

John Adam

The Action of the
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in
Professor Smith's Case
Explained and Vindicated.

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THE ACTION OF THE
COMMISSION OF ASSEMBLY
IN
PROFESSOR SMITH'S CASE

EXPLAINED AND VINDICATED.

BY THE
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GLASGOW.

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THE ACTION OF THE COMMISSION OF ASSEMBLY.

IN ordinary circumstances I should not have thought of entering on any public defence of the Commission's action. It has to come before next General Assembly, and be there judged of in the regular constitutional course. But it is well known that it has been violently assailed. No weapon has been spared, and no quarter has been given. We have had high-pitched overtures in Presbyteries, and combinations of office-bearers and others outside our Church courts. We have had manifestoes and memorials, speeches at meetings, and letters in the newspapers to an inordinate and wearisome extent. These proceedings are alike unusual and unseemly. They have a tendency to prejudge and prejudice the case before it is fully heard and competently tried. They are fitted to commit men to a certain line of view and action before they are in possession of the materials for arriving at a calm, wise, and impartial conclusion. Some of them are too open to the very charge which is brought against the decision to which they relate—the charge of being unconstitutional. Nothing but a strange excitement could have blinded so many generally sensible and candid men to the impropriety of the things which have been spoken and done in condemnation of the Commission's procedure.

Those opposed to these extraordinary utterances and movements have to a great extent been silent. They have been so, not assuredly because they have had nothing to say, but because they felt that there should have been so little need to say anything, and from a desire to lend no sanction of theirs to an agitation so irregular and injurious. But as many misapprehensions are abroad, and as it is manifest that some of those whose voices have been the loudest do not understand even the merest elements of the questions with which they have been dealing so confidently, I have been induced to place before those who really wish to be informed on the subject, as clear and correct a view as I can of the matter now in dispute.

I shall lay down and establish three positions.

I.

The Commission had the power to deal with Professor Smith's case in the manner it did.

This has been called in question. It has been stoutly, vehemently denied. It has been so by Professor Smith himself, and by a host of his supporters, lay and clerical, in reasons of dissent, overtures, letters, speeches—in every variety of form and expression imaginable. The decision come to by the Commission has been pronounced *ultra vires*, unconstitutional, incompetent, null and void, with much more of a similar strain. It has been represented as tyrannical, subversive of all law, and placing in peril the rights and liberties of every office-bearer and member of the Church. No doubt a great change has recently appeared. Some wisdom has been learned. The toning down has been remarkable. The elders' manifesto, as lately issued, has had the central and forcible *ultra vires* clause eliminated. The Aberdeen overture, which must

have been designed to strike the key-note and be a model for all others, has been openly withdrawn, and a new one substituted, in which there is a similar abandonment of the high constitutional ground. The general way now is to say that the Commission's action *appears* to be so and so—has this or that aspect or tendency, and any charge of violating fundamental law and order is rather insinuated than asserted, timidly conveyed in round-about or ambiguous phrases instead of being positively and plainly stated. It may therefore seem hardly necessary now to argue the question. Practically, a retreat has been beaten, and a defence of the position assailed may be looked on as superfluous. But as the idea has been largely and advantageously made use of, as it yet lingers in certain quarters, and as the minds of many may not be clear regarding it, a brief explanation may still be of service.

Let us first understand what is really meant by anything being *ultra vires*. It is necessary to be elementary, for it is perfectly certain that a number of persons new to the ecclesiastical arena have been tossing about the expression without having even a faint conception of its true import. Well, that is *ultra vires* which a court or constituted body has no right to do in virtue of the authority properly belonging to it; which lies wholly beyond its legitimate sphere or assigned province. The thing in its very nature, and wholly apart from times and circumstances, cannot be done without breaking through prescribed limits, and usurping a power not lawfully possessed. Clearly, then, to say, as is often done, that while the Commission has without doubt interfered in a similar way before, this or that other feature of the case was different, is no evidence or even presumption that in the present instance the act was *ultra vires*; for the question is not, was it wise or expedient, but was it competent—was it or was it not an act which, essentially regarded and apart from all mere details, all circum-

stantials, could be done in the exercise of a legitimate authority? Did the Commission do aught open to a charge of this kind?

To answer the query we must look at the ecclesiastical statute under which its proceedings were conducted. The Act runs as follow:—"And the General Assembly fully empower the said Commission, or their quorum above mentioned, to cognosce and finally determine as they shall see cause, in every matter referred to them, or which shall be referred to them, by or in virtue of any act or order of the Assembly; and to do everything contained in and conform to the instructions given, or to be given, by the Assembly; *and to advert to the interests of the Church on every occasion, that the Church do not suffer or sustain any prejudice which they can prevent, as they will be answerable*; provided always that this general clause be not extended to particular affairs or processes before Synods or Presbyteries, *that are not of universal concern to, or influence upon, the whole Church.*" It will surely be admitted that Professor Smith's case affects the interests of the Church; that there was a danger of her suffering prejudice in connection with it; that it belongs to the class of affairs which are of universal concern to and influence on the whole Church; and, consequently, that it fell within the province of the Commission as here defined by the Act of Assembly. This was recognised by *the Presbytery of Aberdeen*, which transmitted to it Professor Smith's letter, and by *the College Committee*, which declined to take action in the matter because of the expected interposition in this quarter.

It will be urged in reply, We admit it had a right to look into the affair, a right to deal with it to some effect, but we deny that it was entitled to instruct Professor Smith to abstain from teaching. Here was a virtual suspension, one in reality though not in name, and so an act beyond its province or power. This is what we challenge, what we condemn. Well, let us look at the objec-

tion. The Commission judged that such a step was necessary for the protection of the interests entrusted to its charge, as it should be answerable—necessary to prevent the Church from suffering prejudice in character and position, and, therefore, that however strong it might be, and however adversely it might be viewed, the step should be taken in discharge of the solemn duty imposed by the Assembly. And there were plenty of precedents. Not to go farther back than the 'Ten Years' Conflict, did not the Commission of the Assembly, 1839, pass a sentence, not of virtual, but of real and formal suspension, on the seven rebellious Strathbogie ministers? It will be said, But the case was expressly remitted to it by the preceding Assembly. No doubt it was, but there was no warrant or direction given to do the extreme and extraordinary thing that was actually done, for nothing of the kind was or could be contemplated at the time the remit was made. And it is eminently worthy of notice, that Dr. Candlish, in moving the sentence, based it on the general authority above referred to, and not on any particular instruction. The motion, as bearing on the Presbytery, thus began: "And the Commission, considering that they are specially enjoined by the General Assembly to advert to the interest of the Church on every occasion, that the Church and present establishment thereof do not suffer or sustain any prejudice which they can prevent, as they shall be answerable" The Culsalmond case leaves not even a shadow of ground for the objection. Mr. Middleton was prohibited "from officiating and administering ordinances in said parish," though the matter never had been before the Assembly, for the presentation was not issued until after its sittings had closed. It is impossible then to allege that the Commission, in that instance, acted under any special instructions. But, it is replied by Professor Smith and others, Mr. Middleton was not properly minister of Culsalmond at all—he was an intruder, and to be dealt with accordingly. This was

precisely the thing in dispute between the civil and ecclesiastical courts, and between the Moderate and Evangelical parties within the Church. You justify the proceeding by the assumption that the Commission was in the right; but that will not do, that does not affect the question of power or competency. Was the action a legitimate one; was it so in its own nature as done by the Commission in fulfilment of its obligation to protect the Church's interests? Had it a warrant to prohibit Mr. Middleton *without trial* from exercising the functions of the ministry in that parish, by virtue of its proper authority, whatever the character of his claim. The present inquiry is not, Was it right or wrong in so acting? but it is, Had it the power?

The allegation now generally made is that the late Commission, by doing what it did, set aside the provisions of the Form of Process—trampled on all the ordinary rules and methods of proceeding in such matters. We are told that the Presbytery has been violently ejected from its constitutional place, and has had its functions usurped. The call is for a libel, for the tabling of regular charges, and for the sifting and disposal of them in a strictly legal manner. Now we readily admit that discipline must be exercised according to the order laid down in the Form of Process; that its directions must be carried out in their real spirit and intent. But our contention is that, properly speaking, Professor Smith has not yet been put on trial. No action of a truly disciplinary nature has been so much as begun. The Commission appointed to watch over the interests of the Church has interposed in an *interim way* until the Assembly shall decide on the course ultimately to be followed. That is really all. What has been done has been of the nature of prevention, not of punishment. It has been simply precautionary. Is that an unwarrantable, or at least a very nice distinction? It will be found laid down expressly in the Marnoch case; for Dr. Candlish

said, "The measure which I propose is strictly preventive." It will be asked if to forbid Professor Smith's teaching be not really to inflict a penalty, to pass and execute judgment. It will be called quibbling, or worse, to distinguish between that and discipline, between that and punishment. What! so deal with a man even before he has been tried, according to the present argument. But is not that very extraordinary thing done in other cases—done every day of our lives? When a person is accused of some crime, though he may ultimately be found perfectly innocent, he is, in the interests of justice and of society, not only charged with his offence before a judge, and afforded an opportunity of saying anything he thinks fit on his own behalf, but he is generally placed in confinement while preparation is being made for his trial in the regular manner. In the same way, when a government or other official falls under suspicion of malversation or serious misconduct of any kind, is it at all unusual for him to be suspended from the discharge of his duties in the meantime, until a full investigation has taken place by the proper authorities, and he is either convicted or has his character cleared? The question is not, Was this instruction really necessary in Professor Smith's case? but it is, Was it competent for the Commission to issue it, seeing, wisely or unwisely, the opinion was entertained by that body that such a step was called for in the circumstances?

More need not be said on this part of the subject. The truth is that the ground taken up against the Commission is the old Moderate one, with which those who fought in the Ten Years' Conflict were abundantly familiar. Much of the most momentous work of that eventful time was done by the Commission, and to lower its place, to deny its power, is to throw discredit on the noble contendings of our Disruption worthies; it is to play into the hands of the enemies, past and present, of those liberties which our fathers so nobly asserted and transmitted to us as a priceless inheritance. Not a few are showing a resem-

blance they little dream of to the Cooks and Bryces of a former period, who sought to bind on the Church and land the yoke of an Erastian supremacy, and with that view laboured to depreciate and subvert spiritual authority by bringing charges of violence, cruelty, and injustice against the action taken by the Ecclesiastical Courts; and, not least, against that carried out by the Commission of those days.

II.

The Commission was called on to exercise as it did the power of which we have proved it to be possessed.

This is another matter. It relates to the propriety, not the competency of the procedure. Was there good reason for acting in such a manner? The possession of power and the exercise of it are different things. The former may admit of no challenge, while yet the latter may admit of no defence. This leads us directly into a consideration of the circumstances which preceded, and, it is believed, justified, demanded the effective interposition of the Commission. We must thus approach, and, so far, touch on the merits. Attempts have been made to shut out these, and insist on the question of the action complained of being dealt with apart from any handling of Professor Smith's views and conduct. That would, of course, be extremely convenient for those who wish to gain the support of parties likely to be startled and alarmed by the opinions published, aggravated by the time and manner in which they were published, but who may quite naturally be in doubt and difficulty as to matters of ecclesiastical order. The cry of illegality is in danger of producing less effect when the claims of Divine authority assert themselves, and so these claims must be kept as quiet and put as much aside as possible. It is to be feared that not a few are being thus drawn into

supporting a cause with which they have no real sympathy, and they may afterwards have occasion bitterly to repent their participation in the present outcry. The exclusion referred to may be advantageous; but what can be more absurd? We are to judge of the Commission's proceedings without taking into account the origin and cause of them—the state of matters out of which they arose, and by which alone they can be explained and vindicated. What, then, were the antecedent circumstances?

By a majority of seven, last General Assembly sent Professor Smith back to his chair, and it is well known that the majority would have been much larger in the opposite direction, had a considerable number of members not abstained from voting, because they wished, not a more favourable course to be followed, but the very reverse. The motion carried involved censure, for it declared Professor Smith “blameworthy for the unguarded and incomplete statements of his articles, which have occasioned much anxiety in the Church, and given offence to many brethren zealous for the honour of the Word of God.” It directed that he should be solemnly admonished by the Moderator from the chair, which having been done, he voluntarily both acknowledged that “blame” rested on him, and promised to show in the future his profiting as a teacher by the lesson he had received. Many were far from satisfied with the decision; they thought it fell a long way short of what faithfulness required, but they acquiesced, at least submitted, and did what they could to allay excited feeling. Well, hardly had the members of Assembly returned to their homes when new articles appeared—one of them, in particular, being of the very same character as that which had previously created so much alarm, and led to so much trouble. It will not be denied that it was a following up of the former one, and was at least a repetition of all that was most objectionable in that production. The

Church was immediately pervaded by the old anxiety and apprehension. The case was taken up by Presbyteries, and memorials to the Commission were adopted. The previous painful state of matters had returned, and in an intensified degree.

Is it alleged that the Assembly's decision should not have been disturbed, because the offence was really the same as that for which Professor Smith had been already tried? No; it was a new offence in the form of a repetition of the old, after his profession and promise to the contrary. When discipline has been exercised in any case, does that cover a subsequent lapse into the former error? No, it constitutes an aggravation, not an alleviation, much less a protection. Nothing which had been done stood in the way of its being taken up and dealt with; rather, as Dr. Rainy said in the August Commission, did it constitute a fresh challenge to the Church to face and probe the matter more thoroughly than ever. Oh, but it is replied, the obnoxious article was written before the Assembly, though it was not published until afterwards. At all events, by no fault of that court, the article was not under its cognisance at the time it disposed of the case, and so the author cannot be held to have been in any way exempted from responsibility and dealing by that circumstance. But the defence is really no defence; on the contrary, it is a great aggravation of the evil. When did Professor Smith pen the article in question? It was before he had any such shelter as he thinks is to be found in the Assembly's ultimate finding; it was when the main decisions had been all against him in connection with the process which was running its course; yes, it was at the time when he was undergoing trial, when he had accepted service of a libel. It was then precisely that he wrote for publication an article containing a repetition of the views for which he was under disciplinary dealing. This was of itself a grave offence. It has a moral character which I refrain from

characterising. Seeing it had a great bearing on the case which came before the Assembly, and when he knew that the Supreme Court was proceeding in ignorance of its existence, why did he not give some hint of the actual state of matters,—some intimation of what was so soon to appear? That, I think, would have been only fair and dutiful,—only what might most naturally have been expected. Nothing of the kind was done, and in these circumstances it will not do to plead in arrest of inquiry and ultimate judgment the decision of Assembly.

But there was a great deal more here than a repetition of the offence. It was something similar, but it was also something worse. The same pernicious principles were present, but they were applied over a wider field, and carried out with less of limitation and reserve. It was no longer a question of Deuteronomy alone, but of the whole historical books of the Old Testament. Their formation was explained in the most *naturalistic* way—by the operation of the process which has given us a variety of legendary records. The proper legitimate consequence is in this case sought to be averted by bringing in after all the fact of inspiration; but however potent and precious it may be, inspiration does not change the essence of things, it does not turn wrong into right, nor error into truth. The question is at once raised—What does it mean? what is it worth in such a connection? And this becomes a more pressing inquiry when we look at how individual parts and passages of the Bible are treated. I can present here only one or two specimens.

When the answer to the amended libel is considered, the following statement may well cause astonishment: “It may fairly be made a question whether Moses left in writing any other laws than the commandments on the tables of stone. Even Ex. xxiv. 4, and xxxiv. 27, may in the original context have referred to the ten words alone.” What light does a declaration like this throw on

his view of the time when, and the circumstances in which, Exodus, Numbers, and specially Leviticus must have been written?—"The decadence of prophecy, and the synchronous systematization of the ceremonial law on lines first drawn by Ezekiel, mark the commencement of the third and last period of Hebrew literature." The Song of Solomon was spoken of irreverently enough before, but now there is a great advance in daring. "This lyric drama," he says, "has suffered much from interpolation, and presumably was not written down till a comparatively late date, and from imperfect recollection, so that the original shape is very much lost." The author of Ezra is represented as having proceeded in a most blundering way, and the professor and his friends reconcile that with inspiration on the extraordinary ground that the mistakes are so very patent that every one can discover and correct them for himself. His language is—"On the other hand the Book of Ezra in its present shape, as edited and partly composed by the much later author who wrote Chronicles, conveys the impression that large gifts for the temple were offered by the leading Jews on their first return (Ezra xi. 68, 69); that the foundation of the house was laid by Joshua and Zerubbabel in the second year of the return (ch. iii.); and that the work was thereafter interrupted by the opposition of the Jews' enemies till the reign of Darius. It appears probable, however, that the chronicler has somewhat dislocated the order of events, especially by taking the official correspondence in ch. iv. to refer to the temple, whereas it really refers to the building of the city walls. This oversight might readily involve the antedating of the foundation ceremony described in ch. iii. 8-13, which seems to be identical with that which Haggai speaks of, since the actors are the same, and the chief feature in the description which does not belong to the usual liturgical scenery of the chronicler recalls Hag. ii. 3, Zech. iv. 7-10." The book of Jonah is

said to be "generally taken as an early example" of "the formation of parables and tales attached to historical names." He expounded and defended this view at the bar of the Commission, while not absolutely committing himself to it, and the opinion, probably, of not a few was that the parable was fully more difficult of belief than the literal history. Prophecy fares no better at his hands, for parts of Isaiah, as xiii., xiv., are brought down from their early date to the Babylonian age, and represented as having been "first published as anonymous broadsides." Daniel, and certain Psalms, are said to have been probably written as late as the time of the Maccabees—a statement which largely robs them of their predictive character.

This must suffice by way of specimen. It is nothing more. It is a mere selection from too abundant materials, and I now ask if this way of handling the Bible is consistent with the character it claims and the position it holds? Whatever may be said of individuals, will a people, will a land maintain faith in it as a divine record and of infallible authority under such treatment? It seems that to stand up for teaching of the kind is to uphold the Scriptures and clear them of Rabbinical traditions. Here we have what is called the new wine of the kingdom of God, which we must make room for and learn to relish. Long may that day be of coming when Scotland will forsake her ancestral faith in the Bible as the very truth most pure, and exchange her old, reverent, evangelical views for these results of a pretentious and daring criticism. Another style was adopted in the Commission by the Professor's defenders, for what reason I shall not at present express any opinion. The motion made in his favour declared that "the report (that of the Committee) advances charges against these writings which, *prima facie*, are of a serious nature, and demand careful and detailed consideration; finds that Professor Smith is blameworthy for putting

forth unguarded statements, fitted to alarm and disturb the peace of the Church, and especially for having written them at the time he was under libel for similar statements advanced in his article Bible"; and it concluded with the expression of an expectation that he would "faithfully attend to the admonition addressed to him by last General Assembly." Such being the state of matters, even in the view of his own most ardent supporters at that time, surely the Commission was not only free but bound to mark in some effective way its sense of the great offence he had most inexcusably committed, and to take measures for protecting the reputation of the Church, and the highest interests of her students of Divinity, until the Assembly should have an opportunity of assuming the responsibility, and pronouncing such judgment as to her wisdom might seem called for in the circumstances. That is what has been so severely censured, so violently reprobated, what the country has been roused about as an almost unheard of piece of tyranny. Time and reflection will show many the injustice of which they have been guilty. The fact is, however some may dislike to hear it stated, that if any wrong has been done, it has not been to Professor Smith, but to the Church, which has been so badly treated throughout, and to the truth, which has been handled in so reckless a manner.

III.

The power which was possessed, and which circumstances justified, nay, required the forth-putting of, was exercised by the Commission in a manner substantially right and defensible.

I state the matter thus because there is no necessity

for, no propriety in, doing it more strongly. In order to vindicate the proceedings in question, it is not at all requisite that I should either prove or hold that no detail can be reasonably found fault with. On the contrary, I am quite free to admit that some things had better have been done otherwise—that some mistakes were committed. It is not a very uncommon thing to be wise after events. What I maintain is that the parties chiefly concerned did not act under the influence of passion or prejudice, that nothing was intentionally done contrary to fair and righteous dealing, and that any errors in detail do not affect the real merits of the case, which is mainly what I am concerned about, and what all men should be concerned about. I do not propose to enter into a refutation of the microscopical criticism which has been applied to the actings either of the Committee or of the Commission ; but I shall content myself with a very brief reference to the leading charges which have been brought forward.

The allegation has been made that the Committee was designedly and offensively one-sided. That has been fully explained, and unless all belief in the veracity of hitherto honourable men has perished, it must be admitted that nothing of the kind was intended, but that it was on set purpose left to Professor Smith's friends, should they be willing to act after taking up the *ultra vires* ground, to nominate their own fair share of the members. Latterly this has been admitted.

It has been said that the Committee was too long of being called together. I think it was, but the Convener's reason for delay was natural, and dictated by a desire to suit the convenience of parties interested, and by no malign or suspicious motive whatever. And it is also in fairness to be remembered that much of the work had necessarily to be done by the members privately and individually, for it was only after the careful perusal and study of the writings in question that they could advan-

tageously meet for the discharge of the duty entrusted to them by the August Commission.

It has been made matter of charge and condemnation that Professor Smith was not invited to attend and give explanations. The Committee had no power to bring him before them, and for one I cannot doubt that had a proposal to that effect been made when they were being appointed in August, it would have been strongly and not unreasonably resisted. All kinds of interpretations would have been put on it, and the supposition would have been entertained that attempts were likely to be made to entangle him, and place him at a disadvantage for his defence. To crown all, this would have rendered the proceedings far liker an entrance on a disciplinary course of dealing than anything that was actually done.

The lateness of the report has been very severely commented on, and I allow that it was a circumstance much to be regretted; but it arose from the time and consideration given to it, and though Professor Smith was not formally made aware of what was being done, as for the reason stated above he could not be, we know that he was kept fully informed of all that affected him, for this has been frankly admitted. Then, it was never intended that any defence at that stage should be final or full, for the whole thing was of the nature simply of a precognition, a preparation for such trial and judgment at a future period as may be resolved on by the Assembly. Indeed, the Commission did itself the greatest injustice of all, by allowing the larger part of the day to be occupied by Professor Smith, and reserving very little of it for explaining and vindicating its own proceedings.

I submit the foregoing statement to the candid judgment of all under whose notice it may come. That a grave crisis has arrived is too obvious. It could hardly be more serious than it is in itself, and yet it is not a little heightened by the course which is being pursued by

numbers who might have been expected to show greater caution and charity. The legitimate action of the Church is being interfered with by an outside influence, which may serve the ends of a party, but can contribute little to a calm and fair settlement of so difficult a case. The proceedings of the Commission are a comparatively small matter, and ought not to be allowed to hide the real question which is involved. That question is not, as some have alleged, merely one of manuscripts and interpretation. The idea is simply preposterous. It goes a great way deeper. It pierces the surface and enters into the very heart of all that is most sacred. Neither is it one of liberty—of freedom to prosecute critical studies and accept critical conclusions. For one, I am strongly opposed to making men offenders for a word, and have given public enough evidence to that effect. I have been and still am the advocate of a large latitude in such matters. But all admit that there must be a limit. It is to damage legitimate liberty to tie it up with an extreme case of this kind, which is one of excess, of license. To associate it with the championship of Professor Smith is to place it in the greatest jeopardy, in danger of suffering loss instead of acquiring strength. The real question is that of the integrity and authority of Holy Scripture. This is what is at stake—nothing less, and there can be nothing more. The present writer was most reluctant to see it in this light—he acted in a way fitted to show how slow he was in arriving at such a conclusion. But it has been forced upon him, and his former course makes it all the more his duty now to awaken others to a sense of the magnitude of the issues involved.

The Free Church has held a high and honourable place from the beginning of her history. Her career has not been an inglorious one, even her enemies being judges. She can expect to prosper in the future, as she has done in the past, only by being distinguished for her evangelical spirit and work. What is she without the truth,

what without the Bible—the old Bible of the Christian Church—the Bible as all inspired, infallible, perfect ; the supreme standard of faith and duty ? She was subjected to a great trial when her course began, and she was not found wanting. Other influences may now have to be grappled with, other foes encountered ; but it is hoped that a portion at least of the old spirit remains, and that again she will rather endure the worst than surrender any portion of that which is not hers but the Master's. Her peace is dear to us, and we grieve that it should be broken ; but there is something dearer still, and that is the truth which it is her function to proclaim and maintain ; the honour of that Lord for whom it is her honour to witness, and, if need be, to suffer.

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