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Turner, Alexander,
The Scottish Secession of
1843

THE SCOTTISH SECESSION OF 1843:

BEING

AN EXAMINATION OF THE PRINCIPLES,

AND

NARRATIVE OF THE CONTEST, WHICH LED TO THAT REMARKABLE EVENT.

BY THE

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"Tros Tyriusque mihi nullo discrimine agetur."—VIRGIL.

EDINBURGH: PATON AND RITCHIE.

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MDCCCLIX.

PREFACE.

THE following work was undertaken by the author at the request of others, chiefly laymen and members of the Church of Scotland. For a long time he declined the duty, in the hope that it might be discharged by others more competent. The urgency of his friends at length overcame his reluctance. Having consented to undertake the work, he determined not to confine himself to a simple narration of the facts connected with the controversy and the schism which succeeded, but to test the principles evolved during the contest, and on which the Secession was founded, by direct reference to the early history of our Church, to the recorded sentiments of the venerable men through whose instrumentality our Reformations were effected, and by whom the acknowledged Standards of the Church were drawn up. In carrying out this design, he has had recourse not so much to the statements of the modern historian as to contemporary records—to the writings of these Reformers themselves, and to the Acts of the various Assemblies of the Church. He has deemed it expedient not merely to refer to authorities on every important point, but very frequently to quote their words.

In testing the principles alleged during the late con-

troversy to be those of the Church of Scotland, he has confined himself chiefly to the periods connected with the First and Second Reformations. These are generally referred to as the best periods of the Church. He has endeavoured to shew what were the views then entertained on those prominent points upon which the late contest was made to turn; and that when, in either case, departure was made from these safe and scriptural views, a course was entered on which threatened to lead to anarchy, and to the subversion both of civil and religious liberty.

He is aware that especially this portion of the work may to many seem burdened with very dry details. That could have been avoided only by omitting those proofs which seemed necessary to establish the positions maintained. It might have been less irksome to the reader, as it would have been less laborious for the author, to have presented his views uninterrupted by the testimony of so many witnesses, in pages not disfigured by so many references. Yet, of his witnesses he has selected the testimony of only a few out of many, and he has purposely confined his references chiefly to works to which, without much difficulty, all may have recourse.*

The plan of the work is as follows:—The distinctive principles of our brethren who seceded are shewn not to be in strict accordance with the acknowledged principles of the Church in what they themselves have frequently referred to as the purest periods of her history. 1. Of these the first is Non-intrusion; and it is shewn

* In connexion with the earlier portion of our Church's history, the references are, to a great extent, restricted to the works published by the Wodrow Society.

that, on that point, the fathers, both of the First and Second Reformations, seem not to have generally held the views adopted by the modern school. Preliminary to this examination, two subjects are adverted to—(1.) The principle of Toleration; and (2.) The system of Patronage in the Church of Scotland. The existence of the latter in the periods referred to is considered simply as a historical fact, apart altogether from the expediency or inexpediency of the system.

2. The second and more important principle is that of Spiritual Independence; and it is shewn that, upon this point especially, the views of the fathers of both Reformations differed from those held by our seceding brethren.

3. In connexion, however, with the latter principle, an occasional tendency was at an early period manifested towards extreme views, similar, in many respects, to those held by the modern divines, the development of which is shewn to have pointed towards anarchy and the subversion of true freedom. Claims, indeed, were at times put forth, which can with difficulty be distinguished from those advanced by the Church of Rome.

Thus prepared, the reader is presented with a summary of the history of that contest which resulted in the Secession of 1843, and in the triumph of the constitutional principles of the Church of Scotland. That secession, it is shewn, embraced a comparatively small number of the clergy of the Scottish Church; and that triumph was the triumph, not of party, but of principle, leaving the Church of our fathers in the full possession of her valued privileges, and disencumbered from the influence of extreme views on either side.

To some it may appear, that a work such as the

present is uncalled for—that its tendency may be to stir up the embers of a controversy passing into oblivion—and that, if information be sought upon the history of that stirring period, it may be found in the legion of pamphlets which the conflict called into existence.

It is not the wish or purpose of the author to revive those feelings of bitterness which, blessed be God, are now passing away. On the contrary, his object is rather to accelerate their removal in the case of those good men from whom he has the misfortune to differ, by shewing, even though he should fail in gaining their conviction, that those who hold the sentiments which he maintains have what they consider solid ground for the opinions which they entertain, and that therefore they may venture to claim the credit of being conscientious, though it may be erring, men. The fact that the bitterness of former feeling has been greatly modified, he considers as an encouragement towards the publication, as it leads him to cherish the hope that the time has now arrived when men are in circumstances calmly to consider facts and arguments which, at one period, would not have been listened to with patience.

If the views set forth in the following pages be correct, such a work is urgently required. However much the unbrotherly feelings engendered by the late controversy may have been modified, efforts have never ceased to be made for the diffusion among all classes of those peculiar opinions to which the Secession owed its origin. These opinions the author believes to be erroneous in principle, and dangerous in their tendency.

It is true, indeed, that the whole subject was amply discussed in the various pamphlets which the period of

the controversy called forth, and that, from these sources, information may be gleaned by those who have leisure and opportunity for the investigation. But it is not less true that, at least to the general reader, these sources are becoming difficult of access, and that information on the subject is now sought for almost exclusively in the works of Dr. Buchanan and Dr. Bryce—works which, however valuable in many respects, and however ably executed, verge to extreme views on either side, and occasionally indicate the fact that the period of their production was anterior to the time when the mists of the controversy had begun to clear away.

The author is not aware that he has expressed any sentiment calculated to give offence to any party within the Church. Certainly nothing could be further from his intention. In recurring to the history of the past, party names could not be altogether avoided. He has used them simply as terms of distinction, not, in any case, as terms of reproach. And, although he has attempted to explain and defend the position occupied by some who have, perhaps too long, submitted to underlie unmerited aspersions, he rejoices in the fact that now, within the Church of Scotland, party distinctions are almost imperceptible, and that the prevailing effort seems to be, that we should "consider one another, and provoke one another to love and to good works."

Neither would he willingly offend the feelings of the brethren who have gone out from us. He believes them to be in error, and he has said so; but if on any point he has misrepresented their sentiments, it has been because he has misapprehended them. He has

endeavoured to look without prejudice both at their opinions and actings. Perhaps he has not succeeded. But of this at least he is confident, that his prejudices, however distorting, have not been so strong as to overcome either his love and admiration of the characters, or his appreciation of the talents and accomplishments of those whose opinions he has ventured to impugn. If he has sometimes expressed himself warmly, it is because he holds the subject to be one of great importance. Yet, for the opinions of those from whom he differs, he desires to cherish all due respect. A master in Israel has thus expressed himself in terms which should rebuke outrageous dogmatism on either side: "I have been lending my attention," says Dr. M'Crie, in a letter to his friend and counsellor, Dr. Bruce, "to the subject of the magistrate's power, *circa sacra*. The more I think and read upon it, I am the more convinced of the difficulty of settling in many cases the just limits of magistratical and ministerial power, and am astonished at my ignorance in formerly pronouncing upon the question with so much decision and indifference." *

While the concluding sheets are going through the press, a new agitation has begun regarding the law which regulates the induction of ministers. The author sees no reason to qualify his statements respecting the "Scotch Benefices Act." While anxious for the protection, and even extension, of the rights of parishes, he ventures to repeat his conviction that, if fairly worked, the present law is adequate to prevent the induction both of unqualified and unacceptable presentees.

* Life of Dr. M'Crie, p. 72.

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ERRATA.

Page 18, line 12, *for* "revised" *read* "revived."
,, 122, ,, 3, *for* "ceses" *read* "cases."
,, 191, ,, 24, *for* "excite" *read* "erect."
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THE SCOTTISH SECESSION OF 1843.

CHAPTER I.

INTRODUCTORY—Excitement of Controversy having passed, Prejudices have begun to yield—Much to admire in Seceding Party—Much also to blame—Contest at first for Popular Rights, but lapsed into Contest for Clerical—Some refuse to connect themselves with the Controversy in its new phase.

A PERIOD of more than fifteen years has now elapsed since the occurrence of that lamentable Secession from our National Church, the grounds and principles of which it is the object of the following pages to examine. During that period, not a few of the leading men on both sides have been gathered to their fathers—many of them men of God—who, though here disunited in their earnest contendings for what they each believed to be the faith which was once delivered unto the saints, are now, we doubt not, together before the throne, members of the one great family who have washed their robes and made them white in the blood of the Lamb. Much of that bitterness of spirit which, during the controversy that preceded and accompanied

the schism, was too frequently—though, perhaps, inevitably—manifested, has now passed away. Men can now, with some degree of composure, review the exciting scenes of which, fifteen years ago, they were spectators, or in which, perhaps, they bore some part. Prejudices have begun to subside. Objects which a fevered imagination had magnified and distorted into gigantic monstrosities, have shrunk into proportions so insignificant as to be scarcely perceptible to common observers, without the aid of those subtle controversialists whose business is to search out microscopic flaws, and, by the exhibition of them, to prevent their followers from perceiving that they had been chased over a precipice by a host of vaporous shadows. The experience of fifteen years has convinced multitudes who had been induced or compelled to take the fatal leap, that the banner of true liberty floats at least as securely on the ancient battlements which they have abandoned, as on those within which they have now entrenched themselves. Friendships which the controversy had broken up are now renewed, and—except in cases in which self-interest demands the fomenting of discord, or in which spiritual pride and intractable bigotry have blinded the mind, or in which the game of worldly politicians requires the stirring up of the smouldering embers—honourable men on either side are beginning to perceive that principle is not exclusively their own—that there is room for mutual regard and the exercise of brotherly affection—that, in some respects, each had mistaken the other's views, and underestimated

or misunderstood the other's motives—and that, after all, the points of difference between them are, when stripped of adventitious circumstances, not so essential as the representations of irritated polemics had led them to suppose.

To the people of Scotland, in general, there has not, in our times, been a day more memorable than the 18th of May 1843. On that day the great modern schism was perpetrated. Some hundreds of ministers voluntarily abandoned the Church of their fathers, boldly sacrificing their status and emoluments as ministers of the Church of Scotland by law established, at the shrine either of high principle or of their own consistency. The deed was heroical. The shock was felt throughout the empire. It took many by surprise. Calculating politicians who, though loudly warned, yet treated as of trivial importance the one essential element in the case, were astonished at the spectacle, whether they ascribed it to magnanimity or infatuation. We revert to it with mingled feelings. Not willingly would we depreciate the moral grandeur of an event so imposing as to have excited the admiration of thousands throughout the Christian world, and secured the sympathy and co-operation of multitudes, who demanded no higher argument in favour of the cause, than the spectacle of so many men of lofty Christian principle, and of every grade of intellect, united, at every hazard, to support it. The fortitude of these men we cordially applaud; the Christian worth of many of them we highly appreciate. To the genius of

some of them we pay most willing homage. Their talents and attainments we more than admire; their graces and virtues we desire to imitate. With not a few we were wont to take sweet counsel, and we love them still. Difference of opinion has not estranged us. Over some that have departed we have wept as over brethren and fathers beloved and venerated, and their memories we shall ever cherish as among the pleasant things of days that can no more return.

But while we pay this tribute in all sincerity of heart, we would belie our own convictions did we not as strenuously declare our sincere belief that our friends and brethren are grievously in error—that they are solemnly chargeable with the sin of schism—that they maintained principles subversive of the constitution of the Church, and which, had they been established, would have been at once detrimental to what they themselves designate the Crown-rights of our glorious Redeemer, and ruinous to the interests both of civil and religious freedom in the land.

These, indeed, are grave charges; but we believe them to be not more grave than true. We are far, indeed, from supposing that such results were designed or anticipated. The controversy originated in defence of popular rights; but, as the warfare advanced, and the passions were called into play, abstract principles were propounded, and became the very substance and marrow of the controversy, which, if established, both reason and the sure light of past experience declare might, in other hands, have effected these results. The

conflict began in defence of a popular veto on the induction of ministers to the sacred charge; but ere long its character so entirely changed that it became a contest for a principle which, if conceded, would have established a clerical or ecclesiastical veto on whatever subject the Church might choose to appropriate as her own. It began by demanding a popular right, but it ended by demanding a clerical right, which, at will, could have scattered the popular to the winds. Nor is it to be wondered at, surely, that not a few, who were anxious to aid in defending the constitutional rights of the people, should, even in the face of obloquy and scorn, have repudiated the contest in its altered phase, and refused their countenance to a movement which, begun in defence of freedom, had been transformed into what they believed to be a contest for eventual tyranny.

The conduct of these men has been the subject of severe animadversion. While, with their brethren, they have shared the common condemnation of those accused of betraying the liberties of that Church whose interests they had sworn to defend, for them has been reserved a double share of infamy, and the finger of scorn has been pointed at them, as men who had sacrificed both honour and principle. That among them some were to be found, the defence of whose consistency might prove a difficult task, it were as idle to deny, as that, in the ranks of the Secession, many were found ultimately to range themselves, who, up till the very moment of the schism, nay, and till a later

period, repudiated the grounds which their leaders had occupied, and declared that, as far as their own judgments were concerned, they could with clear consciences remain in the Church by law established; but whose moral courage proved too feeble to resist the arts of cajolery, and the influence of great names, and the fear of ridicule, and the threats of exposure, and the dread of seeming inconsistency, and the horror of unpopularity, and the hope, fondly cherished and by others eagerly fanned, that the exhibition of a bold front and of unflinching determination would vanquish opposition from whatever quarter, and secure safety by ensuring success.

Inconsistency on either side we wish not to extenuate, although we infinitely prefer the inconsistency of him who changes from error to truth, to the consistency of him who, having committed himself to error, pertinaciously adheres to it. But of the vast majority of those who for a time lent their aid to the movement-party in the Church, yet ultimately refused to be dragged at the chariot-wheels of those leaders whose contendings resulted in what, to appearance at least, partook less of a self-sacrifice than an ovation, we believe, that not only were they actuated by high, and honourable, and Christian principle, but that their consistency can be vindicated as fully as that of any who shared in the controversy—a controversy of ten years' duration, and which, candid men of every shade of opinion will admit, did educe views and consequences of which, at the commencement, they had no

suspicion. For what purpose is any controversy maintained, but that the views of the controversialists may be received by men hitherto ignorant of or opposed to them? And why, therefore, at any or at every stage of the controversy, may not inquiring men, receiving an increase of light, advance to positions newly discovered, or recede from those evinced to be untenable? At the commencement of the Church-controversy, a lamentable ignorance prevailed—perhaps, yet prevails—of the true history and constitution of the Church of Scotland. The popular leaders could, almost without risk of contradiction, deal loosely with the annals of the past. The outline only, and that often but ill defined, was generally known,—the filling up was very much the work of fancy. But when men were led to examine for themselves, and began to see that the constitution of the Church was something more than could be gathered from a few disjointed quotations from our Books of Policy, or fragments of Acts of Parliament, and that her history was something more than a selection of romantic tales, strung skilfully together to illustrate favourite principles, were they to be greatly blamed if they claimed the freedom of judging for themselves, as to how far they should proceed in company with those whose views their more careful examination refused to verify? Above all, if the ground of controversy had been changed, and new positions occupied, were they bound to follow?* Because they

* The following remarks, by the late honoured biographer of Knox, are worthy of careful consideration. They occur in a speech delivered at a

had joined with others when they lent their efforts to secure the people's constitutional rights, were they also bound to follow them when they advanced to ground which they believed could not be held, without virtually destroying these rights, and establishing, not spiritual independence, but spiritual despotism, and making the rulers of the Church lords over God's heritage; and, instead of upholding the doctrine of Christ's Headship, subjugating to their own unchallengeable dominion whatever they might fancy to be within the sphere of things ecclesiastical or spiritual? On the contrary, at whatever stage the conviction flashed upon them, it became them, as honourable men and as Christians, fearlessly to act upon it; and though the tardiness of some who lingered till the last with those in whose judgment and prudence they had confided, did give occasion for surmisings, we honour the moral courage of those who, by magnanimously braving the obloquy which they knew awaited them—the cutting sarcasm of

meeting in Edinburgh, May 11, 1832, called to oppose the national system of education in Ireland: "We live in times that try men's souls. The question now is, Principle or Expediency—the pleasing of God, or the pleasing of men? and the demands of the latter are no less high and unbounded than those of the former. The cry is, Everything or nothing! It matters not that you go with us nine hundred and ninety-nine paces, provided you take not with us the thousandth. It is true you have supported us in all our measures; but, if you dissent from us in this one, we will hold you as our declared foe, put you under our ban, and, throwing over you the wolf's skin, will hunt you down as an ultra-tory, a placeman, a pensioner, a bigot, and, in one word, a hypocrite. These are generally *ruses de guerre*, but they are bad, as well as poor policy, because they are soon discovered, and because they kindle the indignation of men of honest and independent minds, who have an instinctive and irrepressible abhorrence of everything that wears the semblance of intolerance, especially when it proceeds from the party to which they are otherwise attached."—*Life of Dr. M'Crie*, by his Son, p. 474.

men who knew so well to point the darts of irony, the pity, real or affected, of former friends—made to principle a sacrifice of feeling, to our mind nobler far than that of those who, amidst the plaudits of a gay assemblage, hailing them as martyrs in a glorious cause, made each his separate demission, and, receiving the acclamations of enthusiastic spectators as one who had nobly forced his way from Egypt, added his name to that roll of worthies which was to be preserved for the admiration of unborn generations. On the one side there was the sacrifice of what honourable men have always valued as more precious than gold that perisheth. On the other there was, in the case of some, a sacrifice real and felt, but at the same time met by an equivalent, or at least a substitute, in the shape of a magnificent common fund, out of which the wants of all were to be equally supplied; while, in the case of others, there was the prospect of more than an equivalent—a golden boon, and with it the lustre of the martyr's crown. Add to this the conviction entertained by many, that even yet the triumph of the party was but a few years delayed—that the temporary structures about to be erected for the outgoing congregations would more than outlive their brief secession, to be followed by a triumphant restoration, and it will be seen that the estimated sacrifice was not all on one side, perhaps not chiefly on the side of those to whom the glory has been ascribed.

In the next chapter we propose to examine that principle in the Church's constitution, which gave origin to the conflict resulting in the Secession of 1843.

CHAPTER II.

Principle of Non-intrusion—Still maintained, as of old, by the Church of Scotland—Preliminary Points—Toleration—Repudiated by our fathers—Patronage—In one or other form in use in this Church from earliest times—Views of the Fathers of First and Second Reformations.

THE two principles which formed the chief subjects of the controversy which terminated in the lamentable Secession of 1843, were those of Non-intrusion and Spiritual Independence. With the former the conflict originated, merging at length into the latter. It was on the ground of the latter, almost exclusively, as we shall afterwards see, that the secession was effected, the former then occupying a position of only secondary importance. Still, non-intrusion was the primary ground of contest. Non-intrusion was the war-cry which aroused the combatants—the inscription emblazoned on the banner around which the hosts were marshalled.

The repetition of that formidable word with which the ears of the nation were so long assailed, can scarcely fail to be distasteful, as the mention of a nauseous drug would be to the convalescent patient who had been sickened, almost to poisoning, by repeated exhibitions. The topic, however, we must recall, how briefly soever we may advert to it, our object being to inquire in what sense the principle really is and has been recognised by the Church of Scotland, and to shew that, at this

present hour, she holds and acts upon that principle entire, as declared by the early fathers of our Church, recognised by the State, and embodied in the constitution of the Church of Scotland. We declare our firm adherence to the principle. We protest that we abide by it more firmly, and value it more dearly, than did many of those who proclaimed it as their watchword, and emblazoned it on that standard around which they gathered, when marshalling their hosts to evacuate the citadel, and to point their assaults against the towers and bulwarks of that Zion, which, by the blessing of our Church's Head, the hands of their fathers and ours had built up. We assert that on this point the victory was gained—that the rights of the Christian people, for a time forgotten or neglected, have been secured—that the doubts which in certain quarters were cast upon the principle have been authoritatively removed—that, at this present hour, the members of the Church of Scotland possess, and exercise undiminished, the full rights which were ever enjoyed by them at any period of her history; and, consequently, that a cruel delusion has somehow been practised on those ministers and people who have seceded from the Church of Scotland, on the ground of the non-intrusion principle.

We, of course, do not assert that the congregations of our Church are at liberty to exercise their right in that form which was embodied in the celebrated Veto law; but we do maintain that they possess what, to all practical purposes, is at least of equal value—that they enjoy undiminished the same substantial rights that ever

were recognised as their constitutional privileges, at any period in the previous history of our Church, not excepting even those referred to as her "golden periods," immediately succeeding what has been designated the Second Reformation. We assert that, as far as this great principle is concerned, there were no grounds for the schism of 1843, which did not exist at any previous period of our history; and that, therefore, if any did, on the non-intrusion principle, conscientiously secede, either they had changed their views, or they had entered the Church in ignorance of what her principles really were, and in ignorance, moreover, of the principles of every other Presbyterian church-establishment.

Before exhibiting the authorities on which these assertions are founded, there are two preliminary points to which, though not essential, it may nevertheless be of importance to attend, as bearing intimately on the subject with which we are engaged.

1. The former of these is one on which, in conducting the late controversy, we think far too little stress was laid. Down to the period of the Revolution, toleration in matters of religion was not recognised in this kingdom. While Popery was the religion established in the land, dissent was a capital crime. When Protestantism gained the ascendency, dissent was still regarded as an atrocious offence. The dominant party, whether Popish, Episcopalian, or Presbyterian, held it sinful to tolerate dissent; and successively, as they obtained the power, persecuted each the other without

remorse. With this spirit our Presbyterian fathers were deeply imbued. It was the spirit of the times. Toleration was not only not sanctioned by them—the very name was an abomination in their ears. One form in which this great and prevailing evil manifested itself, was in the shape of compulsory enactments, to the effect that all parishioners should attend and receive ordinances in their own parish church. In such enactments as these our good old Presbyterian fathers gloried. General Assemblies were never weary of repeating them, and enjoining Presbyteries, on their utmost peril, to see the mandates enforced—alas! not dreaming the while that they were furnishing precedents of which, in the sad experience of their persecuted descendants, tyranny was not slow to avail itself, during that dark period of our nation's history when the land was made drunk with the blood of her brave and martyred sons.

To persons at all acquainted with the history of the Church, it is not necessary to adduce proofs of the statements now made. They might be multiplied to any extent. Let one or two suffice for the purpose now in view.

The Assembly 1600, *e.g.*, ordains as follows:—"Each minister is to take diligent heed that every one of his people communicate once a-year (who are not debarred), the recusants to be delated to His Majesty, that the act against non-communicants may be executed against them. And if a parish want a minister, the Presbytery shall take order with the congregation; and the person

charged to communicate shall have three months advisement, after which the act to be execute against him."

Again, Assembly 1601—"That the names of all non-communicants through the whole land be taken up in a roll, subscribed by the minister respective of each parish where they are, and the moderator of the presbytery, and so sent to the king's ministers, that order may be taken with such enemies to religion."

Once more, let us cite an instance from what is sometimes designated the best period of the Church. We find the Assembly 1647 enacting as follows:—"The Assembly, in the zeal of God, for preserving order, unitie, and peace in the kirk, &c., ... ordains every member in every congregation to keep their own parish kirk, to communicate there in word and sacraments. . . . . Likeas, the minister of that congregation from which they do withdraw, shall labour first by private admonition to reclaim them; and if any, after private admonition by their own pastor, do not amend, in that case the pastor shall delate the foresaid persons to the session, who shall cite and censure them as contemners of the comely order of the kirk," &c., &c.

Such was the state of matters in former times. The people were *compelled to recognise the minister inducted into their parish as their minister and spiritual guide.* They were bound by civil penalties, as well as ecclesiastical censure, to attend his ministrations, and his alone. Some weak and humble believer, suffering from the assaults of his spiritual foe, and fearing to be

"guilty of the body and blood" of his blessed Redeemer, might, in a season of depression, shrink from approaching the Holy Table. He durst not. The act was explicit and imperative. The Church would "delate him to His Majesty, that the act against non-communicants might be execute against him." An earnest Christian, feeling or fancying that he was not advancing in the spiritual life under his pastor's teaching, might desire to enjoy the public services of the clergyman of a neighbouring parish. He durst not. He might plead that he could not be edified in his own church. It was to no purpose. The act enjoined "every member in every congregation to keep their own parish kirk."

This, then, was the state of matters in Scotland in bygone times. Dissent was not tolerated. Absence from ordinances was not permitted. *Every parishioner, without exception, was bound to recognise the inducted minister as his pastor—his only spiritual guide.* And in these circumstances, contrasted with the privileges now enjoyed by every parish in the kingdom, it was but a paltry boon that was conferred when it was enacted, that "no minister should be intruded contrary to the will of the congregation." If, in any case, the consent of the congregation was withheld, and yet the minister was inducted, then, indeed, intrusion was perpetrated. Nay, if even a trifling minority refused consent, it was a case of clear intrusion, for that minority were compelled, both by civil penalties and Church censures, to attend that pastor's ministrations, and receive ordinances at his hand. Here was intrusion

in the true sense of the term. No wonder if our fathers strenuously opposed it. That they did so, and to what extent, we shall afterwards see; meanwhile, let this be carefully observed, that in our altered and more highly favoured times, that intrusion against which our fathers protested is simply a thing impossible.*

2. The second preliminary point to which we advert is connected with the law of patronage. On the expediency or inexpediency of this institution it is not necessary that we offer any remark. We, however, beg attention to the fact, that the principle of non-intrusion, as explained during the late controversy, and maintained by those who seceded from the Church, necessarily implies the existence of patronage. Non-intrusion, as thus explained, is designed to modify the hardships, and lessen the evils of patronage. And if, therefore, "it is, and always has been a fundamental principle of this Church, that no minister be intruded into a parish contrary to the will of the congregation," the statement amounts to a declaration that patronage is and always has been in use in the Church of Scotland. If this be not so, the assertion of the fundamental principle amounts simply to a *ruse*. Non-intrusion is antagonistic to patronage; and the existence of the one necessarily pre-supposes the existence of the other. Intrusion, in the controversial sense, could take place only under a system of patronage; and therefore, to assert the opposite principle could have no meaning, except in so far as patronage was an acknowledged

* See Note A.

thing. The assertion of the principle acknowledged the existence ("is and has ever been") of that which it was designed to modify and counteract. This is no mere logical quibble, but the statement of a fact; and when anti-patronage men harangued the people on their deprivation of rights which they asserted the constitution of the Church provided for them, they contradicted their own assertion by rallying around the banner of non-intrusion, for the emblem emblazoned on that banner just amounted to this, "Patronage is and ever has been in use in this Church." Now, it really is the case that, though in different forms and modifications at different periods, patronage has been ever in use in the Church of Scotland. That on many occasions it was remonstrated against as a great grievance, is known to all: but there are some grounds for surmising that sometimes these remonstrances originated, not in any wish to confer the election on the people—that the complaint was made, not as of a popular, but a clerical grievance; nay, for the truth should not be concealed, good evidence is not awanting that the galling fetters were felt, not so much as restraining the liberty of the people, as the ambition of the clergy—that the spirit which dictated the remonstrance was less a desire of popular rights than of clerical power. We shall afterwards vindicate this assertion by competent evidence—an assertion which we make, not with reference to the period of dominant "Moderatism," but even to the "golden period" which succeeded the Second Reformation.

The First Book of Discipline, framed when the government of the Church was confessedly semi-episcopal, does clearly defend the right of election in the people. "It appertaineth to the people and to every several congregation to elect their minister." This Book of Policy was hastily drawn up, and presented to the nobility in 1560.* It never received the sanction of the Estates, and was superseded in 1578 by the Second Book of Discipline, according to which the Church government was established in 1592. This Second Book of Discipline, which so soon took place of the First —which was revised and ratified by the famous Assembly of 1638, from which the period of the Second Reformation dates its origin—adopts a different doctrine: "Election is the choosing out of a person or persons maist able to the office that vaikes, by the judgment of the eldership (Presbytery) and consent of the congregation."

While thus the trumpet was giving forth a somewhat uncertain sound, patronage continued to be exercised. In 1592 the Presbyterian form of Church government was formally established, the same Act which established the Church providing that "Presbyteries be bound and astricted to receive and admit whatsomever qualified minister presented by His Majesty or other laic patrons." Under this Act, which was hailed with gratitude by such men as Melville and other worthies of the period, as securing, beyond expectation, the "liberties of the true kirk,"† patronage was recognised in the most

* See Note B.

† See Autobiography of James Melville, pp. 291-93.

ample and binding manner; and yet, although we find occasional remonstrances against the abuse of the system, we find but few indications of the system itself being regarded as an intolerable grievance, pressing on the Christian people. We do, however, discover occasional symptons of the tendency above referred to, towards a desire on the part of the clergy to secure the right of patronage to their own order. For example, in 1596 certain questions were proposed by His Majesty to be resolved by the Estates and General Assembly. Some jealousy being entertained as to His Majesty's motives and design, "a meeting of brethren appointed out of every Presbytery (in the Synod of Fife) convened at St. Andrews," to consider these questions and to prepare replies. The third question is as follows, "Is not the consent of the most part of the flock, and also of the patron, necessary in the election of the pastors?" *Answer.*—"The election of pastors should be made by them who are pastors and doctors lawfully called; . . . and to such as are chosen, the flock and patron should give their consent and protection."*

* Melville's Diary, pp. 390, 391. Calderwood's Hist., vol. v.,p. 586. Calderwood adds that not only the Synod of Fife, but also particular brethren, "being careful to maintain the discipline established whereof the Kirk of Scotland had found so great fruit, set hand to pen, and made answers to the foresaid questions." He preserves the answers of two to this query. One boldly asserts that patronage, being only a human institution, has no divine warrant, and therefore imports no necessity of consent; while the necessity of the consent of the people, he adds, no one will deny. The other, Mr. Patrick Galloway, "who would seem somewhat in these days," gives the following very explicit answer, like one who knew he was giving forth no distasteful doctrine: "The approbation of pastors pertains to the flock, and presentation to the Presbytery."—P. 597.

According to the testimony of the Rev. William Sorley, the respected

It is not necessary to prosecute this search through a period during which no one ventures to deny the existence of the system. We may pass on to 1638, when, after a lengthened season of sufferings and depression, during many years of which Episcopacy had been the form of Church government established in the kingdom, the Presbyterian cause again appeared triumphant, and the Church shook off the fetters with which she had been bound. During the period that succeeded, she was not only free, but dominant—she was not established only, she ruled. She issued her mandates, and they were obeyed with trembling. Her assemblies and their commissions were armed with powers which royalty itself might envy, and to which, on many occasions, royalty succumbed. Had she wielded her power with greater moderation, it might perhaps have

Free Church minister in Selkirk, a system of patronage bearing a striking resemblance to that indicated in the text speedily manifested itself in the denomination to which he belongs. In his pamphlet entitled "Prospects and Perils of the Free Church," published in 1845, occur the following striking and instructive statements:—"Look next at the Home Mission Committee, and, constituted as it is, we say that it forms, in the hands of a few individuals, an instrument of power with which they can neither wisely nor safely be intrusted. What is the authority with which they are invested? *Nothing less than that of exercising the entire patronage of the Free Church of Scotland.* They are, at this moment, accustomed to appoint supplies to all our vacant charges, and even our Presbyteries are dependent upon their sovereign will and pleasure, for any provision they may have it in their power to make to the people, who look to them for the dispensation of word and ordinances. *Of such a form of patronage, the most odious, because an ecclesiastical one*, which a system so ugly at the best, can ever assume, we complain, we loudly, we bitterly complain. *It deprives our people of those sacred privileges, in the appointment of their ministers*, which the rulers of the Free Church are, of all men, bound most scrupulously to beware of invading. It is utterly degrading to our Presbyteries. . . . . It is ruinous to our young men," &c.—Pp. 21, 22.

been more permanent. Had she, as the nation's recognised guide, been less ambitious of foreign conquest, and less resolute to force her League and Covenant on those who were determined to refuse it, she might perhaps have been more fortunate. Had she been less tyrannical, she might perhaps have shared a richer blessing from the Father of Mercies. Had she cherished more the spirit of heavenly unity and brotherly love among her sons, instead of that unseemly discord and wrath, and mutual estrangements which so soon developed themselves, she might perhaps have aided in defending Scotland from the dishonour of subjugation by a victorious enemy, and of doing homage to an alien usurper.

But let us see how she acted by the system in question, when the power was in her hand.

The famous Glasgow Assembly of 1638 makes no allusion to the subject, further than by renewing the Act of Assembly 1595, to the effect that "none seek presentations to benefices without advice of the Presbytery within the bounds whereof the benefice is." Indeed, a careful examination of the acts of this and several subsequent Assemblies clearly indicates the fact that, at this period, the Church gave little heed to the subject, and was scarcely conscious of it as an evil; for, though repeatedly invited to state her grievances, and by no means backward to do so, patronage has no place in her enumeration of them. The fact is a striking one.

In the Assembly 1642, we find the subject intro-

duced, but not in such a way as indicates much anxiety for popular rights. The king had, on their petition, consented to issue the Crown presentations in the following manner. A leet of six was to be named by the Presbytery within whose bounds a vacancy should occur, and from that list His Majesty was to select the presentee. Acting on this concession, the Assembly instructed all Presbyteries, in the first instance, to transmit their leets through the Synods to the Assembly, in order that its sanction might be given to the selection.* The Assembly of the following year proceeded a step in advance, and, on the ground of the difficulty of obtaining "six able and well-qualified persons to be put into a list to His Majesty, present their humble desires that he would be pleased to accept of a list of three."

* *Vide* Act anent the Order for making Lists to His Majestie and other Patrons for Presentations, Act. Sess. vii., 1642. There is a recognition of popular rights in this Act in the following clause—"Which roll made by the General Assembly shall be sent to every Presbytery, and that the Presbytery, with consent of the *most or best* part of the congregation, shall make a list of six persons," &c. The clerical influence, however, is made clearly to predominate. Presbyteries have the first selection, then Synods, then the Assembly, and last of all the Presbytery, with consent of the *most* or *best* part of the congregation. The ambiguity in this expression, "most or best part," is somewhat suspicious. Perhaps the following answer to the 11th question, in the series already alluded to, as proposed by the king in 1596, may help us to resolve the doubt. "*Question.*—May a simple pastor exercise any jurisdiction without consent of the *most* part of his particular session? *Answer.*—He may, with consent of the *best* part, which commonly is not the *most;* for he, being the messenger of God and interpreter of His word, has more authority with a few than a great multitude in the contrary."—*James Melville's Diary*, p. 393.

Baillie, in a letter to Spang, detailing the proceedings of this Assembly, says, "Argyle made a fair offer for himself and all the noblemen present, that they would give free liberty to Presbyteries and people to name whom they would to vacant places, upon condition the Assembly would oblige entrants to rest content with modified stipends." The offer was not accepted.

One step more would have been a "humble desire" to allow them to exercise the right of issuing the Crown presentations.

Thus matters continued till the memorable year 1649. Patronage continued to be exercised, and that too, it would appear, in many instances, without much respect to the popular will. The incidental testimony of Baillie to this effect is given in no ambiguous terms, and indicates that the zeal of the clergy in this matter was not so ardent as to require no aid from the "pressure from without." In his Journal of the Assembly 1643, occurs the following simple but significant paragraph—"We are like to be troubled with the question of patronages. William Rigg had procured a sharp petition to us from the whole commissioners of the shires and burghs, against the intrusion of ministers on parishes against their minds. Divers noblemen, patrons, took this ill. We knew not how to guide it; at last, because of the time, as all other things of great difficulty, we got it suppressed. Only when something of presentations came in public, good Argyle desired us, in all our Presbyteries, to advise on the best way of admitting of intrants, which the next General Assembly might cognosce on and conclude."*

In 1649, however, the same year in which Charles I. was beheaded, and when the affairs of the whole kingdom were in a state of inextricable confusion, an Act was passed by the Scottish Estates abolishing patronage.

No man, how keenly soever he may be opposed to

* Baillie's Letters, Sept. 22, 1643.

the system, whether on scriptural or other grounds, will venture to deny that, from the first recognition of the Reformed Church, it had been till now acknowledged and acted on, both in Presbyterian and Episcopalian times. The Act of 1649 abolishing patronage, how beneficial soever it may have been, was clearly an innovation. It introduced a mode of election to benefices hitherto not recognised by our fathers. And what, then, was substituted for the method now abolished? In the Act itself, no distinct method is prescribed for the planting of vacant kirks, further than that it is enacted that Presbyteries were to proceed "upon the sute and calling, or with the consent of the congregation, on whom none is to be obtruded against their will." And it was recommended to the next General Assembly "to determine what is the congregation having interest, and to condescend upon a certain standing way for being a settled rule therein for all time coming."* How then did the Church thus empowered act in this important matter? Did the Assembly confer the right of election upon the people at large? They did no such thing. They simply transferred the choice from the patron to the kirk-session, giving indeed to the people a full liberty of objecting, but reserving to the Presbytery a power to settle the party elected, even though the whole congregation were dissatisfied, if they

* The Act 1649 provided a certain indemnification to patrons for the right of which they were deprived. "It is further statute and ordained, that the tythes of these kirks whereof the presentations are hereby abolished, shall belong heritably unto the said patrons, and be secured unto them, and inserted in their rights and infeftments *in place of the patronage*."

determined that the opposition resulted from "causeless prejudice;" and enjoining, moreover, that in the event of the Church courts considering a congregation "disaffected or malignant," the Presbytery should "provide them with a minister."*

This Act continued in force for a period of twelve years—twelve troublous years—embracing the time of Scotland's degradation as a conquered kingdom, and itself occasioning discontents and tumults which it is painful to recall. The Restoration was followed by many dreary years of bloody persecution, during which Episcopacy was established, and Presbyterianism was utterly disorganised. With the Revolution of 1688, a brighter day began to dawn. Presbytery was resuscitated and re-established. But along with this resuscitation and re-establishment, patronage re-appears. It is in a modified form, but it is patronage still. By the Act 1690, "the right of election is vested in the heritors of each parish (being Protestants), and the elders who are to name and propose the person to the whole congregation, to be either approven or disapproven by them. If disapproven, the disapprovers are to give in their reasons, to the effect that the affair may be cognosced upon by the Presbytery of the bounds."† Such was the state of the law for the period of two-and-twenty years. In 1712 an Act was passed "restoring the patrons to their ancient rights of presenting ministers to vacant churches." ‡

* *Vide* Directory for Election of Ministers. Assembly 1649.
† See Note C. ‡ See Note D.

As already intimated, it were beside our present purpose to offer any opinion as to the expediency or inexpediency of this ancient institution. We have confined ourselves, in the preceding sketch, to a simple statement of facts; but these, we may venture to affirm, besides the light which they indirectly shed on the question of non-intrusion, do amply corroborate the two following testimonies, with which we conclude our preliminary remarks—the one by a late illustrious father of the Church, the other by his not less illustrious son:—

"Whatever may have been said to the contrary, patronage was certainly in use down to the latest period before the Restoration, during which there is any record of the proceedings of General Assemblies." (And after quoting from Acts of Assembly 1645, 1647,) "These Acts demonstrate that patronage was, to a certain extent, still in use even at that period of the Church which has been commonly supposed to have been most adverse to it. But they shew, at the same time, the solicitude of the clergy to get into their own hands the command of as many patronages as possible." *

The other testimony is that of Lord Moncrieff, in his evidence before the House of Commons in 1834. "As far as my information goes, I hold that election by the people never did exist in the Church of Scotland." "Though election by the people was set forth in the First Book of Discipline, which is known to have been loosely and hastily composed, that never became the

* *Vide* "Brief Account of the Constitution of the Established Church of Scotland," by the late Rev. Sir Henry Moncrieff, pp. 33, 34.

law of the Church, and was not adopted. If, therefore, a system of popular election is now to be introduced, at this period of the Church and of the country, after the Presbyterian Church has existed for two hundred and fifty years or more, it must be introduced as a system which can be nothing but a speculative experiment, and that on the most important of all the institutions of the country."

NOTES TO CHAPTER II.

Note A.

"The effect of inducting into a parish, as minister, the nominee of the patron, amounts to this: An opportunity is thereby afforded to the inhabitants of the parish of attending, without expense, the church service, of receiving thereby religious instruction, and the benefit of attendance on the sacraments. In short, the inhabitants of the parish may adopt the new minister as their Christian pastor—a character in which he offers himself as willing to act towards them—that is, they may do so, if they think fit, but no compulsion exists on the subject. Any number of the inhabitants may, by themselves, or in conjunction with some inhabitants of neighbouring parishes, employ and pay another person to act as their minister. . . . . I am not here considering whether ecclesiastical patronage in Scotland is vested in the most suitable person, or whether it might not be better intrusted elsewhere, to the effect of rendering the Established clergy more useful. I merely advert to the practical and legal effect of the law as it now exists. The important fact is, that in Scotland men enjoy a state of liberty in regard to religion; and, vest the patronage of the clergy where you will, there will always be seceders, because, by the law of toleration, the minority are not bound to receive as their minister the nominee of the majority. In religious matters, we legally have God only above us, and the law allows every man to consider himself as in the right

upon such subjects. Nay, were a minister settled this year in virtue of the unanimous vote of every male and female member of a parish of twenty-one years of age, yet, not only may they dislike him after a twelve years' trial, but in that time a new generation has grown up who entertain new tastes, new opinions, and may not approve of the choice made by the original electors. The once popular minister may have the mortification to find himself deserted by half the flock, and see rising in his parish a dissenting place of worship. The National Government, recognising the law of toleration in regard to religion, takes no interest or concern in such events.

"If what has now been stated be kept clearly in view, it will resolve some of the questions that of late have been made the groundwork of bitter animosities in Scotland. In particular, it puts an end at once to what has been called Intrusion and Non-Intrusion into parishes, and to the supposed difficulty of constituting the pastoral relation between a minister and a congregation without the consent of both parties to that relation.

"In virtue of the law of toleration, there neither is nor can be intrusion. . . . . The inhabitants are invited to receive him (the minister) as their pastor. So far as they, or any of them, comply with the invitation, the pastoral connexion is constituted freely, and by mutual consent. But the new minister can intrude upon none. If they dislike him, they need not attend his ministrations. This may be an unfortunate state of matters, but there is no element of intrusion, or attempt to create what is called the pastoral relation, without the mutual consent of the parties to that relation."—*Remarks on the Church of Scotland, its History, Constitution, &c.*, by Robert Forsyth, Esq., Advocate, pp. 29-31.

Note B.

Although the First Book of Discipline bears that it was approven by the Kirk, we find the Assembly ere long appointing committees to "revise it, to consider its contents, and to report their judgments thereon." And in 1565, we find this very explicit statement on the present subject made by the General Assembly—"Our mind is not that Her Majesty, or any other patron, should be divested of their just patronages; but we mean, whensoever Her Majesty, or any other patron, do present any

person unto a benefice, that the person presented shall be tried and examined by the judgment of learned men of the Church; and as the presentation to the benefice appertains unto the patron, so the collation by law and reason belongs to the Church."

In 1571, we find the famous Erskine of Dun, in a letter to the Regent, expressing himself as follows:—"In speeking this tuiching the liberty of the Kirk, I meane not the hurt of the King or others in their patronages, but that they have their priviledges of presentation according to the lawes; providing always that the examination and admission perteane onlie to the Kirk, of all benefices having cure of soules."—*Calderwood*, vol. iii., p. 159.

That the abuses of patronage were frequent, and called forth, on many occasions, the indignant remonstrances of the Church, we have, alas! proofs too numerous and irritating. Even although they had approved of the system, these abuses could not have failed to call forth their bitter complaints. Hear, *e. g.*, the statement of the "Gentlemen, Barons," &c., to the Regent and Council in 1571—"What can be a more readie way to banishe Christ Jesus from us and our posteritie, than to famish the ministers present, and tyrannicallie so to impyre above the poore flocke, that the Kirk shall be compelled to admit dumbe dogges to the office, dignitie, and rents appointed for sustentatioun of preaching pastors, and for other godlie uses? . . . . . For whill that erles and lords become bishops and abbots, gentlemen, courteour's babes, and persons unable to guide themselves, are promoted by you to such benefices as require learned preachers."—*Calderwood*, vol. iii., pp. 145, 156.

Again, in the Assembly of 1582, among the "articles meet to be proponed to the King and Councill," we find the following:—"That no presentations be given to any with a blank, thereby for filthie lucre to go through the countrie makand most shamfull merchandise, seeking who will offer most, and receave least, but that patrons regard those who are recommended to them by Presbitries and Universities."—*Row's Hist. of the Kirk of Scotland*, p. 100.

Truly such a system could not stand with this order "quhilk God's word craves, . . . and aucht not to have place in this licht of Reformation!"

Note C.

The Act 1690, however, provided compensation to such patrons as were to be dispossessed. It was, in fact, little more than an act authorising parishes to purchase the right of patronage for themselves; and it is a circumstance not unworthy of note, that only four parishes availed themselves of the right thus conferred. Interpreted even according to the most liberal construction, the Act stops far short of conferring the right of election on the people. Wodrow seems to have believed that the design of the framers of the Act was to effect the removal of patronage in every form, and "not to bring in the heritors and elders in the patron's room in the matter of presentation, and that, for this purpose, the word *propose*, was used instead of the word *present*."—*Vide* M'Crie's Evidence before Committee of House of Commons. The people, however, had no right by this Act to disapprove of the nominee of the heritors and elders, without giving their reasons to be judged of by the Presbytery. In these circumstances, to *name* and *propose* was just to *present;* or, if not, then, under the present law, the patron's right extends to nothing more than naming and proposing.

Note D.

For many years after the passing of this Act of Queen Anne, patrons did not avail themselves of the rights so restored to them, and the settlement of ministers was practically conducted as it had been under the Act 1690. Their rights, however, were in reserve, and could at any time have been legally enforced. Even under the Act 1690, these rights had not ceased to be legally in force. That Act had conditionally transferred the right of nomination, but, except in the case of three or four parishes, the condition had not been fulfilled.

Patronage, then, in one form or another, has existed in the Church of Scotland during almost every period of her history. For twelve years preceding the Restoration, the right to present was vested in the eldership. For two-and-twenty years succeeding the Revolution, it was conditionally vested in the heritors and elders. At every other period it was by statute vested in the hands of patrons, although for a time they ceased to insist on the exercise of their rights.

The Church, indeed, down to a comparatively modern period,

protested against the institution. Though submitting to its exercise, she frequently denounced it as a grievance. "It was reserved for the framers of the Veto Act, in 1834, to introduce a measure, based on the admission of patronage, as the concurring law of Church and state." That Act indeed was *the first formal sanction* given by the Church of Scotland to the law of patronage. Hitherto she had submitted to it, but she had done so under a yet unrepealed protest. By that Act the Church adopted patronage. Nay, as we shall afterwards shew, the Act was introduced by its framers for *the purpose of upholding patronage, and to stem the torrent which was threatening to sweep it altogether away.*

CHAPTER III.

Principle of Non-Intrusion—Meaning of terms "Will and Consent"—Church formed on the Geneva Model—Views of Continental Reformers—of our own Church at the First and Second Reformations—of English Presbyterian Church—Revolution Settlement.

THUS prepared, we proceed now more particularly to inquire, to what the principle of non-intrusion, as recognised by the constitution of the Church of Scotland, really amounts. We have seen that, in one form or another, patronage has at all times been in use. The question now presents itself, Is the right of the patron, as conferred and defined by law, an unrestricted right, and have the Christian people no substantial and recognised standing in the important matter of the induction of their minister? We reply that the rights of patrons are justly and clearly limited, and those of the Christian people substantial and well-defined; while those of the Presbytery, as distinct from both, are, by our constitution, most ample and validly protected. Patronage, as recognised in our Presbyterian Church, whatever may be the evils still connected with it, differs essentially from that system against which our fathers so loudly protested, and which they declared to be "inconsistent with the light of Reformation."

The one point, however, with which we have now to do, is the standing of the congregation in the election of pastors. The doctrine of the Church upon this point

is, That no minister shall be intruded upon them contrary to their will. About the meaning of these few words the late controversy may be said to have had its origin. The question is, Are we to understand by "will," mere inclination, whether reasonable or unreasonable? or are we to understand reasonable will—a will founded on reasons which may be stated?

The writer of these pages did at one time entertain the former view, and was, therefore, not disinclined to support the provisions of the Veto Act. A more careful examination, however, of the subject led him, at a comparatively early stage of the contest, to adopt the opposite view; and subsequent inquiry has confirmed him very strongly in the opinion that the Veto Act was a violation of the constitution of the Church, and not in conformity with the doctrines which its founders and reformers entertained.

It is to be presumed that the opinions of the founders of this Church upon this interesting subject were in agreement with those of their contemporary reformers on the Continent, with whom they were on habits of the strictest fellowship—particularly Calvin and Beza, men whose influence was acknowledged as paramount,—the founders of that Genevan Church which, in its doctrines and polity, was the model of two-thirds of the Reformed Churches, and especially of the Church of Scotland. Knox and Melville were the disciples of Calvin and Beza, and, men of stern and independent judgment though they were, they would have paused ere they had differed, on a point of polity, from either

of the latter. This, however, is not a matter of conjecture or mere inference. We have the distinct testimony of Melville himself. The late learned and venerable biographer of Knox and Melville, while he admits that the ecclesiastical polity of Geneva and of Scotland agreed in their radical principles, seems rather disinclined to allow the minute accordance between the polity of the two Churches which Melville himself unhesitatingly claims.* In his letter to the "Pastors of the Kirk of Geneve and Tigure," written in 1584, to counteract the misrepresentations of Bishop Adamson, Melville thus expresses himself:—"It is now almost about twenty-five years (reverend fathers in God, and brethren in the Lord, most worshipful) since that grave and learned men, and (that which is cheefe) burning with wise and sincere zeal for the glory of God and health of His Kirk, *informed with your precepts and instructed with your examples*, have, in the first planting of our kirks, conjoined with the purity of doctrine the holiness of discipline. And that their *uniforme consent and agreement in all points*, witnessed to the whole world, might be left to posteritie, they subscrived your Confession. In the footsteps of which godly and renowned men, we, thereafter insisting, have, next after the heavenly oracles of the Word of God, *following the doctrine and constitution of your Kirk*, keeped the same course unto this present day. . . . .

"Of this cometh these archi-episcopal letters written to you and the bretherein of Tigure, by which that

* Life of Melville, vol. i., p. 177.

marvellous cunning and fyne artificer in faining and dissembling what he will, both doeth burthein us with false and forged crimes, and bringeth the government of our Kirk, traduced by many calumnies, into doubt and questioun: albeit he is less ignorant than anie man; and our own consciences beare us record to have preassed earnestly to that, that the discipline of the Kirk might be taken out of the Word of God so farre as could be, *and that it should not passe a jot from the judgment of your Kirks.*

"Wherefore, lyke as it sould be superfluous to us to open up and declare our judgment unto you, namelie, concerning matters of discipline, seeing *whatsoever we have in that matter we willinglie and plainlie confess to have received it of you, and that we altogether agree with you in all points* (so marvellouslie doe our minds and wills, by virtue of God's Spirit, consent in an harmonie) so will we not, for feare both of temeritie and impudence, prescrive unto you anie form of answering, or manner of writing againe to the bishop's letters and questions."*

Now, let us listen to the expositions of these continental Reformers, and, in the light which these reflect, let us read those high authorities, in the framing of which, we have reason so confidently to believe, they were consulted. Let us hear Calvin's interpretation of "will and consent," as expressed in the *Ecclesiastical Ordinances of the Church of Geneva*, by him compiled:

* *Vide* "Letter of Andrew Melville to the Kirk of Geneva and Zurich," translated by James Melville, Calderwood's History, vol. iv., pp. 158, &c.

"Of vocation of pastors. As to the manner of instituting pastors, as well for the town as for its dependent parishes, we have found that the best is that conformed to the order of the ancient Church, this embodying the true practice of what is shewn in this matter in Scripture. That is, that the ministers should, *in the first place*, among themselves elect him whom they shall judge proper to serve in the ministry along with them." (The person so chosen is, *in the second place*, to be proposed to the council, and if approved by them, then,) *in the third place*, "on Sunday, intimation shall be made to the people in all the temples, that whereas such a person, naming him, has been elected and approved, according to the customary order in this Church, to serve as minister; but that, notwithstanding, *if there be any one who is aware of aught to object to in regard to the life or doctrine of the foresaid, that he may come and declare it to one of the Syndics* before the next following Sunday, on which day, also, it may be presented, *to the end that no one be inducted to the ministry, except with the* COMMON CONSENT OF THE WHOLE CHURCH."*

Again, in reply to Gaspar Olevianus, when consulted by him with reference to the organisation of a Calvinistic Church, after detailing the process of election just as above, he proceeds, "We then proclaim their names to the people, *in order that, if there be any latent vice, it may be free to all and sundry to give information regard-*

* Quoted by Sir William Hamilton, in his pamphlet entitled "Be not Schismatics; be not Martyrs by Mistake," pp. 25, 26.

ing it during eight days. Those who are *approved by the silent suffrages of all,* we commend to God and to the Church." *

The views of Beza are not less distinctly stated. From among many passages which might be quoted to the same effect, let one suffice. It occurs in one of Beza's Epistles, Ep. 83, conjectured by Sir William Hamilton, with much probability, as he shews by a striking train of circumstantial evidence, to have been a counsel earnestly addressed to the founders, and faithfully followed in the establishment of the Scottish ecclesiastical polity:—"Since the Great Shepherd requires of His flocks a voluntary obedience, it is *fair that nothing be intruded on an unwilling flock;* and *therefore,* every one should be allowed to appear before his spiritual guides, and in the fear of the Lord to disclose whatever he shall deem right and fitting." †

Let us now turn to the passages in the Second Book of Discipline, drawn up by the friend, the pupil, the correspondent of Beza:—

"Election is the choosing out of a person or persons most able for the office that vaikes, by the judgment of the eldership (Presbytery), and consent of the congregation, to whom the person or persons are appointed. . . . . In this ordinary election, it is to be eschewit that no person be intruset in any of the offices of the

* Quoted by Sir William Hamilton, in his pamphlet entitled "Be not Schismatics; be not Martyrs by Mistake," pp. 26. 27.

† See numerous authorities, indicating the same views as authoritatively maintained by the other early Reformed Churches, in the pamphlet from which the preceding quotations are made.

Kirk contrary to the will of the congregation to whom they are appointed, or without the voice of the eldership."—(Ch. iii. 4, 5.)

"The power of election of those who bear ecclesiastical charges, pertains to this kind of assembly (Presbyteries), within their own bounds."—(Ch. vii. 15.)

Will any one affirm that the terms employed in the Book of Discipline convey more explicitly the principle of non-intrusion than do those of Calvin or of Beza? Calvin says, "that no one be inducted, except with the common consent of the whole Church," "approved by the silent suffrages of all." Beza says, "that nothing be intruded on an unwilling flock," or, as he expresses it previously in the same epistle, "that no one be obtruded on an unwilling flock;" and yet, both the one and the other, as we have seen, understand "will," not as a mere inclination, whether reasonable or unreasonable, but as a reasonable will, a will founded on reasons which may be stated, and which reasons are to be stated and judged of; for, if none be stated, the election is held to be "with the common consent of the whole Church," "approved by the silent suffrages of all."

The inference from this it is hardly possible to avoid. It is strengthened, however, by other considerations. The strict doctrine laid down in the Books of Polity respecting the unalienable authority of Church rulers, renders it difficult to imagine that, with the views then entertained, the Presbytery could have permitted their election of a fit and proper person to be set aside without reasons assigned, and by them judged

satisfactory. But, besides all this, we have direct evidence to adduce.

The First Book of Discipline, as we have seen, gives the election to the people, whereas the second vests the patronage in the Presbytery. Now, when the election was with the people, there was, of course, no necessity and no place for the operation of the distinctive principle of non-intrusion. Nevertheless, as it is presumed that cases might arise in which the Church rulers would be called on to present, and as in these cases there would be room and opportunity for the operation of the principle—anticipating these cases, the rule is explicitly given, and in language which leaves no doubt whatever as to the meaning then attached to the term non-intrusion. The case is supposed of a people not electing within forty days. In this case, the superintendent with his council are to present. Here they are in precisely the same position as the Presbytery, in every case, occupies under the system of the Second Book of Discipline, *i. e.*, it belongs to them to elect. It cannot be supposed that, because forty days have elapsed, the Church should feel warranted to violate her "fundamental principle." On the contrary, she provides for its exercise, and this is the provision which she makes. Here is her practical exposition of it :—

"If his (the person presented) doctrine be found wholesome and able to instruct the simple, and if the Church justly can reprehend nothing in his life, doctrine, nor utterance, then we judge the church, which before was destitute, unreasonable, if they refuse him

whom the Church did offer, and that they should be compelled by the censure of the council and Church, to receive the person appointed and approved by the judgment of the godly and learned; unless that the same church have presented a man better or as well qualified to the examination, before that this foresaid trial was taken of the person presented by the council of the whole Church. . . . . For, altogether, this is to be avoided, that any man be violently intruded or thrust in upon any congregation; but this liberty must with all care be reserved to every several church, to have their votes and suffrages in election of their ministers. But violent intrusion we call not, when the council of the Church, in the fear of God, and for the salvation of the people, offereth unto them a sufficient man to instruct them, whom they shall not be forced to admit before just examination, as before is said."—*First Book*, ch. iv. 4.

Here, we are not only told explicitly what was not held to be intrusion, but we are also told, that if "the Church could justly reprehend nothing in his life, doctrine, nor utterance," then was "the church" to receive the person appointed and approved.

Again, in 1570, we have the voice of the Church in this matter, just eight years before the Second Book of Discipline was finally agreed upon. Bishops, regarded as visitors, it was agreed by the Assembly, might appoint ministers "with consent of the ministers of that province, and consent of the flock to whom they shall be appointed." The procedure upon presentations is

taken up by that same Assembly (1570), as to which a report given in on the subject bears, "Providing always, that the consent of the flock be had, *or else a reasonable cause be showed by them wherefore not.*"

The answer, too, of the Synod of Fife in 1596, quoted page 19 for another purpose, bears very strongly on the point. "The election of pastors should be made by them who are pastors, and to such as are chosen the *flock* and patron *should give their consent* and protection."

Such was the doctrine of the Church of Scotland during the period immediately succeeding the reformation from Popery. The reader will perceive a marked tendency on the part of the Church to confer on Presbyteries the right of electing to vacant charges, as well as the privilege of collation. They protested against patronage as it had been in use in the Popish Church, but their object was not so much to substitute for it a popular as a clerical election. Their doctrine was, election by the Presbytery and consent by the people, reserving to the latter the right of reasonable objection —of refusing their consent when they could give good reasons for so doing. It seems extremely probable that it was this obvious tendency and desire of the Church rulers to appropriate to themselves the right of election of ministers that suggested the very stringent clause in the Act 1592, and which is given in such a form that it may be considered as even containing a condition on which the Presbyterian form of government was to be held as established—"Providing the foresaid Presbyteries be bound and astricted to receive and admit

whatsomever qualified minister presented by His Majesty or other lay patrons."

Omitting, as not necessary to our inquiry, all further examination of the intervening period, let us endeavour now to ascertain the doctrine held by the Church on the subject of non-intrusion, at the period immediately succeeding the Second Reformation. As already stated, the famous Assembly of 1638, and several that succeeded, make no mention of patronage, though called upon to enumerate their grievances. Occasional cases of something very like intrusion might be quoted as perpetrated about this time—the time of Henderson, and Baillie, and Gillespie, and Samuel Rutherford, and other worthies of the reforming period. Baillie, in his Journals of the various Assemblies of which he was a member, hints at such occurrences. The Assembly, in these days, ruled with a rod of iron. Let us note a specimen or two. "Wednesday the 4th, Mr. John Collins, after long opposition of the Presbytery and parish, was ordained to be received to the Church of Campsey."* "July 31. The question of Mr. John Bruce's admission came in. The patron, Presbytery, and Provincial Synod, urged his receiving. William Rigg and the people vehemently opposed it, because of his great insufficiency and neglect of some part of his trial; he was discerned to be admitted."† Here was opposition, vehement opposition, and reasons given—"because of his great insufficiency," &c.—yet these are overruled.

* Journal of Assembly 1641. † Journal of Assembly 1642.

This same personage, William Rigg, was he who troubled the succeeding Assembly 1643, as intimated in a passage formerly quoted: "William Rigg had procured a sharp petition to us from the whole commissioners of shires and burghs against the intrusion of ministers on parishes against their minds." The instances, we may believe, had been both many and glaring which called forth a "*sharp* petition from *all* the commissioners of shires and burghs."

We pass on to the famous Act of 1649, containing "Directory for Election of Ministers."

In March of that year, the Estates of Parliament, as we have said, passed "an Act abolishing the Patronages of Kirks," and recommended to the General Assembly to "condescend upon a certain standing way for being a settled rule," in the appointment of ministers. Accordingly, the Assembly which met that same year on the 7th July, did frame the famous Act just referred to. That Act conferred the power of election on the kirk-session, reserving to the congregation the right to object. The parts of the Act which bear upon the point before us are as follows:—"3. But if it happen that the major part of the congregation dissent from the person agreed on by the session, in that case the matter shall be brought unto the Presbytery, who shall judge of the same; and if they do not find their dissent to be grounded on causeless prejudices, they are to appoint a new election in manner above specified. 4. But if a lesser party of the session or congregation shew their dissent from the election, without exceptions re-

levant and verified to the Presbytery, notwithstanding thereof the Presbytery shall go on to the trials and ordination of the person elected; yet all possible diligence and tenderness must be used to bring all parties to a harmonious agreement. . . . 6. Where the congregation is disaffected or malignant, in that case the Presbytery is to provide them with a minister."

Perhaps no Act of Assembly has given rise to more discussion than the one just quoted. That some degree of obscurity does attach to it, as to the relative effect of dissents by a majority and by a minority respectively, is not to be denied. A plain reader, however, whose judgment is not warped by prejudice, nor distracted by the conflicting commentaries of special pleaders, will scarcely fail to suppose that, as the Presbytery were to "judge" of the matter, even in the case of a majority dissenting, they were empowered to call for reasons on the part of the objectors, in order that they might determine whether or not their dissent was "grounded on causeless prejudices." They were enjoined to judge, and it is difficult to conceive how they were to convince themselves that the dissent was not so grounded, without requiring the reasons on which it was grounded to be stated.

The opinion of Sir Henry Moncrieff upon this point is clear and decided, and no one will deny that he is both an able and unprejudiced witness in the case. He says, "By the Directory for the Election of Ministers, of 1649, if a *majority* of the congregation dissented, they were to give their reasons, of which the

Presbytery were to judge." And he adds, a little afterwards, "Though this mode seemed to give weight to the clergy only in the first nomination, or on extraordinary emergencies, and more influence to the people in ordinary cases, it is evident that the clergy had still the chief influence in the ultimate decision, as well as in the selection of the candidates. For when the people were divided, which very generally happened, it lay with the Church courts at last to determine between the parties; and it can scarcely be supposed, with all the purity which can be ascribed to the intentions of the clergy, that the candidate who had most favour among them was often rejected." *

To aid us, however, in ascertaining the mind of the Church on this important matter, let us, as before, observe what were the views of contemporary authorities — of authorities whose acknowledged influence was great with the eminent men who guided the affairs of the Scottish Church at the period under consideration. The Presbyterian form of government recognised in England in 1643, was in 1645 formally instituted as the National Establishment. Between the two Churches the most intimate union subsisted. The Solemn League and Covenant was common to both. To the famous National Assembly of Divines—the Westminster Assembly — the Scottish Church sent commissioners. Its clerical representatives at Westminster were Alexander Henderson, Robert Douglas, Samuel Rutherford, Robert Baillie, and George Gil-

* Constitution of the Established Church of Scotland, pp. 34, 35.

lespie, the most eminent ministers of the time. It is scarcely possible to imagine that, in the circumstances, there could be a difference of opinion between the two Churches on this important matter. What, then, were the views held by the English Presbyterian Church? On this point there can be no doubt. The doctrine is stated without any ambiguity. For instance, in the "Propositions concerning Church Government, and Ordination of Ministers," adopted by the Westminster Assembly, and concurred in by the Scottish commissioners in 1645, the following clear statement is given—"No man is to be ordained a minister for a particular congregation, *if they of that congregation can shew just cause of exception against him.*"

Again, in the "Directory for Church Government and Ordination of Ministers," sanctioned by the Westminster Assembly, and supported by the Scottish Commissioners in 1647, we read, "When any minister is to be ordained for a particular congregation, or translated from one place to another, the people of that congregation to which he is to be ordained or admitted, shall have notice of it; and, *if they shew just cause of exception against him*, he is not to be ordained or admitted."

The terms of the established Directory are quite unambiguous. It twice repeats these words, "No man is to be ordained for a particular congregation, *if they of that congregation can shew just cause of exception against him.*" It minutely prescribes the form to be adopted in his calling and ordination—"Being either nominated

by the people, or otherwise commended to the Presbytery for any place, he must address himself to the Presbytery." Then follow rules for examination. And the only standing recognised for the people at this stage is as follows—"He is to be sent to the church where he is to serve, there to preach three several days, and to converse with the people, that they may have trial of his gifts for their edification, and may have time and occasion to inquire into, and the better to know, his life and conversation.

"In the last of these three days appointed for the trial of his gifts in preaching, there shall be sent from the Presbytery to the congregation, a public intimation in writing, which shall be publicly read before the people, and after affixed to the church-door, to signify, that, such a day, a competent number of the members of that congregation, nominated by themselves, shall appear before the Presbytery, to give their *consent and approbation to such a man to be their minister; or otherwise, to put in what exceptions they have against him.* And if, on the day appointed, there be no just exception against him, but the people give their consent, then the Presbytery shall proceed to ordination."

A plainer statement than this could not have been given. And, let it be observed, this Directory was not only "agreed upon by the Assembly of Divines at Westminster, with the assistance of commissioners from the Church of Scotland," but was formally approved of by the General Assembly in 1645. Both the Directory and the Act of Assembly approving of

it may be consulted by all, being generally bound up along with the Confession of Faith, and other standard authorities of our Church, in that volume so much and so deservedly prized by the people of Scotland.*

It is true that, in the Act of Assembly approving of this "form of government and of ordination of ministers," the General Assembly provides that "this Act be in no ways prejudicial to the further discussion and examination of the distinct rights and interests of Presbyteries and people in the calling of ministers." But, *first*, it is obvious that, in the opinion of the English Presbyterian Church and Westminster Assembly, dissent without reasons was not to be admitted. Of this point there can be no doubt. *Second*, In 1645, this was the doctrine of the General Assembly also; for, though they do not bind themselves to make no alteration, "as God shall be pleased to give further light," in that particular matter; yet, according to the light which they then had, they approve of the whole, and they adopt the whole as their Directory. How gratefully and cordially they did so, Baillie tells us in his letter, dated April 25, 1645, speaking with the authority both of a commissioner to the Westminster Assembly, and of a member of the General Assembly of the Church. His words are as follows:—"On Thursday we were brought to the Assembly. . . . . Because of the longing desire of all to know what we brought, and to deliver the minds of some from their fears, lest we had other things than we at first would bring forth, all

* *Vide* "Form of Presbyterial Church Government," &c.

was presently read; the letters of the English Assembly, our commissioner's letters, the Directory from end to end, the Directory for Ordination, the votes of Government so far as had passed the Assembly, and some other papers. *All was heard with great applause and contentment* of all. It was one of the fairest Assemblies I had seen: the choicest of the ministry and elders of all Scotland well convened; almost the whole Parliament, nobles, barons, burghs, and all the considerable persons who were in town. . . . A numerous Committee was appointed to examine all punctually, which we were desired to attend. In five or six days we went through, and, by God's assistance, gave all men satisfaction in everything. The brethren from whom we expected most fashry were easily satisfied; all did lovingly condescend to the alterations I had so much opposed, whereof I was very glad, only Mr. And. R. was oft exceeding impertinent with his ostentation of antiquity, and Mr. D. Calderwood was oft fashious with his very rude and humorous opposition, yet we got them all at last contented, and the *Act*, which Mr. Gillespie drew very well, consented to, in the Committee first, and thereafter in the Assembly, with a joy unspeakable, blessed be God."

These quotations throw a far clearer light on the Act 1649, than do the ingenious commentaries of clever polemics, whether lay or clerical, eager to carry a point, and to defeat an adversary. The testimony which they give is that of witnesses, speaking to plain facts, and not biassed by any favourite theory, to which prejudice

might lead them, even unconsciously, to shape their expositions. Can it be reasonably supposed that these men of large experience and matured views, should, in four short years, have so far changed their opinions on so material a matter? From the known character of the men, were they likely to do so? The thing is no doubt possible. It is, however, most improbable. And surely, in the circumstances, if the most obvious reading of the Act 1649 seems to indicate that, in every case of objections against an election, the objectors were required to state their grounds, that these might be judged of by the Presbytery, or even if the matter were doubtful, the known and solemnly recorded opinions—not only of men, and of an Assembly held in highest veneration by the framers of the Act, and with whom they had formed a most strict union in all matters of Church government, but of these very framers themselves—ought to guide us to the only interpretation by which their consistency can be maintained.* Baillie,

* The Assembly having received entire authority in the matter, to regulate the mode, and to vest the right of election as to them seemed best, would have required no such elaborate and intricate Act, had their intention been frankly to declare that the simple dissent of a majority was to bar the settlement. A word would have done it. This we humbly think an important consideration. Clearly they did not wish to do so, and yet, after the very ample powers committed to them by the Estates, they could not but seem to do something in favour of popular rights. The boon would at best have been a paltry one to parishioners, not one of whom, in these times, durst have ventured to absent himself from his parish church, but was compelled, edified or not edified, to attach himself to the man whom the Presbytery had inducted. Yet even this they would not grant. We fear the remarks of Balfour, in his Annals, on the Act of Parliament and on the Assembly, were not without some foundation. He says, "And this Act, to make it the more specious, they coloured it with the liberty of the people to choose their own ministers; yet the General Assembly holden at Edinburgh,

who justly characterises the Act as "a general, confused draught, leading into as many questions as any pleased to make," after stating the contending doctrines of Mr. David Calderwood and Mr. S. Rutherford as to where the right of election should be vested, says, "Most of us were in Mr. Gillespie's mind, in his *Miscellanies*, that the direction was the Presbytery's, the election the Session's, and the consent the people's."*

The period which immediately succeeded is one, the contemplation of which is fitted to fill the heart with shame and sorrow. Kirkton, indeed, has fondly characterised it as a period of prevailing godliness; and many, in our own day, have quoted his select descriptions as indicating a season of refreshing, the like of which had not been previously witnessed, and which has never since been equalled in the Church of Scotland. That much of true piety and of holy zeal did then exist, we would not willingly question—that many bright examples of true godliness were then exhibited, we are well assured. But the authentic annals of the time, including, among others, the recorded proceedings of the General Assembly, present, it must be confessed, a picture of the condition of the country at large, which it does not afford us much gratification to contemplate. Anarchy prevailed. The nation was in a state of almost

in the months of July and August this same year, made a very sore mint to have snatched this shadow from the people (notwithstanding their former pretences), collationed the sole power on the Presbyteries, and outfooled the people of that right they formerly pretended did only and especially belong to them, *jure divino*."

* See Note A.

perpetual turmoil. The rulers were divided in their counsels. The Church claimed and exercised a right of interference in all important state affairs, not excluding those relating to the conduct of military operations. And if at any time her advice was not followed by those who, for the while, happened to be in power, her sons, too faithful to permit her influence to be despised, emitted their fulminations from the pulpit and in their published manifestoes so effectively as in general to compel their adversaries to succumb. Meanwhile, within the Church herself, dissensions were germinating. Ere long she was rent asunder by contending factions —mutually recriminating, mutually deposing, mutually excommunicating. The spirit of faction rendered the kingdom an easy prey to a foreign invader. The nation was vanquished. The sway of the conqueror of Scotland was exercised, no doubt, with mildness. The burden of her degradation was made as light as circumstances would permit; but her independence was gone—it lay at the feet of a foreign dictator. The marks of that independence were swept away. Among these, the General Assemblies of her Church had been conspicuous. These were forcibly dispersed and authoritatively prohibited.

From 1649 down to 1690, there are no authentic records of our Church to be consulted. The edicts of the four Assemblies which were permitted to meet have not been recognised as of authority. The principle of non-intrusion appears, in many instances, to have been despised. The contending factions, it would seem, were

in many cases resolute to have each a presentee of their own peculiar views. Says Baillie, in 1654—"As for our Church affairs, thus they stand. The Parliament of England has given to the English judges and sequestrators a very ample commission to put out and in ministers, as they see cause. . . . Our churches are in great confusion. No intrant gets any stipend till we have petitioned and subscribed some acknowledgment to the English. When a few of the Remonstrants and Independent party will call a man, he gets the kirk and the stipend; but whom the Presbytery, and well nigh the whole congregation, calls and admits, he must preach in the fields or in a barn, without stipend." In this same letter, Baillie details sundry cases of intrusion; but it is observable, by the way, that the power of the English conquerors had introduced a modified form of toleration —men were permitted "to preach in the fields or in a barn." Having narrated one case of *forcible* intrusion, he says—"In this glass see our condition. It is so in sundry congregations already, and like to be so in many more." We dwell not, however, on these painful scenes. The Church was now fast verging to that state of anarchy which, after the Restoration, was succeeded by a lengthened persecution.

The next authoritative record which presents itself is the Revolution Settlement. The terms of the Act 1690 admit of no dispute. In it the powers of the Presbyteries are amply preserved, and the ancient rights of the people secured and defined. "Their Majesties, with consent of the Estates of Parliament, do statute and

declare, that, in case of the vacancy of any particular church, and for supplying the same with a minister, the heritors of the said parish (being Protestants), and the elders, are to name and propose the person to the whole congregation, to be either approven or disapproven by them; and if they disapprove, that the disapprovers give in their reasons, to the effect the affair may be cognosced upon by the Presbytery of the bounds, at whose judgment, and by whose determination, the calling and entry of a particular minister is to be ordered and concluded." Such, with reference to the point now under consideration, are the terms of the Revolution Settlement—a settlement which re-established the Presbyterian Church in Scotland, which restored the old landmarks, and rebuilt the bulwarks which had fallen into decay, or had been levelled by the hand of violence and tyranny—a settlement which the Church has ever since referred to as the charter of her rights, securing to her the precious liberties for which our fathers had contended. It was an Act of the State, no doubt, not of the Church, and has therefore, by some, been characterised as fundamentally Erastian; but it was an Act of the State establishing the Church anew, restoring the very government which she had prescribed, sanctioning the same doctrines which she had embodied in her Confession, adding the civil authority to what the Church had previously determined; and, so far as the principle of non-intrusion was concerned, the Act was simply declaratory, re-enacting what the Church herself had decreed in 1649, and what again was re-enacted, for the purpose of re-

moving doubts and difficulties which had occurred, in 1843, by the passing of the Act entitled "Lord Aberdeen's Bill."

As far as the principle before us is concerned, the provisions of the Revolution Settlement have continued in force till now. It is not be denied that for a time these provisions were overlooked. The Church herself neglected them. She tolerated, she practised intrusion, in as far as intrusion really was practicable under a system which compelled none to receive the ministrations of a man whom they disliked, but permitted them to worship under other spiritual guides, as their own consciences might dictate, or their own choice might lead them. Up to this point she did neglect the fundamental principle, until it came to be regarded as a settled point that no objections could be looked at by a Presbytery, but such as touched the life, doctrine, or learning of a presentee. This was the Church's own doing. She acted spontaneously. She was under no constraint. She was acting under a false idea of spiritual independence, assuming rights which did not belong to her, when she thus set at nought the privileges and liberties of the people. She was going beyond her province, which the statute had clearly defined, and which she had accepted and bound herself to observe. To refuse to listen to the reasons of disapprovers and to "cognosce upon the whole affair," was as much a violation of the statute, as to determine to give effect to dissents without reasons, and to refuse to judge in the matter. In either case she ought to have been

controlled—kept within her own province—compelled to respect acknowledged rights. Such, at least, as we shall afterwards shew, was the doctrine which our fathers held. Except in some few seasons of perilous excitement, from the oppressions of tyranny, or in the heat of bitter controversy, they did not reach the Popish attainment of believing that men were guilty of attempting to dethrone the blessed Redeemer, when they compelled even the rulers of the Church to respect the rights of others—to have regard to solemn compacts, and to leave to constituted civil courts the interpretation of the laws.

To refer to cases of intrusion, of violent inductions, of refusal to listen to offered objections, as if the occurrence of such cases settled the question to the effect of setting aside the right of objecting, except on the grounds of life, doctrine, and literature, is not more pertinent than to refer to a few cases of presentees being set aside on the ground of simple dissent without reasons, as if these cases settled the point that reasons were not to be required. The Church, as we have seen, has ever protested that no man shall be intruded on a congregation; but her doctrine has, at the same time, been that objectors or disapprovers should give in their reasons. In no other sense can we understand the Act of Assembly 1736—"That it is, and has been since the Reformation, the principle of this Church, that no minister shall be intruded into any parish contrary to the will of the congregation"—reading that Act in the light of the other Acts to which it makes reference, and of

the doctrine and practice of the Church as indicated in our preceding review.

The Church has ever claimed the right of judging of the propriety of every individual settlement. In practice she may sometimes have overlooked the claim—in theory she has adhered to it. One of the elements on which her judgment proceeds, is the call on the part of the congregation; another is grounds of objection, if objection be offered. She judges of the presentee's qualifications—of his fitness for the particular charge. If objections be offered, not founded on causeless prejudice, but well founded and substantiated,—objections of whatever kind which prove the unfitness of the man for the particular charge,—and she is bound patiently to listen to every objection, and calmly and solemnly to weigh it,—she rejects the presentee; for "it is, and has been since the Reformation, the principle of this Church"—a principle never more thoroughly understood, nor more conscientiously acted on, than at this present time—"that no minister shall be intruded into any parish contrary to the will of the congregation."

NOTE TO CHAPTER III.

Note A.

Perhaps the strongest argument in favour of the opposite interpretation might be founded on the opinion of Gillespie, in his *Treatise of Miscellany Questions*, published in 1649. It is not to be denied, that his opinion, as indicated in that treatise, points to

the right of objecting without reasons: "We give," he says, "the vote only to the eldership, or Church representative, so that they carry along with them the consent of the major or better part of the congregation" (p. 24). And (p. 28), "Though nothing be objected against the man's doctrine or life, yet, if the people desire another better, or as well qualified, by whom they find themselves more edified than by the other, that is a reason sufficient (if a reason must be given at all)." "Now, men vote in elderships (as in all courts or consistories) freely, according to the judgment of their conscience, and are not called to an account for a reason of their votes. As the vote of the eldership is a free vote, so is the congregation's consent a free consent, &c." (p. 27). In reply, however, to the objection that seldom or never shall a congregation be found of one mind, he says, "For avoiding inconvenience of this kind, it is to be remembered, that the congregation ought to be kept in unity and order (so far as may be) by the directions and procedure of their elders, and by the assistance of brethren chosen out of other churches, when need so requireth." And he quotes with approbation the opinion of Calvin, as adduced by Zanchius. "Præsideant plebi in electione alii pastores, et cum ipsis etiam magistratus conjugatur, qui compescat tumultuantes, et seditiosos;" although he adds, "Therein there is great need of caution, lest, under pretence of suppressing tumults, the Church's liberty of consenting or not consenting be taken away; as, upon the other part, the election is not to be wholly and solely permitted to the multitude or body of the Church" (p. 30). It must also be kept in mind that Gillespie drew up the Act of Assembly 1645, which required parties objecting to put in the grounds of their exceptions.

It may not be out of place to quote the views of Rutherford in his *Due Right of Presbyteries*, published in 1644. Rutherford declares in explicit terms the right of congregations to elect. "The people have God's right to chuse, for so the word prescribeth" (p. 201). This view, however, he does not maintain without many modifications. He denies that it is "part of the liberty wherewith Christ hath made us free, that every one choose his own pastor;" and he adds, "The prophets and apostles exercised pastoral acts over many who made not choice of their ministry; yea, they preached to them against their will, and Paul preached as a pastor to many in Corinth against their will; and a faithful

pastor may preach to many who never made choice of him for their pastor, and to whom the word is the savour of death unto death. . . . A liberty of the will in embracing or refusing a minister is licence, not liberty. . . . If some of a congregation wanting the spirit of discerning, upon prejudice refuse a called pastor to be their pastor, yet, if most part of the congregation elect him, he is a pastor to all. . . . . Here is a ministerial charge which a pastor hath lawfully over such as are not willing to submit to that ministry; the power of electing a pastor is not infallible. What if they, or most of them, upon sole groundlesse prejudice, refuse such a man to be their pastor, is he not their pastor because all consent not? Are we to think that Christ purchased a liberty of refusing a called pastor?" (pp. 128, 129). Again, "The people are not infallible in their choice, and may refuse a man for a pastor whom God hath called to be a pastor, because people out of ignorance or prejudice consent not to his ministry. Nor are we of Dr. Ames' judgment, that the calling of a minister doth essentially consist in the people's election; for his external calling consisteth in the presbyter's separation of a man for such a holy calling, *as the Holy Ghost speaketh*" (p. 205).

It is true that Rutherford is speaking of the objections of a minority against a pastor called to the oversight of a flock; but many of his expressions, it will be observed, are of more general application. He is proving that "election of a minister is not essential to his calling."

CHAPTER IV.

Spiritual Independence—On this principle, and not on that of Non-Intrusion, the Secession was founded—Sense in which held by Church of Scotland—Our Liberty result of Struggle between Supporters of Civil and Ecclesiastical Tyranny—Theory of Ecclesiastical Establishment—Amount of Claims of Modern Spiritual Independence—If granted, would have established the only species of arbitrary power within the British Empire.

THE controversy which had its origin in an endeavour on the part of the Church, or of a section of it, to secure what was believed to be the right of congregations in the calling or rejecting of presentees, assumed, in its progress, a very different phase, when it merged into a contest for what has been denominated Spiritual Independence.

There were those within the Church who would willingly have exerted their utmost efforts for the extension of popular rights—for the modification, or even the total abolition, of Church patronage—who were first startled, and then alarmed, by the claim, as put forth, of independent spiritual jurisdiction. The claim was made as of divine right, and therefore unchallengeable. It was a claim which those who made it declared they could not abandon without sacrificing the crown-rights of the glorious Redeemer, and for rights on them conferred by the great Head of the

Church, in the exercise of which any attempt to control them was an attempt to dethrone the King of Zion, and a virtual denial of the Headship of Jesus.

It should be kept distinctly in view, that it was on this ground that the seceders of 1843 took their stand. Spiritual independence, and not non-intrusion, was the principle on which the schism was founded. The controversy originated in the one, but lapsed into the other. The latter was sunk into a position of minor importance. This being the case, if it be proved that the claim then set up was inconsistent with the views of the early Reformers of our Church, and not identical with that for which our fathers contended, in their struggles against the encroachments of arbitrary power, when it sought to subvert at once the civil and the spiritual liberties of the nation; but, on the contrary, was a claim which, if conceded, would either have been practically inept, or would have destroyed the Establishment, by making it an institution intolerable to a free people, or would have subverted liberty itself, and paved the way for the introduction of tyranny in its most repulsive form: it will then appear, either that the mighty contest was for an unsubstantial shadow, a mere word, a thing impracticable, a bauble to amuse but not to benefit, or that the people were tempted, by a show of freedom, to relinquish the very Palladium of their liberties. They were offered a boon by the Church, but, as afterwards appeared, their acceptance of it was to imply a recognition of inherent rights in

the Church to withdraw it when the Church should so please. The mantle of spiritual independence would cover more than that. For a benefit which, being held on a most uncertain tenure, might prove but temporary, there was to be an acknowledgment of arbitrary power beyond the reach of any control. With many the lure succeeded. They were willing to welcome a present boon, though pregnant with future evils. They perceived not that their infant liberty was slavery not yet developed, and that by swearing fealty to the winning babe, they were sacrificing their liberties to the future tyrant. They perceived not that they were consenting to a demand which might denude them of their most precious privileges, withdrawing them from the security of established law, and removing them from the basis of constitutional right to a deceitful foundation, which rested on nothing more stable than the fluctuating opinions of public men. They were transferring them from a foundation which could not be assailed without shaking the constitution of the kingdom, to one which, at the best, could offer no pledge more secure than the chances of a continued majority in the Church courts, or rather than the caprices of a popular convention not only irresponsible, but at all times too ready to follow implicitly the leaders of the day.*

It can scarcely be necessary to multiply testimonies

* "Had the Church of Scotland obtained all that was demanded by those now forming the Free Church, we feel assured that it would speedily have proved fatal to her. By some incautious act of the Church courts, inimical

in support of the statement that the non-intrusion principle became altogether subordinate to that of spiritual independence, and that the latter was that on which chiefly the party seceding ultimately took their stand. They did not, indeed, resile from the former, but the latter they maintained to be by far the more important.

For example, Dr. Chalmers expresses himself as follows—"With us it is in no manner or degree a contest between two opposite wills; nor is it the victory that we aspire after, to establish the power or prevalence of the will of the people over that of the patron. . . . We think that in the conscientious exercise of our proper functions, a Presbytery may often be called upon to interpose her negative or veto, as a stay and a correction on the waywardness of both. . . . *We regard the spiritual independence of the Church as far the most important, nay, as the only vital question in this controversy.*" *

"Your Lordship already knows, that supposing the first, which is really the greatest interest connected with this question, secured—I mean the spiritual independence of the Church on the civil courts—you know

to the people's rights, it would soon have *come out* that the spiritual independence, so zealously contended for, was independence only in its aspect towards their spiritual rulers, but was despotism and slavery towards them. The recoil of feeling would have been tremendous—it would have laid the Church in ruins."—*The Claim, Declaration, and Protest, subversive of the Authority of Christ, as respects the Church of Scotland, and of the Spiritual Rights of its Members*, p. 5.

* What Ought the Church and the People of Scotland now to do? pp. 34, 35, &c.

already *how small the measure of non-intrusion is which would satisfy many of us*." *

I dwell not on this point. It will probably not be disputed. The very ground on which it was refused to repeal the Veto law, after it had been declared illegal by the civil courts, was, that in the peculiar circumstances of the case, to have repealed it "would have been tantamount to a renunciation of the doctrine of spiritual independence altogether."

Let us proceed, then, to examine this doctrine. Let us inquire to what it amounts. There is a sense, and a most important one, in which this doctrine is, and ever has been, maintained by the Church of Scotland. She acknowledges one only Head, Jesus the Son of God—the Head not of the Church of Scotland only, but of the Church universal. No temporal head will she acknowledge. She maintains the doctrine of His Headship over nations. She adores Him as the King of Zion. She worships Him as the head and source of all authority—whether it be ecclesiastical

* Earl of Aberdeen's Correspondence, p. 41. "So long as the judgment of the supreme civil court had merely determined that the rejection of a presentee, under the operation of the non-intrusion principle, inferred the statutory forfeiture of the benefice, but did not necessarily imply the assertion of a right to control the Church in the exercise of her spiritual function,—the only measure required was one which would alter the law, to the effect of allowing the Church to carry out her non-intrusion principle, without the risk of the parish being for a time deprived of the public provision made for the maintenance of religion within it. But, now that the civil courts assert and exercise a dominion over the Church in the settlement of ministers, it is obvious that no measure which merely authorises or suffers the Church to give effect to her non-intrusion principle, according to some particular method, will restore her freedom in the exercise of this the most vital function of her spiritual government."—*Convocation Memorial*, p. 15.

or civil—as at once the King of Zion and the King of kings.

Her doctrine on this point is unambiguously stated in her acknowledged standards—in her Books of Discipline and her Confession of Faith. In these, a line of demarcation is drawn between the civil and the spiritual jurisdictions. To Christ, the source of all power—the King of nations and the King of Zion—she attributes both. The rulers in the one and in the other serve under Him, and are bound to govern according to His laws. Both must bow to His sceptre. He who proclaims, "Lo, I am with you always," also declares, "By me kings reign, and princes decree justice." To each He has prescribed a separate sphere of jurisdiction. The one embraces things civil, the other things spiritual. Neither may invade the province of the other. If invasion of the spiritual province, on the part of the civil ruler, may be described as a dethroning of Christ as the King of Zion, the invasion of the civil province, on the part of the ecclesiastical ruler, may equally be described as a dethroning of Christ as the King of nations.

To this invasion there is a tendency on either side.* The Erastian doctrine, in its several modifications, on the one side, tends to the former—the Popish doctrine, in its several modifications, tends to the latter. The

* History, however, declares, that the tendency has hitherto been strongest on the side of the Church. "The *theoretical fear*," said Dr. Chalmers, in a sermon preached by him in London in 1833, "is lest the State should meddle with the prerogatives of the Church; the *historical fact* is, that the Church meddles with the prerogatives of the State."

Church of Scotland protests against them both. In practice, indeed, she has sometimes attempted a spiritual domination even in civil matters, but her acknowledged standards give no countenance to the attempt; and good cause have we of gratitude to the God of nations, that instruments were not awanting to resist such bold endeavours and to suppress them.

Out of the long-continued struggle between regal tyranny, affecting supremacy both in Church and State, and priestly domination claiming authority directly from the source of all power, and assuming, in the name of Christ, dominion over the consciences of men, has arisen that glorious system of liberty, civil and religious, which it is now our privilege to enjoy. To the memory of our Covenanting fathers we owe a debt of gratitude which we never can repay; but not to them alone are we indebted for the liberty which we now possess. The unchecked triumph of their principles would have been as fatal to true freedom as that of those whom they opposed. The very semblance of liberty of conscience they repudiated and abhorred. There was a counterpoise of tyrannical influences—a mutual repression of antagonistic tyrannies; and, in God's good providence, the one was compelled so to modify and restrict the other, that true liberty has been the blessed result. The effect of the deadly struggle has been the full recognition of the Headship of Christ, and the marking out with more distinctness of the respective limits of the two jurisdictions. The one repressed the usurpations of the other. Both were

inclined to affect the Headship—the one on the ground of royal supremacy, the other of what is now termed spiritual independence. Both claimed a right divine. The one repressed Erastian—the other ecclesiastical or Popish supremacy. The one had claimed a divine right to legislate and adjudicate for the Church at will, as being, in virtue of his kingly authority, her temporal head; and he was resisted and repelled. The other claimed the same right, in virtue of similar authority derived from Christ; and was resisted and controlled. Both were taught that each was a usurper. It was seen that Christ might be dethroned as really by the priest as by the temporal sovereign; and that Church rulers, while professing only to claim that Christ should be king in His own house, might as truly usurp His place as the monarch who pleaded the divine right of kings.

Since the Church of Scotland and those who now denominate themselves the "Free Church" acknowledge, as yet, the same standards of doctrine and policy, let us endeavour to ascertain wherein they differ on the principle of spiritual independence. The Church of Scotland maintains that, within her proper jurisdiction as in her standards defined, she possesses unlimited authority. That authority she has derived from her great Head. To her exercise of that authority, as an Established Church, the civil magistrate has added his civil sanction. She taught the civil magistrate that it was his bounden duty to establish the Church—the true Church—and not to countenance error. This was

her early teaching—this her stern demand.* The demand was not, and could not be, that he should hire a certain number of men to preach whatever doctrines they might believe or suppose to be the doctrines of the Bible, and administer discipline according to whatever rules they might believe or suppose to be the rules which Christ had appointed. That would have been leaving the matter undetermined. Each might declare a different system, or the views of all might change; whereas, as the Church had peremptorily told him, it was the true Evangel, both as to doctrine and to discipline, which alone he was to countenance and maintain. A creed, therefore, and a system of policy, must be agreed on.

It was just thus that the arrangement was effected. It could be done in no other way. And therefore the establishment of the Church was not the appointing of a body of men to preach and to administer ordinances, but

* This, I presume, will not be questioned. The Reformers were called on by the Estates "to draw, in plaine and severall heads, the summe of that doctrine which they would maintaine and desire the Parliament to establish."—*Calderwood*, vol. ii., p. 13. The Legislature held itself entitled to form an independent judgment upon what might be submitted. The Church did not pretend "to bind them to their judgments further than they were able to prove by God's plane Scripture." But what was thus agreed to be truth, the Reformers held them bound to adopt and sanction. "Knox, and his enlightened and able associates," says Dr. Buchanan, "were clear and decided as to these two things: first, that no state can, without grievous sin, lend its countenance to the Roman antichrist, or to any false religion whatsoever; and, second, that every state is bound to embrace, acknowledge, and encourage the true religion. . . . In submitting that summary of the Protestant faith to the solemn and deliberate consideration of the Estates, and in seeking to have it publicly recognised, they gave unequivocal expression to the *latter* of the two principles above alluded to, viz., that the civil power is bound to receive and to own the truth of God."—*Ten Years' Conflict*, vol. i., pp. 46, 47.

was the establishment of a creed and of a polity. These once agreed to by the State, marked out the Church as, by the State, established. Ministers thereafter appointed were appointed for the definite duty of preaching the doctrines of that national creed, and administering the ordinances of the Church according to that definite polity.* The Church had instructed the civil magistrate that it was his certain duty to establish that system of doctrine and discipline, and to countenance none other. But if it was his bounden duty to establish, it clearly followed that it was also his bounden duty to maintain, the truth when established; or, in other words, to take order that the doctrine taught, and the policy observed, were none other than those established. Such were the views of the founders of our Church, and such, with reference to the point before us, is still the doctrine of the Church of Scotland.

* The Confession was speedily ratified. "These articles," says Calderwood (vol. ii., p. 37), "were read in face of Parliament, and ratified by the three Estats at Edinburgh, the 17th day of Julie 1560." The polity was a business of more protracted arrangement It gave rise to much discussion, and to many disputes. The Church continued to press the subject on the notice of the Legislature; and, after the full establishment of Presbytery in 1592, refused to consider the "external gubernation of the Kirk" as a matter debatable. The first of the celebrated questions proponed by the king in 1596 was—"May not the maters of external gubernation of the Kirk be disputed, *salva fide et religione?*" The answer was, "*They may not.*" And this reply they ground on several reasons, and on this among others. "The government of the Kirk being already established, and constituted upon good grounds of the Word of God, by lawes of the countrie, and more than threttie years' possession." They add—"Let the king and counsell consider how intolerable they would think it, to cast in doubt the fundamentall lawes of the kingdom and acts of Parliament; or, if any man would putt in arbitrement his undoubted possession, leaning upon a law, and decreit, and right unreduced."—*Calderwood*, vol. v., p. 585.

The Church has limited her own independence on the point of doctrine—just as the individual independence of every minister of every Church which acknowledges a recognised standard of doctrine, is limited by the acknowledged creed. She may teach nothing contrary to the Confession of Faith.* She has limited her own independence on the point of discipline. She may not act but in accordance with the established polity. In doing so she is acting, *not in obedience to the prescriptions of the civil power, but in accordance with the doctrine and discipline which of old she did herself prescribe*, and to which every member who now belongs to her courts declared, on his entrance, his conscientious adherence. Yet in this matter the civil power has a very special interest. The Church has taken the civil ruler bound to maintain that doctrine and form of discipline. She prescribed it; she pressed it on him. She warned him, on his fidelity to the God of kings, to accept, maintain, and establish it. Whenever he attempted, according to his own will, to alter it, she protested and resisted. He has sworn to the nation that he will uphold it. It is solemnly ratified by Acts of Parliament, and has become a part of the laws and of the constitution of the kingdom.

All this is obvious. None, perhaps, will dispute it; and from it certain consequences flow, which are inconsistent with the modern views of spiritual independence.

It is obvious, for example, that if the civil power has become bound to the Church herself, and to the nation,

* See Note A.

to uphold this doctrine and form of polity, he must possess authority to prevent or punish deviations from it in the manner proper to himself, that is, by the infliction of civil penalties. It is not his province to judge of deviations by direct reference to the Word of God. That were Erastianism. But it is his to judge of deviations by reference to that polity which, out of the Word, the Church herself has procured to be embodied among the nation's laws. Should even a majority of the Church's office-bearers violate that polity, he would be bound to protect the minority who adhered to it. In doing so, he would be only acting as the Church herself has taken him bound to act; he would be only doing what the Church has, from the beginning, solemnly warned him was not only his right, but his imperative duty. He would just be protecting the Church of Knox, and Melville, and Henderson, and Rutherford, from the inroads of modern innovators.

It is possible, indeed, at least conceivable, that these innovations might be improvements, but with that the civil authority, acting as a judge, has nothing to do. His guide is the rule embodied in the statute. The innovators might plead conscientious conviction. Our fathers would have told them, that with the conscience, the civil ruler, as such, has nothing to do. They might appeal to Scripture. Our fathers would have told them that with the interpretation of Scripture, the ruler might not interfere, unless he would underlie the charge of Erastianism. He must look to the statute, and to the statute alone, else he invades the spiritual jurisdic-

tion. And, looking to the statute, which it is his province to do, he is bound to protect the Church, with her creed and polity, both from invasion from without and innovation within—to protect inviolate the people's rights, which their fathers have bequeathed as their most precious inheritance, in that Church, the doctrine and discipline of which they embodied among the nation's laws, in order that, protected by the power of the State, they might be transmitted unimpaired.

These views, as we shall afterwards shew, are in entire accordance, not only with the standards of the Church, but with the views elsewhere expressed by the fathers of the First and Second Reformation.

How different those entertained by the divines of the modern school!

In the memorial of the Convocation of 1842, such statements as the following occur:—"The whole matters in which the Church exercises her proper authority must, by the statute, be expressly and effectually recognised as spiritual, so as to leave the Church to be guided, in disposing them, by her own sense of duty alone, according to the Word of God, and her fundamental principles founded thereon." *

It is not necessary to multiply quotations. Our brethren demanded absolute freedom of control in all matters spiritual, and liberty for themselves to determine what matters were to be considered as spiritual. They claimed, and acted upon, an assumed right to interpret for themselves such civil statutes as related to

* Memorial, p. 17.

the Church's jurisdiction. They prejudiced their character as members of a spiritual court, by claiming co-ordinate jurisdiction with civil courts; thus provoking the aspersion of their constituting a civil corporation. "The real contest was not whether the Church courts should be supreme in all spiritual affairs; . . . but the real contest turned on this point, whether the Church courts shall also determine what are those spiritual matters in which their jurisdiction shall be supreme and exclusive." *

This was, indeed, the very marrow of the controversy, and had this power been conceded—which it never was from first to last of the Church's history—she had been invested with a power which might have proved not only subversive of the liberties of her people, but fatal to herself. Armed with this power, an innovating majority, claiming obedience from all as to the will of Christ, might have subverted the whole constitution of the Church. They might have changed her doctrine, subverted her discipline, and trampled the liberties of her people under their feet. Is it not asserted that, at one period of the Church, "so extensively had heretical doctrine and a sceptical spirit spread among the clergy, that the purpose was deliberately entertained to get rid of the Confession of Faith, as the grand hindrance to the free thinking that was abroad?" † Were the power

* Popery of Spiritual Independence, p. 5.

† Dr. Buchanan's Ten Years' Conflict, vol. i., p. 194. In point of fact, such departures from the faith have taken place. Among the Presbyterians in England, and in Ireland, though holding originally the doctrines of the Westminister Confession, how many lapsed into the Socinian and Arian heresies!

claimed to be conceded, what could prevent such a result? Where would be the security for the people's rights to the means of instruction according to the form of sound words? Or, supposing that a Presbytery should become infected with Antipædobaptist views, and should refuse the ordinance of baptism to the infants within their bounds, and that the higher courts of the Church should decline to interfere, is no resource left to the Christian parents, although their fathers have bequeathed to them a right, sanctioned by their country's laws, to the regular administration of all the Christian ordinances?

Or yet again, supposing that the right of the election of the clergymen were conceded to congregations, as indeed may yet be, but that an intruding majority in our Assemblies should ordain that these rights should not be exercised, but that Presbyteries should, at their own will, induct whomsoever they might choose to force upon reclaiming congregations—have these congregations no means of defence against such inroads upon rights secured by the constitution of the country? None. All these are spiritual matters, and, under such a system, there could be no redress.

Let it not be objected that these are extreme cases not likely to occur in practice. They shew the legitimate tendency of the principle. It was by little and little that the Popish supremacy attained its full development. The steps were trifling and gradual, sometimes almost imperceptible, of that ascent by which that towering summit was reached; and, under the sanction

of this principle, each was capable of easy defence. Let a nation concede to the rulers of a Church recognised as the Church by law established, uncontrolled power in matters spiritual and ecclesiastic, and authority at the same time to define for themselves the limits of their jurisdiction, and that nation shall thereby have erected a power to which every other may be made to bend. The claim of right divine will only increase that power and make it more oppressive by rendering its pretensions unchallengeable. It is of little moment whether it be vested in priest or presbyter, in bishop or in synod. If it chooses to transgress, there are no means of confining it within its proper limits. It makes sacred whatever it appropriates. Its decision brings it within the limits which it is profanation for aught else to touch. And throughout the whole range of objects with which men are conversant, there are few, if any, which may not be shewn to have some bearing on spiritual things —enough, indeed, to furnish a plausible pretext for bringing them, in one form or another, within the pale of that jurisdiction which the rulers of the Church claim as exclusively their own. If all things should be done, as every Christian admits, for the glory of the great Jehovah, there are few over which, in some shape, the Church may not claim control. Civil matters will not be exempted. They have not been in former times. The Church has claimed jurisdiction even in these. The Popish Church did so. The Presbyterian Church has done so. The Church of Scotland has done so, as we shall shew, even in what have been denominated

her best and purest days. The claim, therefore, is one which, how much soever we may venerate the men that make it, and how much soever we may respect the purity of their motives and the sincerity of their intentions, ought to be resisted to the uttermost by all who value freedom, whether religious or civil.

The granting of this claim would, we have said, have been subversive of liberty. We add that it would have amounted to the establishing of the only species of arbitrary power recognised by the British constitution, or tolerated within the British empire.* The supreme court of the Church possesses both legislative and judicial authority. Within the ecclesiastical province her power is supreme both as framer and interpreter of law. Add to this the power of defining her own jurisdiction, and you clothe her with unlimited arbitrary authority. In civil matters no such power is

* No such power is held by any Church, whether established or non-established. "While indulging in frequent reflections against the subjection of the Established Church to the civil power, are they themselves *free*, in the strict sense of the term—that is, free to do whatever they may define to be a spiritual act—without reference to the idea held of it by the civil authorities? No. Their boasted freedom simply consists of this: liberty to do that which does not infringe upon the statutes of Parliament, as interpreted by the civil judges. Let them, under the name of a spiritual act, as they themselves may regard it, infringe upon the statutes of Parliament, and where will their boasted freedom be then? The spiritual acts they are at liberty to perform, are not those defined by themselves to be such, but those held as such by judges of the civil courts. No doubt, were such a decision contrary to their own views given against them, on such a question, by civil interference, a cry of persecution by the State might be raised; yet, notwithstanding such cry, there might be as little justice in it as there is at this day for the assertion of Papal powers, that wrong is done them because they are no longer at liberty to dethrone kings, imprison and burn heretics, &c., all which were once claimed by ecclesiastics under their own definition of spiritual acts."—*Smith's Truth as Revealed*, p. 32.

recognised in any court. The monarch of the empire does not possess it. The legislature may enact, but does not interpret. The civil courts interpret, but do not enact. Even the sovereign may not act just according to his own will. Were he to invade the rights of the meanest subject, the constitution would protect the subject against the invasion. But the claim of unlimited spiritual independence spurns such interference. It recognises no constitutional rights except as belonging to the ruling power, for the very existence of these would be a limit to its exercise. These rights must just be what the ruling power may choose to make or to declare them to be. The law and constitution ecclesiastical may, indeed, have conferred these rights, but spiritual independence claims authority to interpret that law and constitution, or, if need be, to modify and change them. If it claims not this, it is not unlimited. If it do, the rights of the people are but a shadow.

The claim, it is true, is made in another form—the rulers of the Church demand only to act under a delegated authority. They claim to act only according to the will of Christ. But when they also claim the right authoritatively to declare the will of Christ, it really amounts practically to the same thing. There is no invasion of rights which they may not practise under this assumed authority, or which they may not defend under the plea that Christ must rule in His own house—*i. e.*, that they, as by Him appointed, and as determining what His will is, must rule without control

in the Church. There is no violation of constitutional rights which such a principle would not sanction—no act of oppression which it would not defend. It might confer rights to-day, and destroy them to-morrow. Those who made the demand disclaim infallibility, and yet claim to act as though they were infallible. Nothing short of infallibility would warrant the claim, or render the granting of it safe. It is arbitrary power, and that under the most dangerous form—arbitrary power residing not in one, but in many—ready at any time to exert itself under the excitement which, in large convocations, it is difficult to avoid or control, and rendered only the more perilous by assuming the plea of conscience—that plea under which the rights of conscience have ever been most cruelly violated, and to which the fiercest persecutions of the Christian Church may almost invariably be traced.

NOTE TO CHAPTER IV.

Note A.

It is difficult to comprehend the meaning of such a passage as the following: "Whatever hinders the Church from going freely to the law and to the testimony, and from adjusting alike her creed and her administration according to that divine standard, must needs be adverse to her purity. Reformation is arrested; abuses are multiplied and perpetuated; and the house of prayer is often made 'a den of thieves,' where worldly men carry on an earthly and unholy traffic in sacred things."—*Ten Years' Conflict*, vol. i., p. 15.

We can easily gather the purport, but can scarcely divine the

object, of such a statement. The sentiment is, to our apprehension, altogether inconsistent with the Establishment principle. The creed of an Established Church must necessarily be held as already adjusted, and if not according to the law and the testimony, her principles must be false. Her connexion with the State prevents her from going freely to the law and testimony for the purpose of *adjusting* her creed. If the creed be not adjusted, what has the State established? A creed not adjusted is no creed at all. Or, is a creed a varying thing, requiring occasional adjustment, like a piece of ill-balanced machinery? According to this view, a Church can have no fixed principles. Who can tell what changes any new adjustment may effect? If this freedom be necessary for the Church, what security can be had for the stability of her doctrines? She may be Erastian to-day, and Popish to-morrow—Armenian under one Assembly, and Calvinistic under another.

Let this sentiment gain ground in the Free Church, and farewell to their asserted adherence to the Scripture principle of establishments. If spiritual independence require this freedom, national establishments are incompatible with it, and impracticable. Yet we do not marvel at the sentiment being expressed by those who lower the principle of establishments, and degrade at once the State and the Church by making money or hire of any kind the one and only legitimate bond of connexion between them. We tremble for the prospects of those whose freedom requires this liberty of adjustment. This is the starting point; who can predict the course?

Besides, what possible meaning can Dr. Buchanan attach to the following provision of an act passed at the Union, and passed *at the desire of the Church herself*—an act to which Dr. Buchanan, and those who follow him, have made frequent reference as the very basis of the Church's rights? That act provides that, "for the better security of the Protestant faith, the worship, discipline, and government of the Church shall continue without *any alteration*, to the people of this land in all succeeding generations." What room is here left, in this favourite act, to the Church for "adjusting alike her creed and her administration?" And will any reasonable man affirm that this statute does not impose a *civil* obligation on the Church not to make any alteration on her worship, discipline, and government?

Such sentiments, indeed, would, at an earlier period, have incurred the ban of the Church's stern Assemblies. Our Covenanting fathers would have condemned them as sectarian and schismatical. "Whosoever brings in any opinion or practice in this Kirk contrary to the Confession of Faith, Directory of Worship, or Presbyterian government, may be justly esteemed to be opening the door to schisms and sects."—*Declaration by Assembly* 1648. *Vide* also preceding note, p. 69.

CHAPTER V.

Spiritual Independence—Views of the Church of Scotland at both Reformations inconsistent with the Modern Views—Admitted that these Views were unknown to the Continental Churches of the Reformation—Yet this Church formed strictly on the Geneva Model—Doctrine of the Standards—of the Reformers—Testimony of Knox—of Andrew Melville—of James Melville—of the Fathers of the Second Reformation—Henderson, Gillespie, Rutherford—Entire Difference between Principles contended for by our Suffering Fathers and those of the New School—Province and Duty of Civil Magistrate regarding things sacred.

We have yet to consider in what manner this arbitrary independence may be safely controlled without the violation of that liberty which Christ the great Head has conferred upon His Church, and from the history of our Church, in peculiar circumstances, to adduce a few out of numerous instances to prove that our views respecting the consequences to which the claim of spiritual independence leads, are not merely theoretical, but fully borne out by an appeal to unquestionable facts —instances which shew that the claim points towards something very like Popish domination—that the counterpart of this independence in the ruler is slavery in the ruled—that, if this independence be needful to constitute a free church, it leads to and implies an enslaved people.

Before, however, advancing to these points, we proceed to adduce testimonies to indicate the real opinions of the founders and fathers of our Church, on the doc-

trine of Spiritual Independence. As before, we shall confine ourselves chiefly to the fathers of the First and Second Reformations—men who contended earnestly for the faith which was once delivered unto the saints—who maintained, in its full extent, the sacred doctrine of Christ's Headship, but who, as they shall themselves in their own words testify, repudiated all approach to the modern notion of the unlawfulness of State interference with Church affairs, and had never dreamt of that novel discovery, that the State stood to the Church only in the relation of paymaster, and that the one species of control which it could legitimately exercise was, in peculiar cases, to withhold the hire.

It might be interesting, as introductory to this subject, and, to some extent, illustrative of it, to lay before the reader the views entertained upon the point by the leading Reformers of the Continental Churches. But, however interesting, it is not necessary. It is a point conceded, in this controversy, that the doctrine of Spiritual Independence, as now maintained, and as asserted to have been held by the founders of our Church, was unknown to the Continental Reformers, and not adopted by the Continental Churches. The admission is candid: the fact admitted is instructive. That a doctrine strenuously asserted to be essential should have been, if not repudiated, at least not maintained by any one of the Reformed Churches, saving by the Church of Scotland, is confessedly remarkable. That the doctrine should be asserted only by the Church of Scotland and the Church of Rome, is suspicious.

The admission, however, is made in unambiguous terms by the author of *The Ten Years' Conflict.*

"An interesting inquiry might here be suggested by the fact, that Scotland has been almost exclusively the battle-field of such questions as those which are enunciated in the foregoing chapter. If they be indeed religious questions, entering, as there described, so essentially into the constitution, and bearing so immediately on the welfare of the Church of Christ—if they be questions on which the Bible gives so distinct and authoritative an utterance, is it not singular that they should have been so little agitated anywhere out of this northern kingdom? Such a reflection is natural: it both strikes and influences many minds; and because the solution of the difficulty is not always apparent, many may be disposed indolently to set down the whole Church controversy about Non-Intrusion and Spiritual Independence, to some peculiar idiosyncrasy of the Scottish mind. . . . .

"When it is asked why the controversy about the doctrine of Christ's Headship has been so little heard of out of Scotland, this is the reply which history returns, that by none of the Reformed Churches out of Scotland was the doctrine thoroughly investigated, or the attempt ever made to bring it to bear practically on the framing of their constitution, or the administering of their affairs. . . . Spiritual despotism on the part of the Church over the State, was simply exchanged for Erastian despotism on the part of the State over the Church. . . . . It is not, perhaps, to be greatly wondered at,

however much it ought to be lamented, that the Reformers in Germany, while struggling to rid themselves of the yoke of Popish domination, should have been so little alive to the prospective danger of suffering that domination to pass into the hands of the civil power. . . . . In Switzerland, also, State supremacy became the order of the day." *

These statements are very distinct. In connexion with them we request to recall to the reader's recollection the declarations of Andrew Melville, in his "Epistle to the Kirk of Geneva and Zurich," referred to in a former page, in which he so clearly asserts the identity, both in doctrine and discipline, subsisting between them and the Church of Scotland.†

But let it be further considered that that epistle was written for the express purpose of correcting the misrepresentations of Adamson respecting the views held by the Church of Scotland, as on other points, so especially on the important one now under consideration. Adamson "scattered farre and neere manie perverted positiouns, which he ascrived to the Kirk of Scotland: specially to the French Kirk, Geneve, Zurich, &c." Some of these "positiouns" are as follows:—

"Articles which the Bishop of Sanct Andrews gave out in England to the Frenche Kirk at Londoun; sent to Geneva, Tigurine, &c, 1583.

"1. As there is a difference betwixt the civill policie and government of the Kirk, so is there diverse governments appointed for the one and for the other.

* Ten Year's Conflict, vol. i., pp. 27, 29, 31, 32, 38. † *Vide* p. 34.

"2. The civil magistrat ruleth in his politick effairs onlie, and the spirituall governors in the effairs of the Kirk.

"3. As spirituall rulers doe exceed their bounds if they enterprise upon civill and politick matters, so does the prince or civill magistrat if he pretend in maters ecclesiastical," &c.

Such are some of the "perverted positiouns which," says Calderwood, "Adamson ascrived to the Kirk of Scotland." * To counteract the effect of these and other misrepresentations, Melville wrote the letter referred to. He alludes explicitly to this very point. He declares, as we have already seen, the entire unanimity between the Churches. "Of this only," says he, "at this time, would we have you perswaded, that the good order of the Kirk—the which Adamson durst first undermyne secretlie, and thereafter openlie impugne, and now at last wickedlie calumniat, faithlesslie mansweare, and maliciouslie to deteast as Papal tyrannie, mother of confusioun, and faggot of seditioun—hath beene receaved within our Kirk, conform to the Word of God and manner of the constitution of your Kirk, ever since the first time that Papistrie was chassed away." After detailing the machinations of Adamson for the purpose of subverting the established government of the Church, "*the king's will being made a law and reason for all things*," he continues—"See now, although we should keep silence (reverend fathers, and most loving brethren in the Lord), what meane the questions of Adamsone

* Calderwood, vol. iv., pp. 49, 50

tuiching the power of the prince in making ecclesiasticall lawes, and constituting of the policie of the Kirk. . . . He knoweth weill eneugh, nather can he be ignorant of that which he hath so often read and learned of your most godlie writtings, that it perteaneth not to the prince ather to prescrive religioun to the Kirk or discipline to the pastors thereof, but by his authoritie to confirme both the one and the other, appointed by God, and sincerelie declared out of His Word by the ministrie of His servants; to revenge and punish all corrupting of cleane doctrine, contempt of holie discipline, and perturbation of lawfull order (for which use and purpose he hath receaved the sword); to decore the Assemblies, if need be, with his presence; to arme the innocencie of the ministrie by his safe-guarde and defence; *if there arise controversies among the pastors, sometimes to compose and agree the same by his authoritie interpouned.* . . . But farre otherwise doeth he sitt in the synods among the pastors than he doeth in the throne of the kingdom among the estates; here to make lawes for subjects, and command, but there to receive laws from God, and to obey. And albeit that some things be called ecclesiasticall, and others civill, and the civil apperteane to the common weall, and the other to the Kirk; yet it is not so much to be considered what things are handled, as how, seeing the knowledge of one and the selfsame thing one way, and in some respect, apperteaneth to the magistrat, and another way to the senat ecclesiasticall." *

* Calderwood, vol. iv., pp. 161, 162, 165, 166. In terms such as these does

The doctrine upon this subject, taught in the standards of the Church of Scotland, is so well known as scarcely to require quotation. A few extracts only shall be given, in order that, by comparing these with other authoritative writings—with the writings of the fathers of the Church, and of those to whom the duty was intrusted of framing these standards—we may observe how very far they are from giving any countenance to the modern views, and what credit is due to the assertion that, on this point, the Church of Scotland differed from all the other Churches of the Reformation.

We give no quotations, for that we deem unnecessary, to shew that the Church acknowledges one only Head—even Christ. Reference will be made to those only which relate to the power of the civil magistrate in connexion with things ecclesiastical.

In the First Confession in 1560, section 24, we read—"To kings, princes, rulers, and magistrates, we affirm that, chieflie and most principallie, the conservation and purgation of religion apperteaneth, so that not only are they appointed for civill policie, but also for main-

Melville repudiate the "perverted positiouns" of Adamson. While he, as on all occasions, contends for the Headship of Christ and the spiritual authority conferred upon His Church, and strenuously condemns that assumption of arbitrary power by which, denying "the wonted liberty of the estates of Scotland," and "making the king's will a law and reason for all things," James was attempting to subvert the Presbyterian constitution, and to assume a "full and absolute power to command and rule in matters als weil ecclesiastical as civill," he, at the same time, repudiates those notions of independence which Adamson had "ascrived" to the Kirk. Alas! the offence of these days has not yet ceased. There are those still, who, with reference both to that period and the present, and respecting this very subject, have "scattered farre and neere manie perverted positiouns ascrived to the Kirk of Scotland."

tenance of true religioun, and for suppressing of idolatrie and superstitioun whatsoever, as in David, Josephat, Ezekias, Josias, and others highlie commended for their zeal in this case may be espied."

The Second Book of Discipline, chapter i., sections 10 and 11, declares as follows:—"The civill power should command the spiritual to exercise and doe their office according to the Word of God." "The magistrat neither aucht to preach, minister the sacraments, nor execute the censuris of the Kirk, nor yet prescryve any rewll how it sould be done; *but command the ministers to observe the rewll commanded in the Word, and punish the transgressors be civill meanes.*"

The Westminster Confession, chapter xxiii., section 3, declares, "The civil magistrate may not assume to himself the administration of the Word and sacraments, or the power of the keys of the kingdom of heaven; yet he hath authority, and it is his duty, to take order, that unity and peace be preserved in the Church, that the truth of God be kept pure and entire, that all blasphemies and heresies be suppressed, all corruptions and abuses in worship and discipline prevented or reformed, and all the ordinances of God duly settled, administered, and observed. For the better effecting whereof, he hath power to call synods, to be present at them, and to provide that whatsoever is transacted in them be according to the mind of God."

I confess that, to my mind, plainer words than these could not have been found to express sentiments the very opposite of those propounded by the modern

school. I cannot avoid the conviction that, had they been found anywhere but where they do occur, our brethren would unhesitatingly have pronounced them undisguised Erastianism. They contrast, on every point, with the speeches which, during the heat of the late controversy, were wont to electrify popular audiences from platforms, and in Synods and General Assemblies. They are the calm and solemn testimonies of our fathers —of men who, in the framing and the utterance of them, acted on the sincere conviction that they were the very truth of God, gathered by patient and laborious study from His Word, treasured up for their own guidance and that of their posterity; and which they took the civil power bound, by the most sacred engagements, to transmit to us, their children, unimpaired. But these testimonies were overborne by the enthusiasm of a living eloquence whose fervour incapacitated men for listening to the still small voice of the mighty men of other days.

The paragraphs which we have quoted require no comment. Any attempts to render them more intelligible would justly excite the suspicion of a purpose to disguise the meaning, and to confuse the reader. Such attempts have been made. They have been found necessary by some, who felt that, without a comment, the text condemned them. Much ingenuity has been exerted to induce the stubborn witnesses to conform their plain testimony to the questioner's views. The attempt is vain. Knox and Melville, Rutherford and Gillespie, are beyond the efforts of his subtilty.

"They will not hearken to the voice of charmers, charming never so wisely." After every attempt the voice of the ancients is heard calmly yet firmly repeating the unwelcome words—unwelcome, alas, even to those who at one time had sworn adherence to them—"To magistrates most principally appertaineth the conservation and purgation of religioun." "The civill power should command the spiritual to exercise and doe their office." "The magistrate should command the ministers to observe the rewll, and punish the transgressors by civill means." "The magistrate hath authority, and it is his duty to take order," &c. The shortest and most effective refutation of the explanatory commentaries which have been made on these words, is simply to repeat the text.

Since, however, an appeal has been made on this subject to the literature of other days, we willingly proceed to adduce some testimonies, the authority of which none will venture to dispute, how much soever many may dislike the reference. We commence with a few connected with the period of the First Reformation.

Listen, in the first place, to the testimony of the Reformers uttered so early as in the year 1558. In the "First Oration and Petition of the Professors to the Queen Regent," in the beginning of said year, occur these words—"We, knowing no other order placed in this realm but your grace, and your grave counsell, *sett to amend as weill the disorders ecclesiasticall*, as the faults in the temporal regiment, we most humblie pro-

strate ourselves at your feete. . . . We most earnestly beseech your grace, that notwithstanding the long custome which they have had to live at their lust, that they (the clergy) may be compelled to desist either from ecclesiastical administration, or to discharge the dueties as becometh true ministers." *

We next adduce the testimony of the great Reformer himself. From Knox's famous appellation addressed to the "nobilitie and estats of Scotland," printed at Geneva in 1558, we select the following out of very many distinct and striking passages bearing on the point:—"Lawful it is to God's prophets and preachers of Christ Jesus, to *appeale from the sentence and judgment of the visible Church, to the knowledge of the temporall magistrat, who, by God's law, is bound to hear their causses, and defend them from tyrannie.*" "God requireth of you to provide that your subjects be rightlie instructed in His true religion; and that the same be by *you reformed whensoever abuses creepe in.*"

"I am not ignorant that Satan of old time, for maintenance of his darkness, hath obtained of the blind world two cheefe points: former, he hath persuaded princes, rulers, and magistrats, that the feeding of Christ's flock perteaneth nothing to their charge, but that it is rejected upon the bishops and state ecclesiasticall: and secondarlie, that the reformatioun of religioun, be it never so corrupt, and the punishment of such as be sworne souldiours in their kingdom, are exempted from all civill power, and are reserved to themselves and

* Calderwood, vol. i., pp. 335, 336.

their own cognitioun. But that . . the ordering and reformatioun of religioun, with instruction of subjects, doth especially apperteane to the civill magistrate, shall God's perfyte ordinance, His plaine Word, and the facts and examples of these that of God are highly praised, most evidently declare."

One extract more—"Now, if Aaron and his sonnes were so subject to Moses, that they did nothing but at his commandment, who darre be so bold as to affirm that the civill magistrat hath nothing to doe in maters of religioun? For seeing then God did so straitlie require, that even these who did beare the figure of Christ sould receave from the civill power, as it were, their sanctification and entrance to their office; and seeing also, that Moses was so farre preferred to Aaron, that the one commanded, and the other did obey; who darre esteeme that the civill power is now become so profane in God's eyes, that it is sequestered from all intromission with the maters of religioun?" *

To the views entertained by Andrew Melville, we have already referred. Nowhere does he express opinions at variance with those which we have just quoted. He fully conceded to the civil magistrate the power which Knox so distinctly ascribes to him. Never, indeed, was there a more strenuous defender of the Church's scriptural and constitutional rights. He was prepared, and sometimes even rudely and fiercely, to resist every attempt at invasion of the spiritual jurisdiction, but his resistence was offered, not to the law or

* Calderwood, vol. i., pp. 252, 361, 365, 368.

its authoritative interpretation, but to arbitrary power —to the endeavour on the part of his Majesty and his creatures to make the Sovereign's will the rule supreme, so that he should mould the Church, as to her constitution and form of government, and deal with causes ecclesiastical, just according to his own caprice. He protested against the "king's will being made a reason and law for all things"—against the attempt "to re-establishe a new popedome in the person of the king, that he, being cheefe judge in all causes and controversies, and *having absolute* power to determinate, he may putt up and cast down religioun at his pleasure, without contradictioun." * But that the Church claimed or possessed, or should possess, a legislative power independent in all things of the State, he distinctly denies. "That the Assemblie was accustomed to prescribe lawes to the king; that they sould command the king and counsell, under paine of excommunication, to appoint no bishops in time to come, and *such other calumnies*, are not worthie to be answered; for, *to draw out of the pure fountains of God's Word an ecclesiasticall canon agreeable to the same, and to sute, like humble supplicants, the approbation of the same, is the dutie of the Kirk. But this is not to prescrive lawes to the king and the estat.*" †

The testimony of James Melville is very distinct and oft-repeated. "Christ is Head, King, Maister, and Ruler of His Kirk, of whose fulnesse all His members

* Answere to the Declaration of Certain Intentions sett out in the King's Name—Answere to Fourth Intention. 1585.

† Calderwood, vol. iv., p. 271.

participat; and hath committed the rule and government of the same to the office-bearers within it, as pastors, doctors, and elders. *In which government the king is not exeemed, but hath his place and power to see and overwatche all these, that they discharge their calling,* as they have severallie in charge, in such sort that it is not leasome to him to do anie part of their offices." *

In April 1586 the Synod of Fyfe had pronounced sentence of excommunication against Adamson, Bishop of St. Andrews; and against this sentence, as "unjust and pretended," Adamson had appealed to the "King's Majestie's Counsell, Estats, and lawful Assemblie." James Melville drew up a formal and extended answer to this appeal, in which he brings out his views with remarkable distinctness. For example, the appellant had thus expressed himself: "I am not ignorant that suche as seditiously would trouble the estat of the Kirk and countrie will reply, that this maters are ecclesiastical, and belong nothing to your Majestie's authoritie," &c. Melville answers: "But if he will say that this is the opinion of the ministers of that Assemblie, then, truelie, *he is ather ignorant of their judgment and doctrine of that mater, or else a malicious calumniator of that which he knowes.* For it never was the judgment, doctrine, or replyes of any of the ministrie of Scotland, that matters ecclesiasticall perteaned nothing to the king or Christian magistrat; but contrariwise, that first, and above

* Dialogue ascribed to James Melville. Calderwood, vol. iv., p. 301. This dialogue was written in reply to the declaration set out in the king's name by Adamson. The speakers are Zelator, Temporizer, and Palaemon. The first expresses the sentiments of the author.

all things, the Christian magistrat ought to have care of religion, and matters perteaning to the Kirk, and employ his authoritie and power to the welfare and good estat thereof, and that he is the minister and lieutenant of God, who has received the sword, chieflie, to that effect. *Nather doe we denie, that it is leasome to any that are hurt and injured by the Kirk and governours thereof, to have recourse to the Christian magistrat for helpe and releefe, that he may call for the* RULERS OF THE KIRK, AND EXAMINE AND SEE *whether if, according to the rules of their office, conteaned in the Word of God, that they have judged aright, and done their dutie, or otherwise.* Only this we denie, that the civill magistrat may use the office of the pastor, in preaching the word, or ministering of the sacraments; or of the doctors, in taking upon him to interpret the Scriptures."*

Plainer statements than these we do not desiderate. Knox and the two Melvilles, we fear, must rank with those whom some modern theologians denounce as Erastians. Their views, however, were not peculiar. They held them in common with all the fathers of our Church, and with the fathers of all the Reformed Churches.†

We find the Church, previously to the Act 1592, petitioning the civil power to define the limits of the two jurisdictions‡—petitioning for the sole power of admission to benefices—for power of deprivation for

* Calderwood, vol. iv., p. 507. *Vide* also pp. 507, 540, &c., &c.
† See Note A. ‡ Calderwood, vol. ii., pp. 426, 485.

just and lawful causes *—for the full establishment, not merely of a fixed creed, but of a settled policy;† and we find her, after her policy was admitted, protesting against its infringment at the sole will of an arbitrary monarch—against the subversion of her constitution at the caprice of a sovereign, who claimed authority, at will, to model and remodel her form of government. We find her appealing to the laws and constitution of the kingdom as her acknowledged safeguard. But in vain shall we search for any traces of a claim to act, even within the ecclesiastical province, just as she might choose, without regard to law, or to interpret for herself the acts defining her province; or to limit the control of the State, in connexion with things ecclesiastical, to the simple right of withdrawing the fruits of benefices in special cases.

Proceed we now to the testimony of the fathers of the Second Reformation.

Of the actings of the Church at that eventful period, many were, to say the least, of a questionable character. The times were extraordinary. The empire was convulsed. Anarchy was looming in the distance, or rather was beginning boldly to develop itself. If extravagant notions were at any time to prevail, or extravagant claims to be made, we should expect them now. But, whatever may have been the complexion of some of the acts, the recorded sentiments of the leading men of the period—men of God, whose praises are in the

* Calderwood, vol. iii., pp. 522, &c., &c. Rowe's Hist., p. 43.
† Calderwood, vol. iii., p. 415, &c.

churches—make not even the most distant approach to the extravagance of modern demands.

In the famous Glasgow Assembly of 1638, convened chiefly for the purpose of repelling the encroachments and overturning the Erastian usurpations of Charles, Alexander Henderson was chosen Moderator—a man pre-eminent among many men of note, a fearless defender of the truth, prudent at once and resolute,—author, in its remodelled form, of that national covenant which was destined to produce such mighty results in the history of the three kingdoms. He must be a man of strange opinions who would charge Henderson with Erastianism. Let us listen to his own statement of his views, and remark in how far they coincide with those of the modern school.

In the seventh session of that Assembly, Henderson, as Moderator, addressed the Commissioner as follows: "It hath been the glory of the Reformed Churches, and we account it our glory, in a special manner, to give unto kings and magistrates what belongs to their places; and as we know the fifth command of the law to be a precept of the second table, so do we acknowledge it to be the first of that kind, and that, next unto piety towards God, we are obliged to loyalty and obedience to our king. There is nothing due to kings and princes in matters ecclesiastical, which, I trust, shall be denied by this Assembly to our king; for, besides authority and power in matters civil, to a Christian king belongeth,—1. Inspection over the affairs of the Church. *Et debet invigilare non solum*

super ecclesiasticos, sed super ecclesiastica; i. e., *He ought to watch not only over ecclesiastical persons, but over ecclesiastical matters.* 2. The vindication of religion doth also belong to the king, for whom it is most proper, by his authority, to vindicate religion from contempt and all abuse, he being keeper also of the first table of the law. 3. The sanctions also are in his Majesty's hands, to confirm, by his royal authority, the constitutions of the Kirk, and give them the strength of law. 4. His Majesty also hath the power of correction; he both may and ought to compel kirk-men in the performance of the duties which God requires of them. 5. The coercive power also belongs to the prince, who hath power from God to coerce and restrain them by his terror and authority, from what becometh not their places and calling. 6. The Christian magistrate also hath power to convocate Assemblies, when he finds the pressing affairs of the Church calling for them; and in Assemblies, when they are convened, his power is great (and his power ought to be heard), first, as he is a Christian, having the judgment of discretion in all matters debatable and controverted; next, as he is king or magistrate, he must have the judgment of his eminent place and high vocation, to discern what concerns the spiritual welfare and salvation of his subjects." *

* Stevenson's History of Church of Scotland, vol. ii., pp. 543, 544. Peterkin's Records of the Kirk of Scotland (vol. i., pp. 142, 143), containing the Acts and Proceedings of the General Assemblies from the year 1638 downwards, as authenticated by the Clerks of Assembly.

The only other authorities to which it is necessary, on this subject, to refer, are Rutherford and Gillespie. These, indeed, as far as the literature of our Church in other days, upon this important point, is concerned, are the standard authorities. They both were men of God, and honoured instruments in His Church's service. Eminently pious, eminently learned, no men could have been better fitted than they were, for the arduous duties imposed upon them. Both were distinguished members of the Westminister Assembly of Divines. Both were brought into direct and frequent contact with the ablest supporters of Erastianism, and, opposing them at every point, triumphantly refuted them. Both have left their opinions recorded for our guidance. Their circumstances and position compelled them to enter minutely into the very subjects controverted between the Church of Scotland and their brethren who have left them; and from their writings, especially those of the former, might be gathered *a most distinct refutation of every separate point peculiar to the Free Church.* They teach the very doctrines which, as we have seen, were held by Knox, and the Melvilles, and Henderson. If these men held the truth, the Free Kirk is in error. If these men held the doctrines of the Church of Scotland, the Free Kirk has repudiated them. If the views of Knox, and the Melvilles, and Rutherford, and Gillespie—the fathers of either Reformation—as embodied in their writings, and in the Standards, in the framing of which they took a pre-eminent part, are indeed, on the point under consideration, the doctrines of the Church,—then, verily, has

the Free Kirk as little claim *de jure* as *de facto* to the appellation of the Church of Scotland.

"A due attention to Rutherford," says one, "would have saved the Disruption." There is some truth in the remark. It would have led many to pause ere the fatal step was taken. It might have prevented, in many cases, a committal to principles which, if consistently maintained and followed to their legitimate consequences, must result not in secession, but ultimate dissent—not in withdrawal from the Church of Scotland, but in abandoning the principle of ecclesiastical establishments. And we cannot but believe that many a simple-hearted disciple, now occupying an attitude of hostility to the Church of his fathers, would have recoiled from the glittering meshes in which he suffered himself to be entangled, had he been versant in the opinions of that venerable divine, whose "Letters" have enlivened his faith, and quickened his hopes, and cheered his soul, when groaning under a burden of sorrows which men of the world could not understand. No men better understood or more strenuously defended the true liberties of the Church, than did Rutherford and Gillespie. They gloried in acknowledging the Headship. They abhorred Erastianism. They would submit to no invasion of the spiritual jurisdiction. They suffered in the cause, "esteeming the reproach of Christ greater riches than the treasures in Egypt." But neither did they confound the jurisdictions. While they maintained inviolate the Church's rights and liberties, they taught as unequivocally that it was the

right and duty of the State not only to repel invasions on the civil province, but to take order that, even within her own province, the Church should do her duty, and, if necessary, to compel her to do so by civil penalties.

We need adduce no quotations to prove the former; a very few only will be necessary to demonstrate the latter.

In the first place, let us hear Gillespie on the doctrine in question:—

"As Church officers, they are to be kept within the limits of their calling, and compelled (if need be) by the magistrate to do those duties which, by the clear Word of God, and *received principles of Christian religion, or by the received ecclesiastical constitutions of that Church, they ought to do.*" *

"'Tis far from my meaning that the Christian magistrate should not meddle with matters of religion, or things or causes ecclesiastical, and that he is to take care of the commonwealth, but not of the Church; certainly there is much power and authority which, by the Word of God, and by the Confessions of Faith of the Reformed Churches, doth belong to the Christian magistrate in matters of religion." †

"The magistrate hath indeed an authoritative influence into matters of religion and Church government, but it is cumulative; that is, the magistrate takes care that Church officers, as well as other subjects, may do those things which, *ex officio*, they are bound to do;

* Aaron's Rod, p. 176. † Ibid., p. 181.

and where they do so, he aideth, assisteth, strengtheneth, ratifieth, and, in his way, maketh effectual what they do." *

Let us now hear the learned and pious Rutherford:—

"We never denied that the magistrate commandeth both the exercise of the Church-power simply, and the manner and such qualifications as are *external and obvious to the knowledge of the magistrate.*" †

"The magistrate's power in spiritual things, to judge and punish, is *formaliter*, and in itself, and intrinsically, civill; but objective in regard of the object, and extrinsically, it is spiritual." ‡

"The magistrate judgeth as a magistrate, not in a pastoral way, or ecclesiastical; for then, by office, he should be a preacher of the Gospel; but civilly, as they *are agreeable or contrary to the laws of the commonwealth made concerning religion*, and in order to the civill praise and reward of stipends, wages, or benefices, or to the bodily punishment inflicted by the sword. So that, though the object be spirituall, yet the judging is civill, and the magistrate's power, in setting up true or pulling downe false ordinances, is objectively spiritual. . . . . But the same power of the magistrate is formally essentially in itself civill, and of this world." §

In his "Due Right of Presbyteries, or a Peaceable Plea for the Government of the Church of Scotland," Rutherford discusses at length "the power of the prince in matters ecclesiastical." He refutes at once the

* Aaron's Rod, p. 265. *Vide* Book II., chapters iii. and viii.
† Divine Right, p. 548. ‡ Ibid., p. 622. § Ibid., p. 578.

Popish and the Erastian views. He shews "the intrinsical end of the magistrate to be a supernatural good;" "how the magistrate is subordinate to Christ's mediatorial kingdom;" "that the ordinary power of the magistrate is not to make Church laws;" "that the government of the Church is spiritual, and not a formal part of the magistrate's office."

Even in the discussion of these topics, the simple enunciation of which indicates the author's anti-Erastian views, such passages as the following again and again occur, in examining the question:—

Whether his opponents do "with good reason impute to the Church government of the Reformed Churches the eversion of the civill magistrate's power in matters ecclesiastical."

"A power external about Church matters, which is objective, in respect of the object, sacred or ecclesiastick, but improperly, and by a figure only ecclesiastick, and essentially and in itself politick, such we hold to be the magistrate's power in *causing Churchmen doe their duty in preaching sound doctrine, and administering the sacraments*," &c.

"The king's power, as king, *in things ecclesiastic, is not servile and merely executive*, as the Church's servant, to put their decrees in execution, but *it is regall, princely, and supreme*."

"This good which the magistrate, as the magistrate, procureth, is not only a naturall happiness, and the quiet life of a civill society, but also the good and well-doing of Christians as Christians—to wit, publick

praying, preaching, hearing of the Word, religious administration, and receiving of the sacraments—all which the king, as king, is to procure; for whatever good externall, pastors, as pastors, do procure, that same also, but in a civill and co-active way, is the king, as the king, to procure, and therefore his end as king is godlinesse and eternal life; but he is busied about this end, after a far other and more carnall way than the pastor, the weapons of whose warfare are not carnall."

"Yea (I say from the Word of God), that externall peace is too narrow an end, and it doth belong to the second table, and the king's end as nurse-father; and his alike care is to preserve the first table, and, as a nurse-father, to see that the children's milke be good and wholesome, though the milke come not from his own breasts; and so his power hath a kingly relation to all the Word of God, and not to externall peace and naturall happinesse only."

"The kingly power maketh not the ecclesiastick power, but it setteth it on work, in a co-active way, for the edifying of Christ's body, and doth causitively edify." "*He may command by the power of the sword spirituall acts of preaching; administering of the sacraments purely;* of defining necessary truths in Synods, and forbid the contrary; but he cannot formally himself exercise these acts." "The king hath no power, formally and intrinsically, ecclesiastical, over either the Church, or any member of the Church, but the Church's power is supreme, under Christ, the King and Head of

the Church." Yet his power "may be thought divine and ecclesiasticall, objectively, the end being a spiritual good; and so the king hath power to convene Synods, . . . *and, as king, may command the minister of the Gospell, both as a man, yea, and as a preacher in the pulpit, to preach sound doctrine, and to give wholesome and good milk to the Church.*"

I shall give only one extract more:—

"The magistrate, as magistrate and a preserver of publick peace, may do something, where a schisme and dissention is among the Churchmen in a Synod. In this case he may punish perturbers of the peace. . . . Where there is an equal rupture of the body, nothing extraordinary would be attempted, if ordinary ways can be had. . . . But if that cannot be conveniently had, as in a nationall *Church it may fall out, then the magistrate, as a preserver of peace and truth, may command the sincerer part to convene in a Synod, and doe their duty, as the good kings of the people of God did;* . . . which proveth that the king should put the sincerest to do that which in common belongeth to the whole; in which case of the erring of the most part of the Church, the prince indirectly condemneth the erring part of the Synod, because it is his place to forbid and punish with the sword the transgressors of God's law."

These extracts, which, if necessary, might be multiplied indefinitely, are sufficient to indicate the views of the framers of our Church's standards, and to shew how widely different they are from those of the modern

school. Many passages, indeed, might be quoted, to shew how resolutely they contended for the sole Headship of Christ Jesus, and for the true liberty of His Church. Such passages have often been quoted, with the view of shewing that the Church has abandoned her ancient claims. It is asserted that she has become the tool and slave of the State, ready to shape her actings according to the capricious intimations of State dictation. The charge is without foundation. The claims which the Church of old preferred are the very claims which we maintain; the rights for which she contended are the very rights which we profess, and which we will not abandon. But we acknowledge a difference between liberty and licentiousness—between full liberty to act according to our constitution, and liberty to alter that constitution, and trample on the rights of others. Very futile is it to quote, as if against us, passages which assert the separation of the jurisdictions—the power of the Church within her own province—the maintenance of the sole Headship of our blessed Lord. We admit them; we adopt them all. These are our very sentiments, and he who asserts otherwise, taketh up an evil report against his brethren, and "ascriveth false positiouns" to the Church of Scotland.

From the preceding quotations, from the acknowledged standards of the Church of Scotland, and from the writings of those fathers and reformers on whom the task of drawing these standards from the oracles of God was imposed, we learn the nature and extent of

that power in sacred things which, by the constitution of the Church, is ascribed to the civil magistrate.

The magistrate may not himself perform any spiritual acts, but he may interfere to the extent of even compelling churchmen to do their duty. But is not this, it may be said, a virtual subjection of the rulers of the Church to the magistrate's discretionary power—a placing of the Church, as a slave, at the feet of the State?

Unquestionably, if the Church were held bound to yield implicit obedience to whatever the magistrate might choose to dictate, she would be degraded to the position of a slave. The Church which should come under such an obligation would have denied her only Head. It was against this very subjugation that our fathers contended, even unto death. They resisted that claim of supremacy which successive monarchs set up, in virtue of which they would have altered at will the constitution and form of government—imposing a liturgy—substituting Episcopacy for the Presbyterian form—and demanding arbitrary authority to decide all causes, both civil and ecclesiastical. The claim was for "jurisdiction and obedience in matters of doctrine and discipline"—"the controversy was whether Jesus Christ be King of His own Church, or if the leviathan of the supremacy shall swallow up all, and rule according to its own arbitriment without control." * To have acknowledged this claim would indeed have been

* Livingston's Letter to his Parishioners, Wodrow Biographies, vol. i., p. 249.

to substitute another Head and Lawgiver in the place of Christ. But can two things be more distinct the one from the other, than a claim to make laws at will for the Church of Christ, and a claim to see that the laws which Christ has made shall not be violated? Our fathers refused the former, but acknowledged the latter. The one they resisted, even unto blood—the other they insisted upon as a duty which the magistrate might, in no case, decline. And yet has the assertion in our days been made, and reiterated, and received by multitudes, that the parties who reject the very doctrine which our fathers held are walking in their footsteps. By confounding these two different things, men claim to be acknowledged as the successors of our martyred sires, while they repudiate the very doctrines for which our sires witnessed to the death. They quote our fathers' contendings and protests against the former, which they abhorred, and apply them to the latter, which they maintained; and thus have they persuaded themselves that the cause which they uphold is the cause which of old unfurled the banner of the Covenant, and around that banner they would have all men now to rally, for the purpose of resisting a claim which at the first it was unfurled to defend. There is, indeed, much in a name; there may be a talismanic influence even in a word; and no men ever knew the truth and value of this fact better than those who were the instigators of the late secession. In their case and in that of our fathers there was resistance to the powers that be; and that one circumstance—the one name of

resistance to the civil power—gave occasion to that claim of identity in the two causes, which roused the enthusiasm of multitudes, although the difference between the two amounted to nothing less than the difference between resistance to unlawful, and resistance to lawful authority —between resistance to the assumption of arbitrary power and to constitutional authority—nay, between resistance to what was an attempt to assume the powers of Christ and to trample on the liberties of His people, and resistance to a principle, the effect of which was to prevent the assumption of Christ's power, *whether by churchmen or the State*, and the subversion of the rights and liberties of the people, secured to them by the establishment of a creed and polity embodied in the national code, and defended, along with every other national right, by the interpretation of statute being confided, in cases of dispute, not to the contending parties, but to the sworn interpreters of the law.

The coercive power in sacred things conceded by our fathers to the civil magistrate is essentially and solely *judicial*. The magistrate may not act as a law-maker, but only as a law-interpreter. The Church prepared her creed, she arranged her policy, and both she confided to the protection of the civil ruler, that he might preserve them inviolate, as solemnly agreed to and embodied in the very constitution of the kingdom. He is bound to preserve both her creed and her discipline at once from innovation within and from invasion from without. He has no discretionary power either as to her doctrine or her forms. It was a claim to this that

our fathers resisted. In himself he has no control. The control is in the laws—the laws which the Church herself either framed or agreed to. The magistrate has the right only to interpret and apply these laws. There is no room for his interference, except in cases where the Church's own laws are violated, or where ecclesiastical rulers refuse to do what *ex officio* they are bound to do. *The control which he exercises is, in fact, the control of the Church herself—it is the control of the Church's own standards—the control of the fathers of the Church, through the civil authorities*, who, though they may not act in any spiritual capacity, yet may civilly prevent departure from these standards, even though an innovating majority should determine to subvert them.

The existence of this right of control implies no subjection on the part of the rulers of the Church to the law's interpreters. It is subjection to the laws themselves—subjection to those laws which, under God, are the safeguards of the Church's freedom, and which prevent the Headship of Christ and the liberties of His people from being interfered with by those who, for the time, may happen to exercise rule in the Church. Substitute for this that unlimited spiritual independence which some have contended for, and you have no security for permanency either of doctrine or discipline: the constitutional rights of the people are annihilated, and can never amount to more than the will—it may be conscientious will—of their rulers may concede; and what they concede to-day they may withdraw to-morrow.

These, we have seen, are the views of the founders and fathers of our Church. They were also the views of those who, at a subsequent period of her history, suffered in defence of her principles. We cannot multiply our proofs,—a very few extracts must suffice. When, in the reign of Charles I., the office-bearers of the Church violated its constitution by introducing the Liturgy and ceremonies, those who adhered to her constitution complained against these office-bearers to the civil power; and they did so in terms such as these :— "The laws of God and man direct us, in case of injury, in wrongs done to us, to seek redress by civil justice." "Seeing no good patriot, of whatever affection to religion, can allow any novations brought in, *without order of law*, to the disquieting of the kingdom, nor disallow an orderly proceeding, by *lawful complaints* against such unlawful courses." The sentiments of Livingston are well known, yet not so well as they ought to be.* His testimony few will venture to dispute. He was a sufferer in maintaining the cause of the Headship of King Jesus. Hear his testimony against the Erastian usurpations of his day, in his letter to his beloved parishioners of Ancrum, when permission even to visit them before his banishment was sternly refused :—"Christ

* The testimony of "worthy, famous Mr. John Livingstone," as his contemporaries were wont to call him, is in all respects important and valuable. He was a confessor in troublous times, a firm and consistent supporter of the truth, and one highly honoured as a most successful labourer in the Lord's vineyard. He was the instrument of producing "the celebrated revival of religion" at the Kirk of Shotts in 1630. He was a member of the Glasgow Assembly of 1638. John Livingston is truly characterised as "one of the most revered names in Scottish ecclesiastical history."

was once owned as King of His Church in that land; that in doctrine, worship, discipline, and government, His laws in His Word should be the only rule; and hereunto all, from the highest to the lowest, had by oath engaged themselves: now, abjured Prelacy is brought in, Christ's faithful servants cast out, hirelings thrust in His house, the whole disposing of Church matters, persons, and meetings, by the Act of Supremacy, referred to the sole arbitriment of a mortal creature, and persecution bended against all who go not along in that apostacie and perjury; and is not, then, suffering endured in as important a quarrel as ever was since the foundation of the world? The smallest point of Christ's prerogative royal is not only worth the sufferings, but worth more than the eternal salvation of all the elect." *

Such an one surely was not likely to emit Erastian sentiments; yet hear his testimony when examined before the Council in 1662.

Being required to take the oath of allegiance, he replies:—"My Lord, I do acknowledge the King's Majesty (whose person and government I wish God to bless) to be the only lawful supreme magistrate of this and all other of his Majesty's dominions, and that his Majesty is the supreme civil governor over all persons, *and in all causes, as well ecclesiastic as civil;* but for the oath as it stands in terms, I am not free to take it."

Lord Chancellor.—"I think you and we agree as to the oath."

* Letter to his Parishioners, Select Biographies, Wood. Socy., vol. i., p. 242.

Lord Advocate.—"My Lord Chancellor, your Lordship doth not observe that he useth a distinction, that the king is the supreme civil governor, that he may make way for the co-ordinate power of the Presbytery."

Mr. Livingstone.—"My Lord, I do indeed believe and confess that Jesus Christ is the only Head of His Church, and that He only hath power to appoint a government and discipline for removing of offences in His [own] house, which is not dependent upon civil powers, and no ways wrongs civil powers. But withal, I acknowledge his Majesty to have a cumulative power and inspection in the house of God, for seeing both the tables of the law keeped; and that his Majesty hath all the ordinary power that was in the kings of Israel and Judah, and in the Christian emperors and kings, since the primitive times, for reforming, according to the Word, what is amiss." Again, "I have always been of that judgment, and am, and will be, that his Majesty is supreme governor, in a civil way, over all persons and in all causes." *

NOTE TO CHAPTER V.

Note A.

What would be said of the following statement by John Davidson in 1590? It occurs near the commencement of his tract entitled "D. Bancroft's Rashness in Rayling against the Church of Scotland,"—one of the many replies called forth by Bancroft's ser-

* See Account of Examination and Sentence of Mr. John Livingston, Select Biographies, vol. i., pp. 216-221.

mon in 1588. "He setteth himself against theyr persons, and travaileth to bring them into extreme hatred with the supreme magistrate, as men who by this, their new government (so it pleaseth him to speak of it), intend no less matter than hie treason and rebellion, by overthrowing her Majestie's authority in ecclesiasticall causes, and highly derogating thereby to her supremacie in that case, to the apparent endangering of her person and state in the end, except good order be taken with the matter in time: than the which, what can be more odiously affirmed, and more worthy of extreame punishment if it be true?"—*Miscellany of Woodrow Society*, pp. 505, 501. No one will suspect Davidson of Erastianism. He was a sufferer in the Church's cause, and is uniformally regarded as one of the worthies of the olden times. Row says, "Mr John Davidson was a verie zealous honest man, and, indeed, a verie prophet of God."—*History*, p. 461. Livingstone bears similar testimony in his "Characteristics," *Select Biographies*, p. 296. James Melville, in his Diary, makes frequent and honourable mention of him.

Before dismissing this part of our subject, it may be satisfactory to quote the views of Turretine, this celebrated divine having been referred to as one whose authority is favourable to the views which we are opposing. A careful examination will lead to an opposite conclusion. Take the following proofs:—"De Politica Ecclesiæ Gubernatione," Quæstio xxxiv. ix. "Non exercet ministerium verbi, qui ministrum in doctrina errantem, vel in vita delinquentem monet, corripit, et pertinacem aut scandalosum removet. Non baptizat qui prohibet ne profanetur baptismus, *qui sancta sanctè fieri curat.*" ("The magistrate takes order that the holy things be becomingly performed.") x. "Licet magistratibus non competat verbi prædicatio, licet tamen *episcopos et pastores officium suum negligentes vel aberrantes monere et arguere; imo et exorbitantes in ordinem redigere*, et cavere ne ministerium corrumpatur, et religio aliquid patiatur detrimenti." ("It is the right of the magistrate to confine the clergy to their own proper province.") xiv. "Omni diligentia providere, ut *quisque ministrorum officium suum faciat*, confirmare diligentes, excitare torpentes, *et in eo delinquentes secundum canones ecclesiasticos aut leges civiles animadvertere.* Efficere ut solennes formulæ et constitutiones ecclesiasticæ, quæ doctrinam et regimen ecclesiæ definiunt secundum scripturæ normam legitimo ordine sanciantur, *et semel san-*

citæ illibatæ conserventur." ("It belongs to the civil magistrate to take order that every minister shall do his duty, and to punish those who fail to do so according to the ecclesiastical canons and the civil laws. It is his duty to provide that the formulæ and constitutions of the Church, which define her doctrine and discipline, be lawfully established, and when established, to take care that they be preserved inviolate.")—*Opera Theologica*, tom. iii., pp. 356-60. It is strange that the venerable and beloved Chalmers should, in vindication of his views, when referring to the "authorship of other days," have specified Turretine. But, indeed, it is not more strange than that he should have mentioned any one of the authors to whom he alludes. What would the venerable Turretine have said to Dr. Buchanan's remark about the Church's freedom to "adjust her creed and her administration?" "*Et semel sancitæ illibatæ conserventur.*"

CHAPTER VI.

PART I.

Extreme Views on the subject of Spiritual Independence lead to Tyranny—Illustrated by reference to the History of the Church of Scotland, especially in her Golden Periods—Period succeeding Reformation from Popery—Church Assumed Position now occupied by the Public Press—Claims right of judging, in the first instance, in cases of Alleged Seditious Teaching—Makes other Extravagant and Dangerous Claims inconsistent with her own Reformation Principles.

HAVING thus ascertained the calm and deliberate opinions entertained by our fathers on the doctrine of Spiritual Independence, and observed how essentially they differ from those of the modern school, proceed we now to verify our allegation of a tendency on the part of the Church rulers to overstep their legitimate and acknowledged bounds, and to assume those views which, as we have already said, tend to the subversion both of civil and religious liberty.

Called, as in the providence of God our fathers frequently were, to oppose the encroachments of arbitrary power, they sometimes overlooked the essential principles on which was founded their own protest against that spiritual domination which, for ages, had fettered the energies of Christendom, and indicated a tendency to foster that very doctrine which the champions of Rome had employed as their most effective weapon of defence against the Protestant Reformation. It was

well for the cause of freedom that they firmly withstood the unconstitutional encroachments of the Stuart dynasty; but perhaps it was also well for the cause of freedom that their own deviations, in another direction, were not less successfully checked. In their jealousy of regal tyranny, they were sometimes betrayed not only into the use of expressions insulting and irritating to the ears of royalty, and fitted, if not repressed, to bring the throne itself into contempt, but also to put forth claims which, if yielded, would have rendered such repression impossible, and would have invested the Presbyterian Church with a power even over the sovereign, as despotic as had ever been conceded to the Italian priest. In violation to their own principles, they did occasionally claim what really was practically equivalent to that exclusive right of interpreting Scripture, and of authoritatively declaring the mind of Christ, which formerly had been the boast, and, so far as admitted, the impregnable stronghold of the Popish Church. While their real and avowed principles were, that men should receive their determinations only in so far as they could convince them of their scriptural authority, they did occasionally insist that to their interpretations, as authoritative, it was the duty of all implicitly to yield. To the assumption of this claim on their part, a decided and growing tendency can be traced. They repudiated the claim of infallibility, but they yet demanded unlimited power, not only of authoritative interpretation of Scripture doctrine, but of authoritative application of Scripture cases; and they con-

sidered the liberties of the Church as sacrilegiously violated if any attempt was made to restrain either their invectives, whether against ruler or subject, or their bold comments on all the measures of the legislature and executive, and on all the political occurrences of the times.

What has since been denominated the Fourth Estate of the empire had not yet been developed, but its functions were assumed by the clergy, and discharged with a boldness which that dominant estate has never yet surpassed. The fulminations of the pulpit in these days were as fearless as those of the press in ours; and the effects of them were increased tenfold by the fact, that the denunciations of the watchmen on the towers of Zion were given forth and received as the denunciations of Heaven. It is not difficult to conceive the results of such a system, if unchecked—to conceive the effects upon the minds of unlettered and semi-barbarous men, or to account for the anxiety of the ruler to possess as much control as would enable him at once to suppress what was considered seditious or treasonable speech, or such bitter invectives as were fitted to excite the ignorant multitude, and to bring into contempt "the ordinance of God for good."

The attempt at such control was resisted as a daring attempt to intrude on sacred things. It was not for the pulpit only that exemption was claimed from all control, on the ground that the Church alone could judge of doctrine, *in prima instantia*. The watchmen repudiated the idea of special sacredness attached to the

place in which they taught, and claimed the right of teaching when and how they deemed expedient, uncontrolled by any authority save of the Church courts. The State might consider the teaching treasonable, but as it was the teaching of one whom the Church had authorised to interpret and apply Scripture—of one whose authority was derived from the great Head of the Church—the Church alone could judge in the matter, at least in *the first instance; i. e.*, the Church courts were to determine whether the teaching were treasonable or not. If they determined that treason had been spoken, then the civil authority might interfere. If they determined that the teaching did not imply treason, the matter was at an end. Majesty itself might, in that case, wince under the denunciations which had been hurled against it. It might feel dishonoured and humiliated in the nation's eyes. It might see its authority spurned, and the dark spirit of gloomy disaffection gathering, and increasing, and spreading around. But there was no redress. The matter had been determined. The evil must be tolerated, be the consequences what they might, unless the sovereign would incur the guilt of Uzziah's fatal sin, and brave the consequences of the Almighty's wrath.

It was fortunate, indeed, that, in these circumstances, their opposition was directed against a power claiming to rule at will. The opposition was salutary, though the principle on which it was maintained was dangerous. The opposition benefited the cause of liberty, although the principle on which they defended it was

equally subversive of true freedom. It was well that the graspings of regal authority should be repressed, though it was not well that the repressing power should itself be suffered to be triumphant. It was a power which, from its very nature, could not be satisfied with the exercise of a merely salutary control: it must be dominant. And most unquestionably the liberty of the subject could not have long survived the triumph of the power to which the authority of the sovereign had been forced to succumb. Nay, it was only an accidental circumstance that it happened to be brought into conflict with monarchical tyranny; it was in itself equally ready to combat with popular freedom. It resisted interference alike from people and from prince.

It is not necessary to adduce instances of daring attacks, made from the pulpit, on the character and conduct of the monarch who happened to occupy the throne. It was not a merely occasional practice; it was rather the habitual system. To the pulpit every grievance was carried, and there dilated on in the hearing of all. The king was insulted to his face.* When he entered the house of God to worship Him by

* "The other part maketh mention of the treasonable, seditious, and contumelious speeches, uttered by some of your calling in pulpit against me and my progenitors. This part, likewise, cannot weill be denyed, since it is more than evident, that it hath been the most part of some ministers' exercise these four or five years past."—*King's Declaration*, &c., 1584, Calderwood, vol. iv., p. 459. *Vide* also vol. v., pp. 129, 130; also p. 493, where admission is made of the injurious consequences which had resulted "from the libertie of admonitions which are at divers times given to his Majesty and counsell, from the pulpit, in public audience of the people, . . . tending to the contempt and disgrace of his Majestie's authority and person with his subjects," &c., &c.

whom kings reign, he was compelled to listen to unsparing rebukes administered both in sermon and in prayer. He was pilloried in presence of his nobles and assembled subjects. The royal seat was converted into the seat of public penance, from which he was forced to listen to indecent and harrowing allusions to the character of his murdered mother, and to the memory of his ancestors in past generations, to whose defections and to his own was traced a goodly portion of all the evils with which, as judgments, the kingdom had been visited; and he was ofttimes warned, by allusion to certain ungodly kings of Israel, and to their fate, that, but for timely repentance, his race would terminate with himself, and he would leave his throne to strangers.

These extravagances may be, and have been, defended, as instances of noble courage and bold fidelity, and their grossness may be ascribed to the character of of the times. But palliate them as we may, they were unbecoming, insulting, irritating, dangerous, and could not fail to prejudice the mind of James against that system which seemed not only to tolerate but to uphold them, and against the men who not only used these weapons of attack, but denounced as supremely impious every attempt to control them. Who can tell how much of the opposition and persecution which Presbyterianism was destined to encounter, may not be attributable to this source?

It is true that the men who indulged in these unseemly attacks were, many of them, men of God.

They seem to have been really attached to the king's person, and most anxious both for his temporal and spiritual welfare. They acted, in many ceses, it cannot be doubted, from motives of the purest kind. They believed themselves fully warranted, by the examples of ancient prophets, in the denunciations which they had been commanded to utter against erring and rebellious kings. But their conduct is not defensible. It was not merely irreverent, but eminently perilous. No government could have tolerated it. "It tended to the contempt and disgrace of his Majesty's authority and person with his subjects." It could serve no other purpose. And when we meet with such statements as the following, which we do repeatedly, "The doctrine sounded powerfully, and stirred up a mightie motioun amongst the people of God, to detest the wicked proceedings, and call earnestly to God for redress,"* we are quite prepared for those scenes of disaffection and tumult which so frequently occurred; and we wonder the more at the pertinacity of these public attacks when we find his Majesty, while he implored them on public grounds not to bring his person into contempt and endanger his authority by their pulpit denunciations, inviting them again and again to remonstrate with him in private, and to confer with him on whatever they might suppose to be blameworthy in his conduct. In the Assembly 1596, we find James thus expressing himself: "As for the other heed, the king granted he was a sinner, as other men were, but not

* Calderwood, vol. v, p. 500.

infected, he trusted, with anie grosse sinne, and therefore required that no preacher would inveygh against him or his counsell publicklie, but to come to him or them privilie, and tell what is the offence; and, as for himself, if he mended not, in case he were guiltie, they might deal publicly: his chamber door sould be made patent to the meanest minister in Scotland: there sould not be anie mean gentleman in Scotland more subject to the good order and discipline of the Kirk than he would be."*

When strong measures were resorted to by the court to repress the unseemly violence of the pulpit, and to punish seditious speeches uttered in that sacred place, the Church, alarmed at what was considered an invasion of her liberties, put herself into an attitude of defence. The contest may be considered as having commenced with Andrew Melville's declinature of the jurisdiction of the council as incompetent. That Melville really had been guilty of the charges brought against him, no proof can be adduced; though that he may have given utterance to rash and unguarded speeches, his well-known character renders not at all improbable. The charge, however, was virtually departed from. It was on the ground of his declinature alone that sentence was pronounced against him. The proceeding was most arbitrary. The conduct of Melville was bold, uncompromising, patriotic. He had reasons of declinature unanswerable; but he added this, "that all ministers should first be judged for any offence with which

* Calderwood, vol. v., p. 397.

they were charged, in the exercise of their duties, by their brethren in the ministry."

This was the chief point in the case. This was the claim which, if conceded, would have invested ministers with unlimited power of invective, nay, and put into their hands a weapon for undermining at will all authority but their own. It was a claim, as Dr. Cook observes, "inconsistent with the fundamental maxims which should regulate criminal procedure." * "This exemption," says Robertson, "from civil jurisdiction was a privilege which the Popish ecclesiastics—admirable judges of whatever contributed to increase the lustre or power of their body—had long struggled for, and had at last obtained. If the same plea had now been admitted, the Protestant clergy would have become independent of the civil magistrate, . . . and might have become no less pernicious, by teaching, without fear or control, the most dangerous principles, or by exciting their hearers to the most desperate and lawless actions." † "In the present day," says another historian, not likely to depreciate the Church's legitimate claims, "when there are other methods of opposing the encroachments of power, and when the jurisdiction of the several courts is better defined, the claim of hearing, even in the first instance, charges of sedition or treason, or any civil offence committed by their members, would never be listened to." ‡

* Hist., vol. i., p. 378. Dr. M'Crie, in his Life of Melville, has attempted, but without success, to defend this claim. *Vide* Note A.

† History of Scotland, book vi.

‡ Buchanan's History of Scotland, by Aikman, vol. iii. p. 79.

The claim, however, continued to be maintained, and was afterwards, indeed, put forth in a yet more offensive form. As the Church's difficulties increased, her opposition became more determined, and her demands more exclusive and grasping. Let us listen to some of her authoritative statements in connexion with the famous case of Black.

In the declinature of Black occur such expressions as the following:—"Christ Jesus, only King and only Head over His Kirk, . . . by whom are appointed all spiritual offices and functions; by whom are given to the Kirk, and effectually called, all spiritual office-bearers and ministers; to whom he has concredited the preaching of the Evangell; *whom he has placed in their spiritual ministry over kings and kingdoms, to plant and pluck up by the roots, to edifie and demolish, to cast down strongholds, and whatsomever lifteth itself up against the knowledge of God.*" * Compare with this the statement of Mr. Robert Pont, in 1591, in the conference betwixt the king and the Presbytery of Edinburgh—"There is a judgment above yours," said Mr. Robert Pont, "and that is *God's, put in the hands of the ministrie.*" † Compare it also with the following reasons "why none of the ministrie can subscribe the Band ordained by his Majestie."

By this Band they were to acknowledge the king's judgment in all causes civil or criminal, and not to

* Second Declinature in name of the whole Ministrie of Scotland, Calderwood, vol. v., p. 278.

† Ibid., p. 131.

decline his authority in cases of alleged sedition as uttered in the pulpit. Some of these reasons, founded on civil grounds, are not to be disputed, but are worthy of men protesting against the assumption of despotic power. But listen to the following against the king's authority in matters civil and criminal.

"CIVILL.—The Word of God prescribeth the duties civill of princes, people, fathers, children, husbands, wives, maisters, servants, &c. The which must be taught and preached, and *so judged by the Kirk and prophets.*"

"CRIMINAL.—A perfect judicatour handleth three questions—*An factum? Quale factum? Quid mereatur?* Now heresie, idolatry, witchecraft, and such like, deserve death by all laws, and so are criminall. And yett, *the Kirk must judge all the three questions* by the Word of God, *and not the king, whose part is but to execute.*"

"PULPITS SHALL BE NO PRETENCE.—This is calumnious, as though we acclaimed a priviledge to the place, and not a right and authority *to the message and commissioun.*" *

Compare with all this the following answers given in 1597 to the king's questions, by the Synod of Fife, answers to which we have already had occasion to refer:—

Question 29. "May anything be acted in the Assembly to which his Majestie consenteth not?" *Answer.* "The king should consent to, and by his lawes approve,

* Calderwood, vol. v., p. 526.

all that by the Word of God's majestie is concluded in his Assemblies; but the acts thereof have sufficient authoritie from Christ, who has promised, that whatsoever two or three convened in His name sall agree upon in earth, to be ratified in the heavens; the like whereof no king nor prince has. And so the acts and constitutions of the Kirk are of greater authoritie nor anie earthlie king can give; yea, even such as should command and overrule kings, whose greatest honour is to be members, nourish-fathers, and servants of the King, Jesus Christ, and His Spouse and Queene, the Kirk." *

We might load our pages with extracts, indicating the progress which a few years had made in the claims advanced by the Church, and proving that even thus early there was a marked departure from the original principles of the Reformation. Some of the demands now boldly made are in direct contrast with the sentiments at first entertained by the Reformers, and embodied in the acknowledged standards of the Church. According to the opinions declared in some of the preceding quotations, is there any conceivable thing which the spiritual jurisdiction was not ample enough to embrace? Over what farther limits did the Popedom extend its jurisdiction? Did it—could it—claim a higher authority than that "all its conclusions, resolulutions, and determinations in *matters ecclesiastical, and appertaining to conscience,* are of suche sort that whatever they bind or loose on the earth, according to the

* Calderwood, vol. v., p. 591.

Word of God, is bound or loosed likewise in the heavens."* Did Popery ever assign a more abject position to the civil power? "The Kirk must judge all these questions, and not the king, whose part is but to execute." Had these principles triumphed, alas for civil authority in the ruler—alas for even the shadow of true liberty in the subject!

In order to prevent, as far as possible, any approach by which the civil power might reach the persons of ecclesiastics, or have any pretence to intermeddle even in the civil affairs of churchmen, the Assembly 1593 passed the following act, to which, for tyrannical assumption, it would be difficult anywhere to find a parallel:—"It is enacted, when any controversie falls out among brethren, *even though the matter be civill*, that if they be both in one Presbyterie, they shall, out of that Presbyterie, choice each of them so many brethren, with an oversman; and, if they be in sundrie Presbyteries, each shall choose so many out of his awin Presbyterie, with an oversman, and those judges arbitrators shall have the mater submitted to them *simpliciter;* and they shall decreet in the mater, *and fra their sentence shall be no appellation;* and he who *refuses to submit shall be holden contumax, and be deprived.*" †

In 1591 the Assembly had claimed jurisdiction in cases of slander. "My Lord Haliroodhouse, a Lord of Session, had called Mr. Patrick Simson a suborner; the Assembly had charged my Lord Haliroodhouse before

* Calderwood, vol. iv., p. 291. † Row's Ch. Hist., p. 153.

them to purge out the slander; my Lord Blantyre and Culrosse, Lords of Session, appear in name of the Colledge of Justice, protesting against the Assemblie as medling with that which was civill; but the Assemblie judged the purging out of a slander to be a cause ecclesiastic." *

I deem it unnecessary to adduce further confirmations of the allegations which I have ventured to make respecting the period at present under review. The reader will at once perceive a marked departure from the original Reformation principles—a grasping after authority on the part of churchmen—a tendency to subject everything to Church-control—the buddings of a little horn not disinclined to speak great things. I might refer to the barbarity of the period †—to the cruelty exercised to persons under the ban of the

* Row's History, p. 142. "The Lords of Session desired the Assemblie not to proceed to judge in that cause, seeing it was civill, and proper to their cognition, till it took an end before them. . . . It was answered they would not prejudge in any civil mater, nor derogat from their priviledges; but the *purging the members of their own bodie was a mater ecclesiastic*, wherein they might judge, without prejudice to any civil judicatorie."—*Calderwood*, vol. v., p. 134. This smells of Popery. Churchmen must judge churchmen. But they did not confine themselves to the purging of ecclesiastics, in cases of slander, nor, indeed, of any civil offences. In reply to the question, "Sould the Presbyteries be judges of all things that import slander; and if *so be, whereof are they not judges?*" They answer, "The Presbyteries should preasse to purge their bounds from all slander, and seperat everie soul from their slanderous known sinne, least it slay him, and his blood be craved at their hands. And as Martyr sayes, '*Nihil est quod Dei verbum se non extendat, ac proinde, censuræ ecclesiasticæ.*'"—*Ibid.*, p. 593 No wonder that they found themselves not bound "to give an extract in writt always to parties having interest."—*Ibid.*, p. 594.

† Assembly 1588 ordained that "Poore beggars should get no alms (which should be employed on the household of faith), except they shew testimonial of baptisme," &c.—*Row*, p. 137.

Church *—to the admitted prevalence of gross immorality, among all classes, and to an alarming extent †—to acknowledgments of interference with matters purely civil; but I forbear. Enough if we have observed the dangerous tendency, if not of clerical ambition, though co-existing with many noble qualities, at least of claims put forth under the guise of spiritual independence, and under the belief that these claims are needful to the maintenance of the crown rights of the Redeemer. We conclude with these words of "Mr. Alexander Hoome, minister at Logie, near Stirlin," in his "Afold Admonitioun to the Ministrie of Scotland in 1609":—

"Alace, brethrene, this maketh gude men to muse, quhidder it wer better to haif a goode manifest byshope in a Presbytrie, or to haif divers in effect, refusing the name, pretending paritie, bot observing none. No question the grace and glorie of our ministrie, of our Presbyteries and Assemblies, is notablie decayed; and farr is all declined from that measour of perfection quhilk it haid, sone after the beginning of Reformatioun." ‡

* Row, p. 96, &c. "James Montgommery is ordained to make public repentence for speaking with Mr. Robert Montgomrie, excommunicat, and to promise amendment in tyme coming."—*Row*, p. 99.

† Row, pp. 172, 173. Many among us are accustomed to consider the times in which we live, as times of unprecedented wickedness. Let them read, as here referred to, the enumeration of "The Commone Corruptions of all Estates within this Land," 1596. The perusal ought to excite their gratitude.

‡ Ane Afold Admonitioun to the Ministrie of Scotland by a Deing Brother, 1609. *Vide* Note B.

CHAPTER VI.

PART II.

Tendency of Extreme Views on the subject of Spiritual Independence—Illustrated by reference to the History of the Church of Scotland—Period succeeding the Second Reformation—Struggle between Despotism and Liberty—Early Covenanters nobly maintain the principles of Liberty in opposition to Tyranny—Yet themselves oppose true Freedom—Compel Adherence to League and Covenant—Assembly denounces all who should venture to speak against any of their Acts—Subjects them both to Ecclesiastical and Civil Penalties—Assumes Right of Control over the Public Press—Assumes Civil and Political Power.

We now proceed to the period of, and that immediately succeeding, the Second Reformation.

That Reformation was, to a great extent, effected through the instrumentality of the famous Glasgow Assembly of 1638. It is not necessary here to detail those attempts of Charles I. to subvert the liberties of the nation, and to subject to his own royal supremacy every constitutional right, civil and religious, which called forth the bold and systematic opposition that at length found expression in the National Covenant of 1638. The struggle, at this period, was between despotism and liberty—a struggle maintained on the one hand by a prince whose hereditary doctrines of the sovereign's prerogative were incompatible with the enjoyment of liberty by the subject, and who was betrayed by the misrepresentations of unprincipled men, and swayed by the sinister influence of a fanatical priest;

and on the other, by men who, though, at this stage at least, loyally attached to the person of their king, were yet determined at every hazard to defend their rights, and to repel those encroachments of tyranny which, if unresisted, would have reduced the nation to slavery.

Charles's hereditary antipathy to Presbyterianism was increased, no doubt, by the recollection of the struggles of the former reign, during which, it is not to be denied, that claims had sometimes been preferred, on on the part of the Church, fitted to excite the prejudices of a monarch even less jealous of the royal prerogative. But, whatever the causes may have been which contributed to the present condition of affairs, that condition was such that resistance had now become a duty. The ends for which government exists were defeated. If the nation possessed any constitutional rights, it was now imperative that they should be declared and vindicated. And, although many of the subsequent actings of our fathers in the progress of the contest may now be considered as of a questionable character, and some of the actors may now be known to have been influenced by selfish and unworthy motives, to the men of the Covenant is due the glory of planting that Tree of Liberty which, watered with the blood of many a noble heart, grew up and flourished, and bade defiance to the raging storms, and still shelters their descendants beneath its spreading boughs.

Yet must it not be forgotten that the principles of true freedom were not fully understood by the early Covenanters. The Church and the nation were united

in the contest against regal despotism. The Church was ready to take the lead in the enterprise against royal supremacy, but her own claims, at the very time, were, in some instances, not less incompatible with the claims of liberty. Her Assemblies did, in some instances, too much assume the aspect of political conventions. Met and constituted in the name of her great Head, they shewed some inclination to invade the province of Cæsar. While bearing high testimony to the Headship of the blessed Redeemer, they sometimes confounded the civil and spiritual jurisdictions, protesting against civil interference in sacred things, yet themselves interfering in matters purely civil. Of these Assemblies many of the members were the political leaders of the period, and to the sacred arena of the courts ecclesiastical they transferred somewhat both of the spirit and of the matter of their secular contendings. It cannot be denied that sometimes they assumed the character of political convocations. The Covenant itself in which they were leagued together, fostered the tendency to do so. Perhaps the peculiarity of their circumstances rendered this result inevitable. The result, however, was unfortunate with respect to that spirituality which should have characterised the actings of a Church of Christ. It led—perhaps compelled—them to the exercise of civil functions; and this blending of civil with ecclesiastical power resulted in the assumption of authority which, if unchecked, would have been as fatal, both to civil and religious freedom, as those despotic encroachments which they had united to oppose.

These remarks apply both to the Assembly of 1638, and to all that succeeded during the brief period that elapsed till Presbyterianism was again put down. After the Restoration, indeed, and down almost to the Revolution, through a long and dismal period of horrible persecution, during which Charles II. so terribly avenged the insults which had been offered him by the Presbyterians in their day of power, the men of the Covenant were they who alone had preserved the almost extinguished embers of freedom in the land. Poor and despised—deserted by the nobles and higher classes, who, with a few notable exceptions, had basely succumbed to the tyrant, and retained not even the semblance of liberty—crushed by the minions of despotism, who, by persecution in every form, fines, confiscations, banishments, bonds, tortures, and death, had hoped either to subdue or utterly to destroy them—they maintained their steadfastness and preserved their testimony; and—whether by indomitable endurance, or obstinacy which no amount of suffering could vanquish, or dogged fanaticism, or noble patriotism, or strength of holy principle, inspired and upheld by the grace of heaven—the scattered and bleeding remnant triumphed over the oppressor, and survived to witness the last of the royal line driven into ignominious exile by an almost unanimous people, whose indignation their sufferings and courage and steadfastness had tended to arouse.

But let us substantiate our assertions respecting the claims and usurpations of the Church at, and immediately subsequent to, the period of the Second Reformation.

Our assertion is, that the claims of spiritual independence then made and acted on, and the consequent assumptions of civil rule, were incompatible with either civil or religious freedom.

The authorities to be adduced will scarcely admit of dispute, being chiefly the authentic records of the various Assemblies of the Church.

I do not dwell on the assumption of the highest civil authority on the part of the Assembly 1638, implied in their explicit abrogation of a series of Acts of Parliament, although Henderson himself, their distinguished Moderator, admits, "that they cannot think themselves secure till civil authority ratify what is here done by ecclesiastical constitution;" and although the Assembly of 1639 did virtually, for the time at least, ignore that of the preceding year, consenting to the proposal of his Majesty's Commissioner, that it should neither, on the one hand, be referred to, nor, on the other, condemned.

I proceed to verify the allegations which I have made by reference to other Acts of the Assembly 1638, and of those which immediately succeeded. My assertion is, that the principles by them avowed, and acted on and embodied in various Acts of the Assemblies, were tyrannical and intolerant, subversive of the rights of conscience, and inconsistent with civil and religious liberty. In proof of this assertion I refer,—

1*st.* *To the power assumed by the Church of compelling men of every rank to sign the League and Covenant.*

(1.) As to the National Covenant. In the Assembly

1638 it was proposed, but ultimately referred to Presbyteries, "that all persons, of whatsoever state and condition, be obliged to swear and subscribe the Confession of Faith, as it is now condescended upon by the General Assembly." The Assembly 1639 "injoined all persons to subscribe the Covenant, under all ecclesiastical censure." In subsequent Assemblies the same mandate is again and again renewed, and stringent measures adopted to prevent evasion of the stern command. And, not contented with the infliction of ecclesiastical censures, the Church sought and obtained against recusants the infliction of civil penalties. Could tyranny have devised an engine more oppressive, or more likely to ensnare the consciences of man? No wonder that these acts required to be frequently renewed, for thousands must have been anxious to escape the despotic ordeal. Multitudes must have been compelled to perjure themselves. Evasion was provided against. Every Synod, every Presbytery, every minister, was enjoined to enforce the deed.* Men were compelled to swear and sign the solemn document; and if, upon reflection, their consciences reproved them for the act, and they afterwards maligned the Covenant—as it would seem they sometimes ventured to do—they were dealt with as perjured persons.† Well may Dr. Cook remark, "This ordinance"—referring to the Act of 1639—"so popular throughout the kingdom, was, in fact, an engine of severe persecution. . . . . So long as signing the Covenant was a voluntary expression of

* Act of Assembly, sess. vi., 1643. † Assembly, sess. v., 1640.

attachment to a particular cause, much might be said in its justification. But now, when it was required by an Act of the Council and the Church, which it was dangerous to disobey—now that it could be forced by the zealots of a sect upon all whom they chose to harass—it must be abhorred, as occasioning, to the conscientious part of the community, much wretchedness, and as calculated to diffuse that relaxation of principle, which is the bitter fruit of every deviation from the tolerant spirit of pure religion." *

(2.) As to the Solemn League and Covenant. In 1643 this celebrated document emanated from the Assembly, destined as it was to effect the most important results on the history of these kingdoms. To these results it is not necessary to refer. The history of that remarkable Covenant is known to all. The one point with which we have at present to do, is the compulsory signing of it. The majority of the nation received it joyfully; but no toleration was shewn in behalf of those, and they were many, who scrupled to attach their signatures. Adherence was extorted from men of every rank. No efforts were spared to impose it on all within the three kingdoms. Charles I., when entangled in meshes from which he could not escape, was urged by every inducement to sign, in spite of

* Hist., vol. ii., pp. 501-2. The penalties attached to refusal to subscribe were of no light kind. "April 3, 1639.—The Toune (Aberdeen) being convened in the Colledge Kirk, the Provest intimateth to them that they were urged to subscryve the Covenant, with the determination of the Glasgow Assembly, under the pain of disarming them, and *confiscation of all their goods*. After reading of the Covenant, the Town took it to be advised."—*Row*, p. 514.

alleged conscientious convictions which he declared to be invincible. His signature was wrung from his son by men who could scarcely fail to know that it was given in insincerity, and would, upon the first favourable opportunity, be violated. Nor can any more striking proof be required of the wickedness of that compulsion, and its direct tendency to foster hypocrisy in its most revolting form, than the fact that, at a future period, the most bloodthirsty agents of the misguided sovereign, in the inhuman persecutions which succeeded, were men who had been zealous in the cause of the Covenant.*

Baillie, in a letter, 17th November 1643, thus alludes to the effective means resorted to for gaining over recusant consciences:—"Copies were despatched to the Moderators of all our Presbyteries, to cause read and expone that Covenant the first Sunday after their receipt, and the Sunday following, to cause sware it by men and women, and all of understanding, in every Church of our land, and subscribe by the hand of all men who could write, and by the Clerk of Session, in name of those who could not write, *with certification of the Church censures, and confiscation of goods, presently to be inflicted on all refusers.*" †

In proof of my assertion, I refer, 2*dly*, *to the*

* Among others, Lauderdale, Sir James Turner, and the detested Sharp.

† Letters, vol. i., p. 392. There was, it is to be feared, too much truth in the following statement given in to the Protesters in 1651, by "a godly brother," lamenting over, while he enumerates, many of the sins of the times. "A fleshly zeal and policy in pursuing and carrying on the Covenant and League by cruel oppressions, making Acts for constraining all sorts of persons, as well men of tender consciences as the most profane and

assumption on the part of the Church of power to forbid all questioning of their authority, and to punish all who should venture to speak or to write against either the Covenant or any of their Acts.

This assertion may seem an extravagant one. Some readers may be apt to imagine that I have mistaken, for Acts of Assembly, some of the unguarded decisions of the Council of Trent.

The Assembly 1638 decrees as follows:—"The Assembly constitutes and ordains, that from henceforth no sort of person, of whatsoever quality and degree, be *permitted to speak or write against the said Confession* (the Covenant), *this Assembly, or any Act of this Assembly*, and that under the pain of incurring the censures of this Kirk." *

3*dly*. I refer, as akin to this, to *the right of control assumed by the Church over the public press*—her *refusal of the right of discussion and of private judgment*—her *injunctions to search out for books of which she disapproved.*

The Assembly 1638, "by virtue of their ecclesiastical authority, unanimously dischargeth all printers within this kingdom, to print any Act of the former Assemblies, . . any Confession of Faith, any protestation, . . . or *any treatise whatsoever which may concern the*

grossly ignorant in the land, to take the Covenant, under the hazard of incurring the highest censures both of Church and State."

Such charges as are made in the text against this part of the conduct of the Covenanters have been disputed, and indeed denied. Professor M'Crie, for instance, in his "Sketches of the Scottish Church History," repudiates such allegations. The documents adduced, however, are too distinct to be explained away, and too authoritative to be denied. *Vide* Note C.

* Records of the Kirk of Scotland, p. 37.

Kirk of Scotland, or God's cause in hand, without warrant." *

The Assembly 1643 passed "an Act for searching books tending to separation."

In 1647 they passed an Act of similar import, "discharging the importing, venting, or spreading of erronious books or papers." In that Act, "the General Assembly, considering how the errors of Independency and separation have spread in our neighbour kingdom of England, . . . do therefore, in the name of God, *inhibit and discharge all members of this Kirk and kingdom, to converse with persons tainted with such errors; or to import, sell, spread, vent, or disperse* such erroneous books or papers." †

In proof of my assertions, I might refer, 4*thly*, to Acts against all non-communicants (Assembly 1642 and 1644); to Acts forbidding, under pain of excommunication, all intercourse with persons under the ban of the Church (1638, &c.); to Acts soliciting the civil power to compel persons excommunicated "to satisfy the Kirk and obtain themselves absolved, under the pain of rebellion," (1643); to Acts enjoining Popish parents to give up their children to be educated, at their own expense, by Protestants, "as the Presbytery shall approve," and to find caution for bringing home, for the same purpose, such of their children as might be without the kingdom (1642, 1648, &c.). I might refer to Acts of hateful tyranny on the part of Assemblies and their commis-

* Records of the Kirk, p. 39.

† Records of the Kirk, p. 476. *Vide* also p. 498.

sions, in the matter of transportations of ministers to new charges—"evidently," as Baillie remarks, "packed businesses, little for the credit either of the transporters or transported"—or in the matter of Church censures and depositions of ministers, in regard to which the leaders of the Church carried it with so high and reckless a hand as to excite the disgust of men of impartial minds.* I might refer to the utter abhorrence so often expressed of all approach to the principle of toleration. "Liberty

* The following remarks by Spang, the correspondent of Baillie, occur in a letter dated March 19th, 1649, and are worthy of careful perusal:—"Likewise it would be needful that ye remitted much of that rigor which, in your Church-assemblies, ye use against ministers who have proven your great friends ever before. It will be better to let your sails fall somewhat lower in time, before a storm compel you; or ye, who think God so highly glorified by casting out your brethren, and putting so many to beggary, making room through such depositions to young youths, who are oft miscarried with ignorant zeal, may be made, through your own experience, to feel what it is which now without pity is executed upon others. Generally the great power which the Commission of the Kirk exercises displeaseth all. It is but an extraordinary meeting, and yet sits constantly and more ordinarily than any Synod; yea, and without the knowledge of provincial Synods and Presbyteries, deposes ministers, injoins, *pro auctoritate*, what writs they please to be read, inflicts censures upon those who will not read them. If the Kirk of Scotland look not to this in time, we will lament it when we cannot mend it. They say four or five rule that meeting; and is not the liberty of the Kirk come to a fair market thereby? We have an Act that nothing shall be brought to a greater meeting which has not first been treated of in a smaller; but now your compend of the General Assembly, or deputes of it, at the first instance judge of matters which might be better handled in lesser meetings. For God's sake, look this course in time be stopped, else the Commission of the Kirk will swallow up all other ecclesiastick judicatories, and such ministers who reside in and about Edinburgh shall at last ingross all Church-power in their hands. I know there is a piece of prudence hereby used,—to get the power in the hands of those who are good; but what assurance have we but what they may change, or others, following this course, creep into their places. We meet with daily regrets that the ancient ministry are condemned, and the insolence of young ones fostered—the very forerunner of Jerusalem's destruction. The Lord make us wise in time."

of conscience!" "Toleration of sects!" The very terms were considered an abomination. It was not without cause that the Independents in the Westminster Assembly "proclaimed their fears of the rigours of Presbytery."

I dwell not, however, on these things, so utterly at variance with the spirit and principles of the Gospel of of the blessed Jesus. I refer to them with sorrow. They cannot be defended; and if an apology for them be sought in the character of the times, that apology amounts to the admission that that boasted period of the Church was a period when, practically at least, the first principles of our holy religion were set at nought. Our fathers of the "golden period" confined the liberty of conscience to the liberty of agreeing with them. The mantle of heaven-born charity was not understood to cover the sins of "sectaries." *

I pass on to prove my assertion, by adducing instances of *assumption, on the part of the Church, of civil and political power.* A few out of many must suffice.

For instance, there was on the part of the Commission of the Assembly in 1646, acting with the full authority of the Assembly itself, a most distinct usurpa-

* They were ready, however, to assert the rights of conscience whenever their own views were interfered with. The inconsistency even of good men is marvellous and humbling. Even those who, without compunction, forced their Covenant on others, could loudly remonstrate, on the plea of conscience, when called on to consent to what they did not approve. They protested against being "compelled and forced either to sin against their consciences, or to be under heavy pressures and burdens." See "Declaration of Assembly 1648, concerning the present dangers of religion, and especially the unlawful engagement in war."

tion of political power, when, in opposition to the Act of the Estates of Parliament, that Commission issued its "Solemn and seasonable warning to all estates and degrees of persons throughout the land." * The Commission endeavoured to supersede Parliament altogether, in a matter of great importance connected with the safety of the king.

"During the recess of Parliament, in addition to their wonted modes of agitation from the pulpits, petitions came up from Synods requiring Parliament to do nothing important without the concurrence of the General Assembly; and the Commission more openly obtruded its interference during the time that the muster of levies was in progress, drew up an answer to to the Declaration of Parliament, which was circulated through the Presbyteries, denouncing the resolution which had been adopted by Parliament, ordaining ministers to read the counter manifesto from their pulpits, and threatening all with excommunication and the divine wrath who should enrol under the standard of the king and Scottish Parliament. A more monstrous instance of usurpation is nowhere to be found in the past history of the Reformed Church; and even Baillie, one of those who was a party to these extravagant pretensions to political power, is constrained to deplore the consequences which flowed from it." †

* *Vide* Records of the Kirk of Scotland, p. 489. *Vide* also Cook's Hist. of Church, vol. iii., p. 153.

† Records of the Kirk, p. 494. Baillie remarks:—"The danger of this rigidity is like to be fatal to the king, to the whole isle, both churches and states. We mourn for it to God. Though it proceed from two or three

Such was the conduct of the Church, in obedience to the dictates of their leading men, with reference to the famous "Engagement," as it was termed. Their conduct manifested the most marked contempt for the civil power. They distinctly declared the Acts of the Parliament to be unlawful, and forbade obedience to them by all, "as they would not incur the wrath of God, and the censures of the Kirk." *

The Assembly assumed to themselves the right of judging and determining on the lawfulness of war, and asserted that they should be consulted as to whether a war should be undertaken or not, defending their assumption by Scripture references, and particularly by the case of Joshua and all the congregation, "who were commanded to go out and in at the word of Eleazer the priest." †

They ordained all ministers to preach against the order of the Estates of Parliament; nay, to make this and kindred defections the chief topic of applications

men at most, yet it seems remediless. If we be kept from a present civil war, it is God, and not the wisdom of our most wise and best men, which will save us. I am more and more in the mind that it were for the good of the world *that churchmen did middle with ecclesiastic affairs only;* that were they ever so able otherwise, they are unhappy statesmen."—*Letters*, vol. ii., p. 286.

The Parliament, of course, found it necessary to interfere. In their Acts they narrate the dangerous intermeddling of the clergy, who, both in public and in private, "labour as far as in their power, to stir up the people to an opposition against the authority of Parliament, . . . and *usurp a power upon themselves to be judges of the laws and proceedings of Parliament.*"

* *Vide* Act and Declaration of Assembly 1648, against the Act of Parliament and Committee of Estates.

† Assembly's Answer to the Committee of Estates. August 1st, 1648.

in sermons, under pain of censure and deposition, "for being pleasers of men rather than servants of Christ, for giving themselves to a detestable indifferency or neutrality in the cause of God, and for defrauding the souls of people;" *and if any of the people should oppose the ministers in the discharge of this high duty* thus imposed, by ecclesiastical authority, on the ambassadors for Christ, they were to be proceeded against, even to excommunication.*

* Act for censuring ministers for their silence, and not speaking to the corruptions of the time, August 3, 1648. It is curious to observe this Assembly all the while protesting that it is a calumny to assert that they meddle with civil affairs, and branding those who venture to say so as "Malignants."—*Declaration concerning present Dangers of Religion, &c.*, 1648.

Many hints as to the composition, character, and intolerance of this Assembly are given by Baillie in his letters of that year. He admits that it was, to a great extent, a packed Assembly. "It was carefully provided that in all Presbyteries they should be chosen who were most zealous for the Covenant, and for the proceedings of the Commission of the Kirk, and for the maintenance thereof; so that this Assembly did consist of such whose minds carried them most against the present engagement, which was the great and only question for the time." He admits that the Assembly rejected commissions of those whose opposition they feared. With the commissions from the boroughs they had some trouble. All, however, were "for tolerating them, *for fear of offending the boroughs at this time.*" He admits that nothing but a suspicion of weakness would have prevented the leading men of the Assembly from sanctioning an appeal to arms against the Parliament. "I knew that most of the leading men thought a resistance by arms to the ways in hand lawful enough, if the dissenters in Parliament, or any considerable part of the kingdom, had courage and probable force to act." He admits their intolerance. "It was much pressed that such as had been active for the engagement should be kept from the holy table." "Also it was pressed (and carried) that ministers silent, who did not preach against the engagement, should for this be deposed." In short, Baillie admits that this packed and intolerant Assembly occupied nearly their whole time with the one subject of opposition to the Estates (their fellow-Covenanters), and in persecuting those who differed from them, to the almost entire neglect of the true interests of Christ's spiritual kingdom, and even of the "doctrinals which the last General

NOTES TO CHAPTER VI.

Note A.

The venerable biographer of Melville, in his remarks on the Reformers' *Declinature*, given in to the Privy Council, triumphantly vindicates the step taken in declining their authority, as not the proper civil court to dispose of the case. "Every lawful judicature," he remarks, "is not entitled to judge in every cause, and a party has a right to take legal steps for having his cause brought before the competent judges. Even in that age, when the boundaries of the different jurisdictions were far from being accurately traced, it was not uncommon for persons to decline the judgment of the Privy Council, and to advocate their cause to the Court of Session."—*Life of Melville*, vol. i., p. 296.

The truth is, that, in so far, Melville was borne out by the "agreement concluded by certain of the counsell and commissioners of the Kirk, and practice ensuing thereupon;" and also by the "special privilege granted and lately confirmed to the maisters and students of the Universitie of St. Andrews."—*Calderwood*, vol. iv., pp. 269, 270.

But Dr. M'Crie advances a step further than this. He defends the claim of the Church to judge *in the first instance*, asserting, however, that the Church's vindication of a preacher, accused of uttering sedition in the pulpit, did not render it incompetent for the civil magistrate to proceed against him. He also says, "I need scarcely add, that the regulation in question was never intended to apply to extraordinary cases; and that no such immunity was pleaded as would prevent the executive government from immediate procedure against a minister who should be notoriously guilty of exciting sedition or treason by his preaching, or who should even be suspected of this in a time of public commotion or national alarm."—*Life of Melville*, vol. i., pp. 296-300.

Assembly had recommended to all the Presbyteries."—*Letters*, June 26, 1648, &c.

What pious mind amongst us does not feel grateful to the God of all grace that our lot has been cast in better times, and that, though our liberties have been purchased at a heavy cost, we groan not under the dominion of such Assemblies as those of the "golden period!"

Now this exception is virtually a yielding of the whole point, and shews the difficulty which even such a man experienced when attempting to defend extreme views. In almost all the cases which occurred, there was the allegation that the parties were "notoriously guilty of exciting sedition." The times were times of "public commotion," and the fact of the accusations being made, implied that the parties were at least "suspected." Besides, if this concession be made, it cannot with any show of reason be alleged that the magistrate is not to judge both of the notoriety of the imputed guilt, and of the character of the time; and, this admitted, the *prima instantia* plea amounts to nothing.

But, moreover, the only authority which Dr. M'Crie quotes, in support of his assertion that the judgment of the Church courts was not intended to bar, or had not the effect of preventing proceedings by the civil magstrate, is that of Principal Baillie, in his answer to the Declaration, who states that, "since the Reformation of religion, no man in Scotland did ever assert such things."

Principal Baillie is a valuable authority with regard to the facts occurring in his own times; but his testimony respecting historical facts connected with a former age is valuable only in so far as it is founded on evidence adduced. In the text,* we have quoted some unquestionable authorities which go far towards the opposite conclusion. Had the averment been, that, in "the earlier days of the Reformation no man in Scotland did ever assert such things," it would have been nearer the truth. But what mean the statements quoted (pp. 126, &c.), that idolatry, witchcraft, &c., though criminal, must be judged only by the Kirk, the king's part being only to execute? Why is treason, spoken by a minister in teaching, brought under the same category with "herisie, idolatrie, blasphemie," all of which, it is asserted, must be judged only by the ecclesiastical court? What mean those statements "that the king should consent to all that, by the Word of God's majesty, is concluded in His Assemblies?" "That the acts of the Kirk should command and overrule kings?" "That this Presbyterie, convened in the name and by the authoritie of the Lord Jesus, hath a spiritual power . . . to reasoun, deliberat, and conclude in matters apperteaning to the

* P. 125, &c.

conscience, whose conclusions, resolutions, and determinations on earth, are ratified in the heavens; and whosoever contemneth the authority thereof, sould be esteemed as an ethnick or a publican?"—*Calderwood*, vol. iv., pp. 290, 291. Had a minister, accused of sedition, been absolved by his ecclesiastical superiors, what room was left for civil interference? Would not such interference, according to this doctrine, have put the civil authority under the Church's ban? The claim obviously amounted to what we have stated in the text, and it was one inconsistent with every principle of good government in the state. Taken in connexion with the explanation given in one of the preceding quotations—that it was not the pulpit only that was to give the sacred character to the teaching, so as to bring it within the jurisdiction of the spiritual court, but that it belonged to the "message and commission," wheresoever delivered and exercised—the claim, as far as treason or sedition on the part of an ecclesiastic was concerned, did amount wondrously near to what Dr. Robertson alleges, but to which Dr. M'Crie demurs, viz., to that exemption which Popish ecclesiastics claimed from civil jurisdiction.

Note B.

Hume was justly reckoned among the "godlie and faithful servants" of the Lord. He was a bold witness against the corruptions of the time. But while he witnessed against the attempts made to introduce the "hierachy of prelates in this Kirk," he testifies with not less zeal against the corruptions and unseemly carriage of their opponents. The following passage is eminently graphic, and furnishes a description of the Church courts of the period at once melancholy and ludicrous. Some of the scenes and observations might not inaptly be transferred as illustrative of other times. Every reader probably, except the very youngest, is in circumstances to make the application.

"Fynallie, in your publict meitingis (as Presbitreis, Synodoll and Generall Assembleis), their ar thrie abuses that may be espyed. First, confusioun and immodest behaviour. Secondlie, superficial handling of materis. Thirdly, a partiall and presumptuous forme of dealing of a few men who ar counted to be pillaris. The confusione of your Assembleis is suche, that their is neyther reverence, sylence, nor attendance: for when grave

materis ar in hand, sum ar whispering, and at thair quyet confabulatioun. Many speake before they be requyred. And it can not suffice that one speake att once, but a number all at once; and often tymes they that can worst speak have most speache, and many speak to smal purpois, in such sort, that it wald appeare that men rather contend to have thair word about, then to gif licht for the decesioun of anie wechtie caus. And, thairfoir, civill men haif your Assembleis ower justlie in derisioun and contempt, comparing them to Birlay Courtis, where is much jangling. Sumtyme it was not so, brethren, but now the gravitie and guid ordour of civill judicatories may mak you Theologues to be aschamed. Moreover, when one day is past at your synodolis, their is no moir but a calling to the Moderator, mak hast, we must go home; and thei who have best moyen to remane, perhappis werie first, as thoght they cam not to do the wark of God, nor to regaird the weil of the Kirk, but onlie to mak a schew, to conferre, to drink with thair familiaris, and then go hame agane. Heirupon it cometh to pas that post heist must be maid, and materis superficiallie handled. Sum materis ar glansed at, and continued to the next Assemblie; a number of uther materis ar referred to thair Presbitreis, or to commissioneris; and gif anie mater go to voting, smal or no reasoning goeth befoir, but haiffing collected the suffrages of a four or fyve personis, then becaus no man sayeth against it, silence is taken for consent, and the mater concluded as a deade done by the whole Assemblie. The Lord be mercifull to you concerning theis thingis! Thirdly, boithe in Presbitreis and Assembleis, a few men haif the sway; for luke what thei tak upone hand to reasone and sustaine, it must have place, and go through. And never saw I yit a persoun so vyle, nor a fact so odious, and of such atrocitie, bot it suld have gottin sum patrone to speak for it, eyther to denye it, to disguyse it, to excuse it, to extenuat it, or, at least, to entreat for pardone to it: a vyle and lamentable thing to be hard in the men of God. Farther, solisting and requesting by parteis is admitted no les then among civill judges, which is pre-occupeing of the mynd, and a thing prejudiciall to equitable judgment. Now, theis foirsaid leirned and wyse men must not be controlled nor impugned by meane landwart teacheris, how zealous and uprycht soever they be, but must be respected for thair giftis; and gif perhappis anie wald insist and mak oppositioun, he sal be but

mockit and borne doune by theis Rabbins. The grytest number, then, of brethren in Presbitreis and Assembleis, may be compared to the litill godis, *Minores Dij*, among the Gentill quhilk thei called *Dij consentes*. So the ringleideris among you say the word, and the rest say, we think so too. Or as the letteres of the Alphabeth are devyded into vowellis and consonants, so are you. *Quot sunt literæ?* (says the Rudiment.) It is answered, *Viginti duæ*, &c. *Quot sunt ex his vocales? Quinque. Quæ? A, e, i, o, u. Quot sunt consonantes? Reliquæ omnes.* So may it be said of you, my brethren, *Quot sunt Presbiteri? Quamplures. Quot sunt ex his vocales? Quinque vel sex. Quot sunt consonantes? Reliquæ omnes.* Alace, brethrene, this maketh gude men to muse, quhidder it wer better to haif a goode manifest stedfast Byschope in a Presbitrie, or to haif dyvers in effect, refusing the name, pretending paritie, but observing non. No questioun the grace and glorie of our ministrie, of our Presbitreis and Assembleis, is notablie decayed; and farr is all declined from that measour of perfectioun quhilk it haid, sone after the beginning of Reformatioun."—*Woodrow*, *Miscellany*, vol. i., pp. 587, 588.

Note C.

Professor M'Crie will not allow that compulsion was used in obtaining signatures to the Covenant. His words are—"No compulsion was used to procure subscriptions, for none was needed. Some individuals, indeed, among the clergy, who refused to sign, might be treated somewhat unceremoniously; but this was rather an expression of the popular dislike at the measures with which they were identified, than an attempt to force their consciences. Everything like personal violence was deprecated and repressed by the leaders of the Covenant. . . . So far from persons being compelled to sign the Covenant, great care was taken to prevent improper or incompetent subscriptions. None were allowed to sign but such as had communicated in the Lord's Supper."—*Sketches*, p. 217.

The reader may judge whether it is possible to reconcile these assertions with the evidence adduced in the text. In page 260, Dr. M'Crie says—"We have already seen that, *at first*, no compulsion was used, with consent either of the Church or the Parliament, in imposing the Covenant." That there was a tendency to

compulsion even at first, is obvious from the overture proposed by the Committee of Assembly 1638—"That all persons of whatsoever state and condition *be obliged* to sware and subscribe."

The following year "all persons were enjoined to subscribe, *under all ecclesiastical censure.*" If "no compulsion was used, for none was needed," what are we to make of the following Act of Assembly 1643?—"The General Assembly, considering that the Act of the Assembly at Edinburgh, 1639, August 30, injoining all persons to subscribe the Covenant, under all ecclesiastical censure, hath not been obeyed: therefore ordains all ministers to make intimation of the said Act in their kirks, and *thereafter to proceed with the censures of the Kirk against such as shall refuse to subscribe the Covenant.* And that exact account be taken of every minister's diligence hereintill by their Presbyteries and Synods, as they will answer to the General Assembly." These "censures of the Kirk" did not terminate in mere deprivation of spiritual privileges. That same Assembly (1643) took advantage of an early Act (1573) for "*using civil execution against excommunicate persons.*" In 1573 the Lord Regent sent to the Assembly "certain heads and propositions." One of these was a resolution to proceed to the execution of civil pains against persons excommunicate. "Executions of the sentence of excommunication after the space of forty days past, shall be presented to the Lord Treasurer, or his clerk, who thereupon shall raise letters by deliverance of the Lords of Session, to charge the persons excommunicate, to satisfy the Kirk, and obtain themselves absolved, *under the pain of rebellion.*" The Assembly 1643 *revived this old enactment.* They adopted means to have it carried into execution. "To cause letters of horning and caption be raised and execute, and other diligence to be used against the excommuniate persons. And that all other civill action and dilligence may be used against them, warranted and provided by Acts of Parliament, or secret councell made thereanent; and that particular account be craved hereof in every General Assembly."

It is in that same year that Baillie makes the statement quoted in the text, of intimations from the pulpit, enjoining all to sign, who could write, and to employ the clerk of the session to sign for them if they could not, "with certification of the *Church censures, and confiscation of goods, presently to be inflicted on all refusers.*" Baillie continues: "With a marvellous unanimity was

this everywhere received. A great many among us averse from this course, who bitterly spoke against our way everywhere, and none more than some of our friends; yet, in God's great mercy, all that yet I have heard of have taken this oath. Sundry things did much contribute to the running of it. It was drawn with such circumspection, that little scruple from any airth could be to any equitable. *For the matter, the authority of a General Assembly and Convention of Estates was great; the penalties set down in print before the Covenant, and read with it, were great.*"

These things, it will be admitted, sound very like compulsion. They cannot be reconciled with the notion, that "none was needed." Instances are not awanting of severe penalties inflicted in the case of persons refusing to comply. Besides the case of the town of Aberdeen, which, Dr. M'Crie says, "was almost the only town that could complain of being forced into the bond," others might, if necessary, be adduced.

On 22d October 1643, the Committee of Estates issued their order that all Scotland should subscribe, threatening recusants with punishment, as enemies of religion, of his Majesty, and of the kingdom. The lords of the Council were imperatively enjoined to subscribe by a certain day, and those who declined obedience, including the Duke of Hamilton, and others, were denounced as enemies to God and to their country—their estates were ordered to be confiscated, and their persons to be seized.

Nicholl, "our simple annalist," as Dr. M'Crie designates him (p. 361), referring to a period somewhat later, says: "At this time, and sindry years before, many persons were troublit for not subscryving the Covenant, and ministers deposit for the same. Mr. Gawin Stewart, minister of Dalmellington, not only deposit fra his ministrie, but he debarrit *ab agendo in all his actions and causis civill for recovery of his debts.*"

"James Macaulay, goldsmith, was not onlie excommunicat for refusing to subscryve the Covenant, bot likewayis, at his death, his *corps dischargit to be bureyit* in the church-yaird."—*Diary of John Nicholl.*

The Doctor alleges that "none were allowed to sign but such as had communicated in the Lord's Supper." But, alas, in these times of religious freedom, all were compelled to communicate in the Lord's Supper. Acts, at all events, were passed under which all might be compelled. The Assembly 1642 enjoins "every

Presbytery to proceed against non-communicants, whether Papists or others, according to the Act of Parliament made thereanent." And the Assembly 1644 passed an ordinance, "enjoining the uplifting and employing penalties, according to the laudable Acts of Parliament, against non-communicants and excommunicate persons," greatly blaming the "slowness of Presbyteries in seeking execution thereof," and commanding "*full and exact execution of all such Acts*," and "*careful uplifting of fines*."

The statement, therefore, which we have quoted, amounts to very little, or rather to nothing relevant. Yet even that statement is not quite correct. Whatever may have been done just at the first opening of the work, the course afterwards adopted seems to have been quite the reverse; for, instead of "allowing none to sign but such as had communicated," the order rather was that none should communicate but such as had signed.—*Vide* "Desires and Overtures," to Assembly 1647: "That all students of philosophie, at their entry and at their laureation, bee holden to subscribe the League and Covenant, and be urged thereto, *and all other persons as they come to age and discretion, before their first receiving the Sacrament of the Lord's Supper*. The Assembly approves this overture."*

Dr. M'Crie, in proof of his assertion, that, "so far from persons being compelled to sign the Covenant, great care was taken to prevent improper or incompetent subscriptions," quotes that statement of Henderson, that "some men, of no small note, offered their subscriptions, and were refused, till time should prove that they joined from love to the cause, and not from the fear of man." I venture humbly to think that Henderson's statement rather tends to prove the opposite. There was reason, it seems, to suspect that "the fear of man" was inducing even men of no small note to offer their subscriptions.

Thank God we do not live in days when men in power can, at their nod, compel us to subscribe, and, at their caprice, refuse to permit our subscripton.

I might multiply the proofs of my assertion in the text, but I venture to think it unnecessary. I place the quotations which I

* The Assembly 1648 renewed this mandate in the form of a separate Act: "Hereafter that all persons whatsoever take the Covenant at their first receiving the Sacrament of the Lord's Supper."

have given from the Acts of General Assemblies against all averments that compulsion was not used in obtaining signatures to the Covenants, only remarking that if, in point of fact, compulsion was not used, our fathers were men of greater inconsistency than I have been taught to consider them, or that the "fear of man" had prevented them from putting their deliberate purposes into effect.

Although this note has already extended to too great length, there are yet two connected points to which I must advert.

Dr. M'Crie asserts that the charge brought against the Covenanting Assemblies, of restraining the liberty of the press, is just one of many "calumnies which, though fully refuted at the time, are retailed even to this day."—Pp. 248, 249.

I am aware that attempts at refutation were made shortly after the passing of the obnoxious decrees. I am aware that Baillie, as if ashamed of the tyrannous enactments, endeavours to explain away their import, as if they had respect to "church-registers" only. I shall quote from two kindred Acts of the Assembly 1638, and the reader may then judge whether the charge may justly be described as a "calumny:"—

"Whereas the Confession of Faith of the Kirk, concerning both doctrine and discipline, so often called in question by the corrupt judgment and tyrannous authoritie of the pretended prelates, is now clearly explained, and by this whole Kirk, represented by this General Assembly concluded, ordained also to be subscribed by all sorts of persons, within the said Kirk and kingdom; the Assemblie constitutes and ordains that from henceforth no sort of person, of whatsoever quality and degree, be permitted *to speak or write against the said Confession, this* ASSEMBLY, OR ANY ACT OF THIS ASSEMBLY."

The language here is too distinct to admit of any evasion. Let a man torture it how he will, there the witness stands.

The other Act is the one specially referred to, and it breathes a kindred spirit: "The Assembly, considering the great prejudice which God's Kirk in this land hath sustained these years bypast, by the unwarranted printing of libels, pamphets, &c., ... the Assembly unanimously, by virtue of their *ecclesiastical authority, dischargeth and inhibiteth all printers within this kingdom to print* . . . any Confession of Faith, any protestations, any reasons *pro* or *contra*, anent the present divisions, and

controversies of this time, or ANY OTHER TREATISE WHATSOEVER WHICH MAY CONCERN THE KIRK OF SCOTLAND, or GOD'S CAUSE IN HAND, without warrent subscribed by Mr. Archibald Johnston, as clerk of the Assembly, and advocate for the Kirk."

There stands the other witness, stern as the brave though intolerant men who framed it, despising the torture of ingenious critics, and spurning the flattery which would modify the testimony to an innocent enactment, of which modern theologians would not require to be ashamed.

The other point to which I shall briefly refer is the intolerance of our fathers, and their refusal to grant liberty of conscience to those that differed from them. The fact of their intolerance has been questioned; but, alas, the proofs are only too easily adduced. That in their *practice* they did sometimes exercise exemplary forbearance, is not to be denied; but that their *principles* were opposed to it, is beyond all reasonable doubt.

In his "Historical Vindication," Baillie endeavours to defend the Church of Scotland from the imputation; but, in his letters, the proofs abound that toleration was hated and condemned by the leading men of his times. Moderate though in many respects he was, he largely shared the same spirit. I shall quote only a very few instances. They might be multiplied indefinitely. In a letter to Spang, March 10th, 1644, he states that it is expected the Synod of Zealand will give their brotherly advice anent all the things in hand; and, "*above all, to beware of any toleration of sects.*"

Again, "They plead for a toleration to other sects as well as to themselves. . . . At last they gave us a paper, requiring expressly a full toleration of congregations in their way everywhere, separate from ours. In our answers, *we flatly denied such a vast liberty.*"

May 4th, 1645. "Their (the Independents') ways are more disliked. The Directory is so far from being cried down, as fools say there, that there is an ordinance of Parliament coming out for the practice of it, if it be not changed, that I will be caution few will dare to contemn, either that whole book, or any part of it. . . . For preachers, writers, or publishers against it, were they dukes or peers, their third fault is *the loss of all their goods, and perpetual imprisonment.*"

July 1st, 1645. "Further order for the Directory, after many

debates, at last is past the House of Commons; very near as severe an ordinance as that against the neglect of the Service-book."

Such was the toleration of the English Covenanters. Our own Assembly was not a whit more tolerant. Their zeal for the Covenant blinded them to the sin and folly of persecuting schismatics and heretics. In 1647, they emitted the following Act: "Being tender of so great an engagement by solemn covenant, sincerely, really, and constantly to endeavour . . . . the nearest conjunction and uniformity, together with the extirpation of heresie, schisme, and whatsoever shall be found contrary to sound doctrine, . . . to give our publick testimony against the dangerous tenets of Erastianisme, Independencie, and which is falsely called *liberty of conscience*. . . . The General Assembly doth unanimously approve and agree unto these eight general heads of doctrine: . . . 8. The civil magistrate may and ought to suppresse by *corporal or civil punishments*, such as, by spreading errour or heresie, or by *fomenting schisme*, greatly dishonour God, dangerously hurt religion, and disturbe the peace of the Kirk."

CHAPTER VII.

The Veto—Its Origin, Design, and End—Hopeful Movement for Abolition of Patronage—The Veto introduced by the Leaders to check this, and to secure Patronage—Its Supporters not justly chargeable with Rashness, either in passing or for a time upholding it—Moderate Party unjustly blamed for not co-operating for having it legalised.

THE preceding historical sketches and examination of principles have paved our way towards a dispassionate examination of the facts connected with the Secession of 1843. Without inquiring too minutely into the motives of either, we are prepared to test both the principles and the conduct of the two great parties in the contest which terminated in that melancholy event.

For many years preceding the Secession, a conviction had been gaining ground, even among disinterested observers, that, if our religious establishments were to be rendered more extensively useful, or even to be preserved, it was necessary that, to some extent, they should be popularised. Apart altogether from those considerations which Scripture principle was supposed to suggest, that spirit of the times which had made itself felt in political, could not fail to extend its influence to ecclesiastical, affairs. The point to which its energies were chiefly directed was the appointment of candidates for the sacred office. The rights of the Christian people, in connexion with this important mat-

ter, had long been overlooked. To what these rights really amounted it had become difficult to say; but that they did possess certain constitutional and valuable rights was admitted by all, although these had for a long time ceased to be exercised, whether from apathy on the part of the people, or because repressed by those who had had the management of Church affairs. A change, however, had now, for some time, been apparent. Patrons had begun, very generally, to consult the reasonable wishes of the people; and this Christian and patriotic consideration on their part had not been unappreciated. The Church was lengthening her cords and strengthening her stakes. Intrusion of unacceptable ministers had become a memory of the past—a thing indeed forgotten, except when the zeal of partisanship found it convenient to recall it.

Within the Church there had been at all times some who boldly protested in favour of popular rights. Their number was now increasing. The recoil from "dominant moderatism," as it was termed, was becoming daily more conspicuous. Anti-patronage views were now more boldly advocated, and were making rapid progress among the clergy, and the eldership, and the people. The passing of the Reform Bill in 1832 had not only awakened a desire to possess the right of the election of their ministers, but had put into the hands of the people an instrument which, if skilfully wielded, might have gone far towards the obtaining of it. The occasion was not neglected. The legislature was assailed with petitions for the total abolition of patronage; and

such were the numbers and the influence of these petitions that the matter was brought under the serious consideration of the House of Commons, and a committee of inquiry granted. The opponents of the system of patronage had good reason to be hopeful of success. Never before had circumstances been so favourable to their cause. The middle classes were now in possession of a power never previously enjoyed by them, and among them especially, the leaders of the anti-patronage movement had succeeded in producing a degree of excitement which it might not have been safe directly to oppose. Many believed that the doom of patronage in the Church of Scotland was sealed.*

Meanwhile, however, the leaders of the popular party in the Church had begun, and were vigorously prosecuting, a movement in another direction. An idea has been, and still is, prevalent among many, who, under the excitement of the late convulsing controversy, were induced to abandon the Church of their fathers, that the one great object of the leaders whom they followed was to extend popular rights; and, since it did not lie with them to confer upon the people the election of their ministers, to do at least as much as they supposed they had any authority to do, viz., to confer upon the people an absolute power of rejecting those whom the patrons might present. This is altogether a mistake. That many who took part in the movement were

* "Deliverance from the yoke of patronage was, for the first time since its imposition, an object of reasonable and confident hope." Such was the statement of Dr. M'Crie.—*Life*, p. 350.

actuated by this motive is not to be questioned; but, that this was not the direct object of the leaders of the party, admits of just as little doubt.

The *design*—nay, the *declared purpose of the famous Veto law—was, not so much to extend popular rights, as to repress popular claims—to meet, and, as far as possible, to extinguish anti-patronage agitation.* It became convenient, indeed, in certain quarters, to sink this fact, and allow it to be forgotten, when the object in view was to persuade a devoted and self-sacrificing people that the contest was solely in behalf of their rights, and "to restore to them a privilege of which they ought never to have been deprived." But when, on the other hand, men in power were to be conciliated, the fact could be easily resuscitated, and they were told that the Veto Act was out-and-out a "Conservative measure," designed to stem the rushing torrent, and to prevent an otherwise inevitable assault on the ancient rights of patrons. The sentiments of such men as Dr. Chalmers and Dr. P. Macfarlane, on the subject of popular election, are too well known to require to be repeated. These, and the great majority of those who acted with them or followed in their wake, were altogether opposed to popular election, and condemned the anti-patronage movement as revolutionary, and fraught with danger.

We are not left, however, to gather the proof of our assertion regarding the main purpose for which the Veto law was introduced, from opinions expressed on the subject of popular election. The proof is far more

direct. In the opening of that speech in which Lord Moncrieff introduced to the Assembly his memorable motion of 1834 (the Veto law), occur the following expressions: "In the last Assembly I had the honour of seconding the motion of my reverend father (Dr. Chalmers), and, in these circumstances, have not declined to undertake this motion; and we do propose this day to make another effort (so far as any effort upon our part may, under the blessing of the great Head of the Church, avail) *to stem the force of excitement and agitation*, which many of us think has been greatly increased by the rejection of this motion in two former Assemblies." *

The "excitement and agitation" to which his Lordship referred were those of the anti-patronage movement. The force of these had become alarmingly great. Large and influential meetings had been held throughout the country. Numerous and weighty petitions had been presented to the legislature. At this very time the Committee of the House of Commons were engaged in their inquiry, and only a few more efforts seemed to be required to induce the legislature to propose a change upon the existing law. In these circumstances it was felt imperative that something should be done "to stem the force of the agitation," which, if not speedily arrested, would be satisfied with nothing short of the total abolition of patronage.

* His Lordship repeats the same sentiment in the Assembly 1835. "Their object," he says, "*undoubtedly* was to *preserve*, not to put down, the right of patronage."

These words of Lord Moncrieff "indicated the spirit and temper of mind with which the Assembly took up the subject." Such is the testimony of Mr. Hamilton, a faithful and able defender of the non-intrusion cause.*

The testimony of Mr. Hamilton upon the point under examination is explicit and valuable. He occupied a prominent position, and took an active part in defence of the Church's claim, and in the negotiations between the Government and the non-intrusion committee. His statements are as follows:—

"There, no doubt, was a desire for the abolition of patronage in some quarters; and hence 'the excitement and agitation,' referred to by Lord Moncrieff, and the petitions addressed to Parliament *by the people*, for the attainment of that object. There was also a *very small section* of the clergy who objected to lay patronage, on certain scriptural grounds, and who, therefore, naturally sought its removal, and countenanced the petitions to the legislature with that view. But Lord Moncrieff was most strenuously opposed to the abolition of patronage, and *one main object which he, and the great mass of his supporters, had in view, was to avoid the necessity of such a result*, by providing a check against the felt and practical evils of patronage,—conceiving that if these were once removed, the speculative objections entertained by a few, as well as the clamours of the people, would speedily die away, and be no more

* Remonstrance respectfully addressed to the Members of the Legislature. By John Hamilton, Esq., Advocate, p. 36.

heard of. And, even in regard to the few members of the Church courts who objected to patronage on speculative grounds, so far were they from looking upon the measure proposed by the Church as an 'instalment,' or 'a vantage ground,' from whence they were to gain their ultimate object, that I can state from the most intimate and confidential communications which I had with them while the measure was in progress, that it *was with the utmost difficulty they could be brought to give their support to Lord Moncrieff's measure; because they saw that, if once any such measure were brought into operation, they might bid adieu, for ever, to their favourite scheme of abolishing patronage.*" *

Again, in Appendix No. 1, occur the following statements with reference to the Dean of Faculty's insinuation that the ultimate object of the promoters of the Veto was the abolition of patronage. "The originators of the Veto law (Lord Moncrieff, Dr. Chalmers, &c.), according to their 'avowed' and *solemnly recorded* opinions, are in fact as decidedly and earnestly opposed to the abolition of patronage as the Dean himself can possibly be; and the same is the case with the great mass of their supporters,—*the expressed design and purpose of introducing and maintaining the Veto law* being precisely the *reverse* of that stated by the Dean, viz., *to stop the clamour for the abolition of patronage, and to preclude all hazard of such a measure being in future attempted.*†

* Remonstrance, pp. 39, 40. † Ibid., p. 95.

The testimony of Dr. Buchanan, though somewhat more cautiously expressed, is scarcely less explicit. "Certain it is, there was no desire on the part of those who had the chief hand in bringing forward the measure now described (the Veto law) either to overthrow the rights of patrons, or to come into unfriendly collision with those to whom these rights belonged. It was their honest belief, on the contrary, that without such a concession to congregations as this measure involved,—a concession which, after all, was only restoring a privilege of which they ought never to have been deprived, — patronage could not possibly be maintained." *

Such, then, it clearly appears, were the leading motives of the originators of the Veto law. It would be most unjust, indeed, to breathe the suspicion that they were not cordially desirous of vindicating what they considered to be the people's rights. As to this, their sincerity cannot be questioned; but their motives were complex. The necessity of popularising the Establishment had forced itself upon the conviction of many. The Church was assailed by very active foes, who were seeking her entire overthrow, and directing against her the full energy of their newly acquired political influence. The masses without, and who had been estranged from her communion, were being urged to demand her destruction. The masses within, and who were still attached to the Church of their fathers, demanded the removal of what they had been taught to consider

* Ten Years' Conflict, vol. i., p. 245.

abuses and grievances, and the restoration of what they had been told were privileges of right belonging to them. Something must be done; concessions must be made, both for the retaining of those within, and for the disarming of those without the Church. Patronage, however, must not be made the sacrifice. Of the leaders in the great movement, scarcely one would utter a word against the ancient institution. They entertained a horror of popular elections.* Under patronage, the Church had attained her present condition of strength, and energy, and zeal; and loud and urgent though the clamour was for its total abolition, they were resolved to use their utmost efforts to uphold it. They had a difficult game to play,—an intricate problem to solve. They had at once to rescue patronage from the fierce grasp of its destroyers, and to appease these enemies of their idol with a soothing boon. They acted with consummate skill. They made the people's boon the Palladium of their idol. They passed the Veto, and saved patronage.

It were ungenerous, and, we believe, unjust to the

* In this consisted the radical difference between what has been called the old popular party in the Church, and modern non-intrusionists. The latter were for upholding, but at the same time modifying, the exercise of patronage. The former were for uprooting the system altogether. They held that "the order of election cannot stand with patronage, or presentation to benefices." They were for renewing the Church's old protest, and not a few of them strenuously opposed the Veto, on the very ground that it implied *a direct and formal sanction by the Church* to a system, submitted to indeed, but never heretofore approved of. The attempts of that party were met and crushed by the non-intrusion leaders, who, taking up a position never occupied by our fathers, were determined to strengthen and perpetuate patronage by accommodating its provisions to the circumstances of the times.

memory of departed greatness and worth, to insinuate that the originators and framers of the Veto did not sincerely desire the extension of the people's privileges. We cherish no such suspicion. At the same time, the authoritative quotations which we have laid before the reader, distinctly prove that this was neither the sole, nor even the primary purpose of the originators of that measure; and it is but just that all should be made aware, that that law,—for the pertinacious upholding of which, even when found to be an illegal and unconstitutional act, men were willing to endanger, and did endanger, the existence of an Establishment which they revered, and which they had sworn to maintain,—owed its origin not more—to use the mildest form of expression—to a wish to extend, and to preserve, the rights of the people, than to a desire to maintain and perpetuate a system which the people had been taught to consider as an invasion of their sacred privileges. The urging of the Veto law was "an effort to stem the force of excitement and agitation;" "one main object was to avoid the necessity" of the abolition of patronage. "The expressed design and purpose" of the Veto law was "to stop the clamour for the abolition of patronage, and to preclude all hazard of such a measure."

Is it not a mysterious and harassing reflection, that many a devoted servant of the Lord was compelled at last to abandon his position in the Church which he had loved, and where the Spirit had blessed his labours, and given him seals of his high calling,—as the issue of a controversy originating in an effort to uphold a system

to which he had no attachment—to which, perhaps, he was in his heart opposed? Is it not a mysterious and humbling reflection, that thousands of earnest Christians, to whom the very name of patronage is distasteful, and who were taught to regard the whole system as an unjust invasion of their constitutional privileges, should have been compelled to abandon the goodly house in which their fathers worshipped, and to contribute to the erection and upholding of another, founded on nothing less than an effort to maintain that very system?

Among those who constituted "the mass of the supporters of the Veto," there were, no doubt, many who were far from regarding the measure to be chiefly valuable as a means of stemming the force of agitation and excitement, and as forming a safeguard around the system of patronage. On the part of those of them who held anti-patronage views, there was, it must be confessed, something very like a compromise of principle; and hence, as Mr. Hamilton remarks, "it was with the utmost difficulty they could be brought to give their support." But the great majority of them, we are persuaded, gave their support just because they had confidence in the skill and judgment of their leaders, and because the measure conferred upon the people what seemed to be a great immediate boon. The measure did seem to confer upon the people privileges of a very important kind, and of which, it was believed by many, they had been unjustly deprived. Our preceding examination has shewn the incorrectness of this view. But,

at the period in question, much ignorance prevailed regarding the history and constitution of the Church of Scotland. Of the eager supporters of the Veto, a multitude were young and inexperienced clergymen, whose views were not matured, who had been taught to regard the constitutional restrictions of the popular will as unconstitutional invasions of the popular rights, and in whose ears the changes had been rung on some selected and disjointed quotations from our early standards until their generous enthusiasm was ready to adopt any measure which promised an enlargement of the people's influence, or, as they supposed, the restoration of privileges of which they had been either fraudulently or violently deprived. The Veto presented a twofold aspect, and was designed to effect a double purpose. It promised to be at once the defender of patronage, and the extender of popular privileges. Some viewed it chiefly under the one aspect; others chiefly or exclusively under the other; and it did not require a very great exertion of skill on the part of those who introduced and advocated it with the former view, to command the cordial co-operation of those who were disposed to value it only when considered in the latter.

It possessed, moreover, the strong recommendation of being a measure believed to be quite within the acknowledged power of the Church to adopt. It was represented, not as an innovation, but as the revival of the Church's ancient and constitutional practice. How erroneous both these views were we have already seen;

but, had not both been entertained, the Veto never would have been adopted.

There were those, indeed, who solemnly warned the innovators that they were trenching on ground which they had no right to invade, and from which, sooner or later, they would be compelled to recede;* but these warnings were met by the distinct assurances of men of the highest legal authority, that the measure proposed was clearly within the Church's competency. But for these assurances, we are safe in asserting that the step would not have been taken.

Whatever may have been the motives of the inventors of the Veto law, their supporters cannot justly be charged, as they have often been, with rashness and recklessness in according their support. That they were in error, ere long became apparent; but their error was one into which they had been led by men in whose knowledge of the constitution they had every reason to confide. They were misled, and that by such authority as might well excuse the error into which they fell. While it would be difficult to absolve them from the charge of introducing an innovation unknown in the

* Both within and from without the Church these warnings were given. Referring to the proposal of passing the Veto Act, the late venerable Dr M'Crie expressed himself as follows: "It tends to perpetuate patronage; and, *for the first time*, would give the formal sanction of the Church of Scotland to what she has always pronounced to be a grievance, and an imposition at variance with her principles and ecclesiastical independence. It appears to me more than questionable, whether the restriction it imposes be legal, and whether patrons may not resist its exercise." "It is not, in my opinion, to the honour of the legislature, that the laws of the country should be thus indirectly set aside, instead of their being regularly rescinded by proper authority."

previous history of the Church, the conduct of the supporters of the measure admits of ample vindication from the charge of wilful invasion of the civil province.

For how stands the case? "The Church *was countenanced and encouraged in adopting it*, by the most eminent *legal* advice, and by THE AUTHORITY OF THE LEGAL AND POLITICAL ADVISERS OF THE CROWN IN SCOTLAND." *

Besides that of other eminent lawyers, she had the counsel of her own legal adviser and of the honourable judge who introduced the measure to the Assembly of 1834, and who pledged his high professional reputation on the legality of the Act. "And she had the express advice and sanction of those who were not only the responsible *legal* advisers of the Crown, but the recognised *political organs* of the executive Government of the country." † The Assembly, in passing the Veto law, acted with "the full concurrence of the Government of the country."

Even of those who afterwards, upon more mature reflection and thorough investigation, were forced to adopt a different view, there were many who, at the time, were satisfied both of the legality and the expediency of the Act. Among these we may reckon one of no less eminence than Lord Brougham, at the time Lord Chancellor of England, who, on 23d July 1834, shortly after the passing of the Act, thus expressed himself in his place in Parliament with reference to the measure:— "My Lords, I hold in my hands a great number of pe-

* Remonstrance, p. 40. † Ibid., pp. 41, 42.

titions, from a most respectable portion of his Majesty's subjects in the northern parts of this island, all referring to one subject—I mean Church patronage in Scotland, which has greatly and powerfully interested the people of Scotland for many months past, and respecting the expediency of some change in which, there is hardly any difference of opinion among them. The late proceedings in the General Assembly (the passing of the Veto) have done more to facilitate the adoption of measures which shall set that important question at rest, upon a footing advantageous to the community, and that shall be safe and beneficial to the Establishment, and in every respect desirable, than any other course that could be taken; for it would have been premature if the legislature had adopted any measure without the acquiescence of that important body, as no good could have resulted from it. I am glad that the wisdom of the General Assembly has been directed to this subject, and that the result of its deliberations has been those important resolutions which were passed at the last meeting."

Lord Campbell also, at a much later period, expressed himself not less distinctly to the effect, "that his opinion was, at one time, in favour of the Veto Act of the Church, though he had changed his opinion, and had come to regard it as unreasonable in not securing the actual majority of a parish from having an unacceptable minister placed over them, while a very suitable person might be capriciously rejected."

More need not be said to prove that the supporters of this measure cannot justly be accused of rashly in-

vading the civil jurisdiction, in giving it their support. They had the countenance and advice of the highest legal authority. No man need be ashamed to acknowledge that, until the decision in the Auchterarder case, he believed in the legality of the Veto law. It was a belief which he held in common with men of the highest eminence in the legal profession, with statesmen of no mean note, with the responsible legal advisers of the Crown, and the recognised organs of the executive Government of the country.

Neither need any man be ashamed to admit that though, on whatever grounds, at one time favourable to the Veto, subsequent examination had convinced him that it was an Act both unconstitutional and subversive of the true principle of non-intrusion, as recognised by the Church of Scotland. At the same time, it is not to be wondered at that some were tardy in reaching, and others in proclaiming, their conviction that the Act in question had been discovered to be unconstitutional. Having committed themselves to a measure supported by such authority, they would have laid themselves open to the charge of rashness and indiscretion, had they formally abandoned it on their first suspicions, or even until their suspicions had become well-founded convictions. It is easy now to maintain that their duty was immediately to press the rescinding of an ecclesiastical Act, because that Act had been declared to be in violation of the civil statutes, and an infringment on civil rights. Such was, indeed, the opinion of many, even of those who

had consented to the passing of the Veto. It was distinctly the opinion of the writer of these pages, an opinion of which he made no concealment, as many can testify, both of those who have remained attached to the Establishment, and of those who were ultimately led to secede. But candour will compel every reflecting man to admit that it was not to be wondered at, that others, even though sharing the same convictions, should, in the circumstances, be inclined to pause. In legislative reforms, real or supposed, it is at all times an awkward, and, sometimes, not a safe thing, to retrograde. It was considered by many even of those who had begun to perceive that the Veto was at best but a questionable mode of working out the non-intrusion principle, that, nevertheless, it was a measure from which, if legalised, good results might be expected, and that, if the hope of its legalisation could be entertained, it was not their duty to abandon it. Now, they had not unreasonable grounds for entertaining that hope.

Immediately after the Auchterarder decision, the Assembly had resolved to suspend the operation of the Veto, by ordaining that all cases of disputed settlement should be referred to the next Assembly. This, in the opinion of the parties referred to, relieved them from the unseemly attitude of direct resistance to the law; and they felt that, with this concession, it was not only unnecessary, but might have been injurious, to press for the immediate and formal abrogation of an Act which many considerations led them to believe might speedily receive the sanction of the legislature.

The measure, as we have said, had been passed, not only with the advice of the most eminent legal authorities, but with the express concurrence of the legal and political advisers of the Crown. The Government was, therefore, committed to the measure; and surely, in such a case, unsuspecting clergymen were not to be much blamed for cherishing, with some degree of confidence, the hope that the Government would exert themselves in the matter. "The Veto law," to use the words of Dr. Buchahan, "had been passed by the Assembly in 1834, with the express concurrence of the Scottish law officers of the Crown. If the Church had erred in believing that this law made no invasion of the legal rights of patrons, she erred in common with the highest authorities she could consult upon the question. Even, therefore, if it had not been as it was,—substantially the same ministry and the same political party that were still in power in 1839,—the circumstances now stated would have entitled the Church to expect the prompt assistance of the Government in extricating a great national institution from difficulties growing out of a measure to which the proper legal advisers of that Government had given their deliberate sanction." *

Still more, and what vindicates the reasonableness of the hope then entertained, there was produced, at the Commission in August, an official communication from the Queen's representative, intimating the strong desire both of Lord Melbourne and Lord John Russell, to effect a satisfactory settlement of the question, and

* Ten Years' Conflict, vol. ii., p. 63.

their purpose of introducing a measure with that view; and in the meantime, "their intention of making such arrangements as would enable the Queen's patronage to be exercised according to the Veto law."

These considerations, we venture to think, will go far to vindicate, in the judgment of reflecting men, the conduct even of those who, though dissatisfied with many of the movements now in contemplation by the dominant party in the Church, and beginning to perceive both the innovating character of the Veto, and its unfitness to secure the true non-intrusion of the Church of Scotland, yet did not feel themselves, in the circumstances, warranted to press the rescinding of the Act.

From whatever cause—whether from "want of parliamentary strength," or because more careful consideration had led to a change of views, or because the new and formidable element of spiritual independence had emerged and was beginning to assume a magnitude which cast all others into the shade, and shewed that no mere measure of non-intrusion, however liberal, would meet the exigencies of the case—certain it is that the Government altogether failed to redeem the pledge which they were considered to have virtually given.

The cause of this failure has been traced to the efforts of the moderate party in the Church, and reflections, not free from bitterness, have been cast on some of their leading men, because, in a case which their brethren had declared to be with them one of conscience, they would not agree to sacrifice what is represented as, on their part, a point not of principle

but expediency, and unite in petitioning the legislature for a measure such as their former opponents could adopt. The charge is not well founded. In a matter of mere expediency, a chivalrous spirit might have prompted them to make such a sacrifice to save their brethren from the guilt of schism. But knowing, as they did, that these brethren had entered the Church at a time when, according to their own interpretation of it, the fundamental principle which was alleged to be the matter of conscience, was not practically recognised, and had not been acted on in the case of any one of their own settlements, they could not persuade themselves that their brethren were not mistaken in supposing that, in supporting the Veto, or any modification of it, their consciences would compel them to abandon the Church of their fathers. The result shewed that they were mistaken as to the numbers who would ultimately forsake the Church. But, at the same time, as we have already seen, it was really on another and a very different principle that the secession was actually made.

Besides, in the apprehension of the leaders of the moderate party, the principles for which they contended were somewhat more than those of mere expediency. They held and maintained that the measures of their opponents were not merely innovations, but innovations subversive of what they believed to be the constitution of the Church, and, although, when forced upon them by stern majorities, they could submit to them under a solemn protest, just as, under a similar protest, the opposite party had done in many instances, it was as-

surely too much to expect that, in the face of their own solemn protests, they would, even for the sake of unity, join their brethren in promoting a measure which they believed to be unconstitutional and injurious. And even although it were proved that the opposition of these men prevented the introduction of the promised healing measure on the part of Government, there would be no good grounds for the aspersions which have been cast on them, as having cruelly and even wantonly driven their brethren to the fatal leap, or at least prevented the opening through which they had hoped to escape.

But it is much more probable that one or other, or rather a combination, of the causes already enumerated, operated to hinder the Government from attempting to legislate. There was on their part, at the time, a conviction of the "want of parliamentary strength." Then, there may have been a change of views as to the Veto itself. This, as we have seen, was the case with Lord Brougham and Lord Campbell. It was the case with multitudes who had begun to perceive that, besides being an innovation, it really did not make full provision for the security of non-intrusion, but, on the contrary, might permit the wishes of a majority to be thwarted by the caprice of a few. Above all, the views which had now begun to be maintained on the subject of spiritual independence, were such as to warrant the refusal to interfere. The maintaining of the extravagant opinions which we have already examined, was a barrier to all attempts at hopeful legislation. And

henceforth, accordingly, while the leading men, of both parties in the state, expressed their anxiety for a satisfactory settlement of the great Church question, none would venture to interfere. They insisted on the rescinding of the illegal Veto as a preliminary condition, and that, as Dr. Buchanan observes, would, in the circumstances, have amounted to an abandonment of their all-absorbing principle. Many expressed themselves as willing to support non-intrusion. All refused to sanction the dogma, as then held, of spiritual independence.

CHAPTER VIII.

Men's eyes opening to the true character of the Veto—New Phase of the Controversy—Severe Trial to many—Veto discovered to be not a true Non-Intrusion Measure—Confidence shaken—Many abandon the Leaders as the Tendency of their Efforts becomes Developed—Dr. Chalmers would Repeal the Veto—Indecision of many—Charge of Inconsistency.

ALTHOUGH, for the reasons stated in the preceding chapter, no public movement was, for a time, made on the part of such of the former supporters of the Veto as had begun to perceive its unconstitutional nature, and its defects as a measure for working out the non-intrusion principle, the spirit of inquiry had been fully awakened, and the numbers of inquirers were rapidly increasing. The discussions in the General Assembly, at and after the passing of the Veto, had awakened the suspicions of some; the discussions in the civil courts, both in Edinburgh and before the court of last resort, had tended to confirm these and to awaken the suspicions of many more, that, notwithstanding the high, and, in many respects, the well-founded pretensions of those who had assumed the leadership in Church affairs, a system of self-deception had been practised, under the influence of which the lights of history had been obscured, and statutes misapplied, and the views of the founders of our Church misrepresented, and our standards, upon the points in question, misinterpreted.

How far these suspicions were well founded our preceding examination has declared.

The discovery, meanwhile, became to those who were making it, a trial of no ordinary magnitude. It was painful to have one's confidence shaken in the accuracy and judgment and prudence of those whom he had been taught to consider as the masters in Israel—to be compelled to admit that the measures, adopted to secure the people's privileges, were the very measures which the constitution forbade—to refuse to move one other step in company with those with whom he had been privileged to associate—to observe, on the part of venerated friends and fathers, a growing assumption of spiritual power, such as our early reformers had sternly repudiated, and a grasping after those same claims which, in times of civil anarchy, had been put forth and acted on, to the subversion of liberty and the ruin of the Church.

There were many, indeed, who shrunk from the inquiry and lulled their suspicions, and only bound themselves, with firmer tenacity, to that bold leadership which was ready both to think and act for its adherents, and who thus secured their boasted consistency at the charge of their real independence. Others continued their adherence, amidst many misgivings, until, step by step, the tendency of their principles became more and more developed, and they were startled at consequences, natural, indeed, but previously unperceived, which compelled them to review, and having reviewed, to reject, the principles from which they flowed.

To those who had taken their stand, and who resolutely refused to submit to a dictation which now was threatening to lead to consequences, not only injurious, but destructive to the Establishment, the path of duty was becoming more and more distinct. It was seen that the Veto ought to be abandoned, not only as having been found by the supreme civil court, under the Church's own appeal, to be a violation of civil statute and an infringement on civil rights secured by statute, but as itself not consistent with the constitution and practice of the Church, and not fitted to give just effect to the true principle of non-intrusion. To the second of these points we have already adverted, and confirmed the truth of the statement by authorities not easy to be disputed. The third is capable of easy proof. It is that to which Lord Campbell adverted, when, in 1842, he stated that he had changed his opinion of the measure, and "had come to regard it as unreasonable, in not securing the actual majority of a parish from having an unacceptable minister placed over them, while a very suitable person might be capriciously rejected."

By giving to a simple majority of the male heads of families in a parish, the right of rejecting any presentee, without reason assigned, it is demonstrable, on the one hand, that in many cases a very insignificant minority of the parishioners, or a small minority even of the communicants, might prevent the settlement of a minister anxiously desired by the great body both of parishioners and communicants; and, on the other hand, that if that insignificant minority did not object,

a presentee might be intruded on the large reclaiming majority, there being for them no defence against the perpetration of the deed, unless they should be able to state satisfactory reasons, which, according to the essential theory of the Veto, it was unreasonable to expect, and cruel and humiliating to ask them to do.

At an early period of this controversy, the author, in preparing an address to his people on this subject, had occasion to institute a pretty extensive induction of cases illustrative of this point. He selects the following, as clearly demonstrative of his assertion. In a congregation numbering nine hundred and forty communicants, the male heads of families having right to object amounted to about two hundred and forty. If of these a bare majority—or one hundred and twenty-one—objected to a presentee desired by all the rest, these one hundred and twenty-one objectors could, without reason assigned, thwart the wishes, not only of the remaining eight hundred and nineteen communicants, but of all the other parishioners having interest. And, on the other hand, if these one hundred and twenty-one did not object, nothing could prevent the intrusion of the presentee, however unacceptable to the eight hundred and nineteen and to the parish at large, unless they—the overwhelming majority—were prepared to give in, and to substantiate reasons to the satisfaction of the Presbytery,—a thing which, according to the theory, it was quite unreasonable to suppose them capable of doing.

In another congregation, numbering eight hundred

and sixty-four communicants, the number of male heads of families amounted to two hundred and fifty-six. In another, the proportion of heads of families to communicants was one hundred and sixty-one out of seven hundred and eighty. In another, the numbers were three hundred communicants, and fifty male heads of families.

In some of the Highland districts, the proportion between the enfranchised and the disenfranchised, under the Veto, was even more striking, and the injustice perpetrated more conspicuous. "In confining the right of dissent to male heads of families being communicants," says Dr. Bryce, "the state of not a few parishes in the North and West Highlands of Scotland was overlooked. Although, in some of these parishes, the population belonging to the Established Church amounted to perhaps sixteen hundred or two thousand, the communicants did not number beyond ten or twenty; such singular and perverted notions prevailing on the subject of taking the Sacrament, as to keep back from the holy table those who, in other parts of Scotland, and under a more wholesome teaching of their ministers, would be found coming forward. To place in the hands of ten or twenty individuals, the power of vetoing a presentee, and defeating the rights of the patron, under the pretext that the Church was observant of the rule, that 'no pastor shall be intruded on a congregation contrary to the will of the people,' was in its face sufficiently preposterous. To maintain and respect a rule, the effect of which might be to *extrude* the acceptable and the suitable of a thousand

parishioners, upon the unreasonable dissent of half-a-dozen, was equally absurd. Such, however, was afterwards discovered to be the actual result in at least one instance, where the General Assembly found itself compelled to give effect to the veto of five parishioners, being communicants, keeping out the presentee who was desired by two thousand." *

When, upon calm reflection, it was discovered that such was the true nature of that measure into which, by the influence of men of high authority, they had been hurried, was it at all wonderful that even those who had been most anxious to secure the people's rights should refuse to become parties to the endangering of the existence of the Church for the sake of so questionable a benefit? Was it to be wondered at, that they should peremptorily withdraw from those who seemed determined to risk the existence of the Establishment for an invention now known to have been introduced very much for the purpose of upholding patronage, and discovered, at the same time, to be incapable of securing non-intrusion? The wonder rather is that many more did not refuse all further

* Ten Years of the Church, vol. i., p. 33. "In many northern parishes, with populations of several thousands, and scarcely a handful of *avowed* dissenters, the communicants in connexion with the Church did not exceed from 100 to 200. When the Veto law required that a roll of male heads of families in communion with the Church should be kept by each Kirk-session, it was common to find, in a population of some 2000 and upwards, a list of from thirteen to twenty."—*The Church and her Accuser in the Far North*, p. 17. "In Daviot, which had been absolutely ruled by 'the Men, there were just *eleven* male heads of families on the roll of Church members, the number of inhabitants being *sixteen hundred and eighty-one*."—*Fanaticism in the North*, p. 21.

adherence to those leaders who seemed, at all hazards, determined to push matters to extremity. But the tendencies of the leading men were not yet understood. The full consequences of their measures were not foreseen, even by themselves. They had assumed a position, the extent and bearings of which they did not at the time appreciate, but from which, when these were discovered, they felt that their public consistency obliged them not to retire. And it was only as the real nature of their principles became more and more developed by unexpected events, and the legitimate results of these began more and more clearly to emerge, that one and another of their adherents, observing the perilous shore to which the vessel was drifting, began to question the accuracy of the compass and the chart by which they had been steering, and the competency of the pilots, who seemed to have mistaken Voluntaryism for Non-intrusion, and were determined to obey no instructions but such as their own wisdom should suggest, or their own prudence approve.

The confidence of multitudes was shaken; but, distrusting their own judgment, and still according much to the superior skill and wisdom and high character of the leaders, or fearing the reproach of an acknowledgment that they had been deceived, and the imputation of motives of a discreditable kind, many continued, hoping against hope, to yield a feeble acquiescence—a passive acquiescence, maintained by some—until at last the great catastrophe, looming before them, warned them of the madness and the guilt of making a sacri-

fice so great for principles which they did not hold, and in support of a measure which covered only a paltry fragment of a principle—nay, which was now seen to be capable of defeating the very purpose for which they had been induced so long to give it their support. And others, alas! continued their wavering acquiescence, buoyed up with hopes, skilfully fostered, yet necessarily doomed to disappointment, until at last they found themselves entangled in a net from which escape was hopeless. I speak advisedly when I say, that, among the numbers who swelled the ranks of the Secession on the day of their departure from the Church of their fathers, there were many in whose case the plaudits of admiring multitudes failed to still the stern whisperings of conscience, questioning the character of the deed which they had done—many whom even the sweet incense of freely-tendered applause could not convince that their own deed was not one more of pride than of principle, and who, in the brief intervals of their excitement and of the urgent cares which now were pressing on them, did not tremble at the consequences—the fearful possible consequences—which their deed of schism might yet produce.

Meanwhile, however, it was the opinion of many even of the Vetoists, that the Act, now ascertained to be illegal, ought to be rescinded. This, for the time, was the deliberate view of the venerated Chalmers himself. In his pamphlet, entitled "What ought the Church and the People of Scotland now to do?" published in 1840, he says—"We may now be said certainly

and conclusively to have failed in obtaining the ratification of the Veto law at the hands of Parliament, and what is now the Church's proper outgoing from the position in which she of course finds herself? We have no hesitation in saying that the first step of such an outgoing is to repeal the Veto law. There is no inconsistency here—the inconsistency were all on the other side in persevering with the law. Had we known beforehand that we should thereby incur the loss of the temporalities in every parish where it was carried into effect, we should not have enacted it: but we know this now; and on the very same principle, when all prospect of a legislative sanction is at an end, we should, on the first opportunity, that is, at the next meeting of the General Assembly—that is, should there *then* be no better prospect of obtaining a change of the civil law than now—proceed to rescind it. . . . . The FIRST thing, then, which in our estimation the Church ought to do, is to repeal the Veto law." *

Such was the clear and deliberate opinion of Chalmers. From the first, the Veto was not the form which he would have preferred of the measure for securing non-intrusion. From the first he would also have chosen a civil rather than an ecclesiastical law upon the subject. "It was decidedly my own feeling, that, if any new relation between the will of the people and that of the patron was to be defined and regulated by a law, it were better that it should be done by a civil

* Pp. 45, 46.

law than by an ecclesiastical."* From this opinion, no doubt, he afterwards resiled, driven from it—though not by the judgment—by certain of the dicta of the judges in the Auchterarder case. It was an opinion, however, which was gaining ground with many, and that, too, based on a foundation which these dicta could not touch. There were many who would not be deterred from abandoning what had been proved and was acknowledged to be wrong, merely because extra-judicial views had been expressed, which seemed to threaten some other positions which might be taken up.

But, in reality, the controversy was now assuming its new and more important phase. Though the people's rights was still the watchword, the Church's power was the real object of the contest. The Veto was felt to be a "blunder"—it was acknowledged to be unconstitutional—it had been declared to be illegal—it had been pronounced to be an act *ultra vires* of the Church. The "blunder" would have been remedied, the unconstitu-

* What ought the Church and People now to do? p. 6. Dr. Chalmers was not the only man of note among the Non-intrusionists who demurred to the Veto. We have already quoted the testimony of Mr. Hamilton as to the difficulties of the anti-patronage party in general. The following statement of Mr. Dunlop, in the Assembly 1835, is very clear and instructive: "He had supported the Act and Overture of last year (the Veto), though with much hesitation, having previously entertained an opinion hostile to it, and he had since returned to his first opinion, and accordingly had not voted this year for passing it into a standing law. His objection to it was that it did not give efficiency to the call, which was the only constitutional mode for the people to express their will in the settlement of a pastor, while it introduced another principle, the *Veto*, which, besides being attended with many evils in practical operation, from which the call was free, was erroneous in principle, in so far as it acknowledged the presentation by the patron to be a title not only to the benefice, but also to the pastoral office."

tional deed would have been corrected—only, to have so acted, would have been an acknowledgment that the deed *was ultra vires*—an abandonment of the assumption of the Church's omnipotence. The Veto must be upheld, not so much to secure the people's rights, as to declare the Church's power to confer these rights. It was now becoming a contest not for the people's privileges, but for the Church's supremacy. To this the eyes of many were being opened; and, while some still continued to give a reluctant assent to the demands of the leadership, others refused to take one further step in the ruinous course to which they pointed. There were some, and these not a few, who halted between two opinions. They murmured their disapproval both of the measures adopted and the spirit sometimes manifested by those whom they had been wont to follow. They never anticipated, they never calculated on, a secession from the Church of Scotland. Though now alive to its defects, they would have hailed with gratitude a legislative confirmation of the Veto, as the means of effecting some good, and especially of restoring peace to a distracted Church. They were led to hope for this or an equivalent. They were taught to believe that, provided only no faltering should be exhibited, the Government of the country must, sooner or later, yield. And, although a measure very different from that of the Veto could have been conscientiously submitted to—nay, by many of them, would have been much preferred—they were thus prevented from giving loud expression to their sentiments; deterred by the fear of only increasing diffi-

culties which were becoming more and more perplexing. We by no means laud their indecision, but neither do we venture uncharitably to judge their conduct. The circumstances in which they were placed were sufficiently embarrassing. Their conduct is susceptible of distinct explanation, on principles which cast no reflection either on their judgment or their conscientiousness. Some of them ultimately made up their minds to cast in their lot with those who seceded from the Church; but they did so, not without a struggle, and not without compunctions which it required many an effort to master—if indeed they be altogether mastered yet. Others of them maintained their attachment to the Church of their fathers. Their eyes became more and more open to the real tendency of those claims to independence which now began to be broadly assumed. One after another took his stand, and presented an attitude of resistance to the current of innovation. And when, at length, the choice came distinctly to be between schism on the one hand, and adherence, on the other, to the Church under an attainable measure which secured the privileges of the people to an extent as great as had ever been acknowledged, and greater than in practice had been recognised in the settlements either of the leaders themselves or of the vast majority of their votaries—nay, which, to all practical purposes, might secure non-intrusion inviolate*—they felt that, under

* Such we believe to be the true character of the Scotch Benefices Act. If under that Act the Church do not maintain the true principle of non-intrusion, the fault will be her own. Such is the full liberty which under that

the solemn obligation of their ordination vows, and with scriptural views of the great sin of schism, one only course remained, and that course they followed, in spite of the taunts of former brethren, and the jeerings of an ignorant and misled multitude.

These men have been charged with acting an inconsistent part. Perhaps the charge is just as applied to some among them, but we are firmly convinced that their inconsistency was in no respect equal to the inconsistency of those who, holding high anti-patronage views, supported a measure framed "undoubtedly to preserve, not to put down, the right of patronage"—who, holding, as by themselves explained, the fundamental principle of non-intrusion, clung, as if for life itself, to a measure which, instead of supporting, invaded it—who, holding, as by themselves explained, the principle of spiritual independence, appealed a cause ecclesiastical to the highest civil court; and, again, having lost that cause, spurned obedience to the judgment, as illegal and incompetent—who, holding it to be the duty of the civil magistrate to support and establish the true Church, maintaining inviolate

Act she enjoys, that by her own regulations she may sometimes seem to trench on the people's privileges. By these regulations she may excite and uphold a system so cumbrous and expensive as to put unnecessary obstacles in the way of parishioners offering objections to unacceptable presentees. If she do so, it is because she wills it—not because the law enjoins it. The tendency, however, is the other way; and were it not so, public opinion would now go far to control it. The Church needs no new external law to secure her fundamental principle. But, should such a law be demanded by the members of the Church, it is to be hoped that a measure will be sought for at least more liberal than that feeble abortion, pertinacious adherence to which cost the Church the loss of so many of her sons.

both its doctrine and discipline, yet refused to the magistrate the correlative right of looking at the doctrine and discipline as established, and taking order to prevent its corruption and overthrow—who entered the Church under a system of practical intrusion, yet left it professedly on the opposite principle—who maintained that the pastoral relationship could not be justly formed except on principles entirely different from those in which the relationship between themselves and their respective flocks had been formed—who signed the Confession of Faith with no reservation as to chap. xxiii., sect. 4, yet denounced the Church of Scotland as Erastian.

These and many more inconsistencies might be enumerated. And if a change or modification of opinion is to be so characterised, there were perhaps no parties in the Church against whom the charge might not be substantiated, there being, as was to be expected, few if any, whose views on some important points did not undergo modification during the progress of the controversy and of that eventful period in the history of the Church.*

* The charge of inconsistency is sometimes a very foolish one. "It has never been mentioned to the reproach of Father Augustine, that he saw it needful, ere he died, to write a book of retractations. 'Yea, what is every year of a man's life,' to use the expression of Mr. Pope, in one of his letters, 'but a censure or critique on the past?' This, indeed, bears hard upon our pride, and clips the budding wings of our beloved fame; but so much the better for us. That may be the most needful and beneficial thing that can befall us. In such cases, we are chiefly to consider what is due to the cause of truth, and to our own minds; and, being satisfied as to this, all other things, such as the consequences that may follow, or the sentiments that others may form of our conduct, must be held of inferior moment."—*Letter of Professor Bruce to Dr. M'Crie, Life of Dr. M'Crie*, p. 77.

If a failure to act up to the full extent of avowed principles warrants the charge of inconsistency, the moderate party, according to Dr. Bryce, were again and again open to the charge.*

* Again and again does the reverend Doctor repeat his complaint,—*e. g.*, "This motion, on the moderate side of the Assembly (in the case of the Strathbogie brethren), fell, *as usual*, very much short of what the principles which they had espoused called upon them to propose."—Vol. ii., p. 98.

CHAPTER IX.

Cases referred to the Civil Courts—First Auchterarder Case—Forfeiture of Fruits of the Benefice—Alleged Cases—Different Views may be entertained of Cases of Alleged Interference by Civil Courts—Lethendy Case—Same may happen in Churches not Established.

THE principles explained in the former part of this work, as those sanctioned by the constitution and held by the founders of our Church and the leading men of the Second Reformation, do fully bear out the competency of the judgments pronounced in the Auchterarder case. Till finally adjudicated on, doubts might be entertained as to the meaning of certain statutes; and even after these decisions were pronounced, men, in the exercise of the rights of private judgment, might imagine that a wrong construction had been put on certain acts. They may have supposed that these judgments had in effect altered the law. Still these final judgments had authoritatively explained the statutes—had fixed their meaning, if that was previously imagined to be doubtful—had, in short, become law. This was obvious to all. To escape, however, from the full effect of the ultimate judgment, and to flatter themselves and their followers into the belief that they were rendering full obedience to the decision pronounced, while yet they refused to implement, or to permit others to implement, the duty which the statute

had been authoritatively declared to enjoin, the lawyer-leaders helped their brethren to the discovery that, however plainly worded the judgment of the supreme civil court was, it could not possibly mean that the civil statute enjoined the discharge of a spiritual duty, and that, at all events, statutory provision had been made for disobedience, inasmuch as it had been ordained that the penalty, in such cases, should be simply the forfeiture of the fruits of the benefice.

As to the former allegation, it is quite undeniable that it assumes a doctrine which our fathers, so far from acknowledging, did stoutly repudiate. This we have already shewn by ample and indisputable quotation.* It assumes a doctrine inconsistent with the idea of a civil establishment of religion. Then, the terms of the statute are so plain, that even he that runs may read. Presbyteries are "bound and astricted to receive and admit whatsoever qualified presentee." If "receiving and admitting" be a civil act, there can be no question as to competency. If "receiving and admitting" be a spiritual act, then the statute claims, what our Reforming fathers never disputed, the right of enjoining spiritual acts. It preserves, indeed, the Church's freedom, by enjoining the induction only of qualified presentees, Presbyteries being by statute the sole judges of qualifications; but undoubtedly it prescribes, after satisfactory trial of qualification, the ecclesiastical or spiritual act of induction.

The second allegation was one of a very extraordi-

* *Vide* Chapter V.

nary character. It served its purpose well. It satisfied the conscientious scruples of many a loyal Vetoist, who else would have shrunk from what, but for this ingenious discovery, would have seemed too palpable a resistance to declared law. There were, it will be confessed, plausible grounds for the opinion, the falsity of which it required more careful examination to detect than many were, at the time, in circumstances to bestow. It seemed to be an opinion founded on statute, and supported by so high authority, that the candid will scarcely be inclined to pass a severe censure on those who received it as correct, and felt disposed to consider the judgment that overturned it as overstepping those limits which both statute and custom had prescribed.

The statute in question entitled the patron "to retain the whole fruits of the benefice in his own hands, in case the Presbytery should refuse to admit any qualified minister presented by him." Founding on this, it was argued that the legislature had made provision for cases of refusal on the part of Presbyteries to admit qualified presentees, and that the "binding and astricting" of the preceding Act of the same year amounted to nothing more. This view was confirmed by some eminent legal authorities. Crosbie, in his "Thoughts on Patronage and Presentations," 1769, says—"In the settlement of churches, the Church courts retain, and must always retain, the power that we have seen vested in them, of rejecting a presentee, *even though qualified*, and of conferring the ministerial

office on another, though without the right of bestowing the stipend." And Lord Kames, a still higher authority, entertained the same view—"The sentence of ecclesiastical courts is ultimate, even where their proceedings are illegal—the person authorised by their sentence, even in opposition to the presentee, is, *de facto*, minister of the parish. . . . The check provided by law is, that a minister settled illegally shall not be entitled to the stipend."

Besides, it was alleged, that in addition to these strong opinions, numerous decisions of the civil courts could be referred to as confirmatory of the view—as that of Dunse in 1735, of Unst in 1794, and others, which need not be specified.

Now, in these circumstances, it was not surprising that many should adopt the view, that the only remedy which the law provided in cases of refusal on the part of Presbyteries to induct presentees, on whatever grounds, was the forfeiture of the fruits of the particular benefices. Lord Kames had not only declared this to be the only check, but had lauded it as at once mild and effectual. "The check is extremely mild, and yet is fully effectual to prevent the abuse." Dr. Chalmers held it to be a point indisputable. He seems to have entertained the opinion that, in the case of an Established Church, all that the State conferred was the endowment, and that the withdrawing of that endowment, in particular cases, was all that the State could claim a right to do. How utterly opposite this view was to that which our fathers held, both as to the duty

and the rights of the State, we have already seen.* Still it was not to be wondered at that an opinion, so authorised and so oft and so peremptorily reiterated, should have taken a firm hold of the minds of many, and led them to believe that, in determining to surrender the fruits of the benefice, in disputed cases of settlement, they were doing all that could be required as loyal and obedient subjects.

The error which lay at the very foundation of these opinions consisted in the fond persuasion that, both by principle and by statute, the State was precluded from at all interfering in spiritual matters, or enforcing, by civil means, adherence on the part of churchmen to prescribed ecclesiastical rules—that the State could not compel the rulers of the Church to adhere to her own constitution and discipline. This once granted as a fundamental principle, the interpretation of statute became a comparatively easy work—viewed through

* Dr. M'Crie, an authority, we venture to think, not inferior, on such a subject, to Dr. Chalmers, so far from considering the endowment as the one bond of connexion, or the conferring of the endowment as constituting the establishment of the particular form of religion selected, held the endowment to be merely a subsidiary arrangement. "He was persuaded that the Voluntary principle was not only untenable, but was incapable of defence, except on grounds inconsistent with a belief in divine revelation, and indirectly, but infallibly, leading to infidelity. . . . As to the endowment of the Church, this he regarded merely as a subsidiary arrangement, highly desirable where it could be obtained, but the expediency of which, in all circumstances of a Church or State, he was not disposed to maintain."—*Life*, p. 339.

A Church, indeed, may be established, though not endowed; and, on the other hand, endowed, though not established. Our own Church was established as the National Church before it received any real endowment; in the Synod of Ulster, the Presbyterian Church is partially endowed, but not established.

this medium, and read in this light, no civil enactment could be held to touch matters purely ecclesiastical.* If, however, we look at the statute, apart from this transforming medium, we arrive at a very different interpretation; and if authority be pleaded on the one side, it can also be pleaded on the other.

Let us cite a witness or two, and observe their testimony. Says Sir Henry Moncrieff: "No greater absurdity can be imagined than that it could ever have been in the contemplation of law, that a benefice should, *in any circumstances*, be separated from the pastoral cure to which it is attached. The examples in which it has been so have arisen out of peculiar circumstances, which could not be in the view of the legislature, and are therefore to be regarded as exceptions from a general rule; which, because they are exception, serve to confirm, and cannot subvert it; and which must, at least, be pronounced to be no precedents, where the circumstances are not the same."†

Again, hear the very distinct testimony of Mr. Dunlop, in 1833: "The object of the State, in creating

* This false principle constitutes the foundation of the errors of the modern school. It is the root whence they spring. It is inconsistent with the true theory of an Establishment. It is the germ of Voluntaryism, or, rather, the Voluntary theory already partially developed. That, through this medium, the modern leaders read all civil enactments relating to the Church, is virtually confessed in the Convocation Memorial; where it is admitted (p. 9) that "the provision is expressed in terms which, if directed against any private party or civil corporation, would unquestionably have imported a complete civil obligation to the performance of the specified act," while yet it is considered impossible "to construe this provision as importing a civil obligation when applied to the Church."

† Constitution of Established Church. p. 32.

an Established Church, was to *conjoin the patrimonial rights of the benefice to the spiritual rights of the pastoral charge*, and establish an office which should combine the two classes of rights in the same person; and to secure this, and at the same time preserve the former rights of patrons, it is held to have been made a condition of the endowment, that the Church should receive and admit the qualified presentees of lawful patrons; while, on the other hand, the Church, by accepting the endowment so regulated, became a party to the object for which it was intended, *and bound herself to fulfil the condition* whereby this was to be effected. Nor will it do to maintain that it was unlawful for the civil power to prescribe such a condition whereby to fetter Church courts in the exercise of their spiritual jurisdiction; because, 1st, the Church have submitted thereto by accepting the benefits tendered by the State on that condition, while, had they deemed the condition unlawful, they had it in their power to have rejected the benefits therewith clogged." *

It is obvious, therefore, that, if there were authorities

* The Law of Patronage, &c., by Alexander Dunlop, Esq., Advocate, p. 122. Mr. Dunlop seems, since 1833, to have changed his views on this and on other connected subjects. His is no isolated case. The progress of the controversy forced many to modify or change their opinions. In the preceding page of the same work from which we have quoted in the text, he goes the length of the following statement: "The Church submitted to an obligation (became bound to admit qualified presentees), civil in respect of its being contracted towards the civil power, and established by merely civil ordinances. This civil obligation, then, may be by the civil power prevented from being violated; and there seems nothing, therefore, to prevent the supreme civil court from *interdicting the proceedings* of Presbyteries in violation of it, *as to the admission of ministers*."

on the one side, there were, even prior to the judgment of the supreme court, authorities on the other also. And if we go without prejudice to the statute itself, and, apart from all legal commentary, view it in the light which common sense affords, we shall not encounter much difficulty in arriving at its import.

We are not at liberty to suppose that, of the two Acts of 1592, the clause of the latter which gives to patrons the right to vacant stipend until their presentees are inducted, was intended merely to interpret the clause in the former which binds and astricts Presbyteries to induct. Had such been its design, a statement would have been made to that effect. Had this been the penalty attached to disobedience by the statute, the Act would have said so, more especially as the penalty is of a nature so peculiar, attaching not to the parties offending, but to other parties who might have no connexion whatever with the offence.* The Presbytery are the party offending, while the parish are the party suffering the penalty. This surely is most unlikely; and it is also unlikely that of two Acts, separate as these are, though passed in the same year, the one should contain the injunction, and the other the penalty of disobedience.

* We venture humbly to think that this view of the matter is absurd. Considered in this light, the one clause does not interpret or supplement, but virtually abrogates the other. Conjoin the clauses and the absurdity becomes apparent: "Provided that Presbyteries shall be bound and astricted to receive and admit whatsomever qualified presentee; and, in case the Presbytery refuses, it shall be lawful for the patron to retain the fruits of the benefice." The Presbytery is *bound and astricted*, and yet may *refuse;* and in the case of refusal, no means shall be applied but such as touch parties in no way implicated in the act!!

We may, however, consider the latter as designed to *supplement* the former, providing indemnity to patrons for the loss sustained *until* the statutory duty enjoined by the former should be discharged. The two Acts are distinct. The right conferred on the patron by the second does not absolve from the duty enjoined by the first. While, under the latter, the patron was receiving his indemnification, under the former the Presbytery was still bound and astricted to discharge its statutory duty—a duty which, being enjoined by civil statute, would necessarily be enforced by civil penalties.*

This seems to be the natural import of these oft-quoted Acts. The interpretation is obviously forced which makes the one Act contain the duty and the

* Is not this the view indicated by the Secretary of State in his letter to the Lord Advocate of Scotland (January 7, 1752), quoted and referred to in the "Claim, Declaration, and Protest, by the General Assembly"? "The Government of the country," says that authoritative document, "on behalf of the Crown, in which the patronage (that of Lanark) was vested, recognised the retention of the stipend by the patron as the only competent remedy for a wrongful refusal to admit his presentee;" the Secretary of State having, in a letter to the Lord Advocate of Scotland (January 7, 1752), signified the pleasure of his Majesty, "directing and ordering his Lordship to do everything necessary and competent by law, for asserting and taking benefit in the present case, of the said right and privilege of patrons by the law of Scotland, to retain the fruits of the benefice in their own hands *till their presentee be admitted.*" These words which we have put in italics clearly point to the view given in the text. So far from intimating that "the retention of the stipend was the only competent remedy," they imply that the statutory duty of admission was still incumbent. The retention of the fruits of the benefice did not affect the rights of the presentee. The law provided for his admisson; it "bound and astricted" the Presbytery to admit him. It still, in the view of the Secretary of State, contemplated that act, meanwhile disposing of the fruits of the benefice *until that act should be completed.* The temporary retention of the fruits did not absolve from the duty, nor imply that the discharge of that duty might not be enforced.

other the alleged check or penalty. But, even although admitted, it would never sustain the cumbrous inferences attached to it. It would not vindicate the disobedience. Willingness to undergo a penalty does not change the character of the offence to which the penalty is attached. It is morally wrong in any one to place himself in a position in which he is bound and astricted to do a duty, with the determination of evading that duty because the penalty is considered a light one. It will not do to allege that the duty is one which ought not to be imposed, and therefore should not be discharged; for the Church, by accepting the endowment, has bound and astricted herself to do it. She is not merely bound and astricted to relinquish the fruits of the benefice, but to receive and admit the qualified presentee. The admission, moreover, of a right to inflict any civil penalty, is a giving up of the question—an abandonment of the high ground assumed. And it is difficult to perceive how conscience should be less offended by a claim to the right of inflicting a penalty in the shape of a fine imposed on the endowment of an unoffending parish, than by a claim to the right of inflicting one, in the shape of a fine imposed on the stipends of a recusant Presbytery. "No greater absurdity can be imagined than that it should ever have been in the contemplation of law, that a benefice should, in any circumstances, be separated from the pastoral cure to which it is attached."

As to the alleged decisions of the civil courts supposed to be confirmatory of the opposite view, it is suf-

ficient to remark, that no parallel can be fairly instituted between them and cases occurring under the Veto law. They were either cases of disputed presentations, or cases in which the Presbytery supposed themselves to have the right of presentation, *jure devoluto*. "There are, indeed, two solitary examples, since the restoration of patronage in the last century," says Sir Henry Moncrieff, "in which the patron did retain the fruits of the benefices, after the decision of the Assembly refusing to admit their presentees. In those cases other incumbents were admitted, who were found to be the legal ministers of the parishes, though they were ultimately deprived of the stipends belonging to them; the patrons, whose presentees were rejected, having been found entitled to retain, and having actually retained them, during their incumbency. But in both these instances there was a competition between contending claimants for the right of patronage; and in both, the decision of the Assembly proceeded, not on any circumstances in which either the condition of the parishes, or the qualifications of the presentees, were involved, but solely and exclusively on the legal rights of the claimants to the patronage." *

These remarks apply to the various cases quoted by Dr. Buchanan, and indeed so often referred to as proving that the courts of the Church possessed and exercised the right of admitting or refusing presentees just according to their own will, and that the only civil penalty legally attached to the rejection of a qualified

* Constitution of Church, p. 27.

presentee, was the forfeiture of the fruits of the benefice to which he had been presented. The cases are inapplicable. It was calculated to mislead, and did mislead many, to quote cases of disputed presentations, in which the Church courts, acting to the best of their judgment, were not held to be blameworthy, even though they preferred the presentation which the civil courts ultimately found to be invalid; or cases in which they had, acting *bona fide*, exercised the *jus devolutum*, though it was afterwards found that the patron's right had not fallen; or cases in which they had sustained valid objections brought against presentees: and from these cases to pronounce it to be a matter ruled and determined that "the patron's right, at the very utmost, could affect only the benefice, but left the disposal of the cure of souls absolutely at the discretion of the Church;" and that the power of the civil courts was "limited strictly to the disposal of the benefice." *

It is not necessary that we should examine, with any degree of minuteness, the various cases which, during the period of conflict that preceded the Secession, multiplied and increased day by day the most harassing difficulties in which the Church had become involved. Having taken the first false step and refused to retrace it, every subsequent movement only implicated her in a more elaborate maze. The leaders, beguiled into a false position, from which, however, they resolutely refused to descend, began to cast up those entrenchments which subsequently rendered their retreat impossible.

* Ten Years' Conflict, vol. i., pp. 160, 167. See also Note A.

What were designed as defences to terrify or repulse the enemy, were found to be strong barricades through which they could not themselves retire.

It is painful to recur to the events of that distressing period of civil interdicts, and actions, and damages, and threats, on the one hand; and of suspensions, and deppositions, and tyranny, on the other. On both sides there was a stretching of power to the utmost verge, ay, and beyond those limits which were safe for either. Civil interdicts were granted and judgments pronounced, which never could have been had not the Church been violating her own constitution. By violating that constitution she exposed herself to attacks which, in any other case, had been persecution. Judgments were pronounced against her courts, which, had they been legally constituted, would have implied such invasion of the spiritual jurisdiction as she could by no means have submitted to.

Our previous examination of the principles involved in the controversy renders it unnecessary that we do more than glance at some of the cases as they successively occurred. For a detailed account, reference may be had to the works of Dr. Buchanan and Dr. Bryce, representatives respectively of the two extreme parties in the Church; who, viewing the subjects each from a different point, and through a somewhat different medium, have furnished two narratives eminently distinct, and from a comparison of which the intelligent reader will be able to form a tolerably accurate idea of the truth. Both occupied a prominent position during

the protracted struggle, and both have detailed the facts of the period with as much impartiality as could be hoped for from parties so deeply implicated in the contest. The one claims for the Church powers and privileges which she never enjoyed, and which, if possessed by her, would, we believe, be fatal to her existence. Through the medium of these supposed rights, expressly given by heaven, he views the subject in its length and breadth. The other seems inclined to consider the Church as but the creature of the State, possessing only such privileges as by statute are conferred. He boldly asserts "the supremacy of the civil power, even in matters ecclesiastical;" and through this medium, not less distorting than the other, he views the subject in all its bearings.*

* Statements to this effect occur again and again, *vide, e. g.*, vol. ii., pp. 133, 140. In the latter of these two passages, Dr. Bryce asserts that the moderate party "yielded to the civil magistrate the supreme jurisdiction which he had claimed in ecclesiastical matters." The civil magistrate had not, in our day, claimed any such supremacy. The claim, indeed, had often been made by the Stewarts, but had never been yielded by the Church. Not the civil magistrate, but the law, is supreme, as far as the statute extends—supreme at once over the civil and ecclesiastical ruler. The terms of the compact being once arranged, these terms become the law—the law, supreme over the civil magistrate as much as over the rulers of the Church. That law defines and protects the rights both of the Church and of the State. It would protect the Church against the Crown, or against the illegal claims of patrons, just as it would protect the patrons or the people against the unconstitutional encroachments of the rulers of the Church. The judge can only interpret that law, and act accordingly; and in doing so he might be called on to protect the humblest presbyter against the Crown itself. We object, therefore, not only to the terms, but to the sentiment, that "the civil magistrate possesses supreme jurisdiction in ecclesiastical matters." The Church of Scotland repudiates the doctrine. She has ever done so—she does so now. Such supremacy is expressly excluded, not only in the Church's acknowledged standards, but, as Dr. Bryce himself elsewhere maintains, by the civil statutes themselves. Speaking of the

Of the actings of the civil courts in the several cases which, during the conflict, were brought under their cognisance, different opinions may, as before, be still entertained by those who remain attached to the Established Church. There were those, belonging to both sides of the Church, who did most emphatically disapprove of some of the interferences of the Court of Session, as, in their opinion, trenching on the spiritual

address by the Convocationists "to the Christian people of Scotland," and reviewing the charges brought in that address against the civil courts, he says—"These accumulated charges against the civil courts only suggested to every one who had watched the progress of events up to this date, that the position of these courts towards the Established Church would have been more fairly set before 'the people of Scotland,' had they been told that the statutes of the realm, erecting the Church of Scotland, had imposed on these courts the duties here represented as invasions of her rights; that of these statutes they, the civil tribunals, were the constituted interpreters, and, as bound by their oaths of office, they had, no doubt, honestly discharged their duty. In point of fact, the civil courts had not reviewed, suspended, or reversed any one spiritual censure *upon its merits, as was* manifestly, and not very honestly, insinuated in this address; *for, from the exercise of this jurisdiction, the statutes had expressly excluded them.*"—Vol. ii., p. 326.

Such jurisdiction, indeed, is expressly repudiated by the civil judges themselves. Can more distinct statements upon this point be required than those given forth by their lordships since the period of the Secession? In the Frazerburgh case in 1851, Lord President Boyle makes the following statement—"*We have just as little right to interfere with the proceedings of Church courts, in matters of ecclesiastical discipline, as we have to interfere with the proceedings of the Court of Justiciary in a criminal question.*" *Vide* also speeches, on the same occasion, by Lords Cunningham and Ivory, reported in "Dunlop's Cases," July 16, 1851. Or, again, could any statement be more explicit than that of Lord Cunningham—a judge whose decisions had all along been adverse to the claims of the movement party—in a note appended to his judgment in the Cambusnethan case, 14th January 1846? "This decree is not, and cannot be, competently brought under review of this court on its merits, *as we have no jurisdiction in proper ecclesiastical causes.*" These statements are as full and explicit as can be desired. In the former of these cases, a minister deposed by the General Assembly had presented a note of suspension against the sentence being carried into effect. The Court found "*that the civil court had no right either to control the Church courts in their procedure, or to review their sentence on its merits.*"

province, which, of right and by statute, belongs exclusively to the ecclesiastical courts, who nevertheless could see no sufficient reason in these isolated instances —occurring in circumstances altogether peculiar, and called forth by unconstitutional assumptions on the Church's part—for joining with those who seemed determined either to secure to themselves unfettered domination or to effect a schism in the Church. With reference to these cases, similar sentiments are still entertained by not a few who, nevertheless, are most surely convinced that the Church of their fathers has emerged from the trouble and disorder of that dark period, unchanged as to her constitution, and unimpaired in her privileges; and that, at the present hour, the ministers and members of the Church of Scotland as by law established, are ministers and members of the freest Church in Christendom.

Even bigotry herself might blush to maintain that men holding anti-patronage views could, with a clear conscience, accept of presentations and become ministers in a Church "bound and astricted to receive and admit qualified presentees," and yet insinuate that men holding to its full extent the distinction between civil and ecclesiastical authority, could not, with a conscience equally clear, remain members of the Church of Scotland, because, once upon a time, a Presbytery were summoned before, and rebuked by, a civil tribunal, for violating a civil interdict having reference to an ecclesiastical act; and because, once upon a time, the Court of Session issued certain questionable interdicts,

which were never obeyed, nor ever attempted to be enforced; and because, when called on to interfere by those who believed their interests to be affected, the same court found that the courts of the Church had no constitutional right to admit whomsoever they might please to the same rights, and privileges, and powers which they themselves enjoyed as rulers in an Established Church. Of these, and of similar cases, ministers of the Church may continue to hold different views.* It does not follow that because they adhered to the Church of their fathers they therefore approved of all the actings of the civil courts, or indeed that they were bound to stand up in defence of any of them, although we believe that there are few indeed among them who, how much soever they may at one time have been misled by the popular expositions of the day, will not confess, now that the season of calm reflection has returned, that the exciting representations given forth to a roused, and astonished, and horrified people, of the judgments, and interdicts, and aggressions in every shape, of the Court of Session, were, to a very great extent, exaggerated and distorted, and highly coloured, and that, however unde-

* "Of the acts of the civil courts narrated in the 'Protest,' the Church of Scotland can only be bound to vindicate two; viz., those implied in the first and second Auchterarder decisions by the House of Peers, since in these alone has the mind of the State been finally given. Respecting others, we do not know what its mind may be. They were not brought by appeal before the supreme courts, and until the principle adopted by the State shall have been given, it is utterly unreasonable to charge the acts of an inferior court against us, or even to call on us to vindicate our submission to them as in accordance with the Word of God."—*Answer to the Protest in Smith's Truth as Revealed*, pp. 74, 75.

signedly, they did convey an erroneous impression of the facts.

The Lethendy case was among the first that occurred to add to the difficulties and troubles of the Church, while that of Auchterarder was still under appeal. We shall not venture to inflict upon the reader the details either of this or of those which subsequently ensued. They were long before the public, and, if now happily forgotten, so much the better for the cause of peace and righteousness. The case is skilfully narrated by the accomplished author of the "Ten Years' Conflict." He omits, however, to mention certain facts and circumstances which materially alter the complexion of the whole. The case was not one of disputed or competing presentations, in the ordinary sense, in which a Presbytery might either have doubts as to the party having right to present, or might be called on to exercise their own judgment in selecting the presentee whose claims were believed to be preferable. It was a case of double presentation by the same undoubted patron.* The first presentation had been sustained, and the presentee had been rejected on the footing of the Veto, now declared to be illegal. The Church had appealed the Auchterarder case to the House of Peers; but surely it was too much, in the interim, to act in the Lethendy case as if her appeal had been successful, and the judgment of the Court of Session had been reversed. It was thus, however, that she did act—misled no doubt, by the Crown having issued a new presentation in favour of another.

* See Note B.

The Presbytery were proceeding to induct the new presentee, when, at the instance of the former, an interdict was served upon them. According to the doctrine held by Mr. Dunlop in 1833, no doubt could be entertained as to the competency of such an interdict. It was not an interdict forbidding the purely spiritual act of ordination, but forbidding the ordination and induction of of Mr. Kessen *to a particular parish, to which another had been presented*, and who had never been legally found disqualified—nay, whose qualifications the Presbytery had refused to try. The Presbytery were fully entitled to grant the spiritual privilege of ordination to Mr. Kessen, or to any other man whom they judged qualified to receive it; but they were not entitled to ordain him minister of the parish of Lethendy, by that act giving him a right to civil privileges which might belong to another man. If the Church herself had so conjoined the two acts of ordination to the ministry and induction to a benefice that the one necessarily included the other, then, by that conjunction, she had given the civil power an indirect hold upon the spiritual act, so as to interdict its performance when, as in this case, it implied a clear invasion of civil rights.

Precisely the same thing might occur in the case of a Voluntary Church. Suppose the Free Kirk to establish for themselves a definite rule for the election of ministers—let it be by a majority of male heads of families, or of all the members indiscriminately. Let the law be definitely established, so that every individual who joins that Church does so on the distinct understand-

ing that he thereby acquires a right to vote in the election of a minister. That right, we believe, becomes a civil right. We do not believe that any Kirk-session or Presbytery, or other Church court, has the power to deprive that individual of his right, so long as they allow him to remain a member of that Church, and he has subjected himself to no legitimate disqualification. Now, suppose the case of a minister elected by a clear and undisputed majority of qualified voters. The minister so elected has acquired thereby certain civil rights. But suppose the majority of the Presbytery to have adopted certain novel opinions—say on the subject of education, or the necessity of a definite creed, or with regard to some exciting political question—on which they differ both from the electing majority and from the minister of their choice: suppose farther, that the call of the majority and its acceptance by the minister have been laid upon the table of the Presbytery, but that, afterwards, another call by a small minority of parties agreeing in sentiment with the Presbytery, in favour of a man of kindred spirit, has also been produced, and that the Presbytery, in despite of the acknowledged law of their Church, and in opposition to the electing majority, have resolved to trample on their rights, and to proceed to the ordination and induction of the man proposed by the minority. Has the majority in such a case no remedy? Is there no defence for them against this invasion of their rights? They may go to the Synod, and thence to the Assembly, but if these courts decide against them, must they tamely

submit, and allow themselves to be denuded of important privileges secured to them by their own express laws?

It does not affect the question to say that such a case cannot occur because their law prevents all intrusion. The question is, what remedy would be resorted to—or is there any remedy—in case of a fundamental law being violated? No doubt, they might secede; but neither does that affect the case. They might do the same if they were members of the Established Church. But supposing they do not wish to secede—supposing their consciences will not permit them to be guilty of the schism—what is the result? One of two things must follow. Either they must yield to the rulers of their Church in a case of clear invasion of rights secured by a definite law—that is to say, they must submit to the decision or arbitrary will of their ecclesiastical rulers, even when they set their own laws and the privileges of their people at defiance—a notion which would surely be somewhat peculiar in those who call themselves members of a Free Church; or they must apply to the civil power for protection against an invasion of their acknowledged rights, and to compel their spiritual rulers to have respect to their own laws, when the violation of them invades the rights of their people—a notion also peculiar in those whose ministers claim that spiritual independence in which the Free Church glories.*

* *Vide* Note, p. 76. Similar remarks might be made with respect to cases of discipline. Nay, here the Church as by law established is really the Free Church. "In regard to this important matter," says Dr. Lockhart of Inchinnan, in his answer to the "Protest of the Free Church," "it

The latter would probably be the alternative chosen, and, in that case, a bill of interdict would be brought against the Presbytery to prevent them from ordaining and inducting the man not elected to the cure—an interdict which, even in such a case, could not be violated with impunity.

There is a virtual understanding and agreement, on the part of all who connect themselves with the Church, that those rights shall be preserved to them which the constitution of the Church confers. The members have a right to vote in the election of their ministers—a right which, in virtue of that agreement which the constitution implies, becomes, we believe, a civil right, which may be defended by civil means. It may be attached, as in some cases, to the holding of property, as of pews in the Church.* But whether it be so or

turns out, that the protesters have exchanged a temporary grievance of their own creating for a permanent yoke of bondage. Unlike those of the Establishment, their courts are at the mercy of any individual who thinks himself aggrieved by their proceedings. An action for slander may be at once brought against them before the Court of Session, and the records of the Church court may be ordered up that the merits of the case may be ascertained. Nor will their boast of spiritual independence, or assumption of the title of the Church of Scotland, ward off pecuniary damages in connexion with a purely spiritual function, provided the guilt of the accused person be not established on evidence satisfactory to the civil court. From all risk of such Erastian interference the Established Church is completely protected by the independent spiritual jurisdiction, as recognised and ratified by Parliamentary statutes."—*Answer*, p. 28.

* To what extent this qualification is recognised among the various dissenting bodies in our own country we are not aware. In the United States its recognition is almost universal. Election is vested, not in the communicants, but in the pew-holders and others contributing pecuniary support. "In the Presbyterian and most other Churches, each pew-holder, or each head of a family who subscribes towards the pastor's salary for himself and household, and others who subscribe only for themselves, are allowed a voice in the call."—*Baird's Religion in the United States*, p. 309.

not, it is a right of which no man can be deprived, apart from his own consent, without cause shewn.

In like manner, the minister lawfully elected has, by his election, acquired a civil right which may, in the same way, be defended. No civil court, indeed, may prescribe laws to any Church; but if that Church has, by her own authority, framed laws which confer upon her members privileges involving civil rights, the civil courts may, if applied to, interfere to defend a man in the possession of these rights. No man, by becoming a member of any Church, can be held to deprive himself of the rights of a British subject. And it is an act of mere despotism—of spiritual tyranny—to threaten or to visit a man with spiritual censures, for calling in the aid of the civil power to defend his civil rights from wanton aggression, even although civil or ecclesiastical matters should be implicated in these rights—an act worthy only of the period when the Church declared it to be ground of summary deposition, if a minister should, even in a civil cause with another minister, carry his suit to the civil court.

As to the points involved in the Lethendy case, there was a difference of opinion even among those who did not concur in sentiment with the ruling majority. There were those who held, that even in that case, on account of the purely ecclesiastical matter involved, had a plea to that effect been put in by the Presbytery, the interdict would not have been granted. The Presbytery, however, did not condescend to state the grounds on which they declined the authority of the Court of

Session; and when a motion recommending this step was made in the Commission, it was negatived by an overwhelming majority.

NOTES TO CHAPTER IX.

Note A.

The cases quoted or referred to by Dr. Buchanan do by no means support his conclusions. His authorities must be at fault, for the cases are incorrectly given. Take an instance or two. Among others, he refers to the oft-quoted case of Currie in 1740. Now the truth is, that this, instead of being a case in point, was one in which the right of the magistrates of Edinburgh to present was disputed; and when it was ultimately admitted by the Assembly, "that there was sufficient evidence of the town's having been in use to present," a compromise was suggested by the Assembly, agreed to by the magistrates, and acquiesced in by the presentee.—*Vide Annals of the Assembly* 1740. Yet is this case referred to as proving the Church's asserted right to refuse to settle presentees.

The case of Biggar in 1752, is equally inapplicable. The Assembly 1751 had found "that in the present circumstances it was not expedient to appoint the settlement of the presentee, and remitted to the Presbytery of Biggar to deal with all concerned in order to bring about a comfortable settlement of the said parish." At the May Commission of the following year, the case again appears, and the Commission "appoint a committee of their own number, in conjunction with the Presbytery of Biggar, with all concerned, in order to bring about a comfortable settlement of the parish of Biggar, and particularly with the people of that parish, in order to Mr. William Haig's peaceable settlement there; and to report to the Commission in November." How then did the Commission in November proceed? The committee reported that "they had called upon the elders, who were all present, and *declared the grounds of their opposition.* 1. That the presentee could not be heard by a great part of the congregation: and, 2d, That

he was so unwieldy and infirm as to be unable to perform the duties of his office. That the people and heritors present all adhered to the objections." Parties being heard, the Commission named a committee of their own number "to join with the Presbytery, and to meet at Biggar on the second Thursday of March, *to take trial of the objections against Mr. Haig*, particularly with respect to his voice, and appoint Mr. Haig to preach to the said meeting that day in the church of Biggar, and if they find the above objections not sufficiently supported, that they deal further with the people of the parish to bring them into his settlement, and report their proceedings to the Commission in March next."—*Annals of Assembly.* This case is quoted by Dr. Buchanan as one "in accordance with the fundamental principle that no minister be intruded into any parish contrary to the will of the congregation," and as illustrating "the exercise of the Church's intrinsic and often ratified jurisdiction in the examination and admission of ministers," vol. i., p. 163. We accept the illustration, though not quite in the sense in which the Doctor uses it. We request the reader to note the italics.

Once more, let us glance at the famous case of Dunse in 1749. Dr. Buchanan refers to this as a case about which no doubt can be entertained. "The Presbytery of Dunse," he says, "about the middle of last century, thought fit to disregard the patron's presentee altogether, and were proceeding to settle another person upon the call of the congregation. The patron sought redress in the civil court, asking not simply that the temporalities of the case should be withheld from the person whom the congregation had called, but that the court should interdict the Presbytery from proceeding with the settlement of that person altogether. Both the judgment pronounced in the case, and the reasons on which it was founded, are preserved in the words of one of the judges, Lord Monboddo, with whom the whole court concurred:—'With this conclusion,' says his Lordship, 'the Court would not meddle, because that was interfering with the power of ordination, or the internal policy of the Church, with which the lords thought they had nothing to do.'"—*Ten Years' Conflict*, vol. i., pp. 166, 167. Now it grieves us to be obliged to state that we do not think this a fair representation of the case. For, 1st, as is well known, the accuracy of Lord Monboddo's report has been questioned. (Our readers, too, will recollect the statement of Mr. Dunlop quoted

in note, p. 200—"There seems to be nothing to prevent the supreme civil court from interdicting the proceedings of Presbyteries as to the admission of ministers.") 2. The case was one of disputed presentation. This ought, in fairness, to have been stated. It was denied that Belton—the person presenting—was really the patron having right, and it was only after lengthened litigation that his right was established. The Presbytery, therefore, instead of "disregarding the patron's presentee altogether," were only *disregarding the nominee of one whose right to present was disputed and denied.* 3. After the decision of the Lord Ordinary, a reclaiming petition was given in, praying to review the Lord Ordinary's interlocutor, and to find, among other things, "that no action is competent before your Lordships for reversing the judgments of a Church-judicature in the settlement of a minister. . . . And that it is not competent to your Lordships to grant an injunction to Church-judicatories not to settle a minister in a vacant parish." The petition was refused. The Lords "adhered to the Lord Ordinary's interlocutor, and refused the desire of the petition in so far as it reclaimed against the said interlocutor; and found that the general words, *discerns and declares* (the terms of the interlocutor) can go no further than the particulars discerned." So far from discerning as Dr. Buchanan supposes, they refused to entertain that question as not being before them. 4. When the case was appealed to the House of Peers, the judgment reserved the question of jurisdiction altogether. And, 5. *Belton's presentee*, *Mr. Adam Dickson*, whom, according to Dr. Buchanan, "the Presbytery thought fit to disregard altogether," *was the very man whom the Presbytery ordained.* In the Assembly 1749, "after parties were heard, and members had reasoned at great length, the question was put, whether to appoint a moderation to the presentee alone, or a moderation at large? and it carried the former. Thereupon the Assembly appointed the Presbytery of Dunse to moderate in a call for Mr. Adam Dickson alone, betwixt and the 1st of August next." The case was finally settled in the Assembly 1750 (a delay having occurred in consequence of the appeal to the House of Peers). On 18th May, the Assembly "without a vote, sustained Mr. Dickson's call, and appointed the Presbytery of Dunse to proceed with all convenient speed to his trials and settlement, so as his ordination and admission to that parish be completed on or before the 28th September."

—*Annals of Assembly*, vol. i., pp. 141, 143. Instead of "thinking fit to disregard Mr. Adam Dickson altogether," the Presbytery of Dunse ordained him to that parish. Such is the fact; and "a fact," as Dr. Buchanan elsewhere remarks, "is worth a thousand apologies and explanations," p. 282. The truth is (whether creditable to the Church or not, is another question), that while in cases of difficulty connected with presentations, a compromise was often effected and the differences adjusted by amicable arrangement among the parties interested, there are few, if *any*, cases on record during the period referred to, in which, when the patron or presentee urged the matter to a decision, the Assembly did not determine it in his favour.

We need not examine more of the cases referred to. Let these specimens suffice. But it is grievous to think that by representations such as those alluded to in the text, made, we doubt not, in many instances unwittingly, and, once made, retailed on every befitting occasion, many were beguiled. It is not to be wondered at that not a few who ultimately detected the mistakes, and threw off the yoke, were nevertheless kept for a long period in bondage. There were comparatively few who had leisure or opportunity either carefully to examine principles, or to verify references and quotations; and hence the multitudes who became an easy prey.

Before concluding this note, it may be proper, to prevent misapprehension, to observe, that though it is not true that the "patron's right, at the very utmost, could affect only the benefice, but left the disposal of the cure absolutely at the discretion of the Church,"—yet the Church did possess unlimited powers as to the trial of the qualifications and fitness of all presentees. The testimony of Dr. Bryce to this effect is very distinct, and not likely to be questioned. "The same law," he says, "which compelled the Presbyteries to act ministerially in going on to trials, gave to them, after trials taken, the most unrestrained judicial powers in disposing of the presentee; and the very ground, that the presentee had been dissented from by a certain proportion of the congregation, of a certain character and description, although unable legally to sustain the Presbytery in refusing to take him on trials, might, for anything decided up to the period of the Secession in 1843, have supported their rejection in the eye of the civil law, however well qualified they might have found him in life, literature, and doctrine."—*Ten Years of the Church*, vol. i., p. 22. Again, "After

the presentee has been admitted to trials, the Presbytery may, under the Act 1567, refuse to induct, for any reason they may see fit," p. 30.

NOTE B.

The former presentation was in the form common in such cases, by what is generally called a sign-manual. It was regarded as valid by the Presbytery. Dr. Buchanan seems to insinuate that it might have been altogether disregarded by the Presbytery, who, without reason assigned, might have refused to appoint any assistant and successor to the aged minister of Lethendy. Probably they might have done so, and that without the risk of challenge. But they did not do so. They sustained the presentation and acted on it. Through it they brought the presentee before the congregation. It is not, therefore, quite fair to attempt to aggravate the hardship of the case, by saying that, "apart altogether from the barrier of the Congregational Veto, the simple fact that the Presbytery had declined to proceed with the settlement would have been held, down till 1838, to be conclusive against his title to either benefice or cure, and that whether the Presbytery had assigned a reason for their refusal to proceed or no."—(Vol. ii., p. 81.) Had the Presbytery acted as is here hinted at, the Lethendy case would not have occurred. The Presbytery, however, instead of so acting, sustained the presentation; and yet, notwithstanding, rejected the presentee simply on the illegal ground of the now declared to be illegal Veto. It was just because they did not act "apart altogether from the Congregational Veto" that they put themselves in the most distressing position which they afterwards occupied. To say, as Dr. Buchanan does, that, "as the poor creature's (the presentee's) subsequent career abundantly proved he was most heartily and justly vetoed by the congregation, . . . he being, subsequently to the Disruption, deprived of his licence for drunkenness," is just equivalent to saying that the Lethendy people had substantial reasons, and could have stated them; that is, that they could have done legally what they chose to attempt to do illegally. If the offence afterwards brought home to the presentee was unknown to the parishioners, or had not been committed at the time, it is difficult to perceive how it is connected with the congregation most "heartily and justly" vetoing him. They may have done so most

heartily, no doubt, but the proof of their doing so justly, falls to the ground. If, however, as Dr. Buchanan's words would lead us to infer—though it is not easy to discover how the man's subsequent career should have led them to veto him most heartily—they were at the time cognisant of the fact that he was addicted to intemperance, then was the Veto virtually made a shelter to the man who should have been proceeded against by libel and deprived of his licence. We fear the defence of the justice of the Veto in this particular case implies the laxity of the Presbytery. At all events, if Dr. Buchanan's statement be worth anything, it cuts up by the roots the plea of conscience, urged in behalf of the Presbytery, as far as non-intrusion is concerned, for, apart altogether from the Veto, there were ample grounds for preventing the intrusion of the presentee upon the parish of Lethendy.

CHAPTER X.

New Attempts at Extrication—Correspondence between Earl of Aberdeen and Dr. Chalmers—Popular Veto abandoned—Misunderstanding—Concessions—Bill of 1840 unreasonably opposed—Middle party increasing in strength.

OMITTING, as unnecessary, all further consideration of the various harassing cases in which, in the progress of the conflict, the Church became involved, we proceed to consider some of the efforts made towards her extrication from a position which was becoming every day more perilous.

For a considerable time, as we have already seen, the hope was entertained that Government would introduce such a measure as, if carried, would secure the objects contemplated by the ruling majorities of the Assembly. That hope so fondly cherished was bitterly disappointed. No efforts, indeed, were spared to induce the Legislature to interfere. Exciting harangues addressed to popular audiences, followed by numerous and largely signed petitions, deputations, interviews—in short, every means which skilful and earnest men could resort to—were employed. But in vain: Government declined to legislate in the matter.

Such was the melancholy posture of affairs — the gloom thickening on every side, and new dangers threatening day by day—when the hopes of men, now

weary of a contest so pregnant of bitterness, and so full of peril to the best interests both of the Church and of the country, were again awakened by the prospect of a new effort at extrication.

Early in January 1840, an interview was granted by Lord Aberdeen to the members of the Non-intrusion Committee, and, from that period, we find his Lordship most devotedly labouring to secure what he believed to be the best interests of the Church. The task was in some respects a most ungracious one. It exposed his Lordship at a subsequent period to the attacks of many who, during the rage of the controversy, had accustomed themselves to the use of language which, in any case, had been better spared, and to the imputation of motives unwarranted by any part of his Lordship's conduct.

A careful and unprejudiced perusal of the Earl's correspondence with Dr. Chalmers and the secretaries of the Non-intrusion Committee, and of the minutes of the Assembly's committees in relation to the settlement of the Church question, will absolve both parties from the malignant charge of wilful deception. But it will do more than this. It will scarcely fail to leave upon the reader's mind an impression that,—had the settlement of the question been left to the noble Earl, on the one hand, and the reverend Doctor on the other, without those marring influences which the political purposes of some, and the extreme views of other "disturbed spirits whose element is agitation," from time to time, introduced,—a safe and honourable result would have

been effected—securing, as is now done, to the people their unimpaired privileges, and to the courts of the Church their unchallangeable rights, and thus preventing that deplorable catastrophe which at length severed so many holy ties, and converted into foes so many of the Church's most zealous and devoted friends.

From the first, the Earl declared his adherence to the principle of non-intrusion as recognised by the Church of Scotland, but, at the same time, most explicitly stated his determination to give no countenance to that form which the principle had been made to assume in the Veto law. Dissent without reasons, or mere dislike on the part of the male heads of families in a parish, he refused to sanction as an imperative ground for rejecting a qualified presentee. On this point his statements were too explicit to admit of doubt. It must therefore be assumed that in prosecuting the correspondence with the noble Earl, this point was given up. The popular Veto was abandoned. A Presbytery was not to be compelled, as under the Veto, to reject a presentee simply on the ground of expressed dissents.

This point conceded, the next insisted on was that there should be a presbyterial instead of a popular Veto. It was agreed, that in every case of dissent, the dissentients should give in reasons to be judged of by the Presbytery. Nothing can be more explicit than the statements of Dr. Chalmers to this effect. In his letter, January 27, 1840, he says, "We are willing that reasons should always accompany dissent, and that these reasons should be dealt with and canvassed to the utter-

most; but we are not willing that we should be bound to admit the presentee, if the people do not make good their reasons; on the contrary, we hold ourselves free, though not obliged, to exclude a presentee because of the strength of the popular dislike, though not substantiated by express reasons—a case which may occur, though not once in a hundred, I believe not once in a thousand, times." *

At this point, a misunderstanding occurred between the Earl and his correspondents. The one was willing to concede, and the other to accept a presbyterial Veto in place of the popular. They differed as to what the presbyterial Veto should imply. The one intended that it should include the most ample power of judging not only of the reasons of dissent, but of the whole case, and of determining accordingly; "full and unfettered power to decide judicially on the fitness or unfitness of the presentee for the particular parish, as their conscience and a sense of duty might direct, without being bound either by the numerical amount of the objectors, or the precise nature of the reasons of dissent assigned." The other demanded such a Veto as would authorise them in any case to reject, simply on the ground that a majority dissented, however futile their reasons of dissent might be, and although, in their own judgment, the presentee was, in every other respect, the best and fittest for the parish. Disguise it how men may, that

* Correspondence, p. 16. The venerable doctor is here more like himself than when he labours to prove the incapacity of the people to state their reasons of dissent.

was the point of divergence. The concession was, unfettered power of judging and unfettered power of acting according to the judgment formed. The demand was, unfettered power of acting either with or without or contrary to a judgment formed regarding the special case—unfettered power, for instance, of rejecting a presentee, if the Presbytery should so choose, simply on the ground that a majority of the male heads of families objected, however erroneous and unfounded the reasons of their objecting might be proved to be. Nay, even this demand was ready to be conceded. "It is agreed," says Lord Aberdeen, "that, in all cases, the people objecting to a presentee, shall assign the reasons of their dissent, be they what they may. Now, let us suppose that a number of persons should object to a presentee, because *he had red hair*. This would, no doubt, be a very bad reason; but if they persevered in their hatred of red hair, and the Presbytery found it consistent with their sense of duty and the dictates of their own consciences, they might give effect to the objection by rejecting the presentee." *

To all practical effects, the concession was abundantly sufficient to protect the principle of non-intrusion —more so by far than the Veto itself could have been. More prominence might have been given, as in the present law is the case, to the element of the number and character of the persons objecting; but, simply as the proposal appears in the published correspondence, the greatest possible security is given for the mainten-

* Correspondence, p. 23.

ance of non-intrusion; and the challenge may be fearlessly made, to produce, in the previous history of the Church of Scotland, any enactment, whether of the State or of the Church herself, in which the rights of the Christian people are more largely stated, or more carefully protected.

It may well, in these circumstances, be asked, how negotiations so promising were disturbed; and how, when the parties were brought practically within a hairbreadth of agreement, the happy prospect of a settlement was again destroyed.

The Committee, as we have seen, had consented to abandon an imperative popular Veto, and had agreed instead, to acquiesce in a measure which should secure to them the power of giving effect to objections without reasons, or without proper reasons, if they should see cause; in short, of giving effect to unreasonable opposition, if they chose, when that opposition was pertinaciously maintained. Did they begin to suspect that they had, even by this acquiescence, gone too far? —to perceive that even this was, to some extent, an abandonment of their favourite principle of non-intrusion, as by themselves defined? Perhaps they did; and hence, it may be, that "tendency to rise in their demand," which Dr. Chalmers perceived, and which made him feel uneasy. "Your Lordship," says Dr. Chalmers, "had been made to understand from myself that, though I would rather the legislature had recognised our power to deal any way with the question; . . . yet that I, for one, should acquiesce if your

Lordship could be brought up no further than thus to acknowledge our judicial power, and make us, in the exercise thereof, free from the control and interference of the civil court. This, I gave you reason to understand, was my mind, and I thought the Committee had given you reason to understand it was their mind also. *I therefore felt uneasy when I perceived a tendency to rise in their demand*, and more especially as it seemed their disposition to lose sight of the less measure, as an alternative which they were prepared to fall back upon, if they could not get a larger." *

Was it that political leanings on the part of some of the members would have led them to prefer the measure from another quarter, or the hope still lingering, notwithstanding former cruel disappointments, of a measure yet more liberal from the party opposed to that to which the Earl was attached? Perhaps, even unconsciously to themselves, the political leaven was silently at work. Hear Dr. Chalmers in his letter of February 29th: "I am quite aware of the worthless policy of the Whigs, which is to outdo in popularity the measure of the Conservatives, whatever that may be." Again, March 10th: "It is quite manifest the only aim of the Whigs in this question is to out-jockey their political opponents, and to advance themselves." And again, March 12th, with reference to Mr. Dunlop's connexion with the Perthshire election, and to Lord Aberdeen's remarks that he could no longer represent the questions now agitating the Church, to the Conservative party,

* Correspondence, March 10th, p. 36.

with any hope of success, as questions having no political character, unless the Committee should disavow the conduct of Mr. Dunlop, and repudiate all connexion with any political object, we find him thus expressing himself: "I grieve to think that the Committee, while it consented to a very tame disclaimer of all participation in Mr. Dunlop's movement, should not have acquiesced in my indignant disavowal of our having any political views."

Or, in fine, may there, after all, have been any grounds for the suspicion which his Lordship expresses in the following sentence?—"There are some 'disturbed spirits,' whose element is agitation, and who, I much fear, do not greatly desire this settlement."

Whether any or all of these causes operated towards the effect, certain it is that, so far as the committees were concerned, no beneficial result was produced. The negotiations were broken up with something like mutual distrust.

There was, indeed, a point on which the Earl and his correspondents differed. It assumed no great apparent magnitude. At times it was almost latent; but, notwithstanding, it was the root of bitterness, which might be concealed, but could not be eradicated, and which was ready at all times to spring up and to present a barrier against perfect reconciliation. That point was the dogma of spiritual independence, as held by the Committee, with reference to the non-intrusion principle. The non-intrusion question was virtually settled. A measure was offered, as far as his Lordship

could make any offer on the subject, which was amply sufficient to secure parishes against the intrusion of unacceptable presentees. It was put within the power of the Church courts to prevent intrusion. A particular mode, however, was prescribed in which this was to be done; and what if the Church courts should deviate from or refuse adherence to that mode? The answer could not be concealed. It must have presented itself to every mind. If, by that deviation or refusal, the civil interests of any are affected, he may have recourse to the civil courts for redress. Now, this was the point where resistance was offered. And, to avoid the possibility, as was supposed, of such a result, the demand was made that power so uncontrolled should be vested in the Church courts, that, on the ground of mere dislike on the part of the people, though founded on prejudice, or, in fact, without assigning any reason whatever, a Presbytery could reject a presentee. This was the *liberum arbitrium* demanded for the Church—the power of acting as she should please, both by her parishes and presentees. It was a demand for a law to put her above all law.

With this demand lurking in the heart, successful negotiation was impracticable. It might proceed a certain length with seeming success, but sooner or later the bubble must burst. The very demand for a non-intrusion measure by the civil power, must have been felt to be to some extent a dereliction of high principle. To be thoroughly consistent, the sole demand made upon the State should have been, a simple recognition

of the Church's unlimited power—a law, not providing for non-intrusion, but simply declaring that there should be no law upon the subject other than what, in each occurring case, might happen to be the will of the courts of the Church; for it was absurd and impossible to entertain the view that the State should pass a law embodying a rule, and yet legislate to the effect that that rule should be observed or not, at pleasure.

In fact, in the sense adopted by the movement party in the Church, non-intrusion and spiritual independence were incompatible with one another. Non-intrusion must limit the independence, and independence must limit the non-intrusion. Spiritual independence ceases, if the Church be compelled to reject the man whom she believes the best qualified for a particular charge. Non-intrusion ceases, if the Church demand the power of ordaining and inducting the man whom she, in the exercise of her own judgment, deems the fittest man. The proposal of Aberdeen was one calculated to combine the highest practicable exercise of both—to prescribe and defend the rights of the people—to define, and, within the ample limits defined, including everything short of the exercise of tyranny and arbitrary power, to uphold and defend the rights of the Church.

Animated by a sincere desire to preserve the Church from threatening ruin, Lord Aberdeen determined, on his own responsibility and without further communication with the Assembly's Committee, to introduce his celebrated bill, "for removing doubts in the settlement of vacant parishes in Scotland." This he did on the

5th April 1840. Copies of the bill were ere long in the hands of many members of the Church, and, had the individual ministers been permitted to exercise their own judgments in the reading and interpretation of the bill, there were comparatively few, we do conscientiously believe, who would not have hailed it as a measure to which, without any compromise of principle, they could submit. To the writer of these pages, who felt himself bound in this, as in other matters, to claim and to exercise the right of private judgment, it seemed, in the circumstances, a measure fraught with good; and, having at the time the opportunity of frequent intercourse with many who had been zealous in defence of popular rights, he states it as a fact that many of those who afterwards strenuously opposed, were, at the first, and while unbiassed by sinister interpretations, satisfied with its provisions, and hailed it as the measure which was to bring peace to a distracted Church.* There were some, in-

* Shortly after the provisions of the bill were known in Glasgow, the author happened to have a friendly interview with a brother clergyman, who has since attained and now occupies an eminent position in the Free Church, at which the merits of the measure were discussed, and approbation of it as a whole expressed by both. So much were we impressed with the conviction that the measure was such as ought to be acquiesced in, that we agreed without delay to put ourselves in the way of meeting with other brethren to explain to them our views, and, if possible, to gain a statement from them of like acquiescence. We set out together for that purpose, but, alas, our efforts were an hour too late. We were just commencing when the orthodox interpretation arrived from the East. It was given by one who spoke with authority—by one whom both my friend and I respected. His interpretation did not alter my views. I retained my own opinion, and have never since seen cause to change it. It was otherwise, however, with my friend; though not in general characterised by pliancy of judgment or want of pertinacity, on that occasion he was mute. The oracle had spoken, and never since that day, I believe, has he viewed the bill with any semblance of favour. Often has he manfully opposed the attempts of innovating bre-

deed, who paused. They could not condemn, but neither durst they venture to approve. They could find no flaws in the provisions of the bill, as far as they understood them, but they were ready to defer to the judgment of the leaders, and they must wait till the authoritative interpretation should be given forth. That interpretation was not long withheld. The bill was found insidious, intruding, and Erastian. The Assembly's Committee had been deceived. Instead of affording protection from the unhallowed interference of the civil courts, the measure only opened up more widely a highway to invasion. It was a mockery and an insult; and the noble author of the bill was publicly denounced as attempting "to hurl the Redeemer from His throne," and "to tear the crown from the Saviour's head."

The violence of those who thus denounced the measure and calumniated its author, tended to render, for the time, a healing measure impossible. The correspondence upon the subject between the Earl and Dr. Chalmers had been still continued, and there was even yet the prospect of a satisfactory result. "The proposed measure of Lord Aberdeen," says Dr. Bryce, "was now admitted by Dr. Chalmers, as allowing the Presbytery to give effect to the popular veto upon the reasons. Of these reasons the Church courts were to be the judges, and against their judgment there was to be no appeal to the civil courts. The sentence was 'to tak

thren in his Presbytery, and Synod, and General Assembly, but never has he regained confidence in his own opinion of the bill, or ventured to moot what at first, and in his own unbiassed judgment, he believed to be the real import and value of the measure.

end' as fully on the question of 'Take on trials or not,' as, under the Act 1567, is the Presbytery's deliverance as to the presentee's qualifications in literature, life, and doctrine; and it might surely have been hoped that there was, at length, no such gulf between them, as to render further approximation and ultimate agreement a matter of very difficult achievement. And when it is recollected that whatever power of rejection, on other grounds than the arbitrary dissent of the people, Presbyteries might then possess, would not, according to Lord Aberdeen's interpretation of his bill, be at all affected, the road to a speedy and harmonious adjustment seemed to be opening up on all hands. Circumstances, however, occurred at this time to cast a shade over these brightening prospects, and to give token that Lord Aberdeen's truly patriotic endeavours to heal the distractions of the Kirk would, for the present at least, be defeated, even after all the concessions he had made, and which Dr. Chalmers was willing to receive. The subject of his bill was taken up by the Synod of Lothian and Tweeddale, which met only a few days before the General Assembly; and the leading members of the non-intrusion phalanx in the Church had an opportunity, which they hastened to embrace, of stating their views and resolutions in regard to it. The proceedings of this very reverend body shewed, that all the concessions made by Lord Aberdeen—all his readiness to innovate on the law and practice of the Church, in order as far as possible to meet the views of the Non-intrusionists—were regarded with anything

but gratitude or candour by those who now ruled the counsels of the Church of Scotland." *

At the ensuing General Assembly, the bill, after lengthened discussion of the subject, was rejected by a large majority; and, on the 10th of July, it was reluctantly withdrawn by its noble proposer.

To that decision of the Assembly we look back with feelings of deep regret. Of course, in these feelings, we cannot expect the sympathy of those who, holding extreme views on the two great questions of the period, felt themselves conscientiously constrained to oppose any measure which did not, in their opinion, make provision for the full establishment of both. But, believing, as we do, that the bill left entire these two principles, as recognised by the Church in her earlier and better days, we cannot but deplore a decision which, had it been different, might have prevented the breaking up of many sacred friendships and the sundering of many holy ties, and secured to the Church of our fathers the services of many holy men, now strangers to our Zion, if not indeed enemies to her peace.

All was done that principle would permit, to disarm the hostility of the leaders of the Church and gain their acquiescence in the measure proposed. The moderate party, though the principle of the bill opposed what had been their practice during a long period of their power, offered no opposition. The noble promoter of the bill intimated to the Assembly, through a member,

* Bryce, vol. i., pp. 189, 190.

his readiness, with respect to certain terms to which special objection had been taken, to withdraw these words, or any part of them, although they had been selected because they were the words of Dr. Chalmers's own motion, in the Assembly 1833: "Such was the desire of Lord Aberdeen to meet the wishes of the Church, as expressed by the Non-intrusion Committee, that he was willing to adopt any suggestion to provide for the spiritual independence demanded, it being always understood that the Church courts acted within the law, and were not guilty of excess of power."

These concessions, however, were all in vain. So emphatically had the measure been already condemned, that men, not of the boldest cast, were afraid to think well of it. A word uttered in its praise was a departure from the soundness of the faith. Many, even of those who had begun to distrust the measures of the leadership, and had assumed the right of judging for themselves, were led, by the very boldness of the denunciations employed, to question the soundness of their own opinions; and the whole controversy, which now had raged so fiercely and so long, had tended to blind the eyes of many to the true nature of those principles which our fathers had maintained. The eyes of many were only beginning to open. They had not yet begun fully to perceive that the non-intrusion and independence now demanded were something essentially different from those principles as contended for of old, and as acknowledged both in the constitution and the practice of our Church in her earlier days. However, the confer-

ences now ended had brought the matter to such a point, that men were in better circumstances to compare the two. The hair-splitting distinctions of the conferrers had fixed men's attention more accurately to the subject than when their minds had been directed only to the enunciation of general principles; and, strong though the majority in the Assembly had been, there were among those who had swelled its numbers, and who had even strengthened the rejection with something more than a silent vote, some who, ere long, were led to question the validity of the grounds on which they had been induced to take their stand, and who soon were brought to the conviction, which they did not fail to express, that the ruin of the Established Church of Scotland was far too heavy a price to pay for the difference between what it had been in their power to obtain, and what it would have been agreeable, and perhaps even beneficial, to demand.

It is by considerations such as these that we are to explain the conduct of some who, at this stage, repudiated a measure in which, with some modifications, at a future period, they found themselves at liberty to acquiesce. In common with too many, they still clung tenaciously to the idea that the legislature must sooner or later yield to what they had not yet discovered to be an ambitious and unreasonable demand. With that conviction, they rejected the less, while they hoped to obtain the greater benefit. Too confident in the judgment, and assured of the purity of the motives of those with whom they acted, they would not look at the true

consequences of the full establishment of those principles to which they had pledged themselves. With these parties the author of "Ten Years of the Church of Scotland" has no sympathy. He can make no allowance for the peculiarity of the circumstances in which they found themselves placed. "Not a few," says Dr. Bryce, "who, in 1843, received the bill of the noble Lord with all manner of thankfulness, had been among the number of those who, in 1840, sternly regarded it as a mockery of the Church and her independence. The reflection is forced upon us by this fact, that, if the ministers of the non-intrusion phalanx, who, on the secession taking place, in 1843, remained within the Establishment, satisfied with the Scotch Benefice Act of that period, had joined with the moderate party, in 1840, in receiving the very same, or a very similar settlement of the question, instead of joining that party in refusing it, the peace of the Church would then, in all probability, have been restored, and the unfortunate events that afterwards occurred would have been prevented. How much of the responsibility of these occurrences lies at the door of these men, is a question that may well be asked. However it may be answered, an instructive lesson may be learned from the conduct of those who, halting between two opinions, where principles are so prominent as to leave no room for hesitation to honest men, see not, after all, how to avail themselves of that 'tide in the affairs' of Churches, as of men, 'which, taken at the full, leads on to victory,' and are deservedly re-

garded as clogging rather than adorning the triumph of the party uniformly consistent and ultimately successful." *

To the sentiments contained in the former part of this extract we do, in many respects, heartily consent. The rejection of the measure in 1840 we cordially deplored. The consent given to it by the party whom Dr. Bryce represented, we considered as a laudable concession for the sake of peace—a magnanimous concession on the part "of many of the most able and well-informed ministers of the Church," who "regarded the bill as recognising a greater *liberum arbitrium* in the Church courts of Scotland than ever was legally vested in them, or ought, in good policy, to be bestowed upon them," but "who did not, however, think it expedient, on that account, to place themselves in opposition to it," † and inasmuch as the bill did virtually condemn what had been too much the practice of the party for many years. ‡

But, from the concluding sentiments of the extract, we, with all deference, dissent. The charge implied in the allusion to principles "so prominent as to leave no room for hesitation to honest men," is not generous, and was uncalled for. It was probably suggested by

* Vol. ii., pp. 22, 23. † Ibid., vol. i., p. 193.

‡ Dr. Cook, in his speech on the call question, in the Assembly 1833, and often elsewhere, frankly admits that the constitutional rights of the people had for a long period been too much overlooked, and that, "for many years the power of Church courts had been practically narrowed, and it had come to be held that, in general, when there was no deficiency of literature, or conduct, or doctrine, a presentee was entitled to be admitted, whatever other objections might be made against him."

the fact, of which, elsewhere, Dr. Bryce seems only too conscious, that these men did avail themselves of that "tide" in the affairs of men "which, taken at the full, leads on to victory." This very circumstance, perhaps, is that which, in the eyes of Dr. Bryce, constitutes the real "head and front of their offending." These men have never yet claimed the honour of "adorning the triumph" of the party whom Dr. Bryce lauds as "uniformly consistent." On the contrary, they claimed the triumph as very much their own; and, while good taste would probably prevent them from speaking of any party as "clogging that triumph," they know that, on the part of a few, that assent was not spontaneous and cordial, which was given to the measure which marks their triumph and secures the great principle, as of old declared by the Church, "that no man shall be intruded contrary to the will of the congregation."

We wish not to defend inconsistency. We were grieved that the eyes of some whom we respect were not sooner opened to the practical results of those extreme views which, for a time, they were led to adopt. But, whether it was that their own opinions were modified, or that the modifications in the measure, as ultimately introduced and carried, were found sufficient to satisfy their conscientious scruples, we respectfully repudiate the insinuations which the Doctor's expressions convey, and we refer to his own, sometimes rather bitter, complainings of neglect of his party by the men in power, in the framing and passing of the Scotch Benefice Act, and to his declaration that "it belongs of

right to a middle party, who appear to have been represented to Government as speaking the mind of the Church of Scotland," * as the best of all proofs that the triumph did not belong to the party whom Dr. Bryce represents as "uniformly consistent and ultimately successful."

The admissions of Dr. Bryce on this matter are of the greatest importance. They clearly indicate the fact that the ultimate triumph belonged to neither of the extremes, but to that party, so often and so much maligned, who, during the progress of the fierce contest, fell back upon the constitutional privileges of the Church, and became, in God's good providence, the instruments of her preservation. At first they were but a feeble band, spurned by many, and distrusted by not a few; but when at length they calmly unfurled their banner, a multitude gradually gathered around it—perhaps, in some respects, a "mixed multitude,"—but a multitude comprising very many on whose character and sincerity the breath of suspicion has never lighted. The quiet movements of men, at first only a handful, attracted the notice of waverers, and of those throughout the Church who, agreeing with them in their views, were only waiting the opportunity of making their sentiments known, and of emancipating themselves from the despotism of an ecclesiastical oligarchy, whose efforts, if successful, threatened to spoil them of their privileges and subvert the Church. Their efforts were successful. The banner which they displayed became

* Vol. ii., p 407

a rallying point. It was the saving of not a few. And although some were tardy in indicating their adherence, and some, indeed, hoping for another mode of extrication, delayed, until the question became "secede" or "remain," it gave encouragement and opportunity to those who, though anxious for what they considered more liberal measures, had never been led to contemplate this new alternative as the question upon which they were to be called on ultimately to decide. A few, indeed, who ventured to the very brink of the precipice, but shuddering recoiled from the leap, and availed themselves of the offered shelter, may, to borrow the figure of Dr. Bryce, have, in the opinion of some, "clogged rather than adorned the triumph of the party ultimately successful." But those who first raised this standard of independence, in spite of partial discouragements, have doubtless felt that they have reaped a glorious reward, in that they can claim some share at least in the peaceful settlement which tends to protect the now acknowledged rights of the Christian people, and which preserved to the Church of Scotland the services of many whose character and attainments would do honour to any Church of Christ.

To this subject we shall have occasion afterwards to recur. Meanwhile, proceed we to note the subsequent progress of the negotiations.

CHAPTER XI.

Other Attempts at Extrication—Duke of Argyle's Bill—Dissatisfaction with Conduct of Leaders—Movement in the West—Sir George Sinclair's Negotiations—Conduct of Non-intrusion Committee—Stand made by Minority of Committee—"The Forty"—Their Position Misrepresented—Occupied Ground of High Principle—"Middle Party"—Probable Reason why Committee Changed their Ground—Case of the Strathbogie Brethren.

THE bill of Lord Aberdeen having been condemned by the General Assembly, and withdrawn by the noble mover, who did not press it to a second reading, the next attempt at extrication of the Church from her pressing difficulties was on the part of his Grace the Duke of Argyle, who, with this patriotic view, on the 6th of May 1841, introduced a bill into the House of Lords.

Of this measure little need now be said. It afforded to its supporters only a passing gleam of hope, speedily succeeded by darkness as dense and distressing as before. Dr. Buchanan indicates the opinion that, had the moderate party, in that Assembly which ensued, expressed anything like acquiescence in the measure, it might have passed the legislature, and become the means of restoring peace to the distracted Church. Doubts may be entertained on both these points. On the moderate side, no one who took part in the discussion gave utterance to any sentiment from which it

could have been inferred that, had the bill become law, they could not have conformed their ecclesiastical procedure to its provisions. But surely it was too much to expect that they should join in petitioning for a measure, against the leading provisions of which they had solemnly protested, and to which, though they could submit to them, they were in many respects opposed. Besides, the majority in favour of the measure being more than two to one, was amply sufficient, had the prospect been favourable in other respects, to have warranted the noble Duke in proceeding with his measure; or, as Dr. Buchanan himself expresses it, "ought to have carried weight in Parliament."

The measure embodied, to a great extent, the provisions of the Veto law: it was in fact that law, with certain modifications. On one point it was more liberal than the Veto, and approximated more nearly to the non-intrusion principle, as held by the leaders of the Church, inasmuch as it did not restrict the right of objecting "to the male heads of families being communicants," but extended it to the "major part of the male parishioners, or members of the congregation." On another, it was less so, and seriously objectionable—providing that, while no reasons of dissent should be required, the Presbytery should nevertheless be bound to judge of the motives of the objectors—one clause of the bill being in the following terms: "It shall in all cases be incumbent on the Presbytery, before pronouncing any final deliverance in the said call, to take such

means as to them shall seem most expedient to ascertain that the dissent of the major part of the male communicants, as aforesaid, does not proceed from factious or malicious motives."

The Duke withdrew his bill before it reached a second reading, and the prospects of the Church were once more as gloomy as before.

Long before this, as already intimated, dissatisfaction with the proceedings of the dominant majority in the Church had been felt and expressed by not a few who had never been recognised as belonging to the moderate party, and who anxiously desired the restoration and full acknowledgment of the constitutional rights of the Christian people. They had consented to some of the early measures of the party now dominant in the Church, under the belief that these implied no violation of the Church's constitution, and no invasion of the civil province. But, during the progress of the contest that ensued—and, in the case of some, at a very early period of that contest—their attention had been more carefully directed to an examination of the principles in question, and to the views entertained by the founders of the Church, and embodied in her recognised standards; and that examination had convinced them that the extreme views now propounded and acted on were unconstitutional and full of peril.

They were convinced that the non-intrusion now contended for, however desirable it might be, was not the non-intrusion of the Church of Scotland; and, while some of them would gladly have united in constitu-

tional endeavours, not merely to check, but to uproot the system of patronage, they believed it to be the duty of the Church to retrace, at all hazards, those steps which, under misinformation, and misled by high authorities, she had taken, and to seek other means of vindicating what she believed to be the privileges of her people.

So long as the hope could reasonably be entertained of a measure being granted by Parliament which might enable the Church to regulate her proceedings without the formal repeal of the illegal Veto, and without hazard of collision with the courts of law, they were contented to remain silent, although there were those among them who believed that the rejected bill of Lord Aberdeen would practically have been, as a non-intrusion measure, preferable to the Veto. That hope, however, they could no longer entertain. Again and again negotiations had been tried, and had failed. The prospect of settlement seemed now as distant as ever. The difficulties of the Church seemed more perplexing every day; and the illegal Veto was the acknowledged source from which they sprung—the Pandora's box whence had been emitted the strifes and contentions, the dangers and threatenings, the interdicts and depositions, which had made a Church, but lately the glory of Christendom, a spectacle to be pointed at by ungodly men with the finger of scorn, and had converted her solemn Assemblies into arenas of bitter contentions, to which eager crowds betook themselves to enjoy the excitement of their stormy debates. The

peace of families was being broken—the ties o friendship dissolved. Practically, non-intrusion had been offered—non-intrusion to the full as liberal as had at any period been enjoyed. The contest was for an abstract principle, in itself of no value and no importance, except as practically applied, but to which, in a novel sense, the Church had unwittingly committed herself, and from which her leaders thought she could not by a hairbreadth resile without sacrificing her valued independence. This was really the secret of the contest; and the views of her leading men on this point had now so distinctly developed themselves, that many who had endeavoured to shut their eyes to the fact could no longer resist the conviction, that to satisfy their full demands would be to establish a system of spiritual despotism—a system at least which, if duly developed, would amount to nothing less. Their demands, indeed, were, to this extent, inconsistent with themselves—that they had sought from the legislature a non-intrusion measure which should bind and regulate their own proceedings in all time to come, while, at the same time, they repudiated whatever might hinder the Church from at any time "adjusting alike her creed and her administration" according to her own views—that is, they sought a non-intrusion enactment by the civil power to regulate their proceedings as an ecclesiastical body, while at the same time they claimed the inherent right of regulating these matters as they might choose; or, yet in other words, they petitioned for a measure which should clearly limit their spiritual

independence, while yet they demanded that that independence should remain inviolate.*

These topics had long been made the subject of frequent and earnest conversation among a number of the clergy in the west of Scotland. As individuals they had determined to take no share in the doings of that party who now ruled the affairs of the Church; but it now appeared to several of them that the time had come when it was their duty to make their sentiments publicly known, believing, as they had reason to do, that these sentiments were entertained by many throughout the Church. They would probably have preferred a movement in their several Presbyteries for the repeal of the Veto, which they believed to be the

* The Duke of Wellington's statement, in his communication to Lord Aberdeen, has been often quoted, and referred to with approbation, by the leaders of the movement party. "In the exercise of this exclusive power," says the Duke, "particularly of those branches thereof which have relation with the municipal power of the State, it is very desirable, and not inconsistent with former practice, that the Kirk should state clearly the rule which it is proposed to adopt, that that rule should be made the subject of an Act of Parliament, and should regulate all such questions in future." "It is plain," says Dr. Buchanan, "that the Duke, with that almost intuitive sagacity for which he is so remarkable, had mastered the true theory of the Church and State system of Scotland." We believe he had. But after an *Act of Parliament is passed to regulate all such questions*, where is the ideal independence of the Church, and her right to adjust her administration as she may see meet? Who is to interpret the Act? If the Church violate the Act, and refuse to regulate all such questions by it, must the civil power stand by and see its solemn Acts treated as so much idle sound? We assert that if it be no Erastianism in the State to pass such an Act, it can be no Erastianism to enforce it. The intuitive sagacity of the Duke would never contemplate the passing of an Act to be observed or not, according to the pleasure or caprice of those whose proceedings it was to regulate. The idea is absurd; and the idle invention about "civil effects," and "fruits of the benefice," was worthy only of men who would attempt to reconcile impossibilities—who felt that they were put to their shifts, and were ready to catch at a straw for help.

first step requisite towards a satisfactory extrication of the Church from her present difficulties—but that they considered would be a hopeless attempt. Though many agreed with them in sentiment, matters, they felt convinced, were not ripe for such proceedings. Such attempts would have produced only a series of defeats, and would have injured rather than benefited the object which they had in view. They were aware that there was a widely spread dissatisfaction with the proceedings of the men in power, but few, they knew, would be bold enough individually to encounter the storm of obloquy and ridicule which such scattered endeavours would call forth, together with the anticipation of probable defeat. They knew that it required the charm of numbers, and the consciousness of ready support, and some likelihood of success, to bring men, in such circumstances, up to the point of boldly declaring their sentiments. Many would shrink from putting forth individual and unsupported efforts, who would willingly take their share in a movement in which numbers were united. And they knew, moreover, that the great argument employed to check any incipient symptoms of dissatisfaction or distrust, was, that if only no such symptoms were permitted to become visible, ultimate triumph was certain—an argument, the futility of which they were convinced of, while they knew that its success was great in producing outward quiescence where much inward murmuring prevailed, and an argument of which, by their movement, they hoped to deprive those who employed it to keep under thraldom many who were groaning to be free.

In these circumstances, after earnest private conference, and with a view to pave the way towards a movement in the Church courts, where individual effort should be strengthened by the consciousness of sympathy and aid, and by a better hope of success, a meeting of ministers connected with the Synod of Glasgow and Ayr convened in Glasgow in September 1841, and drew up a "Declaration regarding the Veto Act," expressive of their firm conviction that it was the imperative duty of the Church to repeal that obnoxious statute, and their determination, "by every proper effort, to procure its speedy abolition." *

The "Declaration" was immediately printed and circulated to a considerable extent. Although some, who had not scrupled to express their dissatisfaction with the measures taken by the leaders of the Non-intrusion party, and their opinion that the Veto law was untenable and ought to be expunged from the statute-book of the Church, refused their concurrence at the time, yet a goodly array of signatures was speedily appended. The effort promised to be successful in the chief object which its promoters had in view. It was in the course of signature by ministers throughout the Church, when it became understood that the Government, then newly entered upon office, were about to introduce a healing measure. "The consequent negotiations between the Government and the Non-intrusion Committe in Edinburgh—which, for a time, all were induced to believe,

* This Declaration was subsequently published by the late Rev. Mr. Morren, in his "Church Politics," pp. 13, 14.

would be effective, and which some still confidently hold might have been so, without the smallest sacrifice of principle—brought the matter to an end." *

We have now to advert to these negotiations and to their result.

Although the Duke of Argyle had found it necessary to withdraw the bill which he had introduced in the House of Lords, his Grace, at an interview held with the Non-intrusion Committee in Edinburgh on the 16th July 1841, indicated his determination to re-introduce it at the beginning of the ensuing year. Meanwhile, as soon as the new Government was formed, a large and influential deputation from the Committee waited on the Premier, and laid before him a statement of the case of the Church. Sir Robert Peel gave them no encouragement. "That man," said Dr. Gordon, chairman of the deputation, to one of the members, as they came out from the interview—"that man will never sanction the independent jurisdiction of the Church." The venerable chairman was right. Neither that man nor any

* It is scarcely needful to remark that this movement was long previous to and could have no immediate connexion with the movement of the "Forty," which had direct reference to the scheme of adjustment proposed by Sir George Sinclair. The author, who had some slight connexion with both movements, but especially the former, failed in his application to several in behalf of it, who afterwards took a leading part in the efforts of the latter. It required the development which occurred in the negotiations connected with Sir George's famous "clause" to arouse them fully on the subject. We bear them witness that they were sincerely attached to the cause which the leaders had espoused, and were only driven from their adherence by a conviction which they could not resist. They yielded step by step, fighting every inch, until at length, contrary to their own cherished feelings, they found themselves, by the stern demands of conscience, removed to such a distance from those with whom they had associated, that adherence was impossible.

other statesman of note, of whatever political views, had ever ventured to indicate the hope of granting *such* independent jurisdiction as the party now demanded.

It was not, as they so often alleged, that these statesmen could not be made to comprehend the nature of the question, and the extent of the demand. These they understood full well. They must have been dull indeed, if they did not, after the means which had been taken to enlighten them. It was one of the marvels of this strange controversy, that the leaders entertained the belief, and reiterated it throughout, that they could not indoctrinate the legislature into their views, nor, by all their efforts, get men of understanding to comprehend their meaning. The delusion was a strange one. These men understood the subject thoroughly. They could not, indeed, reconcile contradictory dogmas. But they had thoroughly mastered the questions in dispute. They knew the nature of the demands made upon them. They knew the consequence to which, if granted, these demands might ultimately lead. These the history of the past declared. And when the subject came at last to be fully discussed in Parliament, their lucid statements undeniably indicated that they had given it the most minute and painstaking attention—that they had grappled with, and grasped, and mastered the whole subject, and understood it in all its bearings, better far than many whose professional prejudices, or whose habits of partial pleading, had led them unconsciously to take a one-sided view of the questions in dispute. There was, however, no even plausible way of explain-

ing the uniform rejection of the Church's claims by the most able men of every political creed, except by insinuating that the subject was not understood by them; and many a devout follower accepted the explanation, and believed that the questions were too sacred and spiritual to be comprehended by men of the world—belonging, in short, to those things which the world cannot understand.

Such was the position of affairs when Sir George Sinclair, a friend of the Church, and one who had shewn great interest in the cause of the people's rights, perceiving the imminent danger to which the Church was exposed—for obviously her very existence was now threatened—proffered his mediation between the contending parties.

We need not detail the preliminary steps of his benevolent negotiations. Though interesting enough, and indicating very clearly the patriotic and Christian zeal of the negotiator, we pass them over as not necessary to our full understanding either of the enterprise or its results. Dr. Buchanan refers to the negotiation as "an incident which, for some time, involved the Committee in very considerable embarrassment and perplexity, and which, in its indirect results, materially injured, and ultimately destroyed, the Church's prospects of a peaceful and satisfactory settlement." *

To the former of these statements we assent. It was the occasion, as will afterwards appear, of involving the Committee in much embarrassment and perplexity.

* Vol. ii., p. 463.

To the latter we demur; 1st, because, at the time, the Church had really no prospect whatever of a peaceful and satisfactory settlement, nor, as far as can be seen, ever would have had, so long as those who then guided her affairs retained their undisputed influence; and, 2d, because a peaceful and satisfactory settlement was actually obtained, and because its attainment was, to some extent at least, aided by that same embarrassing and perplexing incident.

Taking as the basis of his proposed settlement the bill of Lord Aberdeen—which, as former negotiations indicated, might, by a very simple modification, or addition, or explanatory clause, be rendered acceptable to the Committee to this extent, at least, that, while it was not the measure which they would themselves propose or prefer, it, nevertheless, was one to which they could conscientiously submit—Sir George suggested the introduction of a clause in one of the sections of the bill, which, in the sense above explained, did meet the approbation of the Committee. To prevent mistake, we give the clause as quoted by the Committee themselves, in the following extract from their minutes:—

"1*st October* 1841.—The Committee had under their consideration a proposal relative to the bill of Lord Aberdeen, to the effect of its being modified by the introduction of the following clause in section 2, after the words, 'reasons or objections,'—viz., 'or in respect that the said reasons or objections, though not in the judgment of the Presbytery of themselves con-

clusive, are entertained by such a proportion of the parishioners as, in the opinion of the Presbytery, to preclude the prospect of the presentee's usefulness in that particular parish.'"

Such was the celebrated, or, as Dr. Buchanan styles it, "the memorable and miserable clause"—"memorable" assuredly to many, and "miserable" to not a few.

It was presented to the Committee, in the first instance, simply in the shape of a private and unauthorised suggestion, and, when so presented, was very properly viewed with extreme caution, the Committee not feeling "themselves at liberty to give any reply to an application of this nature not sanctioned by Government." Even when so presented, however, the Committee must have given it their serious attention, for in their instructions to their secretary, then in London, and authorised to act in their behalf, while they fail not to speak of the bill thus modified as still "so defective and objectionable, that the Church could never undertake the responsibility of proposing it as her own," they nevertheless indicate their opinion that such a measure must, in so far, "be a great benefit to the Church and to the country." Moreover, they suggest a change in the wording of the clause, "for the purpose of accomplishing the object intended," thus, in a certain sense, adopting it as their own. And they further instruct their secretary that, "if it shall appear that this is the only measure which those in authority are willing to grant, and that they are prepared to grant it immediately, the Church, while she could not regard

it as an adequate settlement of the question, *might, and certainly would, consent to act under it, and to accommodate her ecclesiastical procedure to its provisions.*"

These are intelligible statements, and need no commentary. Speaking *in the name of the Church*—such is the authority delegated to or assumed by the Committee—they declare the bill, modified by this clause, though they would prefer a slight change in the expression, to be such that the Church might, and certainly would, consent to act under it.

Ere long, through the exertions of the negotiator, the proposal is submitted somewhat more in an authoritative and official manner, in the form of a question suggested by Sir James Graham. The question is now formally put—"Whether, in the event of a proposal coming from her Majesty's Government, based on the clause, . . . the Non-intrusion Committee will accept it as a final settlement."

To this question a distinct reply is given. The Committee, "in the event of its being found that her Majesty's ministers have no intention to bring forward any larger and more acceptable measure, ... authorise Sir George Sinclair to intimate to the Government the conviction of the Committee, that the Church could conscientiously act under the measure as modified in terms of the adjustment which Sir George Sinclair has proposed—viz., the insertion of the words suggested by Sir George Sinclair into the second clause of Lord Aberdeen's bill; that the Church would accommodate her ecclesiastical procedure to the provi-

sions of such a measure; and further, that the Church would regard it, if immediately obtained, as a great boon." . . . "The Committee are desirous of suggesting, that for the purpose of fully accomplishing the object intended, this measure may be framed in such terms as the following:—'Or in respect that the said reasons and objections, though not in themselves conclusive in the judgment of the Presbytery, are entertained by such a proportion of the parishioners, and entertained by them so strongly as to render it, in the opinion of the Presbytery, taking into account the reasons and objections as aforesaid, and the degree to which they prevail, inconsistent with their duty, or with the spiritual interests of the parish, to proceed with the settlement of the presentee as minister of that particular congregation.'" * Words could not have more explicitly declared the willingness of the Committee to accept or to submit to this measure than those which they themselves employ. They would, no doubt, have preferred another. That they repeat again and again—so often, indeed, as to suggest the suspicion that they required the reiteration to calm some rising misgivings, and to satisfy either themselves or others that, notwithstanding their giving up of their favourite dogma of non-intrusion as by themselves explained, they still were sound at heart. Nor, indeed, is this to be wondered at. *They had abandoned the dogma.* They—"the Church"—had consented to substitute the Presbyterial for the popular Veto. Dissent without reasons was given up. How-

* Minutes of Committee, 2d October 1841.

ever strongly, and by how many so ever of the parishioners, objections were entertained, the presentee might be settled, if in the opinion of the Presbytery it was not inconsistent with their duty to proceed with the settlement. Such is the undeniable bearing of their own clause quoted above. Ingenuity tries in vain to deny it. The Committee framed "this miserable clause." They were ready to accept the measure as a "great boon." They expressed their obligation to Sir George Sinclair, and "their cordial wish that his negotiations may be brought to a speedy and successful termination."

One strange condition had been inserted by the Committee in their negotiations with the Government, viz., that the bill should be carried immediately through the legislature, before the rising of Parliament, a few days only intervening for that purpose. The reason of this somewhat curious condition it is rather difficult to divine. Was it that the measure was considered, *in the circumstances*, so good, that the Church could not have the benefit of it a day too soon? Partly so, we think. Was it that the bill was, after all, like some nauseous though salutary drug, which, when one must swallow, he shuts his eyes, and does so with all possible haste, congratulating himself that the deed is done? Partly, we suspect. Was it that the Committee, driven to their shifts, wished the deed irrevocably settled before there should be time for their constituents to express dissatisfaction, as some, no doubt, would be inclined to do, and leaving explanations to be given when the measure

should be fairly passed? Perhaps so, to some extent. But whatever the motives may have been, that strange condition did good service to the Committee. That saving stipulation could not be fulfilled, in consequence of the impending prorogation of Parliament; and so, in the meantime, the negotiation fell necessarily to the ground; the Government on the one hand, and the Committee on the other, being left at liberty respectively to change their position, if either should see cause.

It is to be observed, however, that though this negotiation was thus, in the meantime, terminated, no indication was given of any wish on the part of the Government to resile from the measure proposed, or to withdraw the clause to which the Committee had given their concurrence. The Government and the Committee had parted on the most friendly terms. It was understood that the measure was still within the Church's reach, although the Committee were now at liberty to withdraw their concurrence, if they should see meet, and to endeavour to negotiate for what they might consider a more liberal and satisfactory settlement. Nor had the Committee as yet indicated, on their part, a wish to resile or to refuse the terms proposed; for in a memorandum to Sir James Graham, dated 8th October, drawn up "to preclude the possibility of future misunderstanding on either side," while, as before, they distinctly declare their preference for another mode of settlement, and state regarding the one proposed, "that while it would have the effect of allowing those who hold the principles now maintained by the

Church to act in every case according to their consciences, ... it does not adequately carry out the principle of Non-intrusion in its full import." . . . . And, "while it must ever be the Church's wish to give the utmost possible attention to any proposal of her Majesty's Government, she cannot take the responsibility of originating or recommending as her own the measure recently suggested."

These are very important statements, indicating clearly the facts that, as formerly agreed to, the Committee, though they would not themselves propose or originate such a measure, yet could conscientiously accept it; and also that they could accept it, while they were quite aware "that it did not adequately carry out the principle of Non-intrusion in its full import."

Such, then, was the state of matters in October 1841. Hope had begun to dawn. After a long and troublous night of sorrow and danger, the streaks of morning seemed beginning to appear, and men had begun to hope that the clouds and darkness were passing away. Peace, it was hoped, might now be looked for, and the return of charity and brotherly love,—peace to disunited families,—peace to anxious congregations,—peace to distracted Presbyteries,—peace to the Church. Alas! the hope was vain. The end was not yet. The evils which had gone before proved to be only the beginning of sorrows. A raging sea had yet to be passed through ere the haven could be reached. A time of bitter tribulation was yet to precede the day

when there should be peace within Zion's walls, and prosperity within her palaces.

It is with deep sorrow that one looks back to disappointments such as this, when the gleam of promised security and confidence gives place to the darkness of danger and distrust. But other feelings besides that of sorrow are awakened when we demand the cause. Few would like to be charged with so heavy a responsibility. If an opportunity was now presented of settling existing differences, blame lies at the door of those who, whether from pride, or obstinacy, or mistaken principle, or ambition, or any other cause, refused to embrace, or rather destroyed, that opportunity, and blasted the gladdening prospect which was opening to view. To them must, in a great measure, be ascribed the desolations of Zion which ensued—the rancour and evil-speaking—the breaking up of sacred friendships—the deep distress which rent so many hearts—the jarrings and distrust introduced into so many family-circles—the separations from their flocks of so many devoted ministers—the deplorable schism in the Church of our fathers. We envy not the feelings of the men whose consciences, despite of flattering unctions, may uneasily whisper, "We are the men." And, on the other hand, we cannot but congratulate those whose memories can recall any efforts on their part, however feeble, to prevent so disastrous an issue.

To whom, then, is this sore evil to be ascribed? Is it to the Government of the country? The Government indicated no wish to modify or to withdraw from

the terms agreed upon. It was with difficulty that they had been induced to yield so much, but never did they retract.

Is it to the moderate party in the Church? As a party they were not consulted, and they made no movement in the matter. They did not, indeed, approve of the measure, believing that it put too much at the disposal of the Church courts, and might lead to the exercise of tyranny. But this was the first concession which the opposite party had ever consented to make, and they did not resist the compromise.

Is it to the "middle party?" That party had not yet appeared upon the field. As individuals, many of them had long since taken up their ground; but it was after this deed was done that the efforts of that party were specially called forth, to prevent, if possible, its mischief, and to restore the hope which it was threatening to destroy. The deed was the deed of the Non-intrusion Committee.

On the 31st December 1841, the Committee came to the conclusion that the measure, which in the preceding October they had declared their willingness to accept, was inadmissible.

At a conference of a deputation of the Committe with the Solicitor-General, held on the 28th December, Dr. Candlish demanded a measure giving to the Church courts "absolute power to refuse to settle the presentee, on the specific ground of the continued unwillingness of the people to receive him, without regard to the reasons assigned." Dr. Gordon explained "that if reasons

were stated, and that, after dealing with the people, these reasons were abandoned or removed, but that the aversion (or *unwillingness* to receive him, in contradistinction from *reasons*) remained, the Presbytery should have power to refuse to settle the presentee."

At their meeting on the 31st December the Committee homologated these views, solemnly finding, that a measure expressed in equivalent, if not the very, terms prescribed by themselves in October, and repeated by them again and again, "cannot be regarded as admissible." And again, on the 12th January 1842, when called on to reconsider their finding, and moved to rescind their resolutions, they, by a large majority, as before, adhered to the same.

An attempt was made to shew that a new interpretation had been put on the terms to which the Committee had agreed in October, and that that new interpretation now rendered the clause inadmissible. The attempt was not successful. A comparison of the terms of the clause, as proposed by Sir George Sinclair and as amended by the Committee themselves, with the terms of the motion made by Dr. Simpson at the meeting on the 30th December, shews that no new interpretation had been adopted. The simple truth is, that between October and December the Committee had changed their views. They had indeed for some time indicated a "disposition to be quit of the negotiations of October altogether." * No doubt they were

* These are the words of Mr. Hog of Newliston. They remind us of the statement of Dr. Chalmers, in his correspondence with Lord Aberdeen,

fully at liberty to do so if they saw fit; but it became them, in that case, to admit that they had changed, and not to profess that their views remained unaltered, and that those who opposed them had taken up new ground. We have difficulty in understanding how the view could be taken up and held, that a bill providing that a presentee might be rejected, "*in respect of reasons or objections being entertained* by such a proportion of the parishioners as, in the opinion of the Presbytery, to preclude the prospect of his usefulness," ever could mean "rejection, on the specific ground of unwillingness, *without respect to the reasons assigned;*" or, to adopt the form of words suggested by the Committee themselves, "that in respect of reasons or objections being entertained by such a proportion of the parishioners, and entertained by them so strongly as to render it, in the opinion of the Presbytery, *taking into account the reasons and objections as aforesaid*," could mean, "without *respect to the reasons assigned*." This we cannot understand, and that the more especially, that the Committee had themselves in October admitted, that the bill which they were ready to receive then, "as a great boon," "did not adequately carry out the principle of Non-intrusion in its full import, or in a manner fully congenial to the character and constitution of the Church."

We can come to no other conclusion than that the

that, during the progress of the negotiation, he had with uneasiness perceived, on the part of the Committee, "a tendency to rise in their demand."

views of the Committee had undergone a change. They had done so more than once. In October they had undergone a change, when "they could conscientiously act under a measure" which "did not adequately carry out the principle of Non-intrusion." And before the 20th of December they had undergone another change, when they could no longer regard the same measure as "admissible." And thus, again, under the new light which had dawned in December, or rather the old light, which, after several flickerings, had been extinguished, but now began to beam forth afresh, the Committee resolutely returned to their old position, determined either to obtain what they had already asked in vain from successive administrations, and what there was not even the most distant prospect of obtaining, or to sacrifice to their own already damaged consistency the venerable Church of their fathers.

Meanwhile there were those within the Church, and including many who were not less attached to the cause of popular rights than were these leaders themselves, who were not inclined to follow the Committee in their gyrations, and, since they considered the proposed measure admissible, preferred the conscientious views of the Committee in October, to the conscientious views of the Committee in December. Symptoms of the coming change had been observed by some of these before the Committee had found it necessary formally to stultify themselves, and, having never concealed their readiness to concur with the Committee in their October views, they felt averse to share in the

stultification. But they were actuated by higher motives than a mere regard to the opinion of others. They believed that the Church of their fathers was exposed to imminent danger—that her very existence was in peril—that an opportunity had, in the providence of God, been presented of averting that danger—an opportunity which might never again occur, for the dangers were necessarily increasing every hour; and when they saw those to whom the management of affairs had been entrusted refusing to avail themselves of it, or rather shutting the door which Providence had opened, they determined, without delay, to use their utmost endeavours to prevent so fatal a result.

In the Committee, too, there were some who manfully adopted and adhered to the same course. Dr. Simpson, followed by Mr. Hog of Newliston, and Mr. Bruce of Kennet, refused to sanction the majority's repudiation of the proposed measure, Dr. Simpson recording his dissent from the Committee's resolutions. We honour him for his resolute stand, made in a matter of such importance, and for his repeated though unsuccessful endeavours to induce the Committee to reconsider and to rescind these resolutions. His "Statement in reference to the Division in the Non-intrusion Committee," contains an interesting and able exposition and defence of the views held by the minority on the matter in dispute, and, along with the extracts from their minutes, published by the Committee themselves, furnishes us with all that is necessary to arrive at a correct opinion on the subject, and

to rebuke the conduct of those who would trifle with a matter so momentous, and peril the existence of the Church on what most unprejudiced men would consider not a matter of principle, after the concessions made, but a paltry metaphysical quibble, impalpable except to the touch of men whose morbid sensitiveness had been increased by over-exertion in fruitless negotiations and by oft-repeated disappointments, and in whose minds, from excessive contemplation of the one absorbing theme, the accidental had assumed the importance of the essential, and little trivialities the magnitude of lofty principles. The point of difference between the majority and minority of the Non-intrusion Committee, when brought to the test, amounted to nothing more "than that residuum of objection, aversion, or dislike, which remains after the cause or ground for it is confessedly given up." * Nay, it was something less, if possible, than even this; for, according to the acknowledged principles of the majority, as supporters of the Veto law, even from this residuum might be abstracted all "causeless prejudice," so that the point on which the Committee was determined to embroil the Church afresh, and peril her very existence, was that residuum of dislike which remains after the grounds for it are given up, minus all causeless prejudice, which, if it be not a metaphysical figment, approaches so indefinitely near it, that the analysis of even the acute schoolmen of the middle ages could, we fear, scarcely detect it.

* Statement by Dr. Simpson, p. 8.

Such were the circumstances in which one division of those afterwards denominated the "middle party" felt themselves called on to take up a distinct position. A section of that party, in the Synod of Glasgow and Ayr, subsequently known as the "Forty," were among the first to take their stand, convinced that an opportunity had presented itself of extricating the Church from difficulties, which, if much longer continued, must lead to most ruinous consequences; and that, from whatever motives, those who had been entrusted with the management of affairs were casting that opportunity from them. They had reason to know that there were very many throughout the Church who entertained the same conviction, and they resolved, by making their sentiments publicly known, and by communicating with others who were believed to agree with them, to endeavour, if possible, to prevent the mischief which was imminent. Perhaps their first hope was that possibly they might induce the majority of the Committee to reconsider, and peradventure to rescind, the strange resolution to which they had come, and to revert once more to the position which they had conscientiously occupied in October. But, at all events, they were resolved to wash their hands of the responsibility, and to absolve themselves from all share in the consequences which might flow from the steps which the Committee had taken.

Men of various shades of sentiment were connected with this movement. There were men of anti-patronage views, and some who would have preferred a modi-

fication of the Veto Act, and some who would willingly have accepted the first bill of Lord Aberdeen—the bond of the party being simply a conscientious conviction that the modified bill was a measure which the Church could accept, though none of them perhaps would have asserted that the bill was that which they would have individually preferred. Many, perhaps most of them, would, at the time, have preferred such a measure as the majority of the Committee would have chosen, had that been within their reach. But, as they saw no grounds whatever for expecting such a measure, while they could, without the slightest violation of their consciences, accept of the other which they believed to be obtainable, they determined boldly to say so, even at the risk of incurring the awful frown of those who called themselves "the Church." They were grieved—many of them were indignant—at the conduct of men who, they believed, were trifling with momentous interests—occupying themselves with the amusement of splitting hairs, though the price of the entertainment might be the ruin of the Church of Scotland. They did not feel themselves at liberty to conceal their sentiments. They could not do so. Silence would have been consent—consent to a declaration that a measure which they held to be a safe one was not safe—that a measure which they, in common with the Committee in October, believed they could conscientiously accept, was one which they could not conscientiously accept. This they could not and they would not do. Perhaps it was presumption

in them to venture to form a judgment in the matter at all: or at least to give utterance to the judgment when formed. Many thought so. Their spirits rose in virtuous indignation at the boldness of the step. What might not happen when men, professing to hold the Non-intrusion principle, ventured to question the infallibility of the Non-intrusion Committee! The "Forty," it appears, did not think so. There were some among them who had temporary misgivings. It was a new thing for them to venture on the exercise of so great a right: but then the facts of the case had become so notorious—the change in the views of the Committee was so palpable—that the spell was broken. A glance at the facts reassured even the most diffident. The fascination was dissolved, the charm was over; and even those whose veneration for the rulers was the greatest, took courage, and felt their judgment strengthened, when they reflected, that the measure which their consciences told them they could accept, was the very measure which a unanimous Committee declared to the Government in October would be considered "a great boon."

Such was the origin—such the position of that party whom it has been too much the fashion to represent as a weak and disreputable faction, who, having meanly compromised important principles, perplexed the counsels of the Church, and by their efforts—which some charitable persons allow may have been well intended—precipitated matters so injuriously that extrication became impossible. Now what they did was simply this.

"They declared that the measure in question was one to which they could conscientiously submit; the front of their offending was this—that they ventured to profess, in the month of April 1842, what the Non-intrusion Committee had professed in the month of October 1841."

Those who feel themselves at liberty so freely to condemn that party might perhaps at least modify their judgment if they would only consider that, but for the circumstance of the rising of the Parliament, the occurrence of which rendered *immediate* legislation impossible, the Church question would have been finally settled, *with the full concurrence of the Non-intrusion Committee*, ON THE VERY TERMS *which the party in question are blamed for saying they could accept.* Such is the fact, and it is an instructive one. We need not speculate on the interpretation which, in that case, would have been put upon the "miserable clause." But what would have become of the men of high principle, who would so soon have been led to the discovery that the clause was noxious, and that, on conscientious grounds, it ought to have been rejected? Would they have repudiated the settlement, and refused submission to the law, and arranged an exodus of their own without the Non-intrusion Committee, leaving them in Egypt to do their best with the oppressors and taskmasters, and the miserable remnant who were so blind that they could not see the tokens of their bondage, and so hardened that they could not feel the galling of the fetters which bound them? Or would they indeed have discovered that the measure could after all be

admitted? or rather would they, in that case, never have been led to the discovery that there was any reason why it should not be admitted? To speculate on this point is needless; but the fact that there is such a point to speculate upon might suggest some lessons both of humility and charity.

The party referred to cannot be justly blamed for adopting the position which formed the common ground among them. Individuals may have connected themselves with it who had gone so far in that direction to which the leading innovators pointed, that some may be ready to challenge their consistency, and to regard them as having deserted a party to which they had professed allegiance. But no man surely is bound to put implicit faith in any leadership, however skilful—to call any man master in such a matter—above all, to take up and abandon positions on the alleged ground of conscience, when his own conscience distinctly refuses to concur. Nay, no man who valued the rights of conscience, if he really held with the Committee in October, that the measure proposed was admissible, could, unless *his* convictions also had undergone a change, declare, with the Committee in December, that the measure was not admissible. There was not only an opportunity afforded to withdraw from the ranks, if the man chose, but, holding this conviction, he was bound to do so. If he continued his adherence to the party, by so doing he virtually declared that, in that matter, he believed the leaders right; whereas in his conscience he believed them wrong. In such a

case a man of principle had no choice. The very existence of the Church was in danger. Every man was imperatively called on to make up his mind as to whether or not *the only attainable measure* was such as could with a clear conscience be submitted to. Those who adhered to the majority of the Committee declared that it could not. All who believed that it could were bound to say so, as they valued their own convictions, and loved the peace of Zion. To have done otherwise would have been to sacrifice conscience to a fancied consistency, and, from fear of reproach and obloquy, to stifle the remonstrances of the monitor within. It had been well for the peace of mind of some at this time not to have trifled with their solemn convictions. There were those who in their hearts believed that the measure was such as could safely be submitted to, but, not having moral courage enough to state their conscientious views, silently concurred in its condemnation. Had the fear of man been less, and the strength of real principle greater, the ranks of the middle party would have been even more crowded than they were, and some would now be in the enjoyment of true freedom, who, alas! are fain, we fear, to content themselves with the name.

It is not, however, with the consistency of individuals that we have to do. In the progress of such a controversy, many must necessarily be exposed to the charge of inconsistency. But looking to the party and to the position which they took up, we assert that the ground which they occupied was the ground of high principle,

and that they were, as a party, wronged and misrepresented by those who, looking at the isolated acts or early professions of a few, ventured to brand the whole as a company of renegades. We maintain that, in their public movements, they acted the part of consistent and Christian men. They had ceased to have confidence in those who had taken the management of affairs; and they did not scruple to say so. They disagreed with them; and they said so. They refused to veer about when matters of conscience were concerned. And if, indeed, there was any presumption in their venturing to state their conscientious views on a point in which all were equally interested, in opposition to so high authority as that of the majority of the Non-intrusion Committee, the answer on their behalf is twofold: that, in a matter of conscience, they had learned, as Protestants, to call no man master; and that they were acting in a spirit of true obedience to an authority higher than that of any committee—the authority of the preceeding General Assembly, which had given forth this solemn resolution, "That the present difficulties of the Church of Scotland are of so serious and alarming a character, that a measure fitted to put an end to the collision now unhappily subsisting between the civil and ecclesiastical authorities, in reference to the settlement of ministers, *ought to unite in its support all who could conscientiously submit to its operation, if passed into a law.*" *

* This resolution was moved by Dr. Candlish, and adopted by a very large majority.

It has been insinuated that the movements of this party, and representations which they are supposed to have made to the Government of the country, blasted the hopes entertained of a more liberal and satisfactory measure, by leading the Government to believe that the threatened secession would prove but trifling, and that therefore there was no urgent call, on that ground at least, to concede such a measure as was claimed.

If the movements of the party were the means, under Providence, of preventing the innovating majority from obtaining their full demands, a debt of gratitude greater than we supposed is due to them by the Church and by the country, inasmuch as they, according to this view, prevented what we do firmly believe would have been the establishment of such a system of spiritual despotism, as this enlightened nation would not long have tolerated. This country is not likely ever again to submit to "golden periods of the Church." But the charge, we believe, is without foundation. No Government would have granted, nor durst have granted, such independence as was claimed. And as to a more liberal Non-intrusion measure, on what reasonable or even plausible grounds did the expectation of it rest? All previous negotiations on this subject had failed. There was at one time some prospect of patronage being either abolished or modified, but the zeal of the Non-intrusionists had destroyed that prospect. The Veto, as we have seen, was introduced to uphold the system of patronage, and it did uphold it. For a brief period there was a gleam of hope, when the then existing Govern-

ment, having been virtually committed to the Veto, seemed inclined to legalise it. It was but a gleam. Darkness succeeded. Another gleam gladdened our longing eyes, when a correspondence was opened with the Earl of Aberdeen; but the Committee soon extinguished it. Attempt after attempt was made, and each one proved a failure. Too long experience had amply proved either that the negotiators were incompetent, or that no Government—be it Liberal or be it Conservative—would concede their demands. That was the lesson which experience had plainly taught. Besides, there was now no time for delay. Difficulties were hourly increasing. The Church was destroying herself. The sole ground of hope was this, that provided only the Government could be brought to believe that, in the event of the Church's demands not being fully conceded, a very large secession would take place, or rather that the Church herself would dissolve her connexion with the State,—to prevent an evil so ruinous they would surely yield. Till the last this delusion was clung to. It was not admitted to be possible that any Government durst incur so great a risk. In that belief the party took the fatal plunge. Many did believe that to declare their firm determination to secede would be the sure and the only means of preventing the necessity of seceding. Alas! they were caught in their own snare. But so completely had the delusion taken hold of the minds of many—so utterly were they taken by surprise when they found that even a paternal Government had not interposed to prevent the suicidal act—that even

after they had appended their names to the deed of separation, they could not persuade themselves that they really had seceded. Nay, and not a few were so utterly confounded at the issue, and so firmly persuaded that the Government must give way, as to express a conviction that they would be speedily recalled, and that the frail wooden erections, which had been hurriedly got up to accommodate seceding congregations, would outlive the period of the secession, and see them all brought back in triumph to the temples which others had dared to occupy.

Hopes, founded on that delusion, were the only hopes which, at the time referred to, the movement party could cherish. If any real grounds existed, they have never been declared. Like the dog in the old fable, who, by snatching at the image of his prey in order to secure a double portion, lost even that which he might have brought in safety to the river's brink, so had the Committee, by abandoning a measure which had been put within their reach, been left, for aught that ever has appeared, in circumstances of as utter destitution as any in which they had ever been since the controversy had begun, and with this untoward and damaging circumstance in addition, that, in the eyes of the Government, and the country, and the Church, they had exhibited a tendency to vacillate, having now twice shifted their ground.

It was in these circumstances that this party stepped in. They simply took up that position which the Committee had previously examined and declared to be

tenable ground. On that ground they stood, convinced that the Government were not less anxious than the Church that a safe and honourable settlement should be effected. The result shewed that their convictions were not unfounded. A safe and honourable settlement was obtained, which left the Church in the full possession of all the privileges which she had ever enjoyed, and the people in undisputed possession of rights of which, for many years, they had practically been deprived.

As to negotiations by the party with men in power, we do not possess any information, further than this, that, so far from attempting to convince the Government that the threatened secession would be a trifling one, the Government were distinctly and solemnly assured that, unless a healing measure were promptly introduced, the secession would probably be as formidable as the actual event shewed it to be. I can myself speak to one instance, at least, in which that warning was distinctly given. It is true that on this point the Government were mistaken. They did not anticipate a secession of nearly such extent. But whatever was the source of their misinformation, whatever the grounds of their miscalculation, they were not without warning upon the point. They were told distinctly that, apart from, and in addition to the ground of high principle, many had so committed themselves that, without some real concession, they could not possibly avoid secession. Scarcely, however, do we wonder that the Government were misled. They believed that if

they gained the leaders, they gained the led; and the Committee's Minute of October could scarcely fail to give countenance to the idea that, after all, the outgoers might prove but few.

The truth, indeed, we believe, is this: that, behind the Non-intrusion question, to which exclusively the proceedings just adverted to related, there was another and most formidable matter, which, probably, as far at least as the chiefs were concerned, would have formed an impassable barrier in the way of a satisfactory settlement. The case of the Strathbogie ministers was a "lion in the way." The act of the deposition of these men, we, the moment it was consummated, regarded as rendering a schism in the Church, to a greater or less extent, inevitable.* It was impossible that the Non-intrusion Committee could shut their eyes to the fact that their case must impede any attempt at arrangement; and how far the contemplation of this fact may have led to that change of views to which we have adverted, it would not be easy to determine. We have seen that, in October, they had undeniably come down from the

* That act was indeed the passing of the Rubicon. It is, however, a somewhat curious circumstance that, except when founded on acts of proved immorality, deposition and even excommunication have been very generally disregarded, as to spiritual effect, by those against whom these sentences have been pronounced, how zealous soever they may previously have been for upholding Church authority and discipline. The case of the first seceders in 1733 is an instance. The case of the Burghers and Anti-Burghers—the latter having excommunicated the former—is another. Another is the case of Dr. M'Crie and his brethren: Dr. M'Crie was, on the 2d September 1806, by the General Associate Synod, solemnly deposed from the office of the holy ministry, and suspended from all communion with the Church in sealing ordinances. The good doctor, however, treated the sentence as a nullity.—*Vide Life*, p. 116, &c.

high ground of Non-intrusion, as by themselves explained. We have seen how gladly they availed themselves of the non-fulfilment of the curious stipulation with regard to time, to escape from a position which, as far as the one question was concerned, promised a satisfactory arrangement. The cause of the change in their views between October and December has never been satisfactorily explained. To say that a new interpretation had been put by the minority of the Committee on the terms in the proposed clause, is not satisfactory, and should never have been stated, since it is contradicted by the terms dictated by the majority themselves in their form of the clause submitted to the Government. Of this any reader may satisfy himself by referring to the clause as quoted above.

Now, we know in point of fact that the case of the Strathbogie brethren was in the contemplation of the Committee. It did not at first present itself as an element in the negotiations with the Government, but ere long it was distinctly intimated that the restoration of these deposed ministers was to be regarded as a *sine qua non*, in any settlement that might be made. More than this—although a degree of obscurity attaches to the transaction, which the reader will not find removed by Dr. Buchanan, for he omits the subject—it appears from Sir George Sinclair's Correspondence that, in order to get rid of this formidable barrier, the Church Committee had consented to secure the restoration of these brethren, on what they considered easy terms. The draft of a letter was prepared and

submitted, it would seem, at least to the leading members of the Committee, and sent to the Strathbogie ministers for their signature. And so far, it would appear, had this matter proceeded, that Sir George felt himself warranted to make this distinct statement to his Strathbogie correspondent:—"I am now able to say, that if you and your brethren will agree to transcribe and sign the enclosed letter, it will be accepted by the Assembly, and lead to your restoration."*

The Church Committee, it would seem, could speak for the Assembly—presuming on the convenient relation between the "leaders" and the "led." But this negotiation, like many former ones, altogether failed, the Strathbogie brethren declining to append their signatures; and thus the impassable barrier still remained—there was still the lion in the path.

Now, we do not say that this circumstance accelerated the retreat of the Non-intrusion Committee from the position to which they had descended, and drove them back to their higher ground—that, had the lion which stood so ominously in the path of independence been quietly removed, they might still have found that they could submit to a measure "which did not adequately carry out the principle of Non-intrusion;" but we do say that, independently of any movement by the middle party, or by any section of them, there was an object looming in the distance, which sooner or later must be approached, and which, as the leaders must have known, rendered wellnigh hopeless any

* Ten Years of the Church, vol. ii., p. 209.

attempt at a satisfactory settlement in accordance with the principles which they maintained.

It is a significant fact, in connexion with this subject, that in their report to the General Assembly, the Non-intrusion Committee omit all mention of the important proceedings, on their part, mentioned above. They briefly advert to the appearance of Sir George Sinclair on the field, but no notice whatever is taken of the fact, that, in October, they had agreed to the basis which he had proposed—had consented to accept the bill of Lord Aberdeen, modified according to the terms suggested, on the condition of its being passed during that present session of Parliament; or of the pledge or promise or understanding, or whatever it amounted to, with reference to the restoration of the Strathbogie brethren. On these points it was convenient or necessary to be silent. It might not have been safe to tell the Assembly how nearly a settlement had been effected, and how the promising negotiations had been broken off; and although, perhaps, it might not have been difficult, if once resolved upon, to induce the Assembly to redeem the pledge, it might have been a very difficult thing to pacify them for the indignity offered, if it had come out that any Committee had assumed such undisguised power as to authorise Sir George Sinclair to say, "If you sign the enclosed, it will be accepted by the Assembly, and lead to your restoration." The leaders might perhaps exercise that power, but they must not shew it. To have shewn it would have been fatal. Even the well-disciplined troops would have revolted.

The restoration of the Strathbogie brethren must have been gone about by them with all due formality, after careful reasoning and solemn prayer to Almighty God for His direction in a matter so momentous; and if, after all, it had come out that the matter had been previously settled—the judgment anticipated—the pledge given,—the mockery of such proceedings would have been too apparent—the bubble of Independence would have burst before their eyes, and some fewer victims would have been left to grace the final departure.

CHAPTER XII.

"Claim of Rights"—Carefully Drawn up—Too Elaborate to be studied by those to whom it was submitted, and who were to adopt it—Decision in Second Auchterarder Case—After the first, the Church could have retired within impregnable fortress—No Invasion of Spiritual Jurisdiction—Proceeds on Principles acknowledged by the Leaders—Controversy narrowed to point of Pecuniary Compensation.

It is not necessary to follow the further hopeless attempts of the Non-intrusion majority still to obtain from the legislature a measure commensurate with their wishes. Others, it is true, were now in the field, whose efforts seemed much more likely to be crowned with success; and among these were not a few representatives of the old popular party whose anti-patronage leanings had been thwarted, and whose once promising efforts had been checked by those whose influence for the time was paramount in the Church. But the Non-intrusionists had been accustomed to hope against hope; and although politicians of every class had declared against them, yet so reasonable, to themselves at least, did their views appear, that they could not abandon the conviction that, sooner or later, their reasonableness must compel the assent of all. A few members in both Houses of Parliament had cordially embraced, and were, at all times, ready to support their views; and the aid of these tried friends, on whose assistance they could calculate with certainty,

joined with the delusion so carefully fostered by many, that no Government durst push matters to the extremity of a secession, still buoyed them up with the hope of ultimate triumph.

There were those amongst them, however, who could not but foresee—and, indeed, must have for some time foreseen—that ultimate secession was, if not inevitable, at least extremely probable. As far as Non-intrusion was concerned, that issue might be avoided; but Independence, as by them maintained, was the rock which, even if that point were passed, still threatened shipwreck. They had begun the contest on the Non-intrusion ground, but now it had passed over to that of Spiritual Independence; or rather, they began the contest on the ground of their own right, in virtue of their independence, to carry out in their own way the principle of Non-intrusion, and now that right had been assailed; and, while Non-intrusion was ready to be granted, their high claims were denied.* In all their negotiations this was felt to be the point of difficulty. Sooner or later this was the question which came to the surface. The constant stumbling-block which ever

* It would seem that from the beginning this was the true nature of the contest, whatever may have been the ostensible form which it was made to assume. In an able article, commendatory of Dr. Buchanan's History, in the "North British Review," a periodical favourable to the Free Church, occurs the following statement or admission: "*For a while the real nature of the contest was concealed* by the use of the conventional terms, 'Intrusion' and 'Non-intrusion.' But when the civil courts assumed the power of determining the whole matter—the jurisdiction of the Church courts and all—the controversy *was forced to assume its true character*, as in reality involving the very essence of the spiritual independence of the Church."—*North British Review*, August 1849.

and anon presented itself, was the fear of some loophole being left by which the civil court might possibly effect an entrance. They wished a law to regulate their procedure; but one of its provisions must be, that they should regulate that procedure as they pleased—one of the clauses of the binding Act must bear that they were not to be bound at all; or, if bound, none but themselves were to have any right to enforce the obligation.

But while this conviction must have forced itself on many, and to some, perhaps, was not altogether unwelcome, the great mass of the Non-intrusionists still clung to the hope of success. Accumulating difficulties did not discourage them. The spirit of the party rose as the fury of the tempest increased. No surrender, was now their maxim. To no compromise would they listen. And when now no prospect presented itself of the legislature spontaneously interfering to save them from the grasp of the law which they had set at nought, they determined to go directly to Parliament with a full and distinct statement of their demands and grievances. These were embodied in the celebrated document emitted by the General Assembly 1842, entitled, "Claim, Declaration, and Protest, by the General Assembly of the Church of Scotland;" better known, perhaps, under the more brief appellation of "The Claim of Rights."

This memorable paper, drawn up with much laborious care, and which had been introduced in the form of an "Overture to the General Assembly, for a declaration

against the unconstitutional encroachments of the civil courts," was fitted, and probably designed, to subserve more than one important end. While its adoption by a large majority in the Assembly might have the effect of impressing Government with the conviction that there was no shrinking on the part of the Church, and that the threatened secession would be one of appalling magnitude, it would, at the same time, tend to commit more stringently the party adopting it to the views and measures of their leading men. It seemed, indeed, to be the natural result of a spontaneous movement on the part of Presbyteries and Synods throughout the country, who had showered in overtures anent "the encroachments on the spiritual privileges of the Church." These overtures, however, were city manufactures, rather than country produce. They were prepared in the metropolis by the skilful leaders; sent down to the provinces to trusty men, to be there received, discussed, and adopted, and, in due time, returned to their native city, in the shape of earnest overtures or petitions for a declaration and remonstrance on the part of the Church.* To meet these anticipated demands, the "Claim of Rights" had been already elaborated, and, when proposed to the Assembly, it was carried by a large majority.

Our examination of principles in the preceding portion of this work renders unnecessary any formal scrutiny of the document here. It is sufficient to remark that, though embodying doctrines very different

* Ten Years of the Church, vol. ii., p. 266.

from those of our early Church, it nevertheless was drawn up with such consummate skill as to induce some to concur in its adoption, who were by no means prepared to acquiesce in the extreme measures which, it soon appeared, the framers of it contemplated. That they did so was matter of regret, at the time, to many. It was an inconsiderate step. The document to which they appended their signatures was far too elaborate to be mastered in the time afforded for the examination of it. Its innumerable references and quotations would have required, for their verification or refutation, an amount of careful study, together with access to authorities, which it would have been not only difficult, but impossible, at the time, to command. A single glance at the references themselves will convince any one that, to call on an assembly of men, however well informed, to append their signatures to a document at once so comprehensive and so minute, was just to call upon them to exercise a strong act of faith in the accomplished lawyer who was known to be the author of the work.* And in the hurry of the moment they had no time to reflect upon the fact, that, on one of the most important points which that solemn

* The document which was drawn up by Mr. Dunlop contains between seventy and eighty references to the Standards of our Church, to Acts of Parliament, and decisions in the civil courts. It is upon these references that it professes to rest its claims. How many of those who, by expressing their concurrence, pledged themselves to the accuracy of the solemn deed, could have had the opportunity of verifying these references, or studying the quotations in their several connexions, or examining the not less formidable array of opposing testimonies, so as to come to a deliberate judgment on the accuracy of the deed, and the justice of the demands which it embodied?

document contained, the views entertained by its author were directly the opposite of those which he had maintained when not under the influence of controversial excitement—views which he had given to the world in 1833, in sundry passages, some of which we have already laid before the reader.

It is not unlikely that among the complex motives which induced the majority to take the decided step of passing and presenting the "Claim of Rights," one element was furnished by the circumstance, that the moderate party—threatened as they were with measures which, if consistently followed out, would have resulted in their wholesale deposition—had indicated a determination to appeal to the legislature, in order that it might be authoritatively determined whether they or their opponents were, of right, to be considered as the Established Church of Scotland. But whatever were the motives which chiefly prompted to the step, certain it is that the step itself rendered such a settlement as would prevent a secession more hopeless than ever; and not a few regarded it as the first great preliminary taken by the leaders with a view to that result.*

The fate of the Claim of Rights might, without difficulty, have been anticipated. It was indicated by the Queen's Commissioner, the Marquis of Bute, who, when he consented to transmit the "Address to her Majesty," desired it to be "distinctly understood that, in doing so, he expressed no approbation;" and by Sir James Graham, who, in his reply to his Lordship, immediately

* See Note A.

afterwards communicated to the Moderator of the General Assembly, expressed himself as follows: "If the presentation of these documents to the Queen implied, in the least degree, the adoption of their contents, I should not hesitate to declare, that a sense of duty would restrain me from laying them before her Majesty; but as the language used is respectful, and as the enclosure purports to be a statement of grievances from the supreme ecclesiastical authority in Scotland, I am unwilling to intercept their transmission to the throne. . . . This act is not to be regarded as any admission whatever of the Claim of Rights, or of the grievances which are alleged."

Shortly after the period now referred to, an event occurred which tended much to hasten on the issue of the long protracted conflict. That event was the judgment by the House of Lords in the second Auchterarder case. The judgment in the first Auchterarder case had declared it to be the duty of the Presbytery to take on trials the presentee of the patron, Lord Kinnoul. This it had found the Presbytery bound and astricted to do. Than this the judgment went no farther. It did not find that the Presbytery were bound to admit or to ordain. They were bound to take on trials. Had the Church, after this decision, directed the Presbytery to proceed to that statutory and ministerial duty, the conflict would have been brought to an end. Now, the discharge of that duty did not imply that she was to violate her principle of Non-intrusion. It was only found that the Veto of the male heads of families could

not absolve the Presbytery from the duty of trying a presentee. Had the Presbytery proceeded to the discharge of that duty, there was another stage at which the element of the people's opposition might, if continued, have come in and been considered by the court, and the Presbytery might have found that, though qualified for the ministry in general, he was not suitable for that particular parish. The statute, as determined by the court of last resort, bound the Presbytery to judge; but *no statute, which has ever yet been quoted, gives to any civil court the right to review upon their merits the judgments to which a Presbytery may come.* The Act 1567 gives the examination and admission of ministers to the Church courts exclusively. They are, indeed, bound to examine. They may be compelled to do so. The statute requires it of them; but, acting judicially in this sacred duty, no civil court either possesses, or has ever claimed, any right of interference with them; and no statute exists on which any such claim could be founded.

Neither did that decision imply an invasion of her jurisdiction. To the Church courts belongs the "examination and admission" of ministers. That right the decision did not impugn, but only implied that it was the duty of these courts to exercise that right. Not a step beyond this did the judgment of the Peers extend.

To the rulers and advisers of the Church, however, it did not seem meet to direct the Presbytery thus to act. Buoyed up by the delusion that the only consequence of refusing to discharge what was, clearly and admitted

to be, a statutory duty, would be the forfeiture of the fruits of that particular benefice, they determined to resist. Nay, they flattered themselves and their followers with the hope that the solemn judgment of the supreme court would turn out to be an idle and impracticable decision. They taught that the worst result could only be the withholding of the stipend of Auchterarder, and they were willing that the patron should appropriate it, if he could, or that the presentee should claim it, if by any means his title to it could be established. But all the while it was known not only that no such title could be established by the presentee, unless he were inducted; but that the patron could not appropriate it, since an Act, long subsequent to that which gave the patron a right to the fruits of the benefice until the presentee was settled, had directed vacant stipends to another quarter—viz., to the widows' fund. If, in these circumstances, the doctrine of the Church's leaders had been correct, the judgment of the House of Lords would, indeed, have been a mockery, amounting to nothing more than the enunciation of an idle theorem.

Could the leaders, indeed, have persuaded themselves of this? Did they believe that the one bond of connexion between the State and the Church was the temporal provision of its ministers, and that the former had fulfilled its duty in the matter, as prescribed in the Word of God, and often declared by the Church herself, by an arrangement which allowed the piecemeal dis-establishment of the Church? Did they flatter

themselves that, after the solemn decision that it was the statutory duty of the Presbytery to take the presentee on trials, no means could be adopted to give effect to that decision? and that no valid recourse was left to those whose civil interests were affected by their refusal to discharge the duty which the statute prescribed? Could they anticipate any other result than that which was embodied in the judgment given in the second Aucterarder case? It is difficult to perceive how they could do so; and yet, judging from their speeches after the decision was pronounced, it appears as if that decision had taken them by surprise.

The judgment in the second case was just a corollary from that given in the first. The first found it to be the duty of the Presbytery to take the presentee on trials; and when the Presbytery refused to do so, both patron and presentee instituted proceedings to obtain compensation for the injury by them sustained. The Court of Session found that they were entitled to compensation in damages against the Presbytery; and, the case being appealed, the judgment of the Court of Session was unanimously affirmed by the House of Lords. The Presbytery had refused to discharge a plain and imperative duty—a duty arising necessarily out of the compact between the Church and the State, and having, by that refusal, caused others to sustain injury, they were found liable in damages.

The Presbytery were called on to act ministerially, as the law directed. Had they done so after the first decision, and proceeded to their judicial function, then,

even though they had been in error, no action could have been maintained against them. They, in that case, had conscientiously discharged their duty. They had acted ministerially, as required by statute; and, by that act, they would have brought the case within their own proper province—the spiritual or ecclesiastical. By that act, they *would have advanced the case within the protection of the Act* 1567, *which gives "examination and admission" exclusively to the Church courts.* Once within that province, they had been safe. The courts of law, instead of interfering, would have been bound to protect them.

They chose, however, to take their stand at a stage clearly beyond that province. They refused to discharge a ministerial duty. They refused to take the step which would have brought them within their own well-defined bounds; and, having hazarded so dangerous a contest, they sustained defeat. Having entered the civil province by refusing obedience to a civil statute, they incurred those severe penalties by which the law must, without respect of persons, ever vindicate its own authority. And it should never be forgotten that not only was the Church the first aggressor, but that she pertinaciously refused to retire one step, although that single step would have put her behind those constitutional defences, which her foes would in vain have attempted to assail. She chose to fight the battle of her independence on ground not merely debatable, but clearly without her own domain, by refusing to discharge a duty, not spiritual, but one distinctly enjoined

by civil statute. She was defeated—she was driven from her false position. But that defeat did not touch her separate jurisdiction. *Her true spiritual independence remains intact.* Within her own province her rights are still inviolate, both as conferred by her great Head, and as recognised and protected by civil statute. She is not only the FREE Church of Scotland, but she has her freedom defended by those very laws, which the recklessness of her temporary leadership had attempted so fiercely to assail.

Such was the famous decision which tended so much to hasten on the great catastrophe. As if it had taken the leaders altogether by surprise, they were prompt to denounce it as an unheard-of invasion of the spiritual province. It amounted to what we have stated, and to no more; but yet, by uprooting the favourite theory of "the forfeiture of the fruits of the benefice," it destroyed the fondly cherished views which had been adopted respecting the basis of relationship between the Church and State. This it did by establishing what in any other case would have been considered a self-evident truth—viz., that, "when any one has an important duty to perform, he is bound to discharge it; and if he refuse to do so, to the hurt and injury of another, that party has ground for an action against him."

The subject was forthwith taken up in the Presbytery of Edinburgh. A view, as we think, most unwarranted, was taken of the judgment by Dr. Candlish, and thereafter re-echoed throughout the Church. He declared it to be a decision "to which the Church could in no

shape render obedience—a decision finding a Presbytery guilty of an offence in civil law, liable in damages for rejecting a presentee, on the dissent of a major part of the congregation. The former judgment in the Auchterarder case was one to which they could render obedience; but this was a decision which, in no sense whatever, they could obey. The amount of the judgment was this: That the civil courts had jurisdiction to lay down for the Church this particular rule, for their authoritative guidance in the discharge of their spiritual functions of trying, ordaining, and admitting candidates for the ministry; that the dissent of a congregation was no sufficient reason for setting aside a presentee; and that those courts had jurisdiction to compel Presbyteries to induct presentees to the cure of souls, notwithstanding of such dissent."

It is difficult to understand how obedience could be rendered to the first, but withheld from the second Auchterarder decision, seeing that the one did simply enforce one and the same duty, which the other had declared. The decision laid down no rule for the Church "for their authoritative guidance in the discharge of their spiritual functions of trying, ordaining, and admitting." It declared that the Church's duty was to try; but how to try, it did not attempt to determine—it interfered not with the point in any shape. Neither did it declare that the civil courts had "jurisdiction to compel Presbyteries to induct." It declared that they had jurisdiction to compel Presbyteries to try or judge—or rather, to grant redress to those whose

civil interests were injured by the refusal—but it left their freedom in trying or judging inviolate. It drove the Church courts from the province which they had attempted to invade, but it left their own province of trying, ordaining, and admitting, in all respects intact.

Such, however, was the view which Dr. Candlish took of the import and bearing of this decision—a view concurred in by the other leaders, and received by the great mass of their supporters. In their opinion, this notable judgment formed the very crisis in the conflict. It was needful, perhaps, to give great prominence to the blow, real or supposed, struck by it at the Non-intrusion principle—to represent it as determining that "the dissent of a congregation was no sufficient reason for setting aside a presentee." But that, if determined at all, had been determined by the first decision, to which, according to Dr. Candlish, "they could render obedience; because the decision might have been intended simply for the regulation of proceedings with respect to the temporalities." It was not in this that the offence consisted, but in the awarding of damages to the parties whose civil interests had been injured. It was the restraint on the fancied independence of the Church, imposed in the material shape of damages, which was the true grievance. Conceal it how skilfully soever they might, it was this material, civil, pecuniary matter which had brought on the crisis of affairs. It had been declared by the first Auchterarder decision, that it was the imperative duty of a Presbytery to take a presentee on trials; and to this, accord-

ing to Dr. Candlish, they could render obedience, because the decision was supposed to have respect only to the temporalities of the parish; but to the very same decision, as far as the declared duty was concerned, they could in no shape render obedience, when that decision was found to have respect to other temporalities—the damages, viz., to the parties suffering injury.

Dr. Buchanan speaks very strongly upon the point. "On the footing," says he, "not merely of Scripture, but of constitutional law, the Church held herself entitled to treat this decision as itself illegal—as a usurpation upon her ratified rights and liberties, of which she was entitled to complain to the legislature, and to which it would be the solemn duty of the legislature, under the obligations of the Revolution Settlement and of the Treaty of Union, to put an end." * That is to say, the Church held herself entitled to interpret constitutional law and Acts of Parliament, and that so fully, as to be entitled, on the ground of her own judgment, to treat as illegal the decision of the highest tribunal, to which it authoritatively belongs to interpret all civil statutes of the realm; and that, moreover, as we have seen, in a matter referring simply to temporalities—viz., to the question of damages.

It is irksome to dwell on such a subject. It was one, however, of immense importance in the contest, being in reality the very point on which the Secession of 1843 was made to turn. For this reason, and be-

* Vol. ii., p. 532.

cause the subject was so misrepresented at the time, we crave the reader's indulgence, while we advert, in a sentence or two, to the inaccuracies and inconsistencies by which the leaders contrived, out of this judgment of the House of Lords, to fashion the fatal instrument by which they drove so many from the Church of Scotland.

The reader is requested to recall the terms of the two Auchterarder decisions, and to keep carefully in mind to what they each amounted. By the first it was determined that the Presbytery acted illegally in refusing to take a presentee on trials. By the second it was determined that, since by this illegal refusal they injured the civil rights of another, that illegal refusal furnished the ground of damages in law. In the first of these decisions the Church declared her acquiescence, *in so far as it might affect any civil rights.* Now, we ask, in what did this decision go beyond the first, except in so far as civil rights were affected? The reply is, in nothing; and, in that reply, we have the refutation of all the indignant sophisms to which this supposed infringement of the Church's liberties gave rise. The first judgment, in which, as to all civil effects, the Church acquiesced, declared that an injury had been inflicted; the second simply followed out the first as to its civil effects, in awarding damages, as pecuniary redress for the injury inflicted.

Again and again had the Church, through her accredited agents, repeated such statements as the following: "The appellants admit that if Presbyteries violate any civil rights, there may be civil consequences

arising out of such usurpation. They admit, that in all civil matters *the civil powers may decide, to the effect of determining what the civil consequences of any ecclesiastical judgment ought to be.*" * Did the second Auchterarder decision go one step beyond what the Church here admitted to be the legitimate province of the civil powers? When they determined that the illegal rejection of the presentee was a civil wrong, did they do more than "determine the civil consequences of an ecclesiastical judgment?" When they awarded damages for that wrong, did they do more than "determine the civil consequences of an ecclesiastical judgment?" †

* *Additional Statement for Presbytery of Auchterarder.* Dr. Cunningham, in his speech delivered in the Presbytery of Edinburgh, in the Marnoch case, adverting to the methods by which a civil court might enforce statutory civil rights illegally violated by ecclesiastical procedure, says: "Another provision may be found in an action for damages. That may be the case, for anything I know. It may not be legal or constitutional—I do not think it is—but still it is abstractly competent on general principles. The Court may sustain such an action—they may inflict damages —that may be abstractly competent, because it is not assuming jurisdiction in ecclesiastical matters, but appeals merely to men's pockets."

† Nothing can be clearer than that, in this case, the Court refrained from intruding on the ecclesiastical province, and confined itself simply to *civil consequences.* It made no pretence to the "power of the keys." It claimed no power to try the presentee. It did not even issue any order to the Presbytery to try him. It only found that damages were due to the party injured by their refusal to try him. The civil court permitted the Church courts to follow out their view, taking the civil consequences which the course they chose entailed. "Did the House of Lords say to the Presbytery, 'We will of our own authority compel you to take this man on trials, and in the event of your recusancy we will visit you with the heaviest pains and penalties, such as imprisonment and fine?' No, they said no such thing; for there is an essential difference between a *fine*, which is a public criminal forfeiture for alleged misconduct, and *damages*, which is a purely civil award to a private party, given in compensation for the infliction of civil wrong."—*Morren's Church Politics*, No. III.

Assuming even the high ground which the leaders found it necessary to occupy when they claimed for the Church courts co-ordinate jurisdiction with the civil, it could never be shewn that, by this decision, the civil power had overstepped its constitutional limits. They claimed the right of interpreting Acts of Parliament, but only as to their spiritual bearings. They still allowed to the civil courts the right of interpreting civil statutes as to their civil bearings. "The Church," said they, "will follow out her views of the law, within her own province, as to its spiritual consequences; and will leave to the civil courts to follow out their views of it, within their province, as to its civil effects." Can any amount of ingenuity indicate the point where, in this case, the civil courts did more than follow out their own views, within their province, as to civil effects? The Church, indeed, in following out her own views of the law within her own province, may have encountered sundry inconveniences arising out of the civil courts following out their views in their province, but that can never be shewn to amount to a confounding of the jurisdictions, and could never entitle the former to treat "the decisions of the latter as in themselves illegal." *

Such was the famous Auchterarder decision, which hurried on the crisis in the Church's affairs, and brought the leaders to a position in which they declared it impossible that they could any longer carry on the business of the Church. As Dr. Buchanan expresses it—

* The reader may see this whole subject treated with great clearness, and at considerable length, in Morren's "Church Politics," No. III.

"It was now practically impossible for the Church to go on."

That decision had been long anticipated by many. How the leaders should have calculated on anything different is indeed astonishing.

That the ground became so narrowed is cause of gratitude to the great Head of the Church, who, in His overruling providence, had so directed matters, that men, upon a little reflection, might now distinctly see that the grounds upon which the schism was being formed were civil grounds—that it was simply because damages were found competent to an injured party, when a Presbytery refused to discharge a clearly defined statutory duty—not to induct, not to ordain, not to find qualified, but simply to try whether a presentee possessed the necessary qualifications. By taking this step, the Presbytery, as we have already seen, would have brought the case within the spiritual province. But this, to the injury of the presentee, they refused to do. Here the leaders took their stand. They refused to take the step. They did so to the prejudice and hurt of another. They were found liable in damages not *for an act of disobedience to a higher authority, but for an injury inflicted on the man to whose rights they refused to listen.* This was the real ground of the schism. It was narrowed to this point—the point of pecuniary damages—which is "not assuming jurisdiction in ecclesiastical matters, but merely appeals to men's pockets." It was not till this point was reached that Dr. Candlish and Dr. Buchanan exclaimed, "It is now

practically impossible for the Church to go on." The Church had declared that she could go on, though the civil power had decided to the effect of "determining what the civil consequences of any ecclesiastical judgment ought to be;" yet, because of these same civil consequences, the leaders proclaimed, "It is impossible for the Church to go on." They wished themselves to select the kind of civil consequences which the civil power should determine. Grant this, and the Church can go on. The Church can go on though the fruits of the benefice be severed from the cure, and the parish be dis-established as far as the temporalities are concerned. That implies no interference with the Church's independence. But let any other civil consequence be attempted, and the spiritual rights of the Church are undermined. Perhaps it was true that, in these circumstances, the Church could not go on; but, if it was so, this only shewed the falsity of the favourite theory of civil and spiritual courts following each their own course to its legitimate effects. The temporalities of an unattached cure had as much of the spiritual element about them as those portions of the temporalities of other cures which might fall to be appropriated in the shape of damages. Both, according to the favourite theory, were alike liable to become legitimate subjects for the civil courts to operate on. And we cannot, therefore, regard the cry, "It is impossible for the Church to go on," in any other light than as the cry of parties who had found themselves checkmated in a game of their own choosing—who had found themselves

landed in an impracticable *fix*, by the fair working out of a theory of their own propounding.

Now, this, we think, was the very point on which the schism turned. This was the grievance which drove our brethren from the Church of Scotland. Other and many grievances were no doubt enumerated. They were conglomerated into one black cloud so as to conceal, even from their own minds, the true cause of their secession. But this was the centre and master grievance. This rendered it impossible to "go on." This had taught them that they did not possess such independence as implied a power to act just according to their own views—to do, or to refuse to do, a statutory duty, just as they might feel inclined—to prescribe to the civil courts what civil consequences they should determine as legally and by statute competent. *It was merely an accidental circumstance that their refusal to try the qualifications of a presentee was founded on the fact of his being rejected by the people*, for they took their stand on the principle that no civil power had authority to enjoin the discharge of any spiritual duty, which they held the taking of a presentee on trials to be; and therefore they would have claimed the right of refusal just as readily on any other ground, or without being called on to state any ground whatever. It was not on the ground of Non-intrusion that they ultimately seceded, but mainly on the ground that they had been denied such independence as would permit them to act in what they should consider spiritual matters, as they might see meet—a right inconsistent with the Non-

intrusion which they sought, inasmuch as, if fully conceded, it would have permitted and authorised them, in any case, to judge or not to judge, to intrude or not to intrude, as they should deem proper.

Accordingly, no sooner was this decision made known, than the resolution was taken by the leaders to abandon altogether the contest in which they had so long been engaged, and to adopt another and a different course. Their contest with the executive was over. They had been defeated. "The Church could not go on." One of three things must happen. Either they must yield, acknowledging themselves to have been in error; or the legislature must interfere and accommodate the statute and constitution to their views; or they must "set their house in order," and prepare to abandon the Church. The first they were determined not to do. Measures, therefore, must be adopted with a view to the other alternatives. To assume the attitude of making preparations for the latter, offered the most likely, perhaps the only, hope of obtaining the former; for it still was confidently urged and believed by many, perhaps by almost all, even among the leaders, that no Government durst risk a secession so alarming as they were prepared to threaten, and that they had only to shew a bold front and no blenching, to secure complete success. Agitation, accordingly, was had recourse to. Public meetings were held throughout the whole land. No means were spared to enlighten the people on the controversy—that is, to indoctrinate them into the views of the movement party; and representations were

given forth of the doctrines entertained by their opponents, which we are bonnd in charity to believe their authors, as Christian men, would not now defend.

NOTE TO CHAPTER XII.

Note A.

In connexion with this point—the now increasing hopelessness of a satisfactory settlement of the great dispute—we cannot withhold the following judicious remarks of Dr. Bryce, with reference to the period just preceding that at which we have now arrived:—"Now that the memorials and manifestoes of both parties in the Church were before the world, the question could not fail to occur to every candid and impartial person—May we not in all this have a very notable example how nearly men may, in reality, be together in mind and sentiment, while acting towards each other as if wide as the poles assunder? And how easily might controversies of this kind be settled, if anything like candour and temperate consideration were given to them! By the very concessions again and again made by the Non-intrusionists during those negotiations, and by the simple act of seeking the aid of the legislature at all in fixing the mode or terms of taking presentees on trials for collation to the cure and benefice to which they might be nominated, they admitted that this step or stage in the formation of the pastoral relationship was a civil matter; and so far they agreed with the Moderates. In the matter of admission to the cure of souls, and the qualifications entitling to this admission, the Moderates never allowed the Court of Session to have any direct jurisdiction. In this step and stage of the process, they held the formation of the pastoral relationship to be so far an ecclesiastical matter, that the statute had removed it from the control of the civil authority; and herein they agreed with the Non-intrusionists. In that stage of a settlement with which the Veto Law of 1834 had to do, the Moderates contended that the Church courts acted merely ministerially, being bound by the civil statute to do a certain duty under certain given circumstances—that duty being, to take on trials the presentee of the

legal patron; and that the question—Whether they should discharge this duty or not?—the law of the land did not permit the Church to hand over to the people, as the Veto Act had done. All this was, in fact, conceded by the Non-intrusionists, after judgment had been given in the House of Lords against the Church. The Church, in the Auchterarder case, by expressing her liability to pay the penalty of the broken law, acknowledged that she had committed the statutory wrong. In the subsequent stage of settlement—that of examination and admission—the Moderates let in the people to object on any ground they might see fit; and then they assigned to the Church courts a judicial duty, with the discharge of which the civil were prohibited, by express statute, from interfering."—Vol. ii., pp. 234, 235.

These statements are worthy of serious consideration, and are fitted to suggest very solemn reflections on the part of some. We do in our heart believe, that had the Church-question been left for settlement to half-a-dozen of intelligent laymen—say to six pious, well-educated, and intelligent business men—a satisfactory arrangement would have been come to in a week.

We have one remark, however, to make on the concluding sentence of the paragraph. In theory, the "Moderates" did let in the people at the stage adverted to, to object on any ground they might see fit, but in practice it had come to be otherwise. Doubts, moreover, had come to be entertained as to the people's rights in the matter. The present law has removed these doubts, and practically restored these rights. The people are now let in, though at a different and prior stage, to object on any ground they may see fit, and then to the Church courts belongs that judicial duty with the discharge of which the civil are prohibited, by express statute, from interfering.

CHAPTER XIII.

The Convocation—Its Purpose—Its Purpose as indicated in Circular—Ultimate Unanimity—Difference of Opinion underneath—Took Erroneous Views of Decisions in Civil Courts—Memorial to Government—Address to People of Scotland.

Among the means adopted at this eventful crisis was the celebrated Convocation. Great importance has been justly attached to this extraordinary meeting. Arrangements were made for it immediately after the Auchterarder decision had been pronounced. Its plan was formed, and its details arranged and executed with consummate skill. It was admirably fitted to secure two great ends—the one, it was hoped, tending to ensure the other. It was designed to pledge the congregated ministers to inevitable secession, in the event of the legislature refusing to yield; and, at the same time, to induce, or rather to coerce, the legislature into yielding by the formidable numbers of the pledged and the solemnity of their inviolable engagement. Among the leaders there were those who were already pledged beyond recall. Secede they must. Remain in the Church they could not, though they would; and some of them, moreover, are belied if now they had any real wish to do so. Good men though they were, they were not beyond the influence of "the last infirmity of noble minds," nor insensible to the glory of being the founders of a new Church of Scotland. To remain, unless on such terms

as should imply a triumph over both the executive and the legislature, would have dishonoured them in the eyes of multitudes. They had begun to excite the masses, and right onward they must go; or, as one of them to myself expressed it, "they had kindled a fire which they could neither extinguish nor control." Right onward they must go, for to remain implied, that if they put any value on their own principles or consistency, they must proceed to the wholesale deposition of their opponents within the Church.*

To all such it was matter of vital importance that the number should be great, and the pledges, if possible, irrevocable, of those who were to cast in their lot with them. If the numbers were not great, the movement, with whatever issue, would be a failure. If the pledges were not distinct, it might equally prove a failure. Among them there were men of the highest Christian principle, who had fairly made up their minds

* Says my old and dear friend, Dr. Horatius Bonar, in his tract entitled "Can we remain in the Church?" published shortly after the Convocation, and containing a brief statement of its proceedings—"The rebellion against the Church's authority from within, backed by the whole might of the State without, renders it impossible to proceed. If we attempt to do so, we must immediately proceed to depose more than one hundred ministers, and then after that probably as many more, and after that as many more again, till all our opponents were thus treated." The tender mercies even of the good are sometimes cruelty; but short of this, we admit, they could not consistently have stopped. Now, could such acts have been permitted? Would they have been tolerated in any free country? Certainly not. When, not many years ago, the majority in the General Assembly of the United States summarily deposed the minority, the law interfered and declared the act illegal and incompetent. "After lengthened pleadings, the civil court found that the acts exscinding these synods, and all their constitutent parts, were contrary to the eternal principles of justice, to the law of the land, and to the constitution of the Presbyterian Church, &c."

to secede, unless their full demands should be conceded. But of these, many were firmly persuaded that, provided only the legislature could be perfectly convinced of their resolute determination, they would at once make those full concessions which alone could prevent that terrible calamity.

Such, it would appear, were the motives which, to some extent at least, animated the movers in this strange enterprise. Those who were anxious to secede, or who knew that secession was now inevitable, were desirous to have with them a band, strong in numbers, and leagued together by the firmest bonds. Those who were anxious to remain, yet felt that they could not without ample concessions on the part of the legislature, were equally desirous of numbers and committal, from the belief, that to persuade the legislature that secession was determined on, was the only means by which secession could be avoided. Both had one great object in view—the securing of numbers, and the exhibition of stern determination. To a great extent they succeeded. But it is a fact well known, and capable, if need be, of ample proof, on the testimony of many witnesses, that one great and successful argument employed for inducing men to pledge themselves, was just the assurance, that the necessity of redeeming the pledge was not likely ever to occur—that the more explicitly it was given, the more surely it would never be required; in short, "that provided a bold front were shewn, no Government durst refuse their claims." We are far from insinuating that these were

the views of all. There were many who had counted the cost to the utmost, and, for what they believed to be a matter of vital importance, were ready to suffer the loss of all things. But the argument was used—the argument was pressed—the argument was successful with many; and with them every arrangement made with the view of secession, every new link that was added to the chains which ultimately bound them, became an additional security against the need of secession, and an additional token of ultimate triumph.

The Convocation was convened by a circular, signed by thirty-two of "the most venerable ministers of the Church." That circular bears, that the occasion which had rendered such a meeting necessary was "the late decision of the House of Lords, in the case of Auchterarder"—a decision which, it asserts, had "practically placed the Church of Scotland in a state of subordination to the civil courts." It declares the object of the Convocation to be "that their common mind on this vitally momentous question may be distinctly ascertained, *and such an expression of it given forth, as, by the blessing of God, may have the effect of removing that aggression of the civil power*, which, if not removed, must speedily terminate in the degradation and overthrow of our National Establishment." The circular does hint at the possibility of a secession when it intimates that, in the event of their appeal to the legislature being disregarded, "there yet remains a higher appeal from the constitution, thus disregarded and vio-

lated, to the conscience of the Church." But obviously this is pointed at as a distant object—a matter for future consideration, in the event of the appeal to the legislature proving vain. The declared purpose of the Convocation, as divulged in the circular, was to "*give forth such an expression of the common mind as might have the effect of removing the aggression of the civil power*,"—that is, of rendering a secession unnecessary. If, therefore, men were, at the Convocation, pledged to leave the National Church, one of two conclusions necessarily follows: either that they were induced at that meeting to do in this most momentous affair, what, from the circular, they could not have been led to anticipate as a matter on which they were to be called on to decide; or that, as already stated, the solemn pledge was given in the belief that it never would require to be redeemed—given just to prevent its own realisation, and as "such an expression of the common mind as might have the effect of removing that aggression of the civil power."

Both of these conclusions, we believe, contain the truth. Many who had left their peaceful country homes, not only without any resolution to bind themselves by any pledge, but with a determination to resist any attempt to induce them so to do, returned to these homes in fetters which they could not break, seduced into that bondage by the delusion that they had taken a step, the boldness of which must move the legislature to succumb—that, by proclaiming their readiness to depart, their departure would be prevented. And

both of these conclusions suggest reflections which we repress, and wish for ever to banish from our minds.

Of the proceedings of the Convocation, which convened on Thursday, 17th November 1842, no authentic record, so far as we know, has yet been given to the world. It was a secret conclave, called without authority, and pointing, it would seem, to a result not anticipated by the great body of which it was composed. Its deliberations were conducted in private, its meetings being held in a small place of worship in an obscure street in Edinburgh, which, Dr. Buchanan says, "was chosen solely because its limited size fitted it better than a larger church for such a free and conversational conference as it was the great object of those assembled to hold with one another." *

The public being quite excluded from its meetings, and "no authentic record preserved or taken" of its business, we are indebted for any little information which can be gathered respecting its private proceedings, to accounts given either by the members themselves, who might not, perhaps, feel themselves called upon to divulge what was "strictly private and confidential," or by those who, induced by the circular, attended, for a time, the meetings, but, perceiving the ultimate tendency of the Convention, and the result to which the proceedings were beginning to point, withdrew from the scene, and escaped the snare.

The accounts furnished by those different parties

* Vol. ii., p. 539.

certainly do not in all respects agree as to the scenes presented at the secret meetings of the Convocation. Two accounts by Convocationists are at present before us—the one by Dr. Buchanan, and the other by Dr. Horatius Bonar. Both are extremely brief, as far as narrative is concerned, dismissing the whole subject in a very few sentences. According to both, a wonderful unanimity of sentiment prevailed. Neither, however, enlightens us much as to the means by which that unanimity was secured. Both would leave upon our minds the impression that it was mainly, if not entirely, the result of prayer. While both admit that there were "differences of opinion," neither tells us about the parties into which, it is said, the assembly seemed ready to divide, and the measures adopted to unite them*—the assurance so confidently given forth that unanimity would save them, and secure or compel the concession of the Government. Perhaps they did not know of the private measures alleged to have been resorted to for removing doubts which it would not have been convenient openly to discuss; or the means adopted, in some instances, for securing waverers, or men threatening to be dissentients, by adroitly calling on them to undertake some prominent duty in the meeting. Perhaps they forgot the public examples made of some who, it is asserted, were ignominously saluted by the brethren for silence or recusancy.

* At the critical moment, it is said, the venerated Chalmers was introduced, and his influence and eloquence were brought to bear upon the discordant elements.

That a marvellous unanimity did ultimately prevail, can be denied by none. But, apart from the means adopted to secure it, under that unanimity there still lurked great difference of opinion, even upon the points embodied in the resolutions adopted by the Convocation. There still were those who held such sentiments as the following, expressed by Dr. Willis, in the Presbytery of Glasgow, long after the date of the Convocation:—"He believed that the Headship of Christ had, besides its direct relation to the Church, also a comprehensive reference to the State, and especially to a professing Christian Government. It was not enough remembered that such a Government, being under law to God, and having, as well as the Church, the means of governing itself by the Scriptures as the only rule of faith, could never be expected to acknowledge a *jus divinum* in a Church under its protection, and especially in statuted compact with itself, to legislate even within what is accounted the ecclesiastical domain, without responsibiliy to the State. . . . He knew how delicate a matter it was to interfere, how great was the danger of violent encroachment; but he could not but admit the force of Sir Robert Peel's assertion, of the inexpediency and the danger of, on the one hand, conceding an absolutely unlimited jurisdiction; or, peremptorily and in detail, assigning the lines of demarcation on the other. . . . . He did believe that statutes limiting ecclesiastical legislation were as necessary to the liberty of a Protestant realm, as statutes of ratification or protection were

essential to the just freedom and efficiency of the Church." *

Such were the sound and clearly expressed sentiments of Dr. Willis, in April 1843—sentiments in accordance with those held and expressed by the fathers of our Church—sentiments concurred in by not a few who, nevertheless, had been induced, by whatever means, and however inconsistently, to append their signatures to the Convocation resolutions, and thus to present to the Government and to the country the aspect of unanimity, while, underneath, there really was a conflict of principles too sacred and too important to have been thus concealed, even for the purpose of securing the expected triumph.

That such principles were held by many of them we know and assert—that they are still maintained by them, though for a time, and in the excitement of the conflict, overborne, we cannot but believe; and this knowledge and belief lead us still to cherish the hope, that when the Voluntaryism of some of their brethren shall have a little more developed itself—for that their principles are the germ of which essential Voluntaryism is only the consistent development, we are fully persuaded—they will begin to question the propriety of the step which they have taken, and set themselves, in spite of temporary obloquy, to devise the means of their return to the Church of Scotland.

Whatever may have been the reason, Dr. Bryce—

* Speech of Dr. Willis in Presbytery of Glasgow, in April 1843, as reported in the "Scottish Guardian." See also Note A.

though by no means *lengthy* upon the subject—enters more at large into the proceedings of the Convocation than does Dr. Buchanan. The following paragraph by the former is worthy of note :—"The first series of resolutions is said to have been moved in the Convocation by the Rev. Dr. Robert Buchanan. On their promulgation, it is understood that a number of members exclaimed against their adoption, as going beyond the purpose for which the Convocation had been held—that of merely considering the steps that ought to be taken; and as inevitably leading to the most practical consequences. When the meeting became somewhat warm in the discussion of the point thus raised, a member was ready to move, that a reverend brother should offer up prayer, and invoke aid and light from on high. In this manner the tumult was quelled for a time; and, it is said, Dr. Buchanan took the opportunity of at length assuring the doubting brethren, that there was no design to lead them to any practical acts by the resolutions proposed; and that they conveyed no pledge, if agreed to, that such acts would be demanded from them. In this view of the first series of resolutions, Dr. Candlish, who sat by his reverend friend when reading them, is said so far to have concurred, as to offer nothing in opposition to what Dr. Buchanan had stated; and the first series was subscribed by all present. Two days afterwards, the second series of resolutions, pledging the subscribers directly to secede from the Establishment if their demands were not conceded by the legislature, was brought forward, when a new and greater

storm arose—those who had objected to the first now maintaining that they had been deceived. The same means as formerly employed were resorted to of allaying the tempest. It was then contended by Dr. Candlish, that it was too late to object to the second series of resolutions, as those who had signed the former had necessarily incurred the obligation of subscribing the latter, and could not, in good faith or honour, recede. Several members who did not take this view of the matter refused to adhibit their signatures to the additional resolutions; and a few who had signed the first series took the opportunity of leaving the meeting, and, in the end, remained in the Establishment. Such is the account of the proceedings in this secret conclave, which we have received from witnesses in whose credibility we place the utmost reliance." *

Another circumstance which must have tended to the unanimity of the Convocationists was the strangely perverted views taken of the position of the Church and of the import and bearing of certain decisions by the civil courts. That marvellous misrepresentations had been made by some of the less eminent members of the Non-intrusion phalanx, under the influence of excitement at public meetings, we were well aware; but that, as a body, the Convocationists, met in solemn conclave, could have been the victims of such delusions, nothing but unimpeachable testimony could induce us to believe. Such, however, seems really to have been the case. Taking the views which, it seems, they did, of

* Vol. ii., pp. 314, 315.

the import of the decisions of the civil courts, it was impossible that they could remain in connexion with the Church. We know of none now within its pale who would have done so. The chief wonder is that they could consent to maintain the connexion even for a day. Our authority is one eminently competent—the testimony of one whom, in our hearts, we believe incapable of wilful misrepresentation, be the inducement what it might. In a tract professedly containing "a summary of the reasonings on which the resolutions of the Convocation were founded," Dr. Bonar of Kelso makes statements to the following effect, which he tells us were the sentiments or reasonings of the Convocation: "The late decision of the House of Lords, as I have already pointed out, has brought us into a state of most unprecedented difficulty." No one will question the truth of that statement. But Dr. Bonar proceeds with the following catalogue of grievances, in a passage of which every separate statement is a statement of what, we firmly believe, has no foundation in reality: and having finished the passage, he adds, "Such the Convocation considered to be the true position of the Church at present." "Under it" (that decision), says Dr. Bonar, "our Church would be in absolute bondage, with scarce a semblance of liberty remaining, either for ministers or people. An iron yoke has been wreathed around our necks, and iron fetters clasped firmly on our limbs. The State has declared itself our master, without a check or limit on the servitude, save its own good pleasure. Our spiritual jurisdiction has been denied and

subverted, and our most solemn spiritual functions, exercised in the name of the Lord Jesus Christ, declared to be merely statutory duties, which the courts could compel us to discharge under the heaviest penalties of law. Instead of being Christ's freemen, we were declared to be man's bond-slaves, not at liberty to obey a single law of Christ without the permission of an earthly judge! Thus it is denied that the Church of Christ has any laws of its own, any government given by Christ. It is denied that either ministers or people have any spiritual rights, &c. &c. &c. . . . . This is now the declared constitution of the Church of Scotland. . . . . Such the Convocation considered to be the true position of the Church at present." *

If, under the excitement of the time, such reasonings were listened to, and such statements received, as bearing even a remote resemblance to the truth, we may cease to wonder at the unanimity which prevailed. But how such conclusions could be arrived at it is difficult even to guess. How the conviction could be reached that "such was now the constitution of the Church of Scotland," it is not easy to comprehend. Surely, for the time, our brethren were under the influence of some potent spell. How else can we account for the mastering delusion of which so many, and such men, had become the victims? Ah! surely, had time been

* Can we remain in the Church?—A Brief Statement of the Proceedings of the Convocation, with a Summary of the Reasonings on which their Resolutions were founded. By the Rev. Horatius Bonar, p. 5.

afforded for calm reflection in their quiet homes, that spell had been dissolved, and the pledge which gave it permanency never had been given.

With this conviction, we cannot, without deep feeling, read the following sentences, in which the author of the "Ten Years' Conflict" eloquently concludes his notice of the Convocation:—"The last act of this eventful drama was now at hand. When the curtain closed on the Convocation, it had become evident to thinking men that the next time it was raised it would reveal a still more striking scene. Already, behind the screen of that temporary obscurity into which the actors retired when they disappeared from Roxburgh Church and withdrew into the privacy of their own parishes and homes, there might be heard the busy preparation and the hurrying tread of those whose next movement was destined to consummate the Disruption of the Church of Scotland." Yes! the last act of the drama was at hand; and, behind that screen, might these and other sounds be heard, and these and other scenes be witnessed, giving pre-indications of a great Secession from the Church of Scotland.

It is not necessary, neither will our space permit us, to enter upon an examination of the two series of resolutions agreed to by members of the Convocation. The light reflected by the preceding examination of principles will enable any reader to judge of them for himself. The first of the two series was concurred in by 423 ministers, the second by 354.

Neither is it necessary to examine at great length

either the "Memorial to Government" or the "Address to the People of Scotland."

In the former of these documents, drawn up as it undoubtedly is with great skill and with much care, the Convocation, though at the best an unconstitutional convention, summoned without authority and called into temporary existence only by a pressing emergency, takes upon itself to speak in the name and with the authority of the Church—an act, we humbly think, though of men, many of whom we love and venerate, not only of vast assumption, but at least bordering upon, if not actually implying, the guilt of schism. Even in this might be detected the "budding of the little horn;" and it teaches us to wonder less when we afterwards find the same parties undisguisedly claiming the title of the Church of Scotland.

The Memorial, however, was temperately expressed. It contains a distinct avowal of the claims of the Convocationists. It repudiates altogether the idea that the Church can come under any civil obligation in relation to her spiritual acts, or that, having done so, she can be held bound to fulfil it. It admits that in the Acts relating to the appointment of ministers, "the provision is expressed in terms which, if directed against any private party or civil corporation, would *unquestionably have imported a complete civil obligation to the performance of the specified act*," and yet it is considered to be impossible "to construe this provision of the Act as importing a civil obligation, when applied to the Church in relation to the appointment and ordination of her

ministers;" although almost in the same sentence it further admits that this same provision seems in the Act "to be expressed in the form of a *condition*, under which the legislature establishes the Church and confers her endowments." *

The memorialists not only declare that no mere measure of Non-intrusion, however liberal, will satisfy them, but that, in the matter of the induction of ministers, no law will be satisfactory which will not permit them to act illegally, if they choose. Their claim, we do think, amounts to nothing short of this. They would not be satisfied with an Act providing that "the judgment of the Presbytery shall be final, without appeal to, or review by, any civil court." Such is the provision in the Schoolmasters Act.† In matters touching its

* Memorial, p. 9.

† There is, however, an obvious distinction between cases falling under the operation of the Schoolmasters Act, and cases of a purely ecclesiastical kind. Those of the former class are brought within the jurisdiction of the Presbytery solely by the Act which both confers and limits the powers of the Presbytery in such cases. They do not come under the class of cases properly ecclesiastical. In dealing with them the power of the Presbytery is derived entirely from the Act; and there being, in such cases, no appeal to any higher ecclesiastical court, there could be no redress in the event of injustice being perpetrated by a departure from the statute, unless by appeal to the law's interpreters. The case is altogether different with respect to causes ecclesiastical. Church courts have their own appellate jurisdiction, and if injury be sustained by any one in an inferior court, the way is open for redress—terminating, however, in the supreme ecclesiastical court. Its judgment is final. No civil court can overturn its decision or review its judgment upon the merits. Questions, indeed, may be erroneously decided by the supreme Church court—as they may be by any court—but should this happen, it does not belong to any civil court to rectify the evil. "We cannot look into the objections," said Lord Ivory, in the Frazerburgh case in 1851; "if these questions were ill-decided, that is one of the inconveniences of having *two separate tribunals, each independent and supreme in its own province.*"

provisions, it makes the decision of the Presbytery final, without review or reversal by any court. Provided the Presbytery, in any case, act within and according to the provisions of the statute, no court can touch their proceedings or their judgment. If they go beyond, or refuse to act according to, the statute, their judgment may be overturned. But no such provision as this, however ample and however distinct, would satisfy the memorialists. They say so. They must have liberty to go beyond the statute, or to act contrary to the statute, without let or hindrance, if they see cause. If they violate the statute, let the State withdraw the fruits of the benefice. More than this it must in no case do. The Church may try or not try, judge or not judge, reject or receive, act according to law or in the face of law, consult the flock or disregard the flock, "according to her own sense of duty alone." * "No measure which merely authorises or suffers the Church to give effect to her Non-intrusion principle, according to some particular method, will restore her freedom in the exercise of this the most vital function of her spiritual government." She must have freedom to do as she pleases, to act according to her own sense of duty alone. "The whole matters themselves in which the Church exercises her proper authority, must, by the statute, be expressly and effectually recognised as spiritual, so as to leave the Church to be guided, in disposing of them, by her own sense of duty alone, according to the Word of God and her fundamental principles founded thereon."

* Memorial, pp. 15-17.

The "Address to the People of Scotland," which was circulated in thousands over the whole kingdom, contained a popular exposition of the views and principles of the Convocationists, and was one of the most effective instruments employed for awakening the sympathy and securing the attachment of the people.

We do not wonder at the effect produced. The spectacle of so many devoted men assuming the attitude which our brethren had done, and determining, for conscience sake, to abandon their position, and sacrifice their worldly interests, could not fail to arrest the attention of all to whom the spectacle was presented; and the exposition of such a detail of astounding grievances as this Address contained, could not fail, if the representations were received as correct, of arousing the indignation of all who valued those privileges in defence of which their fathers had shed their blood. Had we been able to believe that the fluctuating decisions of fluctuating majorities of the office-bearers of the Church were to be held as in any case so determining the mind and will of Christ, that to dispute or to oppose these decisions was to oppose the Lord Jesus, we durst not have submitted to any judgment by which such a decision was impugned. Had we believed that the matter in dispute between the ecclesiastical and the civil courts was in principle the same as that on which our fathers took their stand when they refused to admit the supremacy in things ecclesiastical of a monarch who was determined to substitute his own will for law, or as that for which they suffered in the days of persecu-

tion under the Covenant, we could not have declined the call which summoned us to rally around the standard now displayed. That the Convocationists believed it to be so, we cannot doubt—but that it was not really so, we can as little doubt.* We need not here advert to this subject. We have done so already. We have already declared our solemn conviction, that, of the grievances alleged, many were unfounded, many exaggerated, and that the people were called on to support a system which, if fully developed in its legitimate consequences, might, under the name of freedom, have totally subverted liberty.

* "In withdrawing from the Church of Scotland, and in erecting themselves into another, denominated 'the Free Church,' they have deviated as far from the example, as in other respects from the principles, of the Reformation. They point, it is true, with an air of triumph, to the non-conformity of three hundred Presbyterian ministers, who were turned out of their charges on this account, in the year 1662. . . . Between the procedure in that olden time, and the procedure in our day, when the leaders conducted their seceding brethren to Canonmills, there is a dire and repulsive contrast, but not an attractive or justifying parallel. In the days of the Reformation, our Presbyterian forefathers were driven from their position at the period referred to: whereas the Non-intrusion party cast aside the privileges and encouragements of our Establishment; because, on the one hand, they would cling to patronage with great tenacity; while, on the other hand, the civil authorities would not submit to the power which they had assumed, of 'limiting,' 'modifying,' and 'reducing' its exercise within an undefined and unknown ecclesiastical jurisdiction. The notion that they who now constitute the Free Church persevered in putting forth their powers during ten years, to effect the absolute independence of the Church of Scotland, is a phantasy which has fascinated themselves; and others it has deluded to an extent so great, that, on the verity of this supposition, they and their friends boast of enjoying a 'European fame.' *Magna est veritas, et pravalebit.*"—*Wilson's Claims of the Free Church Examined*, pp. 245-46.

NOTE TO CHAPTER XIII.

Note A.

Dr. Willis has all along held, and manfully stated, these sound sentiments on this important subject. Though he ultimately joined the party who seceded, he did not scruple to repudiate the doctrines of the Convocationists. He was too well versed in the old theology of Scotland to become, on this vital question, a disciple of the modern school. He was one of the few who left the Church not on the Independence, but on the Non-intrusion question, under, what a little patience might have shewn him to be, an unfounded apprehension. Dr. Willis attended the Convocation, but had the honesty and the courage to refuse his adherence to the resolutions, as by that body agreed to. In a conversation with the author of this work, almost immediately after Dr. Willis's return from that celebrated Convention, he stated his views without reserve. They were substantially those which the author himself entertained—substantially those to which Dr. Willis gave expression in his speech, from which we have made some quotations in the text. There can be no breach of confidence in publishing the following letter, sent by him to the author, shortly after the interview above alluded to:—

"Glasgow, 10*th December* 1842.

"My Dear Sir,—I read the pamphlets which I found when I came home. I trust to your candour for a fair representation of my reasons for not, as yet, signing the resolutions. The Church, I hold, is practically right—*i. e.*, I consider her to be actually ill-used, in the interpretation put upon the compact; but I hold her to be theoretically wrong in asserting—as at least many do—that the civil power has simply the power of giving or withholding the temporalities. I think the State theoretically right, in claiming to interpret the terms of the compact, and in keeping the Church to statute; nor do I think it correct to say that the civil courts must in every case be limited, at the utmost, to the separating of the benefice and cure. Of course, I understand it to be admitted, that the State has the right, as the Church also has, of retiring from the alliance, while to neither ought to be allowed

the right, without consent of the other, of violating the compact, while it exists, without consent of the other party. I am not prepared to say that the civil courts exceed their power (or, at all events, that it is in principle wrong that they should have such power), in coercing ecclesiastical judicatories, when found acting against the law or compact; though, as I said to you, I think they ought to be slow in using this coercive power, and should, when the interests and rights of the spiritual kingdom are so intimately concerned, afford every opportunity for remonstrance and explanation, as between Church and State.

"An unqualified claim, however, of spiritual sovereignty, as beyond all reach of the civil power, is essentially Popish, and is as inconsistent with civil liberty as Erastian domination is with ecclesiastical. If it comes to separation, I will likely adhere to the brethren who go out; and I should not care to sign the resolutions to that effect, if allowed to state my own specific grounds, as well as those I hold in common with the rest. I could not remain in an Establishment which would require me to intrude ministers against the will of the flocks.—With much respect, I remain, dear Sir, yours very truly,

(Signed) "M. Willis."

"*P. S.*—I would apply the principle of the above observations to a Church unestablished as well as established. Civil liberty requires—it is the very means of preventing persecution—that the civil guardians of the whole community should know what they protect as well as what they positively sanction; and not only may they exercise the right to keep the Church to its compact with itself, where that exists, but to see justice, in so far as regards civil rights, in the keeping of the compacts to which it is not a party."

Such were Professor Willis's statements in 1842 and in 1843, and such, we doubt not, are his sentiments still; and such, we cannot doubt, are the sentiments, now that the excitement has subsided, of many reflecting men in the "Free Church." Yet, how different from, how inconsistent with the ruling principles, and how subversive of the claims, of that Church! Dr. Willis was not the only man holding these sentiments, who, notwithstanding, joined the Secession. We could point to not a few. We wondered at their conduct at the time—we wonder at it still.

Many will probably recollect the sentiments expressed by Dr. Burns, late of Paisley, in a speech delivered at the Synod, while the controversy was at its height. "I do not want more power for the Church. We have too much power already. What I want is, more power for the people." The presence of these men in the "Free Church" may possibly exercise a salutary influence in restraining the tendency to further deviations from the doctrines of the Church of Scotland, and towards that Voluntaryism to which the modern school very distinctly points. It is unfortunate, however, that leading men, holding such views in the "Free Church," should be called to labour in distant colonies.

CHAPTER XIV.

Answer of Government to Claim of Rights—Subject patiently Discussed in both Houses of Parliament—The Crown, the Lords, and the Commons, declare the Claim to be unreasonable, and inconsistent with Civil Liberty—Chapel Act—Stewarton Case.

No reply having as yet been given to the Claim of Rights, agreed to and transmitted by the Assembly 1842, the Commission in the following November returned to the subject, and forwarded another memorial, reminding the Government that neither the Claim, nor the Address on the subject of Patronage, had yet been replied to.

On the 4th of January 1843 an official answer was returned, in a letter addressed to the Moderator by Sir James Graham, her Majesty's Principal Secretary of State. That reply was given in unambiguous terms. Though everything like disrespect towards the General Assembly was disclaimed, the Claim was pronounced to be "unreasonable," and the intimation was given, that the Government "could not advise her Majesty to acquiesce in these demands." From the elaborate nature of the reply, it was obvious that the Government had given their most earnest and careful attention to the subject. The claims of the Church, they said, could not be conceded without the surrender of civil liberty, and the sacrifice of personal rights.

It is scarcely possible, indeed, to suppose that the

Government could be otherwise than most anxious, as far as in them lay, to prevent that secession, the certainty and extent of which had been brought so prominently before them by the resolutions and memorials of the late Convocation. Had the demands been such as, in the opinion of the Government, could, consistently with the public weal, be yielded, the concession would undoubtedly have been made. The Government, however, felt compelled to refuse them. They did not deny, but on the contrary admitted, the independent jurisdiction of the Church within her own province; but when questions arose as to how far a matter was civil or spiritual, these, they said, were questions of law; and, being questions of law, must be decided by the courts of law. They could not admit that the General Assembly was entitled, by the law or constitution, to decide what were the boundaries of civil and ecclesiastical jurisdiction; in other words, what were the limits of its own powers. The assumption of such a right led directly to despotic power.

Such was the reply of the Crown with reference to the great point insisted on in the Claim of Rights. That reply was communicated to a special meeting of the Commission of the Assembly, held on the 31st of January. The Commission came to the conclusion that, as usual, the nature of their claims had been misunderstood; and that "the long array of statutes on which the Church rested her claim of spiritual jurisdiction, seemed to have escaped the notice of her Majesty's Government."

As to the statutes on which the Church founded her claim of spiritual jurisdiction, there was no ground for supposing that they had been overlooked; for that jurisdiction, instead of being denied, had been admitted in the Government's reply. The misapprehension of the nature of the Church's claim, which has been described as an "offensive and injurious mistake," was supposed to consist in the notion that the Church claimed to be the *sole* judge of what is civil and what is spiritual. Now, whether this offensive mistake was committed or not, it is certain that the Church did claim to be judge of what, according to statute, was to be considered spiritual—that is, of interpreting civil statutes defining the jurisdictions. Whether she claimed to be *sole* judge of this is practically of little moment. She claimed—at least the claim was made for her—to be an authoritative judge in the matter. And, if she claimed to be authoritative judge of what was, according to statute, spiritual, the claim just amounted to that of being authoritative judge of what was civil. The one claim included the other. They could not be separated. It was like determining the boundary line of two conterminous estates or fields. If it be alleged that it belonged as much to the Church as to the State to judge in the matter, the reply is, that it belonged to neither, but to the civil courts appointed to interpret statute, and, in so doing, to act as authoritative umpires in cases of dispute.*

* If the jurisdictions are to be defined by civil statute, the *sole* judges must be the civil courts. The idea of two authoritative interpretations,

The Claim of Rights having been thus rejected by her Majesty's Government, one only course now remained open to the Convocationists and their adherents, as their last effort to prevent their secession from the Church—viz., to appeal, by petition, to the legislature, for redress and protection. A Committee was accordingly appointed by the Commission to prepare petitions to both Houses of Parliament. On the 10th of February the petition to the House of Commons was presented by the Right Honourable Fox Maule; and, on the 7th of March, the subject was by him brought before the House, in a speech characterised at once by ability and candour. On both sides the subject was ably and patiently discussed, in a debate which occupied two days.

No one who has studied that debate can fail to be impressed by the temperate and dispassionate spirit manifested on either side, contrasting, as it does, so strikingly with some kindred discussions which had

opposed to each other, is absurd. It is absurd in theory, and the Auchterarder case shewed it to be absurd in practice. No impartial party will sanction the claim, in any shape, of the Church courts authoritatively interpreting civil statutes. The following is the opinion of one whose impartiality cannot be questioned:—"It may be that the civil courts have pushed their authority to the utmost limits of constitutional law, and in some instances even gone beyond it; but, though strongly denied by some, we think it clear as noonday, that these courts, and these alone, are the legitimate and constitutional interpreters of the civil statute-book. It matters not that the statutes in question relate to ecclesiastical affairs—that does not constitute the ecclesiastical court the proper interpreter of their provisions. They are civil laws, enacted by the legislature of the realm, and the civil courts are, therefore, their legitimate expounders. The ecclesiastical court is competent to interpret and apply ecclesiastical law only."—*The Revolution Settlement of the Church of Scotland.* By Rev. John Graham, Wishawtown, p. 4.

elsewhere taken place. The debate turned mainly upon the question of disputed jurisdiction. That, in fact, had now become the real question in dispute. It was admitted, as before, that, in matters purely spiritual, the Church courts had jurisdiction independent of the civil; but the question was, who shall decide, in the last resort, as to whether a matter falls within the spiritual or the civil jurisdiction? Let it be determined of any matter that it is spiritual, it then falls within the exclusive jurisdiction of the Church; but when a dispute arises as to whether the matter is really within that jurisdiction, who shall authoritatively and ultimately decide? Who shall authoritatively interpret the statute which limits and defines the two independent jurisdictions? To this point almost entirely the Church question had now been narrowed. On the one side it was contended that the Church courts should have the power of declaring the limits of their own jurisdiction as by statute defined, leaving to the civil courts the power of declaring theirs—that is, that both should have equal power to interpret those civil acts which defined the jurisdictions—both should have the power of saying which was the true boundary line of the conterminous fields. On the other, it was argued that civil statutes fell to be interpreted by civil tribunals—that statutes defining the jurisdictions fell, as to the interpretation of them, within the civil province, and could be finally and authoritatively determined solely by the court of last resort.

Most patiently and most earnestly was this debate

conducted. Although the right honourable mover proposed only that the House should resolve itself into a Committee to take the petition into consideration, the motion was negatived on a division of 211 to 76.

This discussion, with its decided and significant result, was not without its effect on many. It was easy to insinuate that the question had been blinked—that the views of the Church had been misrepresented—that the question was one which, from habit, the English mind could not well comprehend.* These ingenious considerations might satisfy some; but there were others who, when they saw the subject thus patiently and earnestly discussed by the most accomplished and acute minds of which the legislature could boast, and heard the claims of the Church so emphatically pronounced to be inconsistent with civil liberty by the constitutional

* The complaint, so frequently repeated, that the views and claims of the party had been misunderstood and misrepresented, and, in short, could not be made intelligible to Englishmen, can scarcely fail to suggest the following remarks of Cardinal Wiseman, in the *Morning Herald* of 12th December 1855, with reference to the famous Austrian Concordat: "The document in question," says the Cardinal, "came first to this country from the correspondent of a newspaper, who shewed, in the remarks with which he accompanied it, that he did not know the meaning of the words that were used in it. It was drawn up in the peculiar language of Catholic ecclesiastical diplomacy; that is to say, the words used in it had a different meaning from that of the ordinary Latin, in which it was written; and it required a person versed in ecclesiastical Latin, and in the principles of the canon law, to understand it, and interpret its meaning and significance."

We may remark that, by that Concordat is secured what some would hail as true spiritual independence. The following is the Pope's own version of it: "It has been ruled that the mutual relations of the bishops of the Austrian states, and those of their clergy and of the faithful population, with our Apostolic see, in all that regards spiritual and ecclesiastical affairs, *should be perfectly free*, without being subject to any royal authority of any kind whatever."—*London Morning Herald*, 6th December 1855.

guardians of the people's rights—the representatives of British freedom—were led to pause, and to reflect, and to examine anew the grounds on which they had joined with others in upholding these claims.

The Claim of Rights having been thus emphatically rejected by the British Commons, it seems not to have been considered either expedient or necessary to present the petition of the Church to the Upper House. The subject, however, was speedily brought before that august body by Lord Campbell, in a series of resolutions on the existing dissensions in the Church of Scotland. With equal earnestness and patience as in the Lower House, was the whole subject discussed by the Peers. Anxiety for the welfare of the Church was equally manifested; readiness to secure the true rights of the people was equally displayed; and the high claims of the rulers of the Church were not less emphatically rejected. One after another, the most distinguished members of the House, who had given the most earnest attention to the subject—men of high attainments, versed in the law, acquainted with the topics in debate in all their bearings, of various political leanings—these men, one after another, rose and in their places pronounced the claims of the Church, especially as read in the light of the Church's actings, to be in violation of the constitution, and inconsistent with civil liberty. The views of these men were at least worthy of regard. It was a solemn thing to see the three branches of the legislature of this great empire—the Crown, the Lords, the Commons—each

in their turn, not merely listening with patience to all the arguments which the leaders of the Church could adduce in favour of their demands, but painfully mastering the subject, and each in their turn declaring that these demands were inconsistent with civil freedom. We do not wonder that the spectacle affected some, and led them, even at the last hour, to inquire whether professional prejudices had not some effect in binding them so tenaciously to claims thus so strikingly condemned.

Lord Campbell, in introducing the subject to the House of Lords, declared his readiness to support a measure for the extension of popular rights; but, on the subject of independent jurisdiction, the Church, he said, had set up claims that were inadmissible. Her claims amounted to a demand that the Church courts should not be questioned for anything they might think fit to do. The consequences of the assumption which they made might not be the resuscitation of all the abuses which grew up from that same root in the Church of Rome; but the yoke of the Church might again be made most galling, and its burden most intolerable, if such demands as were now made were conceded. There existed in no quarter—certainly not in the House of Lords, or in the other House of Parliament—any inclination to oppress the Church of Scotland; but, on the contrary, every desire—as they regarded her with high and unfeigned respect—to render her, if possible, still more efficient than she had been as an instrument of good to that country.

The Earl of Aberdeen, Lord Brougham, the Earl of Haddington, and Lord Cottenham, expressed their views at length, and all of them concurred in the necessity of refusing the Church's demands.

A few months previously to the rejection of the Claim of Rights, another important decision, adverse to the pretensions of the Church, had been pronounced by the Court of Session, in the well-known Stewarton case. Actuated, no doubt, by the best of motives, with the view at once of elevating the status and increasing the efficiency and numbers of a class of ministers who had occupied a somewhat anomalous position within her pale, and, at the same time, of paving the way for the return of seceding ministers and congregations to her communion, the Assembly of 1834 had passed the celebrated Chapel Act. These objects were most laudable. Doubts, indeed, were entertained, at the time, of the competency of the measure, including, as it did, not only the admission of these clergymen to the full status of ministers of the Church as by law established, to sit and deliberate and vote in the Church's various courts, but other dependent and connected acts, which a little reflection might have shewn to be not only of great importance, but bordering upon, if not directly entering into, the province of civil rights. The supporters of the measure viewed it chiefly in the one aspect of clothing one class of ministers with rights to which, according to their view of the Presbyterian polity, they were by their ordination entitled; and, viewed simply in this light, nothing seemed more

obvious than that the Act was one purely spiritual, and, therefore, within the exclusive jurisdiction of the ecclesiastical courts.*

This Act, however, did not stand alone. It was connected with others; and, when viewed, as it must be, along with them, the complexion of the whole measure was materially altered. It implied, for instance, the erection of numerous kirk-sessions, each sending, along with the minister, a lay representative to the various Church courts, and thus ultimately not only increasing to a large extent the number, but altering materially the proportion of lay and clerical members

* Upon this subject new light seemed suddenly to dawn upon the Church. She was taught to consider the chapel system as not merely inexpedient but sinful—as infringing on an institution of the Head of the Church. "The Church, then," as Dr. Lockhart remarks, "must, in terms of the 8th clause (of the Protest of the Free Church), have been violating the institution of Christ from the moment that a chapel minister was ordained; and certain eminent men amongst the protestors, when they left their country benefices for chapels in the metropolis, *not by civil constraint, but by voluntary choice*, must have sinned with a high hand in placing themselves in a position where, in terms of the 8th clause, they were not 'allowed to rule as well as to teach agreeably to the institution of the office by the Head of the Church.'"—*Answer*, pp. 18, 19.

Although, during the late controversy, the chapel system was unduly depreciated, and its benefits unkindly overlooked, there is but one opinion as to the desirableness of raising the ministers of chapels to the full status of parochial clergy, and of erecting the chapel districts into separate parishes, enjoying the full benefits of the parochial system. Availing herself of the Act of the legislature, passed to facilitate the division of parishes, the Church has not been slothful in the matter. Under the able superintendence of the indefatigible Convener of the Endowment Committee, that noble scheme of the Church promises, with the Divine blessing, to make the desert places of the land to blossom as the rose, and to rejoice with joy and singing. Already has provision been made "for the endowment of nearly fifty new parishes, most of which have now been erected by the proper court." And great progress is being made towards the endowment and erection of 150 more. All honour to the man who has devoted himself so laboriously to the great enterprise!

in the supreme Church court, the number of burgh elders remaining stationary, while the number of other members might be indefinitely increased, every increase adding to the preponderance of the clerical over the lay. It implied the territorial subdivision of parishes —itself surely not a spiritual act—and the withdrawing of parties,—nay, of whole districts,—without consulting them in any shape, from under the superintendence of one minister and kirk-session, and handing them over to another, just as a proprietor would re-arrange and subdivide his farms, and hand over his flocks in companies to this new shepherd or to that—a deed not quite consistent with the Non-intrusion principle, inasmuch as, if it did not force a minister into the pulpit against the will of the congregation, it might force both a minister and his whole session upon a reluctant district.

For five years, however, this measure continued in operation, undisturbed by any civil interference, and it is not to be denied that many important benefits had resulted from it. Still, as the act of the Church, it was questionable. It was clearly, in many of its consequences, an act of such a nature, that the State had a right to insist on being consulted in the matter, and that the more especially that it had reserved to itself power in the plantation of kirks and subdivision of parishes, and had entrusted that duty to a special civil court. Even in the period of the Second Reformation, the Church, with all her lofty claims, had not considered it derogatory to her jurisdiction to refer the "dis-

cerning of a distinct paroche," to the Parliament.* It was also a matter in which private rights were obviously implicated. Parishioners were entitled to question the authority which separated them from the superintendence and benefits of that Church and minister and session to which, by the civil laws of the realm, they had a right; and both ministers and laymen were entitled to be satisfied as to the lawfulness of the composition of those tribunals by which their causes might be determind. They might even be ready to admit the scriptural authority of a dissenting Presbytery or Synod to be equal to that of the courts of the Church Established; but that admission would give no claim to these courts to try their cases as members of the Established Church. They had a right to know that the court which was to try their cause was the proper court, and its members the lawful members, to whom the judging of such causes belonged: for in a free country, every party must have the right of appeal against the judgment of incompetent judges.

For five years, as has been stated, this measure continued in operation undisturbed by any civil interference, and might so have continued till this present hour, for anything that the civil courts could or would have done in the matter, but for the interference of parties who believed that their civil interests were invaded by the operation of the measure in a particular case.†

* See Note A.

† A distinct narrative of the important and somewhat curious Stewarton case, together with an able exposure of the misconceptions to which it

NOTE TO CHAPTER XIV.

Note A.

"Sir Alexander Carnegie of Bonnymoone having built a church upon his owne expenses, did supplicat that it might be decerned to be a distinct paroche. As lykewayes a supplication of Duncan Campbell of Glenlyon to the same effect, referred to the Parliament."—*Records of the Kirk, Assembly* 1639. In 1581 we find his Majesty, with advice of the Lords of his secret council, giving instructions to the Assembly upon the subject of the conjoining and subdividing of parishes—"small parishes to be united, and the great divided, for the better sustentation of the ministrie, and the more commodious resort of the common people to their kirks." "There is also," say these instructions of his Majesty, "drawin the forme of a letter of ours to be written to some of the principall noble and gentle men, and certain of the ministers within the bounds of every eldership, to convene, advise, and report unto us their advice, &c."—*Calderwood*, vol. iii., pp. 516, 517. From Calderwood we moreover learn that even the erection of what would now be termed a Chapel of Ease, was considered a matter which required to be ratified by Parliament. The question being moved in the Assembly 1600, "the Assembly, after long reasoning, thought it lawful, and declared they would assist the same as a godly work, and *crave the same to be ratified in Parliament* so oft as it should occur."

It is worthy of remark that in 1834 the Chapel Act was disapproved of by many who afterwards assumed a prominent position in the Free Kirk. It was disapproved of by Dr. Chalmers, Dr. Gordon, Dr. Clason, Dr. Patrick Macfarlane, and many others whose names stand high in the list of the seceders. Dr. Macfarlane "strongly condemned the Act"—he "doubted the power of the Assembly to pass such a law."

gave rise, and the fallacious conclusions which, during the heat of the controversy, it was attempted to deduce from it, may be found in the "Examination of the Claims of the Free Church," by the late John Wilson, D.D., minister of Stirling, pp. 174-217.

CHAPTER XV.

Preparations for immediate Secession—Means adopted to secure Adherents—To secure Pecuniary Support—Assembly 1843—The Secession—Seceders claimed a Majority—Claim examined—In a Minority in almost all the Synods and Presbyteries of the Church—Striking results of Analysis of List of Clergy in 1843—Had the Question been submitted to the Church at large, the Schism would have been condemned by an overwhelming Majority of Clergy.

THE memorable and decisive vote in the House of Commons, on the 8th of March 1843, had sealed the fate of the movement party in the Church. That vote had peremptorily refused those claims, without the acknowledgment of which they had declared they could not continue in connexion with the Establishment. Already most vigorous measures had been adopted in anticipation of a probable secession, and fresh efforts were now put forth with an energy seldom equalled in any cause. Now that a secession seemed almost inevitable, it was of the utmost importance, both that the masses should, as far as possible, be interested in the movement and attached to the cause, and that means should be adopted for securing an adequate maintenance for outgoing ministers. To ensure these objects, all was done that wisdom could devise, and energy and zeal could execute. For many previous months "the doctrine had sounded powerfully" from many a pulpit and platform, until multitudes had been persuaded that the cause was one from which no sincere Christian could withhold his

support; and, so early as the time of the Convocation, the scheme of the Sustentation Fund had been propounded by its illustrious author, and hailed by not a few as a scheme which, if required, was likely to realise at least such temporary support as might be needful while the period of the secession should continue. Now, however, these efforts were redoubled. Under the excitement of the crisis, the determination was formed not merely to increase as much as possible the numerical strength of the secession, but to attempt utterly to destroy the Established Church, as an institution so degraded as to be unworthy of the nation's respect. A war of extermination was proclaimed. "When we are driven forth from the Establishment," said Dr. Candlish, "the same view of duty which led us to leave it, will also, of course, lead us to aim at the overthrow of the Establishment that remains. . . . We will be compelled, not by resentment, not by indignation, not by jealousy, but by the same sense of duty which induced us to leave it, to become its sworn enemies."

Such was the avowed purpose of some of the leaders —a purpose even more resolutely entertained, and less prudently expressed, by not a few of their followers. Even after every allowance has been made for the strong excitement which at the time prevailed, and for the disappointment which many were beginning to feel when the necessity of seceding began to be realised, the broad mantle of charity does no more than cover some of the acts to which our brethren considered themselves warranted to resort.

The effect, upon sincere but uneducated men, of those denunciations which were emitted, exceeded in some cases what even the most determined had anticipated. At the head of the party were men of the highest Christian character, whose praises were in all the churches, and the influence of their names attached itself, in many instances, to efforts to which they would have scorned to stoop. Besides, the calculated effect even of these efforts was very much surpassed. The exaggerated statements of pulpit or platform orators conveyed still more exaggerated views, when addressed to the excited imaginations of illiterate though well-intentioned men. Not otherwise can we account for the strange, and sometimes even ludicrous, opinions conscientiously held by many respecting the Church of Scotland—opinions, indeed, now quietly, though imperceptibly, giving way under the influence of facts which, in spite of prejudice, will force themselves upon the observation—but opinions which, lingering in the remoter districts of the land, it may require the intercourse and experience of yet many years altogether to dislodge.

The means adopted by our brethren for the promulgation of their statements, were not less unwarranted by the constitution of the Church of which they still were members, than were those statements themselves unwarranted by facts. Under the authority of a convention not recognised by the constitution, measures were adopted for the invasion of every parish, whether with or without the sanction of its minister and kirk-session;

and, under this authority, busy agents held inflammatory meetings, and urged on the people to abandon the Church of their fathers. It may be said that the extraordinary position in which they found themselves placed rendered necessary their adoption of extraordinary measures; and this, in truth, is the utmost that can be said in defence of the strange proceedings adopted. Even this defence cannot be admitted as altogether satisfactory. Urged on by their excited feelings, and by the pressure of circumstances, they were subverting that Presbyterian polity to which they professed so strenuously to adhere. For the time they were putting the authority of a voluntary convention above the authority of those spiritual courts which the constitution of the Church recognised. Without any sanction from Presbytery or Synod or Assembly, they intruded into parishes, in violation of constitutional order, nay, in spite of solemn Acts of the General Assembly of the Church. It would be difficult to shew that they were not virtually implicated in something not very different from that which they had imputed to the Strathbogie ministers. If not at the bidding of a civil court, at least at the bidding of an unconstitutional and irresponsible convention, they were setting at nought not merely Acts of Assembly, but the comely order and discipline of the Church of Scotland. We cannot in our conscience absolve our brethren from the charge of having sinned in this matter. Much, however, must certainly be ascribed to the unprecedented circumstances in which they were placed. Seldom have men been so severely

tried. To this subject we have adverted most unwillingly. We have done so only because at the time it formed a very prominent feature in the transactions which we are now reviewing; and we shall not enlarge upon it. A better day has dawned, and mutual forbearance is beginning to occupy the place which irritated feeling had for a time usurped.

While thus laboriously exerting themselves to increase the number of their adherents, they were, at the same time, exerting themselves to secure some equivalent for those endowments which were about to be abandoned. Do we blame them for so acting? God forbid. Had they made no attempt to secure provision for themselves and for their families, the boldness of their deed might have called forth the admiration of some, but it would have indicated the boldness, not of faith, but of infatuation or presumption. We question the correctness of the statement, "that they were not careful to inquire what their after condition, as to temporal support, might be." * The subject was one which, both at the time and ever since, has justly occupied some portion of their care. A system better organised, or more zealously worked, for the voluntary sustentation of ministers, never has been developed than that which owes its origin to the genius and devotedness of the venerated Chalmers. In the Convocation he had "expounded his views upon this subject at great length, and shewed how, by a united effort, the offerings of the people might be made to replace

* Ten Years' Conflict, vol. ii., p. 584.

the alienated endowments of the State." "To him the idea owed its origin and birth," and "prodigious progress had been made towards the realising of it, before that day arrived when it was to become the chief earthly dependence of the disestablished Church." *

Meanwhile, the day was approaching on which the memorable Assembly of 1843 had been appointed to meet. To that day the leaders of the movement looked forward as the day on which the anticipated secession was to be consummated. Their plans had been matured carefully, and with admirable skill. A multitude of adherents, throughout every district of the land, had declared their readiness to cast in their lot with them. The promise of provision for outgoing ministers had been freely and liberally tendered. The "Protest" had been prepared by which, as Dr. Buchanan expresses it, "her separation from the State was to be consummated by the Church." A difficulty, however, had presented itself. To give to the act of secession the appearance of being an act of the Church separating herself from the State, it was necessary that, at the least, there should be a majority of the Assembly voting in favour of the solemn deed. For this purpose chiefly, it would seem, had the secession been deferred till the period of the Assembly's meeting. For this it had been determined to brave the charge of continuing for some months in connexion with a Church, connexion with which was declared to be sinful; and of endeavouring to undermine that Church, while yet this connexion

* Ten Years' Conflict, vol. ii., pp. 584, 586. See also Note A.

was maintained. Great efforts had been made to secure a majority. Doubtless with this design an appeal had been taken against the decision in the Stewarton case —an appeal which was not fallen from until some returns to the Assembly had been made, nor until "there arose cause to apprehend that the Court of Session would grant interdict, if sought, against ministers and elders of *quoad sacra* churches taking their seats, notwithstanding the appeal."

In several Presbyteries the moderate party, acting on the decision in the Stewarton case, protested against any *quoad sacra* ministers voting in the election of representatives; and thereafter, constituting themselves into what they considered the lawful Presbytery, chose their representatives for the supreme court. In this manner, double returns were, in some cases, made to the Assembly.

Partly from this, and also from various other causes, it now became obvious that the leaders could not calculate on obtaining a majority, and consequently that to incur the risk of a vote on the question of secession was to incur the hazard, perhaps the certainty, of such a decision as would have deprived their act of even the semblance of being an act of the Church. Had the question been brought to a vote on the terms "secede" or "not secede," and had it carried "not," no plausible pretext could have been devised for dignifying the secession with the name of the "Disruption," and the act would have appeared to all, in what was really its true character, the simple act of a minority—a mere

secession, large indeed and influential, but having no even plausible claim to assume the title of "the Church," or to appropriate to the deed itself any other term than that of an important secession.

Had the question been submitted to a lawful Assembly, and the decision been solemnly come to by that Assembly, constituting the representative Church of Scotland, that the Church could no longer continue in connexion with the State,—in that case, there might have been some seeming and plausible grounds for denominating this act of the Church representative "the Disruption," meaning thereby the disruption from the State, and there might have been some seeming grounds for our brethren claiming to themselves the title of the disestablished Church of Scotland. Nothing short of this, however, could have afforded even plausible grounds for such a title, or for such a claim. But no such vote was given—no such vote was attempted. The party did not risk the attempt. They were quite alive to the vast importance of gaining, had that been possible, the sanction of the Church. They had made every effort to secure it; but, convinced that it was doubtful, if not impossible, they shunned the contest. They would not risk the vote. They withdrew before the Assembly had been constituted, and forming themselves, on their own authority, into a separate body, they unwarrantably claimed the same position and title as they would have done had their proceedings been sanctioned by a solemn and deliberate vote of the Church.

It is true that the seceding brethren did protest

against the Assembly about to be held, on the ground that the liberty of Presbyteries in the election of representatives had been interfered with, that commissioners elected had been interdicted from taking their seats, and that the Assembly was not and could not be a free and lawful Assembly. But, however convinced of the truth of the allegations which their protest contained, that surely could never warrant their assumption of that position and claim, which nothing could have conferred short of the deliberate vote of a free and lawful Assembly. Granting that their allegations are correct, that circumstance could never have constituted them the Church of Scotland, and their separation from the State was just the separation of so many individuals, not of a Church—the "Disruption" was a disruption not of the Church of Scotland, but of the Convocation and its adherents. The act was simply a great secession.

The Assembly met on the 18th of May 1843. A graphic and interesting description of the proceedings of that memorable day is given by the author of the "Ten Years' Conflict." We restrict ourselves to a simple statement of the leading facts.

The commissioners from the various Presbyteries and Burghs who had been chosen representatives to this memorable Assembly having met in St. Andrew's Church, Dr. Welsh, the Moderator of the previous year, opened the meeting with a solemn prayer. As yet the Assembly had not been formed; Dr. Welsh, indeed, protested against that step being taken.

"Fathers and brethren," said he, "according to the usual form of procedure, this is the time for making up the roll; . . . . but I must protest against our proceeding further!" He then proceeded to read the formal protest which had been previously agreed to and signed, according to Dr. Buchanan, by "203 members of the house;" having concluded the reading of which, he immediately withdrew, followed by all the adherents present.

It was a solemn and melancholy hour which witnessed the departure from the Church of Scotland of so many devoted friends of the Redeemer's cause. Among them were some "disturbed spirits," whose absence few of those who remained would have much regretted, but there were others over whose defection multitudes lamented, and the loss of whose presence and services in the Church was felt as a deprivation well-nigh irreparable. Of these not a few have been gathered to their fathers, and their memories we shall ever cherish as of highly honoured servants of the Lord. Others yet remain, and our hearts cleave to them still as "friends and brethren beloved," whose departure from the principles of the early Reformation and from the Church of our fathers we have much and deeply lamented, and whose return to the Church of Scotland we would hail with joy unspeakable, as an event the most auspicious that could occur, and as tending to render our Zion, as she is the freest, so the strongest, Church in Christendom. "What would the receiving of them be but life from the dead?" We blame their

deed—we believe them to have been in error. But we love them notwithstanding. And though new connexions have been made, and new friendships formed, our hearts, we confess, yearn over the past. We love our brethren still. The prayer of our heart on their behalf is, that God, even our God, may bless them, and that even though it should be determined, in His holy and mysterious providence, that we are never again to be united here, we yet may be united hereafter and for ever in that better world where we shall know even as we are known.

It has been stated that our fathers and brethren, members of the court, having tendered their protest to the Assembly, withdrew. In point of fact, however, there was no Assembly until after that event had taken place. No Moderator had been elected—the Commission of the Queen had not been received—the roll of members had not been made up—the Assembly had not been constituted. The materials out of which the House was to be constituted were there, but as yet the Assembly had not been formed. They chose to avoid a contest which might have left them no covert for the claim that they represented the Church of Scotland. It would have been a glorious triumph to retire under the sanction of a deliberate vote, and carrying with them the banners of the Church gained by a majority of voices; but the hope of such a result having been abandoned, they chose to avoid the risk, or rather certainty, of a defeat, and to retire at such a stage that they could still satisfy themselves and their adherents

that they had not sustained an overthrow. Their retreat was precipitate, but the time was prudently chosen. It was expected by many that, even though determined to depart, they would remain at least until the letter from the Queen should be communicated, especially as it was understood that, on this momentous occasion, the royal communication would be something different from the brief and formal epistles of ordinary times, and would contain an indication of willingness on the part of the Crown to sanction such a measure as would secure the people in their privileges, and the Church courts in their rights, with reference to the election and admission of ministers. They chose, however, to retire before one step was taken towards the constituting of the Assembly, and under shelter of a protest which denied the lawfulness of the Assembly itself. They did not wait to test the legality of those votes by which the members had been chosen. "The hitherto dominant majority," says Dr. Bryce, "had only before them a secession, which, appearing to the world as a voluntary act and self-imposed sacrifice, might command some sympathy and respect—or a separation which, forced upon them by the desertion of the State, could not, they might think, redound to their credit or advantage in any manner. The Non-intrusionists chose, perhaps, the wiser alternative; for the returns had rendered it doubtful at least if they could have carried the nomination to the chair of the Assembly—much less if, under cover of a vote of the Church herself, they could have achieved the schism which

they perpetrated. They preferred, acordingly, to retire under an act having no public or accredited character attached to it." *

Such we believe to be a plain, unvarnished statement of facts. The great event accomplished on the 18th of May 1843, was simply a secession—no doubt a great and most important secession—from the Church of Scotland; but it was nothing more. To represent it as a disruption of the Church from the State—"a separation from the State consummated by the Church"—is not merely a misapplication of terms, but a perversion of fact. No Act of Assembly could have consummated such a separation. Before even a new legislative enactment can become a law, it must have not merely the sanction of an Assembly, however harmonious, but the subsequent approval of a majority of the Presbyteries of the Church. No one Assembly is held, on such a matter, fairly and conclusively to represent the mind of the Church. But even this partial sanction was never afforded to the act of the out-goers. It was earnestly desired and laboured for by the leaders, but it could not be attained. They could not risk the issue of a vote. They tendered their protest no one can say to whom, and withdrew ere yet the Assembly had been constituted. As, however, it was a matter of great importance to represent their act as an act of the Church, various and laboured attempts have been made to give this colouring to the deed. Never were attempts more vain. If on this foundation our brethren erect their

* Vol. ii., p. 369.

claim to be considered the Church of Scotland, they build on a foundation as sandy and brittle as when they rest it on their alleged adherence to the principles and polity of the founders of the Church. In both the one case and in the other they are reproved by clear and incontrovertible facts. They claimed, at the utmost, a small and doubtful majority of the Assembly 1843; and to uphold that claim they were compelled, on the one hand, to repudiate those members the validity of whose elections their opponents were ready to maintain; and, on the other, to reckon as members those whose right to sit was not only questioned, but utterly denied. Our brethren surely had no right to boast of a majority of votes in an Assembly at which they were never present, and their absence from which, after all the formalities of keenly contested elections, could not be satisfactorily accounted for on any other ground than that they feared defeat.

The truth is, that the materials out of which that Assembly was to have been formed, were to a great extent of a questionable and anomalous complexion. Several Presbyteries had made double returns, and before the Assembly could have been properly constituted, and in a position to act either judicially or legislatively as the lawful and acknowledged representative of the Church of Scotland, the question must have been determined, in these cases, as to which, if either, of these returns were constitutionally valid. The ministers and elders of *quoad sacra* churches had been sent as commissioners from certain Presbyteries, and their right, had they at-

tempted to exercise it, would have been peremptorily denied. These were points which, in accordance with the principles of the out-going party, should have been determined by the Assembly itself, or by the parties giving in commissions; but, instead of this, they, according to a preconcerted arrangement, left the Assembly-house before one question could be raised, and, determining, on their own authority, that they were the lawful representatives of the Church, they consummated the schism and proclaimed themselves a "free and lawful Assembly." These points they settled for themselves. They assumed them without discussion, and acted accordingly. They were, according to Dr. Candlish, "a majority of those *whom alone they could recognise* as lawful members of Assembly."

As, from the premature secession of our brethren, the question was never determined as to who were or who were not "lawful members of Assembly," instead of simply denying the assumption that they constituted the majority of members lawfully elected, we shall bring the question regarding numbers to a surer and more legitimate test—one which declares what was *the deliberate mind of the Church* far more unequivocally than any assertion uttered by those who had declined the hazard of a vote—nay, more unequivocally than could have been done by any vote of any single Assembly.

Taking as our test the number of ministers who remained as compared with those who seceded, it will be seen, *not only that a vast majority declared against the schism, but that, even though we include the ministers of*

quoad sacra *churches, there was scarcely a Synod, and only a few Presbyteries, throughout the Church which would not have condemned the deed;* and, consequently, that an Assembly composed of members duly chosen, and representing *the mind of the Church*, would, had the question been proposed, "Secede" or "Remain," have left our seceding brethren *in a comparatively unimportant minority.* And that, had the votes of the *quoad sacra* ministers been excluded, *scarcely one Presbytery, except within the Synods of Sutherland and Ross—amounting in all to six—would have voted "Secede."*

These are startling facts when contrasted with the hasty assertions of those who, to cover their deed of separation, and to defend their assumed title of the "Church of Scotland," claimed for the act of secession the authority of a majority of those who alone could be recognised as lawful members of the Assembly of 1843. But startling though they be, nevertheless they are facts.

In 1844 was published "A List of the Clergy of the Kirk of Scotland, as on the 18th of May 1843, shewing those who adhered to, and those who have since seceded from, the Establishment." *

I. From that list the following facts are apparent:—

1.	The number of the clergy in the Kirk of Scotland, including the *quoad sacra* ministers, was . .	1203
2.	The number which adhered to the Church was .	752†
3.	The number which seceded was . . .	451‡
4.	Thus shewing a majority remaining of . .	301

* Edinburgh, 1844.

† Including 23 assistants and successors.

‡ Including 17 assistants and successors.

II. An analysis of this list further shews that—

1. Among the out-goers were included a great number of *quoad sacra* ministers, amounting to . . .		162
2. The *quoad sacra* ministers remaining were . .		71
3. So that of parish ministers remained . .	681	
4. While of parish ministers seceded only . .	289	
5. Thus shewing a majority remaining of . .	392	

So that greatly less than one-third of the parish ministers joined the secession.

III. A further analysis of this important list brings out the following facts:—That, had the question been submitted to the votes of the ministers of the separate Presbyteries of the Church, even including *quoad sacra* ministers —

1. Presbyteries would have voted "Remain" . .	60
2. Presbyteries would have voted "Secede" . .	18

And several of the latter would have carried this vote by a majority of only one. A very few Presbyteries would have been equally divided.

3. *So that, of Presbyteries voting "Remain," there would have been a majority of*	60 to 18

IV. And, lastly, had the votes of *quoad sacra* ministers been excluded, *all the Presbyteries of the Church would have voted against secession, with the exception of only* 8 *or* 9, *these being almost exclusively in the Synods of Ross and Sutherland*, where ministers, it is too well known, had long been under the unwholesome dread or domination of "the MEN."

These are facts, and they are both important and striking. They require no comment. They speak for

themselves. They utter a voice both of reproof and warning. Did our brethren who left us constitute the Church of Scotland? Was their act a disruption or a schism? *

NOTES TO CHAPTER XV.

Note A.

Assuredly we have no wish to undervalue the magnitude of that sacrifice which was made when so many of our brethren voluntarily abandoned the endowments of the Established Church. It was a noble spectacle which was exhibited on the part of those who were willing to make such a sacrifice for what they believed to be the cause of truth. Nevertheless the value and the magnitude of the sacrifice have been overestimated. Many deductions must be made if we would arrive at a correct idea on the subject. As may be seen, p. 359, the total number who seceded was 451. Of these 162 were chapel ministers. These must be withdrawn if we would estimate the number of the sufferers, it being well known that, as a body, no sacrifice was required of or anticipated by them, and that, on the contrary, the circumstances of many of them, with regard to income, were materially benefited by the change. The parties who were really called on to make up their minds to a severe loss were the ministers of country parishes—amounting to greatly fewer than one would imagine who looks simply at the gross number alleged to have seceded. These have been the real sufferers. These are the men who truly sacrificed their livings. Generally speaking, they have meekly endured. But who can tell the privations to which some of them may have been compelled to submit? Above all, who can estimate the sufferings of generous minds when forced, as many of these men have been, year after year, to urge the benevolence of reluctant congregations?

An able and much respected clergyman—the Rev. John Purves, Free Church minister at Jedburgh—at a meeting of his Presbytery

* See Note B.

held on the 16th of February 1858, in moving an overture to the General Assembly on the Sustentation Fund, makes very special allusion to the frequency and urgency of those harassing appeals which ministers have been compelled to make in connexion with the subject of their own maintenance. He refers to the fact that the country ministers who seceded are the sufferers, while the incomes of town ministers are undiminished. Of the former, many, he says, are on two-thirds, some even on one-half of their previous incomes. Such are the circumstances of these devoted men. Meanwhile, there is no lack of resources in the Church, but these are diverted to other objects. "Education has been pushed, whether much needed or no, to be upsides, forsooth, with the parochial schools. The foreign missions have been pushed . . . by associations which necessarily encroach on the Sustentation Fund." He alludes to the "costly colleges—most costly to the Church at large, notwithstanding the munificent, but foolish and unprofitable benefactions received." And, referring to the means hitherto resorted to for extorting a living to the country ministers, notwithstanding the magnificence of those flourishing schemes which have gained such glory for the Church, he says—"It has been, in fact, the most painful thing to every man of delicate feelings, since the origin of the Disruption Church. . It has been a cross not laid upon the backs, but crushing the very heart of most of us. I would not undergo again the agony it has cost me these dozen or fourteen years, for any consideration under heaven. . . . . We were compelled, from year's end to year's end, to occupy every Presbytery with money affairs, and, instead of going to the pulpit with the rich blessings of heaven in our hands, there to proclaim them free as the air we breathe, to carry on an eternal wrangle and reproach with the people about their own niggardly supplies. I believe already our ministry has suffered damage from this cause. Its very nature and design is becoming clouded in the eyes of our people. . . . . It is not now so much a contest with us to obtain their acceptance of our own dearly earned and freely proclaimed blessings, but a contest on their part to resist our demands, and hold fast their goods. I could weep tears of bitterest agony over such a loss of character and such an obscuration, if not total blighting, of one's holy ministry, and I for one will be a partner in such a hideous bankruptcy no longer."

Note B.

The published list which furnishes the *data* from which we deduce the preceding striking and unquestionable results, of course does not contain the names of elders returned as members of the several Presbyteries. These are subject to continual fluctuations, being elected only from Synod to Synod. The clerical members only are the permanent constituents of the courts. It is of them only that we speak; it is with them only that we have to do.

The accuracy of the list will probably not be disputed. On comparing it with a statement of the relative numbers given in a Free Church publication, I find the difference so trifling as to be unworthy of notice. The analysis of it reveals several curious and striking facts besides those referred to in the text. One or two may be noted.

1st. It is worthy of remark that, even including *quoad sacra* ministers, there was a strong majority against the schism in every Synod of the Church, with the exception of two—these being, 1. The Synod of Ross; and, 2. The Synod of Sutherland and Caithness; each including only three Presbyteries.

2d. It may be mentioned, as a curious fact, that the Presbytery of Edinburgh ranks next to these two Synods as presenting a decided majority of seceders. The *quoad sacra* votes brought up the metropolitan Presbytery to the mark of Ross and Sutherland. Of parish ministers, a majority in the Presbytery were against the secession.

3d. In many Presbyteries, the seceding minority was trifling. In each of nine Presbyteries, there was but one solitary member who supported the secession. In each of twelve, there were only two. In numbers, there were only three.

In a word, this valuable document shews that, for its imposing effect, the secession was at least as much indebted to the admirable skill and tact of its originators, as to the number of its clerical supporters. A single glance at the list reveals the facts of the case. Except in comparatively few districts, the gaps occurring in the seceding columns strike the eye at once, and, in many pages, the few scattered names irresistibly suggest the oft-repeated words—"Apparent rari nantes in gurgite vasto."

CHAPTER XVI.

Aspect of Assembly after Secession—Constitution of Assembly peculiar—Necessity of Legislative Interference—Scotch Benefices Act, Bill of the "Middle Party"—Provisions of the Measure in strict accordance with Revolution Settlement—Isaac Taylor's Picture of Voluntaryism—Facts will force Conviction in spite of Prejudice—Conclusion.

No sooner had our brethren completed their well-ordered secession, by withdrawing in imposing procession from the Church in which the Assembly was about to hold its meetings, than the members holding commissions from the Presbyteries and Burghs proceeded to constitute the House. With feelings chastened and deeply solemnised by the peculiar circumstances in which they felt themselves placed, yet without any unnecessary delay, they betook themselves to the duty which their position demanded. There were those who imagined that the shock of the great convulsion would utterly paralyse their efforts. Of the admirers of those who had gone forth, some lingerers remained, in the hope, perhaps, of witnessing the dire confusion that should follow—of seeing the representatives of the bleeding Church brought "to their wits' end," gazing in each other's faces in blank astonishment, like men in despair, not knowing what to do nor whither to turn for help. These lingerers were disappointed. In her hour of trial, God had not forsaken the Church of Scotland. She had sustained a heavy blow. Her con-

stitution had been assailed—her high towers had been shaken—many noble sons had deserted her to become her bitter foes. But the loiterers who remained, instead of being gratified by the scene which they expected, were rebuked by a noble illustration, in the case of many, but especially of the venerable father whom the unanimous Assembly called to occupy their chair, of the glowing words of the Roman poet:—

"Justum, et tenacem propositi virum,
Non civium ardor prava jubentium,
Non vultus instantis tyranni
Mente quatit solida.
* * * * *
Si fractus illabatur orbis,
Impavidum ferient ruinæ." *

The courage of the members was equal to the great emergency. The Assembly was constituted, and forthwith the business proceeded, as if neither delay nor interruption had occurred. It was only as if a stone had been rolled into a placid stream: there was the heavy plunge, and then the eddying circles, and then the current flowing as smoothly as before. And so the disappointed lingerers removed, and betook them to more congenial scenes, in time, perhaps, to witness the incident so well and so graphically described by Dr. Buchanan in the following words:—

"A heavy thunder-cloud had for some time darkened the heavens, and, as the eye ranged at that particular

* Neither the fury of his fellow-citizens demanding wrongful measures, nor the frown of the threatening tyrant, shakes from his fixed determination the man just and firm in his resolve. Were the shattered heavens to fall upon him, the ruins would strike him undismayed.

moment over the dense mass of human beings who covered the immense area of the low-roofed hall, individual forms had almost ceased to be distinguishable through the sombre shade. The Psalm which Dr. Chalmers had chosen was the Forty-third. He began at that touching and beautiful line:—

"'O send thy light forth and thy truth!'

and, as the words sounded through the hall, the sun, escaping from behind his cloudy covering, and darting through the windows which pierced the roof, his brilliant beams turned on the instant the preceding darkness into day. It was one of those incidents which only superstition could misunderstand, but which, at the same time, is entitled to its own place among those traits of the picturesque which belonged to the scenes we are describing."*

The constitution of the Assembly 1843 was in some respects peculiar. The withdrawal of so many holding

* Ten Years' Conflict, vol. ii., pp. 603, 604. The Free Church could not have selected for her historian a man of more consummate skill than the accomplished author of the "Ten Years' Conflict." He knows to speak a word in season to every various class. No circumstance escapes him, the narration of which may contribute to his purposed effect. The incident connected with the picture of King William in the reception room (vol. ii., p. 589), as well as that alluded to in the text, would, no doubt, have their effect on minds of a certain class. It may be true that "superstition alone could misunderstand" them. But if they have a meaning at all, as this caveat seems to imply, it is superstition alone that will attempt to read their meaning. The age of omen-seeking is not yet past. Even beyond the bounds of Sutherland and Ross, the narration of these little incidents would have its own effect. Perhaps it would not occur that the Revolution Settlement was trampled on by those who were leaving the Church, whose privileges that Settlement secured, or that the gleam which succeeded the darkness of the thunder-cloud did not withhold its cheering radiance from the Assembly of the "Bond."

commissions from the various Presbyteries had greatly lessened the number of representatives. Many Presbyteries had no representatives in the house. There was necessarily an unusual preponderence of those who, of late years, had chiefly furnished the opposition. Certainly that Assembly did not exhibit a full representation of the Church in point of number, nor, in all respects, a correct representation in point of sentiment. And had the various questions which the House was called on summarily to dispose of, been submitted to an Assembly similarly constituted to those which have suceeded, while the final results, in each case, might, and probably would have been the same, the method of disposing of some of them might, and probably would have been different. The Veto law, for instance, instead of being simply ignored as a nullity, would probably have been formally rescinded as an unconstitutional Act. The same course, we believe, would have been followed with other important subjects, which that Assembly so summarily settled. The same results would have been arrived at in the case of the Veto, the Strathbogie brethren, and the Chapel ministers, but hey would have been reached in what many would have considered a more constitutional way, and the dangerous precedent would have been avoided of an Assembly assuming the power of declaring any Act of a preceding Assembly to have been from the beginning a nullity, simply on the ground that the Act had been afterwards discovered or declared to be unconstitutional and illegal. Such a proceeding might easily be

stretched into a precedent fraught with mischievous consequences. An Assembly may, in the exercise of its own judgment, independently of the judgment of any civil court, find some Act of a former General Assembly unconstitutional; and if, on that ground, it may be declared to have been from the beginning a nullity, all the proceedings resulting from and connected with it are overturned, and inextricable confusion must ensue. These were the views of several in the Assembly.

There were also many throughout the Church who, on the questions referred to, held sentiments different from those which the majority of that Assembly entertained—so many that an Assembly fairly representing the views of the Church might possibly have followed a different course. Even they, however, acquiesced, without a murmur, in the proceedings of the Supreme Court. They felt that, if the constitution of that Assembly was somewhat anomalous, its position and circumstances were equally so; and, while they gratefully acknowledged the goodness of the Church's great Head in vouchsafing that wisdom which, in a season of unparalleled trial, guided her counsels so that her chief difficulties were overcome, they refused to allow any differences, short of those involving substantial principle, to invade that unity of spirit and of effort which, at the time, was, above all things, essential to her well-being. Succeeding Assemblies have shewn the true spirit of the Church—in a determination, amounting almost to severity, to uphold the purity of discipline

and of the faith—in a zeal to maintain in their full efficiency, and to increase, those noble schemes of Christian enterprise which the shock of the great secession had threatened to destroy—and in that Christian and brotherly love, which, even amidst diversity of sentiment in matters of detail, and the free discussion of every subject which the business of her courts embraces, modifies the tendency to fiery disputation, which, alas! too frequently has characterised the discussions and lessened the real influence of courts ecclesiastical. If these be the characteristics of "Erastianism" and "Moderatism," confessedly the Church of Scotland is both Erastian and Moderate. But if by these words, employed as terms of reproach, it be meant to insinuate that she has put her "standards, acts, and laws into the hands of the civil court," or even that she has returned to the policy which is supposed to have characterised the period generally referred to as the "reign of Moderatism"—not her professions only, but her whole proceedings, rebut the charge. She is Erastian only in so far as she refuses to acknowledge the principle of Voluntaryism, and Moderate only in so far as she clings to her own constitution as something fixed and determined, and not admitting, either as to her creed or polity, of change and adjustment according to the fluctuating opinions of men engaged in party strife. Party names, whether in the political or ecclesiastical world, may be upheld long after the circumstances and policy which gave rise to them have passed away. They may be upheld by

struggling controversialists, to lure the unwary or to alarm the ignorant, long after they have ceased to indicate the views of those to whom they are applied; but men are beginning now to look to principles and conduct rather than to titles, whether assumed or imposed; and the more that they do so, just the less will they be swayed by the trickery which was wont to alarm them with the bugbears of unwelcome names.

An expectation had been entertained that, in her Majesty's letter to the Assembly of 1843, allusion would be made to the peculiar circumstances of the Church, and some indication given of a measure which it was confidently believed by many would be introduced into Parliament for the extrication of the Church from her pressing difficulties, and for securing the rights of the people in connexion with the settlement of ministers. That expectation was not disappointed. The subject was introduced in terms as explicit as could be looked for in such a communication. "The Church of Scotland," said the royal letter, "occupying its true position in friendly alliance with the State, is justly entitled to expect the aid of Parliament in removing any doubts which may have arisen with respect to the right construction of the statutes relating to the admission of ministers. You may safely confide in the wisdom of Parliament, and we shall readily give our assent to any measure which the legislature may pass, for the purpose of securing to the people the full privilege of objection, and to the Church judicatories the exclusive right of judgment."

Before her Majesty's letter had been opened, and before the Assembly had been constituted, the seceders, as we have seen, had left the House. By them, therefore, the communication was not likely to be viewed in any very favourable light. The leaders were well assured that the concession of their high independence-claims never would be made; and this withheld, no measure of Non-intrusion, however ample, would satisfy them.

There were also, within the Assembly, some to whom the communication was anything but acceptable. They deprecated all legislative interference, satisfied with the law as it now stood, and as interpreted by the civil tribunals. Perhaps it was not to be wondered at, that, in the hour of victory, they should have been inclined to resist all concession to those principles for which, in an exaggerated and unconstitutional form, their opponents had contended, and to cling to that law which, when read, if not simply in the light of those decisions which had been lately given, at least in the light of some of the *dicta* which accompanied them, seemed to many to leave no standing for the people in the matter of the induction of ministers, and to give no security for the old and constitutional principle of Non-intrusion. To all who valued that principle, and who longed to see the true rights of the people acknowledged and secured, the intimation in her Majesty's letter was most welcome. To those who wished the people's right of objection to be confined simply to points affecting the life, doctrine, and literature of a presentee, the intimation was distasteful. "It was well

known," says Dr. Bryce, "that the Moderate party in the Church, although at one time friendly to Parliamentary interference, had strongly opposed any legislation whatever at the particular junction which affairs had now reached. The courts of law had been permitted, without let or hindrance from Parliament, to expiscate the doubtful points that had arisen between the civil and ecclesiastical jurisdictions in Scotland; and whether this had, or had not, been the most expedient course to have pursued, it appeared to many that the necessity of any interference of the legislature had, by this time at least, been so far superseded. . . . . It was therefore to be expected that the Assembly, now almost entirely composed of the Moderate party, would respond to this intimation from the throne, that, while they respectfully and dutifully appreciated her Majesty's regard and interest in the welfare of the Church of Scotland, they trusted that the interposition of the legislature would not be required to restore her peace and efficiency." *

Notwithstanding the prevalence of these views, which, according to Dr. Bryce, "it was well known the Moderate party entertained," the Assembly, in reply to the royal communication, "conveyed an opinion, that it was desirable, on all grounds, that the state of the law concerning the settlement of ministers should be fixed with as little delay as possible." The Committee appointed by the Assembly gave in a report to this effect—"a report," says Dr. Bryce, "which it is not

* Vol. ii., pp. 396, 397.

very easy to reconcile with the ground previously taken up by the Moderate and Constitutional party, that the law had been duly and fully expiscated, and all doubts regarding it removed. On this report being brought up, the Assembly, without discussion, which it was deemed advisable to avoid, adopted the suggestion of the Committee—several members intimating, what indeed seemed unnecessary, that, in expressing confidence in the intentions of her Majesty's Government, the Church did not commit herself to an approval of any measure which they might think fit to bring forward, should legislation be determined on, or compromise her right to be consulted in all matters affecting her welfare." *

No sooner had the answer of the Assembly to the royal communication been returned, than steps were taken to redeem, without delay, the royal pledge which that communication conveyed. The Earl of Aberdeen gave immediate notice of his intended measure—a measure which, in spite of most determined opposition, ere long received the approval of the legislature—a measure which revived and ratified the rights of parishes, and under which the people are secured in the possession of privileges, which, if not all that could be desired, may yet be confidently asserted to be to the full as great as were ever secured to them in any period of the history of the Church of Scotland. It is true that, but for the efforts made by the inventors of the Veto to stem the current which was threatening to sweep

* Vol. ii., p. 398.

patronage altogether away, the people might have had vested in them the full right of election; but the challenge may be freely given, to point to the period in the history of our Church in which they possessed a legal title to privileges in any respect greater than they now enjoy, and have enjoyed since the passing of the Scotch Benefices Act in 1843.

To what the people's ancient constitutional privileges amounted, we have already shewn. They had a right to insist that no man should be intruded on them as a pastor, against whom any good cause of exception could be produced. They had a right to state their objections to any presentee, and to insist that these objections should be duly weighed and acted on. In this sense, the constitution of the Church clearly provided for non-intrusion. But, that a measure such as that now introduced by Lord Aberdeen had become necessary, for the establishment of these rights on a firm and permanent basis, was obvious, not only from the fact that these rights had so long been practically disregarded, that with many the existence of them was held to be a matter of doubt; but also because, from the authoritative statements made by many members of the supreme civil court, it was obvious that, if insisted on, the exercise of these rights would be opposed, and might be ruthlessly overborne.

It sounded well enough to insist on the right of Presbyteries to receive, at another stage, and to adjudicate upon, objections of any kind made to presentees; but the speeches of noble and learned lords had rendered it

doubtful whether now that right might not be challenged, should it be put forth, as a covert to what might practically be regarded as a special exercise of the Veto —whether, in such a case, the Church could safely, and without challenge, fall back upon her privileges as secured by the Act 1567.

There are few who will gainsay the statement of Sir George Clerk, in the Assembly 1840, that, for fifty years before the passing of the Veto Law, the right of objection on the part of parishioners had practically become a nullity. The remark of Dr. Bryce, in rebutting the statement, is only confirmatory of its truth—viz., "The people had, in every instance, been called upon at the induction of the presentee, to come forward and state any objections; but since effect had been given to the presentation—however slenderly signed might be the call—the people had not appeared at the subsequent stage." * Then, the authoritative statements made, both in delivering judgment in the Auchterarder case and on other occasions, are most distinct, and so well known that quotation is almost unrequired. Lord Campbell, in moving his series of resolutions in the House of Lords, explicitly declared that, in his opinion, objections as to the suitableness of a presentee were not competent, and that, under the late decisions, the question could not be raised, "Is he suitable for this particular parish?"—but, "Is he qualified in learning, morals, and orthodoxy?" Lord Cottenham was not less explicit. "The Church," he said, "was bound to admit the qualified presentee of

* Vol. ii., p. 16.

the patron, and the same law had declared what qualification was—namely, sufficiency of literature, orthodoxy of doctrine, and morality of life. He nowhere found suitableness referred to."

Nothing, therefore, can be more obvious than the urgent necessity of some such measure as that now introduced by the Earl of Aberdeen, unless the Church were prepared to abandon altogether the rights of the people as to the suitableness and acceptability of presentees. The bill, however, was strenuously opposed by a few of the Moderate party in the Church. They were opposed to all legislation. They wished matters to remain just as they were. Communications, it appears, were made to her Majesty's Government by the leading members of the party to the effect, that such a measure, by inducing ministers who had been attached to the Non-intrusion party to remain in the Church, would have the effect of alienating many of the people who were in a state of suspense, but who would "forsake the ministry of men whom, under a change that would appear so obviously interested, they might no longer be able to respect or esteem." *

Besides objections to the measure, as too popular in its provisions, and investing the Church courts with too ample discretionary power, another reason may, perhaps unconsciously to themselves, have had its influence in increasing their opposition to the Benifices Act. They had been, to a very great extent, overlooked in the whole matter. The earlier negotiations had been con-

* Bryce, vol. ii., pp. 400, 401.

ducted between the Government on the one hand, and the Non-intrusion leaders on the other, too much, perhaps, to the neglect of what was distinguished as the Moderate * section of the Church. More lately the negotiations had been carried on with what Dr. Bryce characterises as the "Middle Party"—a party now numerous and influential, and comprising all those who

* Here and elsewhere we use the term "Moderate" in no offensive sense. In alluding to past events the term cannot well be avoided, though happily the need of such party distinctions has now wellnigh ceased. It was fashionable at one time to refer to the period of what was characterised as "the reign of Moderatism," as a period of utter deadness induced by that oppressive incubus. Frightful pictures were presented of the then condition of our Zion, and it became convenient and very useful to identify the Moderatism of the present and the Moderatism of the past, burdened as the latter was supposed to be with all that had been reprehensible in the circumstances of the Church. The testimony of Sir H. Moncrieff was forgotten, who, speaking of this matter in his "Constitution of the Church of Scotland," p. 97, says, "That there are parties still, is unquestionably true. But it would not be easy for the zealots of either side to state clearly or intelligibly, to impartial spectators, the precise points on which the party distinctions now turn." Forgotten was the honourable name which, during that very period, Scotland and Scotchmen had attained—when, if there was less of zeal, there was at least not less of acknowledged honesty and uprightness, and Scotchmen were everywhere preferred to places of trust. It was forgotten that, when a spirit of greater zeal succeeded, men of that party were not the last to receive the hallowed influence, as is testified by the Church's noblest and most successful schemes: for to men of that party we owe the Education and Colonial Schemes, and that for the Propagation of the Gospel in Foreign Parts. These things it became convenient for the while to overlook. "But," to use the words of Dr. Wilson, a man of liberal mind, though on principle opposed to the policy of the party, "there is no reason why we should throw into the shade that pastoral care of the Moderate party to which the country owes very much; or why we should depreciate their personal excellences; or why we should be ungrateful for their ministrations, or refuse to hold in grateful remembrance the names of the men who accumulated those stores of scriptural knowledge, from which we ourselves have derived so many facilities for professional attainments. Many, very many, are the names enrolled in the list of the Moderate party, who ought to be venerated as studious, learned, and pious persons, to whom the Church owes a debt of gratitude which she can never fully pay."—*Claims of the Free Church Examined*, p 65.

refused concurrence with the extremes on either side—who upheld the true doctrine of spiritual independence as expounded by the fathers and embodied in the standards of the Church, while they repudiated the now developed notions of the modern school—and who were anxious to protect the valued rights of the Christian people.

It was with this party, designated by Lord Aberdeen as "the great body of the clergy," and by Dr. Bryce as "a small and influential section," that these negotiations were transacted. The measure was conceded to them, in opposition to the express wishes of the extreme Moderate party, who had intimated again and again their opinion, that "legislation had become at least unnecessary, if not highly inexpedient." To adopt the statement of Dr. Bryce, "Whatever may be the merits or demerits of the Scotch Benefices Act, it belongs of right to a middle party."

In these circumstances it was not perhaps much to be wondered at that the measure should meet with that strenuous opposition which these parties did not withhold. They cannot perhaps be blamed for acting as they did; and even those who did not sympathise with their efforts will concede to these efforts the merit of consistency. They had gained a triumph. At every step they had been victorious in the courts of law. It could not be agreeable to have the fruits of that triumph wrested from them by legislative interference. They had, at every movement, defeated the outgoing party, and now in their turn they were to be

defeated by the "middle men." It is very much to this cause that we ascribe the occasional uneasiness manifested by Dr. Bryce when his subject leads him to notice that party—an uneasiness indeed by no means astonishing in the circumstances, but which nevertheless we regret to detect so often in a work characterised by so much ability, and candour, and manly independence.

An attempt was made to induce the Presbytery of Edinburgh "to adopt resolutions inimical to that provision of the bill which gave to Presbyteries the right to regard the circumstances of the parish, and the number and character of the objectors, as elements in the judicial disposal of the objections that might be offered to the presentee; and which, it was alleged, really amounted to the *liberum arbitrium*, against which the Moderate party had so often and so strongly protested." The chief exception was taken to the powers vested in the Church courts to "have regard to the whole circumstances of the parish"—"to the spiritual welfare and edification of the congregation"—and especially to "the number and character of the objectors." These provisions were objected to by Dr. Bryce, as opening the door "to proceedings of an arbitrary nature." *

* This may possibly be the case. But surely the Act 1567, as understood by Dr. Bryce himself, is open to the same objection. "After the presentee has been admitted to trials, the Presbytery may, under the Act 1567, refuse to induct, *for any reason they may see fit*."—Vol. i., part ii., p. 30. And again, "The same law which compelled Presbyteries to act ministerially in going on to trials, gave to them, after trials taken, the most *unrestrained judicial powers* in disposing of the presentee; and the

This endeavour, however, altogether failed. "The attempt to obtain an alteration on this part of the bill was defeated within the Presbytery by an almost unanimous rejection of the resolutions." *

A similar attempt was made at the meeting of the Assembly's Commission in August, and was followed by a similar result. Intimation having been made by Sir James Graham that the bill would not be passed until the mind of the Church, through the Commission, should be known, the attendance of members was unusually large. On the motion of Principal Haldane, the bill was cordially approved of.

After not a little opposition in both Houses of Parliament, this important measure was passed. It is now the law which regulates Presbyteries in the initiatory stage of taking a presentee on trials. The Church has in general had but little difficulty in accommodating her proceedings to its provisions. To the people it concedes unlimited right of stating objections of whatever kind—a right of which, when necessary, they have shewn neither unwillingness nor inability to avail themselves. To the Presbytery it secures the right of un-

very ground, that the presentee had been dissented from by a certain proportion of the congregation, of a certain character and description, although unable legally to sustain the Presbytery in refusing to take him on trials, might, for anything decided up to the period of the Secession in 1843, have supported their rejection in the eye of the civil law, however well qualified they might have found him in life, literature, and doctrine."—P. 22 There surely must therefore have been some reason besides this for the opposition manifested; and moreover, according to these views, as far as the powers of the Presbytery are concerned, the "bill" was, after all, simply "declaratory."

* Bryce, vol. ii., p. 402.

fettered judgment and of acting according to their own conscientious views, interfering in no respect with any powers and privileges independently possessed. And, while it does not profess to secure the abstract principle of Non-intrusion, in the sense which was at one time adopted, and at another abandoned by those who made the term their watchword, it is fitted practically to secure it in the sense in which it is chiefly valuable—the sense in which, as we have already seen, it is embodied in our standards, and was held from the first by our own and by all the other cognate Churches of the Reformation. It provides against the intrusion of unacceptable and unsuitable presentees more effectually than did the Veto. While, as a declaratory measure, it has removed doubts which, in the lapse of years, had been permitted to gather around the people's rights in connexion with the appointment of ministers, it is founded upon, and, so far as the rights of the people go, is in strict conformity with the provisions of the Revolution Settlement—that settlement upon which the Church, as at present established, rests.

One can easily understand how those who, like the Reformed Presbyterians or Cameronians, conscientiously object to the whole Revolution Settlement as essentially Erastian, should also object to the provisions of Aberdeen's bill; but it is difficult to perceive on what good grounds any should affect to repudiate it, who, at the same time, glory in the provisions of the Act of 1690. That Act is the charter of the Church of Scotland—the charter by which, when crippled, and wasted,

and disorganised by persecution, it was, at the Revolution, taken anew under the protection of the State—reorganised and re-established. That statute re-enacted the Act 1592, the ancient charter of the Presbyterian Church, reserving, however, for reconsideration, the part of that Act relating to patronage. This consideration was not long delayed. In the same session of Parliament the subject was taken up, and patronage, instead of being vested, as in 1592, in a single patron, was conferred upon the heritors and elders of each parish. But what standing was given to the people? How were they secured against intrusion? Precisely as by the bill of Lord Aberdeen. Says the Act 1690, "The heritors of the parish being Protestants, and the elders, are to name and propose the person to the whole congregation, to be either approven or disapproven by them; and, if they disapprove, that the disapprovers give in their reasons, to the effect the affair may be cognosced upon by the Presbytery, at whose judgment and by whose determination the calling and entering of a particular minister is to be ordered and concluded." Now, this is precisely the provision of the present law. But, as doubts had been thrown out as to whether the reasons to be given in might include anything beyond life, doctrine, and literature, the law explicitly declares that, instead of being so restricted, "if any one or more male parishioners being of full age have any objection of any kind to the individual so presented, or any reason to state against his settlement in that parish, and against his gifts and qualities for the cure of the said

parish," these objections "of any kind" are to be received and to be fully considered by the Presbytery. The Presbytery, moreover, is to be entitled "to have regard to the whole circumstances and condition of the parish—to the spiritual welfare and edification of the people, and to the character and number of the persons by whom the said objections or reasons shall be preferred." * And whereas the Act 1690, if strictly interpreted, might seem to be an invasion on the Presbyterian polity, preventing, in such cases, appeals to the higher courts of the Church, and thus restricting the rights alike of presentees and people by ordaining that the calling and entry of a particular minister should be "ordered and concluded" by the Presbytery of the bounds; the Act of Aberdeen provides that it shall be in the power of all parties to appeal from any deliverance by the said Presbytery, acting within its competency as a judicatory of the Church, "which appeal shall lie exclusively to the superior ecclesiastical courts, according to the forms and government of the Church of Scotland as by law established."

Such are the provisions of this declaratory Act, introduced from the best and highest motives by the nobleman with whose name it is uniformly connected, and who, with reference to those whom it was obviously

* In Aberdeen's bill of 1840, these provisions were made in a parenthetical form. To this form strong exception was taken by the advisers of the movement party who seemed to consider the clauses as most important, but to regard them as deceptive and illusory, because parenthetically introduced. In the measure as introduced and passed in 1843, they appear, not as a parenthetical clause, but in the form of distinct and positive enactment.

his sincere desire to benefit, might well have adopted the Scripture proverb, "We have piped unto you, and ye have not danced; we have mourned to you, and ye have not wept." However short of what many in the Church would desire, it does practically secure the Non-intrusion contended for during the conflict, to a much greater extent than did the Veto law. It gives effect to the ancient Non-intrusion of the Church of Scotland.* Changes in the circumstances of the coun-

* The Benefices Act should be considered by itself, apart from the regulations framed by the Church for its practical working. To the Church courts the Act gives most ample powers—so ample, indeed, as to admit of their so conducting the process connected with induction as to allow, in some cases, of what some would consider an invasion of the people's rights—a thwarting of their not unreasonable wishes. If, under the Act, any such cases have occurred, they are to be traced not to a penury, but rather to an excess, of power in the Church courts. The Church has ample power to prevent intrusion. More than this, the Church, since the Secession of 1843, has, under the present Act, prevented intrusion. Out of the numerous cases of disputed settlements which, since that period, have occurred, even her most jealous opponents can point to only a very few, and these confessedly of a peculiar kind, in which there has been so much as even any appearance of thwarting the people's reasonable will. Under what conceivable system will such cases be rendered impossible? To what period in the history of the Church can any one refer in which, under whatever system, fewer of such exceptional cases, in the same length of time, have occurred? Did they not occur under the Veto? Have they not occurred in the Free Church? In what other Church, or in what other period, have so many inductions taken place with so few cases of dissatisfaction felt or expressed on the part of congregations or parishes? That the Assembly's regulations may be much improved and simplified—that they might be so framed as to provide for giving more prominence and value to the *call*, in having "regard to the whole circumstances and condition of the parish"—few will deny. That even a more liberal Act might be obtained many are persuaded; but that, with any regulations, or under any system, no cases of dissatisfaction will ever occur, is more than any reasonable man will venture to expect. But for the Non-intrusion movement, Church patronage might, long ere this, have been abolished; yet who will say that, had it been so, there would have been fewer disputes, or fewer cases of dissatisfaction felt?

try, the spread of intelligence among the various classes of the community, and the operation of many other causes, may be rendering both expedient and necessary measures of a more liberal cast than those which suited the circumstances of a bygone age. The day, perhaps, may not be distant, when all may see the propriety of uniting to obtain those privileges connected with the election of ministers, for which so many, in every period, have contended. Meanwhile, however, under the existing measure, the ancient privileges of the people, as by law secured to them, are not abridged, but ratified and practically enlarged. Nay, so thoroughly have the benefits of this measure been appreciated, that, in almost every district of the country, persons—and these not a few—who had been driven from our communion by the allegation that the Church of Scotland had abandoned her great principle, have been quietly, from time to time, returning to the fold from which they had been led astray. Certainly the measure does not infringe upon the rights of Church courts. We might quote the opinions of men learned in the law, both civil and ecclesiastical, to the effect that, in their apprehension, it not only protects effectually the people's rights, as opposed to those of patronage, but secures the courts of the Church in authority only too nearly approximating to that arbitrary power, which experience has shewn to be, especially in the hands of churchmen, not unapt to become an engine of tyranny.

Our narrative has now been brought down to the period of the much-to-be-deplored Secession of 1843.

I had designed to extend it a little further, presenting a sketch of the history of the two Churches since that memorable event. Already, however, the limits are exceeded to which I wished this volume to be confined. As much as possible, I have restricted myself to the examination of principles, and the statement of facts connected with the periods which the subject I had proposed to myself has led me to review. Whether I have been successful, others will determine. I have endeavoured, unbiassed by party influence, to narrate the truth. My maxim has been, "Tros Tyriusque mihi nullo discrimine agetur." In adverting to the early history of our Church, I have not shrunk from the unwelcome duty of pointing out errors, even on the part of those to whose character and efforts we all look back with feelings of just exultation. I have done the same with reference to our seceding brethren of the present day, in whom, while many of the same virtues conspicuously shine, the same or kindred errors have been manifested. I have done the same with respect to those within the Church, believing, as I do, that, during the great conflict, none were wholly free of blame, and that, when we call to mind the memory of the recent past, we all have reason to humble ourselves before God, for our share, immediate or more remote, in the causes of that calamity which the Lord permitted to fall upon our Church.

I have tried to avoid giving unnecessary offence. That I have succeeded in doing so is perhaps more than I can hope. An occasional rash or offensive expression, perhaps, may have escaped me. My conscience

absolves me from the charge of wilful misrepresentation. If I have expressed myself strongly respecting the brethren who have left our communion, it is because I believe them to be in error. As men, and as Christian men, I love them. To many of them I am attached by the ties of sincere friendship, but of some of their principles my conscience forbids me to approve. Their efforts in the cause of our common faith, the whole Christian world admires. Prejudice has not blinded me to their many noble virtues. That there are many among them who still cherish attachment to the Church of their fathers, I am well assured. With all her faults they love her still. Principles, however, are maintained by many of them, the full development of which must issue in hostility to all Establishments. The abstract principle of Establishments cannot continue to be maintained along with views which, in the apprehension of all except themselves, render that principle impracticable, and in connexion with a system, the very existence of which requires the constant exertion of all the energies and appliances of Voluntaryism. Those who reject, as impious, all State control in matters of religion—who deny that, in any case, members of Church courts may be coerced by the civil power with respect to the exercise of ecclesiastical functions—have already more than half adopted the Voluntary theory. The tendency is clearly in this direction. Past experience points to this as, at no distant period, the probable result. Those seceding bodies which have adopted the Voluntary, as opposed to the Establishment, principle, were, at the period of

their secessions, quite as firmly attached to the latter as the members of the late secession profess now to be. Were they to succeed in that object which some of them have not hesitated to avow—viz., the destruction of the Church as by law established—the ultimate consequences might be of a most appalling kind. A body, formidable in numbers, powerful in resources, and possessing such influence over the mass of their adherents, would afford scope for the full development of Voluntaryism, such as, since the Reformation, this country has never witnessed. Whether the germ may not already be detected of that development to which the celebrated author of the "Natural History of Enthusiasm" points, in the following passages of his work on "Spiritual Despotism," each one may judge for himself: "If we wish," says Taylor, "to see what is now vauntingly termed the Voluntary principle fully evolved and ripened under a summer heat, we have only to turn to the Papacy. . . . What has happened once may happen again, *and will do so under like circumstances.* We need not draw upon imagination in conceiving of the natural course of events, and the operation of common principles. The Church, we may suppose, instead of being befriended by the State, is barely tolerated, or perhaps oppressed. The clerical body, including, as it may, many high-minded and disinterested individuals, is yet, as a body (what body is not?), actuated by the ordinary motives of our nature, and tends therefore, with a steady and silent momentum, towards its corporate aggrandisement—its wealth, its ease, its credit, and its secure en-

joyment of special prerogatives. Every corporation shifts itself, if it be possible, from precarious ground, and moves towards that which is firm. If, then, the State does not lend its aid in this endeavour of the clergy to substantiate their honours and revenues, a resource will be found of another sort, and the minds of the people will be worked upon with proportionate eagerness, in order to make sure of their subserviency. *Exaggerated doctrines will supply the place of legal provisions. . . . The claims of God's ministers will be asserted in a hyperbolic yet insidious style. The merit of the offering laid upon the altar of the Church will be overrated in a manner that at once enfeebles morality and corrupts doctrine.* Genuine virtue will be made to give way to fictitious virtue. The just symmetry or relative magnitude of duties will be enormously distorted. . . . And yet all this while there is no compulsion, there is no tax-gatherer or farmer of tithes—no State alliance. The Voluntary principle is in its full triumphant course. Nevertheless, a system of *spiritual despotism, as cruel as it is foul, is fastening on the necks of the people.*" *

* Spiritual Despotism, p. 54. Somewhat of the same sentiment was ably brought out by the Rev. James (now Professor) Gibson, in his essay on the principle of Voluntary Churches. "While mankind," says Mr. Gibson, "are in an imperfect state, and selfishness may successfully practise upon ignorance, it is not safe to leave so large a body as the clergy to pursue their own objects, either of wealth or ambition, without admitting any State regulation; and therefore the Voluntary principle, being a principle of entire independence of civil interference, even to prevent the undue wealth and power of the Church, if acquired from any other source than the State itself, which is in truth the Popish principle, is dangerous; for while the abuses of the Establishment principle admit of national correction, the evils of the Voluntary system, which are inherent in human nature, do not; because it rejects all external interference, itself having no power whatever to preserve

But while the direct tendency of the principles held by many of our seceding brethren is to the adoption of the Voluntary theory, the Establishment principle is still professed by them as a Church; and among them there are not a few, who not only hold the principle in all its integrity, but who still regard that Church which they have forsaken, with affection, and recall their separation with regret. And may not the hope be entertained of a reunion between brethren thus so cruelly estranged? There are, no doubt, in the way practical difficulties of many various kinds; and that same influence, it is to be feared, which so skilfully abetted the separation, might meanwhile operate not less skilfully to prevent reunion. So long, however, as the Establishment principle is professed, the precious hope need never be abandoned. The Church of Scotland professes now the very doctrines which she has ever held. She possesses, as we have seen, the same privileges which she enjoyed of old. Her discipline is unaltered. Her liberties are unbroken. Her legitimate privileges are untouched. The rights of her people are unimpaired—nay, practically enlarged and secured, to an extent not previously acknowledged. If she still requires a yet more ample infusion of the popular element, the way towards its attainment is as patent as ever, and, after such a union, would offer a prospect of success not less hopeful than was that of the old anti-

the purity or keep down the ambition of churchmen."—*The Principle of Voluntary Churches, and not the Principle of an Establishment, proved to be the real source of Romish and Priestly Domination*, 1833; p. 90.

patronage movement, which was crushed by the originators of the Veto law.

Such an union, however, never could be effected on such terms as would imply a recognition of what are understood to be the full claims of the modern school. The nation would not tolerate the investing of a body so influential with powers so arbitrary and privileges so uncontrolled. If rendered independent of such interference as might be necessary to keep her to the terms of the compact, and to restrain her within her own proper and defined jurisdiction, past experience declares that such a Church would stop at no point short of the full exercise of spiritual despotism. She might then adjust at will "alike her creed and her administration," and means would not be awanting to induce compliance, how often soever that adjustment might be deemed expedient. Another "golden period" would be aimed at, and, under such a system, might soon be reached. Dissent might still be tolerated—but tolerated under the Church's frown. And ere long, either the despotism would be established, or the Church would be cast off by an indignant people as a "moral nuisance," under which a free nation would not suffer itself to be oppressed.

But why should such claims continue to be insisted on? Why should demands be made of a nature so subtile that, even on the showing of those who made them, they were, on every occasion, misunderstood by those to whom they were addressed? or of a nature so dangerous, as understood by all except themselves, as

to have been rejected by all to whom their appeal was made, as inconsistent with civil freedom? Why insist, as essential to the very being of a true Church, on claims confessedly unknown to every other Church of the Reformation?

If the brief historical survey which has been made in the preceding pages be not a fabrication—if the documents quoted and referred to be not forgeries—if the facts stated be not delusions,—the Church of Scotland as by law established adheres to the very principles which her Reformers advocated, and enjoys the very privileges for which our fathers bled. Her constitution is unaltered. She enjoys unlimited spiritual freedom—power of administration, within her own province, unchallengeable. The terms of her compact with the State she must observe; but, observing these, her power is supreme. Her ministers enjoy the undisputed right of preaching the word of the living God—declaring His whole counsel without danger and without fear. Her ordinances are administered without interruption, according to the form which she has herself prescribed, as founded on and drawn from the oracles of truth. With her discipline, as respects admission to sealing ordinances, no one has ventured to interfere; but, on the contrary, the civil powers have declared that with that matter they have nothing to do. She may judge in every case, and her decision is final. To her courts belongs the sole right of admission to the sacred office. If she, after solemn judgment, declares of any man—be he the nominee of a congregation, or of a noble, or of

the crown—that he is not qualified for the office of the ministry, or not suitable for the sphere to which he has been presented, her decision is conclusive and unalterable. Her parishes, indeed, possess not the formal right of nomination, although practically, in almost every case, their reasonable wishes, when they choose to express them, are not thwarted; but they do possess a full and unchallengeable right to oppose the settlement of any presentee; and if any reasonable objections occur to them, and are stated against the settlement, on the ground of these objections, apart altogether from his general qualifications, they have the right to demand that the presentee be rejected.

Is this the Church from which ministers were exhorted to withdraw, if they would know the privilege of ministerial liberty?—from whose communion the people were besought to emancipate themselves, if they would experience the blessings of spiritual freedom? Is this the institution from the pollution of which Christian men were encouraged to endeavour to rid the land?—the Babylon respecting which even good men —and men, too, not questioning, but upholding, the principle of Church and State alliance—ventured, in the frenzy of their disappointment, to utter the warning, "Come out of her—Be ye separate from her—Touch not the unclean thing?"

Yes! it was even so. Incredible, as doubtless it will hereafter appear, when another age reviews the history of the present—it was against this goodly fabric, reared at such cost, venerable for years, associated with the noblest

struggles for true freedom, and which had conferred blessings unspeakable on generation after generation, that, even by such men, the injurious words were uttered, and the fierce assault directed. The assault, however, was vain, as the reproach was unmerited. The frenzied fit is passing away. The smoke both of the assault and of the defence is clearing off; and, as the ancient edifice emerges from the gloom, and shews once more her fair proportions and her unshattered walls, her sons, confiding, as did their fathers, in the protection of her glorious Head, triumphantly exclaim, "Walk about Zion, and go round about her: tell the towers thereof. Mark ye well her bulwarks, consider her palaces; that ye may tell it to the generation following. For this God is our God for ever and ever!"

The people of Scotland love and venerate their Church. For a time some may be beguiled by a "counterfeit presentment," by a novelty claiming its title, and skilfully endeavouring to assume its features. But sooner or later the mistake will be detected. And when they discover that her constitution is unaltered, as assuredly they will—that she is the very Church of Knox, and Melville, and Henderson—the misrepresentations to which she has been subjected will make them love her all the more. The Church which can point to such an ancestry, and which has enrolled so many martyrs in her list of sons—the Church whose teaching guided their fathers to the world of rest, and which, even now, notwithstanding the defection of so many, is upholding in full vigour her schemes of Christian en-

terprise, and is receiving so many tokens of heavenly support—so many seals at home and abroad of the ministry of her sons—will not long underlie the suspicions of intelligent men. Plausible abstractions may, for a time, deceive them. High pretensions may beguile them. But palpable facts will triumph in the end. Some may tell them that the Church of Scotland is the "Bond Church." But with their own eyes they will see that she is free. They may tell them that she has abandoned Non-intrusion, but their own eyes will convince them that she is determined to uphold it. They may say that she seeks to enslave them, but their own observation and reflection will convince them that her constitution is the Palladium of liberty, and that her late struggle has chiefly been to oppose spiritual despotism, under the name of spiritual independence.

These striking facts will, in due time, have their effect: and weighed against them, in the balance of common sense, the plausible subtilities of metaphysical abstractions will be light as air, and the charmer's vocation will be gone, charm he ever so wisely.

But, even while apart, and while each may continue to consider his own section of the Church as more nearly approximating to the ancient and scriptural constitution of the Church of Scotland than the other, surely there is so much in common, as to render it not difficult for good men, on either side, to co-operate in the service of Him whom both alike profess to acknowledge as the Head. If the foregoing examination shall have the effect, in any case, of lessening or removing

that prejudice which condemned the adherent of the Church, as clinging to a body professing, in spite of evidence, to uphold the constitution of the Church of our fathers,—and thus may, in some measure, pave the way for the enlargement of brotherly love, by shewing that, though in error, our error is not wilful, and that we can render some reason for the faith which we hold, —one object, at least, of the author shall be gained. He disavows that bigotry which suspects the sincerity of all that differ from him in opinion, even in matters of high importance, and of which he may be fully persuaded in his own mind. He desires to cherish and to exercise that charity which, in its wide range, embraces all the race, and that brotherly kindness which spurns the narrow limits of party differences, and glows with Christian love towards the whole household of faith. In every Christian man he would recognise a brother—be he Voluntary or Churchman—Episcopalian, Independent, or Presbyterian. While he holds firmly his own peculiar views, he ventures not to condemn as unchristian those who, looking from a different point of observation, and through a different medium, see many objects in another light. Still, with the views he holds, the Church of Scotland—imperfect though she be, and not yet exempt from the need of further reformation—he loves above all other Churches, as sound in doctrine, and pure in her model of discipline; a tried and honoured instrument of good, to which God has vouchsafed many precious tokens of His favour; the Church which our fathers loved, which our fathers' fathers founded, and

which, guarded by solemn treaties, and, for security, interwoven with the country's laws and constitution, they bequeathed to us, to be cherished as their most precious legacy, protected by our utmost efforts, and transmitted to our descendants as the people's Church for ever. "Peace be within thy walls, and prosperity within thy palaces. For my brethren and companions' sakes, I will now say, Peace be within thee. Because of the house of the Lord our God I will seek thy good."

THE END.

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