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ARTICLE I.

## AN EXAMINATION OF THE LEADING POINTS OF THE SYSTEM OF ALEXANDER CAMPBELL.

I. Mr. Campbell proposed, as his main enterprise, to remove the evils of "sects," by gathering a Christian communion without any creed of human construction, with no other bonds save faith on Jesus Christ as Saviour, and obedience to his laws. That is, every one must be admitted, were this basis laid down consistently, not only as member, but teacher, who *says* that he believes and obeys the Scriptures. Mr. Campbell, misapplying the words of John xvii. 20, 21, says that only two conditions are necessary for the conversion of the world: *Truth and Union*. He deems that the reason why Truth has not done its work is to be found in the divisions of professed Christians. Of these he regards human creeds as causes, instead of results. He strictly requires us to show a divine command or authority for their composition, and for the exaction of subscription to them; and he charges that, failing in this, if we exact such subscription, we are guilty of most criminal usurpation and will-worship. He urges that, to add a human creed to God's word, as a test of correct doctrinal opinion, is virtually to make the impudent assertion that the uninspired creed-makers can be more perspicuous than the Holy Ghost. But on the contrary, since men uninspired are

CONCLUSION.

We have thus noticed in review the chief matters of interest in the proceedings of the Assembly at Charleston, excepting one, which was, indeed, of especial importance. We have chosen to say nothing on that subject, knowing it was the purpose of one of the Editors of this journal to present a full report and review of that able discussion. And so we make an end.

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ARTICLE VIII.

## DELIVERANCES OF CHURCH COURTS.

We have been at pains to secure for permanent record abstracts of the chief speeches in our last Assembly touching its *in thesi* deliverances, from the speakers themselves. The feeble health of one of these preventing him from complying with our request for a long period, has necessarily delayed the appearance of this number of our work.

The question came up on an overture from the Synod of South Carolina as follows:

The Synod of South Carolina hereby overtures the General Assembly, respectfully praying that it will consider and repeal, or at least seriously modify, so much of the deliverance of the last Assembly, at Louisville, in relation to Worldly Amusements, as declares that all deliverances of the General Assembly, and by necessary implication, of the other courts of the Church, which are not made by them in a strictly judicial capacity, but are deliverances *in thesi*, can be considered as only didactic, advisory, and monitory. (See Printed Minutes, 1879, p. 24.) The Synod admits—

1. That the General Assembly cannot add to the Constitution or make any constitutional rule.

2. That it has no power to commence process against individuals.

3. That in the exercise of the constitutional power of review and control, it can reach *directly* only the court next below, and the other courts only *mediately* through it.

4. That it is precluded from deliverances *in thesi* which may prejudice a judicial case likely to come before it.

5. That *some* deliverances of the Assembly and of the other courts of the Church are only advisory, recommendatory, and monitory.

The repeal or modification of so much of the said deliverance as has been herein specified is asked on the following grounds:

1. Because it makes judicial decisions, as contradistinguished from didactic decisions, something different from and more than didactic: which is the same thing as to make them different from and more than declarative decisions, and so the constitution is contradicted, which represents *all* church power as simply ministerial and declarative. There is, it is conceded, a difference between judicial and deliberative decisions growing out of the different circumstances which condition them; but to make a distinction between judicial and didactic decisions is to assign to the judicial something more than a declarative enforcement upon the conscience of the law of God. Either it is held that didactic and judicial decisions are the same, or it is held that they are different. If it be held that they are the same, the reduction in this deliverance is utterly illogical, and ought to be corrected. If it be held that they are different, we affirm the unconstitutionality of the discrimination.

2. Because it reduces the General Assembly and the other courts of our Church, so far as they are deliberative bodies, to the *status* of Congregational Associations, possessed only of advisory power, is contrary to the genius of the Presbyterian system and the historic doctrine of our Church as to the binding force of such deliberative decisions as are expository of constitutional law; and tends to degrade the authority and lessen the influence of the Assembly.

3. Because said deliverance takes away the key of doctrine from the General Assembly and the other courts of the Church, and retains in their hands the key of discipline alone.

4. Because it contravenes the great principle laid down in the Confession of Faith, consecrated by the blood of our martyred ancestors, and until now well-nigh universally recognised among us: that good and necessary consequences from the doctrines and precepts of the Divine Word, or from the Constitution of our Church, are of equal authority with the Word and the Constitution; and when declared by a Church court in any capacity, whether judicial or deliberative, must bind the conscience and can no more be regarded as simply advisory and monitory than are the Word itself and our Constitution. They have legal authority because they *are* law.

5. Because it opposes the doctrine of our standards, long practically acted on in our Church, that the church courts are appointed by Christ to be authoritative expounders of his law contained in the Scriptures, and, as we believe, reflected in our Constitution. It is admitted that they have no original power to make law, but they can declare it, and it cannot, consistently with our standards, be held that the only office of expo-

sition by which the courts ministerially declare Christ's law is discharged by them when sitting in a strictly judicial capacity. But if the courts act by Christ's appointment when they, in their deliberative capacity, solemnly declare his law, they are entitled, in the discharge of that function, not only to be respected as advisers, but to be obeyed as authoritative expounders of law. Their deliberative decisions, so far as they furnish the right construction of the law, exert a legal force upon the conscience.

6. Because it makes it necessary, in order that an authoritative decision upon any point, either of doctrine or of morals, may be obtained from the General Assembly, or any other court, that judicial process in the courts of first resort be instituted, involving the case whose resolution is desired; and so a tendency to general litigation would be engendered in our churches. For it is not to be supposed that, having been accustomed to Presbyterian usages, they would be satisfied with mere Congregationalist advice. The action will in all probability issue in breeding contentions and multiplying judicial cases.

7. Because it is inconsistent with the following express provisions of our Constitution: "It belongeth to synods and councils ministerially to determine controversies of faith and cases of conscience; to set down rules and directions for the better ordering of the public worship of God, and government of his Church * * * which decrees and determinations, [together with those which are judicial and just mentioned] if consonant with the word of God, are to be received with reverence and submission, not only for their agreement with the word, but also for the power whereby they are made, as being an ordinance of God, appointed thereto by his word." (Confession of Faith, Chapter 31, Section 2.) "They (chur chcourts) * * * may frame symbols of faith, bear testimony against error in doctrine and immorality in practice, within or without the pale of the Church, and decide cases of conscience." "They have power to establish rules for the government, discipline, worship, and extension of the Church." "They possess the right of requiring obedience to the laws of Christ." (Form of Government, Chapter 5, Section 2, Article 2.) "The General Assembly shall have power * * * to bear testimony against error in doctrine and immorality in practice, injuriously affecting the Church; to decide in all controversies respecting doctrine and discipline." (Form of Government, Chapter 5, Section 6, Article 5.)

To this overture the majority of the Committee on Bills and Overtures, through Dr. J. R. Wilson, Chairman, reported the following answer:

This Assembly interprets the language complained of in the overture as by no means declaring that all deliverances *in thesi*, uttered by a General Assembly, are to be considered as merely "didactic, advisory, and

monitory;" but only as assuming that, when any *in thesi* deliverance bears upon the law of offences and the administration of discipline, it is not to be regarded as furnishing a sufficient ground for judicial process by the court of original jurisdiction, a part of which original jurisdiction is the power of interpreting for itself the law of offences as laid down in the Constitution of the Church.

2. This Assembly therefore declines to repeal or modify the deliverance of the last General Assembly, referred to, as thus interpreted.

The minority of the Committee, through Rev. L. H. Blanton, D. D., reported the following answer:

In reply to the overture of the Synod of South Carolina requesting this General Assembly, either to repeal or seriously modify that part of the deliverance given by the last General Assembly to the Presbytery of Atlanta, which asserts that no deliverance *in thesi* can be accepted as law by judicial process, but that all such deliverances can be considered only as didactic, advisory, and monitory—

We recommend that this request be declined, believing that that answer in this respect is a correct interpretation of the Constitution.

The adoption of the majority report was moved by the Rev. Mr. Penick, as he said, in order to bring the matter fairly before the Assembly. The Rev. Mr. Neel believed that the minority report brought the subject more clearly and simply to view, and he moved, therefore, to substitute that for the majority report. Accordingly the question was upon the adoption of the minority report.

Dr. Girardeau opened this grand debate with a very grand speech, occupying over two hours, which was heard with fixed attention throughout. The abstract here given presents, of course, a mere outline of it. The reader must have been a hearer to have any adequate idea of its eloquence and force. It is not often such logic set on fire is heard in any Church Assembly.

ABSTRACT OF DR. GIRARDEAU'S FIRST SPEECH.

*Preliminary Remarks:*

1. While the majority report of the Committee on Bills and Overtures on the overture from the Synod of South Carolina admits that all *in thesi* deliverances of church courts are not merely advisory, and so, to some extent, concedes the position of the Synod, it recommends, equally with the minority report, that the

prayer of the Synod for a repeal or modification of the last Assembly's deliverance be declined by the Assembly. I am obliged, therefore, as representing the Synod, to oppose both reports.

2. No disrespect can be conceived as intended, on the part of the Synod, towards the last Assembly. The language of the overture is respectful; and a distinction must be taken between the conscious intention and ends of the Assembly, and the logical results which may be thought to flow from its action. No animadversion is passed upon the former; the latter constitute a legitimate object of criticism.

3. The intimation, that it is unfortunate that the Synod excepts to the action of the last Assembly, inasmuch as this Assembly was appointed to meet within its bounds, is met by the consideration that the circumstance of place is accidental and unimportant, and that the Synod had to act promptly or not at all.

4. A presumption lies against the repeal or modification by this Assembly of the action of its immediate predecessor. This is met by a reference to precedents. The reversal by the Assembly of 1875 of the action of that of 1874, touching the Pan-Presbyterian Confederation, is an instance in point.

5. The question now before this Assembly is one of great importance, as involving some of the fundamental principles of Presbyterian polity.

*Admissions guarding against misconceptions:*

1. No church court, strictly speaking, can make laws—can legislate by virtue of original or derived authority. The legislative power is in the Head of the Church, and his law is furnished to her in his word. All her power is exhausted in declaring that law. To this there is one exception. In the diatactic sphere, the Church has discretionary power to make laws, in the form of canons and regulations, in regard to "some circumstances concerning the worship of God and government of the Church, common to human actions and societies, which are to be ordered by the light of nature and Christian prudence, according to the general rules of the word, which are always to be observed." But just here, where the Church has a certain legislative power,

her laws do not bind the conscience; they only impose a necessity upon practice. The conscience is only bound when Christ's law in the word is declared.

2. No court can usurp the jurisdiction of the courts below. The Constitution defines the original jurisdiction of each court, which cannot be invaded by the courts above.

3. Some *in thesi* deliverances of church courts are merely advisory. In claiming that some of them are possessed of legal authority, I do not contend that all are. While some are advisory, some are authoritative.

*Construction of the Deliverance of the last Assembly:*

That part of the deliverance, the repeal or modification of which is asked, is as follows: "That none of these deliverances were made by the Assembly in a strictly judicial capacity, but were all deliverances *in thesi*, and therefore can be considered as only didactic, advisory, and monitory."

The construction which I place upon this language is: That no *in thesi* deliverances are possessed of legal authority and capable of enforcing judicial process.

1. The illative "*therefore*" sustains this construction.

(1.) Those who at first maintained that the language is to be limited to the specific deliverances of the Assemblies of 1865, 1869, and 1877, which had been previously mentioned, have been led by the force of the word "*therefore*" to relinquish that construction.

(2.) The reasoning of the deliverance reduced to exact form is as follows:

All *in thesi* deliverances are destitute of legal authority;

These deliverances (of 1865, 1869, and 1877) are *in thesi* deliverances;

Therefore, they are destitute of legal authority.

It is clear that the validity of the conclusion depends upon that of the major proposition: all *in thesi* deliverances, etc. That is to say, these specific deliverances of the New Orleans Assembly of 1865, 1869, and 1877 are destitute of legal authority, because they are in the class *in thesi* deliverances, all of which are destitute of legal authority.

2. The enunciation, "can be considered as only didactic, advisory, and monitory," is analytic, not synthetic. The terms, "*advisory and monitory*," are simply explanatory of the term "*didactic*." They make no substantive addition to the idea expressed by didactic. The term *didactic* cannot here be taken to mean something more than solemnly advisory, for then it would mean authoritative, and the language of the deliverance would be self-contradictory. It is plain that the language means this: these specific deliverances, because they can be considered as only didactic, advisory, and monitory, cannot be considered as legally authoritative. All *in thesi* deliverances are devoid of legal authority, for the reason that they are not judicial decisions, but are only didactic, advisory, and monitory. Judicial decisions are authoritative; *in thesi* deliverances are not.

3. The express admissions of those who defend the Assembly's deliverance justify the interpretation of it which I have given. The issue is plain. The question which has now for months been debated is, Whether any *in thesi* deliverances of church courts are legally authoritative.

*Precise State of the Question:*

It is, first, Are some *in thesi* deliverances of church courts possessed of legal authority? and, secondly, Do some *in thesi* deliverances of superior courts impose an obligation upon the courts of first resort to institute judicial process?

I propose, in regard to the first aspect of the question, to maintain the proposition, that some *in thesi* deliverances of church courts are possessed of legal authority.

*Arguments in Support of this Proposition:*

I. When the *in thesi* deliverances of a church court are identical with the statements of God's word as interpreted in our standards, the respective enunciations are not two and different, but are one and the same, and are therefore susceptible of common predication. What is affirmed or denied of the one may be equally affirmed or denied of the other.

1. The statements of God's word are possessed of legal au-

thority. A distinction must here be taken as to what is law and what is advice in the divine word. There are instances of inspired advice, but they are few, and do not affect the general proposition, that the statements of God's word are legally authoritative, and therefore bind the conscience. There is the law of doctrine and the law of duty. The gospel is possessed of legal authority to us, as binding faith and practice alike. In this wide sense, the whole Scripture, evangelical as well as strictly legal, embodying the gospel as a remedial scheme, as well as the moral law, is expressly said to be the law of the Lord (Ps. 1 and 19).

2. Our standards of doctrine, duty, government, and worship, forming our constitution, are assumed by us to coincide with God's word, and so far as that coincidence obtains, although they be human compositions, are held by us to be possessed of legal authority. They are law, because they deliver the law of the Lord.

3. The *in thesi* deliverances of church courts may be exactly coincident with the statements of God's word, as interpreted in our standards:

(1.) When the express words of Scripture or of the standards are used. This is too plain to require proof.

(2.) When "good and necessary consequences" from God's word as interpreted in our standards are stated in the deliverances of the church courts. A necessary inference from a proposition makes no substantive addition to it. It is part and parcel of the original enunciation. It only explicitly evolves from it what was implicitly contained in it.

Here, then, are instances in which the *in thesi* deliverances of church courts may be one and the same with the statements of God's word as interpreted in our constitution. Now,

4. It is impossible to separate between *such* deliverances of church courts on the one hand, and their contents, viz., the statements of God's word as interpreted in our Constitution, on the other, so as to say that the contents of the deliverances are possessed of legal authority, but the deliverances themselves are not. The only way in which the disjunction may be conceived to be attempted, is by separating the language and the matter of the deliverances. But the language symbolises the matter, and can

have no intelligible existence apart from it; and the matter cannot be apprehended except through the language. They cannot be disjoined. Especially is this the case when the language of the deliverance is the very language of the divine word as given in our standards. If, then, in the cases specified, the deliverance of the court cannot be disjoined from the contents of the deliverance, they are one and the same, and what is predicable of one is predicable of the other. Are the contents possessed of legal authority? So is the deliverance.

The conclusion which follows from these premises is, that some *in thesi* deliverances of church courts are possessed of legal authority. The argument briefly stated is: whatsoever is one and the same with God's word as interpreted in our standards is possessed of legal authority; some *in thesi* deliverances of church courts are one and the same, etc.; therefore, some *in thesi* deliverances of church courts are possessed of legal authority.

5. This is the old, uniform, catholic doctrine of the whole Presbyterian Church. [Here the testimony of Calvin, Gillespie, and Cunningham was cited. This from Gillespie is very striking: "If the doctrine or exhortation of a pastor, well-grounded upon the Scriptures, be the word of God, then much more is the decree of a Synod, well-grounded upon the Scriptures, the decree of the Holy Ghost."]

Those whom I represent take no "new departure" from the old, accepted doctrine of Presbyterianism. We adhere to it and contend for it. In the past, the other great pole of the same great truth was that which attracted chief attention, namely, that when church-deliverances are not consonant to the word of God, but impose the doctrines and commandments of men upon the consciences of Christ's people, they are destitute of legal authority and are to be resisted even unto death. The circumstances of the times demanded the maintenance of that great truth. The tyranny of Rome, and the oppressive human legislation of Prelatical churches, drove the Reformers and Puritans to its assertion. But we are called upon by the circumstances of our own time, also to contend as strenuously for the other great truth, the twin of the first, that when church-courts exactly utter

the will of Christ their deliverances are legally authoritative. We are to do both things. But if the question were raised, which of these two great complementary truths now deserves the more attention and enforcement, the answer must be: the laxity of practice and discipline growingly prevalent in the Church, and the radical and law-contemning temper of society at large, require the special inculcation of the necessity of obedience to the scriptural deliverances of the courts which Christ appointed ministerially to represent his government in the Church.

*Objections to the foregoing argument:*

1. From the analogy of civil courts.

(1.) The *in thesi* deliverances of a church-court are mere *obiter dicta*, and therefore possess no authoritativeness. Answer: *Obiter dicta* are the opinions of a judge, uttered in passing, which are not essential to the decision. It is impossible to regard the solemn acts of a deliberative body, arrived at upon discussion, as mere *obiter dicta*.

(2.) The only authoritative function of a court is to apply law in judicial cases. Answer: First, our church-courts are partly deliberative and partly judicial. The analogy, therefore, fails. Secondly, even in civil courts judges discharge a declaratory function in stating the law before it is applied judicially to a concrete case involving actual process. Thirdly, the nature, spheres and ends of civil and ecclesiastical courts are so different that no real analogy exists between them. The former are natural and secular, the latter supernatural and spiritual. Appeals to an analogy so deceptive ought to be abandoned.

2. The doctrine that *in thesi* deliverances of church-courts are possessed of legal authority makes the courts infallible. It is the Romish theory of the infallibility of the Church, and grievous tyranny over the conscience must be the result. Answer:

(1.) I maintain only that some, not all, *in thesi* deliverances of our church-courts are legally authoritative. The courts are fallible and may err in their deliverances. But they may, under the guidance of the Spirit, deliver the law of Christ. In that case only are their deliverances authoritative.

(2.) A distinction must be taken between the infallibility of the *persons*, and that of the *deliverances*, of the courts. The persons who compose the courts are fallible. The difference is between inspired and uninspired teachers. The ordinary preacher may err in attempting to declare God's word. The Apostle could not. In the latter case the inspiration was both in the teacher and in the thing taught. In the case of the uninspired teacher, the inspiration may be in the thing taught, and is in it when he truly delivers the inspired word, but it is not in himself. He is not personally inspired and therefore is not personally infallible. He may teach exactly what is in the inspired word, and then the thing he utters is infallible; but he, as a person, remains fallible, and on other occasions may teach that which is contrary to the inspired word, and then the thing he teaches is erroneous and unauthoritative. So is it with the courts in the exercise of their dogmatic power. This is is the Protestant doctrine in contradistinction from that of Rome. She vests infallibility in the Church itself; this doctrine, in the inspired word alone. She arrogates to the Church the power to create substantive additions to the Scriptures by virtue of the permanent gift of inspiration; this doctrine restricts the Church, in her teaching function, to the utterance of the words of Scripture and of logical and therefore necessary inferences from them. I deny infallibility to the Church, but affirm it of those deliverances of the Church which exactly coincide with the divine word. To deny the infallibility and therefore the authoritativeness of *such* deliverances is to deny the infallibility and authoritativeness of God's word itself.

(3.) If all *in thesi* deliverances of church-courts are unauthoritative because the courts are fallible, it would follow that, for the same reason, all judicial decisions are unauthoritative—so far as they affect the conscience.

3. The doctrine that *in thesi* deliverances of church-courts may be possessed of legal authority makes man's deliverances bind the conscience, which is intolerable tyranny. Answer:

(1.) I only maintain that these deliverances bind the conscience when they coincide with the statements of God's word as interpreted in our standards. In that case they are not man's deliv-

erances, but God's. The instrument of utterance alone is human—the utterance is divine. To impose the doctrines and commandments of men upon the conscience—that is tyranny. To impose the doctrines and commandments of God upon the conscience—that is not tyranny; that is the requirement of obedience to "the perfect law of liberty," and in that obedience the highest freedom of the soul consists.

(2.) Conscience is not a supreme judge in relation to the government which Christ has established in his Church and administers through it. As to man and man's laws, it is supreme; as to God and God's laws, it is not.

(3.) The Holy Ghost speaking in the Scripture is the supreme Judge. When therefore a church-deliverance is consonant to Scripture, the Holy Ghost as supreme judge speaks through it to the conscience (Conf. of Faith, C. I., Sec. X).

(4.) The authority of the Scriptures is paramount to that of conscience. Conscience as affected by sin, is an erring rule; the Scriptures, an unerring. The decisions of conscience, as God's primal revelation of duty to man, must be judged and corrected by the word as the latest expression of his will. The subjection of the conscience to the Scriptures is its subjection to God. When therefore a church-deliverance is consonant to the Scriptures, the conscience must be bound by it, or be disobedient to God.

(5.) Granted, that church courts are fallible: so also is the individual judgment. Here then are two fallible and fluctuating elements. But there must be an infallible and unfluctuating element, or stable rule is impossible. That element is the word of God. Now a church-deliverance either expresses that infallible element or not. If it does not, the conscience cannot be bound, for God's authority is not uttered. If it does, the conscience is bound, because God's authority is imposed upon it. And it is bound, in that case, whether the individual judges he is or is not bound. No man can be discharged from the duty of submitting to God's will, because of his private convictions.

(6.) The Church does not and cannot bind the conscience, but the deliverance of the Church may. It does, when it communi-

cates God's will. The conscience is not related to the Church, nor to the will of the Church, as Church, but to God and to God's will. He alone is the Lord of the conscience. The conscience is bound not because the Church speaks, but because God speaks in the Church's deliverance, when that deliverance exactly represents his word. Then, and then only, *Vox ecclesiæ, vox Dei.*

4. It is denied that any decisions, *in thesi* or judicial, terminate on the conscience or exert any binding influence upon it. They terminate, it is said, on the external, ecclesiastical sphere, and affect only church relations. Their force is exhausted in the forum by the visible Church; the forum of conscience is untouched. Answer:

(1.) This theory is intelligible. It is more clear and consistent than that which makes all ecclesiastical decisions affect the conscience, and yet affirms that judicial decisions alone are authoritative. But if it is more self-consistent, it is more radical. A theory which places conscience beyond the influence of all decisions of church-courts is revolutionary.

(2.) This is the real issue underlying this whole discussion, and must be looked squarely in the face. Of course, if outward ecclesiastical relations alone are affected by the decisions of the courts, only judicial decisions are legally authoritative, for they only affect ecclesiastical relations so as to produce definite results. But if the decisions of the church courts terminate also on the conscience, it cannot be true that judicial decisions alone have the binding force of law.

(3.) This theory is disproved by the very nature of all church-power as spiritual. The exercise of it is in the spiritual sphere primarily and chiefly, and consequently conscience must be the principal object on which it terminates.

(4.) It is also disproved by the end sought in the infliction of censures. That end includes the spiritual good of the offender, and if so, the conscience must be operated upon in order to its attainment.

(5.) It is also inconsistent with itself, as is seen by considering the judicial censure of admonition. Only relations are affected by judicial decisions, it is said; hence they are authoritative.

But here is a judicial decision which terminates on no relation, and yet it must be admitted to be authoritative. Admonition severs no relation. If it be urged, that it affects relations prospectively, by way of warning, I reply, that the warning is addressed to the conscience and may prove so effective upon the conscience as to lead the offender to repentance, and so his church-relations may remain permanently unaffected. The hypothesis is wrecked upon the censure of admonition.

(6.) Our standards assign to church-courts the power to "decide cases of conscience." Here are decisions which are expressly said to terminate on the conscience; and it is noteworthy that they are *in thesi* decisions. If it be said, that these decisions teach the conscience, but do not enforce law upon it, that supposition is overthrown by the word "*decide.*" The law is declared. Further, the teaching of God's law binds the conscience.

(7.) Against this theory I plead the testimony of Scripture as to the power of the Church to bind and loose—to retain sins and to remit them, when she decides in precise accordance with the divine word. This language would have no meaning, if conscience be not chiefly the sphere in which church-censures operate. How the retention and remission of sins affect relations only is inconceivable.

5. Each individual is entitled to judge whether the deliverances of the courts declare the law of God; consequently, these deliverances cannot bind the conscience: the individual conscience is supreme. Answer:

(1.) The argument is: the individual must be the judge; therefore he cannot be bound. But suppose the individual judges that the court truly declares God's law. He is then certainly bound. Now this concurrence is not only possible, but probable. Surely, in the majority of cases our church-courts would truly declare God's law; and surely, in the majority of cases the individual servants of Christ would judge that the courts truly declare that law. Moreover, the presumption is a powerful one that in the majority of cases this coincidence will occur, arising from the fact that the consentient judgments of all the members of a court are more likely to be right than the judgment of an individual.

When the concurrence takes place between the deliverance of a court and the individual judgment, the conscience of the individual must be bound. Here then we have instances—plenty of them—which negative the affirmation that as the individual must judge whether the courts declare God's law, the deliverances of the courts cannot possess legal authority over the conscience.

(2.) There is an analogy between this case and the relation of the individual to the preaching of the gospel. The individual must judge whether the truth is declared; but when he judges that the preacher delivers the truth, his conscience is certainly bound.

So in the case of denominational differences. The individual must judge which of the conflicting sects holds the truth; but the truth must be somewhere, and when he perceives it as held by some one denomination, his conscience is bound by it, and his duty is to attach himself to that body of Christians.

Although, therefore, each individual is entitled to judge whether the deliverances of church-courts are consonant to the word of God or not, still it is true that when a deliverance truly decides that word, he ought to be bound by it, and when his judgment is that such is the fact, he is bound by it.

II. The second argument is derived from the fact that our Consitution itself is a digest of *in thesi* decisions, and is liable to be amended by *in thesi* decisions.

It will require no discussion to prove that every part of our Constitution was formed by bodies acting in a deliberative capacity and voting upon the propositions of which it consists, apart from judicial cases. Every decision was reached *in thesi*. If, then, no *in thesi* decision is possessed of legal authority, it follows that our Constitution itself is destitute of legal authority; that is, that our fundamental law is not law, but only solemn advice! And then where would be the authority to institute judicial process, and to pronounce those judicial decisions which, we are told, constitute the principal acts of church-courts which possess legal authority?

III. The third argument is grounded in the principle that all church-power is declarative or didactic.

Church-power is defined in our standards to be spiritual, ministerial, and declarative. By this it is not meant that the power is partly spiritual, partly ministerial, and partly declarative. It is wholly spiritual, wholly ministerial, and wholly declarative. There is therefore no difference as to authority between judicial and *in thesi* decisions. They both derive the sole authority which they can possess from the fact that Christ's authority is declared by them. Otherwise they are founded upon human authority, and are therefore null and void. It is true that judicial decisions are specifically distinguished from *in thesi* deliverances, in that they are pronounced upon particular cases, and, for the most part, terminate on external relations; but they determine these cases and relations only as declarative of the law and authority of Christ. Generically, therefore, both classes of decisions are the same. They are both authoritative when they truly represent Christ's authority. Neither is authoritative, when his authority is not declared, his will not taught. An unjust, because unscriptural and unconstitutional, judicial decision may indeed sever an ecclesiastical relation in the merely external sphere, but it is an exercise of only human authority, and is therefore illegitimate and tyrannical. It is, to all spiritual purposes, void.

The deliverance of the last Assembly is chargeable with two defects: first, it virtually strips judicial decisions of their authoritative element, viz., the didactic or declarative, and at the same time pronounces them authoritative; secondly, it attributes to *in thesi* deliverances the authoritative element, viz., the didactic or declarative, and pronounces them unauthoritative!

IV. The fourth argument against the last Assembly's deliverance is that it would reduce our church-courts, so far as they are deliberative and endowed with dogmatic power, to the *status* of Congregationalist Associations.

1. All *in thesi* deliverances, says the last Assembly, are only advisory. But the dogmatic function is exercised in framing *in thesi* deliverances; therefore our courts, when discharging the

dogmatic function, are only advisory bodies. What is that, so far as it goes, but Congregationalism?

2. Rule enters generically into church-power, and pervades every department of business assigned to a church-court. The dogmatic function, therefore, is a ruling function. A court performs it as a body of rulers, not as a convention of preachers. The element, rule, must consequently enter into *in thesi* deliverances; and the conclusion is that they cannot be merely advisory. The opposite view is un-Presbyterian and Congregationalist.

3. But the courts may and do advise, it will be said. Yes; God advises sometimes. All rulers advise sometimes. But to advise sometimes, at discretion, and to be able to do nothing but advise, except when enforcing judgment, are very different things.

V. The fifth argument is, that the last Assembly's deliverance denies to our church-courts the function of Authoritative Interpretation of law.

1. This is contrary to the doctrine of our standards, which affirms that the courts "are appointed thereunto."

2. It is contrary to the precedents of the Presbyterian Church. The *in thesi* deliverance of this very Assembly in answer to the overture of the Synod of Texas, touching women-preaching, is a case exactly in point.

3. It is contrary to the catholic doctrine of standard Presbyterian writers.

VI. The sixth argument is that the deliverance complained of would tend to multiply judicial cases and engender litigation.

1. Because Presbyterians will not be satisfied with advice as a resolution of difficult and contested questions. It would settle nothing.

2. Because the only method of securing authoritative decisions from the superior courts, would be the presentation of actual judicial cases.

VII. The seventh argument is, that the deliverance in question is inconsistent with the express law of our standards.

1. "It belongeth to Synods and Councils, ministerially, to determine controversies of faith and cases of conscience." (Conf.

of Faith, 6, xxxi., § ii.) These determinations are discriminated from diatactic and judicial determinations, which are immediately afterwards formally mentioned. They are therefore *in thesi* determinations in the dogmatic sphere. Now of *all* these determinations, dogmatic, diatactic, and judicial, it is declared: "which decrees and determinations, if consonant to the word of God, are to be received with reverence and submission." (*Ibidem.*) The authoritativeness of *in thesi* determinations, when consonant to the word of God, is placed on the same foot with that of diatactic and judicial, when similarly conditioned. They cannot therefore "be considered as only advisory and monitory." The inference is plain as to the last Assembly's deliverance.

2. The same line of argument holds good in regard to the words of our Form of Government, C. v., Sec. ii., Art. ii., in which the jurisdiction of our church-courts is treated as the same with that of Synods and Councils as defined in the Confession of Faith.

Concerning the decision of the Synod of Jerusalem, I have to say:

(1) If we give up our appeal to it, we abandon the main scriptural support for our system of authoritative courts, and play into the hands of the Congregationalists.

(2) The body of Presbyterian writers have denied the inspiration of the Synod's decision; the body of Congregationalists have affirmed it. The fact is significant.

(3) If the *in thesi* decision of the Synod was inspired, that would make nothing against the authoritativeness of the *in thesi* deliverances of our church-courts, when consonant to the word of God; for if they truly declare the inspired word, it is all one as if the inspired apostles themselves gave the deliverance. Where is the difference? We have, said Chrysostom, we have Paul and Peter and James and John in their writings.

3. Our Form of Government (Chap. v., Sec. vi., Art. v.) assigns to the General Assembly power "to decide in all controversies respecting doctrine and discipline." This function is discriminated from the judicial. The inference is that the decisions mentioned are all made *in thesi*, and, consequently, such

*in thesi* decisions cannot be merely advisory. They are authoritative, from the nature of the case.

This concludes the discussion of the first aspect of the main question, namely, Are some *in thesi* deliverances of our church-courts possessed of legal authority? I have thus endeavored to prove the affirmative.

The second aspect of the main question is, Do some *in thesi* deliverances of superior courts impose an obligation upon the courts having original jurisdiction to institute judicial process?

In regard to this I lay down the proposition: When, and only when, the *in thesi* deliverances of superior courts, touching offences, are consonant to the law of God as interpreted in our standards, they impose an obligation upon courts having original jurisdiction to institute judicial process, in relation to cases which may come under that law.

*Arguments in Support of this Proposition.*

I. The preceding argument, if valid, necessitates this conclusion. If some *in thesi* deliverances are authoritative declarations of law, some of them may be authoritative declarations of law touching offences. That being granted, it follows that they ought to be enforced; else they are mere advice, which is contrary to the supposition. If it be said that they may be authoritative declarations of law, and yet exert no binding force, I reply: A contradiction emerges. Nothing but what is law can exert a binding force; and what is law must bind. No distinction can obtain between what is legally authoritative and what is binding.

II. Church-courts, following the word of God as interpreted in our standards, have power to discharge the imperative function of law, as well in its prospective and categorical form, as in its retrospective and penal form. Like conscience they have their categorical as well as their penal imperative—they can say: Thou shalt not, as well as, Thou art condemned. And when like it, their deliverances reflect God's law, they are as authoritative in forbidding offences, as in censuring offenders. In either case, their sole authority lies in their consonance to God's law.

If it be said: The Constitution sufficiently discharges the

categorical imperative function, and therefore authoritative *in thesi* deliverances of church-courts, performing the same office, are superfluous and unnecessary, I answer:

1. It is universally admitted that the courts may declare law. This declarative function cannot be limited to the disciplinary application of the law; it includes the prohibitory.

2. As well might it be said: The gospel with sufficient clearness sets forth the terms of salvation; therefore the preaching function is superfluous and unnecessary; it is enough that the Scriptures be read.

The following are some of the occasions for the discharge of this function by church-courts:

(1.) Ignorance of the law on the part of church-members or of church-sessions.

(2.) Negligence in enforcing the law on the part of courts of first resort.

(3.) Division of opinion in lower courts—especially Sessions, perhaps causing inability to act.

(4.) Want of uniformity in the practice of neighboring Sessions, it may be in the Church at large.

(5.) Requests from the lower courts to the higher, authoritatively to interpret the law—a thing of ordinary occurrence.

(6.) The superior wisdom and knowledge of the higher courts, especially of the supreme court, make the discharge of this function proper, and sometimes necessary.

*Guards against Misconstruction of this Position.*

1. The original jurisdiction of the General Assembly is limited to cases of offence occurring in the presence of the court; and they are cases without process.

2. There is a palpable distinction between the upper courts requiring the lower to institute process, as contingent upon the commission of offences specified, and their requiring the lower to institute process against certain individuals as actual offenders.

There is some analogy between this general requirement for which I contend, and that made by a civil court upon a grand jury. The Judge does not say, Gentlemen of the Jury, you must

find a true bill against this or that individual; but, Gentlemen of the Jury, I have declared to you the law; if, in your judgment, this or that individual is guilty of an offence against it, it will be your duty to find a true bill against him.

3. The infamous *Ipso Facto* deliverance of 1866 finds no justification in the view here maintained. That involved a usurpation by a General Assembly of the original jurisdiction of Presbyteries. This view warrants nothing so monstrous.

III. Sessions are entitled to the authoritative support of the higher courts, especially of the General Assembly as the supreme court, in their confessedly difficult attempts to declare and apply the law in our Constitution in relation to offences. This can only be extended through *in thesi* deliverances.

IV. Uniformity of opinion and action in regard to offences can only be effectually secured by authoritative *in thesi* deliverances of the superior courts, especially of the General Assembly as sustaining a broad and catholic relation to the interests of the whole Church.

V. The deliverance of the last Assembly, denying the authoritativeness of any *in thesi* deliverances of the church-courts, and consequently their competency to exert an enforcing influence upon the prosecution of offences by courts of first resort, is out of harmony with the current of Precedents in the Old School Presbyterian Church of this land.

I refer to the action of the General Assembly of 1810, in the celebrated case of the Rev. William C. Davis. (See Baird's Digest, Book vii., Part ix., Sec. 85.) After by *in thesi* decisions condemning the doctrinal errors of Mr. Davis's book, "The Gospel Plan," the Assembly thus concludes: "And the Assembly do judge, and do hereby declare, that the preaching or publishing of them ought to subject the person or persons so doing to be dealt with by their respective Presbyteries, according to the discipline of the Church, relative to the propagation of errors."

The same position is maintained in the case of Craighead (*Ibid.*, Book vii., Part x., Sec. 92, Head 6, Par. (c); also, Book viii., Part iii., C. i., Sec. 42, Par. (g).)

The same doctrine was held by our own Church until the As-

sembly of 1879. The action of that Assembly is exceptional, and ought to be modified.

On the day following, Dr. Woodrow replied to Dr. Girardeau's argument in a speech perhaps of equal length, and was heard with the same profound attention that was accorded to his colleague. It is not too much to say that the weight and clearness of his reasoning carried conviction, for the time being at least, to the most of his hearers. His is not the impassioned eloquence of the first speaker, but he addresses the understanding, which may, perhaps, be more suitable to the deliberative council. Dr. Woodrow's speech was very effective, and, had the vote been taken immediately, would perhaps have carried the house. The abstract now presented will give no adequate idea of what he said, the state of his health having prevented his preparing it for over two months.

ABSTRACT OF DR. WOODROW'S SPEECH.

After referring to the fact that I was the only person present who had voted for the paper adopted by the last Assembly, I expressed my great pleasure in listening to Dr. Girardeau, and stated that I agreed with him in very much that he had said, as, for example, respecting the importance of the question, the meaning of the deliverance of 1879, the supremacy of God over the conscience, the power of the Church (though not of the General Assembly by itself) to give to its utterances the force of law, and the administrative power of our church courts. I regretted my inability to agree with him throughout; but was glad that the views he held had been presented by one so able, and who had, as he had told us, so carefully and intensely and continuously studied the subject during the greater part of the past year. We may, therefore, assume that all has been said that could properly be said in support of the peculiar views which he holds.

The overture of the Synod of South Carolina asks us to "repeal or seriously modify" the essential part of the last Assembly's deliverance. Believing that the last Assembly was right, I must advocate the adoption of the minority report.

In the paper objected to, it is said that certain deliverances mentioned are not to be "accepted and enforced as law by judicial process," because they "were all deliverances *in thesi*, and therefore can be considered as only didactic, advisory, and monitory." The Assembly here asserts that the specified deliverances have not the force of law, because they belong to a class which has no such force. What is true of the class, is true of each and every member of it.

The question before us is not, Could an *in thesi* deliverance, under any circumstances and by any body of church rulers, ever be framed so that it would have the force of law? but, Can our General Assembly, or other single court, existing under our constitution and having its powers prescribed and limited by that constitution, give to its *in thesi* deliverances the force of law? Were the Church without a constitution, its presbyters, assembled in mass or by their representatives, could immediately and without limitation exercise all the power intrusted to it by its Divine Head; its *in thesi* deliverances would constitute its confession of faith, its rules of government and discipline—its standards. But when a constitution has been agreed upon, this is all changed; then no power can be exercised except in accordance with the compact called the constitution. True, the confession of faith may be changed; the form of government may be modified; new definitions of an "offence" may be given—all of which shall have the force of law; but only in the manner prescribed in the constitution, or in accordance with the fundamental principles already stated. In civil affairs, the point is well illustrated by the difference between a constitutional convention and the legislature or General Assembly. The latter body, although it represents exactly the same people who were represented in the former, yet cannot exercise the same power; all that it may do must be in accordance with the authority and within the limits prescribed in the constitution framed by the convention. So it is in the Church. If we neglect this distinction, we shall certainly go astray.

It is important to show still further to what the question before us does not relate.

1. It does not relate to the source and character of church

power in general. We all agree that it is bestowed by the Head of the Church, and that it is exclusively ministerial and declarative.

2. It is not a question as to the power of the Church to bind the conscience. As towards God, there is no such thing as freedom of conscience; on the other hand, God alone can bind the conscience. Because God is Lord of the conscience, his infallible word binds it. It does this by whomsoever uttered: by church, minister, church court, or child. And any utterance of a church court, if consonant to that word, is to be "received with reverence and submission, not only for its agreement with the word," but "also for the power whereby it is made, as being an ordinance of God." But who shall decide whether or not an utterance is "consonant to the word"? The judgment of each man for himself; and, if the private judgment is that the utterance is not consonant to the word, the conscience is not bound. We exercise this judgment at our peril, and are responsible to God for our mistakes; but such exercise cannot be escaped or evaded, or the right to it denied. Dr. Girardeau has properly acted in accordance with this doctrine: he does not regard the deliverance of the last Assembly as consonant to the word, and therefore he refuses to allow his conscience to be bound by it. But the question before us relates to the enforcement of law by judicial process—to discipline. The primary and immediate object of discipline is to determine the relations of its subject to the visible Church. These are absolutely fixed thereby, without reference to the conscientious convictions of the supposed offender. So far as the disciplinary utterance coincides with the word of God, implicitly or explicitly, it binds the conscience; but of this coincidence each must judge for himself. But when judicial sentence—say, of excommunication—is pronounced upon a supposed offender, that decision binds absolutely as to relations to the church; the person stands excommunicated, whether really guilty of the alleged offence or not, and whether the alleged offence is an offence in God's sight or not. All admit that synods and councils—church courts—may err; the law as contained in our standards may be wrong, and church courts may err in administering it; hence it is possible in any given case that the judicial sentence is wrong;

does it, when wrong, bind the conscience of the person sentenced? Clearly not; but who is to judge? Each man for himself, as he shall answer to God. But yet the sentence binds—fixes—his relations to the Church. This is wholly independent of his private judgment and his conscientious convictions. The court is not to stop to inquire as to his views, but must judge for itself, according to the law and the evidence; and its decision, right or wrong, *binds*—not the supposed offender's conscience, but his relations to the church. Further, it may be added, that when the members of a court are sitting as judges, it is no part of their duty to consider whether the law is right or wrong, but simply to learn what the law is, and to apply it in the case before them. They have already, when being invested with office, solemnly expressed their approval of the standards containing the law; and if they think the law in any respect not exactly what it should be, it is their right and their duty to seek to have it changed in a constitutional manner; but so long as they are sitting as judges, it is the law as it is, and not as they think it should be, that they are bound to administer.

It is never enough for us to learn merely what the church, councils, ministers, have said—all these together cannot bind my conscience; it is free from them all; it sits in judgment upon all their decisions; it recognises as its supreme Lord God alone.

3. In the next place, the present discussion does not involve a consideration of the *contents* of *in thesi* deliverances. The question is, Can the General Assembly, under our Constitution, give the force of law to any utterance by making it an *in thesi* deliverance? We have been told that if the utterance is consonant to the word of God, then it has the force of law when made as a deliverance; and that in such a case we cannot distinguish between the contents and the authority of the court making the utterance. But nothing is easier. For example, let a child utter one of the Ten Commandments; all admit that the commandment binds; now, does it bind because the child uttered it, or because it is God's word? What is the source of the binding power? So, if the Assembly utters the commandment, the source of its

binding power is not the Assembly, but the Lord who spoke from Sinai.

4. Further, the question is not as to the power of judicial decisions. If it were, a modification, or at least an explanation, of the last Assembly's words might reasonably be asked for; because these are at least ambiguous, if not erroneous. If the Assembly meant to say that the deliverances of a church court, when sitting in a judicial capacity, have legal authority outside of the case under trial, it was in error. True, the decision does determine the case in hand; but it has not the binding force of law in other cases. Ordinarily, the judicial deliverance is entitled to more weight than a deliverance *in thesi*, for the reason that in a judicial case all the principles involved are most carefully discussed in successive courts from the lowest to the highest, and by those who are stimulated by personal interests to the utmost zeal in bringing forward all the considerations that ought to affect it; while, in many cases at least, deliverances *in thesi* are adopted by our Assembly without a moment's consideration, except from the committee reporting them. But neither the judicial decision, as a precedent, nor the *in thesi* deliverance, has the force of law. A church court may seek for additional light by the study of both; but it can never escape the responsibility of at last interpreting the law for itself in the case it is trying. But this question is not before us.

The only question we are now called on to decide is, Is the major premise in the following syllogism true?

No deliverance *in thesi* can be accepted and enforced as law by judicial process;

The deliverances of 1865. 1869, and 1877 are deliverances *in thesi;*

Therefore they cannot be so accepted and enforced.

The General Assembly of 1879, as we understand it, affirms; the Synod of South Carolina denies; which is right?

As this question is brought before us by the request contained in the overture from the Synod of South Carolina, that we "repeal, or

at least seriously modify," this part of the last Assembly's deliverance, it would seem to be our proper course to examine carefully and in detail the reasons urged by the Synod why its request shall be granted. If the Assembly erred, it went fearfully astray, if we are to believe the Synod. That body tells us that the Assembly's deliverance is either "utterly illogical" or "unconstitutional"; that it "is contrary to the genius of the Presbyterian system, and the historic doctrine of our Church"; that it "tends to degrade the authority and lessen the influence of the Assembly"; that it "takes away the key of doctrine from our church courts"; that "it contravenes a great principle laid down in the Confession of Faith"; that it "opposes the doctrine of our standards"; that "it is inconsistent with express provisions of our constitution." Surely, if the venerable Synod of South Carolina is right in this terrible indictment, this Assembly ought to hasten to exercise all its power in obliterating from its records that which deserves to be thus denounced.

The first reason given by the Synod why the request for repeal should be granted is as follows:

1. Because it makes judicial decisions, as contradistinguished from didactic decisions, something different from and more than didactic; which is the same thing as to make them different from and more than declarative decisions, and so the Constitution is contradicted, which represents *all* church power as simply ministerial and declarative. There is, it is conceded, a difference between judicial and deliberative decisions growing out of the different circumstances which condition them; but to make a distinction between judicial and didactic decisions is to assign to the judicial something more than a declarative enforcement upon the conscience of the law of God. Either it is held that didactic and judicial decisions are the same, or it is held that they are different. If it be held that they are the same, the reduction in this deliverance is utterly illogical, and ought to be corrected. If it be held that they are different, we affirm the unconstitutionality of the discrimination.

Here we have the position maintained, that since the utterances of church courts are the same in one respect, they cannot be different in other respects; that since they are all generically the same, they cannot be specifically different. The Assembly ascribes didactic or teaching power and also disciplinary power to church courts; it claims for them that they hold the key of doctrine and

also the key of discipline; it discriminates between these different things; and the Synod of South Carolina "affirms the unconstitutionality of the discrimination"! All the rightful utterances of our church courts are "ministerial and declarative," and so all belong to the same genus; but a judicial utterance is one primarily intended to apply Christ's truth to the determination of the relation of a person or class to his visible Church, while a didactic utterance is one primarily intended to teach Christ's truth—hence the two species. Under the genus, "ministerial and declarative," are the two species, "judicial" and "didactic." They agree in being ministerial declarations of Christ's will; they differ in the end immediately aimed at. The didactic utterance may, indeed, incidentally aid in reaching a right judicial decision, but that is not its aim as didactic; the judicial decision may incidentally teach, but teaching is not its immediate aim. Therefore the Assembly was right when it distinguished between the different things, didactic and judicial utterances; and the Synod of South Carolina has no ground for the charge that it was either "utterly illogical" or "unconstitutional." It is as if the Synod had gravely condemned one for pointing out the specific differences between the palmetto and the apple. Are they not both trees? If, then, it be held that they are different, the Synod should be ready to "affirm the unconstitutionality of the discrimination." Thus far, the "utterly illogical" character and the "unconstitutionality" are to be found, not in the last Assembly's deliverance, but in the Synod of South Carolina's overture.

But the Synod is not only illogical; it also directly contradicts itself. As we have seen, in the first ground, it charges the Assembly with violating the constitution in discriminating between the power of teaching and the power of discipline; in claiming for church courts both the key of doctrine and the key of discipline, and saying that these keys are two and not one. Now see what the Synod says in its third ground:

> 3. Because said deliverance takes away the key of doctrine from the General Assembly and the other courts of the Church, and retains in their hands the key of discipline alone.

Poor Assembly—the Synod had just denounced it for retaining

both keys; now it denounces it as having thrown away one and retaining only the other!

The second ground is:

2. Because it reduces the General Assembly and the other courts of our Church, so far as they are deliberative bodies, to the *status* of Congregational Associations, possessed only of advisory power, is contrary to the genius of the Presbyterian system and the historic doctrine of our Church as to the binding force of such deliberative decisions as are expository of constitutional law; and tends to degrade the authority and lessen the influence of the Assembly.

If it is true that the Assembly has, in accordance with our Constitution, pointed out certain characteristics which belong equally to our church courts and to Congregational Associations, what harm has it done? No one will deny that our General Assembly and a Congregational Association have many characteristics in common: they both consist in part of ministers, both consult and deliberate respecting the good of their churches, both give advice, both bear testimony against evils, etc. It cannot be very wrong to recognise the advisory power of our courts when this is so expressly provided for in our standards, as, for example, in the section on "References." Shall we, to show how different we are from Congregationalists, to make our courts unlike Congregational Associations, wrest, distort, trample on our Constitution, and claim legal authority not there granted?

The charges in the rest of this ground are too vague to need an extended reply. We have as our guide as to the question before us something definite—our Constitution. We act in accordance with the "genius of Presbyterianism" when we learn the exact meaning of our fundamental law and act accordingly; authority is degraded and influence is lessened, not by faithfully observing the prescribed limits of the law to which we have professed allegiance, but by grasping at and exercising unlawful power, which is tyranny to which the Presbyterian freeman will never and ought never to submit.

The fourth ground is:

4. Because it contravenes the great principle laid down in the Confession of Faith, consecrated by the blood of our martyred ancestors, and until now well-nigh universally recognised among us: that good and necessary

consequences from the doctrines and precepts of the Divine Word, or from the Constitution of our Church, are of equal authority with the Word and the Constitution; and when declared by a Church court in any capacity, whether judicial or deliberative, must bind the conscience, and can no more be regarded as simply advisory and monitory than are the Word itself and our Constitution. They have legal authority because they *are* law.

We are not told here who denies the doctrine of "good and necessary consequences." Certainly it was not denied or doubted by any member of the last Assembly; just as certainly as it is not denied or doubted by any one here present. Further, God's truth always binds the conscience, by whomsoever it may be declared; but it is as God's truth that it binds, not as a declaration made by this or that body. As the Synod truthfully intimates, whatever is implicitly in law, as well as what is explicitly there, is *law*. But what *is* implicitly in a law is for the court trying a case to decide, and not for the General Assembly in a supposed case.

The fifth ground presented by the Synod is:

5. Because it opposes the doctrine of our standards, long practically acted on in our Church, that the church courts are appointed by Christ to be authoritative expounders of his law contained in the Scriptures, and, as we believe, reflected in our Constitution. It is admitted that they have no original power to make law, but they can declare it, and it cannot, consistently with our standards, be held that the only office of exposition by which the courts ministerially declare Christ's law is discharged by them when sitting in a strictly judicial capacity. But if the courts act by Christ's appointment when they, in their deliberative capacity, solemnly declare his law, they are entitled, in the discharge of that function, not only to be respected as advisers, but to be obeyed as authoritative expounders of law. Their deliberative decisions, so far as they furnish the right construction of the law, exert a legal force upon the conscience.

The points here presented have been in the main covered by what has already been said. The courts have authority as far as it is given them by the Constitution; but if they step beyond the limits there set, their acts are utterly powerless, and instead of being respected and obeyed, they are to be resisted as usurpers of that which does not belong to them. True, whenever their utterances "furnish the right construction of the law," they bind

the conscience; not because they are their utterances, but because they furnish the right construction. But then, we must ask again, Who shall decide whether or not they do furnish the right construction?

The sixth ground is:

6. Because it makes it necessary, in order that an authoritative decision upon any point, either of doctrine or of morals, may be obtained from the General Assembly, or any other court, that judicial process in the courts of first resort be instituted, involving the case whose resolution is desired; and so a tendency to general litigation would be engendered in our churches. For it is not to be supposed that, having been accustomed to Presbyterian usages, they would be satisfied with mere Congregationalist advice. The action will in all probability issue in breeding contentions and multiplying judicial cases.

If the argument here has any force, then in all cases where the Constitution is not exactly as we think it should be, we may proceed at once to change it to suit our views, without regard to the lawful mode of effecting changes. But in this discussion we have nothing to do with what we may suppose will be the effect of adhering to the law; all that we have to do is to find out what is the law, and then faithfully to obey it. The Synod seems to imagine that all advice must be "Congregationalist," and tells us our churches will not be "satisfied with mere Congregationalist advice." I earnestly hope they will not; but that they will always listen with the utmost respect to good Presbyterian advice, when it is given them in the methods accurately set forth in our Constitution.

The last reason assigned by the Synod why we should repeal is as follows:

7. Because it is inconsistent with the following express provisions of our Constitution: "It belongeth to synods and councils ministerially to determine controversies of faith and cases of conscience; to set down rules and directions for the better ordering of the public worship of God, and government of his Church * * * which decrees and determinations, [together with those which are judicial and just mentioned] if consonant with the word of God, are to be received with reverence and submission, not only for their agreement with the word, but also for the power whereby they are made, as being an ordinance of God, appointed thereto by his word." (Confession of Faith, Chapter 31, Section 2.) "They

[church courts] * * * may frame symbols of faith, bear testimony against error in doctrine and immorality in practice, within or without the pale of the Church, and decide cases of conscience." "They have power to establish rules for the government, discipline, worship, and extension of the Church." "They possess the right of requiring obedience to the laws of Christ." (Form of Government, Chapter 5, Section 2, Article 2.) "The General Assembly shall have power * * * to bear testimony against error in doctrine and immorality in practice, injuriously affecting the Church; to decide in all controversies respecting doctrine and discipline." (Form of Government, Chapter 5, Section 6, Article 5.)

The argument here urged by the Synod is as follows:

Synods and Councils may frame symbols of faith, etc.;
The General Assembly is a Synod or Council;
Therefore the General Assembly may frame symbols of faith, etc.

The fallacy here is manifest: the middle term, that with which the extremes are compared, is equivocal or ambiguous. That term, Synod or Council, is used in two senses; in one case, it means the body of church rulers in general, unrestricted by constitutional limitations; in the other case, it means a body of church rulers restricted by such limitations. As our Form says, speaking of our church courts (Synods or Councils): "The jurisdiction of these courts is limited by the express provisions of the Constitution." Hence we have here a clear case of the "ambiguous middle"; and the Synod of South Carolina seeks to control our action by presenting us with a palpable "fallacy of equivocation," to use the technical language of logic. If the Synod's reasoning were correct, then a church session, which is a Synod or Council, has the right to "frame symbols of faith," "establish rules for the government, discipline, worship, and extension of the Church." So would the Presbytery, the Synod, the General Assembly, all of which are "Synods and Councils," "church courts." Then since the General Assembly has such power, why did our Church spend twenty years in revising our Book of Church Order, sending revision after revision to the Presbyteries for their action, if all the while it had the power itself to make such changes as it thought needful? And why does not this Assembly at once make such changes as it desires

in the Directory for Worship, now under revision, instead of expecting the next or some future Assembly to send it to the Presbyteries? Why all this circumlocution, this begging help from others in doing for you what you have the power, and therefore the duty, of doing yourselves? But this Assembly will not suffer itself to be misled by the Synod of South Carolina's surprising reasoning. The only part of this seventh ground that affects the question before us is the quotation from the Form of Government constituting the last sentence: "The General Assembly shall have power . . . to bear testimony against error [that is, it may teach, advise, and warn against it]. . . . to decide controversies [that is, judicial cases] respecting doctrine and discipline." And this is exactly the distinction made by the last Assembly, which the Synod assails.

It has thus been shown that the overture of the Synod of South Carolina is wrong in many of its statements, it is self-contradictory, it is utterly illogical; it presents no good reason why this Assembly should grant its request by "repealing or seriously modifying" the deliverance of the last.

The Synod seems to imagine that *in thesi* deliverances are degraded by being recognised as having only teaching power. But teaching is the highest function of the Church. Its great commission bids it "Go, TEACH." In the Church, discipline is wholly subordinate to doctrine. And, therefore, to pronounce *in thesi* deliverances "didactic," is to assign them the very highest place in the Church of Christ.

But now let us look at the positive reasons in favor of the answer given by the last Assembly, that no deliverance *in thesi* can be accepted and enforced as law by judicial process.

The only "proper object of judicial process" is "an offence"; hence the real question is, How can we find out what constitutes an offence? Our Book of Discipline, recently adopted after careful scrutiny of every word, answers: "Nothing ought to be considered by any court as an offence, or admitted as a matter of accusation, which cannot be proved to be such from Scripture, as interpreted in these standards." Not, "as interpreted by the

General Assembly or other court," but "as interpreted in these standards." What could be plainer? This single passage ought to settle the whole question. Is it not amazing, with this passage before us, that this discussion could have arisen as to the "legal authority" of *in thesi* deliverances?

But suppose there is doubt as to the meaning of the standards, what are we to do then? Shall we not ask the opinion of the highest court? and when it has given an interpretation, does that not bind us as the true meaning of the law? Our Book of Church Order answers these questions. In the Rules of Discipline, Chapter XIII., Section II., we have full instructions how to proceed in such cases. Lower courts may obtain interpretations from the higher, though it is held that generally "every court should fulfil its duty by exercising its judgment." When the higher court, in answer to an application from the lower, gives its interpretation and opinion, this answer is over and over again in the Rules of Discipline called "advice," "mere advice"; it cannot be enforced as law; it has no other than didactic power, and its accordance with the truth is to be determined by the court actually trying the case. If, on a reference, the higher court desires to do more, it can do so only by hearing and judging the case itself; it cannot direct the lower court what decision it must give, how it must interpret the law.

Now, when the Constitution thus carefully limits the power of a higher court, pronouncing its opinions and interpretations to be "mere advice" in all cases except those which it actually tries, is it credible that the same higher court could give the force of law to its interpretation by merely throwing it into an abstract form?—that it cannot, indeed, give its interpretation the force of law in the single case referred to it, but it can do so by issuing its opinion as an *in thesi* deliverance, which will then decide ten thousand cases, the single one which it is forbidden to decide included?

The jealous care with which the Constitution limits the higher courts in this respect is still further seen in its provisions as to "general review and control." The higher court may censure, may teach, advise, and warn; but however reprehensible the

course of the lower court, "in cases of process"—the only kind we are now concerned about—"in cases of process, no judgment of an inferior court shall be reversed, unless it be regularly brought up by appeal or complaint." Thus it is here expressly provided, as also in case of references, that binding legal effect can be given to no opinion of a court, except when that court itself hears and issues the cause.

These express limitations and express provisions of course cut off all other methods of legally affecting the judgment that has been given or is to be given by a court. The Constitution shows that the interpretations given of God's word in our standards are to be enforced as law by judicial process, and that nothing else can be; that interpretations may be obtained from the General Assembly, but that when obtained they are "mere advice"; and that no judgment of any court can be changed except by a higher court which actually tries the special case in accordance with the rules provided in the standards.

Thus by another route we have reached the conclusion, that the request of the Synod of South Carolina ought not to be granted, for the reason that the deliverance of the last Assembly was in exact accordance with the teachings of our Constitution.

We might go on to show the practical danger attending the Synod of South Carolina's doctrine. Give each church court the right to clothe its interpretations with the force of law, and all liberty is gone. As the sons of God, as those whom he has made free, it is our duty most jealously to guard our freedom, and to resist to the utmost every attempt to bring us under the yoke of bondage. Faithfully obey them that have the rule over you, so far as God has given them authority to rule; but beyond those limits, conscientiously disobey those who are usurping in God's name power which he has not bestowed.

It may be observed that I have not quoted the opinions of Calvin or other great men of the past. I claim to be second to no one in profound reverence for these distinguished men, or in gratitude to God for having given them to his Church. But the question we are discussing, as to the powers of our church courts

under our Constitution, cannot be determined by their opinions. And I cannot forget that, if I must accept the opinions of these Reformers and leaders, I must believe that Copernicus was a fool, as Luther pronounced him to be; that it is right to play ninepins on Sunday, as Calvin is said to have done—or if that is an erroneous statement, that it is proper to punish violation of ecclesiastical laws by imprisonment, which Calvin certainly did; and that the civil magistrate "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 and reformed," etc.; and that those who "publish opinions or maintain such practices as are contrary to the light of nature or to the known principles of Christianity, . . . may lawfully be called to account and proceeded against by the censures of the Church, *and by the power* of the civil magistrate"—all of which Gillespie and Cunningham taught and maintained. As the question relates solely to the power of our church courts under the Constitution, I have sought to answer it solely by an appeal to the "word of God as interpreted in these standards."

This debate began on the sixth day of the sessions, and the foregoing speech of Dr. Woodrow was delivered on the seventh day, in the morning.

In the evening session of that day Dr. H. M. Smith, of New Orleans, made a very able speech, of which an abstract follows here.

ABSTRACT OF DR. H. M. SMITH'S SPEECH.

1. There is one aspect of this question very important to Presbyteries, Sessions, and to all who are concerned in the administration of law. We ought to know the precise authoritative value of the spontaneous deliverances of the Assembly.

The deliverance of 1869, on Worldly Amusements, seems to have been intended to be law; that of 1879 explicitly denies that it can be enforced as law. If there be here a collision, the

usage of deliberative bodies which gives precedence to the latest decision would decide that difficulty. But the discussion of this question has started another much more weighty, *namely*, On what footing does this whole class of decisions stand? This is a pressing question. From year to year overtures asking similar decisions are sent up in large numbers from every part of the Church. This right to overture cannot be denied nor limited. And thus we are accumulating a great number of decisions, on topics of the most valued character, *in thesi* as they are called, which in certain circumstances might come to have a most important bearing on public and private interests. We ask, What is the relative authority of such decisions, as compared with the authority of our Constitution?

It is contended by some that the Assembly has the power to make enactments which are of equal authority with the requirements of the Constitution, and which can be enforced by judicial process. We cannot admit such a principle. If it were admitted, the first effect would be that we should witness in these annual deliverances a body of law growing up outside of the Constitution and independent of it, neutralising it, and making it obsolete. For such law, no patient plodding nor careful scrutiny is needed. They could be made at any time, for any purpose, and in any terms, and for the benefit of any interest that could secure a majority of votes. In such a case, the Constitution would in course of time become superfluous. It would be effectually suspended by the more convenient and more flexible system of Assembly law.

2. Again, if the deliverances of the Assembly are to be clothed with such authority, its relations to the Constitution will be radically changed. Practically, it would put the Assembly above the Constitution. The power that creates law is higher than the law. Give the Assembly the power to make law of equal authority with the Constitution, and in the first instance you give it equal authority with that instrument. But inasmuch as the Constitution, when adopted, ceases to promulgate law, and the Assembly is continually promulgating law, its operation will be more extensive, and may be in directions never contem-

plated by the written law. It is no longer amenable to the Constitution. It cannot be restrained when the only other authority is no higher than its own. In short, it would be practically an irresponsible body.

The Papacy shows us the final outcome of such a theory of Church Government. See Decretals, P. 1., Dis. 40: "If a Pope, neglecting his own salvation and that of his brethren, is found to be remiss in his duties, indifferent, moreover, to good—which is more hurtful to himself and to all—notwithstanding he is leading numberless crowds of people with himself into the supreme bondage of hell, there to be punished with him forever by many stripes, yet let no mortal presume to rebuke him for his faults in this particular, since he who is to judge all can be judged by none, unless he is found astray from the faith; therefore, let the whole community of the faithful the more earnestly pray for his continual safety, inasmuch as they observe that after God, then salvation hangs suspended on the soundness of his person."

His jurisdiction is unlimited, because he only has the right to define it. The written Constitution is of less authority than the living voice which stands in the place of it. It follows, that the Church is at his mercy. God is the only refuge against his arbitrary power.

It may at first sight seem gratuitous to speak of this culmination of Papal absolutism in connexion with any form of Presbyterian tendency. But greed of power has not always been a stranger to Presbyterianism. We need look no further than the Digest of the Northern Assembly for an illustration. We need not go to the trouble of analysing the decision of the Supreme Court of the United States in the case of the Walnut Street church of Louisville, Ky., which is spread upon their Digest. (See Moore's Digest, p. 251.) The principle which forms the basis of papal absolutism—the power of the Pope to define the limits of his jurisdiction—is distinctly stated and avowed, as follows: "A spiritual court is the exclusive judge of its own jurisdiction. Its decision of that question is binding on the secular courts."

If it had said, "the secular arm," instead of "the secular courts," it would have used the exact phraseology of Romish law.

According to this decree, neither the secular courts nor the ecclesiastical are bound to ask whether such decision is sanctioned by the Constitution. The Assembly being "*the exclusive judge*," the Constitution is practically ignored. If the Assembly accepts this construction of its authority, what can hinder from the assertion of despotic authority when the occasion serves? Theoretically, nothing! And practically, as we all know, nothing has hindered it. Their enactments were published to the world, proclaiming, in 1861, new terms of membership; in 1865, new terms of communion for Southern Presbyterians; in 1866, their *ipso facto* acts of disfranchisement, and also their enactments for evicting Southern congregations from our houses of worship. All these things are contrary to the Constitution; but if the decisions of the Assembly are of equal authority, they may claim that they exercised only a legitimate right. Upon their theory, their claim is consistent. They do not admit that they had no authority to perpetrate those enormities. And they profess to feel injured when we suggest that such things should be repudiated.

But we who condemn such things cannot approve the principle which justifies them. We cannot place the Assembly—by vesting it with such authority—above the Constitution, without vesting it with the elements of irresponsible power and depriving ourselves of the safeguards of religious liberty.

3. It is claimed that the power of the Assembly to make law, which can be enforced by judicial process, is sustained by the assumption of arbitrary power on the part of the Council of Jerusalem. It is claimed that the Council—Acts xv.—bound the conscience of Christians to duties which, apart from the decision, would not have been of moral obligation, *viz.*, to abstain from eating blood, meat offered to idols, etc., and in this matter assumed the highest kind of authority. We must dissent from both parts of this proposition. In the first place, the injunction did *not* concern questions of things indifferent as to moral character. The practices condemned were the notorious badges of

heathenism throughout the world. Was it inventing a new "burden" to specify that practices which amounted to a profession of faith in idolatry, were inconsistent with the faith and fidelity of a believer in Christ? On the contrary, it was a duty so imperative that no conscience could fail to recognise it.

We look in vain for the tokens of an assumption of power by that Council. It was composed of Jews, men who had breathed from infancy the atmosphere of the Holy Land; men imbued with the traditions of the fathers; separated from the Gentiles by religious rites, a purer faith, and the cruelty of heathen domination; who saw the Messiah through the Old Testament dispensation and the Temple worship; who had never considered the Gentiles except as ceremonially and spiritually unclean; men who worshipped God in Christ according to the Temple ritual as long as the temple stood—it is these men who announce to the Gentiles the decision which puts them on a footing of perfect equality with Jewish believers in the Church of God. They practically say, "For ages our ritual has been the badge of the people of God. It will always be incumbent on us. He has called us under it. He has called you without it. We *do not* lay it on you. Publicly, and by a consistent life, profess your faith in Christ, and as equals in the kingdom of God, come and share with us the faith of Abraham, and the redemption of Christ Jesus!"

Where in the history of the world do we see a body of men rise so high above prejudices, tradition, national character, and religious habits of thought? It is a most signal token of the presence of the Holy Spirit in the plenitude of his power. It is perhaps the sublimest instance of self-abnegation the world has ever seen.*

*NOTE.—At the close of the debate Dr. Girardeau said: "The Council of Jerusalem is quoted by Dr. Smith. But all the *consensus* of theologians is against him. Our Church polity is based so largely on this Council, that if you remove its authority, you undermine our Presbyterian polity." See published report.

As there was no opportunity to correct this impression at the time, we beg to offer a few citations:

*Calvin.* Inst., B. 4, C. 10, § 2.: "The first thing in order and the

We also feel justified in exercising caution lest we give too much weight to the opinions of those Scotch divines who are quoted on this subject. Men's opinions of Church government are liable to be colored by their political opinions and surroundings. The influence of the feudal system had not disappeared in the days of Gillespie and Rutherford. All power flowed from the crown or the courts which represented it. In most cases the

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chief thing in importance is, that the Gentiles were to retain their liberty, which was not to be disturbed; and that they were not to be annoyed with the observances of the law. . . . The reservation which immediately follows, is not a new law enacted by the Apostles, but a divine and eternal command of God against the violation of charity, which does not detract one iota from that liberty. It only reminds the Gentiles how they are to accommodate themselves to their brothers, and not to abuse their liberty for an occasion of offence."

*Neander.* Planting and Training, p. 79, note: "This Assembly required no reason why they should impose *so much*, but only why they should impose *no more* on the Gentile Christians."

*Baumgarten.* History of Apostolic Church, Vol. 2, p. 52: "An astonishment was felt to find among these injunctions which refer to what are usually designated 'indifferent matters,' a purely ethical one. But it is not with indifferent matters that this passage is concerned, but with what are essentially moral obligations, though indeed they here appear individualised."

It is well known that Dr. Thornwell did not base his theory of Presbyterian polity on that Council. In considering our polity he seems altogether to ignore it. He says, Vol. 4, p. 140: "The polity of the Church is nowhere minutely described, but it is treated as a thing well known. . . . . The form was no novelty. It was an old, familiar thing in a new relation. That old thing was the synagogue, and there the elder was a ruler. And there were elders there who did nothing but rule."

And p. 137: "There is but one Church, a set of congregations bound together by the *nexus* of one parliament. Each congregation has every element of the universal Church, and the universal Church has no attribute which may not be found in each congregation."

According to Thornwell, the principle on which our Church polity is based, is quite independent of that Council, and would have been perfect had that Council never existed.

So also taught Dr. B. M. Palmer to his classes in the Seminary at Columbia. We might mention other eminent names, but these are enough to show the kind of the authority which supports the view we undertook to advocate.

privileges of the people were concessions from feudal lords. And in many instances the privileges of the Church depended on the patronage of the crown. It would be unreasonable to suppose that their ideas of government in the Church should be altogether free from the influence of such facts and precedents.

On the other hand, our point of view is entirely different. Among us the lower courts do not derive power from the higher; the reverse is the case. There is no concession of privilege, with us, from the courts to the people. The Constitution is a covenant between the churches themselves. It is at the same time a bond of union and a charter of rights. The Assembly is a meeting of representatives. Its powers are delegated and defined. It meets under the shelter the Constitution gives and the restraints it imposes. Before it meets the standard is already set up, by which its proceedings are to be tested and judged.

Our point of view being so widely different, is therefore a consideration which deprives of much of its force the opinion of Scotch authorities on a question like this.

4. We have but to look at the limitations under which the Assembly acts, to see that it was not originally intended to exercise such power as is now claimed for it. It is premised, that "synods and councils are liable to err," to act without due knowledge or reflection, to mistake or exceed their powers. Should we accept as final their decisions, in that view of the matter, we should simply stultify ourselves by clothing with infallibility the decisions of confessedly fallible courts. Our Church seeks to protect itself from such consequences in various ways:

*First.* By limiting the powers of the members. Each of us is delegated for a specific purpose. It is laid down in our commission. And of our diligence therein, we are to give account at our return. Each takes his seat with defined and limited powers, and no one has a right to augment them. What each may not participate in as an individual, the body cannot effect as a whole. Each and every member being bound by his commission, it is plainly intended that the whole body shall be bound in the same way, and to the same extent.

*Second.* By the right of review in the Presbyteries. The com-

missioner is required to report his fidelity to these instructions to his Presbytery, which approves or otherwise as it sees fit. He comes back not as the bearer of concessions or messenger of law, but to report discharge of a trust. And so, in this investigation of the course of each member, the entire proceedings of the Assembly are subjected to consideration. It is implied that if the Presbyteries, or a majority of them, should repudiate the action of their commissioners, it would be shorn of its authority.

*Third.* By the right of repeal, lodged in succeeding Assemblies. According to our usages, every Assembly is represented on the floor of its successor, thus providing for complete uniformity of action. The presiding officer of one Assembly is the chairman of the Committee on Bills and Overtures in the next. All the new overtures pass through his hands, and are subjected to his criticism. But, though the previous Assembly has always this influence upon the deliberations of its successor, yet, whenever it appears expedient or necessary, no Assembly hesitates to repeal former decisions. Hence the stability of any particular action is not absolute, but conditional.

The terms of the commission of members, the revisory power of Presbyteries, the power of repeal in the Assembly succeeding, plainly show that it was not intended to put the enactments of the Assembly on the same footing with the Constitution.

II. We have pointed out that the theory we object to is subversive of the Constitution. It can be also shown that it would soon leave us without a system of coherent law.

1. Here is the Constitution, expressing the thorough and settled convictions of the whole Church, reached by calm and protracted investigation. You are asked to adopt as equally potential, the enactments of ever changing bodies of men, who, without previous consultation or even acquaintance, meet under constantly changing influences, amid the press of other duties, with no chance for elaborate study or minute investigation. Year after year they reflect the movement of public opinion, and the changing habits of thought of their changing experience. It can only be in a general sense that their enactments will always harmonise with the Constitution. And certainly they cannot be ex-

pected to harmonise always with each other. Make these enactments final, and imagine the hopelessness of the attempt to digest them along with the Constitution into a harmonious system of law! And if it could be done, the action of the very next Assembly might throw all into confusion, if the law-making power continues to enact new law from its own ever varying point of view, and with a criterion of opinion always liable to change.

Consider, for example, the scope of the injunctions, recommendations, and decisions, in the case of marriage with a deceased wife's sister. In 1761 it was counted unlawful, and persons in this relation were suspended from special communion. In 1782 they were declared capable of Christian privileges, their marriage notwithstanding. In 1783 it is recommended that such marriages be discountenanced but not annulled, and offending parties be received into communion. In 1821 it is resolved that such marriages are unfriendly to domestic purity, but not so plainly prohibited by Scripture as necessarily to infer exclusion from Christian privileges. In 1842 Rev. A. McQueen was on this account suspended from the ministry. In 1845 he was restored.

Acting upon its judgment in all these cases, the Court arrives at different conclusions, basing its action on different principles, believed at the time to be sufficient. And so long as the Constitution is supreme, there is a corrective for such inconsistencies. But if you make each of these conflicting enactments of equal authority with the Constitution itself, such a theory as a coherent system of law becomes impossible. Successive deliverances neutralise the Constitution and each other. And the moral power of our legislation perishes in the conflict and in the confusion.

2. Should the theory be adopted, how could you carry such law into effect? No Session could act on it with any assurance of safety. Suppose the attempt be made, and a case of discipline comes before the next Assembly on appeal. The question at once arises, What was the exact mind of the body enacting the law? It is not certain that every subsequent Assembly would accept the responsibility of deciding that question; hence in the

first instance, the case is liable to be thrown out, since the law cannot be verified. Again, the Session would be liable to encounter an Assembly of a different mind from that one which made the law; in that contingency both the case and the law are likely to be thrown out. Furthermore, the Book prescribes a regular mode of proceeding for all cases of discipline, which contemplates only constitutional law, and the Assembly is at once debarred from approving proceedings which have not constitutional sanction.

Such risks as these would go far towards making such legislation inoperative, because it would be felt that the obstacles in the way of its execution render it impracticable.

3. It is thought by some that there is a want in our system which this theory would supply. We venture to say, on the contrary, that it is entirely unnecessary. It secures no advantage, it remedies no defect, it supplies no want in our process for securing the ends of discipline, or for protecting the purity of the Church. Anything it may profess to do can be more promptly and better done by constitutional methods. True, every possible form of offence is not described in our Book. But the principles, plainly set down, and fully established, by which the moral quality of conduct in all circumstances is to be estimated—these principles are there. And the methods of proceeding according to these requirements are also defined. No wrong-doer, acquainted with our Discipline, would seek a Presbyterian church, with a faithful Session, as a place of safety. Wherever immorality shows itself, and under whatever form, it at once becomes a proper subject of judicial inquiry. Sessions, in the application of our principles of law, must act with piety and prudence, as a matter of course. But under the divine guidance and blessing, the faithful application of those principles, according to the methods of our Discipline, will be found adequate to any case that may possibly arise,

III. Our third argument is, that the exercise of such power in the way proposed is contrary to the recognised polity of our Church.

1. This question is not a new one, and the mind of the Church

has been so distinctly stated, that it might justly be regarded as *res adjudicata*. In 1822, nearly sixty years ago, the Assembly declared in reference to *in thesi* deliverances:

"It does not appear that the Constitution ever designed that the General Assembly should take up abstract cases and decide on them, especially when the object appears to be to bring those decisions to bear upon particular individuals not before the Assembly."

Such has been the tenor of Presbyterian sentiment on this question since that time. See New School Minutes, 1856. Old and New School Minutes, 1870, declare that "it is inexpedient to consider cases *in thesi*."

The theory, therefore, proposes an innovation on our usages, and is condemned by our Record.

2. The Synod of South Carolina admits that the Assembly may make not only judicial deliverances, but such also as "are only advisory, recommendatory, and monitory." This we also admit and maintain. But we also maintain, that these two capacities, the judicial and the monitory, mark the whole scope of its authority in matters of discipline.

In its judicial capacity it sits as a court of trial in concrete cases. In its monitory capacity, it sits as a court of inquest, reviewing the condition of the Church at large. From its eminent point of view, and with high moral authority, it warns or exhorts as events may demand. But this is only a step preliminary to investigation. It is not a basis for judicial proceeding. It needs to be supplemented by action on the part of the lower courts before a basis for judicial proceeding can be found. It calls for inquiry and verification of the facts, and of the moral character of the facts before a true cause of judicial action can be acknowledged.

A "monitory" deliverance is in the nature of the case conditional. It does not contemplate judicial action, except on the supposition that the facts of the case, when investigated, will of themselves justify it. It cannot be considered as law, since its only purpose is to stimulate the fidelity of those who are intrusted with the administration of law.

So long as the Constitution is supreme, the rights and responsibilities of the lower courts will be secured, and the moral power of the highest court will operate as a healthful and beneficent influence, which will be felt throughout the whole of their jurisdiction. Thus the whole organisation will continue symmetrical and strong. The attempt to centralise power in the highest court, would be an attempt to build up one part at the expense of the rest, and thus destroy the strength and symmetry of the whole. Our Presbyterian system is not to be considered as if it were a chain which is useless if the chief link is broken; nor as an arch which falls if the key-stone is removed; nor as an organism, dependent for circulation of life on a great central heart, where each member is doomed to perish whenever connexion with that central heart is interrupted. But it is rather like the immortal bodies of which Milton speaks—which,

> "Vital in every part,
> Cannot, but by annihilation, die."

Suppose our Assembly to be shattered; let some vast calamity sweep out of existence every Presbytery and Synod, and let but a single church survive the wreck; yet from that solitary germ the whole grand structure would arise again, Phœnix-like, in all its pristine strength and beauty. It is not our policy, then, to centralise power, but to distribute it. It is not our policy to accumulate life or responsibility in any great central organ at the expense of all the other members. Our true policy is to respect the jurisdiction of the lower courts, to refuse to trench upon it or share it, and thus awaken a most constant and resolute fidelity throughout the whole scope of their responsibility. This is our true policy; let the Assembly refuse to exercise any powers which the Constitution has reserved or imposed upon the lower courts, and thus by awakening life and energy in every part of our system, build up and vitalise the whole.

On the ninth day of the sessions, Dr. Girardeau replied to both the preceding speakers, and we here present the readers his abstracts of these replies. It is to be wished that it could have been possible to avoid the repetition involved in his statements of the arguments employed by his opponents. But the distance

which separated them from one another, and from the present writer, who undertook to edit this debate, put that out of our power. The reader may find an advantage in having exactly what the reply contemplated set right alongside of it.

ABSTRACT OF SECOND SPEECH OF J. L. G., IN REPLY.

[To prevent repetition and secure brevity, the main points of the arguments replied to will be stated without the speaker's name, and the replies will be indicated by the prefixed word, *Answer*. Dr. Woodrow's speech consisted of three parts: 1. Introductory arguments; 2. Strictures upon the reasons accompanying the overture of the Synod of South Carolina; 3. A discussion of the powers of the General Assembly. The salient points of the argument which seemed particularly to require answers are given from notes taken during the delivery of the speech.*]

I. 1. A formative condition of a church must be distinguished from one that is regular. In the latter, the Constitution is already formed and the functions of the courts are definitely prescribed. There is, therefore, no need of authoritative *in thesi* deliverances. The assertion of their authoritativeness tends to overthrow the Constitution. *Answer:*

(1.) A Constitution already formed may be amended and recast by church courts. These amendments are *in thesi* determinations in the form of good and necessary consequences from the word of God, which is the radical Constitution of the Church. But if inferences may be made *in thesi* directly from the word, they may be made from the word as interpreted in our Constitution.

(2.) The word of God as interpreted in our standards, that is, our Constitution, may be authoritatively interpreted by courts of Christ's appointment, when the interpretative deliverances are consonant to that Constitution. Necessary inferences from the Constitution neither supersede nor overthrow it. They are but an explicit evolution of its implicit contents.

* As I am unable to recognise the notes taken by Dr. Girardeau as accurate in every respect, I feel obliged to refer the reader to the abstract previously given as showing exactly the views which I maintained.—J. W.

(3.) The explicative power of church courts must be admitted in the formation of judicial decisions which are confessed to be authoritative. If so, the principle is given up, and there is no reason why the same power may not be exercised in the production of authoritative *in thesi* decisions; provided they involve good and necessary consequences from the Constitution.

2. Conscience must be excluded from the operation of the authoritative decisions of the courts. Whether the law in the Constitution be right or wrong, it must be enforced on relations, and the judicial decisions by which alone it can be enforced are authoritative because they are final. *Answer:*

(1.) Conscience cannot be excluded from the operation of church law, without a violation of the nature of that law and of the nature of church power and the ends for which it is exercised. The law which the Church administers is confessedly the law of God, and of course that is related to the conscience, and operates primarily and chiefly upon it. Otherwise it is mere human law and unwarrantably exercised. The nature and ends of church power are spiritual, and demand a spiritual sphere of operation. What is that but the conscience?

(2.) A wrong law in the Constitution is one which is not a good and necessary consequence from the word of God. If so, it ought not to be enforced. It ought to be resisted until expunged. No church court can be under obligation to enforce, in the name of Christ and under the sanctions of eternity, a wrong law. If enforced, it may sever an ecclesiastical relation, but it does it without authority from the King of the Church. A decision, without Christ's authority, cannot, except by a solecism, be termed authoritative. The fact that it may be final in its effect upon external relations, proves nothing as to the authority in which it is grounded.

3. It is conceded that the word of God binds the conscience—no man has liberty of conscience to disobey it. But the *contents* of deliverances are not in question. The first speaker took the ground that the contents of a deliverance cannot be disjoined from its human *source*—what is predicable of one is predicable of the other. If the contents of a deliverance are derived from the word

of God as interpreted in our standards, they are authoritative. So, therefore, must be the court which utters it. *Answer:*

This is a great misapprehension. The ground was taken, not that the contents of a deliverance could not be disjoined from the human source of the deliverance—that would be absurd; but that the contents of a deliverance cannot be disjoined from the deliverance itself. Now the question under discussion is, not whether church courts are in themselves authoritative, but whether some *in thesi* deliverances of church courts are authoritative. And the argument was, that as a disjunction cannot be effected between the contents of a deliverance and the deliverance itself, then when the contents are derived from the word of God as interpreted in our standards, and they are confessedly authoritative, the deliverance itself is authoritative. That was the argument, and it is repeated, with a challenge to any to effect the disjunction between a deliverance and its contents.

4. Judicial decisions are authoritative and binding because they are reached after mature deliberation. *Answer:*

The same reason might be pleaded for the authoritativeness of an *in thesi* deliverance. For example, the *in thesi* decision which will conclude this discussion will have been attained after mature and protracted deliberation. But the true view is, that the authoritativeness of a deliverance is derived solely from its conformity to our standards.

II. 1. The Synod's paper charges the deliverance of the last Assembly with being illogical. If now the paper itself is proved to be illogical, the charge will be sufficiently refuted. *Answer:*

(1.) I regret that my brother did not professedly examine the arguments presented in my first speech, rather than those of the Synod's paper. The latter were somewhat hastily stated; the former were carefully prepared.

(2.) The legitimacy, however, of his method of procedure is cheerfully admitted, and I will proceed to answer his strictures upon the Synod's paper.

2. The Synod's paper is illogical because it maintains, in effect, that a genus can have no species—that where there is generic unity there must be specific. Declarative utterances are the

genus; and as the species are didactic deliverances and judicial decisions, and both are affirmed to be declarative utterances, the specific difference between them is denied. It is as if because you have the genus *trees*, you should deny the specific difference between an apple tree and a palmetto tree. *Answer:*

This is an erroneous view of the Synod's argument, which, for brevity's sake, is elliptically put. The Synod makes the genus to be declarative or didactic decisions (for the two terms mean the same), and the species contained under them to be *in thesi* decisions and judicial decisions (which is the distinction of the last Assembly); and its argument is: that as the whole essence of the genus must descend into each of the species, the generic element, *declarative* or *didactic*, must enter into the judicial decision as well as into the *in thesi* decision. They are both declarative or didactic decisions, inasmuch as both profess to declare or teach the will of Christ. The specific difference between the two classes of decision is not denied. The judicial decision is differentiated by the possession of the specific property of declaring law in relation to a concrete personal case. The *in thesi* decision is differentiated by the absence of that specific property. But the generic attribute enters into both species,—the *in thesi* decision is didactic; the judicial decision is didactic. Now, argues the Synod, if, on the one hand, the two kinds of decision are admitted to be generically the same, the last Assembly's reduction is illogical, for this reason: that, in contra-distinguishing judicial decisions from didactic decisions, it contra-distinguishes the species from the genus at the same time, and so violates the logical canon, that the whole essence of the genus must be contained in each of the species.

The generic unity and the specific difference between preaching elders and ruling elders will furnish a familiar illustration. The generic attribute is ruling, which is contained in both species—preaching elder and ruling elder. Both rule. The specific property of the preaching elder is preaching; the specific property of the ruling elder is the absence of preaching. But to discriminate between the two classes of elders, by saying that one rules and the other does not rule, would be illogical. So to dis-

tinguish, as the last Assembly does, between the two classes of decision—*in thesi* and judicial—by saying that one class is didactic and the other is not didactic, is equally illogical. The *in thesi* decision teaches the will of Christ without relation to a particular personal case; the judicial decision teaches the will of Christ in relation to such a case. Both are didactic or both are unwarrantable.

On the other hand, argues the Synod, if the last Assembly held that there is a generic difference between *in thesi* and judicial decisions, that position is unconstitutional. The only difference between them is specific.

3. The Synod's paper is also self-contradictory. It first, as has been shown, denies the difference between didactic and judicial decisions; and then affirms the difference between them. This it does in the third reason assigned for the repeal or modification of the last Assembly's deliverance, viz., "Because said deliverance takes away the key of doctrine from the General Assembly and the other courts of the Church, and retains in their hands the key of discipline alone." Here is the self-contradiction of the Synod's paper: Didactic and judicial decisions are the same; didactic and judicial decisions are different.

(1.) Had my brother criticised the technical accuracy of the Synod's language in its third reason above cited, the legitimacy of the criticism would now be conceded. The usual distinction which obtains in standard Presbyterian writings, between the key of doctrine and the key of discipline, is overlooked in the Synod's statement. That distinction is, that the key of doctrine is lodged in the hands of the ministers of the word, and is employed by them in the exercise of their several power of order; but the key of discipline is in the hands of presbyters sitting in courts, and is used by them in the exercise of the joint power of jurisdiction. The Synod's language departs from this usage. There is a distinction between the dogmatic and the diacritic (or judicial) power of courts, but both are included under the symbolic terms, *key of discipline*. Having made this concession in regard to a defect in the Synod's language which my brother did not criticise, I remark:

(2.) That the Synod's paper is not really chargeable with self-contradictoriness. When it affirms that it is unconstitutional to make a difference between didactic decisions and judicial decisions, it means that it is unconstitutional to make a generic difference between them. They both teach the will of Christ—the one without, and the other through, a special judicial case. When it affirms that the last Assembly takes away from church courts the key of doctrine and leaves them only the key of discipline, it means, that the Assembly denies to courts the power of dogmatic discipline as specifically distinguishable from the power of judicial discipline. There is therefore no more self-contradiction in the two statements of the Synod's paper, than there is in the affirmation in regard to any two things, that they are generically the same, but specifically different.

The Synod's allegation in its third reason is substantially correct. It is that the last Assembly takes away from churches the *authoritative* element of their dogmatic power, and reduces that power to one of mere advice. For the Assembly discriminates *in thesi* deliverances from judicial decisions, which are authoritative, by the fact that they are only didactic, advisory, and monitory—that is, that they are not authoritative. But if the dogmatic power of the courts as distinguished from the judicial be unauthoritative, all that remains of the dogmatic is simply advisory, and it follows that its chief feature—the authoritative—is taken away. And to talk of authoritative advice, or authoritative opinion, is alike unpresbyterian and unmeaning. That which is authoritative binds.

4. The second reason of the Synod's paper unwarrantably charges the last Assembly's deliverance with reducing our church courts to the *status* of Congregational Associations; for there are many things common between our courts and those Associations, and our Book provides that our courts may give advice. *Answer:*

This is not a valid reply to the reasoning of the Synod's paper. For, (1.) That paper expressly admits that some deliverances of our courts are merely advisory and recommendatory. (2.) It charges the last Assembly's deliverance with denying authoritativeness to all *in thesi* deliverances like those which were in ques-

tion—that is, to all such deliverances made by them when sitting in a deliberative, and not in a strictly judicial, capacity; and to that extent, no more, with Congregationalising our courts. The argument of the Synod is, that if, as deliberative bodies, our courts are restricted to giving advice, they are, as deliberative bodies, no more than Congregational Associations. If the whole dogmatic power of our courts is exhausted in making unauthoritative deliverances, the inference is irresistible that. so far as the dogmatic function is concerned, they are mere Congregational Associations. That argument of the Synod stands unanswered.

[The acts of our courts in the *diatactic* sphere were not in question. Their authoritativeness was not disputed. What was said as to the courts, as deliberative bodies, was affirmed of them irrespectively of their diatactic functions.]

5. I deny the doctrine that our church courts are possessed of the power authoritatively to expound the word of God as interpreted in our standards. "Let us have no more of it." *Answer:*

This denial of the power of our church courts to give authoritative interpretations of the word of God as represented in our standards is radical; it is in conflict with the whole history of Presbyterianism. Our digests of decisions not only embody judicial decisions, but *in thesi* deliverances, as professedly authoritative expositions of fundamental law. And so far as any of these decisions are true interpretations of that law, we have always held that they are really authoritative, and appeal to them as valid precedents.

6. "I admit that the deliverances of our courts are authoritative so far as their construction of the word of God as interpreted in our standards is right."

[Comment on this admission was interrupted by an objection to a remark made in connexion with it. It is too important to be omitted here, and must speak for itself.]

7. The individual conscience is the supreme judge; consequently no *in thesi* deliverances of church courts can be possessed of legal authority. *Answer:*

(1.) The individual conscience cannot be supreme in relation to the word of God; and since some deliverances of church courts

are consonant to that word, either explicitly or by necessary inference, the individual conscience cannot be supreme in relation to such deliverances.

(2.) The individual conscience of every member of a court is as much a supreme judge as is the individual conscience of him upon whom the deliverance of a court terminates; for every member of the court is as much bound by duty in the formation of a deliverance, as is the person upon whom it terminates in its interpretation. We have then as many supreme judges as there are members of the court and persons upon whom a deliverance terminates. Where, then, is ultimate supremacy? It must be in those deliverances which are faithful representations of God's word, in which ultimate supremacy resides. The supreme judge is not the individual conscience, but the Holy Ghost speaking through the supreme rule.

(3.) But granted, that the individual conscience is supreme judge as to the question whether a deliverance be consonant to the word of God or not, then, when the individual conscience is convinced that a deliverance *is* consonant to the word of God, it is bound by its own supremacy to obey the deliverance as authoritative. The fact, therefore, that the individual conscience is a supreme judge of the consonance of a deliverance with the word of God, serves, in those cases in which the conscience is convinced of that agreement, to refute the doctrine of the last Assembly that no *in thesi* deliverances can be authoritative.

8. According to the doctrine of the first speaker, it would follow, that "when a statute is needed, the General Assembly should make the statute." *Answer:*

(1.) In discussing this question, the power of church courts, not alone of the General Assembly, has been considered by me.

(2.) I have expressly maintained that church courts have no power to make law, in the sense of originating it. I could not, therefore, hold that the General Assembly may make statutes.

(3.) But if it be meant that, because I have contended for the power of church courts to make authoritative deliverances declaring the law, or expounding it in the form of good and necessary consequences, the logical result is that I have ascribed to

the courts the power to make statutes, I reply: First, that my brother is liable to the same charge, inasmuch as he has admitted that so far as a deliverance is a right construction of the law, it must have binding force. Secondly, I have, no more than he, contended that a deliverance which rightly construes the law derives any binding force from the human authority which makes it. The legal force is derived alone from God's authority, which speaks through the deliverance. Thirdly, no court can make statutory law, but it may declare it or interpret it by way of necessary inference. When a deliverance truly declares the law, it is a transcript—a *fac simile* of the law; when it truly interprets it, it explicitly evolves from the original law by logical inference what is implicitly contained in it. In either of these cases no statute is made, that is to say, originated. The old existing statute is set forth in its application to special questions of individual duty or of ecclesiastical practice. Where is the making of statutes here?

(4.) My brother says that the constitutional way to make statutes, when they are needed, is for the Assembly to invoke the action of the Presbyteries, which are the only bodies that can make organic law. I reply: First, I admit that Presbyteries are the bodies which frame organic law—construct a Constitution; but I deny that they make statutes in the sense of originating them. Even they have not that power. What is our Constitution but a systematised declaration, and evolution into good and necessary consequences, of the fundamental law of the Church in the word of God? But although the Presbyteries do not make the law, but simply declare and evolve it, the law as thus declared and evolved in the shape of the Constitution is admitted on all hands to be ultimately binding. Now, if a Presbytery, or Synod, or Assembly, or even a Session, declare and evolve the law contained in the Constitution, in the shape of deliverances, why may not these deliverances be for the same reason binding? The *principle* underlying both cases is the same, although the methods of procedure are in some respects different. Where is the essential difference between true inferences made by a number of courts, and true inferences made by one court?

Secondly, if all the overtures upon important questions, involving the interpretation of the Constitution as to doctrine, government, discipline, and practice, were sent down by the General Assembly to the Presbyteries for action contemplating the incorporation of the answers into the Constitution, what a prodigious and unwieldy body of fundamental law would be the result! The Church has never acted simply on that theory, but while she sometimes requires the concurrent action of Presbyteries, she most frequently, as in the instance of this General Assembly, makes deliverances which are issued as authoritative interpretations of the existing Constitution. And if those deliverances are precisely accordant with the Constitution, it is impossible to regard them, when uttering law, as mere solemn advice.

(5.) My brother asks, Why should not the Church be satisfied with Presbyterian advice, which is always good and weighty when it is in accordance with the Constitution? I reply by asking, Why should not the Church be satisfied with Congregationalist advice, which is always good and weighty when it is in accordance with the word of God? We are Presbyterians and not Congregationalists, and ask, at least sometimes, for authoritative interpretations of law, not for opinions nor counsels however wise or affectionate they may be. Our ecclesiastical bodies when sitting deliberatively are courts composed of rulers, not conventions of Christian gentlemen.

9. The Synod argues that because Synods and Councils may frame symbols of faith, the General Assembly may do the same. But the powers of the Assembly are limited by the express terms of the Constitution, and therefore it cannot frame symbols of faith, articles of government, rules of discipline, etc. *Answer:*

(1.) It is a mistake to confine the argument to the powers of the General Assembly specifically. It is concerned about the powers of church courts, and only peculiarly about the Assembly when it is contemplated as the supreme court in a correlated series of courts. The argument of the Synod is, that because Synods and Councils may frame symbols of faith, etc., therefore, not the General Assembly specifically, but, generally, church courts may frame symbols of faith, etc.

Now, further, if the Assembly cannot frame symbols of faith, etc., because its powers are limited by the Constitution. neither, for the same reason, can even Presbyteries discharge that function. For, according to the Constitution, the Assembly must first act before the Presbyteries can. The truth is, that the powers of all the courts check and limit each other, so that in so important a matter as framing or revising a Constitution there must be, to some extent, concurrent action. This the Constitution provides for, and so what is true of Synods and Councils, although not true, under our system, of any one court, is true, under that system, of the courts. The Synod's argument, then, is not: Synods and Councils have power to frame symbols of faith, etc.; therefore the General Assembly has power to do the same. It is: Synods and Councils have power to frame symbols of faith, etc.; therefore church courts have power to do the same. And if that argument be not valid, how did *we* get our symbols of faith, etc.? How would *we* ever revise and amend our Constitution? We have no Synods and Councils but our church courts. The Church of Scotland adopted the Westminster standards by her courts. The American Presbyterian Church did the same thing, and amended those standards. Where was the unchanging work of an initial Council, such as my brother's argument demands, when he says that "what a Synod or Council did at first may not be done again"? But if our courts have these powers when not sitting in a judicial capacity, but deliberating upon propositions and forming *in thesi* decisions, the statement of the last Assembly needs to be changed. To say that courts discharge an advisory function in framing a constitution could be matched only by saying that they perform a judicial function in framing a constitution.

(2.) My brother charges the argument of the Synod, in its seventh reason, with the logical fallacy of equivocation, in employing an ambiguous middle. It uses the terms, *Synods and Councils*, in a double sense. In reply, I would show by a simple statement of the Synod's argument that the charge is not well founded. The argument formally stated is: Synods and Coun-

cils are possessed of the power to determine controversies, decide cases of conscience, etc.;

Our church courts are Synods and Councils;

Therefore, our church courts are possessed of this power.

Now, the middle term here is *Synods and Councils.* Is this an ambiguous middle? Why, it is the very purpose of the minor premise to prove that our courts are Synods and Councils. If, therefore, there be any defect in the argument, it is in that premise, and my brother's attack is really on the validity of that premise. But if our courts are not Synods and Councils, we have no Synods and Councils, and according to our system *could* legitimately have none. If the minor premise stand, the Synod's argument is conclusive; and the deliverance of the last Assembly is proved to be out of harmony with our Constitution.

III. The power of the General Assembly.

1. The didactic power of the Church is preëminent; the didactic function is the most glorious she can discharge. *Answer:*

Yes. I contend strenuously for the truth of this statement, but this position makes my brother's argument inconsistent with itself. He defends the deliverance of the last Assembly, which, according to his own admission, in making all *in thesi* deliverances of church courts "only didactic, advisory, and monitory," strips them of legal authority—a quality which is assigned by that deliverance to judicial decisions. But the didactic function is the chief and most glorious. It follows that the less is superior to the greater—moral influence more potent than legal, advice paramount to law!

2. The definitions of offences are exhaustively given in our standards. Church courts cannot add to them by their deliverances. The law of offences is not the standards and interpretations by the courts superadded to the standards—it is the standards alone.

(1.) This is a misconception which is fundamental, and regulative of the argumentation of the side which my brother represents. A true interpretation, proceeding by good and necessary consequences, is not something superadded to the law in the

standards. The case does not stand thus: the law in the standards *plus* a new and separate element, viz., the interpretation of the court. But the interpretation, if it involve only necessary inferences from the law as stated in the standards, is only an unfolding—a clear development of the matter of the law. It is the law itself evolved and applied. There are not two standards—there is really but one. The interpretative office of the courts is grounded in the possibility, and sometimes in the necessity, of expounding the general principles of the word as interpreted in our standards in their application to concrete cases of experience. What is true of the preacher in wielding the key of doctrine in his several capacity is true of courts in employing the key of discipline—wide as well as narrow—in the exercise of their joint power. If you restrict courts to the mere letter of the Constitution, limit also the minister of the word to the bare reading of the Scriptures.

(2.) Were the meaning and scope of the law in the standards always transparently obvious, there would be no need of an interpretative function. But they are not always clear in relation to certain kinds of offence. I have known Sessions to declare the law in reference to offences, and they have acted legitimately. Why should not the other courts, why should not the collective wisdom of the Church in a General Assembly, discharge the same office? Once admit the constitutionality of the declarative and interpretative function as authoritative—and how can it be denied?—and you concede the authoritativeness of deliverances which are simply logical inferences from the law, and are therefore the law itself. If an interpretation is but a logical deduction from the law, it is the law, and it is clear as day that it has the binding force of law.

3. The only valid way in which any matter can be carried up to the higher courts for authoritative settlement is that which involves judicial process. Matters carried up in any other way can only elicit advice, the end of which is to enlighten the courts or the individuals asking deliverances, so that their own duty may be made clear. *Answer:*

(1.) This is not the *law* of our Church. The Constitution ex-

pressly provides for the authoritative settlement by the higher courts of other matters than those which are carried up in the way of judicial process. Our courts are empowered not only to decide judicial cases, but those also which are not judicial, coming before them by overture and other non-judicial methods. They are authorised to "determine controversies of faith and cases of conscience," "to decide cases of conscience," and the General Assembly, particularly, "to decide in all controversies respecting doctrine" as well as "discipline." Either this language must be understood to apply solely to judicial cases, or advice must be understood to be determination, decree, decision. The first supposition cannot be justified by the terms of the Constitution; the latter cannot be supported by the accepted meaning of the terms.

(2.) If this view be adopted, our Church would be deprived of a privilege explicitly guaranteed in her Constitution—that of referring non-judicial matters to the courts for authoritative decision. A positive right would be destroyed; and one or both of these two consequences may be expected to follow: either the folly of asking a resolution of grave difficulties by mere advice will drive Presbyterians to abstain from such a course, and the deliberative function of the courts, apart from the diatactic sphere, be reduced almost to zero; or judicial cases will be multiplied as the only means of securing authoritative decisions. If these results should not follow, it would be because Presbyterians would acquiesce in the conversion of their courts, as deliberative bodies not acting in the diatactic sphere, into the advisory Associations of Independent churches.

4. An appeal on this question ought not to be taken to historic authority or to the opinions of the great men of the past. Calvin, Gillespie, Cunningham, and others were distinguished leaders, but they are only to be imitated so far as they followed Christ. So far as they failed to do this, they should have no weight with us. All of them sanctioned certain doctrines, and Calvin certain practices, which we cannot approve. Human authority cannot be followed. Our standard is the word of God alone, and we must judge for ourselves. *Answer:*

(1.) It is urged that Calvin maintained the doctrine that the

Church has power to inflict civil pains and penalties. He is misunderstood upon this point. He expressly denied that power to the Church, as may be proved from his Institutes. If he advocated the infliction of civil penalties, it was in relation to offences regarded as civil.

(2.) It is true that the great men of our Church in the past ought not to be followed so far as they departed from the word. That statement is just and universally admitted by us. But the other and complementary statement, which was omitted, is equally true and just—that they ought to be followed so far as they agreed with the word.

(3.) I have pleaded the *consensus* of the Presbyterian Church in favor of the view I maintain. I do not hold the doctrine of Dr. Charles Hodge. that the common consent of the true Church is an absolutely determining element in settling controversy. The only ultimate rule is the word of God. But I agree with Dr. Thornwell, that the common consent of the true Church to a doctrine furnishes in its favor a venerable and powerful presumption—a presumption which the individual who holds the opposite doctrine cannot lightly set aside, but is bound to rebut. Now the force of that presumptive evidence is in favor of the view for which I contend. That has not been disproved. The case, then, stands thus: my brother urges the result of private judgment, *minus* the *consensus* of the Presbyterian Church; I urge the result of private judgment, *plus* that *consensus*. The presumption is clearly against his view, and deserved to be rebutted. But that has not been done.

5. There is danger of our Church following the evil example of some other Churches in assuming the power of minute legislation in regard to practices which the word of God does not treat as offences, and thus exercising a tyranny over the conscience and practice of Christ's people which ought to be defiantly resisted. *Answer:*

I have admitted this danger. I admit it now. It is one against which it is always necessary to guard. Had the last Assembly said nothing more than that the specific deliverances of the New Orleans Assembly of 1877 ought not to be inter-

preted as enforcing *judicial prosecution* against every form of dancing, I would not, although I think every form of dancing ought to be discountenanced in church members, have endeavored to secure a change of its deliverance. In this matter, as in all matters, the deliverances of our courts ought to be strictly limited by the requirements of our Constitution. But the case would have been different, had the New Orleans Assembly pronounced some forms of dancing—what is called the round-dance, for example—disciplinable offences. In that case I would have objected, had the last Assembly declared that such a deliverance could not legitimate judicial prosecution. I believe that it would. While we should carefully avoid an illegitimate declaration of the law touching offences in application to practices which cannot be proved to be offences by the Scriptures, as interpreted in our standards, we should, on the other hand, as sedulously guard against a failure to declare that law in application to practices which are, like the round-dance, beyond doubt condemnable by our Constitution. It is better to take hold of some undoubted offence, than to strike loosely at a class of actions embracing some practices which it might be difficult, if not impracticable, to prove to be offences.

But admitting, as I do, the danger adverted to, I repeat it, there is a greater. It is that which springs from laxity of discipline on the part of church authorities, and license of practice on the part of church members. A disregard of authority and a contempt of law are more and more putting our discipline to the strain. Worldliness is rapidly increasing in the Church. How shall it be checked? If a church member, who has been warned by a faithful Session that he will be disciplined for persistence in an offence, can find refuge in a neighboring Presbyterian church which pronounces him guilty of no offence, discipline is practically at an end. We need harmony of views and of practice among all our churches, and that can only be attained by the firm and decided declaration of our law as to offences, by our church-courts, especially by the General Assembly. That remedy our condition demands. If that be neglected, our discipline will sink more and more into a dying state.

REPLY TO DR. H. M. SMITH'S SPEECH.

1. The doctrine of the overturists tends to the establishment of a system precisely akin to that of the Papacy. *Answer:*

This charge could only be proved by showing that that doctrine involves the assertion of the infallibility of our church courts. That cannot be shown. There has been nothing approaching an assertion of that sort. On the contrary, exactly the opposite view has been explicitly affirmed. The distinction has been signalised between the infallibility of God's word, and the fallibility of the persons composing the courts which profess to deliver it. The word is infallible, and therefore when a court utters the word, the utterance is infallible. But the persons who compose the court are fallible, and therefore they are liable to utter that which is contrary to the word. Did a court always deliver the word, it would be infallible; but a court does not always deliver the word, but sometimes the contrary. That fact is at once the result and the proof of its fallibility. I have contended that no authority resides in the courts themselves, independent of the word, and that only those decisions are authoritative which involve necessary inferences from the word. What analogy, then, is there between this doctrine and that which claims for the Church of Rome an inherent infallibility conferred by direct inspiration? What tendency can there be in a doctrine which maintains the infallibility and supremacy of the word alone, to establish the infallibility and supremacy of the Church? This charge proceeds upon the supposition that I have assigned authoritativeness to *all* the deliverances of our courts. That supposition is groundless, and therefore the charge itself is wholly irrelevant.

2. The doctrine of the overturists attributes to the General Assembly an independent authority to make law. *Answer:*

(1.) This involves the great mistake of supposing that the question is in regard to the authoritativeness of the Assembly's deliverances alone. The question is, in regard to the authoritativeness of the deliverances of our church courts. The ground maintained is, that a deliverance of any church court which is consonant to the word of God as interpreted in our standards, is authoritative, because of God's authority which it represents. A deliverance of the General Assembly could not be paramount to

such a deliverance made by a lower court, because, if so, it would be paramount to God's word.

(2.) It is incorrect to say that the overturists ascribe an independent authority to the General Assembly. They expressly maintain that the Assembly, and the other courts as well, have no authority independent of the word as interpreted in the standards.

(3.) It is equally erroneous to say that they assign to the General Assembly the authority to make law. They carefully denied this position, except as to the diatactic sphere; and contended that the laws made in that sphere have relation only to circumstances common to human actions and societies, and possess no authority over the conscience. They only affect the practice of the Church, for the attainment of order. In making deliverances which, as consonant to the word, are authoritative, the courts do not make laws; they only deduce good and necessary consequences from laws already made by God himself. The deduction of inferences from existing laws is surely not making laws.

3. According to the doctrine of the overturists, the General Assembly has the power to build up a vast code of law coördinate with, and independent of, the Constitution; and the consequence would be that the Constitution would gradually be more and more hidden behind this mass of deliverances. *Answer:*

(1.) It must be borne in mind, that the overturists contend only for the authoritativeness of deliverances which involve good and necessary consequences from the Constitution.

(2.) This charge, therefore, commits the logical blunder of representing necessary inferences from propositions as coördinate with, and independent of, the propositions from which they are derived. The fact is, that they are the propositions themselves, developed and expanded. And how the original enunciations can be hidden behind necessary inferences which illuminate their meaning, it would be very hard to show. It is out of the question that deliverances, which are simply necessary consequences from the Constitution, can form a code of law coördinate with and independent of that from which they are deduced, and the meaning of which it is their legitimate office to evolve.

(3.) This charge could only hold good of deliverances which are not consonant to the Constitution, and the authoritativeness of such deliverances the overturists persistently deny. It therefore falls to the ground.

4. The doctrine of the overturists, if accepted, would render the General Assembly irresponsible and its acts irreformable. *Answer:*

(1.) Again the mistake is here made of restricting the question to the deliverances of the General Assembly— an *ignoratio elenchi.*

(2.) Such deliverances as those, for the authoritativeness of which the overturists contend, viz., such as are strictly consonant to the word of God as interpreted in our standards, do not need to be reformed—they are, from the nature of the case, irreformable. Would my brother demand a power to reform the word of God? It is only deliverances which are contrary to the word as interpreted in our Constitution which are reformable, and require to be reformed; and the authoritativeness of such deliverances is not only not maintained, but expressly denied. Of course they ought to be reformed. If the question were—and it is not—as to the responsibility of the Assembly for such erroneous deliverances and the mode in which they may be reformed, as my brother is very able, I need only employ his own method of answering it. First, there is a limitation upon the power of the Assembly involved in the responsibility of the commissioners who compose it to their Presbyteries. In this way the power of the Presbyteries operates as a check to that of the Assembly. Secondly, another limitation exists in the power of one Assembly to reverse or modify the acts of a preceding Assembly—a power invoked by the overturists in the present instance. To these I add, thirdly, the limitation involved in the inalienable rights of revolution and secession. All these considerations destroy the hypothesis of the irresponsibility of the General Assembly, and the irreformability of its erroneous acts; and they are as firmly supported by the overturists as by my brother himself.

5. Some of the decisions of the General Assembly are wrong; therefore its deliverances cannot have the force of law. *Answer:*

The formal statement of this argument will furnish its refutation: some of the decisions of the Assembly are wrong and con-

sequently devoid of legal authority; therefore all of the decisions of the Assembly are wrong and consequently unauthoritative. From some to all is a *non sequitur*. Some of the decisions of conscience are wrong and unauthoritative. It does not therefore follow that all are. If the argument be: some of the decisions of the Assembly are wrong; therefore, the Assembly itself is destitute of authority, I answer: that is disproved which was never attempted to be proved. My brother is welcome to the credit of so conclusive an argument. Certainly, I will not dispute it.

6. The decisions of General Assemblies are variant and contradictory; consequently, they cannot have the force of law. *Answer:*

(1.) Let us divide again. If the conclusion be: therefore, Assemblies have no inherent legal authority in themselves; that is admitted.

(2.) But if the argument be: the decisions of Assemblies are variant and contradictory; therefore no decisions are authoritative, I deny the conclusion. For, first, those decisions which are thus characterised are those only which are contrary to the word of God as interpreted in our standards. Such decisions may contradict those which are consonant to the Word and the Constitution, or may contradict each other. What follows? Let them be rejected, as unauthoritative. But, secondly, those decisions which are consonant to the Word and the Constitution cannot contradict each other, else God's word would contradict itself. The inference is clearly illegitimate from the unauthoritativeness of wrong decisions which contradict those which are right and each other, to the unauthoritativeness of right decisions which are consistent with each other. But it is only for the authoritativeness of the latter that the overturists contend. The argument is therefore invalid.

7. The deliverance of the Synod of Jerusalem was altogether peculiar and exceptional; therefore it cannot be pleaded as a precedent to establish the authoritative force of the deliverances of our church courts. *Answer:*

It is sufficient to say that this extraordinary opinion is out of harmony with the uniform doctrine of Presbyterian writers, and assails the scriptural foundations of the Presbyterian polity.

Being impressed with the idea that the real difference between the two sides was not great, it occurred to the present writer, while listening to Dr. Girardeau's second speech, to make an effort at drawing up a paper which should not compromise either party and yet constitute a common ground where both might stand together. The brief statement thus hurriedly composed was shewn to Dr. Girardeau as soon as he left the platform. The usual recess of twenty minutes occurred at this time, and we examined it together. He seemed to be favorably impressed with it on the first reading, but asked for a second and then a third reading, but though evidently more and more favorable to it each time that he read it, he would not decide positively to accept it until it should be seen by Dr. Woodrow. *His* acceptance of it was immediate and unhesitating. Returning to Dr. Girardeau with the paper, he expressed his readiness to adopt it. In consequence of this agreement, Dr. Woodrow considered it unnecessary to make any reply to his colleague, and after a few introductory remarks said that if the minority report could be withdrawn, he would offer a substitute which he had reason to believe would reconcile all differences. This being done, he read the following paper and moved its adoption:

"The Assembly met in Charleston, in virtue of its power to give authoritative interpretations of the Word, declares—

"1. Nothing is law to be enforced by judicial prosecution but that which is contained in the Word as interpreted in our standards.

"2. The judicial decisions of our courts differ from their *in thesi* deliverances in that the former *determine*, and, when proceeding from our highest court, *conclude* a particular case. But both these kinds of decisions are alike interpretations of the Word by a church court, and both not only deserve high consideration, but both must be submitted to, unless contrary to the Constitution and the Word; of which there is a right of private judgment belonging to every church court, and also every individual church member."

It was immediately seconded by Dr. Girardeau and adopted by the Assembly. Some surprise was evidently mingled with the general relief experienced in the body, and a few members seemed disposed to hesitate about accepting the paper. It was called by one prominent member of the Assembly a "compromise paper." Dr. Woodrow answered immediately, "It is not a compromise

paper." The rejoinder was, "It is a very singular thing if it is not. It is offered by the speaker from one pole, and seconded by the speaker from the other pole." "But," cried out Dr. Girardeau, "both having the same axis."

The writer may be permitted to say that he considers the paper no *compromise* at all. It is evident that the opposition of Dr. Girardeau to the Louisville deliverance arose chiefly out of its discriminating so widely and so absolutely between the judicial and the *in thesi* deliverance. This appears throughout all that he said. It is equally evident that if the *in thesi* deliverance is not "law to be enforced by judicial process," that language is too strong to be applied unqualifiedly to the other kind of decision. And so Dr. Girardeau might well be content with the denial by the Charleston Assembly that the *in thesi* deliverance is law to be enforced by discipline, seeing that that high court equally denies this of the judicial decision as well. On the other hand, Dr. Woodrow plainly intimated in his speech that he considered it unfortunate that the Louisville Assembly had so highly exalted the judicial deliverance, and certainly what he desired chiefly to secure was the declaration that nothing is law but the Word, as interpreted in our standards. When we come to look at the remainder of the Charleston paper, we meet what precisely suited both sides, namely, that both kinds of deliverances are interpretations of the Word by church courts which have authority from God to interpret his Word and to enforce it by discipline, so that both kinds deserve high consideration and both must be submitted to, provided they accord with the Word; and that, as to this accordance, every church session and every church member has inherently and indefeasibly the right of private judgment.

At Charleston, on the first passage of this paper, some of Dr. Woodrow's supporters said he had given up everything. It was not very long before some of Dr. Girardeau's sympathisers wrote to him that he had sacrificed his side to Dr. Woodrow. Calm reflection will perhaps convince all that neither side was sacrificed, and that both parties gained all they cared about. The Charleston deliverance secures both order and liberty.

JNO. B. ADGER.