *de facto*;⁵ in 1696 they are ordained to subscribe the 'association,' engaging to support William III. against James II., and that if the Protestant champion die a violent death they shall avenge it and maintain the succession.⁶ The Treaty of Union

¹ Parliamentary Accounts and Papers, xlviii., p. 729 (1861). The number of instances from 1800 to 1860 during which burgh teachers were examined and passed by the presbytery of the bounds are not numerous: On three occasions at the Elgin academy the appointments were made from a comparative trial of the candidates by the presbytery; on two other occasions the certificates of the candidates were submitted to that body, and the party preferred examined. Up to 1841 the candidates at the Forres academy were examined before the magistrates by members of the presbytery of Forres and other judges present. In 1849 the examination was by members of the Forres Established, Free, United Presbyterian, and Episcopal churches. In three or four instances the teachers were examined and passed at the grammar school of Kirkwall by the presbytery: *Ibid.*

² 24 and 25 Vict., c. 107, § 22. See also *supra*, p. 93.

³ Acts of Parliament, 1655, vi., ii., 826. ⁴ *Ibid.*, 1690, c. 25, ix., 163.

⁵ *Ibid.*, 1693, c. 14, ix., 262; 1702, c. 1, xi., 15.

⁶ *Ibid.*, 1696, c. 3, x., 33.

declares that no schoolmaster shall be allowed to hold office, but such as owns and acknowledges the civil government.¹ The oath of allegiance long continued to be administered to schoolmasters before they were admitted to office: we read that in 1738, the rector of the grammar school of Dundee qualified to the government in common form, by swearing allegiance to George II.² The church appears to have been no less zealous for the loyalty than for the orthodoxy of our teachers: in the years 1749 and 1800 the Assembly required all teachers of youth to produce to the presbyteries attestations of having taken the oaths to government;³ in 1802 the presbytery of Chanonry report that two masters of the academy of Fortrose have 'qualified to government.'⁴ The master did not always 'qualify,' nor was it always true that

' His loyalty he kept, his love, his zeal ;'

and there is record of some of their number having been deposed for political causes, as well as for nonconformity in religion; but the instances on record hardly assume the gravity of political persecution, although the Campbeltown case does, according to modern notions, touch the verge of it. In 1694, John M'Lachlan, schoolmaster at Glasgow, was appointed by the privy council to be set in the pillory, and sent to the plantations, for 'seducing' soldiers to desert their majesties' service; a further prosecution was recommended on account of 'disloyal and impertinent speeches, uttered by him when he stood in the pillory at Edinburgh.'⁵ On 30th May 1702, Mr John Hill, doctor in the grammar school of Dundee, though often entreated by the town council, refused to take the oath of allegiance, and subscribe the assurance; accordingly he was deprived of his office.⁶ In the case of Mr Patrick Lyon,

¹ Acts of Parliament, 1706, c. 6, xi., 402.

² Burgh Records of Dundee.

³ Acts of Assembly, 1749, c. 4; 1800, c. 11.

⁴ Presbytery Records of Chanonry.

⁵ History of the Rod, p. 183.

⁶ Burgh Records of Dundee. His brethren are more loyal; in the

master of the grammar school of Dundee, one of the reasons for his removal from office was his having joined, at the time of the 'unnatural rebellion,' preachers who prayed expressly for the Pretender, under the title of King 'James the Eighth.'¹ In 1746 Alexander M'Farlan, schoolmaster of Kinghorn, was deposed for 'being concerned in aiding and assisting the rebellion, or, at least, following and endeavouring to rescue rebels from justice.'² In the same year, the schoolmaster of Fortrose was accused of several acts of disloyalty, 'during the late horrid and unnatural rebellion:' such as encouraging the scholars to make a bonfire in honour of the Pretender, and writing on their copies 'Honour to Prince Charlie;' he is therefore declared 'utterly unqualified as teacher of youth;' the magistrates, however, 'think it hard to break up the school at present, but will dismiss him *quam primum*.'³ Towards the end of last century the master of the grammar school of Campbeltown was politically in advance of the times: in 1775, the council being informed that Mr Dobbie, teacher in the grammar school, is propagating principles that may prove prejudicial to the youth and community of this place and, if not checked in time, may be hurtful to the public at large, warn him that if in future he interferes in political or religious matters, he shall be removed from his office. The warning had not the desired effect, and the radical schoolmaster was dismissed on 3d April following.⁴

§ 3. Infirmary is frequently a cause of removal; and, we regret to notice, there are few traces in the records of any provision having been made for the old servant, who had, through no fault of his own, become incapacitated for his laborious work. In 1584 the council of Edinburgh, in

same year, the master and one of the doctors of the grammar school take the oath of allegiance, and subscribe the assurance. Two years later, the master of the grammar school of Montrose also takes the oath, and subscribes the assurance: Burgh Records of Montrose.

¹ Burgh Records of Dundee.

² Burgh Records of Kinghorn.

³ Presbytery Records of Chanonry.

⁴ Burgh Records of Campbeltown.

respect that the master of the high school is no longer able to exercise his office, remove him from his place.¹ On 15th April 1665, the Latin doctor of the grammar school of Stirling was, in respect of 'his infirmitie to attend the school, ordered to provide for himself by Whitsunday next;' this abrupt dismissal seems to have been acquiesced in by the poor teacher, without a word of protest, or appeal for consideration.² The conduct of Edinburgh was more generous towards Mr Hew Wallace, master of the grammar school in 1656, when, on his supplication, they grant to him 1000 merks for his expenses to France, where he is going for the 'cure of the stone, wherewith he is grievously tormented.'³ In May 1675, the master of the grammar school of Ayr was called on to demit his charge, in respect of old age and infirmity.⁴ In 1697 the council of Stirling discharge the master of the grammar school, in respect of his age and other infirmities.⁵ In the same way, on 3d April 1721, the schoolmaster of Pittenweem receives 'his leave,' he being, by 'weakness,' unable to wait upon the school.⁶ The next cases are even more harsh: the doctor of the grammar school of Dunfermline having 'been seized with a palzy,' his office is, on 9th February 1745, declared vacant;⁷ and on 17th March of the year following, the commission of the doctor of the grammar school is recalled, because he is not able to attend the school through loss of judgment;⁸ in the same manner, on 7th May 1782, the master of the grammar school of Banff is dismissed, he having, from bad health, given no regular attendance on the school for many months.⁹

We come now to the most frequent cause of the dismissal of the teacher, namely, incompetency, inefficiency, negligence, or mismanagement, of which there are numerous instances in

¹ Burgh Records of Edinburgh.

² Burgh Records of Stirling.

³ Steven's High School, p. 60.

⁴ Burgh Records of Ayr.

⁵ Burgh Records of Stirling.

⁶ Burgh Records of Pittenweem.

⁷ Burgh Records of Dunfermline. No provision was made for the doctor, though he had served the town for thirty-four years.

⁸ Ibid.

⁹ Burgh Records of Banff.

the records. In 1576 the council of Haddington request the master of the grammar school to resign his charge, because the scholars are being 'attracted to other schools.'¹ In 1592 the council of Kirkcudbright, 'all in one vote,' dismiss the schoolmaster, who has been found inefficient to 'await on the school.'² In 1629 the schoolmaster of Linlithgow was removed because he allowed his school to fall into 'decay.'³ No complaint appears to have been made against the master of the grammar school of Paisley, who was appointed in 1654, until 1660, when on 9th August many complained of his inability to teach or to govern the school, so that it is 'greatly decayed and the children are not instructed sufficiently;' the council, 'finding in him no satisfying excuse, but only his want of a doctor,' declare the school vacant at Whitsunday next.⁴ In the same burgh we find another schoolmaster who had served the community faithfully—at least without a complaint—for fourteen years: on 7th August 1676, the council parted with him because they did not consider that the 'schoole prospered under his hand.'⁵ In 1670 the council of Dumbarton, understanding that the children do not profit in learning under the instruction of the master of the grammar school, ordain him to be warned to remove from the school.⁶ The grammar school of Stirling being, in 1672, 'decayed to the great hurt and discredit of the burgh,' through the children making not sufficient progress, the council unanimously declare the places of the master and doctor vacant.⁷ In 1688 a doctor of the grammar school of Glasgow was deprived of his office for neglect of duty.⁸ In 1692 the school of Wigtown being turned 'desolate' under the present teacher, the children 'vaiging and committing evill things by not being kept to school,' the

¹ Burgh Records of Haddington.

² Burgh Records of Kirkcudbright. ³ Burgh Records of Linlithgow.

⁴ Burgh Records of Paisley.

⁶ Ibid.

⁵ Burgh Records of Dumbarton.

⁷ Burgh Records of Stirling.

⁸ Burgh Records of Glasgow. Cf. also Burgh Records of Crail, on 31st December 1710.

council remove him.¹ In 1694 the council of Stirling remove the English doctor from his office because of his 'supine negligence, and many other faults ;'² three years later, the council, considering the 'bade caise' of the public school by the 'insufficiency' of the master and doctors, remove them.³ Mr George Glen, who was appointed master of the grammar school of Paisley in 1703, was made a free 'burgess for good deeds done, and to be done, to the burgh.' On 24th July 1713, however, heavy complaints having been lodged against him 'of his frequent misbehaviour, partly flowing from want of authority, and partly from his not-attendance in the school,' he receives notice to lay down his office at Michaelmas following.⁴ On 19th February 1711, the council of Peebles, considering the decay of the school, order the master to provide for himself by Whitsunday next.⁵ The grammar and English schools of Dunbar being much decayed, and going on decaying daily, the council, on 12th December 1726, dismiss the masters.⁶ In 1731 the council of Fortrose remove their teacher for neglect of duty.⁷ Next year the council of Lanark dismiss their schoolmaster for 'want of talent in communicating his art' and indiscretion in discipline, and for other causes.⁸ In 1736 the council of Kinghorn remove their school doctor on account of 'insufficiency.'⁹ In June 1738, the master of the English school of Ayr being 'not known in the new method of teaching English,' the council appoint another teacher in his place.¹⁰ In 1748 the master of the grammar school of Forres, for 'not taking care of the education of the children under his care,' is removed.¹¹ In 1750 the council of Rothesay being well informed of the learning, abilities, and other qualifications of Mr William Macartnay, appoint him master

¹ Burgh Records of Wigtown.

³ Ibid.

⁶ Burgh Records of Peebles.

⁷ Burgh Records of Fortrose.

⁹ Burgh Records of Kinghorn.

¹¹ Burgh Records of Forres.

² Burgh Records of Stirling.

⁴ Burgh Records of Paisley.

⁶ Burgh Records of Dunbar.

⁸ Burgh Records of Lanark.

¹⁰ Burgh Records of Ayr.

of the grammar school; thirteen years afterwards, they are, however, of opinion that as he cannot teach navigation and bookkeeping, it is 'very improper to continue him,' and resolve that another schoolmaster 'be looked out with these qualifications.'¹ The legality of this step was called into question by the heritors—the school, though managed by the town council, being a parish school—on the ground that he was deposed without trial; accordingly, he was reponed in his office, which he continued to hold until his death in 1792. In 1781 the schools of Kirkcudbright having of late much decayed, the council dismiss all the teachers.² On 23d September 1779, the council of Banff, considering that the grammar school, formerly a 'convenience and ornament to the town, has dwindled away to nothing,' owing to the inability or inattention of the teacher, who was appointed in 1773, they resolve to remove him at Whitsunday next.³ The decadence of a school through incapacity of the master was, as we have seen, made the cause of removal in several instances, and in June 1784 a further case occurs at Ayr, where the scholars at the mathematical school having made little progress in the branches on which they were examined, owing to the inattention and want of authority in the master, the town take steps for appointing another in his room.⁴

§ 4. There are numerous instances of deposition for severity of discipline, additional to the case of Mr Hastie, already quoted,⁵ where, in conjunction with other offences, this was held by the House of Lords to be a sufficient ground for removal. On 31st July 1657, the magistrates of Jedburgh order the schoolmaster of the burgh to give up the keys of the school; we learn the cause of deposition from a subsequent entry, mentioning that he had applied to the presbytery for a certificate, but that several members of the town council gave in several reasons why it ought to be refused—one being that he 'had a

¹ Burgh Records of Rothesay.

² Burgh Records of Kirkcudbright.

³ Burgh Records of Banff.

⁴ Burgh Records of Ayr.

⁵ *Supra*, Chapter VII., under § 6.

hand in the death of a bairne,' and had said that 'before he left Jedburgh, there sould be bluid.'¹ John Howie, who was admitted schoolmaster of Arbroath in 1679, was dismissed from his office for cruelty to the children.² On 26th June 1688, Hugh Muir, doctor of the grammar school of Glasgow, was deposed for exercising too rigid and cruel method of discipline.³ In 1699 a boy, John Douglas, son of Douglas of Dornock, while attending the school of Moffat, was killed by the master, Robert Carmichael, who thereupon fled, 'but by the providence of God he was discovered and seized;' he was indicted in the Court of Justiciary in 1700; the verdict was in these words: 'Find it proven that the panel did three times, *ex incontinenti*, severely and cruelly lash and whip the defunct upon the back and hips, and in rage and fury did drag him with his hand, upon head and back, with heavy and sore strokes; and after he was out of his hands he immediately died; and find it likewise proven that after the defunct's death, the side of his head was swelled, and blue marks were thereupon, with several marks of stripes from the small of his back to his houghs.'⁴ The judges found the treatment of the poor boy 'relevant to infer the pains of death;' but in the circumstances it was decreed that he 'be taken from the Tolbooth of Edinburgh, by the hangman, under a sure guard, to the middle of the Lawnmarket, and there lashed by seven severe stripes; and then to be carried to the Fountain-well, to be severely lashed by five stripes; and then to be carried back by the hangman to the Tolbooth: Likeas, the Lords banish the said Mr Robert furth of this kingdom, never to return thereto under all the highest pains.'⁵ Our institutional writer on criminal law says, that in consideration of the station of a 'preceptor, his severity of discipline leading to the death of his pupil shall not ordinarily be ascribed

¹ Burgh Records of Jedburgh.

² Kirk Session Records of Arbroath.

³ Burgh Records of Glasgow.

⁴ Hume's Criminal Law, i., 238 (3d ed.).

⁵ History of the Rod, p. 183. For other examples of discipline, see *supra*, Chapter V., § 10.

to a vindictive or cruel disposition ; but it is not therefore to be entirely pardoned, being so great an intemperance, and in such a person, but shall excuse him only from the pains of murder. Nor shall he be excused even from these, if the excess be so great as can only be imputed to personal malice or a depraved temper ; if, for instance, he invent some extraordinary mode or employ some dangerous and unusual instrument of discipline.'¹

§ 5. Teachers were frequently removed or dismissed for quarrelling among themselves, though not without efforts made by the authorities to keep the peace ; many of the quarrels arose from one teacher encroaching on the province of the other, and so depriving him of fees. A few instances to this effect may be given. On 14th November 1711, the master and doctor of the grammar school of Peebles having quarrelled as to their respective powers and privileges in matters of teaching and discipline, the town council ordain them to live peaceably together, thereby giving good example to the children under their care, lest they ruin the school.² This warning does not appear to have been sufficient, for, on 12th March 1712, the master turned the doctor out at door, and beat him ; the keys of the school were ordered to be delivered up instantly.³ On 2d November 1711, the doctor in the grammar school of Dundee was suspended for a misunderstanding with the master.⁴ On a complaint of the master of the grammar school of Kilmarnock against the English teacher, for teaching Latin in his school, the council, 5th September 1748, order him to desist from teaching Latin for the future, under pain of dismissal.⁵ Take another case of encroachment, which also led to a dismissal, on 3d April 1795, when the rector of the grammar school, and the teacher of the English school, of Campbelltown, were both removed from office, because the one

¹ Hume's Criminal Law, i., 238.

² Burgh Records of Peebles.

³ Ibid.

⁴ Burgh Records of Dundee.

⁵ Burgh Records of Kilmarnock, 17th October 1748. Another teacher was appointed in his place.

infringed on the other's right to teach certain branches.¹ In 1808 a complaint was preferred against the second master of the Fortrose academy, for teaching branches not belonging to his province.² The evil of competition between teachers in the same schools still, alas! is far from being uncommon in Scotland. The masters of many of our secondary schools are at this day so entirely dependent on their fees, that their interests often clash—one master actually struggling with the other for the possession of the boys. A serious difficulty lately arose in the Elgin academy in consequence of this unseemly contest, and quite recently there was a 'deadly quarrel' between some of the masters of the Forfar academy about fees. This evil arises from the teachers being, as we have said, principally supported by fees, from the imperfect organisation of the school, and from want of endowments.³

Schoolmasters have been, not unfrequently, removed for breaking the law of the land, or coming under the cognisance of the ecclesiastical authorities, because of irregularity of affections. In 1656 the schoolmaster of Crail was deprived for assaulting another person to the effusion of blood.⁴ The particular offence of the school doctor of Stirling is not specified: on 8th May 1665, the doctor of English in the grammar school, having been found guilty 'of several base usages towards his scholars,' was discharged.⁵ Robert Inglis, doctor of the grammar school of Dunfermline, was, on 18th January 1659, deposed from office for drunkenness and scan-

¹ Burgh Records of Campbeltown.

² Presbytery Records of Chanonry.

³ Report on Endowed Schools, iii., 103.

⁴ Burgh Records of Dysart. In 1697 James Bean, schoolmaster of Kirkcudbright, and John Campbell were fined and imprisoned for 'venting and expressing' against each other 'several unchristian words, such as confoundit lyers, knaves, begerlie rascals, and the lyke, which brak furth in strocks ane upon the other:' Burgh Records of Kirkcudbright. In 1702 Mr Henry Gibson, schoolmaster of Kirkcudbright, and John Walker, burgess there, were indicted for 'mutual blood and batterie,' and 'being in excess of drink;' they were fined: Ibid.

⁵ Burgh Records of Stirling.

dalous carriage with Elspett Matheson ; the kirk session, however, suspended his public rebuking on Sunday until the time of his departure, because it would contemn and vilify him before the scholars ;¹ the same burgh furnishes another case of scandal, in the person of John Hart, who, in July 1705, was deposed from the office of master of the grammar school, ' in respect he had committed the crime of fornication.'² In 1689 the master of the grammar school of Paisley having become the subject of church censure and discipline, receives three months' warning of dismissal.³ In 1808 the Fortrose academy appears to have been unfortunate in its staff of teachers : the rector, Mr Pollock, is charged with drunkenness ; the second master has exposed himself to censure ; the third is accused of inebriety—appearing sometimes in that state among his scholars—and of a more heinous immorality, detailed at large, which, however, is condoned by his marrying his servant-maid.⁴

A painfully minute description is preserved of the sufferings of one poor schoolmaster, who was not only deprived of his office, but murdered by the authorities for an imaginary crime. In 1591 John Fian or Cunningham, as he was sometimes called, schoolmaster at Prestonpans, was tried for witchcraft ; he admits, under torture, that he had had conferences with the devil, and had attended various meetings of witches with the Enemy of Man, some of which took place in North Berwick kirk ; on these occasions he had acted as clerk of proceedings. He and other witches, he confesses, went off from Prestonpans one night to a ship at sea, which, by their incantations, they sank ; he had chased a cat at Tranent with the design of throwing it into the sea, in order to raise storms for the destruction of shipping ; in this chase he had leaped a wall, the top of which he could not, but for witchcraft, have touched with his hand. ' Passing to Tranent on horseback, and ane man with him, [he] by his divilish craft, raisit up four candles upon the horse's twa lugs, and ane

¹ Kirk Session Records of Dunfermline.

² Burgh Records of Dunfermline.

³ Burgh Records of Paisley.

⁴ Presbytery Records of Chanonry.

other candle upon the staff whilk the man had in his hand, and gave sic lict as gif it had been daylict; like as the said candles returned with the said man at his hame-coming, and causit him fall dead at the entry within the house.' The unfortunate teacher, one of the many victims sacrificed to this terrible superstition—'darkness visible,' having afterwards denied the confession wrung from him under torture, was subjected a second time to torture of the direst kind: his nails were torn away with pincers; needles were thrust up to the heads in his fingers, and his legs were crushed in the boots till the blood and marrow spouted forth.¹ He resisted all, and thus only impressed the king, who was a witness of the torture, that the devil had entered his heart; he was then arraigned, condemned, and burnt.² The only other instance we have discovered of a schoolmaster having been connected with this melancholy subject, curiously enough, occurs at the same place, where, in 1661, Mr Andrew Rutherford, schoolmaster in the Pans, was appointed commissioner for trying certain persons in that parish accused of witchcraft.³

The extracts quoted in this chapter show the different grounds on which teachers were dismissed or removed, from the Reformation to the end of the eighteenth century; from 1800 to 1860—a period of sixty years—the number of appointments of teachers in burgh schools—schools under the

¹ Chambers's Domestic Annals, i., pp. 212, 213.

² The enormity of his crime created a profound sensation throughout the country. In London, an account of his life and death was published at the time, the following being a summary of the little pamphlet: *Newes from Scotland*, declaring the damnable life and death of Doctor Fian, a notable sorcerer, who was burned at Edenbrough in January 1591, which doctor was regester to the Divell, that sundry times preached at North Barrick Kirke, to a number of notorious witches; with the true examinations of the saide Doctor and witches, as they uttered them in the presence of the Scottish King; Discovering how they pretended to bewitch and drowne his Majestie in the Sea, conming from Denmarke; with such other wonderful matters, as the like hath not been heard of at any time. Two editions of this tract were printed in 1591 and 1592. The former edition has been reprinted for the Roxburghe Club.

³ Acts of Parliament, 1661, c. 205, vii., 196.

administration of town councils—exclusive of the Dundee high school and Stirling high school, was about 397, of which eighteen only were removed or dismissed by the magistrates and councils. The causes of removal, which we shall not specify, correspond with those already cited, witchcraft being the only exception. The burgh schools in which the dismissals took place during that period are the following: Three teachers at the Airdrie academy, two at the Banff grammar school, one at Dumbarton burgh academy, three at Dunbar grammar school, one at Dundee high school, one at Elgin academy, two at Forfar burgh school, one at the high school of Glasgow, one at Linlithgow grammar school, one at the Paisley commercial school, one at the English school of Perth, and one at the burgh school of Pittenweem. It may be added that none of these teachers was removed by the sentence of the presbytery.¹

§ 6. The Education Act has made the following provision for the removal of the teachers appointed before 6th August 1872 charged with immorality, cruelty, improper treatment of the scholars, or inefficiency in teaching: A school board may prefer a complaint to the sheriff of the county, charging a teacher with immoral conduct, or cruel or improper treatment of his scholars, specifying the particular acts in respect of which the complaint is made—a copy of the complaint to be served upon the accused, who shall, on an *induciae* of eight days, answer to the complaint before the sheriff, who shall thereafter proceed to the trial of the complaint, which if he find proved, he shall pronounce sentence of deprivation, the sentence being final, and not subject to review.² If a school board consider that the teacher is incompetent, unfit, or inefficient, they may require a special report regarding the school and the teacher from her majesty's inspector; on receiving the report the school board may, if they see cause, remove the teacher from office, provided that before they give judgment they shall furnish to the teacher a copy of the

¹ Parliamentary Accounts and Papers, xlviii., p. 729 (1861).

² 35 and 36 Vict., c. 62, § 60, sub-sect. 1.

report, and receive confirmation of their judgment removing the teacher from the Board of Education.¹ Since the passing of the Act, fifteen different school boards have taken advantage of this provision for the removal of teachers by applying, in terms of the second sub-section, to the Board of Education, for confirmations of their judgments—viz., the school boards of Kilmallie, Dalmellington, Haddington, Lintrathen, Stow, Logiealmond, Bowden, Stirling, Whitburn, North Knapdale (Tayvallich school and Balanoch school), Towie, Glenshiel, Mochrum, Forteviot, St Fergus, Kelso, and Ardrossan. Three applications to the Board of Education for removal of teachers were withdrawn by the school boards—viz., Stirling, North Knapdale (for Tayvallich school), and Forteviot. The judgment of the school boards removing the teachers of Towie and Kelso was not confirmed by the Board of Education; and the applications of St Fergus and Ardrossan to the supreme board were not disposed of when they published their report in July last, but in all the other cases they confirmed the judgment of the school boards.² Nearly all the teachers acquiesced in their removal, but some appealed to the Court of Session for pensions due to them as parish schoolmasters. Mr Little having been removed by the school board of Whitburn as ‘incompetent, unfit, and inefficient,’ the Lord Ordinary thought he was entitled to look into the grounds of his dismissal to see whether he was entitled or not to a retiring allowance. In the Logiealmond case, on the other hand, Mr Robb having been removed in terms of this sub-section, another Lord Ordinary held that the school board need not prove before the Court the ground on which they had dismissed their teacher: to do so would, he said, be contrary to the intention of the Act, and detrimental to the public interest;³ but the Inner House, to which the case was appealed, required the school board to specify the grounds on which they had dismissed him.⁴ In the Glenshiel case, on the other hand, the Second

¹ 35 and 36 Vict., c. 62, § 60, sub-sect. 2.

² Report of Board of Education, ii., 122.

³ Scottish Law Reporter, xii., 278.

⁴ *Ibid.*, 469.

Division held that the decision of a school board dismissing a teacher was not subject to review unless there should appear to be oppression or evasion of the statute on the part of the board.¹ There being thus a conflict of opinions among the learned judges as to whether school boards are required to specify the faults on the ground of which they dismiss their old teachers, or whether the decision of a school board dismissing him is subject to review, the legislature should settle without delay all doubts in the matter.²

No good teacher is opposed to giving facilities for getting rid of members unworthy of the profession—teachers convicted on satisfactory proof of gross negligence, incompetency, remissness, or mismanagement; but it may be doubted whether the Education Act has sufficiently provided against unjust or capricious dismissals. The vague and elastic grounds on which a teacher is liable to removal—‘incompetent, unfit, and inefficient’—are calculated to lead to the annoyance, oppression, and finally removal, of any teacher, however competent, who is under the control of an officious and perhaps unscrupulous board—a board interfering, it may be, with his method and manner of teaching, or with the way in which he is carrying out the system of the school—matters in which he should be absolutely free of any control on the part of the board.

¹ Scottish Law Reporter, xii., 473.

² See also *infra*, Chapter IX., § 8.