THE

GENERAL ASSEMBLY

OF

1866.

BY

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INTRODUCTION.

THERE are very few among our Ministers or people who are satisfied with the present condition of the Church. At a period when several of the Evangelical denominations are reuniting their dissevered fragments, and one of them is raising a fund of three millions of dollars in aid of its Institutions; when the Romish Hierarchy is putting forth unprecedented efforts for the control of the country; when error and iniquity abound on every side, and our population of both races stand in greater need than ever of the ordinances of the Gospel; our own communion, from whatever causes, is enervated by internal strife; our Board of Domestic Missions is pleading pathetically for funds, and the Boards of Education and of Foreign Missions for men—and all pleading in vain; in the chief centres of influence Presbyterianism is relatively, if not positively, losing ground; and, to crown all, we are threatened with large secessions, not to say with actual division. Calm and thoughtful men, not only in the ministry, but in the other learned professions—men who stood firmly by the Government during the late war—are noting with deep solicitude the incestuous commerce between the Church and the politics of the country. In every quarter there are tokens which, however they may be derided by superficial and vindictive polemics, are filling the true friends of our Church with sad apprehensions.

These statements are not made at random. The proofs which substantiate them are multiplying daily. And these testimonies connect the facts in question irresistibly with the proceedings of the last General Assembly. The whole interest of that Assembly centred in what has come to be known as the Louisville case. This case was allowed to overshadow everything else, and virtually to absorb the entire Sessions of the body. The present writer was placed in a situation which obliged him to study this subject, in its principles and facts, more thoroughly than he has

ever investigated any other question of ecclesiastical discipline. The conclusions forced upon him at the time have been confirmed by a still more careful study of our Constitution and History during the last seven months. He is deeply convinced, not only of the wrong which was done to the Louisville brethren, but of the permanent and wide-spread evils which must result to our denomination at large, should the proceedings of that Assembly come to be accepted as the final policy of the Church. In these circumstances, he could not remain silent. Fidelity to his own conscience compelled him to put forth a single humble effort on behalf of the Church of which he has been for so many years an unworthy minister. And he now ventures respectfully to submit the following Essays to the consideration of the intelligent laity of our communion, and especially of our Pastors and Ruling Elders.

Should an appeal of this kind require an apology, it may be found in the fact that the most strenuous and successful exertions have been made to mask the real issues between the majority and the minority of the late General Assembly. The cheap device for this purpose consists in representing the minority and all who agree with them, as "Declaration and Testimony Sympathizers:" and this in face of the fact that the minority embraced such men as Drs. Humphrey and W. L. Breckinridge and others, who had resisted the Declaration and Testimony movement from the beginning. If some of these brethren now think it best to acquiesce in decisions which they withstood to the last as unwise, unjust, and *unconstitutional*, their example can impose no similar obligation upon men whose consciences forbid them to remain passive while the Constitution of the Church is (in their view) treated as so much waste paper. There are many of our Pastors and Elders in Kentucky, Missouri, and other districts, who have been placed, by no agency of their own, in a position in which they have to choose between loyalty to the General Assembly and loyalty to God. The Assembly has commanded them to do what (as they believe) they cannot do without *sin*. See this point stated and argued with singular clearness in the "Address to the Presbyterian People of Kentucky," and the "Reply of the Rev. W. L. Breck to Dr. W. L. Breckinridge," quoted elsewhere in this pamphlet. The two documents here mentioned, probably represent the views of a majority of the Synod of Kentucky, men who are neither with the Declaration and Testimony nor with the General Assembly, but who love

and cherish our Constitution and the Presbyterianism of the fathers. The position they occupy is one which entitles them to the respect and confidence of all true men in the Church.

As it is one part of the policy adopted by the leaders on the side of the majority, to oppose to all adverse arguments the convenient and effective reply, "A sympathizer," so it is another to hold up the signers of the Declaration and Testimony to general reprehension, as a set of unprincipled men, bent upon the ruin of the Church. The author of these Essays has never hesitated to express his conviction of the serious errors into which these brethren have fallen, and of the wrong which they did to themselves, to the cause they had at heart, and to the Church, by the tone and terms of their paper. Nor has he for one moment doubted that if they had been dealt with after the methods of our Book, and according to the uniform practice of the Church, they would have been convinced of their errors, and frankly have corrected them. This conviction is founded upon a personal acquaintance with a few of the brethren in question. The ears which have been filled for months with such philippics against them as have garnished the columns of several of our religious journals, will hear with amazement that among the signers of the obnoxious paper, are some of the purest and best men of the Church—men who, in affixing their names to that too vehement protest, had as little thought of "defying the General Assembly" or "corrupting the Church," as they had of plotting war against the Government. Will it be deemed invidious or indelicate if this remark be illustrated by two examples? Let one of them be that venerable father, the Rev. R. L. McAfee, of Missouri, a man whose silvery locks and tremulous voice and apostolic demeanor and modest allusions to his own labors, gave additional pathos to his touching and earnest speech before the Assembly, and might well have averted those harsh censures from the head of one grown old in cultivating the Mission fields of the Church. For the other, we may take a much younger man, a few years only in the ministry, the Rev. Dr. Brookes, of St. Louis. Dr. Brookes is one whom the Pastors of the Church ought to honor. The congregation over which he presides is not only one of the largest, most cultivated, and most influential in our connexion, but it would be difficult to find a congregation more thoroughly organized or trained to a higher degree of efficiency. The Pastor devotes himself to the proper work of the ministry,—the cure of souls. Nor does he labor in vain.

Of his admirable little book, "How to be Saved," 40,000 copies have been circulated. The statistics of the Assembly show that there must have been something akin to a gentle revival of religion in his church, from the date of his settlement until now. Even during the war, from 1861 to 1866 inclusive, the additions by profession amounted to considerably over two hundred, and his people have contributed on a munificent scale to the objects of Christian benevolence.* Now the bare suggestion that men like these, absorbed with the great interests of Christ's Kingdom, and crowned with a perpetual Divine benediction in their work, could deliberately engage in concocting a scheme for blasting and dismembering the Church of their affections, must stamp itself with absurdity, if it do not also reveal a taint of malevolence. Certain it is, that among the most conspicuous and caustic of their accusers, are some whose well-known record of grievous pastoral inefficiency and disrepute, gives them slight color of authority to take the lead in maligning the faithful WORKING-MEN of our communion. If it be manifest that these brethren in their jealous concern for the spiritual jurisdiction of the Church, have done things "worthy of death or of bonds," it is no less apparent that it is not every man in the Church who can *afford* to be their prosecutor. The recoil of a piece of

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* Several weeks after this passage was written, the author met with the following statement:

Walnut Street Church, St. Louis.—The pastor of this church, Rev. J. H. Brookes, D.D., on Sabbath last made the usual annual statement relative to the pastoral work of the church for the previous year. It was gratifying to the Christian heart to learn that there had been *one hundred and five additions* to the church during the year 1866; *seventy-two* on examination, and *thirty-three* by letter. All this notwithstanding the excitement consequent upon the meeting of the General Assembly and Conventions, the prevalence of the cholera, which widely dispersed the membership, and the protracted absence of the pastor, and, in addition thereto, his ill health for a considerable portion of the year.

During that time the church has been called to mourn the loss of fifteen of its members by death: honored by the church and community, and now that they are gone, because of their godly lives, remembered with pleasant associations. Deeply sorrowed for, only because they were deeply loved.

2505 pastoral visits were made by the pastor and his earnest working session during 1866.

Reviewing the past year, we feel that the Church has great cause for rejoicing. Though greatly afflicted, and for which it should deeply humble itself before God, yet of a truth it can be said, God has been with her in her sorrows, blessing her, and multiplying her numbers.—*Missouri Presbyterian.*

ordnance is sometimes more fatal than the projectile. The late practice has already occasioned one or two accidents of this kind, and more may follow.

This is not saying that error and wrong-doing can be atoned either by honest zeal or by pastoral fidelity. No such thought is entertained, nor has it been hinted. But the Church should be able to put a proper estimate upon the current wholesale denunciation of the signers of the Declaration and Testimony. To get at this, it must first look at these brethren in some lights not supplied by their adversaries. And it must then inquire whether certain of the leading plaintiffs are entitled to come into court and move this summary judgment upon the defendants.

"Quis tulerit *Gracchos* de seditione quærentes?"

These remarks have no reference whatever to the great body of our ministers and people who accept the St. Louis decrees; save only that those among them who have imbibed mistaken notions as to the characters of certain of the arraigned brethren, will no doubt be glad to learn the truth concerning them.

The ground, however, taken in these Essays, is simply this. Let the errors and offences of those brethren be what they may, they have their *inalienable rights*. One of these is the right of being dealt with according to the compact which binds us together in an organized society. It is no right either of theirs or of ours to violate that charter. If they are charged with the violation of it, the charter itself prescribes every minute step of the process to be pursued in investigating the charges. An inflexible adherence to the forms of the Constitution is as obligatory upon the Courts of the Church, as submission to constitutional authority is upon the individuals of our communion. These forms, it is contended, have been set at nought by the General Assembly. The fundamental principles of our jurisprudence have been infringed, and every minister and member of the Church is personally concerned in having these wrongs redressed. The case on trial, then, is not merely that of certain "Louisville men." It is the case of every one who has sought truth and righteousness, security and peace, within the shadow of our wise, beneficent, and Scriptural Constitution. It was thought that a calm appeal to the reason, the justice, and the Christian kindness of the Church, on a foundation like this, might, by God's blessing, lead to some beneficial result. Such was the origin of these Essays.

The first six of them were published under the signature of "A MINORITY MAN," in the *Presbyterian*. The MS. of No. VII. was returned to the author with the following note:

OFFICE OF THE PRESBYTERIAN.

REV. DR. BOARDMAN:

Dear Sir:—We must respectfully decline publishing the enclosed. The controversy in this paper has changed into a *defence* of the men of the Declaration and Testimony, and this we cannot admit into our columns. They have an organ of their own for their defence. Further, the animadversions upon the *animus* of the General Assembly are not such as we think we ought to publish; a discussion of its *acts* we are willing to admit.

Yours sincerely,

EDITORS OF THE PRESBYTERIAN.

November 24, 1866.

The author is happy to believe that this note will invite special attention to the rejected Essay. If he is not mistaken, just men will find in its analysis of the Assembly's measures, matter for grave reflection. As regards the strictures contained in the above note (1) It will be clearly seen that the Essay in question is, and is meant to be, "a defence of the men of the Declaration and Testimony," in precisely the same sense as the six preceding Essays. Not one of the Essays defends the errors of these brethren. Every one of them defends, or was designed to defend, their indefeasible *rights;* and through them, the rights of every minister and member of our communion. If the seventh does this more effectively than the others, all the better for the cause of truth and righteousness. (2) It is a novel idea, that the *animus* of a Legislative or Judicial body is not a legitimate topic of argument in discussing its acts. The files of the *Presbyterian* will show that it has never hesitated to "animadvert" alike upon the acts and the spirit of the General Assembly, whenever in its judgment, there was occasion for it. And how, on the maxim it now puts forth, will it vindicate the extremely uncharitable censures upon the aims and *motives* of the Declaration and Testimony men and those who espouse their rights, which have so copiously illustrated its editorial columns during the last eight months? That paper for "Nov. 24," the very date of the above note, contains an article of this kind (possibly from the same pen that wrote the note) as unjust, if not quite so bitter, as some of the circulars and letters which have emanated

from the office of our Board of Domestic Missions. This is human nature the world over; the judgments of men are enslaved to their sympathies and prejudices. For the rest, the reader will decide whether anything could be more pertinent to the argument in hand than the extraordinary *facts* mentioned in No. VII. as exhibiting the *animus* of the Assembly toward the Louisville men. (3) As the active editor of the *Presbyterian* voted with the majority of the Synod of Philadelphia in 1865, that the controverted acts of the General Assembly of that year were "unconstitutional and void," the Church had no reason to expect that he would defend as constitutional the far more questionable measures of the Assembly of '66. (4) The advocacy of the high-prerogative theory on the part of that Journal is in palpable conflict with its own teachings. The views of constitutional law laid down in these pages, are the identical views maintained by the *Presbyterian* for thirty-four out of the thirty-six years of its existence. It would argue little for its influence with its readers, if they should show themselves ready to repudiate these doctrines on the first challenge, even though the challenge come from itself. We, at least, who have been reading the paper under its various editors since 1830, must be allowed a little time before we can turn quite so squarely around in our interpretation of the fundamental law of the Church. The reader will see on referring to Nos. I. II. and III. (for an answer to the first three articles of "S. J. B.," see *addendum* to No. II., and for some remarks on the recent circular of "R. J. B.," see P.S. to No. X.) that in opposing the new consolidation theory, we are in tolerably good company. If such names as Archibald Alexander, Samuel G. Winchester, Robert J. Breckinridge, and William M. Engles, and such titles as the *Biblical Repertory*, the *Presbyterian*, the "Act and Testimony," and the General Assemblies of '35 and '37, have lost all authority on questions touching the nature of our Constitution; then, indeed, while men slept, a mighty revolution must have passed over the Chuch. We need not dissemble our fears on this point. The whirlwind which has devastated the land, has driven the Church from the moorings which had held her fast through the storms of seventy years. We see no ground to hope that she will return soon to her quiet anchorage; for falling upon a place where two seas met, her pilots have run the ship aground; and all the indications point to her remaining there for a considerable time. In other words, the policy which has brought the

Church into its present condition is to be persisted in. The next Assembly will, in all probability, follow in the wake of the last; enforcing the stern discipline decreed against the Declaration and Testimony men; and recognizing the small minorities of the "*ipso-factoed*" Presbyteries as the true succession of those Presbyteries. As a matter of course, the Church will lose the greater part of the Synods of Kentucky and Missouri, and possibly important congregations in other quarters, besides suffering in various ways from prolonged agitation. It is for our ministers and people to consider whether we can afford this. Faithful as our Church was to the National Constitution and the Union during the war, can our older pastors and elders look with indifference upon the renewal of controversies which should have been buried with the war, and upon the process of disintegration which is going on before their eyes? The common taunt: "These people were always in sympathy with the South, let them go," does not rise to the dignity of an argument and carries no conviction with it. Is it a matter of no moment whether we lose or retain one or two hundred of our ministers and churches? Is there not wisdom enough in the Church to devise some plan by which we can avert this blow without sacrificing discipline? No one charges these *congregations* with any offence. Is it worth while to drive them from our fold? Ministers die. Churches live. Are we not to look to the future?

There is one other aspect of our affairs too delicate, perhaps, for general discussion, but too profoundly important to be passed over. Is the Church in our country to be what its Divine Head appointed it to be, or the vassal of political parties? Is it to know no man after the flesh—to invite to its altars, indifferently, people of all ranks, and creeds, and principles, and complexions, and preach the Gospel to all alike, or is it to set up an inquisition into men's views of purely party questions, and frown away from its ministrations those who accept or reject, as may be, this or that line of public policy? Questions no less grave than these are emerging out of the chaos of the war. The issues involved are not those of fidelity to the Constitution and the Union, but such as divide people wherever there is civil liberty. Sects could be named, which are quite as homogeneous in their politics as in their faith: they wished to have it so, and they knew how to effect it. If this is to go on, if our own Church, hitherto one of the great conservative elements of the country, one of its sheet-anchors in turbulent times, is to lend itself to this fatal divorce

between Christianity and the nation as such, no pen may attempt to depict the calamities it must entail both upon the country and the cause of Christ. Let it once come to be understood that the religious denominations are to be allied with the political parties of the land; that we are to have "*Whig Churches*," and "*Union Churches*," and "*Republican Churches*," and "*Democratic Churches*," and the like; and it will take but a stride or two more to carry the nation on to the atheism, the anarchy, and the atrocities, of the French Revolution. To this complexion hundreds of so-called Evangelical Churches have already come, so far, at least, that men of only one political party can worship with them in comfort. And if the warning be not heeded, the evil may increase and expand until the entire Christianity of the land shall be drawn into the seething vortex. From a catastrophe like this, involving so much of criminality, of disgrace, and of unimaginable misery, and from the infatuation which legitimately leads to it, may a merciful Providence deliver us.

THE GENERAL ASSEMBLY OF 1866.

I.

The consolidation theory—The true issues—Doctrine of the Biblical Repertory—Argument from the Church of Scotland—From the New-school controversy.

Messrs. Editors—If the greatness of a task may be inferred from the efforts put forth to accomplish it, the sponsors of the late General Assembly have found themselves engaged in a work of considerable difficulty. Not to look beyond the *Presbyterian*, you have, I think, some four or five correspondents, each of whom has occupied four or five columns in attempting to establish the *consolidation* theory of our system. Every week we are treated to elaborate arguments, resting, for the most part, upon *foreign* authorities, designed to show that our General Assembly is invested with the plenary power of the Church, and may, *at its own discretion*, exercise any and all the functions of the inferior Judicatories. These dissertations are not unfrequently garnished with sharp censures upon the minority of the last Assembly, and those who concur with them in sentiment, as men who have repudiated the settled doctrine of the Church, and "adopted the identical views maintained by the New-school party in our controversy with them." The *Princeton Review*, while justifying the minority in their votes, by declaring that the acts of the Assembly were "uncalled for," "needlessly severe," "adapted to foment strife and division," and "to put in jeopardy important interests," affirms the above theory with a confidence which would seem to defy all dissent. With those who do not examine for themselves, these voluminous and plausible authorities will no doubt be conclusive. But, happily, there are men living who can remember the time when this doctrine met with no favor in our communion; and who are too jealous for the liberties of the Church, to stand by without

remonstrance, and see it incorporated with our polity. The danger of this has become imminent, by reason of the sanction given to the theory in question by the last two Assemblies. Whatever respect may be due to the formal deliverances of our Supreme Judicatory, no one will deny that, like other Synods and Councils, the Assembly may err, and often has erred. Nor will there be any dissent from these two propositions (1) That "an unconstitutional enactment is," as Dr. Hodge affirms, "void *ab initio*." And (2) That it is the right and duty of our ministers and people to use all proper means to bring about a repeal of such acts of our Judicatories as they believe to be unwise and oppressive, even though they may not challenge their constitutionality.

The issues, then, before the Church are these:—(1) Were the acts of the late General Assembly warranted by the Constitution? And (2) Were they wise and just, and suited to the condition of the Church? As to both issues, the majority of the Assembly affirmed, and the minority denied. The *Princeton Review* affirms as to the first, and denies as to the second. Very few of the newspaper writers on the side of the majority grapple, in applying their principles, with the real difficulties involved in the proceedings at St. Louis, as will be clearly shown before this discussion is completed. Had they even succeeded in proving the constitutionality of those proceedings, the still harder task would remain of vindicating their wisdom and equity.

The argument of the *Repertory* and other writers is this. All Church power is derived from the Lord Jesus Christ, and resides in the whole body of believers. Therefore, inasmuch as the several judicatories are representative bodies, they are clothed with the same power which pertains to their respective constituencies; the session has all the power of the congregation; and the General Assembly all the power which inheres in the entire Church. We admit the premises, and deny the conclusion. Whether the General Assembly of any particular denomination is invested with the plenary power of the denomination, and can exercise all the functions of the inferior courts, depends altogether upon the Constitution the Church may have adopted. Take an analogous case. All political power is derived from the Lord Jesus Christ, and resides in the body of the people. Does it follow that the Legislature of a State may assume all the powers and functions of the several municipal and private

corporations within its territorial area? And especially under a government like ours, can the national Legislature do whatever the State, county, and city authorities may do? The government might have been organized upon this principle; but it was not. Neither was our Church organized upon this principle. In both cases the Constitutions actually adopted, provide for a certain distribution of these various powers and duties; and these Constitutions are as binding upon the supreme as upon the subordinate legislatures. This will be made clear to demonstration, when it is considered that the Presbyteries might now abridge indefinitely the powers of the General Assembly. This has been repeatedly proposed by some of the wisest men of the Church. These changes might include prohibitory clauses, *forbidding* the General Assembly to exercise certain of the powers it now has. Would such a Constitution be invalid? And if not, what becomes of the theory that to the General Assembly belong, *ex necessitate rei*, all the prerogatives and functions of the lower courts? The Assembly, it is manifest, is invested with the powers assigned to it by the Constitution—no more, no less. By that compact we are all bound. To attempt to supersede it by the dictum that the supreme judicatory, simply because it is supreme, may assume, *at its own discretion*, all the powers of the other courts, is to substitute the will of the majority for a well-defined, written charter. Constitutions are made for the protection of the weak against the strong. This theory turns our Constitution into a wall of sand.

This argument from "the nature of Church power," is buttressed by others even more fallacious, derived from the history of the Church of Scotland. A false and deceptive analogy. To what purpose are the passages cited in every quarter from Scotch authors? They prove that the General Assembly of the Church of Scotland has this right of eminent jurisdiction. Of course it has. It had it from the beginning. It is interwoven with its whole Constitution and history. What is that to us? The Church of Scotland *began* with a General Assembly, from which its Presbyteries derived their being. Our Church began with a Presbytery. In process of time the Presbyteries created a General Assembly, and agreed among themselves as to what prerogatives they would confer upon it, and what they would reserve to themselves. He would be a bold man who should deny the proposition just laid down, that the Presbyteries can now, at their option, augment or abridge the powers thus

assigned to the Assembly. And yet we are referred to the Church of Scotland, and gravely told that *our* Assembly came into being like Minerva, full armed; that its very birth carried with it all, and more than all the attributes and rights of the constituencies that created it—the entire power, in fact, inherent in the whole body of our communion. Let us be consistent, then. England has no written Constitution, and needs none; for its Parliament is omnipotent. If our General Assembly is omnipotent, let us put our Constitution in the fire.

From the Church of Scotland these brethren turn to the records of our New-school controversy. They have shown that eminent men in the Assembly of 1837 maintained the competency of the body to do what was actually done in respect to the New-school Synods—a widely different case from that presented at St. Louis. But since the prime question before that Assembly was, "What is the true theory of our Constitution? what powers pertain to the General Assembly?"—why do they not quote and expound, not particular speeches, but the well-weighed, official deliverance of the entire majority on this fundamental subject? Here it is:—"1. The Constitution of the Presbyterian Church, like that of our National Union, is a Constitution of specific powers granted by the Presbyteries, the fountains of power, to the Synods and the General Assembly. 2. No powers not specifically granted can lawfully be inferred and assumed by the General Assembly, but only such as are indispensably necessary to carry into effect those specifically granted." One of the names appended to this paper is that of Samuel C. Anderson, Esq., of Virginia. Every one who was present will remember that his great speech on the constitutional question was, by common consent, pronounced the speech of the session; and that it did more to decide the wavering minds in the house than any other. It may do to contemn the authority of this profound jurist now. In those days he was thought by the Greens, the Alexanders, the Witherspoons, the Phillipses, and the Elliots of the Church, to know something of our Constitution.

Whether that Assembly or any other may, or may not have done things which, as seen through the vista of thirty years, were not quite compatible with the theory thus avowed, is not the question before us. Enough for us that we have their solemn, official, and (as to the majority) united exposition of the nature of our Constitution, in respect to the fundamental

point upon which the *present* controversy hinges. The attempt of the *Repertory* to neutralize the force of this deliverance, which, as it frankly confessses, lies directly athwart its track, will not be likely to satisfy any of its readers who consider—1st, the sort of men who composed the Assembly of 1837; and 2dly, the absorbing interest and pre-eminent ability with which they entered into the investigation of this specific question.

Let it not be supposed, however, that we rest the case upon this single authority, decisive as it is. The minority of '66 claim to stand where their fathers stood in that great conflict, so often and so fruitlessly appealed to by our brethren of the majority. It is the only safe ground for ministers, churches, and Presbyteries. And those who, in these unquiet times, repudiate it for a purpose, may live to see the day when they would give their right hands for the shelter of a strong Constitution against the tyranny, the caprice, or the misguided zeal of a transient majority in the General Assembly.

I propose, with your leave, Messrs. Editors, to show that the doctrine asserted by the minority at St. Louis was distinctly recognized during the New-school controversy, by the Old-school party, by the *Biblical Repertory*, and by the *Presbyterian*, as the true theory of our system.

II.

The consolidation theory vs. *the true theory*—*The "Presbyterian"*—*Dr. Winchester*—*Dr. R. J. Breckinridge*—*General Assembly of* 1834—"*Act and Testimony*"—*Rev. Archibald Alexander, D.D.*—*Biblical Repertory*—ADDENDUM—"*S. J. B.*"

"THE General Assembly is invested with the plenary power of the entire Church, and may, *at its discretion*, assume and exercise all the functions of the several subordinate judicatories." This is the theory held by the majority in the late Assembly, and since maintained by the *Biblical Repertory* and numerous writers in our religious journals. A doctrine which thus substitutes the will of a casual majority in the Assembly for a written Consti-

tution, may answer very well for majorities. But the majority of to-day may become the minority of to-morrow: and what then? We need not speculate upon, "What then?" We all know enough of human nature to understand how men's views of abstract questions are warped by the passions and conflicts of the hour. And those who prefer history to reasoning or conjecture, may see this principle amply illustrated in respect to the very question now under debate, by reviewing the annals of the New-school controversy. To that controversy the advocates of the high-prerogative theory are fond of appealing: and it is readily conceded that there are transactions on record which lend a certain plausible coloring to their favorite hypothesis. Yet the very men who were foremost in carrying out the Old-school policy in that memorable contest, *explicitly repudiated* the dangerous theory which we are now asked to accept as the settled doctrine of the Church. In every practicable form they maintained, that our "Constitution is a Constitution of specific powers, granted by the Presbyteries to the Synods and the General Assembly; and that no powers not specifically granted by the Presbyteries can be lawfully inferred and assumed by the General Assembly, but only such as are indispensably necessary to carry into effect those which are specifically granted." Whether successfully or not, they contended that the stringent measures of '37 involved no violation of this principle. How far they warrant the adoption of the revolutionary minute of Dr. Gurley by the recent Assembly, will be considered hereafter. For the present, we are concerned with the theory of our Constitution held by the Old-school party thirty years ago.

I have quoted above the true doctrine as formally affirmed by the Assembly of '37. In the Assembly of 1834, the late Rev. Samuel G. Winchester delivered a speech on the powers of the General Assembly, which was pronounced by the Old-school party an "unanswerable" exposition of our Constitution. No one who listened to it can forget the impression it made. Of so much value was it deemed to the cause of sound Presbyterianism, that a formal request for its publication was presented to Mr. Winchester, emanating from a public meeting, of which the late venerable Dr. Magraw was chairman, and the Rev. David McKinney, D.D., secretary. The *Presbyterian* published the speech, first from the reporter's notes, and afterward from the revised pamphlet edition, with warm editorial commendation, as follows:

"We think any one who loves the Constitution of the Presbyterian Church, or who can be interested in sound, logical reasoning, will find himself deeply interested in the perusal of this speech. We believe it was acknowledged by all who heard it (whatever may have been their views of the question at issue) to contain a very able and lucid exposition of the Constitution of our Church." (*Presbyterian*, June 26, 1834.)

These endorsements remove the speech from the category of mere private opinion into a much broader forum: they stamp it with at least a semi-official character. The following extracts will show the type of Presbyterianism that prevailed in those days:

"The Constitution and the Assembly are creatures of the Presbyteries, who may, by a competent majority, alter or abolish them at pleasure. The Presbyteries are the source of constitutional authority and power. The Assembly is a body of defined and delegated powers, subject to restriction or enlargement by the Presbyteries. The Presbyteries may interpret, modify, enlarge, diminish or entirely destroy the powers of the Assembly. As, therefore, its powers are defined and limited, it cannot go beyond, but must act within them. The powers not expressly nor impliedly delegated to are not possessed by the Assembly. The Assembly is the recipient, not the fountain of power. It is an agent with created trusts and acquired prerogatives, not an ultimate Lord with inherent omnipotence. . . . . It is a well-known and acknowledged rule that the delegation of powers is always evidence against the possession of those not delegated."

"Presbyteries should be jealous of their rights, especially when a mode of construction is adopted and applied, which tends to deprive inferior judicatories of all power, and to make them mere cyphers. Inferior judicatories should insist upon their rights, and upon a maintenance of the Constitution. This book is a mutual compact between ministers and judicatories. We promise subjection to one another in the Lord. This book defines the method in which that subjection is to be rendered. *To exact subjection contrary to its provisions is tyranny and oppression.* This book is a mutual bond and pledge which each has given to the other, and to violate its provisions, is to break faith with those with whom you have covenanted. It is an invasion of personal ministerial rights and privileges, and deserves to be sternly rebuked and indignantly repelled. To violate this pledge is to absolve us from the obligation created by the promise of subjection. The Constitution of our Church is the bond of its union, and if this be intrenched upon, mutual confidence is destroyed, and that which professes to unite us, becomes itself the subject of protracted and angry discord. It is therefore with the utmost caution and delicacy that new and questionable constructions should be pressed upon the churches. There is a point beyond which submission to such adjudications becomes acquiescence in the guilt of misrule and maladministration. To such a deprecated crisis we fear our Church is hastening." "Let us beware how we explain away the rights of one another; let us take warning by the results of similar invasions."

"The supremacy of the General Assembly is relied on with much confidence as an argument for the power now claimed. It is argued that, being the supreme judicatory, it is invested with all the powers of the inferior judicatories. If the Assembly, and not the Presbyteries, were the source of power, and had not

expressly granted it away, there might be some plausibility in this position. But this is not the case. It is a body of limited and defined authority. It has indeed a general supervision of the whole Church, but that supervision must be exercised agreeably to rule, and not in violation of express provisions." "If the fact that the General Assembly is the supreme court, does, *per se*, invest it with all the powers of the inferior judicatories, then any restriction of the powers of the Assembly, by the Presbyteries, would be inconsistent with such supremacy. Let it be borne in mind that the superiority of the General Assembly was the principal argument relied on by the Assembly in the assumption of the power in question. Then it is not competent to the Presbyteries to define and restrict the powers of the supreme judicatory.

"But is it a fact that the Presbyteries, in their act creating the General Assembly, did forever divest themselves of the right to modify and restrict the powers of the body thus created? Did the act of the Presbyteries, creating the supreme court, *per se*, invest that court with all the powers of the inferior judicatories? Unquestionably not. For example: The Presbytery has power 'to examine and license candidates for the ministry; to ordain, install, remove, and judge ministers.' Now, does the supremacy of the General Assembly invest it with these powers? Can the General Assembly come into a Presbytery and remove a minister? Can it arraign and judge a minister? What minister or Presbytery would submit to such an exercise of usurped power? To do these things, I contend, belongs exclusively to Presbyteries. The matter may, indeed, be brought up and issued in the Assembly by appeal or complaint, but this is in virtue of a special provision to that effect. Again, if the mere fact of supremacy invests the Assembly with all the powers of inferior judicatories, why has the Book gravely and particularly entered into a specification of the powers of the Assembly? The framers of the Constitution considered such a specification necessary, because, unlike the modern interpreters of the Book, they did not suppose that the fact of supremacy, *per se*, invested the Assembly with all the powers of inferior judicatories, or was any evidence that such powers were possessed. The specification of powers is evidence against the delegation of powers not specified. The fact, then, that the General Assembly is the supreme court, can have no weight in the present controversy."

As in full accord with these views of Mr. Winchester, the *Presbyterian* of July 3, 1834 (referring to the same measures), says:

"They (the New-school party) now demand submission to the exercise of an authority which the Constitution never contemplated. Acquiescence in such circumstances would be connivance at injustice, and quiet submission would be a desertion of principle."

I cite as another authority the Rev. R. J. Breckinridge, D.D.

"The General Assembly is a purely delegated body; possessing powers *limited and strictly defined*, intended to answer purposes plainly declared, and capable of being destroyed without infringing upon one single principle of real Presbyterianism. It is created by the Presbyteries, a certain proportion of which may *enlarge, curtail, or abolish it, and all its powers, at will.* . . . . We have

appealed to the Presbyteries and Synods as the creators and advisers, under our Constitution, of this Assembly, whose satellites claim for it omnipotent power to do wrong." (*Presbyterian*, December 4, 1834.)

Still more to the purpose, because denouncing the mischievous interpretation put upon a certain clause of our Constitution by the majority of 1866, as by that of 1834, is the following extract from a protest signed by about forty of the Old-school members of the Assembly of 1834:

"The principle assumed by the majority in this body, and recognized by the Assembly in the above decision, and on which the appellants rest their plea, that the duty 'of superintending the concerns of the whole Church' (Form of Government, xii. 5), invests the Assembly with all powers necessary to accomplish that object, at her own discretion, tends to *abolish the constitutional rights of Synods, Presbyteries, and Church sessions;* to confound and contravene those original and essential principles of ecclesiastical government and order which constitute and characterize the Presbyterian Church."

Those who listened to the debates at St. Louis last May, will readily recall the sweeping use which was made of the clause of the Constitution quoted above; and how fatally it was employed to subvert the rights of individuals and Presbyteries. History is perpetually repeating itself.

If further testimony be needed as to the true doctrine of our Church respecting the powers of the General Assembly, it is supplied to our hand by the "*Act and Testimony.*" Among the grave violations of "Church order" specified in this celebrated paper, we read as follows:

"We most particularly testify against the exercise by the General Assembly of any power *not clearly delegated* to it; and the exercise even of its delegated powers for purposes inconsistent with the design of its creation."

That this was the doctrine not only of the *extreme right* of the Old-school party, but of the other wing also, can be shown by two or three quotations from the *Biblical Repertory*. In that quarterly for January, 1832, may be found an article from the pen of the late venerable Dr. Alexander, which attracted great attention at the time. It is nothing less than a plan for the entire reorganization of our judicatories. Its design, as stated by the writer, is "to show that the present organization of the Presbyterian Church in these United States is not essential; but that in many respects there might be a new modelling of the body, without the least interference with the radical principles of Presbyterianism." The plan proposed is "to divide the

Church into six Synods, each of which shall meet annually, and possess all the judicial and *superintending* powers which now belong to the General Assembly." "The General Assembly to be no longer a High Court of Appeals, as it now is; nor a judicial body at all; but simply a bond of union, and an advisory Council to the whole Church." These brief sentences make it evident enough that Dr. Alexander saw no such self-contained, autocratic power in the General Assembly as our late expositors have found there.

Again, says the *Repertory* for July, 1835 (and the words are worthy to be written in gold):

> "The Presbyteries are the *true fountain of all ecclesiastical power.* They are independent bodies, except so far as they have chosen to unite with other Presbyteries, and cede part of their original rights. The original powers and rights of contracting bodies should not be reasoned away; if they no longer exist, clear evidence of their having been knowingly and voluntarily relinquished must be produced. It had been argued that because the Church is *one*, therefore the several parts or separate Presbyteries have no right to judge in this matter for themselves. This argument, however, is invalid, because their union is by compact, and cannot be pressed beyond the terms of the compact. The Presbyteries and churches are one, for the purposes and to the extent declared in the Constitution, and no farther. To insist that the union was such as to destroy the separate existence and unconceded rights of the constituent parts of the body, is to maintain that *the Church is consolidated*, and to establish a COMPLETE SPIRITUAL DESPOTISM."

This passage occurs in a summary of the arguments adduced in the General Assembly in favor of the inherent right of a Presbytery to examine ministers knocking at its door for admission. It bears the express endorsement of "Dr. Hoge, Dr. Miller, Dr. Elliot, Mr. Winchester, and others." It *appears* to have the sanction of the author of the article in the *Repertory*—the more so, as he adds at the close of the review:—"There is hardly a single principle affirmed by this Assembly, which has not from the beginning been current in the Presbyterian Church." In any event the theory of our system here set forth so lucidly, and affirmed by the Assembly of '35 (an Assembly distinguished alike for its numbers and its ability), has not been successfully impugned by the advocates of the new consolidation scheme. Should they ultimately succeed in revolutionizing our system, it will not be a mere handful of men who, sooner than submit to so "complete a spiritual despotism," will seek for Christian liberty in some freer fold.

Reserving for a future number the further consideration of these principles, I close with a brief citation from the *Repertory* for January of the same year ('35):

"Let us not expect the General Assembly to *transgress all constitutional principles*, and to *commence process* against men suspected of holding erroneous opinions, over the heads of their Presbyteries, when these Presbyteries themselves (consisting perhaps of a decided majority of Old-school men) have not thought proper to act in the case. . . . It really seems to be forgotten by some that our Constitution declares that 'all process against a gospel minister shall be entered in the Presbytery of which he is a member.'"

No ingenuity can bring this passage into coalescence with the consolidation theory. And I shall show, before closing the discussion, that even the acts of '37 lend no support to the oppressive edicts of '66, in "*ipso factoing*" Presbyteries, and "*commencing process*" against the Declaration and Testimony men.

ADDENDUM.

Since these Essays were published in the *Presbyterian*, my friend "S. J. B." [Dr. Baird] has controverted in that paper the hereditary doctrine of our Church, respecting the powers and functions of the General Assembly. As he boldly contends that many of the St. Louis measures were in flagrant violation of the Constitution, I see no occasion for an extended reply to his argument. But I deem it proper to preface the remarks I have to make on his abstract theory, with a paragraph or two from a letter of my own, addressed in August last to the editors of the *Presbyterian*, deprecating their ungracious reflections upon the "minority men" of the General Assembly. While we are perfectly clear as to the incompetency of the Assembly (under our Constitution) to do what was done at St. Louis, we would guard against the mischievous mistake, that the question of power is the only matter of moment involved in those proceedings.

"Your remarks on the adverse judgment pronounced upon the Assembly's measures by the *Repertory*, will find their corrective in that judgment itself, which you candidly cite in an adjacent column. You laud the article as maintaining the naked right of the Assembly to do what it did. Is this the sole question with which we have to do in estimating the acts of public bodies?

Does the country ask merely whether Congress has the abstract right to enact such and such laws? Will the Church limit its inquiries to the power of its supreme judicatory to adopt certain measures? Or will it ask, 'Are these measures wise? Are they just? Are they adapted to the necessities of the Church? Are they likely to promote peace, and order, and charity, or discord and alienation?' And is it high praise to say of the acts of a certain Assembly, 'The Assembly had a *right* to pass them, but they were "unduly severe."' 'There was no important object to be gained by them.' 'The Assembly itself admitted that signing the Declaration and Testimony was not a sufficient reason for exclusion from our Church courts:' 'This action, instead of tending to allay strife and division in the Border States, had a directly opposite tendency.' 'And it places, or would place if carried out, many ministers and churches in anomalous positions, and put in jeopardy important interests.'

"This is what Dr. Hodge says of the late Assembly. And if you, or others, who approve of the doings of that body, can find any comfort in the reflection that, possessing power, it put it forth, 'he being judge,' in this most uncalled-for and pernicious way; we 'minority men' would not deprive you of it. We have plenary evidence in this article, that if the venerable editor of the *Repertory* had been a member of the Assembly, he would have stood with us in opposing both the bold, outspoken report of the committee, and the less manly substitute of Dr. Gurley; that while recognizing the power claimed by the Assembly, he would have remonstrated against the proposed methods of exerting it as unnecessary, and calculated to do irreparable injury to the Church; and that *his name would have been enrolled* with those of Humphrey, Breckinridge, Backus, Smith, Van Dyke, Jones, and their associates of the minority, *on every important vote of the session.*"

To return to "S. J. B." He has undoubtedly framed the best argument which the case admits of, in favor of the high-prerogative theory. But after a careful examination of his articles, I am not able to see that he has made the slightest impression upon the main doctrine of this pamphlet. He has pointed out the error involved in the inadvertent statement, that our General Assembly was actually organized by the Presbyteries. But he has, I think, utterly failed in invalidating the only essential position, viz., that, from the period of its formation, the General Assembly has been entirely under the control of the Presbyteries. According to his peculiar theory of the *jure divino* origin of ecclesiastical courts, the supreme judicatory of a Presbyterian Church is of necessity (within certain limitations which it is not important to cite just here) clothed with the plenary power of the whole body. This power is indefeasible. Our General Assembly still retains, and at its pleasure exercises even those powers which the lower courts are allowed to exercise in common with, though in subordination to, itself. Nay, further still, "since the powers of the Assembly were not derived from

the Presbyteries, they can neither be increased nor diminished by them."

With great respect, I beg leave to say, that this looks very like one of Lord Bacon's "idols of the market," a striking example of the illusive tyranny of words. The General Assembly is the *supreme* judicatory of the Church, *therefore* all the power which Christ has given the Church rests, indefeasibly, in the General Assembly. The chasm between the premise and the conclusion is too broad and deep to be spanned by a simple "therefore." It is not bridged over by saying that "the General Assembly represents the entire Church." The Municipal Councils of Philadelphia "represent the entire city." Are they therefore clothed with the whole political power of the city? Congress "represents the entire people of the United States." Can it therefore legislate on all manner of subjects for every part of the country? The difficulty is not relieved by appealing to the admitted fact, that all Church power emanates from the Lord Jesus Christ. We call for the ordinance bearing His sign-manual, which forbids a Church to lodge any portion of its prerogative elsewhere than in the hands of a single representative tribunal. To our ears, this savors of Judaizing. We protest against it as an attempt to bring the Church again into a bondage which was forever dissolved at the Day of Pentecost. We insist upon it, that, under the Dispensation of the Spirit, it is of the essence of the liberty Christ has given His Church, that it should have some discretion as to the agents and methods through which its power shall be exercised, some freedom in framing the canons of its distribution and administration. Suppose the Church chooses to enact that for certain specific functions, the plenary power it has received from above, shall vest in its Presbyteries or its Synods, is it forbidden to make this arrangement? Or, would the acts thus performed be any the less an exertion of the supreme authority of the Church—the power of the entire body—than if proceeding from a General Assembly?

If I understand "S. J. B.," he contends that the attribute of eminent jurisdiction, is incorporated with the very being of our General Assembly; that to divest it of this prerogative in any one particular, would be a mutilation no less radical than that of amputating one's leg or arm. This is very different from the common doctrine (which we all hold) of the *jure divino* warrant of ecclesiastical courts. It creates a stereotype mould in which

the constitution of every (Presbyterian?) church *must* be run. And it stamps any material departure from the supposed pattern, as a sin. When the venerable Dr. Alexander penned his article alluded to in the text, on arresting appeals at the Synods; he little imagined that he was inciting the Church to violate a fundamental law of Christ's house. With equal ingenuousness some other patriarchal man might now propose to introduce into the Constitution, a clause *explicitly* prohibiting (what is in fact prohibited already) the General Assembly from exercising original jurisdiction in any judicial case whatever. On the new theory, the good father should be admonished that he was striking his axe into one of the very pillars of the tabernacle. All legitimate ecclesiastical powers (he should be told) so inhere in the Assembly, and all ecclesiastical functions so appertain to it, that it still retains those which it consents to share with the inferior courts, and can, at its discretion, do any and all the things which they can do.

Our people will hear with mingled amazement and incredulity that they have been living under a government like this for seventy years. It will astonish them to learn, that the divine right of eminent jurisdiction so attaches to the General Assembly, that should the Presbyteries attempt to transfer any one function of this all-comprehensive authority to another court, they would infringe the prerogative of the Master himself. They *know* that the Church has never recognized this principle. They *know* that no proposed alteration of the Constitution was ever resisted on this ground. They *know* that the doctrine is at variance with our fundamental law as expounded by our various judicatories in their current transactions from year to year. A cloudless, noon-day sun is not more apparent than is the fact, that up to the present time it has been the hereditary, abiding, unchallenged sentiment of the Church, that the Presbyteries have a potential voice in the affairs of our communion, and can at their pleasure prescribe and limit the functions of the General Assembly. Of all the writers (and speakers) on this subject, "S. J. B." is the only one who has had the courage to join issue on this point with the sponsors of our old-time Presbyterianism. The *Repertory* of July, the *Presbyterian* under its new inspiration, the late General Assembly, the Synods and Presbyteries which have endorsed the action at St. Louis, and all and singular the individual advocates of those measures, have failed to meet the naked question:—*Have the Presbyteries* (subject to

their ultimate responsibility to the Head of the Church) *the authority so to alter our Constitution as to enlarge or abridge the powers of the General Assembly?* My brother sees that the hinge of the controversy lies here: and that unless the negative of this proposition can be established, his symmetrical and beautiful fabric comes to the ground. I have used the word "courage," for it certainly requires some nerve to attack a position defended by all the leading authorities of the Church since the organization of the Assembly (see Nos. I. and II. of these Essays), and which every Presbytery in our connexion is in the habit of recognizing whenever it wishes to propose an amendment to the Constitution. The grounds upon which he rests his dissent, are chiefly the *jure divino* argument already considered, and the clause of the Constitution which provides, that any amendment of the Constitution must, after its approval by the Presbyteries, "be agreed to and enacted by the General Assembly." *Therefore* (he maintains) the Assembly is not under the control of the Presbyteries. But this logic clearly will not hold. The obvious design of the provision just quoted, is, to secure a uniform and orderly method of altering the Constitution. It has never been understood by the Church as carrying with it that imperial veto power which he has descried in its simple words. The language employed by the General Assembly on the most memorable occasion of a change in our Constitution, precludes that construction. The new Constitution was submitted to the Presbyteries in 1820. Their reports having been referred in 1821 to a Committee of the Assembly, that Committee presented to the House a report which, after describing and classifying the returns, concludes as follows:—"Therefore the whole of the proposed amendments sent down by the last Assembly to the Presbyteries, is [are] ratified, and becomes [become] *a part of the Constitution.*" (*Minutes*, 1821, p. 9.) This report, which was adopted by the House, distinctly recognizes the control of the Presbyteries over the Constitution. What they have sanctioned, "*becomes* a part of the Constitution." Will it be said—Not so, until it is "adopted by the General Assembly?" But does this affect the result? Can the Assembly frustrate a purpose of the Presbyteries to amend the Constitution? Suppose this were attempted by one Assembly, could not the Presbyteries insure its accomplishment by another? Would they not see to it that Commissioners were appointed who should do their bidding, and ratify in the Assembly what they had already done as Pres-

byteries? It follows, inevitably, that the Presbyteries have, *sub Deo*, the ultimate control of the Constitution. The General Assembly is the creature of the Constitution, and is, equally with the Constitution, in the hands of the Presbyteries. We conclude, then, that however the plausible theory of our brethren may require such a Constitution as they have developed, the Constitution we happen to have, was framed upon no such principles. Whatever autocratic powers the Assembly (in harmony with these speculations) *ought* to have, no such powers have hitherto been claimed for it; nor can the assumption be vindicated now, without first expunging a large portion of the records of our Assemblies, Synods, and Presbyteries.

That this theory of our Constitution is of recent origin, has been shown by cumulative testimonies in the text and elsewhere. No doubt it may have been always held by individuals among us, especially by ministers who have come to us from the Scotch churches; but never until recently has it presumed to solicit for itself the suffrages of our body. We brand it as a novelty not only, but as a very pernicious novelty. My brother repels the idea that it can be fraught with any "danger" to the Church. On this point it may suffice, in the first place, to refer to the proceedings which have occasioned the present discussion. Throughout these Essays, the St. Louis decrees have been considered in their bearings upon the rights of individuals and the general liberties of the Church. I think it has been demonstrated, that in each of these relations, great wrong has been done, and the way prepared for still greater wrongs, should those measures be acquiesced in by the Church. All these evils lie at the door of consolidation. Is it quite the harmless thing its admirers affirm it to be?

But there is another piece of history which tells upon this point with irresistible effect. The venerable Dr. George Junkin, in writing (December 1) to the *North-Western Presbyterian* respecting the late meeting of the Synod of Philadelphia, makes the following important remarks:

"In all these cases it is assumed that the General Assembly is the fountain of power in our Church, and may, at its option, exercise original jurisdiction in all cases. Whereas, we maintain that the Presbyteries are the fountains of power; that no court has original jurisdiction over a minister but his own Presbytery; and thus the powers vested by the King in the body of the Church, rise up to the Synod and to the General Assembly!

"You will see, sir, that my object in the wording of this offered substitute was to avoid all discussion of the Louisville business; and simply to raise my

feeble voice against these monstrous assumptions of power by the General Assembly. Had this doctrine been held in 1837, we should have been ruined; for then the New School would have held us rigidly and justly to the Plan of Union of 1801. But we denied the omnipotence of the Assembly, and proved that it had no power to adopt the said Plan. We declared it null and void *ab initio*, because the Assembly transcended their powers, and never referred the Plan of Union to the Presbyteries, the only true fountains. Had the Assembly of 1801 exercised *rightly—constitutionally*, the high Church principles assumed by the last, then the Plan of Union must have stood, and the Old School must have abandoned the whole cause, and the New would have entered into possession of all the property, the funds, the seminaries, Princeton and Allegheny, and old Calvinism must have sought a refuge elsewhere. I have yet remaining some recollections of those days, and have some acquaintance with the answer to Dr. Peters' protest."

It is not easy to see how our consolidation friends can elude this fatal snare. The powers exercised by the Assembly of 1801 in forming the Plan of Union, conflict with none of the seven "limitations" laid down by "S. J. B." in his second dissertation. If the Assembly be clothed with the powers he challenges for it, that compact might have withstood the assaults of '37, and passed unscathed through the fiery ordeal of the Pennsylvania courts. In that event (observes the editor of the *Digest*, p. 791), "the New-school party would not only have gained control over the two seminaries of Princeton and Allegheny, but have come in possession of funds, buildings, libraries, and other property held by the Trustees of the Assembly and of the Seminaries, amounting in the aggregate to not far from four hundred thousand dollars, to which, they themselves being judges, they had no color of right, other than by intendment of law." Surely it was an auspicious circumstance, that this theory of consolidation and omnipotence was not in vogue with our Church and with the Supreme Court of Pennsylvania thirty years ago. And if it is to prevail now, what shall hinder any future General Assembly from re-enacting a fresh "Plan of Union," or some other scheme equally surcharged with trouble to the Church?

With increased tenacity, then, do we cling to the doctrine of the fathers, as laid down by Dr. R. J. Breckinridge, to wit: that "the General Assembly is a purely delegated body, possessing powers limited and strictly defined, intended to answer purposes plainly declared, and capable of being destroyed without infringing upon one single principle of real Presbyterianism." (See foregoing Essay.) With renewed confidence do we reject the

prerogative of original jurisdiction, as again asserted on behalf of the General Assembly. Let it be understood, however, that while "S. J. B." concedes this prerogative in the abstract, he strenuously insists that it can be lawfully exercised only after the prescribed forms and methods of our discipline. With the minority he maintains that these sacred rules were disregarded by the late Assembly, and the greatest injustice done to the signers of the Declaration and Testimony. In his later Essays, he has pointed out the unwarrantable and oppressive nature of the St. Louis decrees, with a candor and force which should commend his views to those especially who concur with him in his interpretation of our Constitution. Standing among the advocates of the extreme high-prerogative theory, he nevertheless protests against certain of those measures, as placing "all the rights and privileges of ministers and people, and the peace and integrity of the Church, at the mercy of the Assembly's mere will, in contempt of all the provisions of the Constitution." Will those who laud his theory, accept his conclusions?

III.

Further testimonies against consolidation—No precedent supplied by the acts of '37 — The Declaration and Testimony movement contrasted with the New-school convulsion.

I THINK it has been conclusively shown that the *consolidation theory* of our system was expressly rejected by the leading periodicals of the Church, and by the entire Old-school party, thirty years ago. There was then a wholesome jealousy abroad through our communion for the rights of Presbyteries and Synods. Not only so, but the right of private judgment, so obsequiously surrendered by some of the speakers in the last Assembly, was as boldly asserted on every side, as it is in our Form of Government, and as it has been by the *Princeton Review* and some other authorities in the present controversy. Mr. Winchester, as we have seen, distinctly took the ground that to exact subjection to unconstitutional enactments of the General Assembly, "is tyranny and oppression." And the *Presbyterian*,

in one of the most elaborate editorial artieles that ever appeared in its eolumns, earried out the doetrine to the point of *positive resistance* to such decrees.

"Conseienee binds to obedienee to the Constitution in its obvious sense, in its generally aeeepted sense, in its hitherto undisputed sense; and when it is made to appear that any agent, created by that Constitution for worldly or carnal purposes, subverts its authority and resists its healthful operation, conscience is still bound to an obedience; but it is obviously an obedienee to the law, and not to the unfaithful agent of that law. In the present case the violation of engagement is in the Assembly, which has set at naught the authority of the Constitution, and not in those who adhere to it with unbroken faith. But it is demanded, 'Has an individual a right to interpret the Constitution in opposition to the Supreme Judicatory?' We answer, *every man* living under that Constitution, and *every Presbytery and Synod* has a right to judge whether the temporary or delegated body whieh composes the Assembly, interprets the law according to its obvious import; and when it is made elear that the supreme law has been infringed, *it is their right and duty to resist.* How can the pledge of obedience which was made to the Constitution be transferred to any act which does it open violenec? We are aware that this resistance may be stigmatized as incipient rebellion, but it may be more correctly denominated *a sacred defence of our ecclesiastical charter.*" (*Presbyterian*, Oct. 23, 1834.)

These prineiples are not yet extirpated from our communion—at least there were some traces of them a twelvemonth ago. The Synods of New Jersey and Philadelphia, various Presbyteries, and numerous ministers and laymen publicly pronounced the Assembly's measures of 1865 to be "uneonstitutional and void," and the late Assembly did not molest them. The "Deelaration and Testimony men" did the same thing, only carrying the same principles a little farther—(in the judgment of the present writer, too far)—and they were virtually cast out of the Church. What sort of justiee was this? But of this question hereafter.

As a eounterpoise to the authorities adduced in support of the true theory of our system, our eonsolidation brethren point to eertain of the *acts* of the Assembly of 1837. On these alleged precedents, the following observations are submitted.

The formal, deliberate exposition of the Constitution on the part of the General Assembly, and of all who adhered to it, eannot be invalidated by the subsequent acts of the body. Different Assemblies, including that of 1837, reaffirmed the doetrine that the powers entrusted to our supreme judieatory are delegated, speeifie, and limited; and that it has no warrant to assume at will the rights and funetions of the inferior eourts. If this doe-

trine was sometimes contravened in the course of the New-school controversy, an explanation may be found in the circumstances of the times. The good men who shaped the policy of the Church in those days, were neither better nor worse than good men usually are in kindred circumstances. When they were in a minority, as in the Assemblies of '34 and '36, they insisted upon the literal and established interpretation of the Constitution. There being no *temptation* to adopt any other view, they held that "the power of the whole is, not over every part, but over the *power* of every part." When they were in a majority, as in '35 and '37, while still affirming in *express* terms (*vide* Nos. I. and II. of this series) the true theory of our system, they found a supposed warrant for the high-prerogative doctrine in the clauses of the Constitution conferring upon the General Assembly a "superintendence over the concerns of the whole Church," and "the power of suppressing schismatical contentions and disputations." They did indeed argue that the rigorous measures of '37 were no way incompatible with their well-known doctrines of constitutional law. But there were two other grounds upon which they rested the validity of those measures, and which future historians will be likely to regard as supplying their chief, if not their exclusive, justification. The first was the admitted unconstitutionality of the Plan of Union, in virtue of which, on its abrogation, the Synods built upon it fell with it. This principle was recognized and affirmed by the Supreme Court of Pennsylvania. The other ground was, *the necessity of the case*. This feeling, more or less disclosed, pervades the entire proceedings of the Old-school party. A crisis was upon them. The exigencies of the Church demanded extreme measures. If they failed now to secure a permanent ascendency in its councils, the golden opportunity would be lost, and another year might see the Church pass finally into the hands of a party regarded as hostile to its faith and order, and alien from all its traditions. "There are difficulties connected with the plan," said Dr. R. J. Breckinridge, in the debate upon citing inferior judicatories, "but the best course is the shortest one. You should go right onward and directly to the cure of the present evils. The Church is tired of controversy, and longs for peace. We maintain the Standards; and the power we now have to preserve them *we may never have again*. Two years ago the orthodox had the majority, and if they had properly used it, not only would much subsequent contention have been avoided, but the Church

would have approved your course. *Now is our time. We must reform, or be dissolved.* To live together is impossible. We should, therefore, say to the opposing party, 'Gentlemen, there is the door; the highway is yours.' And if they will not go, we should kindly, but firmly *help them out.*"

This was the prevalent feeling. It indicates a period of mighty conflict and of revolution. I do not impugn either the motives or the measures of the spirit that reigned then. That it was guided by a lofty conscientiousness, an ardent love for the Church, and a profound sense of obligation to its Divine Head, is sufficiently apparent from the eminent names which grace the records of that Assembly. But the point I make is this:

Transactions like those of '37 are not to be drawn into precedent, *except in revolutionary times;* and it is *a paltry, deceptive belittling of the New-school controversy, to compare it with this Louisville business.* Let any candid man look at the two cases side by side. On the one hand, the interests at stake (according to the "Act and Testimony," the "Pittsburg Memorial," and the "Debates in the Assembly") were the cardinal doctrines of the Westminster Confession, the Government and Discipline of the Presbyterian Church, and the entire trust confided to her as a Missionary organization for the evangelizing of the world. The controversy had been of seven years' duration. It had spread over the whole Church. It filled our religious periodicals. It inflamed our pulpits. There was not a Synod, not a single Presbytery, which was not convulsed by it. Year after year the two parties struggled for the control of the General Assembly. There they marshalled their forces in hostile array. With varying fortunes, they renewed the conflict every Spring, until at length the end came in a mighty disruption, which clove the Church into two unequal halves, even the smaller of which embraced eight hundred ministers and one thousand churches.

On the other hand, the existing controversy was, in May last, just *eight months old.* Its roots may be traced back a little further, to the bold protest drawn up by Drs. R. J. Breckinridge and Humphrey, and sanctioned by the whole Synod of Kentucky, against the "unconstitutional action" of the Assembly of '61. But the "Declaration and Testimony" bears date September, 1865. Whatever "heresy" there may be in it, lies in an extreme view of the line of separation which divides the secular from the spiritual jurisdiction—an error, no doubt, but one which never yet ruined a Church, and never will. Instructed

by the leading men of their own Synod, that the Assembly had usurped powers not belonging to it; and taught by the fathers of the Church in 1834–7, that "it was their *right and duty to resist* unconstitutional decrees," they put forth their remonstrance against what they regarded as the growing corruption of the Church. In preparing this paper, they fell into the common mistake of men who are called to act in times of excitement. Sound principles were carried to an extreme; and terms were used, and measures proposed, which were derogatory to the Assembly, and of schismatical tendency. Still, this obnoxious paper was only once before the Synod of Kentucky (in October, '65), and never before the Assembly until May. There had been neither time nor opportunity for a proper consideration of its purport and bearings. It bore but a few signatures; and many of these were the names of excellent pastors and ruling elders, who might, of course, err in their measures for reforming the Church, but whose motives were above suspicion. How few these names were, is just one of the points which show the absurdity of attempting to assimilate this case to the New-school contest. The editor of the *Western Presbyterian* (Louisville), who *sustains* the acts of the late Assembly, has supplied the facts in his paper of October 4, '66. His object is to exhibit the trivial and abortive character of the Declaration and Testimony movement—not perceiving, evidently, that he has levelled his rifled gun point blank at the St. Louis Assembly. For what possible apology can be made for that Assembly, in attributing such amazing importance to so insignificant a paper? How will the majority answer it to the Church, that they could consume nearly the entire session, and rekindle the embers of ecclesiastical contention throughout our whole communion, over a document of which one of their own public advocates gives the following account:

"The Declaration and Testimony was 'adopted by the Presbytery of Louisville, at Bardstown, September 2d, A.D. 1865.' It was published to the world a few weeks afterward. It called for a convention of all who sympathized in its views and purposes, to be held at *blank* on the *blank* day of *blank*, some time during the current year; which convention—like some western towns—never had any existence, except in somebody's imagination, or at most on paper. It also called on 'Those Ministers and Ruling Elders who concur in this Testimony' to send in their names as signers; and on all Presbyteries and Synods, who adopted it, to send up a copy of their 'adhering act.' One whole year has since elapsed. The whole matter has been pretty thoroughly discussed. But not a single Presbytery or Synod has since adopted it. The Synod of Ken-

tucky, out of the bosom of which it was given to the world, formally *condemned* it in emphatic terms. Even the Synod of Missouri, after carefully considering it, declined to adopt it; although a decided majority of that body are supposed to sympathize with the views and feelings of its signers.

"We have before us the second (pamphlet) edition of this document. It has the names of *forty-one* ministers and *seventy-eight* ruling elders attached to it. We believe the names of perhaps a dozen others have since been added. Since its first issue, not a single prominent minister or elder in the Church has subscribed it. On the contrary, most of them, even among its apologists, have condemned it. Even Dr. Boardman, in the paper offered to the Assembly, as a substitute for the Gurley paper, felt constrained to condemn it as schismatical. (If *schismatical*, of course, to that extent it is *sinful*.) At the end of a whole year, there it stands before the world with *nearly* one hundred and fifty names, out of *ten thousand* or more office-bearers, to whom it appeals for their approval."

If any heavier blow than this has been dealt the late Assembly, it has not been my fortune to see it. It would be severe from an enemy. From an avowed and zealous friend, it is cruel beyond expression. Is it really so that the Declaration and Testimony was such a still-born affair? that it evoked no sympathy? elicited no support? made no impression? and "at the end of a whole year" is demonstrated to be ready to die of inanition? And did an Assembly of two hundred and eighty members, convened at a period when the unexampled sorrows and spiritual desolations of the land demanded the generous and efficient aid of every Christian and every patriot, allow a matter like *this* to overshadow its entire deliberations, and give tone and direction to all its leading measures? Is this the portentous cloud which threatened the Church with calamities no less dire than those embosomed in the New-school heresy? And are the costly, though albeit needful, expedients of '37 to be invoked for the suppression of an evil which was making no progress, and, if let alone, would have died of itself? Such is manifestly the judgment of the "*Western Presbyterian.*" And so far as *this*, his estimate of the case will meet with large approval:—The Declaration and Testimony was essentially a local affair. The issues it presented were of admitted importance. The ability of some of its chief sponsors was not disputed. But the stir it occasioned in Kentucky and Missouri was owing, in no small measure, to personal, and still more, to political differences. The vigorous efforts made to alarm and excite the Church on the subject, had not created even a ripple upon the surface of the waters. Nine-tenths of our ministers and people had probably never seen the Declaration and Testimony; and did not care

to see it. They would have been content to leave the Louisville Presbytery in the hands of its own Synod—at least until that Synod had discharged, or refused to discharge, its duty in the premises. Prior to the meeting of that *secret Convention* at St. Louis, there was no demand for the Assembly's interference in the matter at that session (save as involved in the judicial case, hereafter to be noticed), which might not have been ignored without disturbing the general quiet of the Church. And yet we are told of the "deadly peril" to which the Church was exposed; and asked to recognize in the legislation of '37 a legitimate precedent for the radical measures of '66. We cannot do it. It is by fallacious analogical reasoning like this, constitutions are destroyed, and civil and religious liberty subverted. This will be made still more apparent as we proceed.

IV.

Dr. Gurley's "Reasons"—Acts of '66 without a solitary precedent—The safeguards thrown around personal rights by the Constitution overthrown—Declaration and Testimony men pronounced guilty and then remanded for trial—Signal injustice toward one of these men.

IT has been my aim to prove that the "consolidation theory" of our Constitution is entirely at variance with the doctrine laid down by numerous General Assemblies, and recognized by the entire Old-school party thirty years ago. I think it has also been shown that the essential conditions are wanting which alone could legitimate an appeal to the *acts* of '37 as a precedent for the acts of '66. I now advance a step farther, and assert that the precedent in question will not apply, even if the preposterous claim be conceded, that the Declaration and Testimony men had actually brought the Church to the verge of a great revolution, as the New-school party had in '37. It seems to be taken for granted that if the acts of '37 were lawful, *a fortiori*, those of '66 were within the scope of the Constitution. But this is a fallacy. The late Assembly arrogated powers never assumed by any previous Assembly.

Among the "Reasons" assigned by Dr. Gurley for the adoption of his memorable "*ipso facto*" decree, and which the Assembly formally accepted and incorporated with the edict itself, is one which many, who entertain the highest respect for its excellent author, are compelled to regard as bordering upon the ludicrous. It is as follows:—"Because it saves us from even the appearance of taking action in this case, which is too summary and severe (!). Though we might lawfully dissolve the Presbytery of Louisville at this time, no such great or perilous exigency has arrived as makes such an extraordinary proceeding necessary—nor is it expedient. It is better for the Assembly, better for the Church, and better for all the interests in any way concerned in this case, that justice should be secured and administered *in the ordinary way and by the ordinary methods.*" These italics, from the original (Minutes General Assembly, p. 61), give the grave reflection a peculiar gusto in view of the fact that what is here so complacently set forth as a measure of signal clemency, in full accord with the "*ordinary methods*" of our Church, is *without a solitary precedent from the organization of the General Assembly in* 1789 *to the present day.* As regards the *ipso facto* style of capital punishment, no one will pretend that it was ever heard of before in our Church, or in any other Church, or in any respectable civil legislature—of this, in the abstract, and in its fatal working, hereafter. For the present, let it suffice that this is the first Assembly to set up the dangerous prerogative of citing individuals to its bar (or to the bar of its successor) for trial. That this is the object is distinctly avowed. The Assembly, according to "Reason No. 3," is to "consider and *adjudicate* the case," and, in the report of the Committee, the "citation" of these men is (justly) represented as the first step of a judicial process. This is going far beyond the Assembly of '37. Not to lay the least stress upon the fact that the "citation" scheme which was initiated on a Friday was abandoned the following Tuesday, and so came to nothing, that Assembly *proposed* to cite only "Judicatories." (*Book of Discipline*, chap. vii. sec. 6.)

Neither on this occasion, nor on any other, did they claim the authority to cite *individuals* before them for trial. I have carefully examined the records of the Church within my reach without finding an instance of this kind since 1789, the only case remotely approximating to it being one in which an heretical creed was, after protracted litigation with its author, *referred by a Synod* to the Assembly, and the Assembly required the author

to recant his sentiments. No such case was adduced at St. Louis. None has ever been presented in the pages of the *Repertory*. If Dr. Baird had discovered one, he would have given it to us in his Digest. The instances are innumerable where the Assembly has either censured Synods and Presbyteries for neglecting discipline, or directed them to consider of it, or ordered them to do this and that. But never until now has this power of arraigning men, and commencing process against them, been usurped by a General Assembly. So far from it, the Assembly has, on repeated occasions (see Digest *passim*), reaffirmed the broad principle that no man can lawfully be tried in the Presbyterian Church except by his Session or Presbytery.

It may suffice to refer to one example out of many. In the case of the Rev. William C. Davis, the Assembly of 1810 (and its action was ratified by the Assembly of 1811) decided that the Synod of the Carolinas, while displaying a laudable zeal for the purity of the Church, violated the Constitution in claiming a right to try Mr. Davis "*when there was no reference nor appeal in his case before them.*" So utterly baseless is the assumption, that this procedure at St. Louis was in keeping with the "ordinary methods" of administering justice in our Church.

It well behooves our ministers and people to consider whether they are prepared to sanction these encroachments upon the Constitution. Every page of our Book of Discipline reveals the jealous care of its framers for the personal rights of all embraced in our communion. No man can be tried except by his peers. He must be tried at home—not a thousand miles away. He must have full notice as to charges, prosecutors, time and place, witnesses. He has the right of appeal to Presbytery, Synod, General Assembly. He is not to be finally condemned until three (or if a layman, four) different courts have passed upon his case, before every one of which he is entitled to a candid and patient hearing. Such are the safeguards the Constitution has thrown around the humblest individuals in the Church. Does any man among us feel that these ramparts are too many, or too strong? What, then, must be thought of an Assembly which sought to annul all these indispensable provisions respecting the forms and modes of trial; which set aside Presbyteries and Synods as having no rights in the trial of their members; which denied the right of appeal by *making an appeal impossible;* and superseded the three tribunals of our Constitution, clothed with specific and separate powers, by a single au-

tocratic court invested with absolute power over any minister it might choose to cite to its bar?

Even this is not the whole truth, nor anything approaching to the whole truth. These Declaration and Testimony men are not simply refused a trial, according to the forms of the Constitution. They are not simply required to plead at the bar of a court, to which the Constitution has denied all original jurisdiction in judicial cases, and which in seventy-seven years never arrogated this power before. The Assembly, as if apprehending that its successor might falter in carrying out the rough discipline designed for the offenders, prejudges their case, and sends them to the following Assembly with its official brand upon their foreheads. It stigmatizes them as men so steeped in rebellion, that the Presbytery which tolerates the presence of any one of them dies, as by a sudden visitation of God. It refers the cause for trial to the next Assembly, after putting upon the indictment the ominous endorsement, that one of the parties implicated "ought, as there is the strongest ground for believing, to have been suspended from the functions of the gospel ministry." (Minutes, p. 12.) In other words, they pronounce a man "guilty," and then hand him over for *trial!* What would the lawyers, who voted with the majority at St. Louis, think, not of a Grand Jury, but of a criminal court, which, in remitting a cause to its next term, or to another court of co-ordinate jurisdiction, should write upon the indictment, "We believe the accused to be guilty?" Yet to this style of jurisprudence have we come in the Presbyterian Church.

The reply to this, often uttered in private conversation at St. Louis and elsewhere, and virtually embodied in the McLean resolutions, is, that the commissioner alluded to "was believed to have been an active friend of secession and the rebellion." This is deemed a sufficient reason, not only for the summary judgment visited upon himself and his Presbytery, but for denouncing the "minority men" of the Assembly as sharing in his alleged "disloyalty." With the political sentiments *imputed* to the commissioner referred to, the present writer has no sympathy. But "doth our law judge *any* man before it hear him, and know what he doeth?" What license is there in the word of God for condemning any man unheard? or for observing a commodious silence when others in our presence condemn men unheard? We have had quite enough of this during the war. Character has been made a foot-ball for ignorance and ma-

levolence all over the land, and within the Church, as well as out of it. This minister's case is not peculiar. Undoubtedly the prevalent feeling about him, in large portions of our Church, is such, that even to speak of him as a man entitled to a candid hearing, is to put one's good name in peril; and it must in candor be admitted, that while this is the current style of talking and writing about *him*, he has, in a measure, retaliated the treatment by his unfortunate facility in saying harsh things about his brethren. This, however, is not the question at issue. The General Assembly, in holding him up as a man who ought to be "suspended from the functions of the gospel ministry," gave their solemn sanction to the worst charges alleged against him. Whenever he is fairly tried, and those charges are *proved*, he will find as little support among the minority, as among the majority of that Assembly. But the minority protested, and will protest (however "*disrespectful*" it may be to offer "protests" couched in plain words, where there is a majority of "four to one") against the summary condemnation of this man without even a pretended observance of the prescribed forms of trial. It has some little weight with them—it will have with all, except bitter partizans—that he has, in every way, denied the truth of those charges, and avowed his readiness to meet them before any proper tribunal.

As regards the Declaration and Testimony men generally, the minority could not perceive how their political views were, on that opening day of the session, in any proper shape or form before the Assembly. They resisted the McLean minute as they would have resisted a proposition for the instant exclusion of a duly enrolled commissioner upon the ground of rumored financial shortcomings, or for any similar reason. They could see nothing but injustice to individuals, and the utmost peril to the Church, in a procedure which any casual majority in future Assemblies might cite as a precedent for suspending from their seats without a hearing, and upon whatever pretext, members whom they may wish to get rid of. This is a dangerous lesson even for good men to learn. It will be well if its inventors do not yet see it enforced, in some of our judicatories, against men who happen to be obnoxious to a majority on other than political grounds. In those periods of conflict which recur with every Church at irregular intervals, it may prove too convenient an instrument for perpetuating power in the hands of an ascendant party, to be dispensed with.

V.

The Synod of Philadelphia repudiating its hereditary principles—Argument of Messrs. Spilman and Marshall—The Constitution a better guide than "military necessity."

While concluding the preceding number of this series the writer, detained from the Synod of Philadelphia by sickness, was visited by an esteemed brother, who informed him that the Synod, in framing an answer to a protest, had formally, and by a large majority, adopted the "*consolidation theory*" of our government in its broadest terms—recognizing and affirming the right of the General Assembly to exercise, at its discretion, all the powers and functions of the three inferior judicatories.* This is a striking illustration of the controlling influence of events in moulding men's opinions even upon constitutional law. It is safe to assert that thirty years ago, when such names as Ashbel Green, William Neill, C. C. Cuyler, John McDowell, Samuel G. Winchester, Samuel Martin, Henry R. Wilson, James S. Woods, James Linn, William M. Engles, John and Robert J. Breckinridge, were conspicuous at the meetings of this venerable body, this theory could not have commanded five votes among the two hundred ministers embraced in the Synod. It has been proved in these Essays, that the theory in question was repudiated by the *Presbyterian*, the *Biblical Repertory*, the *Act and Testimony*, and, in fine, by the entire Old-school party (as it also is in our own day, most emphatically, by the New-school branch of the Church). That the whole Church of that period should have been at fault in respect to the radical principles of our Constitution, is a proposition which it may require some assurance to affirm. Nevertheless it is affirmed by this action of the Synod of Philadelphia (if correctly reported); and we can only lament that our fathers were so grievously mistaken as to the essential nature of an instrument which some of them had an important agency in moulding to its present fashion. One thing

* This "Answer" has since been published. It abounds with references to the "*Digest.*" Several of these, upon which the argument chiefly hinges, do not at all sustain the positions in support of which they are cited. This was a characteristic feature of many of the Reports and Speeches before the last Assembly.

is apparent. Either they were thus mistaken, or a bold effort is making to change the fundamental law of the Church, and that in contempt of the prescribed routine for amending the Constitution. Consciously or unconsciously, the dominant party are steadily working toward this result. They are challenging for the General Assembly powers never claimed for it prior to last May, and which, if conceded, must *revolutionize our whole system*. A consolidated government like that now advocated, would have the great advantage of simplicity. It would be intelligible to the humblest capacity. It would be effective in administration. Disencumbered of the complex forms which attach to our traditionary discipline, it could wield the iron sceptre of authority with a celerity and an energy unknown to the cautious movements of constitutional jurisprudence. But before the Church bows her neck to the proffered yoke, it may be worth her while to consider whether she can afford to dispense with all the safeguards which the Constitution, as heretofore interpreted, throws around the rights and liberties of her people.

The solicitude implied in remarks like these has been derided as puerile. The Church has been assured, through her newspapers, that the new doctrine is perfectly harmless, and that the strenuous opposition it encounters, is put forth in the interest of disloyal men, who would set the General Assembly at defiance. This is the stereotype method of innovators. It is easier to excite odium against individuals than to repel arguments and subvert principles. It may suffice to tell the ignorant and unreflecting that the outcry against the theory set up at St. Louis, is "a bugbear to frighten the timid." (*Presbyterian*, Oct. 20.) Those who can appreciate principles and constitutions, and who have traced such germs as this to their mature fruitage, will not so regard it. Since there seems to be a necessity for some further exposition of this point, let me quote a brief and masterly argument upon the claim of the late Assembly to original jurisdiction in judicial cases, and the pretended right to destroy Presbyteries and Synods by the hitherto unheard-of *ipso facto* process. It is from an official report laid before the Presbytery of Ebenezer in Kentucky, by the Rev. B. F. Spilman and Charles A. Marshall, Esq., two of the steadfast opposers of the Declaration and Testimony movement. After a luminous explanation of various clauses of our Constitution, they proceed as follows:

"The assumption of right on the part of the Assembly to deal with Presbyteries, and with ministers and elders, by original summons, trial, and judgment, is, in effect, to deny to Presbyteries and Synods, and even to Sessions, any rights whatever exclusive of the Assembly. It is virtually to affirm that these bodies exercise all the functions of government by mere sufferance, as so many parts of the pliant machinery of the Assembly; directly, as it seems to us, in the face of all just interpretations of the law, and contrary to the uniform practice of the Presbyterian Church.

"The practical effect of the establishment of this high claim of power on the part of the Assembly, would be to confer upon that body not only concurrent, but *paramount* jurisdiction in all cases whatever. To permit it to stretch out its great arm over the Synod to the Presbytery, and over both these to the Session; to substitute its own process for that of the inferior courts; and without being invoked thereto by appeal or other regular procedure, to arrest, modify, or annul their proceedings—in short, actually to absorb all their powers and prerogatives, virtually setting them aside altogether. We cannot but regard this as a most alarming stretch of prerogative, which, if practically carried out, would convert the Assembly into an '*overshadowing ecclesiastical despotism.*'

"We are aware that these high prerogatives are claimed in virtue of the general powers conferred on the Assembly in chapter xii., fourth and fifth paragraphs, of the Form of Government. But, in the name of all that is reasonable and right, will any intelligent man, on due reflection, affirm that when the General Assembly undertakes to exercise any of these powers by a *judicial process*, it is not to be restrained and controlled in the whole procedure by the specific rules prescribed in the Form of Government and Book of Discipline? WE VENTURE TO AFFIRM THAT THERE IS NOT IN THE CIVILIZED WORLD, A COURT AUTHORIZED TO SIT IN JUDGMENT UPON THE RIGHTS AND LIBERTIES OF PERSONS OR BODIES CORPORATE OR ECCLESIASTICAL, THAT IS LEFT WHOLLY TO ITS OWN CAPRICES AS TO ITS MODE OF PROCEEDING; THAT IS NOT BOUND BY SOME CODE OF PRACTICE—SOME RULES AND FORMS SPECIALLY LAID DOWN AS OF BINDING AUTHORITY, BEHIND WHICH THE PARTY UNDER PROSECUTION MIGHT ENTRENCH HIMSELF, AND THUS SECURE A FAIR AND IMPARTIAL TRIAL BEFORE THE PROPER TRIBUNAL. A COURT WITHOUT SUCH RESTRAINTS AND LIMITATIONS WOULD BE A REPROACH TO CIVILIZATION.

"It is our solemn conviction that the constitutional principles which seem to us to have been so palpably violated in these proceedings, are fundamental principles of Presbyterian Church government and order, pillars and foundation stones upon which the whole structure rests; principles essential to the very life of the Church; such, therefore, as cannot be surrendered without the *greatest danger to Christian liberty, and the utter overthrow of pure Presbyterianism.*"

These are weighty words. They are full of warning to the Church. They show, as plainly as language can, that the late Assembly, in its zeal to rebuke an alleged violation of the Constitution, has forced upon that sacred charter an interpretation which will not consort with the liberties of the Church. It is the very doctrine against which the *Biblical Repertory* of 1835 protested, as involving "*a consolidation of the Church*, and the

establishment of a *complete spiritual despotism.*" Is the old Synod of Philadelphia prepared for this?

The only answer made in some cases to these constitutional arguments, has been a declamatory flourish to the effect that "the minority men would leave the Church powerless in the presence of an active rebellion." We can afford to smile at a taunt which is inspired by mere ignorance or passion. We are as much the friends of order and discipline as our brethren who say such things of us. We are for suppressing heresy and insubordination wherever they appear. But we honor our Constitution. We have more faith than our brethren seem to have, in its adaptation to all emergencies. We are for exhausting its remedies before invoking the dangerous principle of "military necessity." We are satisfied that the "ordinary method" of procedure, the method sanctioned by the uniform practice of the Church, the only constitutional method, was the true, safe, and healthful method for dealing with this Louisville trouble. We utterly deny that the Declaration and Testimony movement was of such proportions as to demand a radical deviation from our established judicial forms. This is now distinctly proved by writers on the other side. (See No. III.) Nay, however incautiously, it was explicitly affirmed by the Assembly itself in "No. 6" of the Gurley "Reasons." And thus the most specious apology for the proceedings at St. Louis falls to the ground.*

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* On the very day that the proof-sheets of this Essay have come into the author's hands (too late for a foot-note to No. IV.), the newspapers announce that "Sanford Conover was yesterday *convicted of perjury* at Washington, for his false swearing on the assassination trials." This man was the chief witness who attempted to implicate Dr. Stuart Robinson in the infamous poison and yellow-fever plots, alleged to have been concocted during the war. Another of these perjurers, "Hyams," published his "recantation," under his own signature, in the Toronto papers of May, 1865. In a public address at St. Louis, June 4, '66, Dr. R., referring to the former of these impostors, observed, among other things: "This barefaced liar swore to seeing me in Montreal in January to March, 1865, associating with Thompson and Blackburn, and assenting to schemes of murder, though a *thousand people* KNEW I could not have been in Montreal after June, 1864." (*Missouri Republican.*)

It is one of the bitter fruits of the war, that political animosities should exclude, even from church newspapers, statements of such vital moment to the reputation of one of our ministers, and *therefore* of moment to the Church itself. Dr. Johnson was a good hater, but he said one day to Boswell: "I hate Lord George Gordon, but I am glad he was not convicted of this constructive treason: for though I hate him, I love my country and myself."

VI.

The majority eluding a Judicial investigation—Anomalous proceedings—A new case extemporized—An "Appeal" issued without being tried—Synod of Kentucky grossly wronged—Speeches of Drs. W. L. Breckinridge and Humphrey—The blow struck, and the Church the sufferer.

OUR brethren should be careful how they use a weapon which can be turned with great effect against themselves. In so far as the present writer is informed, no objection has ever been made by any one of the minority, to a proper judicial inquiry into the imputed errors and delinquencies of the Declaration and Testimony men. Had such an inquiry been proposed at St. Louis, the opposition to it must have come from the other side of the House. In fact, it did come from that quarter. So bold an assertion demands proof. And the proving of it brings us face to face with one of the most remarkable features of a case replete with anomalies—a feature scarcely glanced at hitherto in any quarter, but of profound significance.

Let the fact be considered, then, that a judicial investigation into the conduct of the Louisville men *was in progress when the Assembly convened;* and that, by the adoption of the McLean paper and the subsequent resolutions, the majority abruptly broke in upon the due course of this investigation, and gave a new direction to the entire business. It was known to the whole House that Dr. R. J. Breckinridge, and others, had appealed to the Assembly against the Synod of Kentucky for refusing to disfranchise the Declaration and Testimony men. Dr. Breckinridge had offered a resolution to the effect that the signing of that paper "had rendered each and every one of them unqualified, unfit, and incompetent to sit and act as a member of this or any other court of the Presbyterian Church." The Synod rejected the resolution by the decisive vote of 107 to 22. From this decision an appeal was taken to the General Assembly. It was to come up in its due place. Had the majority of the Assembly been content with "the ordinary methods" of our Discipline, the opportunity was in prospect of a full judicial inquiry into the merits and demerits of the Declaration and

Testimony movement. But, for reasons not yet assigned, these "methods" were deemed unsuitable. The "ordinary way" must give place to a very extraordinary way. A case duly entered for trial must be wrested from the judicial docket, taken altogether out of that sphere which the Constitution has stamped with the highest sacredness, and guarded by the most solemn sanctions, and dealt with as a matter of common legislation. Nay, worse still—the Assembly, having a *bona fide* Judicial case before them, *construct a new case out of the same materials—originate proceedings against the appellees, altogether outside of the existing case—vote* (by implication) *these proceedings to be "judicial" in their character—condemn the individuals thus unexpectedly arraigned—impose a severe penalty upon them—and wind up by sending them to the next Assembly for trial!* Meanwhile the real Judicial case, thus superseded by its rival extemporized for the occasion, on reappearing in the House, collapses like a Presbytery on the entrance of a Declaration and Testimony man. Why should it not collapse? A shorter way had been contrived for effecting its purpose—a purpose, possibly, which might have miscarried in adhering to the legitimate judicial process. It has been too much overlooked that the punitive decree of the Committee's report and the Gurley minute, involved the identical question which was before the Synod of Kentucky. The Breckinridge appeal brought that Synod before the Assembly for *refusing* to exclude the Declaration and Testimony men from the Church courts. That decision was in force when the Assembly met. In so far as the Constitution is concerned, the question has well been asked, Why is it not in force still? For the appeal was not issued. And it is for the majority to show how a decision of one of our courts, which has been carried up by formal appeal and complaint, *can be set aside by the Appellate Court without issuing the appeal and complaint.* The dilemma in which the Assembly is involved is this:—Its proceedings in the Louisville case were *judicial*, or they were not. If they were, then the Assembly not only assumed original jurisdiction, in derogation of the Constitution, but dispensed with all the carefully prescribed forms for conducting judicial process, which was a further violation of the Constitution. If they were not, then (1) they are barred from pleading the only clause of the Book of Discipline which warrants a court to suspend a member's right to his seat (chap. vii. sec. 5); and (2) they undertook to issue, by a mere legislative decree, a cause which was pending before

them on a regular complaint and appeal, in direct contempt of chapter vii. sec. 4 of our Discipline. It is quite immaterial which horn of the dilemma may be chosen.

If the true object had been to hold these men amenable to the lawful authorities of the Church, and according to the forms of the Constitution, why were they not left unmolested until the case in which they were concerned could be taken up and issued? The Assembly met on Thursday. This case was reported from the Judicial Committee, as in order and ready for trial, on the following Monday morning. The appellants were present, Dr. R. J. Breckinridge, Dr. Stanton, Dr. Landis, and one other—names which gave full assurance that the cause the majority had so much at heart would be ably presented. Whence the impatience betrayed by the adoption of the McLean paper? Whence the undissembled preference for an "original" judicial process hampered with such palpable irregularities, over the issuing of a formal appeal, according to the sober and safe "ordinary methods?" After the appeal had been deliberately postponed for a week, to give the McLean Committee time to report, and their report had already been several days under discussion, it would have been proper enough for the Assembly to decide to go on with it, as was proposed. But why any such postponement? Why any such report? Why any such Committee? When the entire substance of the case was embraced in the Appeal which came there (it is presumable) of right, and which the Assembly would have been compelled to hear. With the motives which inspired this remarkable course of action, we have nothing to do. That it should be without a parallel in the whole history of our Church, only homologates it with the other features of the Assembly's procedure. And whose character is safe in our communion if these measures, themselves without precedent, are hereafter to be drawn into precedent? In any event, is it for those who countenanced these acts to reproach the *minority* with resisting a *judicial* inquiry into the Declaration and Testimony movement?

If the appellants should decline to prosecute their appeal, or if the majority, on examining the case appealed, should, for whatever reasons, have deemed some further steps expedient, there was a method open to the house, wise, equitable, and suited to the emergency—the method, too, demanded by the Constitution. This was to refer the whole matter to the Synod of Kentucky, with proper instructions. This was proposed and urged

by various members, and especially by some of the "loyal" men of that Synod. It was resisted, on the ground that the Synod might refuse to execute discipline upon the Declaration and Testimony men. This argument was of no account. For (1) It was the undoubted constitutional right of the Synod to have this case referred to them; and not to do it, was to invade their rights. See this principle affirmed by numerous cases in the *Digest*. (2) It was putting a stigma upon one of our oldest and soundest Synods, to assume that it would not enforce righteous discipline in any case which really called for it. Conceding that the Presbytery of Louisville had erred, what had this time-honored Synod done to forfeit the respect and confidence of the Church? Could not the Assembly wait to see whether it would prove refractory, before appropriating its functions, and proclaiming it faithless to its trust? (3) The presumption, from what had already occurred, was that the Synod would do its whole duty in the premises. It is true, that at its meeting in October, 1865, the Synod had very properly refused to disfranchise the Louisville men. But it had passed a resolution expressing its strong disapprobation of the Declaration and Testimony. And the whole matter was, in effect, still before it. Let candid and impartial men read the following extracts from the speeches of Dr. William L. Breckinridge and Dr. Humphrey at St. Louis, and say whether the Assembly had the slightest pretext for treating that venerable court as a "*rebellious* Synod"—the modest epithet applied to it by a correspondent of the *Presbyterian*, and naturally enough, if he looked no further than the Assembly's Minutes.

"The proper course was to remand the whole matter to the Synod of Kentucky. If the Synod has been negligent, give it to understand that the Assembly regard it as having been negligent, and demand that it shall do its duty. In that way the General Assembly would set itself right before the Church and the whole world, in that it was proceeding according to law. If, after that, the Synod of Kentucky should not do its duty, it could justly be called to account for not doing its duty. He thought this would be the wisest and best method of dealing with this matter, and would have been from the beginning. He denied the assumption of the report that the Presbytery of Louisville had been cited to this Assembly. The records were not here; the records of the Synod of Kentucky were not here when this report was made. He questioned whether the Synod of Kentucky had been guilty of negligence in this matter. The meeting of the Louisville Presbytery happened in September, and the Synod of Kentucky met toward the middle of October—some five weeks afterward—and this paper was not made public till some time after the meeting of the Presbytery of Louisville. He himself never saw the paper until he saw it at the

meeting of the Synod. Had this Assembly no charity for men who hesitate what to do—who want to take time to consider what should be done in an extremely difficult case on which very many results hang? The Synod would have acted hastily to have proceeded at that time. Admitting that the Synod was wholly wrong, it should be rebuked, and required to do its duty; but the Assembly ought not to do it in an unconstitutional and irregular way, in order to make up for the neglect of the Synod. Had the proper time come, and were the cause a sufficient one, the Synod ought to have cited the Presbytery; but that rule applies equally to the Assembly, and it ought not to proceed without citation.

"He denied the statement that the Synod of Kentucky had ever 'refused' to try these men, but stated that it was impossible to say whether they would neglect or fail to do it, if it was required of them by the Assembly. The Synod of Kentucky had never 'declined,' because to say they had declined, supposes that they had been asked to do something. They had been asked to do something which they wouldn't do; and although it may appear in the judgment of the Assembly and the Church that the Synod did wrong therein, it didn't appear wrong to the speaker yet. The Synod of Kentucky was asked to exclude these men from the Synod, disfranchising them as ministers, to exclude them from the whole Presbyterian body; declare them incompetent, unfit for sitting in that, or any other Court of the Presbyterian Church; and to declare all that by a simple resolution on making up the roll before even the Moderator was chosen. That was what the Synod would not do, and most properly. That was the head and front of the offending of the Synod of Kentucky, and that was what the report of the Committee condemned, and asked the Assembly to condemn. It might come out that the Synod of Kentucky would take this matter up for itself, and no man had a right to affirm the opposite, and doubly had no man the right to assume such a thing as that for the purpose of doing anything that was clearly unconstitutional. The Presbyterian Church could stand a great deal. The Synod of Kentucky could stand a great deal; but to stand this, that to the General Assembly belongs the power to do all, everything, because it is the General Assembly, is more than they could stand."

Listen also to Dr. Humphrey:

"The scheme proposed by the Committee" (and the Gurley substitute is identical in principle) "is simply one of *Church power*. It is a *brutum fulmen* in every aspect. It says to these men:—'We have concentrated in our hands *all* the power which Christ has given to his Church. We have you in our hands, and will hold you there, in the exercise of this concentrated power.' The amendment proposes that our proceedings shall be in the legitimate exercise of the power of all the bodies, among which the power of the Church is distributed. We urge a trial. We urge that the question may come up by a reference to the Synod of Kentucky. I believe that Synod would issue the matter in accordance with truth and righteousness, and I do not object to the insertion of such an injunction."

"The forms embodied the spirit of justice, and they could not trample down the forms of justice without trampling down justice itself. But the plan proposed by the Committee was anomalous, unprecedented. The dissolution of the Presbytery of Philadelphia had been cited, but they would observe that the un-

constitutionality of the proceedings whereby that Presbytery was established was the ground of its dissolution. It was dissolved because it never had a legal existence. He contended that never before in the history of the Church had a Presbytery been dissolved in the manner in which it was proposed to dissolve the Louisville Presbytery. In the dissolution of the Presbytery of Philadelphia there was a clause in the ordinance which saved the ecclesiastical position of every minister in the bounds of the Presbytery, but here the contrivance was to shut brethren out of the Church, and there was no precedent for it. He wished it to be remembered that these brethren were to be turned out of the Church without a hearing. It might be said they had a right to come here and be heard. But they were turned out in the beginning and regarded themselves—he would not say justly—as precluded from returning until they received instructions from their Presbytery. He next referred to the provision in the Book of Discipline in reference to citation, which requires that, although the accused may declare he will not appear on the first citation, yet the second citation must by no means be omitted. These brethren had been cited to appear, but under circumstances which they think they are not authorized to respond to; and the Assembly could not proceed to the extent of administering severe justice in the case, which they might do if they had given these brethren a fair chance. He deprecated hasty action in the premises. This Declaration and Testimony was only issued in September last, and he hoped no such summary action would be taken as proposed, but that one year more might be allowed, so that these brethren, if they could find it possible, might have an opportunity to return to the allegiance of the Church. He desired also that the matter might be put on such a footing as that a judicial trial of the case could take place. The speaker closed with an eloquent plea in behalf of the Presbyterian Church in Kentucky.

"Mr. McKnight desired to know of the speaker whether he had any hope or faith, even as a grain of mustard seed, that if this Assembly should forego the action now proposed, and which, to his mind, was so justly merited by that Presbytery, whether he thought there was any probability whatever that the Synod of Kentucky or the Presbytery of Louisville would review its action and come back to the Church.

"Dr. Humphrey said he would answer frankly. He thought the measure he proposed was far more likely to accomplish that object than the measure of the Committee, and further, that if they would adopt some such measure as he proposed, coupled with kindness and affection, to their erring Southern brethren—if they would open their hearts to them in some way, he believed this agitation would be suppressed, and that they would come together in the unity of the Spirit and the bond of peace."

Such were the counsels offered to the Assembly by two brethren, whose age, ability, experience, and "loyalty," entitled them to a most respectful hearing. Nor this alone. They were on the ground. They had seen the rise and progress of the Declaration and Testimony demonstration. They had resisted it at every stage. If they had not been superior to mere local and personal influences, the atmosphere they had been breathing might have made them foremost in demanding of the Assembly the prompt punishment of all engaged in the move-

ment. They, of all men on that floor, might have been expected (for such is the usual effect of earnest controversy upon men) to urge the passage of the McLean resolutions, or others like them. But they could rise above the passions of the hour, and not only consider the rights of individuals, but look calmly at the disastrous consequences to the *Church*, which such revolutionary measures must draw after them. And so they threw themselves into the breach, not to palliate the errors of the brethren with whom they had been waging a violent contest; but to implore the Assembly not to strike a blow at these brethren, which, besides being unjust to them, must inevitably fall with crushing effect upon the *Church* of their common affections. Their eloquent pleadings brought tears to many eyes, but *did not avert the blow*. Let the discord and desolation spread through the Synod of Kentucky to-day, attest whether the Assembly did well to close its ears against these faithful counsellors.

Of course, no inference to the prejudice of these views can be drawn from the proceedings of that Synod at its recent sessions. For the question now before them was, whether they would obey a mandate of the Assembly, which the great majority of them regarded as unconstitutional and oppressive. Of this hereafter.

VII.*

Analysis of the McLean resolutions—Injustice of excluding the Louisville men — Condemned unheard — Minutes surcharged with accusations against them — Their Letter refused a place—Synod of Ohio and Dr. Archibald Alexander—Severity and moderation.

The summary exclusion of the Louisville commissioners from the Assembly, has been defended on two grounds, to wit: (1) that "our Book authorizes a court to suspend from their right to a seat, any of its members against whom judicial proceedings have been commenced; and these men were already under pro-

* This Essay has been enlarged, and, in a few passages, modified, since the publication of it was declined by the *Presbyterian*. But if the two objections stated by the editors in their note were tenable then, they are much more valid now.

cess as representing a Presbytery which had openly defied the Assembly." And (2) that "every deliberative body has the inherent right to judge of the qualifications of its own members." As regards the first point, it has been shown that the plea is without foundation. Up to the day that these four brethren left Kentucky for St. Louis, no one, not even the sternest of their opponents in that Synod, had so much as hinted that they were "under process." The suggestion would have excited universal derision. The only method, then, by which they could have been brought into this untoward condition, was, through some vote of the Assembly itself, declaring them to be "under process." This vote must of necessity have been that on the McLean paper. But the McLean paper bore no such ominous announcement on its face. And if it had, whence came the authority of the Assembly to originate a judicial process at all; and still more, to originate such a process in this unheard-of way—and without *notice to either party* that it was the "commencement of process?" And how happened it that the Moderator, whose feeling toward the Declaration and Testimony men was well understood, forgot to admonish the Assembly that "they were about to proceed to the consideration of Judicial business?"

In addition to what has been said concerning this novel method of conducting judicial investigations in our Church, let it be well considered how tremendous a prerogative is here challenged for the General Assembly. It is nothing less, than the authority to declare any of its members "under process" (and thereupon to sequestrate their seats) who may happen to be obnoxious to a casual majority of the body. Some years ago the Synod of New Jersey resolved not to support the Board of Domestic Missions, but to do its own missionary work. The Presbytery of Baltimore and various other Presbyteries have, at different periods, done the same thing. It was stated on the floor of the Assembly, that the Moderator's own Presbytery, Chilicothe, once resolved to have nothing to do even with the General Assembly itself. According to the principle recognized at St. Louis, the Assembly might (1) have suspended the delegates of these several Presbyteries from their seats until "the conduct of their Presbyteries could be decided upon." (2) It might have ordained this to be the "commencement of process" against the said commissioners. And (3) it might have done all this, without allowing those commissioners to say one word upon the subject. Is this Presbyterianism, or Popery?

The second ground of defence is equally precarious. "The right of a deliberative body to judge of the qualifications of its members," does not include the right to expel or suspend them from their seats WITHOUT A HEARING. As having some possible bearing upon this point, it may be well to quote here one of the provisions of our Book, which illustrates the extreme solicitude of the Church in respect to the *commencement* of discipline. "Great caution ought to be exercised in receiving accusations from any person who is known to indulge a malignant spirit toward the accused; who is not of good character; who is himself under censure or process; who is deeply interested in any respect in the conviction of the accused; or who is known to be litigious, rash, or highly imprudent." (Ch. IV.) Leaving this wise prescription to speak for itself, the right to be heard before condemnation, is no franchise conferred by the Constitution of the Presbyterian Church nor by any other Constitution. It is inherent and inalienable. It is the principle upon which rests that great bulwark of civil liberty, the writ of *Habeas Corpus*. And this indefeasible right was violated by the Assembly in the adoption of the McLean paper.

The principles which underlie the entire case, have been repeatedly stated: but we cannot recur to them too frequently. They are to civil and religious liberty, what the atmosphere is to vegetable and animal life. It is the boast of every American citizen, that our constitutions and laws extend their protection to men of all classes and conditions: that no man can be tried except by his peers; and that whatever his imputed or apparent guilt, he shall be presumed innocent until duly convicted of crime. This is an authority which binds alike the highest and the lowest: no less Courts and Congresses, than peasants and working-men.

> "For here before the almighty Law
> High birth, high place, with pious awe,
> In reverend homage bend:
> Here man's free spirit, unconstrained,
> Exults, in man's best rights maintained,
> Rights, which by ancient valor gained,
> From age to age descend."

There is no Presbyterian who would not scorn to claim less for his Church than for his country. Our Constitution and laws are the palladium of every, even the very humblest, member of our communion. They rear their sacred muniments around

every man's character; and will shield him from all penal inflictions unless after fair trial and conviction. Applying these principles to the case in hand, the General Assembly abrogated, for the time being, the whole body of our judicial code, and constituted itself the accuser and prosecutor of the Declaration and Testimony men. Under the plea of a "State necessity," all the usual forms were dispensed with; and, in place thereof, proceedings instituted which *began* with a terrible *penalty*, and by implication pronounced them deserving of further penalties by another Assembly. Even conceding, for the sake of argument, the high-prerogative theory, was it either wise or just for the Assembly thus to arrogate the control of this case, and rush to a conclusion without a thorough and impartial, not a mere *ex parte*, investigation? The most illustrious advocate known to the English Bar, commenting on a remarkable deliverance of Lord Hale upon the pernicious doctrine of "constructive treason," observes, that "honorable men, feeling as they ought for the safety of the government and the tranquillity of the country, and naturally indignant against those who are supposed to have brought them into peril, ought, for that very cause, to proceed with more abundant caution, lest they should be *surprised by their resentments or their fears.* They ought to advance in the judgments they form by slow and trembling steps; they ought even to fall back and look at everything again, lest a false light should deceive them; admitting no fact but upon the foundation of clear and precise evidence, and deciding upon no *intention* that does not result with equal clearness from the fact. This is the universal demand of justice in every case, criminal or civil. How much more then in this, where the judgment is every moment in danger of being swept away" by the confusion and excitement of the times. If these sentiments are applicable to a State-trial, with what cogency may we insist upon the due recognition of them in an ecclesiastical court? Nor is this precluded by the facile reference to the printed pamphlet of the Declaration and Testimony men, as superseding all occasion for more deliberate action. There were probably before the Court of King's Bench, a dozen of *Hardy's* pamphlets and letters, couched in quite as plain English as the Louisville Protest. What need, then, of a trial? Why did not Chief Justice Eyre, hostile as he was to the prisoner, rise and say, "This case is too plain for inquiry or argument. The treason of the prisoner is apparent from every page of these publications. Let him be

remanded for sentence." Had he said this, all England would have been convulsed; and the Judge would have gone to the scaffold sooner than the prisoner. As it was, Lord Erskine had his reward, and British justice its triumph, in the acquittal of Hardy.

Not less futile is another of the stereotype answers to this reasoning, to wit: that the Declaration and Testimony men "were not *expelled* from the Assembly." Expelled or not, the resolutions charged them with grave offences, and inflicted upon them an ignominious punishment. The vote of disfranchisement was clearly of the nature of penalty. It sent them out of the house branded as men who were unfit to hold seats there, "the accusation and the sentence following one another as the thunder pursues the flash." Writers who affect euphemisms, may fancy they change the essential character of this act, by styling it a "preliminary proceeding." "Preliminary" or final, it was a vote of censure, founded upon allegations, the gravity of which, and the source from which they emanated, all the more forbade that they should be sanctioned by the Assembly without permitting the accused to open their lips.

The force of this will be felt when it is considered, that in their written communication to the Assembly on the ensuing Monday, the suspended members denied the alleged facts upon which the resolutions proceeded—denied that their Presbytery had either "defied the Assembly," or sent a commissioner there who "even under the act of '65 could have been suspended from the ministry." It is not the "ordinary way," either of courts of justice or parliamentary bodies, to take for granted the criminality of parties, however "public" the delinquencies imputed to them. No court that should do this would be tolerated in a free country. In the present case, the arbitrary character of the proceedings becomes still more palpable, when the precise terms of the resolutions are weighed. In one of the resolutions, the four commissioners are denied their seats in the body "until the Assembly shall have *examined and decided upon the conduct of their Presbytery.*" In the other, the Committee is directed to "*examine into the alleged acts and proceedings* of the Louisville Presbytery, and *whether it is entitled to representation* in the General Assembly, and to recommend what action the Assembly should take in regard to said Presbytery." Here is an investigation ordered of the most vital character; one which may involve the very existence of a large Presbytery of fifty years' growth, and the

personal reputation of three-fourths of its members. And yet the commissioners of this Presbytery, with a far deeper concern in the inquiry than any other delegation on the floor, are not only denied all opportunity of taking part in the investigation, not only shut out from the House until this Committee shall have done their own pleasure with their Presbytery, and reported upon the entire merits of the case, but actually prohibited from uttering one word by way of showing that they and their Presbytery deserve some better treatment than this at the hands of the Assembly. After the Committee (a Committee drawn, in derogation of all parliamentary laws and customs, exclusively from one extreme wing of the House*) have finished their investigation, have spent six days in "examining into the proceedings" of the obnoxious Presbytery, and deciding "whether it is entitled to representation," and have solemnly advised the Assembly that the Presbytery ought to be "dissolved," and that the Declaration and Testimony pastors, on refusing to join other Presbyteries, should *ipso facto* be *dismissed from their congregations;* then, forsooth, these ostracised commissioners may come back into the House and plead to this grim indictment. "Castigat *auditque!*" And in this extraordinary procedure, the Church is gravely asked to see nothing beyond the familiar principle, of a deliberative body deciding upon the qualifications of its own members!

We have asked in vain for precedent or parallel to this transaction. The challenge was repeatedly thrown out in the Assembly, and the ruling party, though allowed the whole range of civil legislation, failed in citing a solitary example in which a duly accredited representative had (unless for some flagitious violation of the rules of order at the moment) been ousted from his seat without being heard either in person or by counsel. It was no less in violation of the settled principle and practice of the courts of law. It so happens, that while writing these Essays, the author has received a note, unsolicited and unexpected, from an eminent jurist, who now adorns the bench of a very High Court of Judicature, in which, referring to one of the chief legal arguments at St. Louis, he says: "I have just been reading the speech of —— ——. Not one principle of parliamentary law or practice was correctly stated by him. He might be

* *Ministers.*—D. V. McLean, D.D., Thomas E. Thomas, D.D., Thomas W. Hynes, D. J. Waller. *Ruling Elders.*—H. K. Clarke, Samuel Galloway, R. P. Davidson.

excused for want of experience, perhaps, [the orator would hardly thank him for this] but if he ever attended courts, as I presume he has, his representation of the practice was unpardonable if meant to be serious. Courts *always* summon and hear the offender before they punish." Did the adoption of the McLean resolutions carry no "punishment" with it?

When the preceding remarks were penned, the writer had not seen the minute of the Presbytery of Louisville, covering the same ground. It is copied here as a matter of justice to that Presbytery.

"This Presbytery further declares, that it is with profound sorrow and shame that they find the Highest Court of the church by a majority of 201 to 50 adopting, and that under the operation of rules which shows that this majority considered the paper before them too plain to need discussion and too perfect to admit of amendment, a resolution excluding Louisville Presbytery from seats in the body 'until the Assembly shall have *examined and decided* on the conduct of said Presbytery'—as though a Presbytery had no right to be present by commissioners when its 'conduct' was being 'examined and decided upon,'—as though even if its commissioners were in their seats, a Presbytery, according to our constitution, could have its 'conduct examined and decided upon,' by a superior court, and yet the Presbytery know nothing of the whole thing until the 'examination' is over and the 'decision' rendered—as though in so vital and fundamental a matter as the right of representation, any 'examination and decision' with no commissioners on the floor, no Presbytery cited to appear, and no record before the court, could be anything but a mockery of right and justice."

The analysis we are engaged in becomes still more damaging when it is considered, that the two elders sent in this ignominious way out of the House, were venerable men, upwards of eighty years of age, Ex-Governor Wickliffe and Mr. Mark Hardin: and further, that the latter had no more to do with the Declaration and Testimony than Mr. Galloway, Mr. H. K. Clarke, or any other elder who voted for his disfranchisement. Had Mr. Hardin, after his forty years of faithful service in the Eldership, no rights which the Assembly was bound to respect?

It is not surprising that writers on the other side wish to slur over this whole proceeding as of no essential importance. We insist that it is of the very highest moment; that it was the first link of a most portentous chain; and that but for this link, the entire series of sequences might have been, and probably would have been, wanting. In any event, no man has any right to assume, that if the Louisville delegation had been heard upon the McLean paper, the Assembly would have taken the various steps that followed. The presumption is, that in view of the

facts and arguments, the explanations and concessions, which might reasonably have been expected from those commissioners, a new aspect would have been given to the whole business, terminating in a deliverance of very different purport. Certain it is, that the obnoxious pamphlet was now in the hands of many of the members for the first time. What they knew of it before they left their homes, had come to them through hostile newspapers. Of four-fifths of the signers they probably knew nothing at all. What appeared on the surface was, that here was a remonstrance against the alleged "political deliverances" of previous Assemblies, and a corresponding appeal to our Ministers and people, couched rather in the dialect of Martin Luther and John Knox, than that of Œcolampadius and Melancthon. Had the merits of this pamphlet been discussed under the resolution of disfranchisement, even the majority might, peradventure, have been convinced of the *integrity* of the brethren who issued it.

The morality of an action lies in its motive. It was not to be expected that even good men who had been long separated by bitter political (and even personal) feuds, would do ready justice to each other's motives. But it were unpardonable to suppose that if Dr. Brookes' powerful speech had been made two weeks sooner, upon the first McLean paper, it would have produced no impression upon the mass of the Assembly. They could not well have resisted the conviction, that whatever might be the mistakes and delinquencies of those men, they were *honest in their intentions*, and sought only the reformation of the Church. They *must* have conceded this, or branded Dr. Brookes and his immediate coadjutors as gross hypocrites,—which is a little further than any one has yet ventured to go.

It would, also, have been proved to the satisfaction (or otherwise) of the majority, that "violent" as is the language of the Declaration and Testimony, it is only a trifle more "disrespectful" to the Assembly than that employed by several of our judicatories. For example, the Synod of Kentucky in '61, by a unanimous vote, declared the political action of the Assembly of that year to be "*repugnant to the word of God*, and of no binding obligation." And even so late as October, '65, the same Synod passed a resolution to the effect that certain of the acts of the preceding Assembly were "unwise, as tending to *destroy the peace and harmony of the Church*, and in some of their provisions *unconstitutional and unscriptural.*" The former of these

resolutions, if not the latter also, received the votes of "loyal" men who came to St. Louis to aid in extruding from the Church the Declaration and Testimony men for saying similar things in plainer words, and proposing to carry them out into action. Had these facts been brought out early in the session, before the party lines had been inflexibly drawn, would it have been possible for those members of the Assembly who were untrammeled by the compacts of the secret Convention, to treat them as nullities? Could any artifice or sophistry have blinded such jurors to the injustice of heaping ignominy upon one set of men for "reviling the Church courts," and loading with caresses another set, who, without going quite so far, had virtually done the same thing?

There was still another consideration in favor of a discussion of the McLean paper. It would have presented the Assembly in a much better aspect before the world. When the question came before the National Convention, as to the best mode of disposing of Louis XVI., Robespierre objected to a formal trial, and proposed to put him immediately to death, on the ground that "to doubt the guilt of the King would be to doubt of the innocence of the Convention." There was no man in that Assembly at St. Louis whose whole soul (had he been in Paris at the time) would not have loathed the atrocious proposal and the monster who suggested it. The incident is cited here simply to illustrate the principle, that *no* human tribunal can assume the guilt of an accused party without prejudice to its own reputation. Our General Assembly, in character, aims, spirit, everything, was as far removed from that conclave of assassins on the banks of the Seine, as light from darkness. But it will not do even for such a body to lay the weight of its little finger upon an accused man, without first giving him a hearing. It does not befit the dignity of so venerable a court (to say nothing of its spiritual functions) to exert its authority in this way. The clearer its sense of the probable criminality of the parties at its bar, the more scrupulous should it be in extending to them every possible indulgence, and supplying them with plenary opportunities for vindicating or extenuating their conduct. If the signers of the Declaration and Testimony are what the majority adjudged them to be, the Assembly might well have given them full liberty of defence before excluding them from its presence. It was *easy* enough, at that opening scene of the drama, to brandish the naked sceptre of power over their heads. And it did

execution upon the men who were aimed at. But it convinced no one. It inspired no respect. It made its friends turn paler than its victims. It unloosed a thousand tongues in bold protestation, that had otherwise been silent. How much better to have heard the accused—to have listened to them for hours, yea for days together; to have allowed them such license of debate that the whole world should have said, "It is enough." And if after *this*, the McLean paper had been sanctioned, what moral force the vote would have carried with it; what sympathy it would have won; and how different the atmosphere it would have thrown around the Assembly from that which enfolds and deforms it to-day! This topic will recur again.

On the Monday after the Louisville men were disfranchised, a motion was made that "the Committee (above named) be instructed to inquire into the expediency of re-admitting them to their seats, until the case of their Presbytery shall have been finally disposed of." This would partially, and only partially, have retrieved the wrong done them by the previous votes. It would have allowed them an opportunity of participating in the general business of the Session, and of presenting matters which they might have deemed vital to their characters and rights prior to the report of the Committee. But this mere resolution of inquiry, though advocated by the Hon. Lincoln Clarke and others of the majority, was, after two days' debate, laid upon the table by a decisive vote. The noticeable and mortifying incident about this vote, was, that the motion should have been offered by a member of that Profession which has inscribed upon its roll such names as those of John Hampden, Thomas Erskine, and Patrick Henry. When driven from every other fastness, Constitutional liberty has found a Sanctuary at the *Bar;* and no Profession has displayed such fidelity in guarding or such intrepidity in defending it. There were lawyers in the last Assembly who nobly sustained the hereditary character of the Profession; as there were others, unhappily, who could lend their sanction to the disfranchisement of men whose lips were sealed. It were worth while to know how it would fare in any reputable civil court, with a motion akin to the one here alluded to: or, rather, whether it would be possible to find a member of the Bar with sufficient nerve to offer a motion of that sort before such a tribunal. Be that as it may, the banished commissioners felt that after this treatment, neither duty to their Presbytery nor self-respect, would permit them to come back to the House and dis-

cuss the Committee's report. For this decision they have been censured. "The Assembly gave them full opportunity to meet the charges [so the Church has been told a hundred times], and they declined to avail themselves of it. What cause of complaint have they?" In dealing with questions of this sort, everything depends upon men's instincts and training. It is not a case for argument. One class of men can review the facts of this narrative, and maintain that the Louisville delegation, after being sent out of the House without a hearing, and kept out for the six days that the Committee were engaged in concocting their indictment, ought to have rushed in the moment the door was left ajar for their accommodation. Another class, on reviewing the facts, will insist that neither reason nor religion required them to go back, unless the Assembly would first assure them of their readiness to rescind their disciplinary measures, and restore the *status quo* of the first day of the session. The former would doubtless have said, had they been living at Philippi, that Paul and Silas stood too much upon their dignity in not walking meekly out of the prison, as soon as the sergeants opened the doors and bade them depart. The latter, that the two preachers were right in the somewhat energetic message they sent to the magistrates:—"They have beaten us openly *uncondemned*, being ROMANS, and have cast us into prison; and now do they thrust us out privily? Nay, verily, but let them come themselves and fetch us out." As between these two orders of arbitrators, the difference is not casual but generic. It would be a waste of words to try to make either see with the others' eyes. In ethics, still more than in physics, there are things which, if not seen at the first glance, can never be seen at all. And to this category belongs the transaction of which we are speaking. But, however seen or not seen, it is confidently believed that as to the exiled delegations returning to the House in existing circumstances, there was neither man, woman, nor child in all St. Louis, that had the slightest expectation of it. In their brief response to the Assembly's proposal, the commissioners decline "to appear and be heard before a court which has *already condemned them unheard.*"

In saying this, they simply repeated what was said on every side. Those principles of right and justice which God has implanted in the human breast, and which charters and constitutions can neither confer nor annul, had been outraged. And the common feeling among people of all sects and all political par-

ties (extreme radicals only excepted) was, that these men had been "condemned unheard." It were some relief if the adoption of the McLean paper could be ascribed to one of those gusts of passion to which all deliberative bodies are liable. Unfortunately it was adopted (Previous Question and all) after a night's reflection: and was followed, not without full discussion, by the rejection of the resolution of inquiry just mentioned. Do these proceedings indicate just that calm, clear, impartial, charitable spirit which should control every tribunal, and especially a court of Jesus Christ, in dealing with men's characters and rights?

But there is another circumstance illustrative of the *animus* of the Assembly towards these men, so untoward in its aspect that one would gladly pass it by, if justice did not demand some reference to it. On the Monday following their "suspension," the four commissioners addressed a Letter to the Assembly remonstrating against their exclusion from the House. This Letter was as respectful in its tone as it was forcible in its facts and reasonings. It carried on its face in the opening sentence, that it was sent "*for record on the Minutes of the Assembly.*" This was manifestly of the greatest importance to themselves and their Presbytery. The commonest equity required, that Minutes which fairly bristled with criminal charges against them, should at least include their formal plea to the indictment,—all the more so, as they had been virtually denied the right of addressing the Court in person. Yet even this piece of sheer justice was refused them! Look through those Minutes, and see how *chaparral*-like they are with materials inculpating the Declaration and Testimony men. We have (1) the primary McLean paper, adopted, after a speech by himself, under his inexorable demand for the Previous Question. (2) His resolution for the appointment of a Committee of Investigation, carried after an impassioned speech by Dr. Thomas, which was wound up, of course, with the Previous Question. (An appeal was made to each of these gentlemen to withdraw the call for the Previous Question: they curtly refused.) (3) The Report *in extenso* of this Committee, largely made up of excerpts from the "Declaration and Testimony" torn from their proper connection, and in some instances amounting to a gross travesty of the real sentiments expressed by the writers. (4) The substitute of Dr. Gurley, finally adopted in place of the resolutions of the Committee. (5) Dr. Gurley's written speech, or "Reasons," in support of his paper, also adopted by the Assembly. (6) The "Pastoral Let-

ter" (so-called) in which all the current allegations against the Declaration and Testimony men are recapitulated and emphasized in a formula designed, from its very nature, to be introduced into every family of our communion. And (7) the extravagant and minatory "Memorial" of the secret Convention at St. Louis, "approved" by the Assembly.

Of these last two papers it may be observed (in a parenthesis) that what they say, is not more remarkable than what they leave unsaid. They treat mainly of the Southern Churches and the Declaration and Testimony. Are these the only quarters from which "the peace and purity of the Church" are threatened? Even as within their chosen sphere of religion and politics, how happened both the "Pastoral" and the "Memorial" to overlook the wide-spread prostitution of the pulpit to political purposes: the partizan political character of a large portion of the religious press: the intolerance, approximating in numerous cases to persecution, displayed towards Pastors who have had the manliness to form their own opinions on public affairs, and to preach only Jesus Christ and Him crucified: and, generally, the opening of the sluices of party politics into the Church, and flooding it with a poison as virulent as infidelity, and far more contagious? Was there nothing in these glaring abuses, the talk of every community, the opprobrium of the Church and of the State, to call for animadversion? Do our brethren seriously believe, that if the Master should come again with His scourge of small cords, He would restrict *His* visitation to the "schismatics" of the South, and the "malcontents" of the Declaration and Testimony? But this is a digression.

What we are now concerned with is the fact, that the seven documents specified above, every one of them bearing with a sort of Draconian rigor upon the Declaration and Testimony men, and holding them up to the reprobation of the Church, are all paraded in the Minutes of the Assembly: and yet THE LETTER OF THE FOUR LOUISVILLE COMMISSIONERS IS EXCLUDED! With the exception of the brief note comprised in a single sentence already quoted, not one word from these men appears on the record! If this be "justice" in the Presbyterian Church, learned casuists of other communions will be curious to inquire into the sources from which we have drawn our penal code. To attempt to vindicate or even palliate such proceedings, by talking of the "rebellious and schismatical conduct of the Declaration and Testimony men," of their "secession proclivities," of their

disposition to "agitate and disturb the Church," and the like; what has this to do with the question? The present writer has uniformly declared his conviction of the serious errors of these brethren, and the hurtful tendency of certain of their measures. But what then? If they were the veriest caitiffs that walk the streets, they would still have their rights. Had they applied to the General Assembly epithets far more opprobrious than any which occur in the Declaration and Testimony, or which are applied to the signers of that paper by the "Memorial" above mentioned, they would still have been entitled to a hearing before sentence. The minority would have contended for this, had they even gone to the scandalous extreme of *Dr. Thomas E. Thomas' Magazine* of Sept. 1845, and talked of the "FALSEHOOD, ABSURDITY, and MORAL FILTH," of a deliverance of the General Assembly, with much more vituperation of the same sort.* Had the Presbytery of Oxford (now become famous for its attack, last Spring, on Dr. Hodge and the great Protestant principle of the liberty of the press), formally adopted the gross libel in which this language occurs, it would have been a flagitious wrong for the Assembly of '46 to exclude the commissioners of that Presbytery from their seats, without first affording them an opportunity for explanation and retraction. The minority asked, on behalf of the Declaration and Testimony men, neither more nor less than they would have asked for any of the men who, on so many occasions, have said unseemly and schismatical things about the Courts of the Church. They invoked, indeed, much less forbearance than a former Assembly extended, unsolicited, to the Synod of *Ohio* which had attempted by a deliberate vote to nullify a decision of the Assembly. Here was a Synod, so far forth, in open rebellion against the Supreme Judicatory. What did the Assembly say? Adopting the report of a committee of which the Rev. Archibald Alexander, D.D., was the chairman, they tell the Synod, that they have been "wanting in respect to the Assembly," and that their action was "repugnant to the radical principles of the government of the Presbyterian Church." "The Assembly are willing to believe, however, that the Synod of Ohio did not mean to set themselves in opposition to the highest Judicatory of the Church; and that when they have reconsidered the matter, they will rescind what is so manifestly inconsistent with the principles of the Constitution which

* See Dr. Brookes' speech.

they have bound themselves to support." Such was the wise, dignified, decided, and considerate course pursued by a former Assembly at the suggestion of the revered Alexander, in dealing with a recusant Synod. It has been the "ordinary method" in our Church. Can it be doubted that if a similar course had been taken with the signers of the Declaration and Testimony; if they had been faithfully but kindly admonished of their errors, and told to "reconsider" what they had said and done, this whole difficulty might have been adjusted without disturbing the general tranquillity of the Church? True, "the Assembly did give them a year of grace." And was it burdened with no degrading penalties? Were they not suspended without trial from some of their most sacred franchises? Were they not branded as such apostates that the bare presence of one of them would be sufficient to blast the reputation and extinguish the life of any, the most ancient and "loyal," of our Presbyteries? Is this the sort of "grace" we, day by day, supplicate of the God of mercy for ourselves?

VIII.

The General Assembly turned Prosecutor—Anomalous sentence pronounced upon the Declaration and Testimony men—"Ipso facto"—Summary destruction of Presbyteries—Dr. Humphrey's Speech—Pregnant bearing of these measures upon the next Assembly.

The first of the two penal enactments of the Assembly's minute, "*summons*" the signers of the Declaration and Testimony "to appear and answer for their conduct before the General Assembly, the body against whom they have offended, and the only body which, in the present circumstances of the case, can properly and without embarrassment *consider and adjudicate the case:*" and meanwhile it forbids their "sitting in any Church court higher than the Session." The General Assembly is our High Court of Appeal. The fact and the philosophy of it are lucidly set forth in the introduction to Chapter VII. of our Discipline.

"In all governments conducted by men, wrong may be done from ignorance, from prejudice, from malice, or from other causes. To prevent the continued

existence of this wrong, is one great design of superior Judicatories. And although there must be a last resort beyond which there is no appeal; yet the security against permanent wrong will be as great as the nature of the case admits, when those who *had no concern in the origin of the proceedings* are brought to review them, and to annul or confirm them as they see cause; when a greater number of counsellors are made to sanction the judgments or to correct the errors of a smaller; and finally, when the whole Church is called to sit in judgment on the acts of a part."

These wise and equitable principles must command instant and universal approval. Every society requires kindred safeguards against error and oppression. But are not these safeguards annulled when the General Assembly assumes a direct and controlling "concern in originating judicial proceedings;" and when "the whole Church," whose high function it is "to sit in judgment on the acts of a part," becomes a PROSECUTOR? Avowedly on the ground that the Assembly was the body against whom they had offended, the late Assembly assumed, for itself and its successor, the ungracious task of *commencing and conducting penal proceedings* against the Declaration and Testimony men. Complainant, Prosecutor, Witness, Jury, and absolute (not Appellate) Judge, combined in one corporate person! A most unequal contest, certainly. And suppose (for it is quite supposable) the case goes against the defendants: what resource is left them? Before a Session, a Presbytery, or a Synod, they might appeal. But here the court of last resort has "originated the proceedings," and, for aught that appears to the contrary, means to conclude them. Unless it be infallible, it may "from ignorance, from prejudice, from malice, or from other causes," do the defendants great wrong. And if it should, they have no redress. Is there a single State in our Union where any counterfeiter, forger, incendiary, robber, pirate, or murderer, is tried by a court whose decisions cannot be reviewed and rectified by a superior tribunal? And has our Church judicial forms which no Christian Commonwealth would tolerate on its statute-book?

Just as this sentence was finished, the writer happened to light upon the following coincident passage from the pen of the Rev. Dr. McPheeters:

"There is something shocking to every conception of justice in the last and highest Court of Appeals, setting aside law and constitution, and striding over Synods, Presbyteries, and Church Sessions, to make itself an 'original party' against individual Ministers and Elders! If wrong is done to the feeble party, who shall interpose to correct it when the very highest Court which the Church

has promised to be his shield, drops the character of umpire and volunteers to become *Prosecutor?* Nor is the difficulty removed, but rather aggravated, by the fact that the General Assembly declares itself to be 'the body against whom they (the Louisville Presbytery) have offended:' for every generous mind will at once perceive the glaring impropriety of a body so offended, adjudicating its own case."

These views, it may be added, supply a satisfactory answer to a very plausible plea on the other side, to this effect: "The exercise of original jurisdiction by the General Assembly, can in no way imperil the rights of individuals. If those rights are safe in the hands of Sessions and Presbyteries, much more may the Assembly be intrusted with them. To suppose that the Assembly might be disposed to use this power in an arbitrary way, is to assume that the whole Church may become corrupt. Whenever that contingency occurs, the subordinate Courts will cease to afford protection equally with the highest." Referring to the preceding pages for an answer to this argument, it may further be observed, that the St. Louis Assembly not only challenged original jurisdiction over the Louisville case, but asserted in dealing with it a discretionary authority over the *forms and methods* of our Constitution. Constitutional government is one thing: the discretion of princes and magistrates quite a different thing. Constitutions assume that the best men, in common with the worst, need to be restrained and controlled. The more perfect the charter, the less will its efficacy be suspended upon the personal character of the men who are to administer it. "To allow of any man's discretion that sits in the seat of justice," says Lord Coke, "would bring forth a monstrous confusion." The men who usually compose our General Assembly are as good as good men ordinarily are. But if their goodness be our only defence, we were as well off in Holland with dykes of willow and shell-work. Dr. George Junkin has shown this with graphic effect, in one of his recent able Essays in the *North-Western Presbyterian.*

"A minister, if the Assembly choose to try him on its original jurisdiction, may be dragged a thousand miles from his residence, and be tried, not by his peers of the vicinage, but by a body almost entirely strange to him; and instead of having two opportunities to appeal, he is entirely cut off—the Assembly's decision is final. Thus an omnipotent Assembly may become a terrible power, a fearful tyranny. Nor need we travel far back for illustration of the way in which so large a body may be worked up to the boiling point of a heated and fanatical frenzy.

"The Low-Church scheme puts the trial and suspension, or deposition, of

ministers into the hands of the Presbyteries; the High Church avers that this power is at the option of the Assembly to exercise it all—yea, by example, to dispense with trial altogether, and to thrust out members of the Assembly itself; and to suspend others, not a few, from all their Ecclesiastical functions above those of the Session. Now, put this power into the hands of a misguided, but even honest, Assembly, or into the hands of an incidental majority of corrupt men, and they can suspend, without citation or trial, a number sufficient to insure the perpetuation of their own power. If they can suspend a hundred, and can dissolve one, two, or three Presbyteries, conditionally, they can suspend a thousand ministers, and dissolve a hundred Presbyteries. We may be told, Oh! you are uncharitable; you suppose a majority of the Ministers and Elders to be, or become, ignorant or corrupt men. Very true, I believe in native depravity. I have been a member of ten General Assemblies, all, in the main, sound; but several of whom, nevertheless, permitted men to sit, deliberate, and vote, who had never professed to be Presbyterians, who had never acknowledged our Standards; and I have been a lobby member at half that number, who seemed to prefer Taylorism, and Bemanism, and Hopkinsianism, to Presbyterian orthodoxy. Lead us not into temptation. It is safer to put it out of the power of men to do wrong, than to give them a power, which there is a high probability, or even possibility, they will abuse. Our Book puts the making and the unmaking of ministers and congregations into the hands of the Presbyteries. There it is so dispersed, and so near the people to whom the King has given the power of ruling, that it is much more likely to be safely and wisely exercised, than it is possible, for me, at least, to believe, it would be in the hands of any one body on earth. I, therefore, never shall cease to defend the Constitution as it is; and to remonstrate against the Assembly being clothed with an omnipotence whose exercise prevents its attention to its leading function, as a court of Appeals."

To return to the St. Louis Assembly, look again at the penalty inflicted upon these as yet untried and even unheard men. They are forbidden "to sit in any Church court higher than the Session." The right to sit in the Church courts, is inherent in the respective offices of Ruling Elder and Minister. The moment a Presbyterian is ordained to the ministry, he becomes a member of some Presbytery. He not only may, but must belong to a Presbytery. He must attend its meetings. He must take his part in fulfilling the various trusts which the Constitution commits to his Presbytery and Synod. Not to do these things, would be to violate his ordination vows. They are not simply privileges, but rights: not only rights, but duties. They are obligations from which he can be absolved, rights of which he can be divested, only in one way, viz., by regular trial according to the prescriptions of the Book of Discipline. The St. Louis Assembly undertakes to nullify all these provisions. It arrogates the authority not merely to dispense from these obligations certain men not "under process" (unless it can at pleasure vote men "under process"), but actually to forbid their

performing these duties. By a naked *sic jubeo* it attempts to strip them of rights which the Constitution makes indefeasible except through due process of law.

Let us advert for a moment to the principles involved in this edict. The clause of the Constitution upon which it claims to be based is the following:—"When a member of a Church Judicatory is under process, it shall be discretionary with the Judicatory whether his privileges of deliberating and voting as a member, in other matters, shall be suspended until the process is finally issued or not." (*Disc.* v. 9.) (1) This provision applies only to persons "under process." Certain proceedings in the Synod of Kentucky had given rise to an "appeal," which, duly prosecuted, would have brought out the merits of the Declaration and Testimony movement. But the Assembly decided by formal vote, that the "original parties" to that case were "the Appellants (Dr. R. J. Breckinridge and others) and the Synod of Kentucky." As in perfect accordance with this decision, it has been demonstrated that these men were not "under process," in any sense of that phrase known to our Constitution. In affirming the contrary, as the Assembly impliedly does by quoting the above clause, it involves itself in all the perplexities and wrongs incident to its new method of trying men, irrespective of the forms of our Discipline. (2) This provision can only be enforced by a Judicatory against one of *its own* "members." (3) The extent to which he may suffer a deprivation of his rights is clearly restricted to a temporary suspension of "his privileges of deliberating and voting as a member in other matters." The whole case is that of a Judicatory dealing with one of its own members under process, and having respect to its own sessions. In a former Essay (III.) it has been shown that the broad interpretation given to certain clauses of our Constitution by the Assembly of '37, is precluded by the dissimilar circumstances of the Church in '66. But this plea may be waived. The high prerogative asserted by the late Assembly under this clause, was that of excluding ministers and elders not "under process" (except as it made itself their prosecutor) "from any Church court higher than the Session." No one condescended to explain this curious exception. Like the decree itself, it seems to be perfectly arbitrary. For on the one hand, the qualifications for a seat in the Presbytery and Synod, and for eligibility to the General Assembly, are identical with those for the Session. The right to a place in each of these bodies follows ordination. Has any one

discovered in our Constitution the shadow of either warrant or recipe for decomposing the right by which a pastor holds his seat in these courts, and divesting him of three-fourths of it while leaving him in the plenary enjoyment of the other fourth? On the other hand, how patent is it that if a man be unfit to sit in the higher courts, he must be even more unfit for the lowest? Whether the sentence of exclusion be based upon imputed heresy, immorality, or rebellion, the first care of the Assembly, it might seem, should be to protect the *people* from his pernicious teachings. The Presbyteries, Synods, and General Assembly should be able to take care of themselves. It is passing strange, that these men, whom it was deemed perilous to admit into Judicatories composed of their peers, should be allowed to conduct the discipline of their own Sessions, and to have free access to our congregations for a twelvemonth. Are unsound men less dangerous to the cause of God's faith and order in the pulpit than in a Presbytery or Assembly? And if the late Assembly could tolerate the presence of certain of these men (as it did by formal vote, on the motion of the Rev. Dr. Monfort, immediately after the adoption of the Gurley minute), what becomes of the allegation that they were unfit to sit in Presbytery or Synod or in another General Assembly? This reasoning, conclusive as to the Declaration and Testimony men, becomes unanswerable when applied to the ministers and elders who might, afterward, simply refuse to cast those men out of their Presbyteries. No one has yet ventured to suggest that *they* were "under process" last Spring. Whence, then, came the authority to sequester, without even a pretended trial or so much as an arraignment, three-fourths of their sacred, inherent, ecclesiastical rights?

Leaving these tangled incongruities to be reduced and harmonized by those to whom it belongs, it deeply concerns the Church to ponder this extraordinary assumption of power on the part of the General Assembly. If the Assembly may, at its discretion, divest ministers and elders not "under process," of one class of their rights, it may of any other. If it can, without trial, forbid a minister to sit in Presbytery or Synod, it can forbid him to preach the Gospel; it can annul his pastoral relation; it can depose him from the ministry; it can dissolve Sessions and Churches. In fact, the Committee on the Louisville Presbytery explicitly claim for the Assembly the right of dismissing the Declaration and Testimony men from their charges, and

gravely recommend that it be done if they fail to obey its orders. (*Minutes*, p. 39.) If this sort of "omnipotence" has ever been challenged for our General Assembly before, let the record be produced. Or, if the doctrine is now to be incorporated with our system, let some of its advocates show wherein our Constitution is worth more than the "safe-conduct" given to John Huss and Jerome of Prague. For, under a regimen like this, no Minister or Ruling Elder, who becomes obnoxious to an incensed majority, can be secure against summary suspension or deposition, without trial, arraignment, or even citation. So certainly are we drifting toward what the *Repertory* calls "*a consolidated Church* and *a complete spiritual despotism.*"

The second penal enactment of the Assembly is that which dooms a Presbytery to instant dissolution, on its admitting to a seat any signer of the Declaration and Testimony. Here, again, we have a striking illustration of the Assembly's style of "administering justice in the ordinary way and by the ordinary methods." This "ordinary way" is a way never heard of before in our Church, nor, as it is firmly believed, in any Civil Court, Legislature, or Christian Society. It was invented at St. Louis; and, tested by its fruits, it is not likely to be in much request outside of our own fold. It has generally been supposed among Presbyterians, that a Presbytery had something of the *vis vitæ* about it. Wherever Presbyterianism is, there the PRESBYTERY stands forth, not as a mere symbol, like a banner on a flag-staff, but as the essential embodiment of the Church, its organized manifestation, its official agent, and its indispensable protector. In our own communion, the Presbyteries are even more than this. They are the accredited fountain of ecclesiastical power (subject, of course, to its ultimate derivation from the great Head of the Church). The Constitution and the General Assembly are in their hands. And they can remodel or abolish both Assembly and Constitution at their pleasure. There is no part of our system to which the Presbytery is not vital, no Judicatory which is clothed with such important powers, or exercises functions so various and beneficent. And yet the late Assembly would have us believe that the life of a Presbytery is so fugitive a thing, that it can be puffed out by the bare presence of a Declaration and Testimony man. Nay, an established Presbytery, founded in the last century, comprising 19 ministers and 33 churches, devoted from its origin to the faith and order of our Confession, embracing in its fellowship but a single signer

of the obnoxious paper, and he honorably and purposely *absent from the State*, that his presence at the meeting might give no pretext for disorganizing schemes—such a Presbytery, on the mere utterance of this man's name at the roll-call, instantly, immedicably, mortally, swoons away!

"Eheu! quam brevibus pereunt ingentia causis!"

The mysterious, awful potency of *ipso facto!* There is no citation. No trial. No room for an appeal to Synod or Assembly. No opportunity for showing what is apparent on the face of the record, that there was really *no infringement of the Assembly's order*. That order runs—"if any Presbytery shall enroll, as entitled to a seat or seats in the body, one or more" of the Declaration and Testimony men. The course of the Presbytery would have been amply justified, had the order been left in this naked form. But the Assembly itself interpreted it in adopting No. 5 of Dr. Gurley's "Reasons." "Because in the mean time it *forbids their sitting in any Church court* higher than the Session." The Presbytery did not violate this direction. In conformity with the usual rule, the roll was called at the opening of the meeting, Mr. Scott's name with the rest. This roll was their only guide for *organizing* the body; the only means of ascertaining who were present. The executive officers had no discretion in the case. They were bound to call the entire roll. Should the Clerk refuse, it was the Moderator's place to call it. If any member was to be "cast out," it could not be done at that stage of the proceedings. The Presbytery did perfectly right to insist upon having every one called who belonged to the body when they last adjourned. After the formal preliminaries of an organization were over, and the House was "ready for business," it would have been competent for any member, had Mr. Scott been present and claiming his seat, to move that his request be denied. It was unparliamentary and disorderly for any one to offer such a motion before. But of what avail to plead fundamental rules of order, as old as free parliaments or kirks, and coextensive with Christian civilization? The die was cast. All defence—all argument—all explanation—is barred. The ancient Presbytery of West Lexington dies a malefactor's death. And two pastors, two *sine titulo* ministers, and two elders, meet in a neighboring hotel, and schismatically vote themselves to be the true Presbytery of West Lexington! This is the published history. And if it do not cover many a cheek with a blush of

shame, it will be because the Presbyterianism of the fathers has disappeared from among us. Alas! that our sister Churches should see what has come to be *called* "Discipline" in a great Church, famed hitherto, the world over, for its sacred regard for the rights and liberties of its people, and its scrupulous adherence to Constitutional forms in the administration of justice!*

A single case of this sort would be sufficiently humiliating. But another Presbytery has been *ipso factoed* under circumstances

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* The statements in this narrative will be received with a pardonable incredulity. The official minute of the Presbytery (Sept. 18, '66) is therefore annexed, that the Church may see the sort of revolutionary proceedings which the coming Assembly will be expected to sanction.

"Rev. R. J. Breckinridge, D.D., appeared in Presbytery, and after giving his reasons for tardiness, stated that he did not recognize this as the true Presbytery of West Lexington, and gave notice in his own behalf, and in behalf of Rev. S. Yerkes, D.D., and Rev. J. K. Lyle, that they renounced its jurisdiction, and that they would at the hotel, that day, organize another Presbytery, and immediately adjourn to meet in Lexington soon afterward.

"The report of the Committee on the action of Rev. R. J. Breckinridge, D.D., in behalf of himself and others, was received and adopted, and is as follows:

"*Whereas*, Rev. R. J. Breckinridge, D.D., did in his own behalf, and in behalf of Rev. S. Yerkes, D.D., and Rev. J. K. Lyle, notify Presbytery that they renounce its jurisdiction; and, whereas, Dr. Breckinridge stated as a reason for so doing, that the Presbytery has violated the order of the late General Assembly (see Minutes of Assembly, page 61), which reads as follows: 'That if any Presbytery shall disregard this action of the General Assembly, and at any meeting shall enroll, as entitled to a seat or seats in the body, one or more of the persons designated in the preceding resolution, and summoned to appear before the next General Assembly, then that Presbytery shall *ipso facto* be dissolved:' therefore

"*Resolved*, That without expressing any opinion upon the wisdom or constitutionality of the above order of the Assembly, this Presbytery declares that it has done nothing that was in fact or designed to be a violation of said order. This will clearly appear from the language of the order itself, which is as follows: 'That until their case (*i.e.* that of the signers of the Declaration and Testimony) is decided, they shall not be permitted to sit as members of any church court higher than the Session.' Now this Presbytery has not done what is here forbidden—but the Stated Clerk was simply required to call the roll in the customary manner. Nor did the Stated Clerk refuse to do so, but distinctly stated that such a course would not, in his judgment, be a violation of the Assembly's order; and furthermore declared that he had been so advised by one now renouncing the jurisdiction of the Presbytery. No signer of the Declaration and Testimony was present—nor was anything said as to whether any such was or was not entitled to be enrolled as a member of Presbytery. And, finally, it was a fact well known to the members of Presbytery, that the only member who is supposed to be a signer of the Declaration and Testimony was out of the State."

yet more farcical. The Presbytery of Muhlenburg held its regular meeting on the 6th of October, '66. The attendance of Ministers and Elders was unusually large. The name of a Declaration and Testimony man, not present and not expected to be, was called by the clerk. Whereupon the Rev. Alexander Rankin, who was ordained to the ministry only six months before by this very Presbytery, arose, and pronounced the Presbytery dissolved, and withdrew from the House. It is proper to add, that this young man attempered the announcement by saying, that he "considered the action of the Assembly to be wrong and harsh, but felt himself compelled to obey it." The only Declaration and Testimony man (a Ruling Elder) who was on the ground, had determined for the sake of peace to remain out of the Presbytery for the time, and did not claim his seat until this performance was over. Thus died a Presbytery established probably thirty years before Mr. Rankin was born; —that is, if it *did* "die!"

In one view, such proceedings savor of the ridiculous. But in another, they are fraught with consequences the gravity of which cannot well be exaggerated. Could anything be more certain to bring the discipline of the Church into contempt? Was it ever heard of before that discipline proceeded upon principles like these? that in an ancient Church, under a Constitution well matured, comprehensive, supplying a remedy for every wrong, and guarding with jealous care all personal rights and liberties, a *self-executing penal law* should be enacted; a law not simply dispensing with judge, jury, indictment, counsel, witnesses, pleadings, and sentence on conviction, but PRECLUDING any and all of these; and visiting its irreversible penalty, not of rebuke, not of suspension, but of ECCLESIASTICAL DEATH upon venerable and honored COURTS of the Church; these Courts, too, made up, as to nine-tenths of their membership, of godly ministers and elders unimpeached and unimpeachable, paying faithful and true allegiance, up to that moment, to the authority issuing the decree, and even steadfastly withstanding the parties whose alleged misconduct had given occasion to it? Are *these* our "ordinary methods?" Is *this* to pass in the Presbyterian Church under the sacred name of JUSTICE? Had that majority at St. Louis never read the history of Presbyterianism, in Piedmont, in France, in Ireland, in Scotland? Could they seriously believe that our Presbyteries would tamely submit to this indiscriminate confiscation of their dearest personal and

official rights? Could they imagine that the entire Church would stand quietly by, and witness this wholesale destruction of its Presbyteries?

And yet, with marvellous assurance, the reigning party are even now denouncing the men who raise their voices against these aggressions, as disturbers of the peace of the Church! "The Church needs rest, and it is wrong to keep up this controversy." Yes, the Church does need rest. The "Minority-men" have not made this discovery to-day. They did their utmost to convince the Assembly of it in May last. They implored them to desist from the fatal policy they were inaugurating. They admonished them that instead of rest, it could only bring upon the Church a year of agitation and conflict; that it was idle to expect peace, from measures which must inevitably divide Synods, Presbyteries, and scores if not hundreds of congregations. While others pressed these views, they were urged with equal ability and pathos by those two distinguished Kentucky brethren, Drs. W. L. Breckinridge and Humphrey. These brethren, as already observed, had been in the very thick of the controversy. But they plainly saw that the adoption of the McLean report or the Gurley substitute, would entail ineffably greater calamities upon their churches, than any which could ensue from postponing direct action upon that subject. "I tell you (said Dr. Humphrey) these Kentuckians are a great people. Kentucky has been the cradle of Presbyterianism for all these Western and South Western States. She has had a bloody and troubled history, and a troubled experience in religious matters. . . Our cause has triumphed there in three trying conflicts. We are now in the midst of a fourth; and by God's blessing and your assistance, we will meet it successfully. But do not lay upon us burdens which we cannot bear. Kentucky has always had an able and godly ministry; men of ardent zeal and untiring labor: yet to-day the Presbyterian Church within her bounds numbers but ten thousand communicants. Kentucky Presbyterianism has emptied itself all over Indiana, Illinois, Missouri, and Tennessee, and been a fountain of light and salvation all over this land. Yet few as we are in numbers, we have done some things for Christ and for his Church. We have established two noble Institutions. Danville College and Danville Seminary, stand to-day as monuments of the piety and liberality of Kentucky Presbyterianism. Of our own one hundred and

fifty churches, but one-third are self-sustaining. *If you drive a plough-share through these churches, what can be the result but to ruin all this work of years, and spread division and desolation through all our bounds?* Now, unless it is absolutely necessary, lay not on us this severe affliction. Spare us one year more to go back to our brethren of the Declaration and Testimony, and beseech them to cease from this work of strife. Let our Kentucky Church alone one year more, I entreat you. Then, if you *must* cut it down, well. We will submit; and though with bleeding hearts, we will go home and labor to repair our desolations. But spare us this blow, *spare us this blow.* DO NOT DESTROY FOREVER OUR HOPES OF A UNITED CHURCH."

Such were the eloquent and affecting tones in which this eminent divine warned the Assembly of the strife and desolation that must follow their proposed action, and interceded for the noble, suffering Church in Kentucky. How bootless were his appeals, is known to the whole world. And, not less, how sadly his predictions have been fulfilled. The "*plough-share*" is doing its fatal work. We will not inquire too carefully whose hands are guiding it. But the devastation that defines its furrows, attests the real character of the *ipso facto* mandate, and will help to fix the responsibility of this continued controversy where it belongs.

For the reasons which suggested this unheard-of style of legislation, we are left mainly to conjecture. The cunning device is not credited to any one having a seat in the Assembly. It was acquiesced in by the House with less debate or explanation than it merited. Other topics so clamored for a hearing, that this curious piece of *ipso facto* mechanism escaped the thorough dissection to which it was justly entitled. Beyond a question there must have been many on the side of the majority, who could not have voted for it had its destructive character been fully comprehended. With whatever rigor these brethren might have been prepared to visit the alleged offences of the Declaration and Testimony men, they would not deliberately have branded with "rebellion," scores of Ministers and Elders who were as much opposed to that demonstration as themselves, and whose standing in the Church, up to that moment, was as good as their own. They would not intentionally have thrust into this already complicated case, a new and entirely extraneous issue which might compel irreproachable men, anxious to defer to the lawful authorities of the Church, either to disobey the Assembly, or to violate their con-

sciences. It was not until the ferment and confusion of the session were over, and the smoke of the contest had cleared off, that the fatal significance of this device was revealed. No one is in the dark about it now. Majority-men and minority-men (some of the former, doubtless, with amazement and regret) perceive its bearing *upon the composition of the next Assembly.* A resolution for the summary dissolution of the fourteen Presbyteries of Kentucky and Missouri, could not have been carried. Nor would it have answered the purpose: for the members must have been organized into new Presbyteries, which would have been entitled to their representation in the Assembly. Again, a reference of the matter to the two Synods, instructing them contingently to dissolve certain Presbyteries for cause shown, would have been abortive. For if the Synods had carried this order into effect, the inevitable "Appeal" of the Presbyteries would have arrested the decree until the coming May, and saved their representation. In a word, there is no form of *trial* to be conceived of which could have excluded the majorities of the ministers and churches in the obnoxious Presbyteries, from their constitutional rights in the next Assembly. How to exclude them without a trial, might have seemed a somewhat abstruse problem. But "where there's a will, there's a way." Behold the marvellous ingenuity of the solution. In place of a trial, or any other legitimate process known to the history of Christian jurisprudence, these majorities are dexterously put *hors du combat.* They are placed in a position in which they must either perpetrate what they believe to be a moral wrong, or commit suicide. They must deprive their yet untried brethren of their seats in Presbytery, or, *ipso facto*, be disfranchised themselves. By this self-acting decree they turn themselves out of doors. Of this we have an edifying illustration in the Muhlenburg affair, wherein the whole Presbytery oust themselves, and leave a solitary youth as the sole trustee of all their corporate rights, chattels, franchises, and hereditaments! These Presbyteries, let it be specially noted, were not "dissolved." In that case, the *minorities* could not have been represented in the Assembly; which was not to be thought of. Nor, again, were the men constituting the majorities thus cast adrift, attached to other neighboring Presbyteries. Here is a most extraordinary feature of the case. When the Assembly of '37 dissolved the Third Presbytery of Philadelphia, its "Ministers, Churches, and Licentiates were directed to apply without delay to the Presbyteries to which

they most naturally belong, for admission into them." When a Synod dissolves a Presbytery, provision is always made (of late years, in the above form) for attaching its ministers and churches to other Presbyteries. No example, it is believed, to the contrary can be produced from the entire annals of our Church, commencing with the organization of the Presbytery of Philadelphia in 1705. Every one conversant with our system, notices the omission in the proceedings at St. Louis. "How happened the Assembly to pass an order cutting these men loose from their Presbyteries, without instructing them to seek admission into other Presbyteries? Is it compatible with the elementary principles of Presbyterianism, that there should be ministers, even pastors, in our connexion, who belong to no Presbytery?" These questions come up spontaneously. And the tacit answer they receive is, that it was "an inadvertence; strange and unaccountable, but still an inadvertence." The charity we all need ourselves, bids us put this construction upon the omission, certainly as to the great mass of the Assembly; not one of whom, it is presumed, would to-day contend that the Assembly had any constitutional right to leave a large body of our ministers in this anomalous predicament. But it is one of those awkward facts which are ever apt to mix themselves up with a policy of this kind, that if all these ministers and churches had been annexed to other neighboring Presbyteries, they would have had a preponderating voice in electing the delegations of those Presbyteries to the next Assembly. Possibly this was not thought of by the author of the device, nor by a single one even of the recognized leaders of the House. But if not a motive to the *ipso facto* contrivance, it promises, none the less, to be a potential result. We are informed by Dr. R. J. Breckinridge in his recent Circular, that the anticipated "contest for seats" in the coming Assembly, "from opposing Presbyteries," will involve "a difference from Kentucky and Missouri alone, of at least twenty-four members, that is, a difference of nearly fifty votes in the relative strength of parties." In other words, it will make a difference of fifty votes, whether the majorities or the meagre minorities of the *ipso factoed* Presbyteries, are allowed a representation at Cincinnati. So far as is known, no one else has felt interest enough in this particular question, to cypher out the sum. Assuming the correctness of the figures, the singular efficiency of that clever apparatus becomes transparent. The regret is, that it should have occurred to no one at St. Louis to

throw open the interior of this Grecian horse, and let the Assembly *see* its mailed tenantry. As this was not done, and the steed is now within the walls, it will no doubt fare with the next Assembly as it did with ancient Ilium.

IX.

Specious defence of Assembly's measures—Examined and refuted—Position of Conservative men in Synod of Kentucky—"Address to Presbyterians"—Rev. R. L. Breck's convincing Letter—Doctrine of schism—Danville Review.

THE reply which will be made to the general course of argument in these Essays respecting the summary condemnation of the Declaration and Testimony men, is this: "The offence of these men was open and avowed. They had published their pamphlet; they were already in a state of rebellion against the authority of the Church. What occasion for a trial in the usual way when the facts were before the world?" Referring to previous observations on this subject, I answer (1) We live under a Constitution. That Constitution secures to every person in our communion charged with an "offence" a fair and impartial trial. It knows nothing of any trial except "in the usual way." And it has given the General Assembly no discretionary power for trying men except "in the usual way," still less for convicting and punishing them without trial. (2) The principle here assumed, that the public nature of the alleged offence absolved the Assembly from the necessity of adhering to the forms of the Constitution in dealing with it, *is not recognized by any civil court in any country of Christendom*. No State would endure such a court. Liberty could not live within its shadow. And is a court of Jesus Christ to be sustained in attempting to base pretended judicial proceedings of the most sweeping character upon this anarchical principle? (3) It was without warrant or reason for the Assembly to "take for granted" that the whole case of the defendants was before them. The Criminal Court of Philadelphia refused to assume this in the case of the monster *Probst* (the murderer of eight persons) even after his plea of "Guilty;" they still went on hearing witnesses and listening to his counsel. Had the Declaration

and Testimony been as bad as the skilfully culled excerpts of the Committee represent it, or even worse, its authors were entitled to the inalienable right of a full and impartial hearing before the whole case had been "examined into" and virtually decided by that Committee. Could any one but Omniscience *know* that they might not have been able to explain away some of the offensive things in the pamphlet; to justify others; and to convince their bitterest opposers of the purity of their motives? Could any one *know* whether they might not modify or retract menacing expressions, disclaim the ultimate designs imputed to them, and, in the end, be reconciled to the Church and the Church to them? Had the Assembly a right to assume that this was impossible, and upon that assumption to deny them a proper hearing at the proper time? Such is the answer (already given in substance) to the specious plea cited above; and that it is not at all met by the allegation that the Declaration and Testimony men "were offered a hearing when the report of the Committee came up for discussion," has, I think, been clearly shown in former Essays.

By way of parrying the criticisms elicited in so many quarters by the unique *ipso facto* decree, we shall hear something to the following effect: "We concede that this particular style of penal jurisprudence is not much in vogue; but it nevertheless involves the principle of subordination as truly as if a different test had been employed. The Assembly issued a certain order to the Presbyteries. This order may be turned into ridicule, as it has been; but it raises the question of submission to the supreme authority in the Church, and the Presbytery that disobeys it, puts itself in a posture of rebellion against the General Assembly, and must bear the penalty."

This statement, like so many others on behalf of the majority, derives its whole force and pertinency from a *petitio principii*. It assumes that the order in question was within the legal competency of the Assembly, which is absolutely denied. That Dr. W. L. Breckinridge and others, who opposed it at St. Louis as "unconstitutional," and hold to this opinion still, should nevertheless deem it best to submit to it for the present, can neither invalidate the settled principle that "an unconstitutional law is void *ab initio*," nor constitute a rule for the government of others. If authorities enough have not been cited on this point, take the following additional one from the General Assembly of 1837:

"We believe that our powers as a Judicatory are limited and

prescribed by the Constitution of the Presbyterian Church. Whatever any Assembly may do, which it is not authorized by the Constitution to do, IS NOT BINDING ON ANY INFERIOR JUDICATORY, nor any subsequent Assembly."—(*Minutes*, 1837, p. 450.)

The Kentucky and Missouri Presbyteries, which have been "*ipso-factoed*," maintain that the last Assembly, in issuing this edict, committed a gross usurpation upon the Constitution. On their responsibility to the Head of the Church, they contend that they are no more bound by this order than they would have been by an order of the Assembly requiring them to dissolve the Sessions of every one of their Churches without citation or inquiry. They remonstrate no less against the untimely and needless severity of the decree—its unkindness to them and their shattered congregations, just emerging from the horrors of a desolating war. In an "ADDRESS TO THE PRESBYTERIAN PEOPLE OF KENTUCKY" (Aug. 1866), signed by fifty-five of our Ministers and Elders in that State who had stood aloof from the Declaration and Testimony movement, this subject was discussed with singular ability and in a truly Christian spirit. Dr. W. L. Breckinridge having attempted to turn the positions laid down in this "Address," was answered by the Rev. W. L. Breck in an extremely forcible letter, the conclusions of which cannot be invalidated. If these two documents were disseminated through our Church, they could not fail to work conviction in many minds as to the unwarranted character and hurtful tendency of the St. Louis measures. A few extracts may exhibit the grounds of this remark.

The "unconstitutional" orders of the General Assembly of 1865, it is well known, were, and are still, treated as a "dead letter," throughout large portions of the Church. In the "Address" above mentioned, these are effectively compared with the orders of 1866, as follows:

"A comparison of the two orders, we believe, will show that the one of 1866 is both more offensive in its terms and more injurious in its operation than that of 1865. The order of 1865 requires us to refuse admission to parties who are already, by their own act, beyond the pale of our Church organization, and have no legal right to seats in our judicatories. That of 1866 requires us to put out men who have long lived and labored in full fellowship with us; against whom their Presbyteries have preferred no charge; and whose ecclesiastical fitness the Synod has by an overwhelming majority affirmed, in its refusal to exclude them. The order of 1865 requires us to refuse admittance to ministers who have not only condemned the course of the Assembly, but have repudiated its authority; and who, in the judgment of that body, are already guilty of fully accomplished

schism. That of 1866 enjoins upon us to suspend from our Courts men whose chief crime is, that they have uttered with too much boldness and severity, a condemnation of the Assembly which the Synod itself has repeatedly expressed; and whose conduct, in the severest possible construction of it, does not amount to actual schism, but is only schismatical in its tendency. The order of 1865 forbids us to increase the roll of our Presbyteries by the admission of a certain class of ministers from the Southern States, but leaves the integrity of our Synod unimpaired. That of 1866 requires us to weaken and diminish our Presbyteries by the exclusion of its rightful members, and by inevitable consequence, to introduce strife and division into every congregation in the bounds of the Synod."

A further extract from this "Address," will commend itself to all unprejudiced minds.

"The order comes to us at a time when, unhappily, the tie binding to the General Assembly, with many of our people and Churches, has been greatly weakened by the agitations to which, for five years past, we have been subjected by our connection with it; when the attempt to enforce the measure, were it otherwise proper, would inevitably make great division. It is marked with great severity to brethren with whom we have refused to go into the *Declaration and Testimony*, but whose offence, however judged, we think could scarcely justify such a procedure. It is wanting in kindness to us; regardless of the difficulties of our situation, plunging us, without help, into confusion and distress; presenting a painful alternative of courses, either of which is full of embarrassment and evil; of putting out those upon whom none of us, in view of the record of the past, are in condition to pronounce a severe judgment, with all the alienation, division and strife that must follow; or of ourselves being cast out and cut off. Its constitutionality cannot be successfully defended, either as to the requirement, or as to the penalty. The Presbytery is the maker and judge of its ministers; the constitutional guardian of their rights and their character; to whom it is as the jury of twelve men in civil justice, and who come as individuals under the judgment of the higher Courts, only as they are brought before them by processes provided for in our organic law; and there is not conferred on the Assembly the power of original jurisdiction to order us to suspend members of our Presbyteries with a peremptoriness that allows us no option or liberty of judging their disqualifications. The wholesale dissolution of Presbyteries is equally without justification in our standards."

"But the manner of dissolving them gives to the procedure an aspect of still greater violence. We are sure that an attempt to construct a constitutional argument to sustain it, by the ablest of its defenders, will be judged futile and unreasonable. Our Standards out of view, it is inconceivable that it should consist with any constitutional compact among men. A law that executes itself, is without precedent in ecclesiastical or civil legislation, and would not be tolerated in any civilized and free community. When the State proclaims a law and affixes a penalty, a judge or jury is always interposed between the offence and the penalty, to ascertain the fact of transgression, to determine whether the circumstances rendered the act unavoidable, and to pronounce judgment. But the Assembly declares all our Presbyteries, *ipso facto*, dissolved—without a hearing concerning our design or the necessities of our case

—if our brethren, who are signers of the *Declaration and Testimony* and members of these Courts, are allowed to retain their seats. This is surely out of the province of constitutional argument. It is a measure altogether unconstitutional, violent, and oppressive. Especially taken in connection with the whole spirit and temper of the late General Assembly, with the proposition to remove from us the Theological Seminary, endowed by us only a few years since with large means, because it has been found impossible to sustain it among us in accordance with the views of the Assembly, upon matters judged by us out of the province of ecclesiastical legislation; and other acts not so vitally affecting us, but not less repugnant to common views of right and justice; it is so repugnant to the views and feelings of the people of all our communities, in and out of the Church, that its execution would impose a burden of popular odium, under which the Church in Kentucky could not maintain itself or its institutions. The order, therefore, we are constrained to regard as unwise; impracticable, without division and ruin of many of our Churches; unconstitutional; severe to brethren, whose offending does not equal the judgment; unkind to ourselves, who are required to execute it; in its peremptoriness an infringement of our liberty as Christian freemen; and in its aspect to the people, within and without the Church, such that its execution must destroy their confidence in our moderation and justice, and alienate popular favor from the Church; which an Assembly of less passion, if requested properly and especially with unanimity, surely will not refuse to reconsider; and which, if there shall be found no disposition to recall, must greatly reduce or destroy the hope that our Kentucky Churches can live in peace or comfort in connection with the General Assembly."

There are probably those in our Church with whom appeals like these will go for naught. They will recognize nothing but the naked order of the Assembly, and the refusal of the Presbyteries concerned, to obey it. In his masterly reply to Dr. W. L. Breckinridge, Mr. Breck has defined the ground on which they stand. It is precisely the ground upon which confessors and martyrs have gone to the stake. In their deliberate judgment, the Assembly requires them to do what they believe would be a moral wrong. It has issued an unconstitutional order; and commands them to carry it out in excluding from the Courts of the Church, men whose right to a seat in those Courts is as good as their own. As conscientious men, they cannot do it. For this refusal, Mr. Breck and his brethren have been liberally censured in the Church newspapers; but his reasoning has not been answered, and is not likely to be. It would be refreshing to see, in place of blind tirades against these conscientious men, some attempt to argue the issues presented in the following passages from Mr. Breck's letter:

"How you are able to reconcile your personal convictions of the unconstitutionality of the order, which do not yield or abate from renewed and continued

study and the most deferential consideration of the opinions of others, with the course you purpose to pursue, I still cannot see. I know that you have some method of reconciliation satisfactory to yourself. What you have written does not make it plain to us. No deliverance of the Assembly can be of superior authority to the Constitution; for that would be to exalt the Assembly above its own Constitution. And while a subject may submit for conscience' sake, to what is even plainly unconstitutional in a constituted authority, yet a member of the Court of Christ, in acting as such, it seems to me, is bound to follow his deliberate and immovable convictions of the demands of a Constitution he believes founded in the Word of God, and which he has covenanted to obey. If his personal convictions will not yield, he becomes *particeps criminis* in the infraction, if under any order whatever he joins in an act that breaks it. Any order requiring such an act is in fact null and void, and there is no rightful authority to make it, nor moral obligation to obey it. For the consequences of disobeying it he is not responsible, but the party imposing it. It matters not that others differ with him in opinion, he is bound to allow the opinions of others a fair influence upon his judgment, but if they have not the inhering force of truth to contract or modify his own, and his convictions remain unshaken and obstinate, he must follow them. In questions of mere propriety or expediency, where only the taste or the judgment is appealed to, a man may very properly defer to the opinions of others, to the absolute abandonment of his own; but not so in questions of morals and constitutions, when the appeal is to the conscience, and when sitting in a Court of Christ's Church, and judging, under covenant of fidelity to the Constitution, the rights and liberties of his brethren. This, my dear brother, is our ethics in these matters.

"There is another view to which I ask your attention. An *unconstitutional* deprivation of a member of any society, of any of the privileges of the society, is a *wrong*. An *unconstitutional* ejection of an officer of the Church from his place in the Court of which he is a member, is a *flagrant wrong*. As you believe the order requiring us to put brethren out of our next meetings of Presbyteries, is unconstitutional, you must believe that it is a wrong. Now, can an act of the Assembly, or of any other body of men, which does not remove your convictions of the unconstitutionality of the act, make that act obligatory, or justify you in doing a wrong?

"It does not avail, I think, to say that the act and the wrong have already been done by the General Assembly, for you and I will ere long, at Presbytery or Synod, be called to vote directly for or against the exclusion of brethren under this order, which we both believe to be unconstitutional. You say you must sustain the order, though, in your judgment, unconstitutional, and of necessity a wrong, and vote the exclusion. I am in conscience bound to act differently. Believing the order unconstitutional and a wrong, I must vote against the taking of their seats from my brethren, if they desire them.

"Nor does it avail to say that the suspension of our brethren required, is merely temporary, until their case shall have been decided by the Assembly; for were the infliction upon them as light as it is sought to represent it, still it is unconstitutional; if the principle is unconstitutional, the incident is unconstitutional; and if unconstitutional, it is wrong. But is it a light infliction? Would you, my dear brother, esteem it such, to be put out as a ruler in God's house from its Courts, as unworthy of being associated with your brethren in their counsels? The principles involved, you will concede, are of great magnitude.

You have yourself shown with marked ability, in your remarks in the Assembly, how the assumption of the Assembly thus to lay its hands upon Presbyteries and Ministers, strikes at the very arterial principles of our system: which you thought the Church in Kentucky could not stand."

"Nor do I see how your convictions are at all relieved by affirming that the temper and acts of these brethren have been the occasion of bringing on the painful crisis. I might urge a very different view of facts. In the judgment of our Synod, the acts and ordinances of the Assembly were an occasion prior to the appearance of the *Declaration and Testimony*, which acts and ordinances it condemned, and some of which it practically refused to obey. And in your own judgment, the unconstitutional and unprecedeuted order of the Assembly must be held to be a subsequent and the last occasion. It might be shown, also, that a small and violent minority in the Church in Kentucky, unable to rule the Church, and failing in their effort to divide the Church in the Synod of Louisville—whom you there resisted, and whom you went to the Assembly to resist—have, by invoking the aid of an Assembly under the strongest sectional bias and of the most radical composition, made much of the occasion of this crisis—obtaining from the Assembly an order framed with singular ingenuity for producing the utmost confusion, embarrassing such good men as yourself who have hitherto stood on other ground, and forcing you, as you think, to go against your personal convictions of the requirements of the Constitution, to uphold it. But without urging further this view of the facts, it still remains that the order is, by your own candid admission, unconstitutional; it is therefore a wrong.

"Nor yet again, can I think it frees you and myself from the obligations to obey our personal convictions of what is the teaching of the Coustitution, that the neglect, disobedience if you prefer, of the order, will immediately work the dissolution of our Presbyteries. I question very much whether that is the necessary result. The order being unconstitutional, is of necessity void, and it is not for us to say that another Assembly, with a year's observation of its evils, will not reconsider and revoke it. Perfectly sure am I that if you and all others who think it unconstitutional and mischievous in its inevitable results, would stand firmly together in omitting all action under it, and respectfully presenting our difficulties to the next Assembly, that body would be inclined to hear us and give us some relief. But admitting your view of the results, who would work and be responsible for the dissolution? Not, certainly, we who are acting in obedience to the Constitution. Must it not be those who have issued this remarkable order, such as never before issued from any human tribuual; or those who in our own courts press it upon us? But are we at liberty to regard consequences wheu possessed by convictions so clear and strong as ours, and so clear and strong as yours appear? Especially, must we submit because the Assembly holds over us so tremendous a judgment, to constrain us to do that which from our past actions it had reason to believe, and which the judgment indicates it did believe, we would think wrong? That would be to convert the Assembly into an engine of insufferable despotism.

"The doctrine that every act of the Assembly is a law, which, good or bad, must be obeyed by all in the Church until it shall be revoked, appears to me so monstrous that I have thought I must have misapprehended you in my reading of your letter. Surely you cannot seriously mean to teach it, or expect it to be received by intelligent Presbyterians. And yet on careful re-examination of the

letter, I can make nothing else out of it. It is true, you leave us the alternative of schism in going out of the Church, which you decide for yourself to be worse than submission to unconstitutional orders. Excuse me, my brother, for saying that this is plainly to my mind not only unreasonable, but immoral. It could be true only on the supposition that the Assembly is infallible. It requires only the statement of an extreme case—not likely to occur, but supposable—to demonstrate its immorality and its absurdity. If the Assembly had required us to burn these brethren whom it requires us to put out of our courts, as the Church used heretics some centuries since, or to suspend from their functions your ministerial colleagues in the College because they do not wear white cravats, you would not have thought the order entitled to any respect, nor would you have felt it incumbent upon you to go out of the Church. If this is an improbable case, still it shows the right and duty of private judgment of individual Christians, and especially of those who bear rule in the Church, and that somewhere there must be a point where the duty of obedience ceases. Where shall this line be drawn, if not where I have located it—where the acts of the superior tribunal are found to be opposed by clear and strong convictions of a moral or constitutional nature, which yield to no efforts to remove them?

"We may distinguish between an unconstitutional act of the Assembly, and its requirement of an unconstitutional act of others—though such a requirement would be unconstitutional in the tribunal making it. To the one it may be proper sometimes to yield submission—to the other, I conceive, never. A father may do many things which are very unbecoming in the eyes of a son, which will not justify the son in abandoning the parent and renouncing his authority; but if the father require of the son criminal and dishonorable acts on pain of being disowned and disinherited, there can be no difference of opinion as to what would be the course of duty; that is, to do right, let the father do as he may. When the Assembly so frames its unconstitutional acts, in the judgment of an inferior tribunal, or any members of it, as to require their complicity, by making them the instruments in the infraction of the Constitution, on pain of dissolution or exclusion, the case appears to me so plain that I cannot see how there can be a difference of opinion about it. Can they as honest men submit themselves to such a use? Is their firm refusal a going out of the Church? Or are they bound to secede from the Church, when their faithful adherence to the Constitution most entitles them to remain in it? Rather should those go out who cannot accomplish under our Constitution ends upon which they are firmly set, and which they will not abandon.

"Of this nature is the order of the late Assembly, which is producing such confusion. For five years the Assembly, in the judgment of our Synod, has been passing unconstitutional acts. Since they did not press anything unconstitutional on us, with sorrow and regret we have yet submitted under protest.—But now the nature of the Assembly's action is changed. It requires us to become its instruments and executioners in what to our minds is flagrantly unconstitutional, unkind, unjust, and essentially wrong. What can we do, but in our places in the Church firmly but respectfully decline the agency it has imposed on us with such heavy penalty—leaving the whole responsibility to the Assembly?

"This you say destroys all government. It should be remembered that this fundamental right of private judgment, if it appear unfavorable in its influence as to the external organic unity of the Church, is a part of the very genius of

Protestantism, which, as far as it is a necessary evil, is compensated by benefits of incalculable value; and it should impress upon all ecclesiastical tribunals the necessity of carefully confining their acts clearly within the limits of their Constitutions. But let me ask, is not usurpation and disregard of the Constitution by tribunals, rather than the right of private judgment, the destruction of government? And is not resistance to usurpation and infractions of the Constitution, the means of preserving government? When the usurpation is in an inferior tribunal, it may be remedied by appeal to the superior; if it is in the supreme tribunal, and amounts to a radical change, then there comes the alternative of allowing a revolution of the government by the tribunal or revolution in resistance. I need not refresh your mind with the sufferings to which God's people in other ages have submitted rather than submit to criminal usurpations by the constituted authorities of the Church; they are familiar to you. I will only ask you further, in reference to this particular point, what interest have we in preserving a government which is to be taken off of the fundamental principles of that Constitution, we believe founded in the word of God, and which we have subscribed—so altered as to be no longer, if these changes are allowed, the government we have covenanted to obey?"

This is not declamation, but reasoning, calm and conclusive. Fair-minded men will appreciate it. There is nothing here that savors of contempt for lawful authority. It is gross defamation to hold those brethren up as disturbers of the peace of the Church. They are men who love the Church. They desire its purity and prosperity. They would make any reasonable sacrifice to be able to defer to its requirements and preserve their cherished relations to it. In a matter of speculative opinion, or a matter of feeling, they might give way; but they cannot surrender principle even for the sake of the General Assembly. They must keep a good conscience at whatever cost; and should the Church of their fathers be rent asunder, the responsibility must rest where it belongs. It is not necessarily the withdrawing party which contracts the guilt of schism. A very great evil it certainly is, that the body of Christ should be divided. Those who separate from a Christian Church should be able to give a sufficient reason for it. And what constitutes a "sufficient reason?" The *Repertory* shall answer: "We venture to say that no man is at liberty to labor for a division of the Church to which he belongs, unless he and others are called upon to profess what they think erroneous [or forbidden, we may add, to profess what they may think to be true], or required *to do what they think wrong.*" (*Bib. Rep.*, Oct. 1834.) This statement of the law of schism finds plenary illustration and vindication in the Lutheran Reformation and in the martyrology of the Church. It is accepted by the members of the *ipso-factoed* Pres-

byteries. The Assembly has enjoined them to exclude from their seats the signers of the Declaration and Testimony. Their answer is, that the Assembly herein commands them "to do what they think *wrong*." They may err in judgment; but this is their conviction, and whatever happens they must abide by it. It is hazardous for any Church to put a body of learned, pious, and faithful men in a position like this. With such men, a conflict between ecclesiastical authority and conscience can end only in one way; and then when the Church is rent, the question will remain for arbitrament at another tribunal, whether the sin of schism lie at their door or with the Judicatory that issued the coercive mandate. There may, peradventure, be something in these views worthy the attention of the next General Assembly.

On this whole subject we may adopt the language of an admirable article in the *Danville Review* for September, 1861, on the famous political deliverance of the Assembly of that year. Throughout the article, that deliverance is treated as the "unconstitutional" and impotent action of a body which was "not a free Assembly." And the writer observes, in terms scarcely less apposite to 1866 than they were to 1861, "The times are sadly out of joint; the country is in a whirlwind of excitement; a state of things exists altogether anomalous, unexpected, dreadful; the ministers and people of God have been most powerfully, though most naturally, affected by the universal furor. In these circumstances, no rash, irretrievable step should have been taken. Moderation, forbearance, a patient waiting for the return of reason and the sway of established principles, might have saved the Church. Alas! alas! our virtue has not proved equal to the occasion. Still, we will hope against hope. The providence and the grace of God may be better to us than our fears. He may restore peace and unity to the land; he may restore the unity of the Church. The good day *may* come (oh, that it may come soon!) when our hearts shall be softened, our errors realized, our sins repented of; when brotherly love shall reassert its divine power, and so weld us together again that our peace shall be as a river and our righteousness as the waves of the sea."

X.

The two paths—Real issues—Danville Review prophesying—A Conservative Church — Coercive repentance — Dr. Van Dyke — The South repelled — Israel and Benjamin—New-school "Platform"—Politico-ecclesiastical Oracles — Question of Union —Dr. McCosh's plea for Freedmen — Dr. Humphrey's resolution — Co-operation refused—Southern Assembly—Crisis with our Church.

When the late General Assembly convened, there were two lines of policy open to it, each of which had its able and zealous advocates. One was technical and sectarian; the other, comprehensive and catholic. One contemplated chiefly the maintenance of discipline at home; the other, the spiritual necessities of the country. The inspiration of the one came from the war; that of the other, from the return of peace. One savored of retribution upon wrong-doers; the other, of clemency towards the erring. One looked sternly towards the past; the other, benignly towards the future. I speak of the cardinal nature of these two policies. Either might have been adopted for substance without excluding the other. Either might have been made so absolute and engrossing, as to leave little or no place for the other. Which of the two paths was actually taken, and how far it was pursued, an effort has been made to show in these papers. There are some lines of light running through the picture, but the history of that memorable Assembly is summed up in one word, Discipline. This gave complexion to the whole protracted session. This was the pivot upon which everything turned. Fellowship with other Churches; the cause of education and missions; the healing of our own breaches; the necessities of the Freedmen; the wants of a suffering land; while not absolutely ignored, were all kept in abeyance to the enforcement of discipline against certain offending brethren.

It was not, and is not now, one of the issues between the majority and the minority, whether "heresy" and insubordination should be repressed. But the minority insisted that discipline should be administered "in the ordinary way and by the ordinary methods." They protested against the exaggerated importance ascribed to the Louisville business. They contended

that inasmuch as the rebellion had been subdued and slavery dead and buried for upwards of a twelve-month, the deliverances of five successive Assemblies on "loyalty and freedom" could gain no force from a sixth iteration. And they strenuously insisted that our Church had duties to discharge to itself and to the country, quite as indispensable as the summary visitation of penalties upon the signers of the Declaration and Testimony. Time, the crucible of all human opinions and actions, will test the validity of these views, and the wisdom of the measures against which they were vainly directed. "By their fruits ye shall know them." That the seed sown at St. Louis in May last, will produce an abundant harvest of some sort, does not admit of a question. The crop as yet is barely above ground. But does it require a very practised eye to see whether the tares or the wheat are likely to predominate? The majority, it is true, have the satisfaction of knowing, that they have initiated a policy which promises to exclude the Declaration and Testimony men and their congregations from our communion, besides administering incidentally a wholesome reproof to the Synods of New Jersey and Philadelphia, and various Presbyteries and pastors throughout the Church, for presuming to say that the restrictive enactments of '65 are "a dead letter." But whether this was the full measure of service demanded of that Assembly by the Church and the country; whether it is even likely to be of any real advantage either to the Church or the country; remains to be seen. Let us look at this point a little in some of its principal aspects.

The *Danville Review* of Sept. '61, in the admirable article already mentioned, observes: "If the division of the Church were accomplished in the interim of the political struggle, and that should end in the restoration of national unity, a little reflection would have convinced every one that the restoration of the unity of the Church, so far from following as a matter of course, would be well-nigh impossible. The professed ground of difficulty, the act protested against and made the basis of divisive measures, would remain unrepealed after the political difficulty, out of which it grew, was adjusted; and it required no prophet's ken to tell, under all the circumstances of the case, that the day of reunion would be far distant. The nature of man, the history of the past, the many conflicting interests likely to be developed during a period of separation, the complicated working of moral causes in the heart, all gave warning, that were the Church once

divided, its reconstruction could not reasonably be anticipated, even if the States were brought together again under the old common paternal government."

This writer surely borrowed for the time the mantle of a prophet. Were he writing to-day, he could not describe with greater accuracy what has taken place, than he exhibited five years ago in predicting what must take place. He had studied human nature to some purpose; and clearly saw, that when subjected to such an ordeal as was preparing for it, it would inevitably fail. And it has failed. The "political difficulty" has been disposed of. The "national unity" has been (in a sort) restored. But the Church, at least our branch of the Church, remains divided, and the line of division was made broader and deeper at St. Louis than it was before. With whatever distinctness events might have foreshadowed this result, it is none the less to be deplored. The Church of Christ is the CONSERVATIVE ELEMENT in human society. In all its past history, our own Church has been pre-eminently of this character. Not conservative in the spirit of a supercilious bigotry. Not conservative in the type of an icy formalism. Not conservative in the sense of an inflexible hostility to all progress. But conservative, as governed by fixed *principles*, instead of swaying to the vagrant tides of passion, expediency, and popularity. Conservative, as a shield and sanctuary of God's truth, in opposition to every form of heresy. Conservative, as opposing a calm, majestic front to the turbulent waves of radicalism which ever and anon pour themselves in fury over the land, and ingulf the helpless Churches that are found ensnared in the acrid pools and eddies of politics. Conservative, as the steadfast friend of law and order in Church and State. Conservative, in regarding the power received from its Lord, as given it "to edification and not to destruction." Conservative, as at once the minister of justice and the herald of mercy: firm but gentle in the exercise of prerogative; and, like its Divine Founder, choosing rather to conciliate and win the erring by a wise and patient kindness, than to crush them by sheer authority. Animated by this spirit, our Church has not only held on its prosperous way through storms which have convulsed and shattered other denominations; but at some of those great crises recorded in our history, it has rendered the Republic services which leading Statesmen have gratefully pronounced to be above all price.

Alas, "How is the gold become dim! How is the most fine

gold changed!" Two of our General Assemblies have met since the termination of the war. What have they done to staunch the country's wounds, to soothe its sorrows, to subdue its animosities, to restore a true and stable unity? Is not this the august and beneficent mission of the Church, to pour oil on troubled waters, to allay vindictive passions, to set an example of forbearance and charity? Conceding all that can in reason be claimed respecting the sin of the late rebellion and the duty of testifying against it, was it needful, was it wise, was it after the manner of our great Exemplar, to do this *in a way* which could only inflame existing resentments and provoke retaliation? Can any one detect in the deliverances of those two Assemblies the Scripture method of dealing with wrong-doers? Practically, our brethren who fell in with the rebellion did not regard themselves as wrong-doers. We of the North thought, and still think, otherwise; and, taking our own view of the case, could anything have been less adapted to convince them of their errors and bring them to repentance, than the tone of our official decrees against them? Is this the Divine method of dealing with sinners? Is it the regimen which melts *us* into contrition when we have wronged either God or man? I am not impugning motives. It was no doubt an honest zeal for the purity of the Church which prompted the measures referred to. But, as Bishop Jewel says, "wise clemency will do more good than rigid severity."

> "Earthly power doth then show likest God's,
> When Mercy seasons Justice."

Had the Church, instead of turning this frowning visage upon her alienated children, held out the olive-branch and invited them back to their home, peradventure she might have been somewhat nearer the end she was aiming at than she is to-day. And since the good Providence of God had smiled upon our cause and re-established the supremacy of the national government, was it not meet that the Northern Church should inaugurate a policy of oblivion and conciliation? Or, since our gallant Army and Navy had plucked this honor from her hand, could she not *follow* in their steps?* True courage and magnanimity are twin virtues, and, like all other virtues, of noblest

* The writer has yet to meet or hear of the first Naval officer or West Point man, who is not in favor of a liberal and conciliatory policy toward the South.

growth when found near the Cross. It is only a mutilated Christianity that ever discards them. At the first whisper of peace, the brave men who fought our battles, had hastened down from Ebal, and were now, from the green crest of Gerizim, invoking benedictions upon the hosts they met but yesterday in mortal strife. Was it to be expected that the *Church* would still linger on Ebal? Did not all Europe look to see her go up and stand side by side with our worn and wounded soldiers in the Mount of Blessing? Was there no guerdon worth her seeking in that triple benediction: "Blessed are the meek"—"Blessed are the merciful"—"Blessed are the peace-makers"? Had not the country a right to look to its Christian men and women for an example of these Christ-like tempers? Our Declaration of Independence says even of Great Britain: "We must hold them as we hold all other nations, as enemies in war; IN PEACE, FRIENDS." Must the Presbyterian Church go to *Thomas Jefferson* for a lesson of generosity and charity? In a time of profound "peace," are we to refuse to treat as "friends" a great body of ministers and people, entirely at one with us in doctrine and order, and constituting, up to the time of the war, the most conservative and reliable portion of our Church in all its contests with theological error and pseudo-schemes of moral and social reform?

It is no reply to this, to allege that the last Assembly mollified the harsh terms of the deliverance of '65, and opened the door of return a little wider. This statement is based upon two papers offered respectively by Dr. Schenck and Dr. Gurley. Unfortunately the foundation will not sustain the superstructure. For Dr. Gurley's paper utters solemn warning against disobeying or disparaging the testimonies of the General Assembly on loyalty and freedom: and Dr. Schenck's notifies men who were engaged in the rebellion, that they "will be received back whenever they shall have *complied with the conditions* laid down by the last General Assembly." That is to say, all the rigorous enactments of '65 are in full force, as Dr. Stanton has shown in his late elaborate article in the Church newspapers. Whoever will, may heed these monitions against countenancing the "dead-letter theory." Practically, the Church has paid no respect to those memorable decrees. But in form they are neither repealed, nor essentially mitigated. Nor are we left in any doubt as to the purposes of the brethren who shaped the St. Louis measures. When the Committee of Bills and Overtures reported a minute,

expressing the "fraternal affection" of the Assembly for the "other branch of the Presbyterian Church," exhorting our ministers and people to "cultivate fraternal intercourse" with them, and proposing a joint committee of inquiry touching a union of the two bodies, the Rev. Dr. Van Dyke moved that "the report be so amended as to include the eight hundred and fifty Ministers in the Southern States." The mover enforced his amendment in a brief and eloquent speech, in the course of which he said:

"I confess I would like to hear an amendment to that report, so that we might include another body of Presbyterians. There are eight hundred and fifty Presbyterian ministers in the Southern States—a body of men as large as the Free Church of Scotland, and a body whose soundness in the Faith this General Assembly has heartily endorsed within six years. I confess it struck my mind painfully that amid all these interchanges of fraternal affection, while we are stretching out our hands across the ocean to those brethren of the Free Church of Scotland, to our brethren in Ireland, and to our brethren of the New School Assembly, and while we are talking about a marriage union with them, there has not been said on this floor a single word of kindness or affection for our own brethren with whom we took sweet counsel and went to the House of God in company until five years ago—not a single word, except those precious words that fell from the lips of a stranger coming among you from a Dutch Church.

"In regard to this question of the Freedmen, a representative from the Church of Scotland has well declared this to be an unsolved question. You have put your endorsement upon the record in regard to the zeal and faith of these Southern brethren in a way which you can never blot out. In that record you give a description of the labors of the brethren in the Southern States in behalf of the negro population of those States. You declare in that Deliverance that provision, ample and extraordinary, is made in all their churches that the colored man may hear the pure Gospel. You declare further that men are engaged in preaching to these colored men, not of inferior talents, but the first men in the Church. And now when we are here in a grand Love Feast, and propose to marry ourselves with another branch of the Presbyterian Church—in the midst of this exercise of Christian charity, there is no man to say one word for these 850 men down South, who, in the midst of poverty and suffering, are grappling with this great question; and the only report we have from them in regard to their connection with this great problem, is what you will find in the report of the Committee on Freedmen."

It would be superfluous to state that the usual motion was promptly made and carried (made in this instance by Dr. West) to lay the amendment on the table. The luminous and convincing Protest of Dr. Van Dyke and others against this disposition of the matter, was prudently left without an attempted answer. (*Minutes, General Assembly*, p. 51.) The proceeding could not be misinterpreted. The wall of separation between

ourselves and the Presbyterians of the South, was to be made stronger and higher. No step was to be taken on our part, which might savor of conciliation. All manner of fraternal things might be said, and, for the most part, properly said, respecting a body we had severed from our communion chiefly on the ground of grave *doctrinal* errors. But another portion of our household, of admitted soundness in the faith, swept from us by the events of a terrific war, are removed from us so much farther than our New School brethren, that we cannot even appoint a committee of *inquiry* to ascertain whether the way be open to resume friendly relations with them. So offensive is the subject to the Assembly, that in the course of a very short speech introducing it to the House, a brother is interrupted or called to order by five different members, Dr. McLean, Mr. Reinboth, Mr. Hines, Mr. Heckman, and Dr. West; the fitting prelude to the tabling of his resolution. What serious harm could result from such an inquiry, is not quite so apparent as is the fact that it might, possibly, have contributed to allay resentments, and foster peace and good-will not only within, but beyond, the sphere of these two Churches. That an organic re-union would be practicable at present, is not asserted. We have no evidence that the Southern Church is prepared for it. Ample proof there is, that that Church is enjoying a rare degree of harmony; that it is addressing itself to its very arduous work with alacrity and energy; and that many of its parched fields have been refreshed with the gentle dews of Divine grace. We are assured, also, by their Supreme Judicatory, that they earnestly desire to establish and maintain Christian fellowship with all evangelical denominations. That their prevalent feeling towards our own Church is not precisely what has been attributed to them by partizan writers, may be inferred from the circumstance (officially stated) that "during the entire sessions of their General Assembly at Memphis in November last, the Assembly of the Northern Church was not once named, nor even alluded to." This does not prove that they are ready for a formal re-union with us. But it shows that the hinderances to the renewal of fraternal relations between the Churches, are not on their side. And since any initiatory steps looking to this result, must of necessity proceed from us, it is for our Church to decide how long the interests of Christ's kingdom and the welfare of our country will permit the present entire isolation of the two bodies to continue.

That it cannot be permanent, may be assumed with absolute confidence. These two great Churches have too much in common, too much pertaining to God's truth and to the Kingdom of Christ, and too many hallowed memories, to be kept asunder by any political differences, or any antipathies engendered by the war. Those who imagine that the Southern Presbyterians are never to resume their friendly intercourse with us unless they come and ask it on their hands and knees, have not yet emerged from the lurid atmosphere of the battle-field. Time is against them. The deep forces of society are against them. The omnipotence of Christian love is against them. With the energy of a revived Christianity, these Churches will by and by gravitate towards each other with a momentum which will grind to powder the disgusts and aversions of past conflicts. It may even occur in the course of five or ten years, that the graphic and touching spectacle of Judges xxi. 2, 3, will be repeated on our own soil. That warlike Benjamin, forever "ravening like a wolf," after perpetrating a flagitious crime and then drenching themselves in the blood of their brethren, had been almost annihilated by the allied army. Twenty-five thousand were slain. Six hundred only survived. The slaughter was barely over, when the other tribes held a *General Assembly*, the minutes of which have come down to us. Those who may be curious to see the *stern*, retributive measures which patriotism and piety extorted from the victors, will find the key to them in the following passage:—"And the people came to the house of God, and abode there till even before God, and lifted up their voices and *wept sore;* and said, O Lord God of Israel, why is this come to pass in Israel, that *there should be to-day one tribe lacking in Israel?*" It does not appear that this princely display of magnanimity and tenderness towards an erring tribe (which, by the way, had as yet "given no evidence of repentance"), was either displeasing to their covenant God, or damaging to the interests of "religion and loyalty." True, that transaction occurred under the "ministration of death:" and are we who enjoy the light and liberty of the "ministration of the Spirit," to ask counsel of a generation of Levites? "Dost thou teach *us?*" Perhaps not. Yet there are some things in the Old Testament "written for our admonition." And who knows but this may be one of them? In the bosom of every man who has tasted the Divine mercy, there is an under-current of sympathy which must fall in with the tone of the scene here depicted. A marvellous scene it was.

Far more strange than it would be for a *Christian* Church to "go and do likewise." Peradventure the day may come, when our Church will feel that it is neither compromising its own dignity, nor jeoparding the cause of righteous discipline, to go even to Mizpeh for a lesson of forgiveness and clemency. When that time arrives, there will no longer be "a tribe lacking in Israel."

But we must return from the General Assembly of Mizpeh to that of St. Louis. While the South was repelled, the New-school branch of the Church was saluted with the cordiality and warmth of an early attachment. Of the various things which were said and done between the two Assemblies, no notice can be taken here. But there is a single feature in the proceedings of the New-school Assembly, which will probably make many an one in our Church draw back, who had contemplated a possible reunion of the two bodies, with no special repugnance, if not with satisfaction. I refer to its famous minute on the state of the country—a paper regarded by many excellent men in that communion with marked regret and disapprobation. The prime topics of this minute, are, the "Freedman's Bureau:" the "Civil Right's Bill:" "the right of suffrage for the colored man:" "the constitutional basis of representation:" and "the punishment of traitors:"—a deliverance which reads precisely like the "Platform" of a political Convention. And this from a Court of Jesus Christ! Our Church, I take it, is hardly ready for these banns yet. Our people have not quite forgotten that "there is *another* King, One Jesus." They still retain something of the antiquated prejudice, that it is not exactly the prerogative of a Church Judicatory to instruct them what political party they are to act with. If this necessity were laid upon them, considering the proverbial inaptitude of clergymen to deal with political issues, they would doubtless prefer the dictation of a Session made up of one minister and from two to ten laymen, to that of a General Assembly composed (usually) of two ministers to one layman. To this it may be added, that as Congress frequently matures and passes its most important measures on the eve of its final adjournment, several months would elapse (in alternate years) before the General Assembly could pronounce upon them and issue the proper instructions: whereas a Session can be convened on an hour's notice. At this moment, *e.g.* we could readily learn from our Sessions, whether we ought to favor or oppose the

"Impeachment," the Bankrupt Act, and the Bills for adjusting the functions of the Supreme Court, for reducing the currency, for defining the tenure of office, and for regulating the street railroads in Washington. These are questions of moment about which our people, "having no guide, overseer, or ruler," are sadly divided. And as things are, they can get no infallible cue from the *Church* before next May. Whereas if each congregation had its own official Oracle, it would be every one's fault if he failed to put himself on the right side. In any event, before the union is consummated, let it be settled by a constitutional provision where this prerogative shall be lodged; that our communicants may waste no time, as the elections approach, in ascertaining from the proper ecclesiastical tribunal, what ticket they are to vote, and what Congressional enactments are to be deemed canonical. There are, possibly, some few Chapters of our Confession and Government, which may require to be modified as the Church assumes its new political functions; but this can be arranged hereafter.

Turning to another phase of the question, this whole movement about a consolidation of the two Churches, unless managed with the utmost prudence, may be prolific of mischief. In so far as the public are advised, it has not thus far been in the hands of that class of men in either Church, who are usually looked to for counsel; nor has it, except to a limited extent, received their sanction. Bishop Reynolds says, "A single grasshopper will make more noise than twelve fat oxen feeding in a field of clover." It were neither courteous nor quite true, to say that we have as yet heard *only* from the "grasshoppers." But the leading men in our Sister Church know very well, that there is a theology more or less prevalent among them, which would not be acceptable to our people; and that their Committee of Publication issues books and tracts, which, if sent forth by our Board, would bring down upon it the instant censure of the General Assembly. They wisely stand aloof, therefore, from these transports of affection. Further—the movement involves the hazard of relinquishing a present and cardinal good, for one that is not simply contingent, but, possibly, no good at all. The existing relations between the Churches, are of the most friendly character. They have their peculiarities. We have ours. But there is neither collision nor controversy—not even envy or jealousy. We are working in union, without an organic unity. They certainly have our sympathies and prayers in all their

labors and sacrifices in aid of the common salvation: we cannot doubt that we have theirs. In purpose, plan, and feeling, we are much nearer together than we formerly were. In time, we may *grow* to be one. But it must be a fusion; not a mechanical conjunction. Nature must effect it; not legislation. A premature coupling, with no better sutures than ecclesiastical enactments, will defeat its end. Two ships may be sailing prosperously side by side: what would happen should their inexpert pilots, with a view of promoting their speed and safety, lash them together? And if these Churches were lashed together, how long could they stand the inevitable friction? We neither of us want another controversy. We have other and better work on hand. Let our impatient brethren beware lest, in their eager pursuit of "union," they renew the fable of the mastiff swimming the stream, who dropped his meat to snatch at its shadow.

There is another aspect of the St. Louis measures scarcely recognized as yet in the discussions they have occasioned, to wit: their bearing upon the cause of the *Freedmen*. One of the correspondents of the *Presbyterian* sent to that paper for publication, not long since, an interesting passage from the Address of the Rev. Dr. McCosh, to the General Assembly. There was another passage in his address still more worthy of being repeated and circulated. The two subjects which weighed upon the mind of our distinguished visitor, and formed the burden as well of his private conversation as of his official addresses, were, the union of Evangelical Churches, and the elevation of the Freedmen. These topics are aptly blended in the following extract:

"I cannot believe that the white man is to prosper and the black man is to fade away little by little until he is extinguished. My hope in God is that you, with an energy that characterizes all your efforts, will settle that question, and that the Churches of Christ may meet in harmony and union for that purpose. I am not speaking of politics on this question, but I am speaking of what steps you are to take to train these people to industry; to increase their intelligence and make them, in some measure, equal to you, not merely in civil matters, but equal to you in general advancement. Your State must take such a course; but the State cannot do it alone. It must be done by your Churches. And I confess I have been looking to you—to the old Presbyterian Church—as taking the initiative in this matter. You have an influence, and ought to have.

"I must say I would like excessively to see the North and the South closely united in this work; for the North to say we have spent all this for the sake of the black man; and let the South say we are friends of the black man. And I would like to see this union consummated between Christian men North and

South, for then I believe you would be brought more closely together in the work to which I trust you will devote yourselves, and you will have the best wishes of the best men in Europe."

These counsels, so wise and seasonable, were addressed to a body of men keenly alive, it might have been presumed, to the claims of the colored race. There had been no lack of speeches throughout the Judicatories of the Church, nor of deliverances on the part of successive General Assemblies, congratulating the country on the overthrow of Slavery, and welcoming the bondmen to their new franchises. Those Assemblies had promptly and properly recognized the duty of the Church to provide for the education and religious culture of these people. In the inscrutable providence of God, they had been suddenly thrown upon the hands of the nation as its wards. Never was a more sacred trust committed to a Christian Church, than that which the acts of emancipation devolved upon our Church, in common with others; but by pre-eminence upon our Church, by reason of the general prevalence of Presbyterianism at the South. In fulfilment of this trust, we had appointed a "Freedmen's Committee," and put a few thousand dollars in its treasury. But it had become clear to demonstration, that there was but one avenue through which the masses of this helpless race could be reached. The Assembly were told by their Committee (Report, p. 19), that with all the (Northern) agencies combined, "not more than 80,000 out of the 4,000,000 of Freedmen had been gathered into schools." The "millions" were (and are) accessible *only to the Southern Christians among whom they live.* Fifteen consecutive Assemblies, up to 1861, had commended these Christians for their faithful attention to the religious instruction of the blacks. There is cumulative evidence to show that they continue to feel a deep interest in their spiritual welfare. But the Southern Church is impoverished. They have not the requisite means for sustaining schools and missionaries among them. We could help them in this work. Dr. McCosh naturally enough supposed we were willing and anxious to help them; that our "old Presbyterian Church would take the initiative in this matter." And he longed to see "*a union consummated between Christian men North and South,*" in order that they might devote themselves more effectively to this work. It was an appeal worthy of its source. But it made no impression. It called forth no response. The Moderator, in his reply, made not the remotest allusion to it. The unwelcome suggestion fell

as a pebble falls and buries itself in the sand, without a trace and without a sound. The great metaphysician is accustomed to deep soundings: but there were depths around him at St. Louis which even his plummet could not fathom.

There were men, however, in that Assembly who could not go to their homes without making one more effort on behalf of Christian union and the Freedmen. Accordingly on Saturday, June 2d, the Rev. Dr. Humphrey offered the following resolution:

"*Resolved*, That this General Assembly, deferring to what appear to be the manifest indications of the will of Providence in the matter, assure the Southern Churches and ministers lately in connection with us, of our desire to assist and co-operate with them in any judicious measures for the spiritual good of their colored population."

Nothing could be more moderate, nothing more cautious than the wording of this paper. The mover sustained it by a brief speech, conceived in the benevolent spirit of the resolution itself, which he closed by saying—"No field of labor now open to the General Assembly is more important; none where the cry comes up with such piteous wailings and accents, as from these four millions of people." His resolution was opposed by the Rev. James Allison, the Rev. J. C. Heckman, and the Rev. Dr. Thomas, who wound up an impassioned speech on the subject by the customary motion to lay the resolution on the table. This motion "was carried by an *Aye* so loud and vehement that it fairly rang through the church," so the writer (confined to his bed by sickness during the closing days of the Session) was informed the morning after, by one of the most calm, judicious, and influential members of the body. So the Assembly decided against helping the Southern Church to give the Gospel to these four millions of people.

Keeping in view the fact, that the masses of that race at the South are practically inaccessible to the Gospel from any foreign source whatever, can it be that this vote represents the real sentiment of our Church? Whatever the errors of our Southern brethren, is the breach between us so broad and deep that we cannot lend them our aid even in saving the souls of the very race delivered from bondage by our arms? Are we to suspend our Christian offices to the freedmen upon the conditions of Church fellowship prescribed for their late *Masters* by the Assembly of '65? Must we say to the famishing blacks, "we cannot assist the white people in supplying your craving for the bread

of life, because we are not satisfied that they have truly repented of their sins?" Is this ground that we can stand upon and face the civilized world?

We shall doubtless be told in reply, that the decision here impugned, has been vindicated by the course since adopted by the Southern Assembly respecting the ecclesiastical *status* of the black man. But (1) what Dr. Humphrey proposed, was, co-operation with Southern Christians "in any *judicious* measures for the spiritual good of their colored population." If measures were devised not deemed by our Church "judicious," the resolution was of no binding force. (2) Had the two Churches agreed to unite in this urgent service, the probability is that they would have discovered some principles and methods under which they could work harmoniously in carrying out their benevolent purpose. (3) In reference to the severe animadversions upon the Memphis minute in which Northern papers have indulged (in some cases without publishing the minute), the present writer has only to say [1] that it was, in his judgment, unwise for that Assembly to put forth any deliverance on the subject in the present unsettled state of affairs. For another year or two the matter might have been safely left in the hands of the Presbyteries. And [2] no proper allowance has been made by their critics for the circumstances in which they were placed. The problem of the African race in the Southern States has not been resolved, but simply recast, by the war. Candid and thoughtful men, who have not forgotten the lessons of history, will concede the unexampled difficulties involved in adjusting the numerous social and moral questions incident to the violent emancipation of several millions of Africans in the bosom of a comparatively limited white population. Such men understand, that after a great earthquake things do not gravitate in a day into a fixed, normal condition. What marvel if a Christian people, still surrounded with the *debris* of that mighty convulsion which has shaken the continent to its centre, should be embarrassed by the novel and pregnant issues forced upon their attention? What marvel if they should fall into some mistakes? And if they should, is it too much to bespeak for them the charity we all need when called to act in the great emergencies of life?

As regards the specific measures of the Memphis Assembly, they view the condition of the freedmen as "one of alarming spiritual jeopardy," recognize their obligation to "do all that

lies in their power to confer on them the rich blessings of the Gospel of peace;" enjoin it upon their "Ministers and churches to exert themselves to the *utmost* of their ability to continue to give them the Gospel;" insist upon the established usage, of commingling the two races in the same church organization, as being of the last importance to their common welfare, and of especial moment to the well-being of the colored race; and should the freedmen still demand a separation, the Assembly provides for their congregations being taken under the careful oversight and sympathy of neighboring churches, instead of putting them in the exclusive charge of colored pastors and elders, which they believe to be inexpedient. It is this last measure which has been so sharply censured. On the face of the narration, the presumption may be adverse to the Assembly's decision, which, indeed, was opposed by some of their ablest men. But it should be remembered, that this neither is, nor claims to be, a full and final settlement of this business. The whole procedure is initiatory and inchoate. It must recur again and again in a hundred forms, and take shape and substance from the teachings of God's Word and Spirit and Providence. As the minute stands, it has the sanction of some eminent and faithful men, whose life-long labors in the service of the African race, have won for them a title to the gratitude of our entire Church. Such men are, of course, fallible, like their fellows. If their Northern brethren think they have erred, there is no reason why they should not say so, and try to convince them of it. It is not the aim, but the spirit of these remonstrances to which exception is taken. If it be really the welfare of the dependent race we have at heart, we shall but counterwork our own designs by approaching Southern Christians in a dictatorial or captious temper. We ought to be able to discuss these questions with them, and they with us, in a spirit of frankness, moderation, and mutual confidence. And if this were done, it could not fail to result in some such plans of wise and effective co-operation as were glanced at in Dr. Humphrey's resolution.

Reference has been made to the disastrous working of the Assembly's measures in fomenting discord and division. Men who can think of nothing but "discipline," may regard with complacency the scenes which are transpiring in the Synods of Kentucky, of Missouri, and now of Baltimore. They may extol the policy of our Board of Domestic Missions, and welcome the fierce invectives which have deformed some of its official papers;

but the whole tendency and effect must be to impair confidence in that Board, to alienate Churches and individuals hitherto its generous friends, to curtail its means of usefulness, augment the burdens of its suffering Missionaries, and make it an instrument of strife in those fields which are unhappily vexed with the controversies of the day. Not only within the purview of this Board, but in various directions, tokens crowd upon the eye, that while several of the leading denominations are reuniting their scattered fragments, and closing up their ranks, and cheerfully accepting the responsibilities devolved upon them by the peace, and preparing to enter in and till the fresh fields opened to their enterprise, we are in danger of wasting our powers in internal dissensions, and losing some scores, if not some hundreds, of valuable Ministers and congregations. The contrast is sad enough. Peradventure it may not be too late to retrieve the errors of the past. Upon the next General Assembly it will very largely depend whether we are to be a diminished, provincial sect, or, by God's blessing, to resume our hereditary position as a great national Church; and go forward in peace and unity, in faith and love, to the evangelizing of the country and the world. May the Pillar of Cloud and of Fire guide our way!

POSTSCRIPT.—"R. J. B."

AFTER these sheets were ready for the press, there appeared in several newspapers a characteristic article from the pen of "R. J. B.," entitled "*A Plea for another Faithful Assembly.*" As the Church was no doubt looking for some strategic movement of this sort, it has produced less of a sensation than might otherwise have been anticipated. Its inspiration is drawn from an ill-dissembled fear, that the next General Assembly may fail to carry out the policy of the last. This fear, again, has been nourished by the effects, real or imaginary, instant or prospective, which Dr. Breckinridge connects with the writings of three prime delinquents, "Drs. George Junkin, Samuel J. Baird, and H. A. Boardman." It is one of the very few encouraging signs of the times, that one so sagacious as himself in detecting the tides of public sentiment, should have discovered such tokens of a healthful reaction of feeling in some

portions of the Church, as to call for a demonstration of this kind. In substance and aim, the paper is simply an Electioneering Manifesto or "Campaign Document." It assures the Presbyteries that all will be well if they do their duty and send only men of the right stamp to the next Assembly; and, as it emanates from the source and is designed for the same end, so it breathes the spirit of the kindred circular which, a year ago, invited a "Convention" (now become somewhat famous) to meet in May last at St. Louis. In the course of an extravagant tirade against the views set forth by "those three men," the only approach to an argument is (if the solecism may be pardoned) the sneer contained in the following sentence:

"If they had but known what a good cause they had, and what a bad one the Church had, it is possible they might not have considered it necessary to confound the distinction between mere citation to answer, and final condemnation; nor broken the Church to pieces, merely for an alleged incivility!"

The wish is father to the thought. But it will not do. "Those three men" have not written their "elaborate and protracted commentaries" on the Constitution, by way of combatting a man of straw. Nor are those "commentaries" to be overthrown by a sarcasm, which lacks the only element that can prevent a sarcasm from recoiling upon its author. What the next Assembly may do, is one thing. What the last Assembly did, is another. Our concern is with the latter. And it is of this action Dr. Breckinridge says, it was "simply a citation of the Declaration and Testimony men to *answer;*" and jeers at those who "confound" it with anything more serious. Let us go to the record. The signers of the Declaration and Testimony are "*summoned* to appear and answer for their conduct before the General Assembly, the body against whom they have offended, and the *only body* which in the present circumstances of the Church, can properly and without embarrassment consider and ADJUDICATE THE CASE." Further, it is one of the specific reasons assigned for this order, that "the General Assembly has the power of *dealing directly* with the persons or parties who are engaged in such contentions." Does this mean "mere citation to answer," or citation to a trial? "ADJUDICATE," is a familiar law term. According to Worcester, it means, "to sentence: to adjudge: to pass judgment." Webster: "to adjudge: to try and determine upon as a court: to try and determine upon judicially." How pointless and how puerile to say, with this

minute before him, that the writers he is attempting to criticise, would "break the Church in pieces merely for an alleged incivility!" The "incivility" in the case, is that of SUMMONING ONE HUNDRED AND FIFTY MINISTERS AND ELDERS BEFORE THE NEXT ASSEMBLY FOR JUDICIAL TRIAL! And the mere summons carries with it a rescript which strips them, for the time, of THREE-FOURTHS OF THEIR ECCLESIASTICAL FRANCHISES! While the terms specifically considered, establish this interpretation, the entire complexion of the proceedings from beginning to end demands it. Not only is the prerogative of "adjudicating the case" challenged for the Assembly, but it is, *pro hac vice*, denied to the inferior courts. The Assembly is "the only body" which in existing circumstances "*can* properly adjudicate" it: or "deal *directly* with the persons" arraigned. It is trifling with the intelligence of people, it is "disrespectful" to the Assembly itself, to allege that nothing was intended here but a "citation to answer." The leaders of that Assembly have some rather grave indiscretions laid at their door; but no one has yet reproached them with making war upon their mother tongue. They said what they meant, and meant what they said. Any suggestion as to their not conceding the authority of the next Assembly to "try and sentence" these men, vanishes before the claim persistently asserted by Dr. Thomas and others, that they were actually "on trial" at St. Louis; and is incompatible with the sentence visited upon them there. Whatever the fatal bearing of their decrees upon the question of religious liberty, the bill cannot now be amended, nor the true issue eluded. That Assembly must be held to the responsibility not of an "incivility," but of handing over the Declaration and Testimony men to the coming Assembly for formal TRIAL.

This point being proved beyond the reach of cavil, the mind goes forward intuitively to the City of Cincinnati in the pleasant month of May, 1867. In one of his late Essays (*North Western Presbyterian*), Dr. Junkin has with capital effect described the anticipated investigation. Not to copy his prophetic photograph, one does not exactly see how the Assembly is going to manage this affair. Cited Synods or Presbyteries might have appeared by their officers and records. But the summons is to individuals. They must report in person. Not to appear would be a contempt of court. When congregated at the bar, each one of the hundred and fifty respondents, will be entitled to a copy of the charges, and a list of witnesses. Each may claim the right

of a separate defence. In "adjudicating the case," *i.e.* "trying and determining upon it judicially," the Court could not think of passing judgment upon a single individual of the company, without allowing him a patient hearing;—the more so, as the last Assembly has extinguished, as to every one of this great body of office-bearers in the Church, all right or opportunity of "appeal." The very stones would cry out against it. A very little arithmetic will suffice to show how many hours a hundred and fifty *American* speeches *pro*, and a hundred and fifty *con*, would consume. The self-evident thing about it, is, that the churches of Cincinnati might count upon good "supplies" for at least a twelve-month; and the hospitality of the city would be tolerably well tested, especially as the worthy commissioners would require to send for their wives and children. The brethren who are courting an election to that Assembly, have a cheerful prospect before them. It may assist them in settling their affairs before leaving home, to be reminded, that the trial of Warren Hastings occupied one hundred and forty nine days, and ran through seven years. But the "Queen City" will furnish better accommodations than the House of Lords found in Westminster Hall in those days.

Is "this badinage out of place?" Not so much so as the order of the Assembly which has given occasion to it. For no man can prove that the consequences just depicted may not, nay, must not legitimately follow, should all the accused brethren heed the "summons" addressed to them, and the next Assembly literally adhere to the policy prescribed for it by the last. No court, civil or ecclesiastical, should put itself in so apocryphal a position. It will generally be found safe to abide by Constitutional principles and established methods.

Returning now to our Circular, the following paragraph may serve to illustrate the candor and amenity which pervade it:

"In the second place, the reader will observe, that no matter how much the theories may seem to differ as put forth by these three men, now assailing the cause of peace, truth, and righteousness, as set forth by the Assembly; they all agree in condemning the Assembly—and in trying to defeat her attempts to bring to trial, an intolerable body of alleged offenders, now in open contempt and defiance of her. If any one of them is right—the wicked escape censure—the Assembly is virtually disgraced—the Church is impotent for the defence of truth, or the protection of itself—and heresy and immorality are protected by the very anarchy they create!"

In the preceding context the writer says of two of the brethren

defamed here: "No one has been better known, and few more favorably, than Dr. George Junkin, for forty years past. No one has performed a nobler work for the Church in this age, than Dr. Baird, the author of her grand Digest." Yet these men (in common with the author of this pamphlet) "are assailing the cause of peace, truth, and righteousness:" are pleading for the impunity of "an intolerable body of alleged offenders:" are advocating principles which will allow the wicked to go free, disgrace the Assembly, reduce the Church to impotency, and provide a shield for heresy and immorality! It was an apt saying of that great scholar and humble Christian, Joseph Mede, "A man that hath once drawn blood in controversy, is seldom known ever perfectly to recover his own good temper afterwards." However that may be, this paragraph represents a style of discourse which has very little to recommend it. Our Church has, at one time and another, listened to a good deal of it from various sources: but it never harmed any one except its authors, and never will. And what is the pretext for it in the present instance? Simply this. The men thus assailed, believe that the last Assembly did divers things in derogation of the prescriptions of our Constitution, and of the sacred rights of individuals. They have said this. They have tried to prove it. They have done what they could by reason and argument to convince the Church of it. They have *not* resisted the trial of alleged offenders: they have only maintained that they ought to be tried according to the Constitution and the settled usages of the Church. In all this, they have exercised that liberty of opinion and of discussion, which it cost the fathers centuries of conflict and seas of blood to conquer; which is dearer to them than life; and which they mean to assert as against all gainsayers whether of the State or of the Church.

For the rest,

"See what a ready tongue suspicion hath."

Because a few men born and brought up in the Church and devoted to its faith and order, come forward at a moment of peril to defend its Constitution, Dr. Breckinridge scents at once a foul *conspiracy* between themselves and the "malcontents" of the Declaration and Testimony, to secure the control of the next General Assembly. "Does any one suppose (he asks) a line of action by the malcontents, and a line of argumentation by the champions, so singularly fitting into each

other, so peculiar in itself, and so empty of everything but mischief, arose *without a plan—without concert?* God help us,* if our next Assembly should have a majority of members capable of being carried away by a few such as I have described, under some temporary delusion about peace, fraternity, forgiveness, private judgment, liberality, and the like." But this calamity will "undoubtedly" be averted, "if care is taken to keep the Church duly informed, and to keep unsound and unreliable commissioners out of the next Assembly."

It is a sad idiosyncrasy, this propensity to surmise plots and cabals. It has been the bane of many eminent historical characters—not always quite innocent of strategy themselves. It is in fact a sort of spontaneous growth in the fields of politics and diplomacy; and the pestilent weed, it is said, has even been found within the sacred enclosure of the Church. The discomfort it produces, makes it a duty, in the interest of common humanity, to avert its noxious consequences wherever we can. In the present case, if the author of this pamphlet be half so much implicated in the pending "mischief" as is charged, his word ought to have some effect in laying this phantom. He is happy, then, to be able to say, that if there be a "plan" he has not heard of it. If there has been, or is to be any, "concert" of action among the opposers of the St. Louis proceedings, it has been carefully concealed from him. In so far as his information goes, the Conservative men of the Church have no more thought of getting up a *Convention* to operate upon the next Assembly, than they have of drumming up an armed Crusade against that body. Should they hereafter decide upon a Convention, it will not sit with closed doors. The names of the delegates and their respective constituencies will not be withheld from the public eye. The General Assembly will not be kept in the dark as to the plans and pledges concerted for influencing its deliberations. We hold with Dr. R. J. Breckinridge ("Balt. Lit. and Rel. Mag.," 1836), that "the world has a right to know what all associated bodies of men are doing. Christianity is entitled to speak openly in every possible form to men. And *truth and justice* require that *in the present heated state of religious contest, and the alarming disregard to fairness and accuracy which so many Journals, pretending to be religious, habitually manifest*, the most authentic and undeniable evidences of all

* "In God's name," says the German proverb, "all mischief begins."

important occurrences should be placed in reach of all who read at all." The methods indicated above are not our methods. We have no aims which require or admit of such tactics. If it be allowable to speak for others without consulting them, it is not proposed to approach a single Presbytery with any demonstration designed to affect its choice of commissioners. It is certain that no one of the three men arraigned by "R. J. B." can have the remotest expectation of going to that Assembly. Nor is it probable that it will include more than a dozen members, who are in sympathy with their views. Further "Pleas for another Faithful Assembly," will be issued. The tocsin is already rung again throughout the Church; and we have two or three official bell-ringers west of the Alleghenies, who will like nothing better than to keep it ringing till next May. It were very strange if all these expedients should miscarry. We do not believe they will. There will be "another Faithful Assembly." And there may still be another, and another,—we know not how many more.

Incongruous as it may appear for a Minister of the Gospel of peace to deride the invocation of such topics as "*peace, fraternity, forgiveness, private judgment, liberality*, and the like," in a controversy of this sort, it is our firm conviction that there is nothing to be feared from this quarter. The counsel tendered to the Church is, "Non tali auxilio." And this is every way consistent. If it is to be the prime business of the next Assembly "to have the proceedings of the last Assembly, in condemnation of the Declaration and Testimony principles and rules, faithfully carried out," the less that is said about those topics, or any others drawn from the Sermon on the Mount, the better. From our point of view, there are interests suffering irretrievably from the neglect of the Church, in comparison with which this case of discipline (confessedly important in its place) is as the small dust of the balance. But we do not expect to see those interests properly cared for at present. The country is passing through a cycle which precludes that hope. It was described by a popular pen twenty years ago; and being *semper eadem*, the sketch is equally good for the times that are passing over us. This sketch occurs in a "Circular Letter" of the General Assembly of 1837 (*Minutes*, p. 507), which was prepared by Dr. R. J. Breckinridge. A sentence or two will reveal its quality.

"One of the most formidable evils of the present crisis is the wide-spread and ever-restless spirit of RADICALISM, manifest both in the Church and in the State. Its leading principle everywhere seems to be to level all order to the dust. Mighty only in the power to destroy, it has driven its deep agitations through the bosom of our beloved Church. Amid the multiplied and revolting forms in which it has appeared, it is always animated by one principle. It is ever the same levelling revolutionary spirit, and tends to the same ruinous results."

Can any one look around in this year of grace '67, without recognizing the original of this portrait,—this "ever the same levelling, revolutionary spirit?" Restless and disorganizing, it is neither to be bribed nor reasoned with. "Every kind of beasts and of birds and of serpents and of things in the sea, is tamed, and hath been tamed of mankind, but this" spirit "can no man tame; it is an unruly evil, full of deadly poison." Especially is this the case at its periods of high exacerbation—such as were referred to by the same eloquent speaker, in a noble argument before the Assembly of '58, on the fanaticism of the day, in the course of which he observed, that "the world has periodical *turns of madness;* and the religious world is not exempt from the charge." Nor was it with less justice he added: "In our character of a Church, the world can look to us FOR NOTHING BUT WHAT STRICTLY BELONGS TO THE WAY OF SALVATION."

If it be so that one of these cycles is upon us, we have a key to many of the phenomena which invite our attention; and among the rest, to the ready countenance accorded by good men to violent attacks, not only upon the signers of the Declaration and Testimony, but upon all who venture to speak a word on their behalf. These assaults upon a set of *tabooed* men, fall in with prevailing currents of exasperated feeling, and elicit not merely sympathy, but applause. But it is always an ephemeral chaplet which is won by such triumphs:—to-day it is; and to-morrow the very hands that bound it upon the temples, will tear it off and cast it into the fire. For, perverse as human nature is, its instincts are right. A thousand influences, public and private, personal and social, may warp them from their bearing, but when the perturbing causes are annulled, they come tremblingly back, like the errant needle, to their poise.

The popular verdict of the Church *now* justifies the strange proceedings we have been reviewing. But let us "have faith in God." The latent forces of Christianity are not yet brought into play. Whenever they are liberated, this paroxysm will be subdued. The turbulent freshet of the "world spirit," which

has been swelling and swelling until many a stately street and hallowed temple of the "City of the Great King," has been slimed with its muddy waters, will subside into its ancient channels, and leave the Church once more to resume its proper course without molestation. How much it will, meanwhile, have suffered; what mutilations, what losses, what outward collisions, what internal paralyses, what public disrepute; it is impossible to predict. Enough, that sooner or later, there must be an end. And then it will be found, that those members of the last Assembly who frankly admitted (in private) that they went with the majority purely because of the *violent political antipathies* prevalent in and around their congregations, represented a large number of excellent but timid men in every part of the country, who waited for the tornado to spend its force before they could venture to avow themselves. Till that day comes, Conservative men can do little but watch the progress of affairs and submissively await the developments of God's providence concerning the Church of their fathers. In the events now transpiring, we desire humbly to recognize the rod of His chastisement. We believe that He is rebuking us, not for the sins of this or that party, of this or that section, but because we are all verily guilty before Him. But we do not believe He will finally abandon this vine of His own planting. *"I will not contend forever; neither will I be always wroth." "For a small moment have I forsaken thee; but with great mercies will I gather thee."*

PART SECOND.

DOCUMENTS.

I.

Letter of the Disfranchised Commissioners.

To the Moderator of the General Assembly of the Presbyterian Church now in Session at St. Louis.

The undersigned commissioners from the Presbytery of Louisville, deem it both respectful to the Assembly and demanded by the interests of truth and righteousness, to lay before the body, through you, in this formal and official manner, for record on the Minutes, their views and purposes in regard to the resolution passed yesterday under the operation of the previous question, to this effect:

That, "Whereas the Presbytery of Louisville have 'openly defied the Assembly' and declared publicly their intention not to enforce the orders of the two last Assemblies on slavery and loyalty, etc., and have, in act, disregarded them in sending a commissioner here who, by a faithful execution of these acts, would probably have been suspended from the functions of his office; therefore

"*Resolved*, That until the Assembly shall have examined and decided upon the conduct of said Presbytery, the commissioners shall not be entitled to seats in this body."

We respectfully suggest, not indeed as vital to the case, but as illustrating simply the evil of such action, under the operation of the *previous question*, cutting off all explanation, that *both* the premises of the Assembly's resolution contain grave mistakes of fact. The Presbytery of Louisville have indeed published a Declaration and Testimony, against the acts of the five preceding Assemblies, in which many Ministers and Elders outside the Presbytery, formally, and many more in spirit and act have concurred. But the Presbytery of Louisville have not "openly defied the Assembly," as might have been seen by reference to the whole tenor of the paper from which a single passage is quoted. Nor have the Presbytery sent any commissioner here who, even under the act of 1865, in relation to ministers who have gone into the Confederacy or fled or been banished into foreign countries, could have been suspended from the ministry; since the only one of their commissioners who has been absent from the country during the past three years, was neither in the Confederacy, nor fled, nor was banished; but being absent on a vacation tour by arrangements made months before, at the inauguration of an unlimited military power under the control of his bitter ecclesiastical enemies, prolonged that absence, with the advice and concurrence of the Church Session and of prudent friends of all parties.

Aside, however, from these mistakes of fact in the premises, a far more important matter, in our judgment, is the dangerous error in principle involved in such action, even were the facts as charged. On this view of the case, we beg leave with all respect and deference to suggest:

1. It will be manifest on due reflection, and would have been shown but for the call for the previous question, that the assumption of the right to take such

action under the general power of any deliberative body to judge of the qualifications of its own members, arises from a failure to see the want of analogy between the case of the General Assembly and that of legislative and other similar bodies in the secular sphere. The right to appoint commissioners to the General Assembly and to judge of the qualifications of those commissioners, is inherent in the Presbytery, whose members are a constituent part of the Assembly itself. Nor can they be divested of that right save by sentence of deposition from office as Presbyters, reached through the forms so carefully prescribed in the Constitution. The claim of any particular Assembly to judge of the qualifications of its own members must be limited, in the nature of the case, to the question whether the credentials are in accordance with the provisions of the Book. But, in fact the Assembly in this instance does not pretend to be passing judgment upon the qualifications of its own members at all, but upon the constituency which sent them. This is manifest not only from the terms of the action, but also from the fact, that one of the commissioners excluded, was no party to the Declaration and Testimony; neither could he be possibly objected to on the score of disqualification or of defective commission.

2. This therefore makes manifest what was confessed on the floor of the Assembly by some who voted for this resolution, that the action was *in its nature judicial;* and it is therefore in effect a judicial sentence pronounced and executed not only in disregard of all the provisions for a fair trial so carefully ordained in our Constitution, but, under the operation of the previous question, excluding the parties charged from a word of explanation, defence, or protest.

3. And it adds to the aggravation of the wrong done in this action, that, even had the Assembly the right thus to act, and were its action according to the forms of law and the sentence given after a fair hearing, it is a sentence of disgrace as if inflicted for crime committed: whereas what was done by the Presbytery, could at most be regarded as only the mistaken exercise of the right of protest against what was conceived to be an act of usurpation by the Assembly.

4. A further aggravation of this wrong, is the manifest partiality evinced, in thus singling out for condemnation the Presbytery of Louisville, while notoriously a large number if not a majority of the churches in all parts of the country, and also several Presbyteries represented in the Assembly, have *done* precisely the thing which the Louisville Presbytery is condemned for asserting its purpose to do.

5. But a still more important and dangerous principle involved in this action, is, that it takes away from minorities and even individual members of the body, all those safeguards provided for their protection against the violence and partisan feeling of a casual majority of members in all times of excitement and passion. The principle of this action, if admitted, would inevitably and speedily change the Assembly from an *ecclesia* organized, restrained and governed by the well established laws of Christ's House, into a mere ecclesiastical gathering under the unlimited control of the majority of numbers, "the most part knowing not wherefore they have come together."

6. It but evinces more clearly, and aggravates the wrong done in this case, that the Assembly resolves not absolutely and finally to exclude us, but only to exclude us until the Assembly "*shall have examined and decided.*" The right to examine and decide under such a resolution; the right to exclude us, even for an hour, pending such examination; the right to exclude us after such examination is had; and the right absolutely and finally to exclude us; are all equally groundless. The injury inflicted upon the good name of the Presbytery among the churches, from a temporary exclusion, as though *probably* guilty of high crime, is *scarcely less* than the injury from a sentence of final exclusion. Besides, even though it were consistent with our proper self-respect and with the honor of the Presbytery, for us to await the result of the Assembly's inquisition, thereby recognizing the Assembly's right thus "to examine and decide," we are cut off, by the sentence of exclusion, from the exercise of any right of defence,—all of which makes it still more palpably manifest that the action of the Assembly is, in effect, the pronouncing and executing of sentence, and afterward proceeding "to examine and decide."

With profound respect for the Assembly as the highest Court of the Church,

and with unfeigned sorrow that we are constrained in fidelity to our trust thus to speak, we feel it our duty to say to the Assembly, that—Regarding this action as of the nature of a judgment upon the Presbytery and its commissioners, and this judgment a sentence of exclusion without trial or a hearing in any form in explanation or defence; regarding this action as not only unjust, injurious, and cruel. but as subversive of the foundations of all justice, destructive of the Constitution of the Church, and revolutionary in its nature; regarding it as setting a precedent for the exercise of a partisan power in the Courts of Christ's Kingdom, which leaves all the rights and immunities of his people at the mercy of any faction that may casually be in the ascendency—we should be untrue to the Presbytery whose commission we bear. faithless to the cause of truth and Christian freedom, false to our Lord and King, should we silently acquiesce in such procedure or in any way recoguize its legality. We must regard this action in its effect so far as it relates to us as commissioners and this present Assembly, as final in the case.

With these views and convictions there is but one course left open to us, viz.: To take an appeal at once upon the issue as it has been made for us and forced upon us, from this General Assembly to the Presbytery of Louisville in particular, in so far as it concerns ourselves and that body, and to the WHOLE CHURCH in so far as it is an issue involving the great principles of her Constitution, and, indeed, her continued existence as a free Christian Commonwealth in the enjoyment of the franchises and immunities conferred upon her by her Adorable Head.

We therefore respectfully inform the Assembly that we shall uot attend further upon its Sessions.

STUART ROBINSON,
SAML. R. WILSON,
MARK HARDIN,
C. A. WICKLIFFE.

ST. LOUIS, May 19, 1866.

II

THE REJECTED PROTEST.

THERE was an understanding among a portion of the "Minority-men," that our able and esteemed co-adjutor, Dr. Humphrey, who had rendered our cause such efficient aid, was to prepare a Protest in which we could all unite. The author of this pamphlet was taken sick on Friday afternoon, June 1, and did not return to the Assembly at all. On Saturday morning, learning that Dr. Humphrey had not been able to perform the service expected of him, and not advised of the other Protests, he left his bed and hurriedly wrote a Protest, and despatched it to the Assembly, which, it was then supposed, would adjourn that evening. The friend in whose hands it was placed, could get no opportunity of presenting it until Monday night, just before the final "dissolution;" a circumstance which may account for the small number of signatures. Its fate is disclosed in the following extract from the Minutes: "Resolved, that it be the sense of this General Assembly, that the Protest of Dr. Boardman and others is not respectful in language, and that it be returned to the author" (p. 104).

As the writer was ill at the time, and the newspapers failed to report the debate, he is left to conjecture wherein this Protest so deeply wounded the dignity of the Assembly. The *facts* it comprises, will

speak for themselves. Of the language, men will judge according to their training and position. The following is the document, *verbatim:*

The undersigned, for themselves and others, respectfully protest against the entire proceedings of the General Assembly concerning the Louisville Presbytery, and the signers of the "Declaration and Testimony."

1. The summary exclusion from this house of the commissioners of the Louisville Presbytery, under the operation of the Previous Question, without allowing them or their friends one word of defence or explanation, was, in our judgment, a usurpation of powers not belonging to the General Assembly, a gross invasion of the rights of the Presbytery, an act of oppression towards the commissioners themselves, and a violation of those principles of justice and equity which every deliberative Assembly, and especially a Court of Jesus Christ, is bound to hold inviolate. For a proper analysis of this procedure, we refer to a Protest of certain members of this body, to be found in the minutes of the 22d ult., and in most of the reasons of which, the undersigned concur.

We lay the utmost stress upon this point, because everything that followed pertaining to this business, must be judged in the light of the fact, that the Assembly was passing upon the conduct of men who, by its act, not their own, were not present to defend themselves. The allegation that the Assembly offered to hear them when a report was introduced proposing to visit upon them the severest penalties, can be of no avail. For in the resolution of expulsion, it was their Presbytery which was arraigned, and they could not properly return to their seats without counselling with their Presbytery. Nor is it believed that there was a single member of the Assembly, who expected them to plead at the bar of a court which had opened their case by ejecting them from their seats unheard, and three days after, voted down a resolution to re-admit them to their seats until their case should be disposed of.

2. Throughout the entire course of these proceedings, and pervading the elaborate arguments of the majority, it was maintained that this was a "judicial case," and that these brethren were "on trial" before the Assembly. Whereas, the notorious fact is, that they had never been arraigned and tried; that neither in Presbytery nor Synod had there been any mention of formal charges, of citations, witnesses, or any of the steps essential, under our Constitution, to a judicial process. The Form of Government and the Digest show that it is not competent to a judicatory to take up a case *judicially* on "Review and Control." And this plea is further barred by the fact that the records of the Presbytery of Louisville were not before the Assembly. As the General Assembly has no original jurisdiction in cases of "offence," the whole proceeding, in so far as the case was treated judicially, was, in our judgment, irregular and unconstitutional.

3. The case was biased by the action of a Convention, called together to consider these matters on the eve of the Assembly's meeting, and sitting, it was currently reported, with closed doors. The inflammatory Memorial sent to the Assembly by this Convention (some of them members of the Assembly) discloses a state of mind on the part of its authors, ill-suited to calm and impartial deliberation upon such questions as were involved in this case.

4. The severity of the judgment visited upon these brethren, was greatly disproportioned to their offence. No one has charged them with heresy or with immorality. The principles affirmed in their pamphlet, are substantially the principles incorporated in our Confession of Faith and held by our whole Church. They believed that several General Assemblies had violated these principles, and especially that the Assembly of 1865 had undertaken to impose certain laws upon the Church in derogation of the plain provisions of our Constitution. In this belief they are sustained by the Synods of New Jersey and Philadelphia, by several Presbyteries, and by numerous ministers and laymen of the Church. Their error lay in the measures by which they sought to redress these evils. We do not justify them in these measures. We condemn them. But we insist that they should have been allowed to plead their own case, without its being prejudged, as it was, by their instant exclusion from their seats on the second day of our session. We insist that they should have been allowed time to review their proceedings, and cancel (if so disposed) the offensive terms they have applied to the General Assemblies of the Church. We do not object to their being required

to do this, and to answer to their Presbyteries and Synods and to the next General Assembly, as to what they may have done in the premises; but we regard the spirit and terms of their exclusion from all the Church judicatories (the Session excepted) until the next Assembly, and the contingent dissolution of Presbyteries, as needlessly harsh measures, pregnant with evil to the Church. And we fortify this conclusion by the fact, fully established in debate and controverted by no one, that one of the Presbyteries now represented in this House, and even one or more of the members of this very Assembly, had used language and performed acts quite as pregnant with rebellion towards the Assembly, without being subjected to the slightest censure.

5. We protest against these measures because they will inevitably tend, as we believe, to foment strife and alienation. The Church needs repose. Rent asunder by the war, and agitated with conflicting passions, it requires to be soothed and cemented and comforted. The final action of the Assembly, as connected with the previous measures and debates (for the whole must be taken together), can hardly fail to bring about another secession or separation; to divide congregations; to instigate lawsuits; to diffuse and prolong a bitter but hitherto local controversy; to create wide-spread dissatisfaction with the deliverances of the Assembly, and to alienate many of the best friends of our institutions. With one accord, our several Boards have appeared before us, deploring the falling off in their receipts, and the decay of sympathy in their operations. We greatly fear that the measures against which we protest, will aggravate these evils.

6. We believe that the interests of the Church and of the country are identified, and thus believing, we protest against these proceedings as adapted to impair the capacity of the Church for its legitimate and beneficent work, and to increase and perpetuate the jealousies and animosities which still vex the land.

7. And, finally, we protest against these ordinances because they are likely to defer, if not prevent, that Christian co-operation between the Presbyterian Churches North and South which is so needful to the evangelizing of our people, and especially to the religious instruction of four millions of freedmen, most of them now as sheep without a shepherd.

In General Assembly at St. Louis, Mo., June 2, 1866.

HENRY A. BOARDMAN,
J. S. MCCLELLAN,
J. E. SPILMAN,
CHAS. A. MARSHALL.

REMARKS.

THE resolution of the Assembly stigmatizing this paper as "disrespectful," has been received with a general impression, that the discourtesy lies not so much in the "language" of the document as in its *facts;* and for these the signers decline to be held responsible. The transaction is too grave, however, to be allowed to pass without notice. The Protesters have something to say on the subject.

In the first place, this closing act of the Assembly was in keeping with the general tenor of its proceedings. It has been shown in this pamphlet, and by various writers in the public journals, how largely the Constitution of the Church was treated at St. Louis as a "dead letter." What more appropriate than that such a session should end with a thrust at the constitutional right of Protest?

In the second place, the two recognized "leaders" of this Assembly were the Rev. D. V. McLean, D.D., of New Jersey, and the Rev. Thomas E. Thomas, D.D., of Ohio. Without stopping to gather up the comments elicited in every quarter, by the conspicuous solicitude of the former of these gentlemen for the purity of the Assembly, the relations of the latter to this question of judicial dignity, may be gathered from a passage in Dr. Brookes' impressive speech before the Assembly.

But let me go to older records to show you how the Assembly was in the habit of dealing with judicatories and ministers who defied its authority and despised its institutions. It is a noteworthy fact, Mr. Moderator, that the Presbytery of Chillicothe, which has the honor of having furnished this Assembly its presiding officer, refused to send commissioners to the General Assembly on account of the excluding acts of 1837, and afterwards because the Assembly declined to make slaveholding a term of membership. It is a noteworthy fact that the same Presbytery so prominently represented here, passed the following resolution:

"Resolved, That this Presbytery cannot hold fellowship with any Presbytery, Synod, or other ecclesiastical body, while it tolerates under its jurisdiction either the sin of slaveholding or the justification of the sin of slaveholding; and especially the justification of it by appeal to the Scriptures, which, in the judgment of this Presbytery, is BLASPHEMY of Almighty God, and a shocking prostitution of His word."

I have never heard that the General Assembly, and particularly the gentleman from Ohio (Mr. Thomas), summoned "the red-hot thunderbolts from hell" to smite the Presbytery of Chillicothe for pronouncing the action of our venerable Court "blasphemy of Almighty God, and a shocking prostitution of His word." But then we must remember that circumstances alter cases, and it is the Presbytery of Louisville arraigned here for the use of terms which, all must admit, are far less reprehensible than those employed and never retracted, according to the best of my knowledge and belief, by the Presbytery of Chillicothe.

But, I find still stronger language, if this were possible, in regard to the action of 1845, and commend it to the attention of the Assembly. It is extracted from the leading article of the Christian's Monthly Magazine, Vol. i. No. 6, Sept. 1845, and edited by one Thomas E. Thomas, who at that time resided in Hamilton, Ohio. If he did not write it, he at least gave it his hearty approval, and I trust the brethren who are so sensitive about the dignity of the Assembly will listen to it: "That homely maxim—he that steals will lie—is sound Bible theology. The amount of it is, that the man who wilfully violates one of God's commands, will not hesitate to defend himself by the violation of some other command; and frequently he will do it undisturbed by the consciousness that he is adding sin to sin. A richer document, in both *proof* and illustration of this we have rarely seen, than the report on the subject of slavery adopted by the last General Assembly. It clearly proves the declaration of the advocates of universal liberty many years ago, that the united wisdom of the highest judicatory of the Presbyterian Church cannot defend slaveholding or any gross violation of God's law, without uttering nonsense, or falsehood, or heresy, or blasphemy. Is it true that the highest court of the Presbyterian Church stands on the concession that slaveholders are not to be disciplined? Our object in this inquiry is not to convict the last Assembly of a breach of the ninth commandment. But we wish to expose a slander, * * * and to call particular attention to the falsehood, absurdity, and moral filth, always and necessarily embodied in an apology for the sin of slavery, even when it is carefully prepared by a body composed of chosen delegates from every section of a large denomination." "A little stealing makes a Presbyterian a thief—but stealing largely makes him a saint."

There, Sir, this man could call the Assembly of 1845 a THIEF and a LIAR; could charge it with uttering NONSENSE, FALSEHOOD, HERESY, and BLASPHEMY; could pronounce its action full of ABSURDITY and MORAL FILTH; and as his reward, is exalted to be the recognized champion and leader of the Assembly of 1866: while the Declaration and Testimony party, for trying by a firm but temperate course to bring back the Church to her forsaken and dishonored Standards, are to be driven from the visible fold of Christ.

Whether the member whose name is associated with these corroding reminiscences, took any active part in procuring the rejection of the Protest, is not known. No one, it is certain, was more sensitive to the affront put upon the majesty of the Assembly, by the Louisville men: nor more intolerant in demanding their instant punishment. There

were not many lips in that House, that could have uttered the following sentences:

> I come to consider the method by which the Assembly shall reach the ends of justice. It is indeed a summary method; yet sometimes short roads are the best. It was a very short method by which Pharaoh and his hosts were put out of the house, when God moved upon the sea; a very summary process by which the lightning, fire, and brimstone, came down from heaven upon Sodom and Gomorrah; and if you think these cases too far fetched, then it was a very summary process by which, in the presence of a Church Court in Jerusalem, Ananias and Sapphira were sent to the Supreme Court in heaven, to answer for their crimes. The speediest remedies are commonly the best.
>
> Did ever rebellion attain such a sublime audacity of impudence? Sir, in the providence of God, this Assembly enjoys the high privilege of forever establishing the fact that government in the Church means something; that it, too, is an ordinance of Heaven; that it is the delegated authority of Him who holds in his right hand the red-hot thunderbolts of hell.

There are some things which ought not to be done at all. And there are some things which some men ought not to do, even though it be allowed some other men to do them. The horrible language just quoted, was used in support of the Committee's Report—of which the orator was reputed to be the chief author. High-minded men, on comparing the Report itself and the tone of its chief advocate, with the extracts from Dr. Brookes' speech, will be apt to feel, that if the Declaration and Testimony men had laid themselves open to a Bill of Attainder, it should have been drawn up by some other hand and enforced in a different spirit. Nor will they *readily* detect what the philosophers call the "eternal fitness of things," in the rejection of the above Protest as "disrespectful," by a body implicitly deferring to a "leadership" like this.

But the worst is not yet told. Of the four Protests concerning the Louisville business, all covering the same ground, three were admitted to record without demur. (*Minutes*, pp, 91, 100, 104.) Of these three, two were received on the last evening of the session, one before, the other immediately after, the rejected Protest. The reader is requested to run his eye again over the foregoing Protest, and then to note the following phrases and sentences from the accepted Protests. Of the proceedings in the Louisville case, it is said: they are "*unconstitutional and revolutionary:*" "*a judicial condemnation without trial:*" "*an unwarranted and alarming usurpation of power:*" "*forty ministers and eighty elders branded as slanderers and schismatics, without trial or jurisdiction:*" "*null and void, and prolific of strife and confusion:*" "*the Assembly has violated the fundamental principles of its own organization, and vitiated its own integrity:*" "*a manifest usurpation, which, if admitted, will completely revolutionize our Presbyterial system, overthrow our ecclesiastical liberty, and resolve the Assembly into a spiritual despotism:*" "*measures, cruel and unjust, which will bring upon our denomination the reproaches of the world; drive through many of our Churches and Presbyteries the ploughshare of division: fearfully distract more and more our beloved Zion; and in every way promote schismatical strifes and contentions.*"

Will it be credited that all this is copied from Protests received and recorded by the Assembly? and that the most pungent of these censures occur in a Protest which was accepted *five minutes after the rejection* of that copied above? A cursory examination will show that, as a

whole, the proscribed Protest is much the most temperate of the four. Why, then, was it "proscribed"? The only reason assigned is, that it was "not respectful in language." Then, how were the others recorded?

The signers of that paper desire always to manifest a becoming respect for the Supreme Judicatory of the Church. But there is a still "higher law" than this, and a condition precedent: if the Assembly wishes to be respected, it must respect itself. We know of no law of ethics or religion, which bids us submit in silence to an exercise of arbitrary power like this. Rather, our duty to the Church demands that we expose and *protest* against it. Justice required that all the Protests should be admitted to record. Consistency required that if the one of mildest tone were rejected, the more energetic ones should share its fate. Before the whole Church, we charge this Assembly with perpetrating a great wrong. The allegation we file against it, is, that in its official Minutes, which are to go down to our children and successors, it has imputed to us the indecorum of offering to its consideration a paper so "disrespectful" that it could not be entertained; while the same Minutes contain three similar papers, as to which any child can see, that if the rejected paper be "disrespectful," the others are far more so; but, the Assembly itself being judge, these others contain, even in their strongest epithets, nothing too strong to be covered by the sacred right of Protest. The slender apology, that the obnoxious paper "was brought into the House too near the hour of the final adjournment to admit of the preparation of an answer," is confuted by the untoward fact, that Mr. Forman's Protest was presented and accepted *after* the other was cast out. If there be any explanation of this proceeding which will bring it within the scope of those principles of truth and righteousness upon which every Court of Jesus Christ is presumed to act, it were well to produce it. Meanwhile, we have no misgivings as to the judgment which upright men of all names and parties will pronounce upon the transaction here related. There are things which no tribunal, civil or spiritual, can do with impunity.

III.

LETTER OF THE HON. W. B. KINKEAD.

THE author of the following Letter is a Ruling Elder in one of our Churches in Kentucky, an eminent Jurist, and a citizen held in universal esteem. He has brought all the resources of his cultivated judicial mind to the discussion of the fundamental principles which underlie this controversy. Many will probably regard this as one of the ablest arguments they have met with, against the popular view concerning the jurisdiction of ecclesiastical courts. The whole Letter will command the respectful attention of all into whose hands it may fall.

TO THE REV. E. P. HUMPHREY, D.D.

I have read with care your address before the Louisville Presbytery, delivered in Louisville on the 12th of July, 1866. I have, as far as I could, divested

my mind of all prejudice in the matters presented by you, and have attempted, with fairness and candor, to weigh all the facts and arguments, in the sincere desire to find out where the truth lay in this great controversy which so agitates the Church, especially in Kentucky. I must say that this address, however able and eloquent, has not brought conviction nor satisfaction to my mind.

It may be viewed as presumption in a layman to venture any views or opinions upon matters which the clergy may regard as peculiarly in their province. I readily admit that such subjects are too high for me, who have not had the training nor bestowed on them the reflection to prepare one for such a discussion; I shall not, therefore, attempt it. But I may venture to propound the difficulties which have not been removed from my mind by this address, and to work, as I may for myself, a way through what it leaves obscure and unsatisfactory, to what seem to me to be the true principles which underlie these matters; that I as well as others who may accept my views, when called upon to act in reference to them, may not be left afloat on vague and indefinite opinions, but may have a fixed and stable foundation upon which to plant ourselves.

It is not my purpose, then, to undertake a review of your address. All I propose is to give my views upon such propositions as I cannot accept, and this I do with great deference for your opinions, though my mind upon the reflection I have bestowed thereon has come to a different conclusion from yours. And upon other matters I wish, if possible, to get clear and distinct responses to certain propositions which are either passed over or stated but vaguely in your address.

You state three radical principles. The first all accept: "The Church and State are both of them ordinances of God." The second will not be disputed. "The object and ends of the Church are to make men Christians here and prepare them for heaven hereafter. It is a spiritual kingdom of which our Lord Jesus Christ is Head. We should ever bear in mind those solemn words of his, 'My Kingdom is not of this world.' His saints on earth and in heaven constitute one host under his command.

The purposes of civil government are wholly different. It was ordained for men in a state of civil society, and looks to the preservation of their lives, their reputation and their property."

As to the third "radical principle," you state it substantially as follows: "Subjects which are purely secular in their nature belong exclusively to the State, such as tariffs, banks, etc., and an attempt on the part of the Church to determine them ought to be resisted; so also subjects which are purely spiritual belong exclusively to the Church, such as the doctrine of the Trinity, the Atonement," etc. But then you say, "There are subjects which may be called mixed, being in some of their aspects secular and in other aspects religious." "Here," you say, "the rule is obvious. In mixed cases, all those aspects which are secular belong to the State, and must be determined by a civil tribunal; all those aspects which are spiritual, to the Church, and must be turned over to the ecclesiastical courts."

Now, let us examine the application of this doctrine, and see if it be founded on the true principle. For if it shall be found that the Church in adopting it transcended her province, and thus went beyond the teachings of Scripture and the Standards of the Church, then, indeed, it was a grievous error, and to it may possibly be traced all the woes which now afflict her.

You say of the late rebellion, "It was a mixed case. In its secular aspects it belonged to the Government," etc. But you say, "The rebellion presented aspects purely moral and religious." You quote the scriptural injunction, so often quoted, so full of wisdom, but in my opinion so often misunderstood: "Obey the powers that be, they are ordained of God." "Submit to lawful and constitutional authority." And then you lay down the duty of Christians not to obstruct or hinder the magistrate, but to aid and assist him in his high office. You contend that it was in this moral aspect of the question, the Church was called upon to speak out.

Now, it does seem to me that you have not been quite broad enough with this moral aspect of political questions, in applying it only to what are called by you mixed cases, such as rebellion, etc. I would ask, is there not a moral and religious aspect in *every* political matter affecting the good order of society or the

property or happiness of men in a civil state? Will not a Christian man be careful in forming his political opinions and regulating his civil conduct, even touching such matters as tariffs, etc., lest by his wrongful act or opinions, wrong or oppression may be suffered by some portion of the community? He will give his aid that such laws may be made, that vice shall be punished, and good men made safe and secure.

Now, I would ask, is not every man morally and religiously bound to be careful that no improper motives, no selfishness, no malice, no ambition, shall control him in forming his judgment and taking his stand on such questions? And is he not guilty of a great immorality and sin before God, if he, from corrupt or improper motives, in such purely civil matters adopts wrong principles and aids in putting them into practical effect?

Here is clearly a high, moral, and religious duty. But I know you would be shocked to see the Church come down to soil her garments in such party conflicts as arise upon such questions as these. Each Christian man is left, under his responsibility to God and his country, upon his own conscience to choose his part and act for himself. If from improper motives he chooses and acts wrong, he sins against God, and God alone will judge him.

Nor can the Church undertake to decide upon the Constitution of the United States, and settle the question, under that instrument, of the right of a State to secede from the Union. This, in my judgment, is a great political heresy, and he who attempts to put it into practical effect, may be guilty of a great moral and religious wrong. But there are good men who have believed the doctrine. It is not vouchsafed the Church to construe the Constitution of the United States and settle this political matter between us.

Then as to the moral aspect of this mixed question of the rebellion: Let us for a moment examine the principle you lay down and see where it will lead us. You say: "So long as no moral questions were involved in the contest, the Church had nothing to do with it, but the moment that questions of right and wrong—of obedience to God—of immutable and eternal morality, emerged from the crash of arms, then instantly the Church was called to speak out." You continue: "Our Church considered the rebellion wrong in point of morals, a sin against God, and for that reason it took jurisdiction of the case in that aspect of it."

Now I, too, thought the rebellion wrong. All who know me know how strong and fixed were my convictions on this subject. But I cannot believe it was in the province of the Church, as a body, to pronounce whether the rebellion was wrong or right.

All admit that rebellions are sometimes right. The glorious revolution in England, which overthrew the bigoted and tyrannical James, and established for that people Constitutional liberty under the great Prince of the house of Nassau, was surely a justifiable rebellion; nor will any one now deny that our Revolutionary Fathers were justified in their revolt from the oppressions of the mother country.

In the revolution of 1688, in England, Lord Macaulay tells us that "the greatest Anglican doctors of that age had maintained that no breach of law or contract, no excess of cruelty, rapacity, or licentiousness on the part of the rightful King, could justify his people in withstanding him by force." But my learned friend, I know, does not subscribe to this doctrine of "passive obedience." Had he lived at that time, he would have been ranged on the side of Baxter, and Howe, and Bunyan, and William Kiffin; for his heart swells within him, as he refers to his own revolutionary fathers of the Presbyterian Church. With what eloquent and glowing language does he exhibit the action of the Synod of New York and Philadelphia, on the Stamp Act in 1766, and how, in 1775, the Synod, under the leadership of John Witherspoon, took the side of the country against the King. We listen as to the stirring sound of a trumpet vibrating upon our ears the names of Witherspoon, and Allison, and Tennent, and Miller, and Duffield, and James Waddell, and John Blair Smith, all of whom by words, and many of them by deeds, took their part in the great struggle in which their country was then involved.

Thus it is conceded that rebellion is sometimes right. Now I will ask you, who is to settle the question? Is the Church authorized to fix the precise point at

which the oppression and tyranny of her government are so great, the grievances so oppressive, that it becomes the duty of the people to resort to the terrible remedy of revolution? Can she say, "the grievances are not yet sufficient—you must submit"? Then again, "the grievances are now sufficient—gird on your swords and lift up the standard of revolt"?

It seems to me that the Church, as a court of Jesus Christ, can settle no such question. She will pronounce the general scriptural injunction of obedience to the powers that be; "obey the laws as good citizens." But she has no warrant to pronounce when the time arises that resistance is justifiable. This, each member of her communion must, upon his own responsibility before God, determine for himself. I would not be understood as attempting to lessen the guilt of those who, without all-sufficient grounds, rush headlong into rebellion. It is a fearful thing; and upon a Christian man a terrible responsibility. But it is a question the Church cannot settle. He must determine it for himself.

Thus much then upon this general proposition.

It was scarcely to have been expected that, during the existence of the great civil war, the deliverances of the courts of the Churches North or South, should commend themselves to the sober judgment of mankind. But now is the time these questions should be properly settled. It does seem to me that many of our present troubles are the result of the wrong view the Assembly took on these subjects. What strength and consideration has the Episcopal Church acquired before the country for her course in reference to these matters? And what a glorious spectacle should we have had in the Old School Presbyterian Church, now that peace blesses the land, of brethren coming from the North and from the South, embracing each other in cordial affection after these terrible years of separation, had the General Assembly during these years abstained from uttering her voice upon these most agitating questions; and in the spirit of charity in all her deliverances, drawn together the hearts of her people throughout this broad land, by sending words of kindness and of love, teaching all her children that they were bound to each other by a higher and holier tie than that which unites men in a civil state: and that though severed for a season by causes beyond their control, their hearts should be linked and united together as by a golden chain, vibrating from heart to heart, and reaching up to the throne of Jehovah.

It is clear, however, to me, that it is not upon such questions as these that the Church should divide; nor even upon the orders and deliverances of 1865. The Synod of Kentucky has pronounced some of them to be, in its judgment, unscriptural and unconstitutional. It is said that many of the friends of the Assembly have not only expressed their purpose to disregard those acts, but have actually refused to obey them. Now, I ask you, is not this clearly rebellion against the Assembly? Is it not defiance on the part of these brethren against its authority? Is it not, in short, *nullification* itself? In the language quoted by yourself, "who made these men a judge or divider over the Assembly?"

But the Assembly seems to pass over this disobedience slightly, while it utters fearful thunders against those who shall disobey them in the matter of its action at St. Louis, in reference to the signers of the Declaration and Testimony. I was not in the Assembly at St. Louis. I will not then attempt to ascertain the influences which prompted that august body to the course they adopted in reference to the signers of that paper.

Upon these questions of Church government I form my opinions with much hesitancy—and while I have strong convictions, I would gladly hear you, and if I am wrong, be put right by you. Your speech does not satisfy me.

Tell me if in your judgment the Assembly has the constitutional power to cite these men before them for trial as an original case? Is not the Assembly's power in such cases altogether revisory? Your speech might indicate that in your judgment the Assembly had original jurisdiction in such cases. Can this be your opinion? Ought not, must not the charges against these men be tried first in the Presbytery, and then go up to the higher courts by appeal? I can make nothing else out of our Book. I need not cite the page—you are familiar with it. Tell me how you construe it? It seems to me it would not be more extraordinary for the Court of Appeals of Kentucky to assume original jurisdiction and try a man for murder.

If I am right in this, then the act citing these men being unconstitutional, is absolutely null and void, for you know an unconstitutional act is of no binding force. It is no act at all.

But you may tell me that though you and I may regard it as unconstitutional, still we are not to judge upon an act of the Assembly. Suppose a Presbytery believe it unconstitutional, and hence not binding, are they to execute it in a matter against their conscience? What would be their duty in such a case? Take for instance the Transylvania Presbytery. Suppose Brother Barnes, a signer of the Declaration and Testimony, asks for a seat in that Presbytery. He is, on all hands, considered a man of unexceptionable character, lovely, and amiable. The act citing him to appear before the Assembly for trial, you conscientiously believe to be unconstitutional, null, and void. That act directs you, on pain of the dissolution of your Presbytery, not to admit him to a seat. He has never been tried, and the citation is unconstitutional in your judgment. In your judgment he has done nothing to call for such harsh usage. What should a Presbyter believing these things do? You answer, still obey the Assembly. That I may have more light in this great strait, I ask you what this means (see Confession of Faith, page 113), "God alone is Lord of the conscience, and hath left it free from the doctrines and commandments of men, which are in anything contrary to his word, or beside it in matters of faith or worship, so that to believe such doctrines or to obey such commands out of conscience, is to destroy true liberty of conscience; and the requiring an implicit faith and an absolute and blind obedience, is to destroy liberty of conscience and reason also." Ought not the same liberty of conscience to be allowed in the construction of the Constitution of the Church as of the word of God? I ask you, in view of all this, what ought Presbyters to do upon the application of such a brother to a seat in their Presbytery?

Again I ask you if, in your judgment, the attempt of the Assembly to make the act execute itself can possibly be efficacious? It seems to me, as well might the Legislature of Kentucky attempt to pass a law that he who committed murder should forfeit all his estate, and direct the sheriff, upon the killing, to take possession of his property, and he should procced to do it before a court and jury had passed upon the case to determine if indeed murder had been committed. Must there then not be a judgment pronounced upon the act of the Presbytery, before a dissolution is effected?

And now, my dear Sir, I have sought for light to guide me in the way of duty in the trying ordeal through which the Assembly is forcing the Church in Kentucky to pass. From the high personal regard I entertain for you, and my estimate of your ability and attainments, I shall always give to your opinions great consideration. Unused as I am to such investigations, I propound none of these views with a dogmatic confidence, and shall surely renounce them when I find they are wrong.

W. B. KINKEAD.