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ART. I.—*The New Testament of our Lord and Saviour Jesus Christ. By William Tyndale, the Martyr. The Original Edition*, 1526, *being the first vernacular translation from the Greek. With a Memoir of his Life and Writings. To which are annexed, the essential variations of Coverdale's, Thomas Matthew's, Cranmer's, the Genevan, and the Bishops' Bibles, as marginal readings.* By J. P. Dabney. Andover: printed and published by Gould & Newman; from the London edition of Bagster. New York: corner of Fulton and Nassau Streets. 1837. 8vo.

THE first printed translation of the Scripture into English was the New Testament of William Tyndale. The first published translation, however, was that of Wickliffe. But it was published, as were all other books of that remote period, only in manuscript. There appears to have been little or no connexion between Wickliffe's translation and those which succeeded. It was made from the Latin, and between it and Tyndale's there occurred the long interval of a century and a half. But from Tyndale onwards there was an almost continuous series of praiseworthy efforts to render perfect the English translation of the Scriptures, giving birth successively to Coverdale's in 1535, Matthew's in 1537, Cran-

sons of history, their own concessions, the reason and good sense of mankind, and, as we think, the dictates of truth are against them. In their former way they might prosper, but if they urge their present step we warn them, in their favourite language, that they "have a dipping to be dipped with, and how will they be straitened until it is accomplished." We solemnly believe, moreover, that they are disguising and obscuring the truth, that they are fixing a sectarian spot on the glowing disk of the sun of righteousness, which will smother a part of his healing beams, and give vexatious employment to the inquisitive and searching telescopes of pagan infidelity for generations to come.

Art. VI.—*The General Assembly of* 1838.

The General Assembly of the Presbyterian church in the United States, met agreeably to appointment, in the Seventh Presbyterian church, in the city of Philadelphia, on Thursday, May 17th, and was opened with a sermon on Isaiah 60: 1, by Rev. Dr. Elliott, the moderator of the last Assembly. Immediately after the sermon, the moderator took the chair, and proceeded, after prayer, to organize the Assembly by calling upon the clerks to read the roll. At this juncture the Rev. Dr. Patton, a delegate from the third presbytery of New York, rose and asked leave to present certain resolutions which he held in his hand. The moderator declared the request to be out of order at that time, as the first business was the report of the clerks upon the roll. See Form of Government, chap. 12, sec. 7. Dr. Patton appealed from the decision. The moderator declared the appeal, for the reason already stated, to be at that time out of order. Dr. Patton stated that the resolutions related to the formation of the roll, and began to read them, but being called to order, he took his seat. The permanent clerk from the standing committee of commissions having reported the roll of the house; the moderator stated, that the commissioners whose commissions had been examined, and whose names had been enrolled were to be considered as members of this Assembly, (see Form of Government, chap. 12, sec. 7), and added, that if there were any commissioners present from presbyteries belonging to the Presbyterian church, whose names had not been enrolled, then was the proper time for presenting their

commissions. Whereupon Dr. Erskine Mason rose to offer a resolution to complete the roll, by adding the names of certain commissioners, who, he said, had offered their commissions to the clerks, and had been by them refused. The moderator inquired if they were from presbyteries belonging to the Assembly of the last year, at the close of its sessions. Dr. Mason replied, that they were from presbyteries belonging to the synods of Utica, Geneva, Genesee, and the Western Reserve. The moderator then stated that the motion was, at that time, out of order. Dr. Mason appealed from the decision, which appeal the moderator decided to be out of order, and repeated the call for commissions from presbyteries in connexion with the Assembly. The Rev. Miles P. Squier, a member of the presbytery of Geneva, then rose and stated that he had a commission from the presbytery of Geneva, which he had presented to the clerks, who refused to receive it, and that he now offered it to the Assembly and claimed his right to his seat. The moderator inquired if the presbytery of Geneva was within the bounds of the synod of Geneva, Mr. Squier replied that it was. The moderator said, 'then we do not know you, sir,' and declared the application to be out of order.

The Rev. John P. Cleaveland, of the presbytery of Detroit, then rose and began to read a paper, the purport of which was not fully heard, when the moderator called him to order. Mr. Cleaveland, however, notwithstanding the call to order was repeated by the moderator, persisted in the reading; during which the Rev. Joshua Moore, from the presbytery of Huntingdon, presented a commission, which being examined by the committee of commissions, Mr. Moore was enrolled and took his seat. It was then moved to appoint a committee of elections, to whom the informal commissions might be referred, but the reading by Mr. Cleaveland still continuing, and the moderator having in vain again called to order, took his seat, and the residue of the Assembly remaining silent, the business was suspended during the short but painful scene of confusion and disorder which ensued, after which, and the actors therein having left the house, the Assembly resumed its business.

According to the accounts since published, the paper read by Mr. Cleaveland was to this effect, viz. "That as the commissioners to the General Assembly for 1838, from a large number of presbyteries, had been advised by counsel learned in the law, that a constitutional organization must be secured

at this time and in this place, he trusted it would not be considered an act of discourtesy, but merely as a matter of necessity, if we now proceed to organize the General Assembly for 1838, in the fewest words, the shortest time, and with the least interruption practicable." He therefore moved, that Dr. Beman, from the presbytery of Troy, be moderator, to preside till a new moderator be chosen. The Rev. Baxter Dickinson, of Cincinnati, seconded the motion. No other person being nominated, the motion was put and declared to be carried unanimously. Dr. Beman is then said to have called the Assembly to order, and those who approved of the movement gathered round him. These gentlemen then nominated the Rev. Dr. Mason and E. W. Gilbert clerks pro tempore; who were declared to be unanimously elected. The Rev. Samuel Fisher, of the presbytery of Newark, was then nominated as moderator of the General Assembly, and declared to be elected by a nearly unanimous vote. Dr. Beman announced to Dr. Fisher his election in the usual form. The Rev. Erskine Mason, D. D. from the third presbytery of New York, was then chosen stated clerk, and the Rev. E. W. Gilbert, permanent clerk. It was then moved and voted by those acting, "That the General Assembly do now adjourn to meet forthwith in the lecture room of the First Presbyterian church in this city." Dr. Fisher then announced the adjournment, and notified the commissioners who had not presented their commissions to present them at that place. Those who regarded these proceedings as constitutional and proper, retired with Dr. Fisher; when the Assembly resumed and continued its business.

Such is a brief statement of the facts attending the organization of the General Assembly, as derived from the published documents of both parties. Each of the bodies formed in the manner above stated, claimed to be the General Assembly of the Presbyterian church in the United States, and proceeded accordingly to exercise its functions.

Should the several presbyteries sanction the conduct of their delegates, as we presume they will, at least, in most cases, the church will be divided. The first question that presents itself is, Whether this division has been effected in the way which will commend itself to the approbation of good men? We think not. In the first place it has been done in a manner which involves the necessity of disgraceful litigation before civil courts. It is impossible that two General Assemblies should continue to make elections of trustees

and directors of our seminaries, and issue conflicting orders to the corporate bodies under their control. If one is the General Assembly, the other is not: and it is absolutely necessary that it be decided which of the two is entitled to be so regarded. A law-suit then is unavoidable; and it will be well if such suits are not multiplied all over the land. In the second place, from the posture in which the business has been placed by these proceedings, great injustice or hardship must result from any decision that can be given. If the decision be in favour of the old Assembly, our new school brethren must either renounce all the property belonging to churches or theological seminaries, which is held by a title which renders connexion with the General Assembly necessary; or they must come back under circumstances which will render their harmonious union with their brethren morally impossible. Indeed, re-union seems to be considered by both parties as out of the question. The matter therefore is brought to such an issue, that let the decision be what it may, it will be attended with great injustice. These brethren know, with moral certainty, that the decision for which they apply, if given in their favour, will despoil their old school brethren of their property and institutions, to which they themselves have no equitable claim. In the third place, this course was altogether unnecessary in order to secure any righteous end. Every thing to which they were, either in law or equity, entitled might have been secured, without contention and without injustice to the opposite party. Had those who disapproved of the action of the preceding Assembly, waited until the house was regularly organized, and then proposed the repeal of the offensive acts, and the admission of the delegates in attendance from the excluded presbyteries; and had this been denied them, they could then have proposed an amicable division upon the terms proposed at the last Assembly, to which both parties had assented. In this way the same end would have been reached which has been now attained, with this important difference, that each party would have its own and nothing more. It seems, however, that some young legal gentleman had informed these brethren, that, by taking a certain course, they could not only secure their own portion of the property, but get the whole; and in an evil hour, they determined to make the attempt. Suppose they succeed. Suppose they get all the funds of the General Assembly and the seminaries of Pittsburg and Princeton; will they feel that they have done a good work, and gained a

righteous end? We do not believe it. We do not believe that their consciences are in such a state as to allow them to contemplate such a result with complacency. Who are the new school party? It is in a great measure a Congregational party. One of its leading organs advocates the amalgamation of all sects; another insists especially on the union in one denomination of Presbyterians and Congregationalists. The presbyteries of which the party is composed have some three or four hundred Congregational churches in connexion with them. There is scarcely a leading man of the party who was not born and educated a Congregationalist; and a very large proportion of their ministers belonged originally to that denomination of Christians. Yet this is the party, which claims to be the TRUE Presbyterian church, and sues for a decision which shall deprive the majority, nine-tenths of whom are Presbyterians by birth and education, of all right or standing in their own church.

This party is no less notoriously disaffected towards the doctrinal standards of our church. In proof of this, if proof be necessary, we appeal to their own declarations, publications, and official acts. They call themselves the liberal party; are either opposed to creeds, or insist on a very liberal construction of them; declaim much on the liberty of thought, the march of mind, the light of the nineteenth century, and on the folly of all attempts to bind any large body of thinking men by any formula of words. Their leading periodicals labour to prove that our Confession of Faith not only teaches error, but is opposed on several points to the doctrines of the reformation.* It is the open and avowed distinction between

* See, for example, the AMERICAN BIBLICAL REPOSITORY for July, 1838. The late Narrative of the State of Religion by the new Assembly, when speaking of East Windsor and New Haven, expresses the ardent wish "that *shades* of difference in prevailing theological views" may soon be forgotten. The word *shades* is italicized, to reduce its own delicate meaning to the lowest point. This is the first official manifesto of the party after their emancipation from the influence of their more orthodox brethren. New Havenism is pronounced to differ by only a delicate, and of course a very harmless, shade of meaning from the orthodoxy of New England. Are the advocates of old New England doctrine, in and out of the Presbyterian church, prepared to sanction this official declaration? Can this be the same party who in 1836 affirmed that they adopted the Confession of Faith, upon all the points then in dispute, according to its most "obvious and literal interpretation;" who declared that the errors charged upon Mr. Barnes, i. e. New Havenism, were not to be tolerated in the Presbyterian church? Have they so soon discovered that these intolerable errors are mere harmless *shades* of opinion? Or do they expect to retain the confidence of the Christian community, when they allow themselves to set forth solemnly and officially, such contradictory statements of their doc-

the parties, that the one is in favour of strict adherence to our doctrinal standards, and that the other advocates a more or less latitudinarian construction of them. That a party thus alien in its origin, constitution, and principles, should take a course designed, not merely to secure their own churches and institutions, but to despoil the strict or really Presbyterian party of all their ecclesiastical property, can never commend itself to the approbation of good men.

The apology commonly made for this inexcusable conduct, is altogether unsatisfactory. It is said that the new school convention made overtures to the other body, for an amicable adjustment, which were declined. What were these overtures? Were they for an amicable separation of the church on the basis assented to last year? Not at all. They were a demand that the majority should confess themselves in the wrong, and undo all that they had done. This it was known, with perfect certainty, would not be listened to. The proposition therefore was a mockery. The complaint against these brethren is not that they separated, but that knowing separation to be unavoidable, they took that mode of effecting it, which necessarily involved the church in conflicts before civil tribunals, and which, if they succeeded, must be attended by wholesale spoiliation.

trinal views? We have ourselves heard one of the leading men of the new Assembly say that he thought there was, as to theology, very little difference between Cambridge and New Haven, yet his sanction is given to the wish that these *shades* of difference in theological views may soon be forgotten! Here is the root of our troubles. A large portion of the church believe that another portion is unsound in doctrine, and the inconsistency of their declarations has impaired confidence in their sincerity and candour. Hence has arisen a general feeling of insecurity. No man knows how far doctrines which he believes to be true and important are safe in the church, should it fall under the control of this party. Their declaring one year that certain opinions are not to be tolerated, is found to be no security against their pronouncing them harmless the next. Their affirming in the General Assembly that they adopt the Confession of Faith on all these points, according to its most obvious interpretation, does not prevent their teaching, in their periodicals, that the Confession of Faith, as to some of these same points, is erroneous. This want of confidence, more than any thing else, has produced the desire for a separation of the church, and will, we presume, prevent the re-union of the present parties, let the decision of legal questions be what it may. We would not be understood as expressing, in behalf of ourselves or others, any doubt that there are multitudes of sincere and excellent men in the new school party. We have before had occasion to say, that we think the blame of the contradictory declarations to which we have referred, rests mainly upon a few individuals; and that the fault of others consists in too ready acquiescence in their dictation, or in inconsiderate assent to official documents. Still the evil remains, and the party as such must bear the responsibility of acts, to which they give their sanction.

It may be said, that after their separate organization, they passed a resolution expressing their readiness to enter upon a negociation for the amicable adjustment of questions of property. However this movement may have been intended, it was even more illusory than the former one. After having set up their claim to be the true and only General Assembly of the Presbyterian church, there was no room left for negociation. That claim of itself involved all others. If they are the General Assembly, then the seminaries of Princeton and Pittsburg belong to them, and all the funds, which cannot be alienated, they must belong to the General Assembly of the Presbyterian church in the United States. After claiming and appropriating every thing to themselves, there remained nothing to be adjusted.

Assuming then a division of the church to be inevitable, as was known to be the case, our new school brethren might have effected the division in an amicable way which would have secured to them every thing which, they themselves being judges, they had a right to claim. Their churches, their institutions, and whatever portion of the general property impartial persons might decide to be their due, were all offered to them. They chose, however, to claim the whole; to involve the church in protracted law suits, and to apply for a decision of the civil courts which they knew, would, if given in their favour, be attended with the greatest practical injustice. We have little doubt that the Christian community will pronounce this course of conduct to be wrong.

A second, and practically more important question is, upon what principles did our new school brethren proceed in their separate organization? The answer to this question must be sought in "Review of the leading measures of the Assembly of 1837, by a member of the New York bar." This paper has received an official sanction by being publicly read in the new school convention, as containing the principles on which the party meant to act. We can hardly be mistaken in the opinion that the whole course taken by the party in forming a separate organization, is to be attributed to the influence of that Review. The organs of the party, both in Philadelphia* and New York, expressly disclaimed all purpose of a separate organization. They declared it to be

* We feel that we are making a very serious imputation on the party, in speaking of the Philadelphia Observer as one of its organs. But we believe it is so regarded on all sides. We express beforehand our readiness to apologize for the aspersion, should our new school brethren feel themselves aggrieved thereby.

the intention of their friends to claim seats for the delegates from the excluded synods; and if refused, to repeat the demand, if necessary, for twenty years. We know also, that some of the most respected members of the party had expressed their decided disapprobation of any separate organization; they said they did not wish to be thrown into such a body as the new school party by itself would form. All this was shortly before the meeting of the General Assembly. As soon, however, as this Review appeared, the whole plan is changed, and a course is adopted, agreeably to its suggestions, which throws the fate of the Presbyterian church, as far as its corporate property is concerned, upon the decision of a point of law.*

The leading points of the case as presented in this Review, are, 1. That the General Assembly, in order to its proper organization, must embrace all the delegates in attendance who are furnished with the proper evidence of their appointment.

2. That the commissioners from presbyteries within the bounds of the four synods, were fully entitled to their seats as members of the Assembly.

3. That the Assembly has no authority to judge of the qualifications of its own members.

The first of these positions, properly explained and limited, we have no disposition to dispute. The second is the one most largely discussed. The right of the delegates from the four synods to their seats, is founded on the assumption that certain acts of the Assembly of 1837, are nugatory. In proof of the invalidity of those acts, the reviewer argues that they are inconsistent with the principles of Presbyterianism; that they rest upon a false basis; and that they are void from uncertainty. In carrying out the first of these arguments, he lays down a new theory of Presbyterianism; the leading features of which are, 1. That our several judicatories are merely courts and advisory councils. 2. That "as to their existence and action they are entirely independent of each other." "One judicatory has no power over another," and one has no right to try or condemn another. 3. The synods

* In the July number of the American Biblical Repository, Dr. Peters attributes to this pamphlet quite as much importance as we have done. He says it was "the pivot on which the action of the church, in the constitution of its late General Assembly, has turned;" that it contains the principles "on which a large portion of the church have already taken their position." He regards the agency of the author in its production "as especially excited and controlled by Him who seeth not as man seeth." p. 220. This is what theologians call the inspiration of superintendence.

and the General Assembly "are merely appellate courts and advisory councils." 4. The General Assemhly has no constitutional power to abolish or dissolve a synod; nor a synod a presbytery; nor a presbytery a session. 5. Though certain acts of an inferior court may be reviewed in a higher one, yet if a presbytery recognize a church; or a synod form a presbytery; or the General Assembly erect a synod, the act is forever valid. We unhesitatingly say, that it is not only a disgrace to a party professing themselves to be Presbyterians, but an insult to the community, to set forth such doctrines as "the plain every-day principles" of our form of government. It is scarcely less surprising than that the Congregationalists of England, in order to secure the benefit of Lady Hewly's legacy, should make oath, that they were in a good, true, and proper sense, Presbyterians. In some such sense may those who adopt the principles of this Review be called Presbyterians, but not the sense of our constitution.

This pamphlet is entitled PRESBYTERIANISM. The whole argument rests upon the principles of that form of government as here presented. If those principles are sound, then is the argument valid; and the conclusion unavoidable, that the acts of the Assembly of 1837 in question, are utterly nugatory. If these principles are unsound, the whole argument is worthless. We shall he excused, therefore, for devoting our principal attention to this point. The fact that such an exposition of Presbyterianism as is here given, has been received with applause by so large a party in the church, proves the lamentable extent to which the apostacy from the principles of our fathers has already proceeded, and may well excuse any attempt to arrest its progress. We shall therefore endeavour to show, from the origin, from the constitution, and from the uniform practice of the church, that the theory of Presbyterianism, here presented, is altogether false.

1. What then was the origin and history of our present constitution? It will be remembered that at the period to which it is so common to refer, as the birth day of the great principles of civil and religious liberty, a convention of divines assembled at Westminster, who, after long deliberation, prepared and published a Confession of Faith and a Directory for Worship, Government, and Discipline. This Confession and this Directory were adopted by the church of Scotland, and have ever since continued in authority in that church. Under that constitution, the General Assembly of that church has always acted as its parliament; exercising

legislative, as well as judicial powers; making rules binding on synods, presbyteries, and churches, restrained by nothing but the word of God, the laws of the land, and its own written constitution. This fact is too notorious to need proof.* A greater absurdity could not be put into words, than the assertion that in Scotland, the General Assembly is "a mere appellate court and advisory council." That American Presbyterianism was originally the same with that of Scotland is proved by two incontestible facts; first, that our church adopted identically the same constitution as the church of Scotland; and secondly, that under that constitution, our highest judicatory claimed and exercised the same powers with the Scottish General Assembly. The presbytery of Philadelphia was formed about 1704; in 1716, there were four presbyteries who erected themselves into a synod. In 1729, this synod passed what is called the "Adopting Act," by which the Westminster Confession of Faith was declared to be the confession of the faith of the Presbyterian church.† Various causes led to a schism in this body, in the year 1741, when two synods, one of New York, the other of Philadelphia, were formed. They continued separated until 1758. When a re-union was effected, they came together upon definite terms, both as to doctrine and discipline. The first article of the terms of union is as follows. "Both synods, having always approved and received the Westminster Confession of Faith, larger and shorter catechisms, as an orthodox and excellent system of Christian doctrine, founded upon the word of God; we do still receive the same, as the confession

* See HILL'S INSTITUTES, pp. 229—241. This writer, who is the standard authority on the constitution of the church of Scotland, describes the powers of the General Assembly as judicial, legislative, and executive, and says, p. 240, "In the exercise of these powers, the General Assembly often issues peremptory mandates, summoning individuals and inferior courts to appear at its bar. It sends precise order to particular judicatories, directing, assisting, or restraining them in the exercise of their functions, and its superintending, controlling authority maintains soundness of doctrine, checks irregularity, and enforces the observance of general laws throughout all districts of the church."

† It is not necessary to enter into the controversy regarding this Act; as the dispute relates to doctrinal matters. We think it evident from various sources that the grand reason for qualifying the assent given to the Confession of Faith, was the doctrine which it then taught concerning civil magistrates. In 1786 "The synod of New York and Philadelphia" declare that they "adopt, according to the known and established meaning of the terms, the Westminster Confession of Faith as the confession of their faith; save that every candidate for the gospel ministry is permitted to except against so much of the twenty-third chapter as gives authority to the civil magistrate in matters of religion." This solitary exception is certainly very significant. See *Digest*, p. 119.

of our faith, and also the Plan of Worship, Government, and Discipline, contained in the Westminster Directory; strictly enjoining it on all our members and probationers for the ministry that they preach and teach according to the Form of sound words in the said Confession and Catechism, and avoid and oppose all errors contrary thereto." In another article it was declared that no minister was to be licensed or ordained, unless he "promise subjection to the Presbyterian Plan of Government in the Westminster Directory." *Digest*, p. 118. Here is the first formal constitution of American Presbyterians, as a united body. This constitution, both as to faith and government, was precisely the same with that of the church of Scotland. Has American Presbyterianism entirely lost its original character? Has the infusion of Congregationalism affected not only the principles of our members, but the essential features of our system? Do we live under an entirely different form of government, from that which was so solemnly adopted by our fathers? If this be so, if a revolution so radical has taken place, it can be, and it must be clearly demonstrated. This is not a matter to be asserted, or assumed. We shall proceed to prove that no such change has taken place.

The constitution, ratified at the time of the union of the two synods in 1758, continued in force about thirty years. In 1785, on motion, it was ordered, that Dr. Witherspoon, Dr. Rodgers, Mr. Robert Smith, Dr. Allison, Dr. Smith, Mr. Woodhull, Mr. Cooper, Mr. Latta, and Mr. Duffield,* with the moderator, be a committee to take into consideration the constitution of the church of Scotland and other protestant countries, and agreeably to the general principles of Presbyterian government, compile a system of general rules for the government of the synod, and the several presbyteries under their inspection, and the people in their communion, and to make report of their proceedings therein at the next meeting of synod.

In 1786, it was resolved, That the book of discipline and government be re-committed to a committee, who shall have powers to digest such a system as they shall think accommodated to the state of the Presbyterian church in America—and every presbytery is hereby required to report in

* We believe all these gentlemen were Scotch or Irish, either by birth, or immediate descent. Certainly they were not men to change Presbyterianism, all of a sudden, into Congregationalism.

writing to the synod, at their next meeting, their observations on the said book of government and discipline. Dr. Witherspoon was the chairman of this committee also. In 1787, the synod having gone through the consideration of the plan of government and discipline presented by the committee appointed the preceding year, ordered a thousand copies to be printed and sent down to the presbyteries for their consideration, and the consideration of the churches under their care.

Finally, in 1788, "The synod, having fully considered the draught of the Form of Government and Discipline did, on the review of the whole, and hereby do, ratify and adopt the same, as now altered and amended, as the CONSTITUTION OF THE PRESBYTERIAN CHURCH IN AMERICA; and order the same to be considered and strictly observed, as the rule of their proceedings, by all the inferior judicatories, belonging to this body.

"*Resolved*, That the true intent and meaning of the above ratification by the synod is, that the Form of Government and Discipline and Confession of Faith, as now ratified, is to continue to be our constitution, and the confession of our faith and practice unalterably, unless two-thirds of the presbyteries under the care of the General Assembly shall propose alterations, or amendments, and such alterations or amendments, shall be agreed to and enacted by the General Assembly." Digest, p. 117, &c.

We may commend, in passing, this minute to the special attention of those who are so fond of appealing to the *liberal* Presbyterianism of our fathers. Here we see the synod, not merely making laws, but forming a CONSTITUTION by their own authority, and *ordering* all inferior judicatories to make it the rule by which to govern their proceedings. This constitution was not submitted to the presbyteries, except for their observations, exactly as it was submitted to the churches. Neither acted with any authority in the matter; it was formed and ratified by the synod; that good, liberal body in which Congregationalism is said to have been so rife. And this is not all; this constitution was fixed UNALTERABLY, unless two-thirds of the presbyteries should propose alterations; and even then, they could only propose; the alterations were to be ENACTED by the General Assembly, then just determined upon. Here, then, at the very birth of American Presbyterianism, we have the highest toned Scottish doctrine, of which the history of the parent

church can furnish an example. What higher exercise of ecclesiastical authority can there be, than the formation of a constitution? How is this fact to be reconciled with our modern theories on this subject? How does it put to shame the cant, which abounds in this pamphlet, and in the new school productions generally, on the one hand, about "those jealous sticklers for the security of religious freedom, who laid deep and strong the foundations of our church polity;" and on the other, about "the footsteps of spiritual power," "the unvisited dungeons, the moans of inquisitorial torments," and "shrieks which rise from the bonfires of an *auto da fe*," in order to frighten the church from its propriety in view of the recent unheard of claim of the General Assembly to be something more than "a mere appellate court, and an advisory council?"

So far from the popular representation, that the authority of our highest judicatory has been extended of late years, being true, the very reverse is the fact, as will be abundantly evident before we are done. There has been, partly from changes in our system regularly effected, but principally from the continued and rapid increase of Congregational influence in our church, a marked and constant decrease in the power claimed by the General Assembly, until it has become the avowed doctrine of nearly a moiety of the church, that the Assembly is a mere appellate court and advisory council. Hence it is, that the recent assertion of a part of its ancient prerogatives, has taken the whole church by surprise, and produced a clamour as though the whole fabric of civil and religious liberty was coming to an end.

But, to return, it is necessary to ascertain how far the original constitution of our church was altered in 1788, and the power of its judicatories curtailed. We have already seen that our system was originally identical with that of the church of Scotland. The General Assembly of 1804, assert this in saying, "We have already differed very considerably from the church of Scotland, from which we derived our origin." *Digest*, p. 154. Let those who choose be ashamed of this origin. There is no nobler ecclesiastical descent in Christendom. We at least will never deny it, in order to trace our lineage to Brownists or Fifth Monarchy men. There was formerly a great struggle in England between Independency and Presbytery; and the former gained the day; not by argument, however, but by the weighty logic of Cromwell's sword. The same struggle is going on here;

and it will be our own fault if, having been beaten once by the sword, we are now overcome by bows, and smiles, and professions of attachment. Though Cromwell, when he found that Presbyterianism was not sufficiently democratic to allow him to rule alone, suppressed it in England, it survived in Scotland; and to this source our fathers were glad, as we still are, to trace their ecclesiastical origin.

The first American constitution of the Presbyterian church was formed, as already stated, in 1788. The only general principle in which it differed from that of the church of Scotland, was the denial of the right of civil magistrates to interfere in matters of religion. Accordingly those portions of the Confession of Faith which assert magistrates to have this right were altered; and in the answer to the question in the Larger Catechism, What is forbidden in the second commandment? the clause, "tolerating a false religion" was stricken out. The two leading points of difference as to government between our system and the Scottish are; first, that we have no body analagous to the "Commission of the General Assembly," which continues to meet, at certain times, after the adjournment of the Assembly, and exercises all its powers, subject, however, to the review of the next General Assembly. Originally this feature belonged to our system. In 1774, a minute was adopted by a large majority of the synod, declaring the powers of such a commission, in order to remove the doubts which had prevailed on this subject. In this minute it is said; The synod "do determine that the commission shall continue, and meet whensoever called by the moderator, at the request of the first nine on the roll of the commission, or the major part of the first nine ministers, and when met, that it shall be invested with all the powers of the synod; and sit by their own adjournments from time to time; and let it also be duly attended to that there can lie no appeal from the judgment of the commission, as there can be none from the judgment of the synod; but there may be a review of their proceedings and judgments by the synod," &c. *Digest*, p. 45. Thus thorough going was the conformity of American Presbyterianism in its origin to the Scottish model. This provision was not adopted in the new constitution. A second source of difference consists in the close relation which exists in Scotland between the church and state. This has very materially modified their system. There are also various differences as to matters of detail. The ratio of representation of ministers and

elders in the General Assembly is not equal, as it is with us; the universities and certain royal burghs send delegates, either ministers or elders; and ministers without charges, with a few exceptions, are not allowed to sit in presbytery. There is also considerable difference in practice between the two churches. The General Assembly here has not been accustomed, especially of late years, to interfere so much with the proceedings of the lower courts. As to all general principles and arrangements, however, the constitution of 1788 conformed to that which we had derived from Scotland. There are the same courts; the same subordination of the lower to the higher judicatories; and the same general statement of their respective powers and privileges.

The constitution of 1788, which was, in all its essential features, the same as that which had been previously in force, remained almost without alteration until the year 1804. In that year a committee appointed for the purpose, proposed a number of amendments, which they say in their report, "are of such a nature, that if the whole of them should be adopted, they would not alter, but only explain, render more practicable, and bring nearer to perfection, the general system which has already gone into use." These amendments received the sanction of a majority of the presbyteries, and may be seen in pages 56 and 57 of the printed minutes for that year. Most of them are merely verbal corrections, and not one makes the least alteration in any one general principle of our system.

The revision of the constitution made in 1821, resulted in very numerous alterations. These, however, related either to mere phraseology, or to matters of form and detail; or were explanatory of preceding rules; or consisted of additional directions as to forms of process. There was no alteration designed or effected in the relation of our several courts to each other, or in their general powers.—Though we do not believe that there was any intention to enlarge the power of any of the judicatories, yet it so happens that the changes made, so far as they have any significancy, tend to increase the authority of the higher courts. Thus in the section on the power of synods, which states that they have authority to take such order respecting presbyteries, sessions, and people under their care, as may be in conformity with the word of God, the clause "and not contradictory to the decisions of the General Assembly" is stricken out, and the words "the established rules" put in its place. This alteration is an ob-

vious improvement, as it is much more definite and intelligible, since the decisions of the Assembly may not have been uniform or consistent. And again, in the section on the powers of the Assembly, the comprehensive clause, (the power) "of superintending the concerns of the whole church" is inserted.

We are giving ourselves, however, a great deal of unnecessary trouble in proving a negative. Let those who assert that Presbyterianism has, in this country, been completely emasculated, show when, how, and by whom it was done. Let them point out the process by which one form of government, known of all men as to its essential features, was transmuted into another. This pamphlet does not contain a shadow of such proof, either from the constitution, history, or practice of the church. It is all bald assertion; assertion unrestricted by any knowledge of the subject, or by any modesty on the part of the writer. The reference made on p. 11 to our constitution, calls for no modification of the above remark; for the passage which is there imperfectly quoted has no relation to the point which it is cited to prove. We are told that, "The church session and presbytery alone have original jurisdiction. The synods and Assembly are merely courts of review,—appellate courts. They have none of them *legislative powers.* 'All church power,' says the constitution, 'is only ministerial and declarative. The holy scriptures are the only rule of faith and manners. No church judicatory ought to pretend to make laws. The right of judging upon laws already made must be lodged with fallible men, and synods and councils may err, yet there is more danger from the *usurped claim of making laws.*' I am thus particular upon this point," adds the writer, "because the 'usurped claim of making laws' was actually set up, and these proceedings (of the Assembly of 1837) justified as legislative acts." We are far from supposing that the above passage from the constitution, printed as a continuous quotation, was garbled and patched with a design to deceive; but the fact is, that it is so garbled as to make the constitution assert the very reverse of what its authors intended, and what from their lips would be the height of absurdity. The passage stands thus in the introductory chapter, § 7. "That all church power, whether exercised by the body in general, or in the way of representation by delegated authority, is only ministerial and declarative: *That is to say*, that the holy scriptures are the only rule of faith and manners; that no

church judicatory ought to pretend to make laws, to bind the conscience in virtue of their own authority; and that all their decisions should be founded upon the revealed will of God. Now though it will be easily admitted that all synods and councils may err, through the frailty inseparable from humanity; yet there is much greater danger from the usurped claim of making laws, than from the right of judging upon laws already made, and common to all who profess the gospel; although this right, as necessity requires in the present state, be lodged with fallible men." What is the power which is here denied? and to whom is it denied? It is the power "to make laws *to bind the conscience*" in virtue of human authority. Why? Because the scriptures are the only rule of faith and manners. The framers of our constitution meant to deny the claim set up by the Romish, and some other churches, to legislate authoritatively on matters of faith and morals. The power of the church, in such matters, is merely ministerial and declarative. She may declare what, according to the word of God, truth and duty are; but she cannot make any thing a matter of duty, which is not enjoined in the scriptures. The laws of which they speak are "common to all those who profess the gospel;" such laws the church can neither make nor repeal, she can only declare and administer. This power is denied not merely to our judicatories, but to the church as a body. According to this writer, however, the power denied, is that of making laws of any kind. To sustain this assertion the proposition is made general; "No church judicatory ought to pretend to make laws;" leaving out the restrictive clause "to bind the consciences in virtue of their own authority;" thus perverting the whole paragraph from its obvious meaning and design. This introductory chapter to the Form of Government was prefixed to it in 1788, where it has stood ever since. We wonder that the absurdity did not occur to the writer, or to his clerical endorsers, of making a set of sane men gravely deny to the church collectively, and to all of its judicatories, all legislative authority, while they were in the very act of ordaining a code of laws for the government of the church. Is not our constitution a set of laws? Was it not enacted by the church judicatories? Have they not the power to repeal, or modify it at pleasure? Yet they have no legislative authority! This is the kind of reasoning which we are called upon to answer.

Having shown that our church at first adopted identically

the same formulas of faith and government as the church of Scotland; and that the successive modifications of the constitution in 1788, 1804, and 1821, left the essential principles of the system unchanged, we might dismiss this part of the subject entirely. But it is so important, and the ignorance respecting it, as it would seem, is so great and general, that we will proceed to the other sources of proof, and demonstrate from the constitution as it now stands, and from the uniform practice of the church, the utter unsoundness of this new theory of Presbyterianism.

This theory is, that our judicatories have no legislative power; that they are severally independent of each other, as to their existence and action; and that the higher courts are merely appellate courts and advisory councils. In the 31st chap. of the Confession of Faith, sect. 2, it is said, "IT BELONGETH to synods and councils, ministerially, to determine controversies of faith, and cases of conscience; to set down rules and directions for the better ordering of the public worship of God, and government of his church; to receive complaints in cases of mal-administration, and authoritatively to determine the same: which decrees and determinations, if consonant to the word of God, are to be received with reverence and submission, not only for their agreement with the word, but also for the power whereby they are made, as being an ordinance of God, appointed thereunto in his word."* It is here taught, as plain as language can speak, that synods and councils have power to set down rules for the government of the church, which, if consonant to the word of God, are to be received with reverence and submission out of respect to the authority by which they are made. With regard to matters of faith and conscience their power is ministerial; with regard to matters of discipline and government it is legislative. "To set down rules" is to make laws, as we presume no one will deny. Let it be considered that this is not a passing declaration. It is an article of faith found in the Westminster Confession, which our church has always adopted as the confession of her faith; and to which every Presbyterian minister and elder has subscribed. This is the faith of the church as to the authority of synods. Yet we are told in the very face of this first principle of our

* The proof passage cited in the margin is Acts 16: 4. And as they went through the cities they delivered unto them the decrees for to keep, that were ordained by the apostles and elders which were at Jerusalem.

system, that synods or councils have no legislative power; that they cannot 'set down rules' for the government of the church; that their only power is judicial or advisory!

This power of the church resides, according to our Confession, in synods or councils, and is inherent in them. This is not indeed a peculiarity of our church; it is, with the exception of the comparatively small body of Congregationalists, the faith of the Christian world, and always has been. Provincial, national, and œcumenial synods, have always claimed and exercised the right of making canons, or ecclesiastical laws, obligatory on all within their jurisdiction. In our system we have councils of various kinds, the session, presbytery, synod, and General Assembly, and they all, in virtue of their very nature, as councils, have this authority, limited in all cases by the word of God, and restricted by the peculiarities of our constitution.

A session is a parochial or congregational council charged with "the spiritual government" of a particular church. They may make what rules they see fit for the government of the congregation, not inconsistent with the constitution. This power they exercise every day; making rules about the admission of members, and other matters; which are no where prescribed in the constitution, and which are probably not always consistent with it. The next highest council is the presbytery. It has charge of the government of the churches within a certain district. It makes rules binding on them; as for example, forbidding a congregation to call or to dismiss a pastor without its consent. This power is not derived from the constitution. It existed when there was but one presbytery; and would exist if all the presbyteries were independent of each other. To them it belongs to license, ordain, install, remove and judge ministers. So far from deriving this power from the constitution, it is thereby greatly restricted. They cannot license and ordain whom they please, but those only who have certain prescribed qualifications.

The synod is in fact a larger presbytery, and would have precisely the same authority, did not the constitution, for the sake of convenience, make a distinction of powers between it and the presbyteries. A synod is not called to exercise the power of licensing, ordaining, &c. &c., because this power can better be exercised by smaller councils. It has jurisdiction not only as an appellate court, but as a court of review and control. It can order the presbyteries to pro-

duce their records; it can "redress whatever has been done by presbyteries contrary to order; and take effectual care that presbyteries observe the constitution of the church . . . and generally take such order with respect to the presbyteries, sessions and people under their care, as may be in conformity with the word of God and the established rules, and which tend to promote the edification of the church." Chap. 11. § 4.

The General Assembly is the highest judicatory of the Presbyterian church, and "represents, in one body, all the particular churches of this denomination." To it belongs, therefore, the power which the Confession of Faith ascribes to all synods, restricted by the provisions of the constitution. It can make no regulation infringing on the privileges of the lower courts; nor can it in any way alter or add to the code of constitutional rules. But its power as the supreme court of appeals, review and control continues. It is charged with "superintending the concerns of the whole church," and with "suppressing schismatical contentions and disputations." See chap. 12. "It may send missions to any part to plant churches, or to supply vacancies; and, for this purpose, *may direct any presbytery* to ordain evangelists, or ministers, without relation to particular churches." Chap. 18. This would be strange language in reference to a mere advisory council! The power, here recognised as belonging to the General Assembly, will appear to be the greater, if we remember that the ordination of any minister *sine titulo* was considered as hardly consistent with presbyterial principles; and that the presbyteries were very averse to admit it. Yet the Assembly is acknowledged to have the power to direct them to do it.

In exercising the right of supervision and control, the higher courts, depend, in general, on the regular means of information which they possess in the review of the records of the inferior judicatories, and in the exercise by those aggrieved of the right of appeal, reference and complaint. In case, however, of neglect, unfaithfulness, or irregularity of a lower court, a higher one has the right, when well advised of the existence of these evils, "to take cognizance of the same; and to examine, deliberate and judge in the whole matter, as completely as if it had been recorded, and thus brought up by the review of records."* That is, it is

* Book II. chap. 7. § 1. par. 5.

incumbent on them, as the constitution expresses it, to take effectual care that the lower judicatories observe the constitution of the church.

Such is Presbyterianism as laid down in our Confession of Faith and Form of Government. Such it was in the days of our fathers, and such we trust it will long continue to be. We shall now proceed to adduce some small portion of the overwhelming evidence with which our records abound, that this has always been the interpretation put upon our system of government; and that this modern theory of mere appellate jurisdiction and advisory power is unsustained by the practice, as it is by the standards of the church.

No one can open the records of the proceedings either of the old synod, or of the General Assembly, without being struck with the fact that the phraseology adopted is inconsistent with the idea that those bodies claimed merely advisory powers. It is competent to a body having authority to command, to recommend or advise; but it is not competent to a body having power only to give advice, to "direct," "order," or "enjoin." Yet such language is used from beginning to the end of our records. These orders relate to all manner of subjects, and are given not only when the higher judicatory acted as a court of reference or appeals, but also in its character of the superintending and governing body. It is not worth while, however, to adduce evidence of this kind, because this phraseology will be found incorporated in passages cited for a more important purpose; and because it is so settled that we find even the new school Assembly, at their late meeting, resolving, 1. "That presbyteries are hereby REQUIRED to cause each church and congregation under their care and jurisdiction to make an annual contribution to the contingent fund of the General Assembly. 2. That the presbyteries are ENJOINED to send a copy of the above preamble and resolution to the several churches under their care, &c." This is certainly strange language in which to convey advice.

The examples we shall cite of the exercise of authority on the part of the higher judicatories, do not admit of being arranged under distinct heads. The same example will often prove all the several points in dispute; the legislative power of church courts; the authority of the higher over the lower; and the right of the supreme judicatory to take effectual care that the constitution be observed in all parts of the church.

In 1758, by a joint act at the time of their union, the old synods of Philadelphia and New York, ordered "That no presbytery shall license or ordain to the work of the ministry any candidate, until he give them competent satisfaction as to his learning, and experimental acquaintance with religion, and skill in divinity and cases of conscience, and declare his acceptance of the Westminster Confession of Faith, and Catechisms, as the confession of his faith, and promise subjection to the Presbyterian plan of government in the Westminster Directory," Digest, p. 119. As this resolution, which was one of the terms of union between the two synods, was adopted first by one synod and then by the other; and then unanimously by the two united, there could hardly have been a man in the church who denied the legislative and controlling power of the higher courts.

In 1764, the synod of New York and Philadelphia "established a rule," giving particular directions to the presbyteries, with regard to candidates for the ministry; in 1792, the Assembly confirmed it, by *enjoining*, "in the most pointed manner, on the synod of Philadelphia, to give particular attention that no presbytery under their care depart, in any respect, from that rule of the former synod of New York and Philadelphia, which is," &c. Then follows the rule, p. 63.

In the same year the old synod adopted another rule, which we commend to the attention of those who long for the Presbyterianism of former times; "Though the synod entertain a high regard for the Associated churches of New England, yet we cannot but judge, that students who go to them, or to any other than our own presbyteries, to obtain license, in order to return and officiate among us, act very irregularly, and *are not to be approved or employed by our presbyteries;* as hereby we are deprived of the right of trying and approving of the qualifications of our own candidates; yet if any cases shall happen, where such conduct may be thought necessary for the greater good of any congregation, it shall be laid before the presbytery to which the congregation belongs, and approved by them." p. 65.

In 1764, the old synod also adopted a rule for the government of presbyteries in the reception of foreign ministers and licentiates. This rule was explained in 1765; and in 1774 they adopted a set of regulations which were unanimously approved. The following is an extract. "In order more effectually to preserve this synod, our presbyteries and

congregations from imposition and abuse, every year, when any presbytery may report that they have received any minister or probationer from a foreign church, that presbytery shall lay before the synod the testimonials and other certificates, upon which they received such minister or probationer, for the satisfaction of the synod, before such minister or probationer shall be considered as a member of our body. And if the synod shall find such testimonials false or insufficient, the whole proceedings held by the presbytery on the admission shall be held to be void; and the presbytery shall not, from that time, receive or acknowledge him as a member of this body, or as in ministerial communion with us," p. 286. Let it be observed that these regulations were *unanimously* approved; and yet what power do they suppose the synod to possess over the presbyteries; denying to the lower courts the right of judging for themselves whether a member was qualified or not; and pronouncing their decision void *ab initio*, if it should not meet the approbation of the higher court. If our new school brethren would be content to say they do not approve of such Presbyterianism it would be well; but it requires a great deal of patience calmly to hear them claim to be Presbyterians after the old sort, while they maintain that our judicatories are all independent of each other.

In 1794, at the request of the synod of Philadelphia, the Assembly divided the presbytery of Carlisle; in 1802 the presbytery of Albany requested to be divided, which request the Assembly granted (see pp. 55, 57); and in 1805 the Assembly divided the presbytery of Oneida, *constituting* the one portion into the presbytery of Geneva, and the other into the presbytery of Oneida, directing them where to hold their first meeting, &c. See minutes, Vol. II. p. 82. We do not pretend to give more than specimens of the jurisdiction and power unhesitatingly exercised by the Assembly in former days, before, by the growing influence of Congregationalism, our courts were reduced in practice to little more than advisory councils.

In 1795, a request was overtured that the synods of Virginia and the Carolinas *have liberty* to direct their presbyteries to ordain such candidates as they may judge necessary to appoint on missions to preach the gospel; whereupon, *Resolved*, That the above request be granted. The synods being careful to restrict the permission to the ordination of such candidates only as are engaged to be sent on missions, p. 48.

In 1798, the synod of the Carolinas presented to the Assembly certain references and inquiries relating to a creed published by the Rev. H. B.; which were referred to a committee, of which Dr. M'Whorter, of Newark, was chairman. This committee made a report, stating that Mr. B. is erroneous "in making *disinterested benevolence* the only definition of holiness," and that he "has confounded self-love with selfishness." On the third article the committee remark, "that the transfer of personal sin or righteousness has never been held by any Calvinistic divines, nor by any person in our church as far as is known to us; and therefore that Mr. B.'s observations on this subject appear to be either nugatory or calculated to mislead." They condemn, however, his doctrine of original sin, as "in effect setting aside the idea of Adam's being the federal head or representative of his descendants, and the whole doctrine of the covenant of works." They say also "that Mr. B. is greatly erroneous in asserting that the formal cause of a believer's justification is the imputation of the fruits or effects of Christ's righteousness, and not that righteousness itself." These are the principal errors specified. The committee recommend, "that Mr. B. be required to acknowledge before the Assembly that he was wrong in publishing his creed; that, in the particulars specified above, he renounced the errors therein pointed out; that he engage to teach nothing hereafter of a similar nature, &c. &c.; and that if Mr. B. submit to this he be considered in good standing with the church." This report was adopted,* and Mr. B. having been called before the Assembly, and allowed time for consideration, made a declaration containing the required acknowledgements, retractions, and engagements, and was then pronounced in good standing. Digest, pp. 129—134.

This case is cited as an illustration of the kind of supervision formerly exercised by our supreme judicatory. On the mere reference by a lower court, in relation to a certain

* Two members only dissented, of whom one was Mr. Langdon, a delegate from the General Association of Connecticut. This record is in many points of view instructive. We see that doctrines, which are taught in our day with perfect impunity, were formerly regarded as entirely inconsistent with a good standing in the church. It is foreign from our present purpose, but we should be glad to have an opportunity at some future time, to produce some of the evidence with which our history abounds, that our church was for a long series of years more strict in demanding conformity to our doctrinal standards than it is now; and that as it became lax in matters of government, it became *pari passu* lax in doctrine.

publication, it is taken up and examined, certain erroneous propositions extracted, and the author immediately called up and required to retract them on the penalty of being turned out of the church. This is the kind of liberal Presbyterianism once in vogue even in Newark.

In 1799, a committee presented a report containing sundry recommendations and injunctions respecting the qualifications of candidates for the ministry; the support of ministers; contributions to missions, &c. This report being read it was *Resolved*, That it be approved and adopted; and ordered that the several synods, presbyteries, and individual churches, as far as they are respectively concerned, govern themselves accordingly." p. 81.

The presbytery of Cumberland having "licensed and ordained a number of persons not possessing the qualifications required by our book of discipline, and *without explicit adoption of the Confession of Faith*," it was for these and other irregularities dissolved by the synod of Kentucky, and the irregularly ordained ministers suspended without process. When these facts came up before the Assembly, on a review of the records of the synod, the Assembly addressed that judicatory a letter, in which their zeal and decision were commended, but the opinion expressed that the suspension of ordained ministers without process, was "at least of doubtful regularity." This letter was written in 1807. We find no mention of this case in 1808, either in the Digest or in the printed minutes for that year. But in 1809 there is a record to this effect: "That the Assembly took into consideration a letter from the synod of Kentucky; and having carefully reviewed the same, and also having read another letter from their records, which by accident was detained from the last Assembly," &c., they declared themselves "perfectly satisfied with the conduct of the synod, and thank them for their firmness and zeal." p. 140. Here then is a synod receiving thanks for dissolving a presbytery, which, according to the new theory of Presbyterianism, was entirely independent of it, and for exercising the right of suspending, instanter, ministers irregularly ordained.

In 1809, the Assembly "resolved, That it be again solemnly enjoined on all presbyteries and synods within the bounds of the General Assembly, on no account to interfere with the instructions given by the committee of missions to missionaries." p. 50. What a controlling superintendence and authority is assumed in this resolution!

In 1809 the Assembly resolved "That it be and is hereby required of all presbyteries within the bounds of the General Assembly, annually to call up and examine the sessional records of the several churches under their care, as directed in the book of discipline." In the following year "the presbyteries were called upon to report what attention they had severally paid to the order of the General Assembly in relation to sessional records. Upon inquiry it appeared that the presbyteries had almost universally complied with the order." A committee was appointed to consider this subject, who brought in a report, which was read and adopted, and is as follows: "The Assembly, after seriously reviewing the order of the last Assembly, can by no means rescind the said order; inasmuch as they consider it as founded on the constitution of the church, and as properly resulting from the obligation on the highest judicatory of the church, *to see that the constitution be duly regarded*, yet as it is alleged that insisting on the rigid execution of this order with respect to some church sessions would not be for edification, the Assembly are by no means disposed to urge any presbytery to proceed under this order beyond what they may consider prudent and useful." p. 73. It is here taken for granted, and appealed to as a justification for a particular act, that the obligation rests on the highest judicatory of the church "to see that the constitution be duly regarded."

In 1810, the presbytery of Hartford *requested leave* to ordain Mr. Robert Sample *sine titulo*, whereupon the Assembly resolved "That said presbytery *be permitted* to ordain Mr. Sample, if they judge it expedient."

Page 214 of the Digest contains this record. "The following extract from the minutes of the presbytery of Oneida was overtured, viz. 'Ordered that our commissioners to the next General Assembly be instructed to request the Assembly (*risum teneatis amici*) to permit this presbytery to manage their own missionary concerns.'" Was this humble request granted? Not at all. The presbytery was referred to the Board of Missions! This was so recently as 1818, and proves how much of the old spirit of Presbyterianism was still alive in the church. We expect to hear of the presbytery of Oneida expunging, with the darkest lines of infamy, the above cited record from their minutes. So rapidly and so completely has the spirit of our church changed, that we do not believe there is now a presbytery in our land, which would not consider itself insulted by a proposal that they

should *request permission* to manage their own missionary concerns.

The whole history of this subject of missions is full of instruction as to the relation in which the Assembly was regarded as standing to the church. That judicatory, for a long time, appointed the missionaries by name, assigned them their field of labor; if they were pastors, the Assembly either appointed supplies for their pulpits, during their tour of duty, directing such a minister to preach on such a Sabbath, or they directed the presbytery to make the requisite appointments for this purpose.* In short they exercised without let or contradiction, a superintending control of the whole church, ordering synods, presbyteries and individual ministers as familiarly as any presbytery ever does its own members. How it must sound in the ears of the old men, who recollect those days, to be told by beardless boys, just from New England, that the General Assembly has nothing to do but to hear appeals and give advice!

The power of the Assembly to make rules for the government of the church, is assumed, in the clearest manner, in that section which forbids their making "constitutional rules" without the consent of the presbyteries. That section, in the old book, is labelled "Restriction of the power of the Assembly." Why restrict the exercise of a power which does not exist? Why say the Assembly shall not make a particular class of rules, if it can make no rules at all? There is however an authoritative exposition of the meaning of this section which establishes the legislative power of the Assembly beyond dispute. In 1798 the General Assembly adopted certain "regulations intended to embrace and extend the existing rules, respecting the reception of foreign ministers and licentiates." These regulations† effectually control the action of the presbyteries, forbidding them to receive any foreign minister or probationer "on a mere certificate of

* See, for example, pp. 132, 133 of Vol. II. of the Minutes. "Resolved, That Rev. John H. Rice spend two months as a missionary, &c. That Rev. John Lyle serve two months, &c. That the presbytery of New York be authorized to employ a missionory to be paid out of the funds of the Assembly. That the presbytery of Geneva take measures for appointing supplies for Mr. Chapman's pulpit. That Mr. Alexander, Mr. Todd, and Mr. John H. Rice, be a committee to appoint supplies for Mr. Rice's pulpit," &c. &c. &c. And on p. 16, "Resolved, That the following ministers be appointed, and they hereby are appointed, to supply the pulpits of Dr. Read and Mr. Arthur during their missionary tour—Mr. Collins first Sabbath, Mr. Latta the second," &c. &c.

† See Printed Minutes for 1798.

good standing;" prescribing the kind of trials to which he shall be subjected; directing that he should be received in the first instance, only on probation, and not be allowed to vote in any judicatory, or accept of any call for settlement; requiring this probation to continue for at least one year; directing the presbytery then to take up the case, renew the examination, and determine "to receive him, to reject him, or to hold him under further probation." In case the applicant was received, the presbytery was to report the case with all the evidence to the synod or General Assembly, who were "to come to a final judgment, either to receive him into the Presbyterian body agreeably to his standing, or to reject him," notwithstanding his reception by the presbytery. Here then is the exercise of legislative authority over the whole church; here is control of presbyteries as to the exercise of their own rights; here is an instance of the way in which the supreme judicatory felt authorized to take care that the constitution should be observed in all parts of the church. Was this exercise of power sustained? We shall see. In the following year, that is, in 1799, the presbytery of New York objected to these regulations, and requested the General Assembly to rescind them. This request was refused. The principal objection urged against them by the presbytery was, that the constitution provides that before any *standing rules* should be obligatory on the churches, they must be submitted to the presbyteries. To this the Assembly answered; that "standing rules" in the sense of the Book, were "articles of the constitution, which when once established are unalterable by the Assembly." Such rules the Assembly cannot make. But to say that it cannot make of its own authority any rules binding on the churches, "would be to reduce this Assemhly to a mere committee to prepare business upon which the presbyteries might act. It would undo, with few exceptions, all the rules that have been established by this Assembly since its first institution. . . . . Besides, *standing rules*, in the evident sense of the constitution, cannot be predicated of any act made by the Assembly, and repealable by it, because they are limited from their very nature to the duration of a year, if it please the Assembly to exert the *power inherent* in it at all times to alter or annul them, and they continue to be rules only by the Assembly's not using its power of repeal." In order to prevent all doubt on this subject in future, the Assembly proposed to the presbyteries this article of the constitution for "their

interpretation," and advised them to strike out the word *standing* and to insert the word *constitutional.* This alteration the presbyteries accordingly made; and the expression "constitutional rules" remains to this day.* Can there be a clearer proof than this of the legislative authority of the Assembly, or of its official acknowledgement by the presbyteries? Let it be remembered that this was no new claim on the part of the Assembly of 1798. The same power had been always claimed and exercised by the old synod and by the General Assembly from its first institution.

It is time, however, to bring these citations to an end. We should have to transcribe the records of the church bodily, if we were to exhibit all the evidence which they contain on this subject. The origin, the constitution, the uniform practice of our church, therefore, prove that our judicatories are not independent of each other; that the higher bodies are not mere courts of appeal and advisory councils; but that it belongs to them to set down rules for the government of the church, which, if consonant with the word of God, and our written constitution, are to be received with reverence and submission out of regard to the authority of these courts. It is their duty to take effectual care that the constitution is observed in all parts of the church.

The doctrines of this pamphlet are not only inconsistent with the origin, constitution and practice of the church, they are moreover absolutely destructive of its character. According to the constitution, the General Assembly is the bond of union and confidence between all the churches. It makes us one denomination. It is such a bond, by enabling the whole church, of which it is the representative, to take effectual care that the constitution, as to doctrine and order, is observed within all our bounds. But according to the new theory, we are not one denomination; we are an aggregate of a number of independent presbyteries. "If a presbytery license, ordain, or receive a minister, or organize or acknowledge a church, ... the act must be forever valid, however ill-advised or censurable it may be." p. 9.† The

* See Digest, p. 285—290.

† We see on p. 29 of this Review a reference to a decision of the General Assembly in 1816, in support of this doctrine. The presbytery of Geneva having improperly admitted a minister, were ordered by the synod to reconsider its decision. The Assembly disapproved of this order, and say, "That the right of deciding on the fitness of admitting Mr. Wells a constituent member of the presbytery of Geneva, belonged to the presbytery itself, and that having admitted him, no matter how improvidently, their decision was valid and final,

whole church then is completely at the mercy of any one presbytery. Certain presbyteries in the north west have formed or acknowledged some three or four hundred congregational churches; and in spite of the constitution, in spite of the contract between the presbyteries, in defiance of the authority of the General Assembly, these churches must forever remain invested with all the privileges of Presbyterian congregations; thus introducing into our judicatories and into the constituency of the General Assembly, three or four hundred men who do not adopt our standards either of doctrine or government. On this principle, if the third presbytery of New York, in the excess of its liberality, were to acknowledge all the Baptist churches of its own city, or all the Unitarian churches of Boston, the act would be valid, and these churches be forever entitled to representation in the Presbyterian body. Or if a presbytery become Socinian there is no help for it. They would not sustain charges against their own members; and they cannot be tried, dissolved or disowned as a body. Neither synod nor General Assembly has power to enforce the constitution. They can only look on in silence, and see this presbytery increase year after year, and sending Socinian ministers and elders to the General Assembly of a Calvinistic church. It is enough to awake the ashes of our fathers to have such doctrines set forth as Presbyterianism, in the bosom of the church which they founded with so much care, and guarded with so much strictness. This is not Presbyterianism; and those who maintain these opinions are not Presbyterians. Yet such are the principles on which they rest their claim to be the *true* Presbyterian Church of the United States. The claim rests

. . . . the presbytery could not, though it should reconsider, reverse its own decision, or in any way sever the member so admitted, from their body, except by regular process." Digest, p. 324. This decision has nothing to do with the case in hand. There is all the difference in the world between an *improvident* act, and an unconstitutional one. The member in question was objected to as of "suspicious character." It is one thing to turn a man out of the church or presbytery on the ground of character, without process; and another to set aside his admission as unconstitutional. Because a presbytery has a right to judge of the qualification of its own members, it does not follow that it may admit a man without ordination, or without the adoption of the standards. Any such act may be declared void at once; and the member be excluded. It was thus that the synod of Kentucky suspended from the ministry in our church, men ordained without having adopted the Confession of Faith, and were thanked for so doing by the General Assembly. And in 1798 it was decided that elders unconstitutionally ordained, remained private members of the church. See Digest, p. 322.

on this new theory. If the presbyteries have a right to acknowledge what churches, and to receive what members they please; then the reception of three or four hundred congregational churches, is all fair. And if the General Assembly is only an appellate court and advisory council, its attempt ts enforce the constitution is all folly. The acts of 1837 are not only nugatory, but ridiculous. If, however, this theory is false; if the General Assembly is what its origin, constitution and practice prove it to be; then it had a right to say to these presbyteries, you shall not allow men to sit and vote in your bodies, who have not the constitutional qualifications of members. And if they had a right to say this, they had a right to enforce it. This is what the Assembly of 1837 actually did. They said to these presbyteries, 'Brethren we have tolerated your irregularity long enough. You must conform to the constitution or go out of the church. If you conform, your rights are not impaired. If you do not, your commissioners shall not be recognized as delegates from regular Presbyterian bodies.' These presbyteries resolved unanimously that they would not conform. So the issue is fairly made; and it must turn on the question, whether the General Assembly is an advisory council or court of control.

We think we have disposed of the first and main argument of this pamphlet in proof of the invalidity of the acts of the Assembly of 1837. The next argument is to this effect. The General Assembly, a mere appellate court, excommunicate, "because of gross disorders," 500 clergymen, and 60,000 church members; not by a regular trial, but by a sort of papal edict. "No matter what their faith or works. Character and conduct had nothing to do with it. They live in the Western Reserve, the reprobates!" &c. &c. p. 13, 14. It is difficult to read such reckless and injurious assertions without indignation. What is excommunication but exclusion from the Lord's supper and other ordinances of the church? Were the resolutions of the Assembly of 1837 designed to exclude, or did they in fact exclude one of those 60,000 church members from the Lord's supper? Did they design to depose, or have they in fact deposed, one of those 500 clergymen from his office? Can there be a greater absurdity than to make the Assembly resolved, 'Whereas the plan of union is unconstitutional, therefore 500 clergymen, and 60,000 church members are excommunicated FOR HERESY?' Is not this, on the very face of it, a calumnious misrepresentation of which any gentleman should blush to find himself guilty?

Why not adhere to the truth? What the Assembly say they intended, was to declare that whereas certain bodies are unconstitutionally organized, they cannot be recognized as regular judicatories in our church, until they conform to the constitution. This is the point to be discussed. And it is perfectly fair to show that the organization complained of *is* constitutional; or that the Assembly had no right to decide the case; or that it failed as to the proper remedy for the evil. But to pervert the act itself, in the very face of the language and solemn declarations of the Assembly, for the purpose of exciting odium, is in the highest degree uncandid and dishonourable.

The third argument is that the resolutions in question are void, because they rest on a false basis, viz. the erroneous assumption of the unconstitutionality of the Plan of Union. Of this plan we are told that it was designed exclusively for new settlements, and therefore expired long ago, "by its own limitation," in the greater part of New York and the Western Reserve. Secondly, that it related to those Congregationalists only who were in connexion with the General Association of Connecticut. Those "from Massachusetts were no more embraced in it, than Quakers from Rhode Island." Thirdly, that it was fairly abrogated on the 23d of May, 1837. "The only consequence of rescinding the plan would be that there would be no longer any Plan of Union between Congregationalists and Presbyterians, in the new settlements, in support of the gospel. Each sect must stand alone and bear its own burdens." See p. 18—22.

If this account of the matter is correct, then we ask what authority had any of these presbyteries to receive any church whose Congregational members were not from Connecticut, or to allow the committee-men, or lay-members to enjoy all the rights of elders in presbytery? The organization of one-half or of three-fourths of the churches and presbyteries concerned, must be without even the shadow of apology afforded by the plan of union. It is only on the assumption of the correctness of the new theory, that presbyteries may do just what they please, acknowledge what churches they please, and receive what members they please without any regard to the constitution or any dread of the higher courts, that their standing in the church can be defended for a moment. It is the same principle also that protects them from the acknowledged effect of the abrogation of the plan. The sects can no longer, it is said, be united. But are they not just as much united

as ever? The presbyteries still admit unordained men to sit as elders in their meetings, and declare that they will continue to do so. Were they not "entirely independent" this would subject them to censure. After all, then, the whole argument of the pamphlet rests on the new theory.

Finally, it is said that the resolutions in question are "clearly void for uncertainty." They purport to declare certain synods no longer a part of the church. But a synod, it is said, is never in any sense a part of the church: it is merely a judicatory. "Could any thing be more nonsensical," it is asked, than "to say that the Supreme Court of the State of New York is not a part, an integral portion of the United States of America? And yet the cases are precisely similar." "Here lies the great fallacy of these resolutions, they seem to consider a synod, and those individuals who sit in it, and who live within the circuit of its jurisdiction, as the same idea." A synod is a convention, and "there is no synod, in any constitutional sense of the term, except when in session, when it is a 'convention;' and the Assembly surely must be held to use terms peculiar to the church, in their constitutional sense." Besides, no one can tell who are members of the synod until it meets; so no one can tell upon whom the resolutions operate; they consequently have no operation at all. "Can any thing be more ridiculous," it is exclaimed, "than these ill-digested and bungling resolutions." See pp. 22—26. Here is certainly a new argument, and one which we presume would never have occurred to any one but a lawyer. What if this whole cause, involving such vast and varied interests, should turn on such a quirk as this! Suppose it should be decided, that the General Assembly had full authority to do what they intended to do; but inasmuch as they used the word 'synod' in a wrong sense, the old part of the church are seceders, and the Congregationalists and their associates are the true Presbyterian church of the United States. What a glorious specimen this would be of judicial decisions! Still, as there is no gainsaying the fact, that a synod is a convention, and that a convention is nothing when not convened, how can we avoid the conclusion, that these resolutions declare a nonentity to be no longer a part of the church? Would it be of any use to plead that, according to the constant *usus loquendi* of the church, the words *synod* and *presbytery* have two senses; that they sometimes mean a convention, and sometimes are used collectively for all the individuals entitled to sit in

them? Might we suggest that when a resolution has been passed to divide a synod or presbytery, it has not *always* been understood to mean that the members actually in session, should sit on different sides of the house? Or, that when a presbytery has been dissolved it meant something more than that a meeting was broken up? or, that when the synod of Kentucky disowned the Cumberland presbytery, the act was not held to be inoperative, on the ground that the presbytery, not being at the time in session, was not in existence? We do not know how this argument may appear in court, we only know it sounds excessively silly out of it.

Such then, to the best of our ability to understand and state them, are the arguments on which our new school brethren, in their last best thoughts, determined to stake their cause. If we have succeeded in refuting them, it follows that the first position assumed in this pamphlet, viz. that the delegates from the presbyteries within the bounds of the four synods were fully entitled to their seats, is overturned. Their claim rests on the assumed invalidity of the resolutions of 1837; and the charge of invalidity rests on these arguments.

The second position is, that the Assembly has no right to decide whether a commissioner is entitled to his seat or not; that is, it has no right to judge of the qualifications of its own members. Does this mean that the Assembly has no right to decide whether a delegate comes from a body qualified to send him, but is bound to admit him to a seat, no matter where he comes from? This is surely too absurd to be what is meant; and yet this is all the judging of qualification involved in the present case. It is not a question whether a commissioner was duly elected; or whether he himself is what he purports to be, a minister or elder. The question is not about his personal qualification; but about the right of the body giving the commission. Has the Assembly no authority to decide this point? Must it allow any and every man, from Europe, Asia, Africa, or America, who may come with a commission, to take his seat as a matter of course? If a man were to rise and say to the moderator, Sir, I hold in my hand a commission from the presbytery of North Africa; does the Assembly forfeit its existence by telling him, Sir, as we know no such presbytery, we cannot receive you? A cause must surely be desperate that requires

such a right to be denied to any representative body upon earth.*

It is essential to the existence of the Assembly that it should have the right to decide whether the body giving the commission has authority to do so or not. And from this decision there is no appeal, but to the churches. Should they disapprove of the decision; they will send up delegates the next year who will reverse it. If they sanction it; the aggrieved party has no resource but submission, or revolution.

We have now attempted to demonstate that the principles on which our brethren professed to act in their separate organization are unsound and anti-Presbyterian; that the delegates from presbyteries from within the bounds of the four synods, were not in the first instance, entitled to their seats; and that the Assembly had a full right to decide whether they were thus entitled or not. If this be so, all ground for this separate organization is removed, and it must be viewed as an open secession from the church. We now proceed to prove that admitting all that is claimed, these brethren failed, in several essential points, in carrying out their own principles.

The first mistake was as to time. Professing to act upon the principle that if a portion of the commissioners were refused their seats, the remainder could not legally organize as the General Assembly, they did not wait until the refusal had taken place. The *casus belli* had not occurred. The only occasion which called for, or admitted of the application of their principle had not presented itself. No commissioner had been refused his seat, at the time the separate organization commenced. All this will be evident from a recital of the rule which the constitution prescribes for the organiza-

* We must not be understood, however, as admitting that the Assembly has no right to judge of the qualification of delegates from presbyteries in good standing. This Reviewer says, that the commission is the only sufficient evidence of the requisite qualification of the delegate, and must in all cases be admitted, as it must be correct unless the officers of the presbytery certify to "palpable lies." We think this language very incorrect. He forgets how often Congregational laymen have appeared in the Asssembly bearing commissions declaring them to be ruling elders. This is certainly very wrong, but we should not like to adopt the language of this writer on the subject. Should a man with such a commission, rise and tell the Assembly that he was not an elder, there can be no question of the right of that body to say to him, then you are not entitled to a seat here. This question, however, except in the form stated above, is not involved in the present case; and we therefore dismiss it.

tion of the Assembly. That rule is found chap. 12, § 7, of the Form of Government. "The General Assembly shall meet at least once a year. On the day appointed for the purpose, the moderator of the last Assembly, if present, shall open the meeting with a sermon, and preside until a new moderator be chosen. No commissioner shall have a right to deliberate or vote in the Assembly until his name shall have been enrolled by the clerk, and his commission examined and filed among the papers of the Assembly." In order then to a proper organization, it is necessary that the moderator of the last Assembly, if present, should preside, until a new moderator is appointed; and secondly, that the commissions of the delegates should be examined and their names enrolled by the clerk. The constitution formerly directed that the commissions should "be publicly read;" but in 1827 the presbyteries sanctioned the striking out of those words, and the insertion of the word "examined" in their place. It was then adopted as a standing rule that the moderator should, immediately after the house was constituted with prayer, appoint a committee of commissions, to whom the commissons were to be delivered; and the Assembly was then to have a recess to allow the committee time to perform this duty and to make out the roll. See p. 40 of the Min. for 1826. In the year 1829, however, it was resolved that the permanent and stated clerks be a standing committee of commissions, to whom the commissions were to be delivered for examination before the opening of the Assembly. See Min. for 1829, p. 384. These clerks are therefore entrusted by the constitution, by the standing rules, and the uniform practice of the house, with the formation of the roll. They are to report the names of those whose commissions are unobjectionable, who "immediately take their seats as members;" and they must further report on those commissions which are "materially incorrect" or "otherwise objectionable." See Min. for 1826, p. 39. The house is then to determine, whether the persons bearing such commissions are entitled to their seats or not. It was therefore in obedience to the constitution that Dr. Elliott, the moderator of the Assembly of 1837, took the chair, and presided until a new moderator was chosen. He decided with obvious propriety that the first business was the report of the standing committee of commissions on the roll. This decision was submitted to. The regular course of proceeding was continued by the call, on the part of the moderator, for any

other commissions which might be in the house. These were to be handed to the committee, examined, and if found regular, the delegates presenting them were to be enrolled, and take their seats. When this was done, and not before, those commissions which were incorrect, or on any ground objectionable, were to be taken into consideration, and the house were to decide whether those who bore them were entitled to a seat or not. This is not only the uniform and constitutional mode of proceeding, but it is obviously proper and necessary. Until the roll is so far completed as to include the names of all the delegates present whose commissions are unquestioned, there is no house legally constituted; those who have a right to deliberate and vote are not legally ascertained. Until this process therefore was gone through with, the claims of those whose commissions had been rejected by the clerks could not be legally considered or decided upon. It was right then, when the moderator called for commissions, for Dr. Mason to rise and present those which he actually offered; and it was right in Mr. Squier to present his own. It was however obviously correct, on the part of the moderator, to say to these gentlemen, that as the clerks have rejected these commissions, the question whether they are to be received or not cannot be submitted to the house, until the house be ascertained; until it is known who are entitled to deliberate and vote upon the question. Instead of submitting to this decision, these brethren proceeded as though the question had been decided against them, and the house, or the enrolled commissioners, had refused to receive the delegates in question. Here was their first fatal mistake. However improper the conduct of the clerks may have been, the house was not responsible for it until they sanctioned it. The Assembly had no official information of the ground of the rejection. They might have disapproved of it, and admitted the commissioners to their seats. The decision of the clerks is not the decision of the house; it merely suspends the right of the member until the house has decided on his claim. There was no cause of complaint, therefore, until the enrolled members had decided not to receive the commissioners from the four synods. This they never did; and consequently the *casus belli* did not occur. These brethren did not wait until the event took place, on which they rest the justification of their whole proceedings. Their proper course was to wait until the roll was made out, and then move that the clerks be directed to add to it the names of the

commissioners from the four synods. Had this motion been rejected; then the case would have occurred contemplated in their plan of operations. As it was, they acted before the occasion arrived; and before a single commissioner was refused his seat. This single mistake would of itself vitiate all their proceedings. If the moderator's decision was correct, that the time had not arrived when Dr. Mason's appeal could be properly submitted to the house, then all that followed was irregular and illegal.

It may be said that this view of the case gives the clerks a very dangerous power. It is a sufficient answer to this objection, that it is a power given by the constitution; and that it is one which they have always heen permitted to exercise. Every year there are commissioners whose names the clerks refuse to enroll; and their decision is considered final until the house has considered and determined on the subject. Besides, this power is guarded from abuse, as far as the case admits of. From the decision of the clerk, refusing to enroll a member, an appeal lies to the Assembly; and if the Assembly refuse to receive him, there is, in most cases, no redress. If the ground of this refusal be the irregularity of the commission, the presbytery suffers from the negligence of its officers. If the ground is the want of proper authority in the body giving the commission, there is a further appeal to the churches; or it may be, to the civil courts.

It is further objected that the right "of a commissioner to deliberate and vote was perfect the moment he presented his commission to the clerk for the purpose of having his name enrolled;" and the decision of the supreme court in the case of *Marbury* vs. *Madison* is appealed to in support of this position. Suppose this be admitted, how does it help the case? The clerks may have done wrong in refusing to report the names of these commissioners, but the house had not yet refused to acknowledge their right to deliberate and vote. It had not acted on their case at all; it had done neither right nor wrong about the matter. We deny, however, the position itself. It matters not how the general principle on which it is founded may be decided; our constitution declares that the presentation of the commission is not enough. Before a delegate can deliberate and vote, his name must be enrolled by the clerk; until this is done, the right, however perfect it may be, is not legally ascertained or established. We cannot see, however, that this has any bearing on the present case; as the question is not about the right of these commissioners, but as to the fact whether it was denied them?

We maintain that it was not; that these brethren had not patience to wait till the denial had taken place. Up to the time of Mr. Cleaveland's nomination of Dr. Beman, there had been no violation of the constitution; every thing had proceeded in the prescribed and uniform course; and consequently no pretext had yet been afforded for the revolutionary measures then adopted.

In the second place, Mr. Cleaveland utterly failed in making the right motion, and in assigning the right reason for it. The error here is so glaring that we are at a loss to understand what he intended to do. He seems to have gotten off the track entirely. Mr. Cleaveland rose and stated, "That as the commissioners to the General Assembly for 1838, from a large number of presbyteries, had been advised by counsel learned in the law, that a constitutional organization must be secured at this time and in this place, he trusted it would not be considered as an act of discourtesy, but merely as a matter of necessity, if we now proceed to organize the General Assembly for 1838," &c. What can this mean? To suppose that he intended merely to inform his audience that "counsel learned in the law" were of opinion that the Assembly must be organized at that time and place, is absurd. No one doubted that point; and no legal counsel was necessary to decide it. This, therefore, can hardly be what was intended, and it certainly is not what was said. The only other interpretation which the words will bear is, that Mr. Cleaveland acted as the organ of a portion of the commissioners, and of a portion only. This is the natural and almost necessary interpretation. The legal advice was given "to the commissioners from a large number of presbyteries," and agreeably to this advice Mr. Cleaveland says: "WE (these commissioners) now proceed to organize the General Assembly!" Is it any wonder, after this formal announcement, that a portion of the commissioners were about to organize the Assembly, that the rest looked on in silent amazement? And are the majority to be held to have forfeited all their rights by this silence, when distinctly warned that it was a proceeding in which they had nothing to do? They were addressed as spectators; and told by Mr. C. what he and his friends were about to do; so that it was in the very form of it, a separate organization, from the first, by a part of the commissioners.

This, however, is not the only extraordinary blunder, at this stage of the business. Dr. Elliott was in the chair. He

was the constitutional moderator, and had been so regarded and acknowledged. Considerable progress had already been made in the organization of the house. Yet Mr. Cleaveland and his friends begin *de novo;* as though nothing had been done, and as though the moderator appointed by the constitution was not present. Can any sane man believe such a proceeding to be constitutional and regular? It may be said that the moderator, by refusing to put to vote Dr. Mason's appeal, forfeited his right to his seat. To this we answer, first, that this decision was obviously constitutional and proper. Secondly, that assuming it to be incorrect, it could not work a forfeiture of the chair. Thirdly, that even admitting the chair to have been forfeited, it could not be vacated without a direct vote of the house. The whole history of deliberative assemblies may be challenged to produce an instance in which a moderator was held *ipso facto* to have vacated the chair by an erroneous decision. If the moderator failed in the discharge of his duty, there ought to have been a distinct motion, that for *that reason* he leave the chair. He could not be gotten rid of without a direct vote or judgment of the house. He could not be simply *ignored.* Yet Mr. Cleaveland chose to take, on his own authority, the forfeiture for granted, and without asking the Assembly if they agreed with him, proceeded precisely as though the moderator, appointed by the constitution, was not in existence. He failed therefore in making the right motion, and in giving the right reason for it. Instead of taking up the business at the stage at which it had arrived, he began *de novo.* Instead of moving that the moderator leave the chair, he acted as though there was no moderator. Instead of assigning, as the ground of his proceeding, that the moderator refused to perform his duty; he gravely informed his hearers that he and his friends had been informed that they must organize the Assembly at that time and place.

Dr. Elliott, therefore, being the legal moderator up to the time of Mr. Cleaveland's motion, was not gotten rid of by that motion. These brethren did not even move to get rid of him, but proceeded to organize the Assembly *de novo* among themselves. This error, also, if it stood alone, would vitiate all their proceedings. Dr. Elliott not being displaced in a constitutional manner, remained the legal moderator of the Assembly, and, of course, the body over which Dr. Beman presided was not the Assembly.

This matter may be presented in somewhat different light.

If Dr. Elliott was the lawful presiding officer, that is, if the chair was not vacant at the time of Mr. Cleaveland's motion, then that motion was never legally put to the house. No member, while the moderator is in the chair, has a right to put a question or call a vote. This is the constitutional prerogative of the moderator. See ch. 19, § 2. And if the question was not legally put to vote, it was not legally carried. Again, if Mr. Cleaveland was out of order, then the majority who declined voting on his motion cannot be legally held to have assented to it. Silence is assent only when the question is legally presented.*

Should these unconstitutional and irregular proceedings receive the sanction either of the church or of civil courts, any fourteen commissioners may get possession of the church just when they please. One of them has only to take for granted that the moderator, at the time of organizing the Assembly, does not do his duty, and without asking the house whether they agree with him, or moving that the moderator leave the chair, he may call out 'I move Mr. A. B. take the chair;' and if the rest of the body, knowing him to be out of order, disregard, as in duty bound, his motion, he may put it to vote and declare it carried; and then hurrying through the usual routine, move off amidst the applause of the by-standers, shouting 'We are the true General Assembly of the Presbyterian church.' It is humiliating that grave and venerable men, contrary to their better judgment, as we believe, should have lent themselves to a scheme in every view so discreditable.

How much then must be taken for granted in order to establish the claim of the new Assembly. We must assume, 1. The truth of the new theory of Presbyterianism. 2. The consequent invalidity of the acts of the Assembly of 1837,

* In the midst of these complicated and fatal mistakes, it is hardly worth while to mention, that Mr. Cleaveland, according to the testimony of numerous witnesses, forgot to reverse the question on his motion; he called for the *ayes*, but forgot to call for the *noes*. Had he, therefore, been ever so much in order, he gave those opposed to his motion no chance to express their dissent; and consequently had no right to declare it carried. Besides, the majority of those who voted for Dr. Beman had, in all probability, no right to a voice in the matter. There were perhaps about sixty enrolled members, about forty to fifty delegates from the four synods (who, not having been enrolled, had, at that time, at any rate, no right to vote); and an indefinite number of by-standers who joined in the shout. How many spectators voted can never be ascertained, but we are assured that the fact can be legally proved with regard to a number of individuals. We lay no stress, however, on these allegations. There are irregularities enough without having recourse to contested points.

and the unimpaired rights of the commissioners from mixed presbyteries. 3. That the Assembly has no right to judge of the qualification of its own members, but must admit every man who comes with a commission, no matter where he comes from. 4. That the refusal of the clerks to enroll a member is in law the refusal of the house, before the house sanctions it. 5. That the moderator was wrong in deciding that a motion to add certain names to the roll, could not be properly considered, until it was ascertained who were entitled to deliberate and vote on the question. 6. That this mistake justly incurred a forfeiture of the chair. 7. That the constitutional moderator may be legally gotten rid of, by simply assuming that the chair is vacant. 8. That Mr. Cleaveland acted legally as the organ of the whole house, when he announced, in the name of certain commissioners, that they were about to proceed to organize the Assembly, although that organization was already nearly completed. 9. That two-thirds of a deliberative body are to be held in law to have voted in favour of a motion, on which (admitting that the opportunity was afforded them) they declined to vote at all, because they believed it was not legally before them. These are not nine independent supports, of which, if one fail, another may hold good. They are each and all absolutely necessary. If any one of these postulates be unsound, the whole cause is ruined. We do not wonder that one of the first legal authorities in the country should say, that if these gentlemen had studied seven years to put themselves in the wrong, they could not have succeeded more effectually.

We shall say little as to the means which our new school brethren have adopted to establish a claim founded upon such anti-Presbyterian principles, and such preposterous proceedings. Their Assembly elected six trustees in place of six of the old members of the board. The latter declined yielding their seats to the new applicants. Whereupon the new trustees apply to the court to issue a writ to the old ones, to show by what warrant they continue to act as trustees of the General Assembly. Should the court decide that they have no sufficient warrant for thus acting, of course their seats must be yielded to their competitors. If the next new school Assembly displace six more trustees, and fill the vacancies with their own friends, they will have all the funds of the church.

Besides these suits, there are others of a much more singular character. Miles P. Squier, for example, sues John M'Dowell for a trespass in excluding his name from the roll

of the General Assembly, whereby he was deprived of his civil right of voting for trustees. If however the new school Assembly is the true General Assembly, Mr. Squier's name was not excluded from the roll; and he was not deprived of the right in question. Dr. M'Dowell merely left his name off of the roll of a body, which Mr. Squier pronounces to be a company of seceders; and for this he sues him.

Still more extraordinary are such cases as that in which Philip C. Hay sues William S. Plumer for a trespass in voting to deprive him of his seat in the Assembly of 1837.* The offence charged is a vote given in an ecclesiastical body. The only penalty which a court can inflict is fine or imprisonment. These then are applications to the civil authority to have men fined or imprisoned for votes given in an ecclesiastical judicatory. These suits we regard with the deepest disapprobation. About the former (i. e. those between the trustees) we have no disposition to complain. The latter we cannot but consider as a base abandonment of the most important principles of religious liberty. The very idea that a minister of the gospel should be thrown into prison for a vote in a church judicatory, is revolting to every honest mind. The principle on which these suits are founded, if once sanctioned, would subject all church discipline to the review of the civil courts, and expose those who administer that discipline to civil pains and penalties. Any minister who may be suspended or deposed forfeits the same civil right, for a trespass on which these suits are brought. And any excommunicated church member may, on this principle, sue his pastor for slander, as has actually happened already in Pennsylvania. It would thus be left to the courts of this world to determine what shall be the standard of morality or orthodoxy in the Christian church; and their decisions would be enforced by fines and imprisonment. It is no excuse for this conduct that these gentlemen do not wish to see the men they sue actually incarcerated. The offence consists in giving their sanction, the sanction in the present case not of Miles P. Squier, or Philip C. Hay, or Judge Brown alone, but of the whole party, to a principle so dangerous to the independence and purity of the church. The offence is the greater because it is perfectly unnecessary. These suits, if successful, rectify nothing. The brethren sued would be

* We are not sure that we have the words of these writs; our object is simply to state the nature of the actions.

punished, and there would be an end of the matter. We have no reason to complain, and do not complain, that those who think they have a right to hold and administer the corporate funds of the church, should take all proper means to assert that right. This the suits against the trustees would effectually do, and at the same time secure all the moral influence that might arise from the judgment of a civil court in favour of the opinions and standing of the new school party. But these latter suits can accomplish no valuable end, while they are founded upon a principle against which every friend of religion and morality is bound to protest.

We have extended so far our remarks on the organization of the Assembly, that we have little space left for the consideration of its proceedings. Its most important measure was the passage of certain acts proposed by the committee on the state of the church. Various objections have been strenuously urged against these acts from different quarters. The most important are the following. Objection is made to their authoritative character. So far as this objection is founded on the assumption that the General Assembly has no legislative power, it is abundantly answered by the proofs already adduced, from the standards and history of the church, that this power, within the limits of the constitution, does belong to the highest judicatory, and has always been acknowledged and submitted to. So far as it relates to specific enactments, its validity depends of course on the question whether they, in any case, transcend the limits which the constitution affixes to the power of the Assembly. The right of the Assembly, which is here exercised, of directing presbyteries how to act in certain cases, cannot be questioned; and even its right to form presbyteries the conductors of this Journal have never denied, and our new school brethren having claimed and exercised it, cannot now consistently gainsay it. It does not appear, however, that this power is directly asserted in any part of these acts, at least in any case where a synod could be employed. In § 1 of act 2, those ministers and churches within the limits of the four synods, who shall prefer to adhere to the Presbyterian church, are directed "to take steps for the immediate organization of as many presbyteries" as may be necessary or convenient; and conditional directions are given as to their territorial extent. In § 2, the ministers and churches intended are directed to meet at such time and place as may be agreed upon by those to be embraced in the same presbytery, "and then and there constitute themselves

in a regular, orderly, and Christian manner into a presbytery under the care of the General Assembly," &c. It will be readily admitted that in ordinary circumstances it is not competent for a number of ministers and churches "to constitute themselves" into a presbytery. But the circumstances of this case are peculiar. The body of the ministers and churches, as now organized, in a certain region, have united with others in forming a new denomination, leaving individual churches and ministers scattered about, subject to no presbytery or synod in connexion with our body. This is a case for which the constitution makes no provision, and for which the highest judicatory, *ex necessitate rei*, was bound to provide. At any rate, it is an exercise of power which does no one any harm; it is extended over those only who prefer to adhere to us, and interferes with the jurisdiction of no synod in connexion with the General Assembly.

A second objection is that the Assembly declares, in case of the majority of a presbytery seceding, that the minority, if sufficiently numerous to perform presbyterial acts, "shall be held and considered to be the true presbytery." This objection appears to us very unreasonable. The measure complained of is the unavoidable consequence of the separate organization of our new school brethren. They knew that the separation, would not and could not be confined to the General Assembly; but that it must run down through synods, presbyteries and churches. It is their own doings of which they complain. They form a new General Assembly; one portion of a presbytery acknowledges its authority, another adheres to the old body. They acknowledge their portion as the true presbytery; we acknowledge ours. Is there any thing to complain of in this? Is it not the necessary result of their own conduct? Are the minorities of presbyteries in every part of the church, which conscientiously believe them to be wrong, bound to adhere to them, and to be separated, against their will, from those whom they believe to be right? That there will be much evil attending this painful process of division, there can be no doubt. But who is responsible for it? An overture for an amicable division was made by the old school party at the Assembly of 1836, which was rejected by the opposite party. It was renewed in 1837 on terms admitted to be just and liberal, but was again rejected. This mode of division, and on the same terms, was at the option of these brethren in 1838, but they preferred a violent disruption, attended by all the evils of

which they now complain. It is their own work. It may be said, they must either take this course or submit to injustice. There was no injustice done them in requiring them to separate from Congregationalism. The right of the Assembly to make that requisition is now almost universally admitted. Had it been submitted to, the standing of these presbyteries would have been unimpaired. Even admitting the requisition to be unjust, it furnishes no justification of their subsequent course. It is much better to submit to wrong, than to do wrong. The responsibility of the evils of a violent division must rest upon them.

Thirdly, we have heard it objected to these acts, that the Assembly encourages minorities of congregations to set up unreasonable and vexatious claims to church property. The occurrence of these claims is one of the evils incident to the mode of division which has been adopted. But we understand the Assembly as discouraging them to the extent of its power. It tells the people that great liberality and generosity should mark their conduct, and "especially in cases where our majorities in the churches are very large, or minorities very small." This we understand to be an exhortation to small minorities to forego their claim to the property, rather than to contend about it; and to majorities liberally to share with the minorities which may choose to go out from them. Let it be considered that there are two sides to all these cases. It is just as likely that small minorities, acknowledging the new Assembly, will disturb the peace of churches, as that minorities on the other side will prove unreasonable. It must rest with the disposition of the people themselves, how much contention there shall be. That there should be contention our brethren determined, by their separate organization, and by instituting civil suits. We deny that the old school party have ever evinced a mercenary spirit in this controversy. They have contended for their truth and order, and have ever evinced a readiness to accommodate questions of property in the most liberal manner.

The most serious objection to these acts, however, is, that they establish a new test of orthodoxy and ecclesiastical communion; that they require every presbytery to approve of the acts of the Assemblies of 1837 and 1838, as the condition of recognition as a constituent part of the church. We readily admit that if this interpretation were correct, the act complained of would be unconstitutional and tyrannical. The Assembly has authority to see that presbyteries observe the

constitution, but it has no right to prescribe new tests of any kind; much less to demand an approval of acts which it is perfectly competent for subsequent Assemblies to repeal or disavow. But this interpretation is not correct. It is not the necessary meaning of the words used, and was repudiated by the advocates of the measure on the floor of the Assembly. Such, at least, is the testimony which we have received on the subject; which, in absence of all report of the debates, is our only source of information. We regret the use of the language employed, because it is ambiguous; but as it was designed to be understood, it expresses nothing to which any reasonable objection can be made. These acts declare that if a presbytery is willing, "upon the basis of the Assemblies of 1837 and 1838, to adhere to the Presbyterian church in the United States," the conduct of its delegates in seceding shall be no prejudice to it. That is, if they are willing to adhere to the church as it now exists. The opposite idea is, that they should adhere to it only upon the condition of the repeal of those acts, and the re-union of the church. Those acts resulted incidentally in giving the Presbyterian church a new form, by leading to the secession of a large portion of it. Is the part which remains the true church? That is the question. Those who acknowledge it as such, the Assembly offers to acknowledge. Does not the new school Assembly act on the same principle? They acknowledge those who acknowledge them; and must renounce those who renounce them. The expression complained of does not establish a new test. It simply designates the old Assembly; or rather the church which that body represented. It requires that those who wish to belong to the church as at present constituted, should regard it as the Presbyterian church of the United States, and not as a company of seceders. This requisition cannot be a ground of complaint. The acknowledgement is involved in the very act of adhering, which is all that is required.

We cannot but hope, that as the prejudice and ill-feeling excited by misrepresentation and party spirit subside; and as correct views of the real nature of Presbyterian government are extended, the great majority of our church will see that the principles advocated by the old school party, are the true principles of our fathers, and afford the only security, under God, for the preservation of the purity and peace of the Presbyterian church.