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THE POLITY
OF
PRESBYTERIANISM,

IN A
Review of Proceedings

OF A
SESSION, PRESBYTERY, AND SYNOD,

IN A
RECENT CASE OF DISCIPLINE.

BY
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New York:
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1864.

SIR,—*The following reply to an article in the N. Y. Evangelist, of the 29th ult., having been declined by the Editors of that journal, is, in this form, respectfully submitted for your perusal. When read, please give it to your ministerial neighbor or friend.*

New York, November, 1863.

THE PROCEEDINGS OF THE SYNOD OF NEW YORK AND NEW JERSEY, AND THEIR EXPOSITORS, BRIEFLY CRITICISED.

Editors of the New York Evangelist :

In your late notice of the proceedings of the Synod of New York and New Jersey, upon the records of the Fourth Presbytery of New York, you make some statements, and draw some inferences, which seem calculated to convey erroneous impressions. Believing that no misrepresentation or wrong was designed, and that your mistakes originated in the proceedings and records commented on by you, and presuming that you would not willingly perpetuate such errors, and that you will cheerfully allow the usual opportunity for correction, the following comments and explanatory statements are submitted for publication.

You say, "*the committee on the records of the Fourth Presbytery of New York made a report, in which the Synod acquiesced without a dissenting voice* (1). *It had been anticipated that it would evoke a warm and perhaps an extended discussion. But the matter at issue was so clearly stated, and the objectionable item of the minutes was so distinctly defined, that those who had prepared to defend the action of the Presbytery, seemed fully satisfied with the result* (2). *In view of the fact that no practical evil had followed the adoption by the Presbytery of the obnoxious premise to its action, in which a principle utterly unconstitutional was embodied, it was deemed inexpedient for the Synod to direct the Presbytery to review or correct its minutes*" (3).

Your first statement may be *literally* true, but, the report from some fifteen or twenty members present, in Synod, is, that the matter was presented at a late hour of the session, in the midst of an animated discussion upon the temperance question, to which many seemed anxious to return,—that there was no discussion of the report whatever, and that its whole consideration by Synod did not occupy more than five or ten minutes.

Secondly. The same "members present" generally concur in the opinion that the report was not clear and intelligible,—only two of the number pretending to comprehend its import, and they differed widely in their interpretation of it; and it is now quite certain, that, with a correct understanding of its import, and a fair opportunity for discussion, no such unanimity—if even a majority vote to adopt it—could be had.

But the *main* objection to your article, is in the closing paragraph above quoted; in which, by a misinterpretation of the facts in the case, you seem to justify, or at least *excuse*, what by many is deemed the most exceptionable acts of the

Presbytery; and consequently, and inferentially, to impute blame in another direction.

To make these comments clear to the reader, it is necessary to quote the records of Presbytery reviewed, and so much of the Synodical committee's report thereon, as is supposed to have led to the errors in your article.

Omitting irrelevant matter, the records of the Presbytery are as follows :

"General Rules for Judicatories," in the appendix to the Book of Discipline, were adopted for the government of Presbytery for this session.

A Judicial Committee, according to Rule XL, was appointed, consisting of G. L. Prentiss, D. D.; J. P. Hovey, D. D.; H. B. Smith, D. D.; S. H. Cox, D. D., LL. D.; J. Spaulding, and F. H. Bartholomew, Elder.

The Moderator laid before the Presbytery the appeal and complaint of Mr. —, which was ordered to be put into the hands of the Judiciary Committee.

Mr. — attempted to address Presbytery, but was called to order by the Moderator. He appealed; but Presbytery sustained the decision of the Moderator.

Presbytery resolved itself into an interlocutory meeting. The Judiciary Committee made a report, which was as follows :

The Judiciary Committee, in this matter, deem the following principles and facts to be relevant, as well as important and obligatory :

1. An appeal or complaint presupposes a trial on the merits of the case, with a result; which result is identified with the "decision," from which alone the transfer of the case to a superior jurisdiction is recognized by our book.

2. As there has been no trial on the merits of the case, no appellate jurisdiction can, as yet, be invoked.

3. When a case is preferred to the court of first resort, said court is to consider whether it is proper to institute trial, or to dismiss it, as our Book of Discipline, chapter iv., section iv., and in other places, both recognizes and enjoins.

4. In the exercise of Christian discretion and prerogative, the court below appears to have solemnly and unanimously determined against judicial action on its merits, and so have recorded their opinion with sufficient fullness, as previous to any action on the merits of the case. Hence, the committee find and recommend that the matter be dismissed.

Observe, that the foregoing report of the Judicial Committee consists of four premises grouped together as one argument, by the prefatory clause, "*the following principles and facts,*" &c., with the conclusion, "hence" (therefore) "*the committee find (!) and recommend,*" &c.

The *first* of these premises *assumes* that "decision" is identical with, and is *limited* to "a trial of a case upon its merits." The *second* denies action upon an appeal or complaint because the *determination* of a case is not a decision. The *third* appears to declare for an unlimited and unqualified "discretion," from which there is no appeal, and of which there can be no complaint. And the *fourth* seems plainly to contradict the *first*, though it does not make the *positive* assertion that "the Court below had determined (decided) against judicial action,"—which decision or determination *against* action was made one of the principal specifications in the complaint against Session, then before Synod, for their consideration, and which the Synod wholly ignored.

The conclusion from the whole argument (the four premises) is, "*Hence the committee find (judicially—decide, determine) and recommend that the matter be dismissed.*"

Upon this record, the Synodical Committee—after quoting a part of Ch. vii., Sec. 1, Par. 2, defining their duties, but omitting and apparently ignoring the 2d injunction, "*to examine whether the proceedings have been wise, equitable, and for the edification of the Church*"—proceed to quote the first premise of the Presbytery's record, which they condemn as "erroneous," and as "a false principle." They then refer to Book of Dis., Ch. vii., Sec. 1, Par. 4— which reads, "*No judicial decision, however, of a judicatory shall be reversed, unless it be regularly brought up by appeal or complaint,*" which seems to be referred to as limiting their action, and excusing them from revising the said records, or reversing the decision of Presbytery.

They then most strangely and *erroneously* state that, "On the ground of the erroneous principle before stated, the Presbytery declined to use its appellate jurisdiction in a particular case (1). But, inasmuch as it dismissed the case not on this ground (2), but on the ground that 'in the exercise of Christian discretion,' &c. (3)," (quoting the fourth premise above), therefore, "the adoption of the false principle has led to no result which makes it the duty of the Synod to require of the Presbytery to revise and correct its proceedings (4.)" Upon the foregoing four erroneous statements or unauthorized assumptions, your declaration that "no practical evil had followed," seems to have been based. The three foregoing declarations of the Committee marked (1), (2) and (3), and the conclusion drawn therefrom (4), are entirely incorrect, and are not sanctioned or sustained by anything in the records reviewed, or by the discussion, proceedings, or vote had at their adoption by Presbytery. The whole action and report of the Synodical Committee hangs upon the meaning of the adverb "*hence*" (therefore.) The Committee confine its reference to the *last* of the four premises in the Presbytery's record. This is not only manifest from their deductions, but an explanatory note from one of them most emphatically declares this, and he insists upon that limited definition of the word, "as a logical term."

No such distorted meaning was intended or recognized, either by the Committee of Presbytery, who *used* it—by the members who discussed and voted upon the report—or by those who were present and took no action, "*for the reason that they did not understand it.*" Thirteen of those who were present in Presbytery, including the moderator, clerk, all of the committee except one—now absent—and seven of the ten who voted on the occasion, have been consulted, not one of whom pretends to any such limited use of the word "*hence*," or that the arguments or discussion of the question were upon the fourth premise solely, or even *mainly*. The majority affirm that the arguments and their votes were upon the ~~two~~ ^{three} first premises *alone*. It is quite certain that several of the Session whose action was complained of, as well as many of the Presbytery, considered the question of "unlimited and unqualified *discretion*" to be undetermined by Presbytery; and it still appears to be undecided, and they regard it still, as it in fact was made at the time, the most important matter embraced in the "appeal and complaint" submitted to Presbytery against the Session.

From the foregoing, it would seem that nothing at all was determined in Presbytery, and little or nothing has been really or intelligently decided by Synod—except the "constitutional" questions of appeal and complaint. All else—including your own declaration, that "no practical evil had followed," &c.—seems to hang upon the meaning of "the logical term *hence*," as used in the foregoing records reviewed by Synod; upon the import of the word "decision" as defined in the said records by Presbytery; and in the extent of "the expediency" authorized, and the unlimited and unqualified "discretion enjoined in our Book of Discipline," as assumed by the Session in their resolution dismissing grave charges of falsehood, slander, conspiracy, &c., made "in due form," with the proffer of seventeen most respectable witnesses, and by a responsible accuser, of whom the Session subsequently record in their minutes "their entire confidence in his Christian character," and for whom they renewedly "express their regard as a Christian man and brother, of our beloved Church."

Hence (therefore, from all the foregoing premises), we conclude, 1st, that some "practical evil" has followed the adoption by Presbytery of the obnoxious premises—and *hence* your comments herein reviewed have wrought some "prac-

tical evil," which justifies this explanation; and, 2d, That "in all governments conducted by men, wrong may be done from ignorance, from prejudice, from malice, or from other causes." (Book of Dis., Ch. vii., Par. 1.) And that although our "boasted Presbyterian system is unequalled in its constitution and laws," yet in its judicatories, as in those of our civil and military departments, errors may be committed and wrong done through carelessness and hasty legislation, as well as by the causes quoted above from Book of Dis. And, hence, we think that those who assume to act as "judges in Israel" should be careful in obtaining and stating facts, and also impartial in their decisions, remembering what THE BOOK—Prov. xviii., 15th, and in other places—"both recognizes and enjoins."

On some future occasion, should one occur, a more full exposition of all matters herein referred to may be submitted.

November 5th, 1863.

C.

"The following (*additional*) principles and facts are relevant, as well as important and obligatory:"

1. *When all other means of removing an offense have failed, the judicatory to which cognizance of it properly belongs SHALL judicially take it into consideration.*" (Book of Dis., Ch. iv., Sec. 1.)

2. *"In all governments conducted by men, wrong may be done from ignorance, from prejudice, from malice, or from other causes."* (Book of Dis., Ch. vii., Par. 1.)

And *"In reviewing the records of an inferior judicatory, it is proper to examine, 1st, whether the proceedings have been constitutional and regular; 2d, whether they have been wise, equitable, and for the edification of the Church;"* and, 3d, *"Correctly recorded."* (Dis., Ch. vii., Sec. 1, Par. 2.)

3. *"All persons who have submitted to a regular trial * * * may APPEAL from any irregularity in the proceedings of the inferior judicatory to a higher,"* &c. And *"any person or persons may (in like manner) COMPLAIN respecting a decision by an inferior judicatory which is deemed unjust."* (Dis., Ch. vii., Sec. 3, Par. 1 to 4, and Sec. 4, Par. 2 and 3.)

4. In violation or disregard of the foregoing laws, and in the distortion or exaggeration of *"Christian discretion and prerogative,"* it appears that judicial trial was peremptorily refused "in the Court of first resort;" *an appeal, and a complaint* of which, were summarily dismissed on technical grounds solely, in the Court of next resort, and that the "review" of the said proceedings was inconsistently or imperfectly made in the "Court above." Hence (therefore, from the foregoing principles and facts), it is "concluded that wrong has been done through ignorance or other causes," from which some "practical evil has followed," which should *not* have made it *"INEXPEDIENT for the Synod to direct the Presbytery to revise or correct its minutes,"* and "hence we find and recommend that the matter be (*not*) dismissed," but that it be further and *more carefully* considered.

A PRESBYTERIAN.

NOTE.—From a former exposition of this case, (*"A New Phase in Ecclesiastical Law,"* &c., pages 11 and 12,) it appears that the further prosecution of *"The Appeal,"* and *"The Complaint,"* in Synod, was long since (in May last) abandoned for the reasons, among several others then assigned, that the complainant had *"sufficiently vindicated his cause,"* and that *"until their"* (the Session and Presbytery's) *"proceedings are reviewed and corrected, no respect for their decisions can as yet be invoked."*

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POLITY OF PRESBYTERIANISM.

P R E F A T O R Y.

HAVING recently become a member of a Presbytery of New York City, I received notice of a meeting on a certain day, without any specification, however, of the business to come before us. On entering the place of session, I learned that the judicial committee was out, considering an appeal and complaint. After a long absence, the committee made a Report, hereinafter quoted, which came before Presbytery, on a motion for adoption. Deeming the principles on which the conclusion was based, to be unconstitutional, I took the liberty, or exercised the right, of objecting to the adoption of the Report. This led to some discussion; but, the committee itself composing a large part of the Presbytery, and majority of those voting, the Report was adopted.

I subsequently inquired into the particulars of the case, and became satisfied, not only that I was right, on the constitutional question, and Presbytery wrong, but also that the complainant had not received justice at the hands of the Session. The recent action of Synod, also, in reviewing the proceedings of Presbytery in the case, was not, in my opinion, wholly right, although it pronounced unconstitutional the main principles reported as sound by the judicial committee of Presbytery, and upheld by the vote of that body, although by a numerical minority. These were the only principles of the Report discussed in Presbytery, and those on which the final vote was based.

As the case seems to me important, and involving principles essential to the rectitude and stability of our constitution and of our church, I may be excused for reviewing it in reference to the application of those principles.

Having avoided outside influences, never having seen the complainant, until I saw him, in that capacity, at the meeting of Presbytery; having never before even heard of the case, not being then resident in New York, I may claim to have undertaken this review with the sole

object of canvassing the sense of the book, and maintaining the principles of the constitution. This claim candor will allow. Names are omitted.

BRIEF GENERAL STATEMENT OF THE CASE.

In the course of some transactions in business, two Christian men differed. One of them signed, and assisted in concocting, a Report, which charged the other, as he and many thought, with conduct, seriously affecting moral and Christian character. The subject of complaint, therefore, in this case, is not of a pecuniary, but of a moral nature, having no respect whatever to money matters. The latter appealed to the former for acknowledgment of the wrong, that their Christian intercourse might not be impeded, nor the interests of the church suffer.

Private appeals proving unavailing, he proposed to refer the matter to mutual friends. This was, also, declined. Whereupon the aggrieved party put his grievances contained in the correspondence herein quoted, into the hands of the church Session of which he was, and the other proposed to become, a member. This was done, as appears, for the purpose, in the first instance, of effecting reconciliation, through this medium, without regular judicial process. Other efforts, also, failed to secure the desired conciliation, when the aggrieved party felt bound to table regular charges and specifications. These, after long consideration, the Session dismissed; whereupon an appeal and complaint was made to Presbytery.

PERSONAL PROCEEDINGS.

It will be methodical, first, to present the case antecedent to the decision of Session. From printed documents, for some time before the public, and laid before the Session as "necessary illustrations and proofs," it appears that, in the discussion of a Code of By-Laws, offered for adoption to the Board of Managers of a Railroad Company, with which both parties were connected, a reference was made to "extra-official acts and conflicting interests" of some of the officers and managers of the Company. This led to the appointment of an Investigating Committee. Before this Committee the complainant laid his statement, to which the party herein complained of, with others, submitted a voluminous replication, of some thirty folio pages, seriously involving the moral and Christian character of the complainant, in this case, and believed by him and others, to have been intended to malign his character. The imputations of that replication have, at least, been pronounced

libellous by the late Judge Bronson, whom all respected both for ability and integrity, as well as by other prominent legal counsellors.*

It will be needless and undesirable, here, to go extensively into that document, or the Report, and Card which followed it; yet essential to quote a few of its expressions and sentences, in order to indicate the ground of the complainant's feeling and action. The statements and implications refer to him. "Gross misrepresentations and mischief-making conduct," "malignancy of insinuation and falsification of fact," "insinuations false and wicked," "vindictiveness rarely seen in a man of sound mind," "he quarrelled with his minister, his physician, and his neighbor, with his partner in business, etc."

Now, if all this were true, there could be but one opinion about the character of the man to whom the epithets are applied: if not true, then the least that can be said of them is, that they are unchristian and libellous.

The party aggrieved so regarding them, and believing the other party to have had much to do in the preparation of that document, whilst he abstained from legal prosecution, felt bound to have such reparation of the evil as he thought brotherhood in the church of Christ demanded. In execution of this obligation, as he deemed it, the following correspondence occurred. It is no part of Christian duty, of course, to submit to defamation; nor will any deny that it is Christian duty to endeavor to be reconciled to an erring brother, and thus to guard well the interests of Zion.

NEW YORK, March 9, 1860.

MY DEAR SIR: May I earnestly solicit your candid consideration of what I am now about to write.

I address you individually, and as a Christian brother, and not in any associate capacity.

In the collisions of business matters, we, who were for so many years in pleasant relations as friends, have been brought into alienation and estrangement.

Members of a Christian church, it should occasion either of us a profound sorrow to do anything which would bring reproach upon that Blessed Saviour whom we desire to honor and serve.

We are making rapid advances in life, and the time cannot be long before we shall both stand before Him who searcheth the heart. I desire to live and die with a pure conscience; I most earnestly desire that there may be an adjustment of our unpleasant differences on Christian principles; believing it to be, not only our solemn duty, but that it will also conduce to our mutual comfort and happiness, and usefulness.

Some overtures which I designed should lead to this result were unsuccessful; perhaps they were not wisely conceived or rightly expressed or correctly understood. I am more willing to concede that there was some infelicity on my own part, than to reproach you for not accepting them. I mean

* A full statement of these matters is found in "Railroad Mismanagement," and "A New Phase of Ecclesiastical Law and Presbyterian Church Government."

to be so explicit now that there can be no misunderstanding of my real feelings.

If any of our differences are the result of misapprehension, they are capable of explanation. If there has been wrong on both sides, there is a place for mutual concession.

In regard to myself, I am far from making any pretensions to infallibility. I can see much which I wish had never occurred, and which I sincerely regret. If my present object were self-exculpation, perhaps I should plead the power of provocation; to which I might add, that I felt myself driven to some measures which would have been avoided, had I been allowed a more suitable opportunity for explanation and vindication; but on this occasion I have no desire to shield myself from all blame.

Wherein my disposition or conduct have been other than they should be, it is my desire to acknowledge and deplore it; and if I have done wrong, it will give me sincere pleasure to repair it. I say this that you may not misunderstand the spirit in which I now approach you.

On the other hand, I am not willing to believe that you, a Christian brother, would be happy to see me resting under imputations which are undeserved. It would, I believe, occasion you real pain, should I die with heavy charges resting upon my name, to the grief and injury of my family, which it was in your power to remove; or with the conviction on my part, that you had done me great injustice and wrong.

Permit me, therefore, to say, that I am living now under the consciousness of a great wrong which it is in your power to remove. I do not now advert to differences of opinion in business matters, where our judgments as to measures did not agree, but to charges which affect my private character, which seem intended to "stamp" me as undeserving of Christian confidence, in reference to which I feel that I can and must invoke the interposition of your Christian truth and honor.

I cannot but think (and it would be a relief to me to know that it was so) that you have forgotten the terms of that language in which you have indorsed charges against me (all of which I sincerely believe are without foundation in fact), and from the effects of which, in their influence upon the minds and actions of others, I am still suffering.

Will you permit me to recall to your memory a few expressions out of the document referred to (the possession of which has so strangely and persistently been denied to me), which by their wrongfulness and severity have done me so great injustice, and occasioned so many painful feelings to me and others. I give you but a part of the few I was enabled to procure.

1st. *** "There is now no difference of opinion in relation to the ex-President's gross misrepresentations and mischief-making conduct."

2d. *** "There is a malignancy of insinuation and falsification of fact that are unaccountable, except upon one principle well known to this Board."

3d. *** "A valuable water-power was wantonly destroyed by direction of the ex-President."

4th. *** "This is another of those insinuations false and wicked."

5th. *** "He sought by pouring poison into the minds of different members of the Board, to influence them against him" (the Treasurer). "The talk of an Auditor was only a cover for the lurking attempt to undermine Mr. _____."

6th. *** "A second great cause of difficulty, was a personal quarrel and lawsuit with a neighbor, Mr. _____, a member of this Board. He carried this quarrel so far, that finally Mr. _____, for the sake of peace, yielded everything he required." *** "This led to that vindictiveness toward Mr. _____, rarely seen in a man of sound mind."

7th. *** "It has been intimated that the defeat of his darling scheme was another great cause of his ill-tempered proceedings."

8th. *** "The ex-President's manner in the Board and in the office were ungentlemanly, and at times disgraceful," ("disgusting" first written,

and partially erased.) *** "He would not hesitate to charge falsehood upon the members of the Board with great frequency."

9th. *** "The whole truth may be summed up in a few words. The ex-President is a quarrelsome man. He has quarrelled with his minister—his physician, and his neighbor—with his partner in business, and the mechanics who build his houses and repair them." *** "It remains for us to say that the interests of the company have been seriously prejudiced by the ex-President." "His obstinacy and jealousy—his unfortunate temper, and especially his desire to introduce what he called improvements in machinery, have been a cause of large loss to the company. The loss on the single article of locomotives, which the ex-President took the responsibility to order, contrary to the opinion of some members of the Board, who strongly remonstrated against it, is very large, besides greatly embarrassing the operations of the company."

Your special attention is called to the following:

10th. *** "And if the present managers are found deficient in duty, let the stockholders appoint others who will serve them more faithfully, more truly, more disinterestedly; on the contrary, if the committee believe that the ex-President is a quarrelsome man and a mischief maker (and if they regard the unanimous testimony of the Board they will so believe), they are called upon to stamp him as such. Their duty to the managers, their duty to the stockholders, and their duty to themselves alike demand such action at their hands."

Now, my Christian brother, both of us profess to act according to the Christian rule, "Do unto others as we would wish others to do to us."

Would you wish to rest under such imputations—so severe—when you were conscious that they were not true, nor deserved?

I have no wish to deal in recriminations, but I honestly feel that I am suffering from your acts.

Wishing to do what is right to you from me,—is it not a duty which I owe my family, my own name, and the Christian church, that I should ask for right to be done to me?

You will not misjudge me for addressing you individually and separate from all your associates. You and I now worship at the same altar, and sit down at the same communion table; you have known me well for many years. In regard to the untruthfulness and great injustice of several of the matters referred to, no one is better able than you to decide; and, whatever may be the case in regard to others, are there not special reasons why there should be a prompt and proper reconciliation between you and me?

Do you inquire what I should wish you to do, in the premises? It is not for me to dictate. May not the matter be left to your own Christian feelings and judgment?

You are aware what proposals I have frequently made, and which—if that course should still be deemed best or necessary—I hereby renew; viz., to refer all matters of difference between us to any impartial arbitration; agreeing on my part to abide by such decision as may be thus obtained; hoping thus that all misrepresentations and differences may be remedied in a manner which will be for the honor of religion and our own personal and domestic peace.

These suggestions, as you will not fail to notice, are for you alone.

Hoping that this communication will be received in the spirit in which it has been written, and praying for Divine guidance for us both, permit me once more to subscribe myself,
Your Christian Brother,

NEW YORK, 14th March, 1860.

MY DEAR SIR: Your favor of the 9th instant was duly received, and my answer has been delayed that I might give it the careful consideration that its contents appeared to demand.

I can but regret your allusion to past differences, for I had long since

determined to forget and forgive the past, and have endeavored so to act toward you that I presumed you were convinced that I entertained no hard feelings, but intended to treat you as a Christian and neighbor.

I have no disposition now to go back and recall the many unpleasant matters of the past, nor do I think it would be calculated to bring us any nearer together.

The extracts you have made were made from a document signed by a number of gentlemen as well as myself, in defence of charges made against a part of our number, but which all united in the reply, and were made under very peculiar circumstances, and would have remained with the committee to whom they were addressed and have never met the public eye, if you had not seen fit again and again to have published them. This I have always regretted, but cannot be held responsible for.

I cannot see that any great good would result from the reference to which you refer, nor will the state of my health or my time at any time warrant such an undertaking.

I hope we shall both be guided by Christian feelings; and the fact to which you refer of our worshipping in the same church, will be a further incentive, I think, to the cultivation of kindly intercourse.

Reciprocating all the kind Christian sentiments in your letter, I take pleasure in subscribing myself,

Your Christian brother,

NEW YORK, 21st March, 1860.

MY DEAR SIR: In a conversation last evening with our mutual friend —, * I found he was made acquainted with our recent correspondence, and

* This was the party before referred to as "our mutual friend," and the author, or at least promter of these first letters; and who then acknowledged the insufficiency of Mr. —'s replies. The day after this letter was received, viz., March 22d, 1860, and after we had consulted together over it, I received from this "friend" a note, in which he says: "Be so kind (if your judgment favors) as not to communicate with Mr. — till I have had one more interview with him." I accordingly waited, and on the evening of next day received, through this "friend," Mr. —'s letter of 23d March.

This third letter, after an evening's discussion with our friend, proving equally unacceptable, I left to write my reply, but the next morning, very early, received the following note from our friend, viz.: "Please let me have *that* letter, and know nothing about it till you hear from me after the Sabbath."

The Monday afternoon following, I met our friend in Broadway. He had consulted with some one, and had determined to have no more to do in the matter. He redelivered the letter to me, and I promptly wrote the following reply to Mr. —; and on the same day wrote our friend as follows—from which it will be rightly inferred that a discussion, and some change in his views, had recently occurred:

"In reference to the past, but without troubling you further on the subject, I think it my duty to inform you, that upon the most serious consideration, and under the advice and sanction of Christian friends, I have addressed a reply to —, which I feel quite sure will bring from him a response, better calculated than any yet received, to secure an honorable and *permanent* adjustment of all difficulties between us.

"I hope he will show it to you, for I feel equally confident that you will approve its tone and character, and justify me for the motives which prompted it; I most sincerely hope so, for it is one of the most painful events connected with this whole matter, that I could not promptly bring my convictions of duty into perfect harmony with your judgment. But I fully trust that you will yet approve, or at least justify my course.

"I beg you, therefore, to excuse my seeming want of deference to your wishes, and to suspend your judgment of my acts, until my plans are developed. Perhaps you will find my acts better than my expressions; at all events, I shall aim to be governed by Christian principles.

"Your misapprehensions of the understanding between Mr. — and me, concerning the proposed letter, will be explained at another time.

"Very truly yours, &c."

suggested the idea that it would be, he thought, gratifying to you, to have me state more fully than in my last, my desire that you should understand that I retained no unkind feelings towards you; and that, in the review of the past, there are many things which had been said and done which I regretted, and if in any way I had wounded your feelings, I deeply regret it, and trust the past may now be forgotten, and that our future intercourse will be such as becomes those who desire to act in view of eternity.

Very truly yours,

[Signed] _____

NEW YORK, *March 26th*, 1860.

MY DEAR SIR: Your several letters of 14th, 21st, and 23d insts.,* in reply to mine of the 9th, were all duly received, and my answer has been postponed for reasons well known to you.†

I cannot think you will be much surprised that I say to you, that after a careful examination, I can find nothing in yours which can be construed into a proper response to my letter to you.

This result I most sincerely regret. My letter was intended to be so frank and unreserved, as to open the way for a reply which should, at once and for ever, dispose of all matters of difference between us. I think, upon a repetition of the correspondence you will be satisfied that you have not met the case as submitted by me.

The charges made by you against me are too specific and aggravated, and have wrought their intended work too thoroughly, to be disposed of so summarily, or to be excused upon so indefinite expressions of regret.

In my letter to you I designed to convey the impression, and I will say now distinctly, that wherein you will show that I have wrongfully accused you, I will cheerfully and promptly offer a suitable unreserved apology.

While the terms of your letter express a generous spirit of forgiveness, I am left quite in doubt as to what are the acts to which your forgiveness refers.

I do not recollect anything imputed to you by me, which is either of a *personal* or *criminal* nature, or which is very derogatory to your Christian character; and in what I said, of your official acts, I took pains to excuse you from all conscious and premeditated wrong. (See the Document.) By a reference to your charges against me, I think you will acknowledge they are about as severe as were ever presented against a Christian man. Some of them are purely personal, extending back over a period of many years, and some of them are of such a nature, that it would seem they must have originated with you. Those referring to my official acts, are all included in a period of time, during which you were not only a member of the Board, but also of the Executive Committee; and I think I have submitted to you documentary evidence that they were all without authority or justification. (See my reply as laid before the Committee, and afterwards published in my first pamphlet.)‡ If you are prepared to sustain your charges by any suitable testimony or justification, I will meekly submit to such odium and censure as such guilt would merit; on the other hand, if they can neither be sustained nor excused, would it not be more consonant with your acknowledged Christian character to withdraw them? Would you not be more happy thus frankly to relieve me from undeserved odium and censure? Would it not be more noble in both of us, and more honorable to our professions, to make a generous, unreserved confession and a full retraction of all we have done wrong to each other? This I shall be most happy to do. Indeed, I know of no other course for a Christian to pursue.

* This third letter is withheld, for reasons stated in footnote further on.

† For the efforts of our "mutual friend," to get a satisfactory answer to my first letter.

‡ And since recapitulated in the pamphlet, "Railroad Mismanagement."

Confession must always precede forgiveness. It seems to me to be a solecism to expect the one without the other. For myself I know not how to accept forgiveness for acts to which my attention has not been called, and of which I have no recollection or consciousness.

Both confession and forgiveness, to be acceptable or lasting, must be specific and unreserved. With these views, you will excuse me for saying I esteem your letters too hypothetical and reserved. "If" is sometimes a hard word to get around; and to express regret for acts "if" they have been committed, or which I may "esteem as derogatory to my character," &c., is certainly a very non-committal expression.

In addition to its reservations, your last letter has been given to me encumbered with such restrictions in regard to its use, that its value to me, even if acceptable in other respects, would be but little. I feel constrained, therefore, to make no further allusion to it; but your first invites a few comments.

While tacitly acknowledging the correctness of my quotations of your accusations against me as given in my last, you seem to justify them on the ground that they "were in a document signed by a number of gentlemen as well as yourself, in defence of charges made against part of your number," &c. Have you reflected upon what is here conceded? viz., that sixteen were, by some means, influenced to join in a "defence" of only seven of their number? or, more truly, a severe personal attack upon me, for but slight imputations against the "official" acts of but seven of that number, and they specifically named? What could be the motives for such an unnatural combination? Does not the last quotation from the charges so presented, clearly indicate the purpose of that combination?*

I shall be pleased to have any better explanation. If no better reason exists, would you not feel happier to withdraw charges so made?

By this plea, that you were but one of a number, did you intend to relieve yourself from personal responsibility? A moment's reflection must show you that such a plea will not avail before any civil or moral tribunal; and least of all, before that at which you and I must soon appear.

You next seem inclined to hold me responsible for the publication of those charges, and to excuse yourself that they were designed to be used before a committee appointed *only* to investigate imputations against you. Did you ever reflect that the peculiar (secret) manner in which they were got up and used, after you had assured the committee that you had no charges to make against me, was the most aggravating circumstance connected with the act? And are you not aware that their publication was a necessity imposed upon me by the persistent refusal of all opportunity to reply to the committee's report, influenced by and based upon those accusations? Were you not present and assenting to that refusal? Were you not appealed to subsequently by our mutual friends, and earnestly requested to suppress that report so made, with the consent on my behalf, that in such case I would suppress my promised publication, and suffer in silence all the injustice which had been done to me? Did not you and your associates decline those peaceful propositions, and publish and scatter broadcast throughout the land several thousands of that report? Under such circumstances, was I not justified in showing how that committee had been acted on and influenced to make such a report, so full of grave errors, misquotations, misrepresentations, and wrongs?†

You next express the opinion that no good will result from the arbitration or reference proposed by me, "nor will your health or time warrant such an undertaking." Will no good result from a friendly, Christian reference?

* This refers to one of the specifications under the charge of conspiracy. A large number, against whom no imputations had ever been made by me, were induced to join in Mr. —'s libellous attack against me, and thus to increase the power to crush me.

† See the full exposition of this matter in pamphlet before referred to.

Have you, who so liberally devote your time to public duties, no time or health to devote one evening to the adjustment of a three years' alienation with a Christian brother? One evening would furnish more time than was allowed me to vindicate myself before the committee who received and were prejudiced by your accusations.

But I will not pursue this phase of the subject. I recur with more pleasure to your genial Christian sentiments. Your assurance that "you retain no unkind feelings towards me" is most welcome, and leads me to hope that a kind consideration of the foregoing, and a reperusal of my last letter, will enable you to give me such a reply as will effectually obliterate the past, and enable us to meet and dwell together as friends.

Sincerely desiring that result,

I remain your Christian brother,

NEW YORK, 29th March, 1860.

DEAR SIR: I am in receipt of your favor of 26th instant, and after carefully reading that and your former letter, I cannot see that my answers should have been different from what they were, and I did hope you would have met them in the spirit in which they were indited; as it is my wish to act in the spirit of my letters, I cannot think it will lead to further that object by longer continuing the correspondence.

Yours very truly,

[Signed]

NEW YORK, April 9th, 1860.

Esq.:

DEAR SIR: Your favor of 29th ult. was received on the 30th, and I deeply regret the conclusion to which you seem to have come in reference to the matters between us.

I cannot see it to be *my* duty to rest without one effort more to avoid the consequences which seem to me to be so unnatural and improper in your and my position.

Since all my proposals of friendly mediation and proffers of prompt and unreserved retraction of every imputation wrongfully made against you have been declined, and since my more gentle appeals to your Christian duty and honor have proved so unavailing, I am sure I shall be justified in this last resort to your sense of justice as a man.

You stand confessedly guilty of conspiring or combining with fifteen others, to produce against me accusations and charges, in number and severity enough to crush any living man. Your motive appears to be sufficiently plainly exhibited in the charges themselves. You say they were "in defence of charges made against a part of your number," you, of course, being one of that number. What "charge" did I ever make against you, which could justify you in resorting to such personalities? Look at the documents; the substance of all I said was, that you were in an official position where your interests must conflict with your duties as a trustee or manager. I did not say *you* had done any wrong act. I took pains even to excuse your position by saying, "I am quite willing to believe that the parties who have infringed upon this principle, have done so without any due consideration of its importance or of its moral bearings." (See my first pamphlet, page 31.)

That is the very language submitted to the committee. (See also my last pamphlet, page 18 to 23.)* What other accusations *have I ever made against you?*

You confess that there was a combination; you say "signed by a number of gentlemen," "in defence of charges made against a part of our number."

* "Railroad Mismanagement," &c.

How was that? * Had the accused neither strength nor innocence to defend themselves before the committee? Was it necessary to compel a number of unaccused parties to join in so extraordinary personal abuse of me, to save yourself before the committee? As a *man*, I ask you—was it right?

You virtually confess that this attack upon me was a secret thrust, and you say, "would have remained with the committee to whom they were addressed." Is it any palliation that your apparent design to ruin my character was not intended for the "public eye?" Of course it was not—nor was it intended for *my* eye, as clearly appears from the agreement between you and the committee, that I should never have a copy, or the possession of it for a single hour. You was but "one of a number;" but let us for a moment consider your individual responsibility in this matter. There was but one—if any—in all this band of sixteen, who had known me so long or so well as you; and he was not restrained by any religious principles or professions. Many of the others were comparatively strangers to me, but not to you. Several had been but for a few months in the Board, and one, the partner of your particular friend, chairman of the committee, was never in the Board until months after I had left it; and he was nearly a total stranger to me, and to all the existing facts in controversy.

Now—do you not believe that neither he or any considerable number of the parties, could ever have been induced to sign that paper, if you had declined and not encouraged it? Do you not know that your charge that I "wantonly destroyed a valuable water power" is utterly without foundation or excuse? Do you not know that that "water power" was of *no value*—that it, with the thousands of acres of land on which it was—was owned almost wholly by you, your friend, the chief engineer of the company, and four of your associates (the accused parties)—that it was nowhere near the company's works—that it was "destroyed" by your own agent, because you were substituting a steam sawmill in its stead? Do you believe that I ever knew of the transaction until long after it occurred? (See "History," page 49.)

Your other charges against my official conduct are equally unjustifiable. You was in a position to know that the by-laws and regulations of the company made it impossible, and you ought to know that I never did purchase a locomotive or other machinery to the value of *one hundred dollars*, without the formal sanction of the executive committee (of which you was a member), and the subsequent approval of the Board. (See "History," page 60.)

Without further particularity, must you not, upon calm reflection, confess that all your charges quoted by me, as well as several others not quoted, are almost, if not equally, without foundation or justification?

How could you make such a mistake in that which charges me with quarrelling with you? Do you not know that this difficulty grew out of your violation of a contract under seal and upon record? That I offered, by letter, "to submit the whole matter of difficulty between us, to your two brothers-in-law, and to abide their decision," which you rejected? Do you not know, that I subsequently sold my house at a great sacrifice, and for the sake of peace, removed from the scene of difficulty—voluntarily offering to pay my own costs and withdraw the injunction, while advised that the case was all on my side? (See "History," page 75 to 77, and the whole correspondence.) †

Are you not aware that it was your religious and moral character which induced so many others to sign the injurious document referred to? and that also gave it such power for evil over the minds of your particular friends, — and —, and their associates in the committee? Have they not, in their report, evidently tried to "stamp" me, as you "called upon" them to do? To use your own words, as applied to me—Did you not "seek, by

* Here was a virtual confession of my charge of "*conspiracy*."

† See the correspondence here referred to, "*Railroad Mismanagement*," pages 26 and 27.

pouring poison into their minds," to prejudice them against me, and warp their judgments? You said to them; "If you believe the unanimous testimony of the Board, you will stamp" him, &c.;—and in their "card" in the *N. Y. Times* of Sept. 14th, 1858, they respond to your call, and echo your words thus—"Mr. — stands unanimously condemned by the Board of Managers"—"unanimously condemned by the stockholders,"—and, as if to stultify themselves and show the absurdity of all their former pretensions of fairness and impartiality, they add, "unanimously condemned by the investigating committee," &c.; and this, too, in the very face of their written declaration, now in my hands—"that no investigation of charges against you (me) was contemplated." (See "History," page 5).* At what time previous to this investigation had either the Board of Managers or stockholders ever "condemned" me? or even disapproved, in any sense, of my official conduct? *Never*. I appeal to the records. Could the investigating committee, upon a fair statement of facts, and a candid discharge of their duties, ever have condemned me? *Never*. I was not even on trial before them. Two of them, Messrs. — and —, though your personal friends, had fully committed themselves against the acts complained of by me, by their expressed opinions and actions, as a committee on by-laws, until after your combined attack upon me.

There has never been a time, in my opinion, when you could not have put an end to all these difficulties. I know it will demand some sacrifice. Some of your late associates will strongly object. I think I know all the embarrassments in the way of your convictions of duty, as well as the supports upon which you seem to lean to sustain you in your present course. You never will feel quite happy or satisfied until you have done me justice.

As so often proffered, I will hold myself ready to meet you for a reconciliation, on any proper terms.

A friendly Christian reference seems to me the most proper, and I cannot think that your "want of time and health" is a good excuse; especially when I recollect that since I commenced the present effort, you have spent several days in Philadelphia, and at least three evenings in this city, in presiding at religious, temperance, and political meetings; nor will it answer to call this a "question of difference of opinion on business matters." It is a question of truth and honor. It has now become an issue which cannot be evaded. You have unfortunately, and I hope undesignedly, precipitated it, by returning again to your old associates, and by coming into more intimate social (church) relations to me. These two acts are significant, and cannot be without their effects upon our mutual friends.

But I will close. I have spoken more plainly than I would have done, but for the failure of my two former appeals to your Christian sympathies. I am not willing to give up this effort for a reconciliation as impossible. I must still indulge the hope that you will do me justice.

It is proper I should say, that upon further examination, I find that "the restrictions" in regard to the use of your letter of 28d ult., do not apply to that paper, as I supposed when I last wrote.†

Without further reply from you, this will, of course, terminate our personal correspondence on this subject.

I remain, very respectfully, yours, &c.,

NEW YORK, April 11th, 1860.

DEAR SIR: I was surprised to learn last evening that there is a misunderstanding in regard to the use of your letter of 28d ult.† I am happy to inform you, however, that it has not "been published or shown to any of

* See letter to —, "Railroad Mismanagement," page 44.

† The third letter of Mr. — (March 28d, 1860), in answer to my first, is claimed to have been given to me with special restrictions against its publication, or its being

your late associates," nor was any such use of it contemplated by me. The liberty to show it to a few of my Christian friends was expressly reserved. If preferred by you, however, I will suppress its use entirely, on such desire from you being received.

Very respectfully, yours, &c.,
[Signed] _____.

No reply received to this letter.

This correspondence failed to produce the desired effect, which is deeply to be deplored by all who love the cause of Christ.

The first letter, at least, of the complainant, breathes an excellent spirit, indicating humility, sense of fallibility and liability to wrong, concession, desire for Christian fellowship, readiness to confer, and to refer to Christian friends, and abide by their decision; and throughout there is an apparent strong desire for a satisfactory settlement of the difficulties. The other party, also, briefly expresses a reciprocation of kindly, Christian feeling, a willingness to forget and to forgive, but fails to meet the wishes of the complainant, and declines all reference, or further interest in the matter.

The correspondence, with other documents, was submitted to the session of the church of which complainant was a member, prior to his leaving for Europe, that his reputation might be protected from false imputations; and in hope, that further action in the premises might thus be averted. The session not regarding itself as "the depository of matters in controversy between brethren, not presented for their action," returned the same to the complainant.

On his return, after an absence of some months, the other party having united with the same church, the complainant again addressed him, May 9th, 1862, inquiring whether he would see him "to-morrow alone, or with two or three Christian brethren, with a view to reconciliation and settlement of difficulties." He declined, seeing "no possible good that can result from any further reference to them (their differences), and confident that it would be worse than useless to discuss them." To this answer was made, May 16th, 1862, as follows:

shown to any of his former associates. It seems a pity to suppress it here; but the following, from a note from our former "mutual friend," under date of April 10th, 1860, leaves me no discretion in the matter.

"My DEAR MR. —: I was quite surprised when Mr. — read to me the following extract from your note to him of April 9th." * * * "What has led to this change in your judgment I do not know, as I have not been conversant with the case since the delivery of Mr. —'s letter to you. But you must bear in mind that my own honor and veracity are now implicated with both parties."

"The letter which Mr. — wrote to you, and which passed through my hands, was written on the understanding (so promised to him by me), that it should not be published or shown to any of his associates. That pledge I repeated to you, in my study, before I read you the letter of Mr. —, which was given to you by me, on that condition." * * *

While I honestly differed with our friend in my recollection, on some points insisted on by him, I have rigidly conformed to his and Mr. —'s understanding of the matter, as will be seen by my above note to him of April 11th.

"I had hoped that two years' calm reflection * * would induce you, on my return from abroad—if not to come promptly forward and make a manly, generous, and Christian confession, and a full retraction of your false accusations against me—at least to avail yourself of my oft-repeated and long-standing proposals to submit all matters of difference between us to a friendly Christian reference or arbitration." * * * "It is true you make extravagant professions of kind feelings towards me, as well as the most magnanimous proffers of forgiveness. But though you have been often requested to do so, you have never specified any act of wrong done to you by me, and therefore I cannot apply or appropriate your forgiving grace, and am still left in great doubt as to the sincerity of all such professions of kind feelings."

"You have also, often expressed the "*earnest desire* to forget all past differences"—in which expression I can easily believe both your earnestness and sincerity; but you must excuse me for thinking, that you can never forget—no, not in eternity—the wrongs you have done me, until you first make some suitable retraction and apology for them." * * *

"Having exhausted all other means, and conformed fully to the injunctions of our Saviour in such cases (Matthew xviii, 15, 16), it seems to be my next duty to resort to the course indicated by the same authority in the verse following."

"Regretting the necessity of this measure, I remain,

"Yours, respectfully."

The points of the case, as thus far developed, are :

1. A Christian man and member of a church feels, that a Christian brother has offended him, has done him wrong, in joining with others in the application to him of epithets, and the attribution to him of deeds, utterly inconsistent with a good Christian profession.

2. Thus feeling, he approaches the offending brother, tells him of his fault, as he regards it, asks him to remedy the wrong; and, if they cannot agree as to the offence, and effect a reconciliation, to refer the whole case to mutual Christian friends, and abide by their decision.

3. This leads to the correspondence, continued, at intervals, for three years or more.

4. The offender (using the word only *technically*), with expressions of good will and Christian forgiveness, declines either to confess the wrong to the accuser, or to refer it, for investigation and decision, to select mutual Christian friends.

5. An offence is here apparent, and the right methods to remove it were employed, as indicated in Matthew xviii, 15, 16, 17. Form of Government, Book II, Ch. I, Sec. III.

6. According to the recognized principles of the Presbyterian Church, and its interpretation of Christ's Gospel, one member of the Church, feeling aggrieved by another, is bound to disclose his feeling to that other, and he, in turn, is bound to hear the complaint, and to confess wrong and apologize for it, if any exist: otherwise, to show that none does exist. Failing to satisfy each other, on points of difference, it is competent for them and quite consistent, to refer the disputed points to others, even to a Church Session, as mediator.

7. Mediation failing, the offended may complain to the Session of his church ; as was, in this case, next done.

SESSIONAL PROCEEDINGS.

The case, as it came before the Session, is presented in the following letters and documents :

[New York, April 21st, 1860.]

_____, Esq.,
Clerk of Session of _____ Presbyterian Church :

MY DEAR SIR: I herewith hand you sundry documents addressed to your Session, and which I request may not be opened, until presented to the Session at a regular meeting of the same ; and I desire that the same may be presented and acted upon at the first convenient opportunity.

Very respectfully yours, &c.

[Signed] _____

To the Session (The Pastor and Elders) of the _____ Presbyterian Church :

BRETHREN: Under date of April 17th, 1860, I submitted to you the copies of a correspondence between Mr. _____ and myself, referring to some of my complaints against him, to which I asked your attention, and concerning which I made certain requests.*

Those documents were returned to me by your Clerk, with a communication dated the 24th following, and with the explanation that "it is not in accordance with the spirit of the Book of Discipline, that the Church Session should be the depository of matters in controversy between brethren, which are not presented to them for their action;" and closing with the remark that "consequently it was not necessary for that purpose that the Session should read the correspondence."

I had hoped that the presentment of the case thus made by me, would lead to some informal action, which would change Mr. _____'s known purpose to join our communion, and thus save me the necessity of any further action in the premises ; but his persistence in coming into the Church, taken in connection with the time and manner of his doing so, has imposed upon me the necessity of more formally laying before you my complaints against him.

My own ill health since this event, and the well-known occupation of the time of the Session with other absorbing duties, has delayed this action hitherto. But having suffered much and long, and being still subjected to much wrong from the injurious and unchristian acts of Mr. _____, and he having persistently rejected all the usual means of reconciliation in such cases provided, I am driven to seek relief through you. My duty to myself, my duty to my family, and my duty to the Church, all demand this action at my hands.

I therefore now present the following complaint or charges against Mr. _____, upon which I ask your official action :

I charge Mr. _____ with Falsehood, Conspiracy, Slander or Defamation, and Hypocrisy or Disingenuousness—especially as practised toward me, and greatly to my reproach and injury ; and generally against the peace, honor, and prosperity of the Church at large.

FIRST. For the convenience of the Session and other reasons, I will now limit my charges of falsehood and defamation against Mr. _____, to the ten particular specifications as shown in the same number of extracts or quotations from a certain written document over his own signature, and as more

* This refers to the correspondence of March, 1860.

particularly set forth in the accompanying document or exhibit marked "A,"* which is the copy of a paper prepared in 1860 for other use, and which is now submitted herewith, as part of this communication and complaint.

The said extracts or quotations are from a certain written document dated the 23d of March, 1857, signed by the said — and others, and submitted by him and them to a number of gentlemen acting as a committee appointed to investigate and report upon certain imputations of official malfeasance made by me against some of the said parties.

And I charge that the said — did falsely, slanderously, and injuriously apply to me the said defamatory epithets and dishonorable imputations, with the design, as I truly believe, and as is plainly shown in the said document itself, to destroy my reputation and ruin my character in the estimation of those to whom the said communication was presented, and thereby to frustrate and defeat the faithful and honest discharge of the duties of the said investigating committee; and that such results did actually occur, very much to my disparagement and injury; and further, in consequence of the religious profession and general reputable character of the said —, and through his influence or example, several other parties, who knew nothing of the merits of the malicious charges so made against me, and who, from the existing circumstances, could not possibly know anything of them, were induced to sign the said documents, and thereby to add weight to the said false and malicious accusations, and to increase the evil designed against me.

I further declare that the said imputations and charges made against me † by the said —, and as shown in the accompanying document "A," in red ink, are *all false*, defamatory, and malicious; and that the most, if not all of them, must have been known to be so by the said —, when he signed and used the said document as aforesaid, and especially that one in regard to a quarrel with himself, the falsity of which was then a matter of legal record. ‡

I still further declare that when the said false and injurious report of the said investigating committee, based upon the said false accusations of the said — and others, was presented to a very large meeting of citizens, called by Mr. — and his associates, Mr. — was present, and voted for or consented to its adoption, and also for the resolution that it should be printed and published; that he was a member of the Board of Managers to whom it was referred for publication and distribution; that he assisted or connived at that libellous transaction; and that when appealed to, to suppress the said report, by certain parties who foresaw and stated that a bitter controversy must necessarily follow the said publication, and who promised on my behalf that the said suppression should end the said controversy, Mr. — did not use his influence, as earnestly requested, to suppress the publication and distribution of said report, and thus put an end to all difficulty between me and Mr. — and his associates; but the same was printed and extensively circulated by Mr. — and his associates, greatly to my injury, and to the mortification of many good men, both his friends and mine.

In proof of the foregoing charges, I propose to offer the testimony of —, § with such others as may be called for or needed in the progress of the trial, and also, as submitted herewith, the copies of correspondence with — and —, marked "B," and "C," | respectively, also two printed pamphlets marked "D" | and "E." |

And I shall also submit such other printed documents and original letters

* For these specifications, see the letter to Mr. —, where they are all quoted and explained.

† Shown in the correspondence.

‡ See a full exposé and refutation of all these calumnies in "Railroad Mismanagement," page 20 to 80 of that pamphlet.

§ For obvious reasons, the names of all the witnesses, amounting altogether to seventeen, are now omitted.

| Omitted in this publication as unnecessary in *this* case. "E" is the pamphlet "Railroad Mismanagement," &c., which can be had by any who are curious in such matters.

and writings as may be required to illustrate and establish my charges against the said —.

SECONDLY, I charge the said — with Hypocrisy, or Dissimulation, in this—that when I was earnestly striving by correspondence and otherwise for a reconciliation with him, while virtually he confessed the authorship and application to me of the injurious imputations contained in the extracts herein referred to,* he persistently declined to make any proper acknowledgment of, or apology for the same; and most uncandidly, guarded and qualified his language with “ifs,” and other hypothetical expressions, to such an extent as to nullify all his professions of kind feelings; and that while ostentatiously proffering his forgiveness to me of injuries which I had never inflicted upon him, and of which he had made no specification or complaint, he still persistently refused to submit all matters of difference between us to the arbitration of mutual Christian friends, as repeatedly proposed by me, upon the frivolous and disingenuous plea, that the state of his health and other engagements would not permit; his health at the same time being as good as usual, and, as was well known, he was then devoting much time to attending and presiding at political, temperance, and religious public meetings, both here and in Philadelphia. †

In proof of these latter charges, I submit the correspondence before referred to (Document “B”), and shall offer the testimony of —. ‡

As before remarked, the several documents herewith submitted and marked “A,” “B,” “C,” “D,” and “E,” are all offered as necessary illustrations and proofs of my complaints, and “A” and “B” are especially to be regarded as a part of this communication.

The originals of all letters and other documents will be produced when called for; and at the proper time I shall also make such further explanations of the injuries I have sustained and am still suffering from the wrongful acts of Mr. —, as circumstances may permit or demand.

I much regret that my well-meant efforts and the kind intervention of friends for a reconciliation with Mr. —, have failed of their purpose, and that the painful duty of preferring the foregoing charges against him is imposed upon me, and that the labor and unwelcome obligation of investigating them will now devolve upon you.

It only remains for me to request that you will give to the investigation the earliest attention that your other official duties will permit.

Awaiting your official action, and your notice or request for my attendance,

I remain very truly yours, &c.,

NEW YORK, April 21st, 1862.

NEW YORK, May 7th, 1862.

To the Session of the — — Presbyterian Church:

DEAR BRETHREN: Being unacquainted with the prescribed rules in such cases provided—when I submitted to you my complaint against Mr. —, I took the liberty, in the accompanying note of April 22d, to intimate the desire, that if any informality, irregularity, or omission should be found in my proceedings, that I might be informed, and have the opportunity to make a prompt correction.

I did not suppose, of course, that any opinion could be formed upon those points until my communication should have been formally received and read; and the precise nature of my charges, as presented, should be known.

But as questions were suggested to me yesterday by our pastor (your Moderator) whether my complaints were not barred by the statute of limitations, and whether I had adopted all the prescribed preliminary steps, &c., §

* See his letter, in the correspondence.

† See the correspondence with him.

‡ Names omitted for reasons before stated.

§ These “suggestions” were the cause for submitting this and the following communications to Session; and the “questions” raised and “suggestions” made, were not, by any means, confined to me.

I have been led to examine more thoroughly the rules governing the case, and I am satisfied that when the proper opportunity is given me, I shall be fully prepared to justify my course upon this, as well as upon all other points to be raised in course of the investigation.

While such inquiries may, quite naturally, arise in the mind of any one, I shall presume that no member of the Session will entertain any such doubts, much less express them to my prejudice, until properly informed of the nature and extent of my charges, which it is to be presumed no one of the Session at present knows; and which no one can fully understand and appreciate until the examination of some of the witnesses is had.

I avail myself of this opportunity to refer to an erroneous impression, which by some strange means seems to have obtained currency, viz., that the acts of Mr. ———, of which I complain, were provoked by previous unchristian acts on my part toward him;—such a conclusion would be utterly unsustainable by facts;—is highly injurious to my cause;—and will of course not be entertained by any member of the Session until the facts shall be submitted to justify such opinion.

I shall be pleased if an early day can be fixed to commence the investigation of my complaints,—in the mean time it seems proper, and it is my desire that they shall remain under seal until the Session can formally receive them.

If not regarded as intrusive, I beg to call the attention of the Session to the article ix of chapter iv of Book of Discipline, and remain,

Very respectfully, your Christian brother,

NEW YORK, December 12th, 1862.

To the Session of the ——— Presbyterian Church:

BRETHREN: Since addressing you yesterday, my attention has been directed to the embarrassments which are supposed to exist in the minds of some of your number, interposing obstacles to the consideration of my complaints against Mr. ———.

So far as practicable, I shall be glad to remove all such embarrassments. With this view, and with the desire to close my controversy with Mr. ——— before the first day of the new year, I propose, if Mr. ——— will promptly concur, to confine my charges and specifications to such papers as have been already laid before you, which shall be immediately submitted to Mr. ———; after three days he shall return them to you with his replies and counter charges, if any, which, in turn, shall immediately be submitted to me for three days; after which we will appear before you to be qualified, and mutually and reciprocally questioned by each other, and by the Session, for a period of time not exceeding, altogether, one evening or four hours. After which, one evening (not exceeding four hours) shall be devoted to argument, illustration, and appeals, by Mr. ——— and myself, in order; each being allowed and confined to the same time, when all the matters between us shall be submitted for the decision of Session, who shall render their decision before the first day of January next. By this arrangement, all appearance of witnesses and presentation of new charges will be avoided, and much time saved to the Session.

This will be a great sacrifice on my part, but I will cheerfully make it for your sakes, to avoid long and vexatious litigation, and to secure a final settlement, if possible, before the close of this year.

This proposition involves prompt action on your part, and your early response is requested; and if in the negative, I shall proceed to present such further charges and list of witnesses as I may have to submit.

Very respectfully, &c.,

No reply was received to the above, nor—as appears upon the Minutes—any other action, than that it “was read and placed on file.”

NEW YORK, December 17th, 1862.

To the Session of the — — Presbyterian Church:

BRETHREN: Referring to my two communications of the 11th and 12th inst., I now submit to you the additional specifications of charges against Mr. —, therein referred to, and also the additional lists of witnesses to be cited upon my complaints.

I am constrained to present these now, to guard against any objections which may be raised by any of your number, to any possible informality in my proceedings. Under my general charges against Mr. —, of dissimulation and conduct unbecoming a professed member of the Church of Christ, I add the two following specifications; viz.:

FIRST, that upon the appointment of a committee of three of your number in June last, to try to effect a reconciliation between Mr. — and myself, and upon their subsequent several efforts to bring about a meeting between Mr. — and myself and the said committee, while I cheerfully met with them at their request, and would gladly have met with Mr. —; and while I offered and stood ready to do anything which should be indicated by said committee as my duty to do, with a view to a settlement and reconciliation with the said —; he, the said —, declined all such friendly and Christian overtures, and peremptorily and persistently rejected all such proffered means of reconciliation, by refusing to meet the said committee or me; thereby manifesting the unchristian spirit herein complained of; and while professing to have no unkind feelings nor any complaints against me, he refused to confer upon our difficulties; thereby manifesting the dissimulation herein complained of as unbecoming a professing Christian and a member of the Church of Christ.

And I submit the names of Elders —, —, and —, as my witnesses in my complaint under this specification.

SECONDLY, I further charge the said — with dissimulation or insincerity, and with conduct unbecoming a professed follower of Jesus Christ in this: that during the forepart of the present month, at sundry times, between the first and twelfth days of said December inst., while one of your number, in good faith, and from the best of motives, was zealously trying to effect a reconciliation between Mr. — and myself upon Christian principles, and while the said — declared that he had no complaints against me, nor any unkind feelings, he declined and rejected the several reasonable and proper propositions submitted to him in writing, and otherwise, for an adjustment of all our difficulties upon Christian principles, viz.: 1st. In rejecting and refusing to write to me a simple, brief, and very general letter of regret, or recantation of wrongs, acknowledged in previous correspondence as done by him, with the condition and expressed willingness on my part, that I should address to him a corresponding note, and which it was understood should terminate all our difficulties. 2dly. In repudiating and annulling, the day after it was signed by each of us, viz., on or about the 9th of December inst., a written agreement to refer all our differences to a committee of reference of five mutual Christian friends, three of them named by himself, and two of them by me; the said agreement providing that no general reference should be had to old matters, and that but one evening should be occupied in presenting and arguing our causes before the committee, whose decision should be final and binding upon each of us, and which should not be published, but only used and shown to our mutual friends, in explanation of our settlement, &c. And, 3dly, that after said repudiation on the part of said —, and another amendment or proposition had been made on his behalf, viz., that I should confine all my complaints to be laid before said referees to the written correspondence between us, and which was then and now before the Session; and, after I had signified my acceptance of this third proposition, in writing, and had asked also in writing,—“Should all my propositions be finally declined, let Mr. — submit his ultimatum, to which I will promptly signify my assent or dissent,” &c.,—Mr. — did not only ignore and reject this my written acceptance of his supposed proposition, but in a manner and form uncandid, and greatly to my prejudice, pretended and endeavored

to convey the impression in his written reply, that *I* had rejected *his* proposition; and thus he closed the correspondence and my efforts for a reconciliation, while he at the same time ignored and left unanswered my call for his final proposition, which I not only expected from him, but fully intended, if possible, to accept; and thus, forever, to close our controversy. In proof of this last complaint, I submit the testimony of Elder —, —, and —, and the several memoranda and written agreements above referred to, and now in the hands of Mr. —.*

I also now submit the names of —, —, —, and —, as additional witnesses in the case of my first charges of conspiracy, falsehood, defamation, &c., heretofore presented against Mr. —.

Should any of the foregoing specifications be deemed superfluous, my brethren will please excuse such for the reason that I have been much embarrassed with intimations of objections to both the form and order of my proceedings, which have made more specific and prolix action on my part necessary.

Very respectfully, your brother,

NEW YORK, December 17th, 1862.

REV. —, —,

Moderator of the Session of — — Presbyterian Church:

MY DEAR PASTOR: Enclosed I hand you a communication for the Session of your church, which please lay before them at the commencement of the meeting this evening.

I avail myself of this occasion to refer to our brief interview of last Friday, and to renew the request I then so briefly made to you, viz.: that you would do me the favor, as far as practicable, to withhold the expression of your opinion upon the matters at issue between Mr. — and myself, at least until the Session shall have fairly discussed them, with the facts and evidence in their possession; and even then, so far as such expression would tend to the formation or undue influence of the opinion or action of others of the Session.

You may not be aware that your official position and your social connection with some members of your Session, give you great, if not undue influence over them. You may not be aware that your late free expression of your opinion, and your probable action in the matters referred to, have caused me painful feelings, and much embarrassment in my proceedings. These sentiments have been often expressed to you, both verbally and in writing. Perhaps I have erred in my views, or in my manner of presenting them to you. If in either, I beg your indulgence and forgiveness. I have the opinion that the presiding officer in any ecclesiastical court, who has the casting vote, is expected to be cautious in making known his opinions and determinations upon proceedings not yet examined or fully discussed, lest his known views and contemplated actions should influence others, and thus prejudice the cause submitted for adjudication, and perhaps help to form an unrighteous judgment.

Perhaps I am wrong. If so, I may still appeal to your Christian sympathy, and beg you to exercise towards me the precepts of the Golden Rule. You must be aware, my dear pastor, of my need of the sympathy of all my Christian brethren, and especially of my pastor. I do not ask or expect any favoritism; I ought not to expect or to fear any favoritism to be manifested for my opponent. May I not have the assurance or hope, that you and all the brethren of the Session, will enter upon the investigation of the matters submitted by me, unprejudiced and uncommitted to any decision.

I know that many are still in that proper state of mind, and I shall be glad to know that all are so disposed.

Do not misunderstand me, my dear pastor. I know both the strength of

* Since this communication was submitted to Session, I have succeeded in obtaining copies of all the memoranda and letters, and also the agreement referred to above, which was so abruptly repudiated and destroyed by Mr. —.

our predilections, and the weakness of poor human nature; and I do not mean to imply any censure; but I do desire a fair, impartial examination of the complaints submitted by me, and to that end, I have addressed you this note, and remain

Respectfully your Christian brother,

I hereby certify the foregoing to be a true and correct copy of the original communication addressed by Mr. — to Rev. —, Moderator, &c., which was accompanied by a communication to Session of — Presbyterian Church, of the same date (Dec. 17th, 1863), from Mr. —, of which he has a certified copy.

[Signed]
NEW YORK, January 15th, 1863.

—, Stated Clerk of Session.

"From the Minutes of the Session of the — Presbyterian Church in the city of New York.

"Session met in the lecture room, Tuesday evening, May 27th, 1862; present, Rev. —, Moderator; Elders —, —, —, —, —, —, —, and —. Opened with prayer. Minutes of the previous meeting were read and approved.

"A communication addressed to the Session by Mr. —, a member of this church, was read in part, when, the hour of adjournment having arrived, the meeting was closed with prayer.

"—, Stated Clerk."

At the meeting June 5th. * * * "The communication of Mr. — was taken up and read entire, whereupon the following preamble and resolution were adopted:

"Whereas, Certain papers and documents have been presented to the Session by —, a member of this church, in relation to certain matters of variance between him and —, also a member of this church, desiring the official action of the Session thereon; the Session, without in any way committing themselves to any future action in this case, do hereby

"Resolve, That the said matter, together with the said papers and documents, be referred to a committee consisting of Elders —, —, and —, with power to confer with the said brethren separately and jointly, with a view to a reconciliation of the matters in difference between them, and report thereon to the Session. Adjourned," &c.

The next minute is October 20th. * * * "The committee appointed to confer with Messrs. — and —, reported that they had been unable to accomplish the object for which they had been appointed. The report was adopted, and the committee discharged. Adjourned with prayer," &c.

Next meeting, October 29th. * * * The communication of Mr. — having been called for, it was read and discussed up to the hour of adjournment, without any action being taken thereon. Adjourned," &c.

November 4th, 1862. * * * "Session resumed the discussion of the communication of Mr. —, but without coming to any conclusion,* gave way to an adjournment with prayer."

December 12th, 1862. * * * The Moderator presented two communications † from Mr. —, bearing date December 11th and December 12th, which were read and placed on file. Adjourned," &c.

December 17th, 1862. * * * "Present, —, Moderator, Elders —, —, —, —, —, —, —, and —. Opened with prayer.

* This adjournment was to allow Brother — to make that final effort, in which he succeeded in getting the agreement signed by the parties and witnessed, and which Mr. — the next day repudiated and destroyed. See the agreement.

† See these several letters immediately preceding. No formal notice was taken of either, although one contained new charges and specifications.

The minutes of the previous meeting were read and approved. The Moderator presented a further communication* from Mr. — of this date, which was read and placed on file. Session then resumed the consideration of the several communications of Mr. — in reference to Mr. —, which resulted in their unanimously adopting the following resolutions:

"Resolved, That in view of all the circumstances of the case, and in the exercise of the discretion enjoined upon the Session in our Book of Discipline, it is inexpedient for the Session to entertain the charges and specifications of Mr. — against Mr. —, and that the same are hereby dismissed.

"Resolved, That the Clerk be authorized to communicate the foregoing decision to Mr. —."

[The expediency of preparing a minute to accompany the above resolutions was deferred to the next meeting of Session for consideration.] †

December 22d, 1862. * * * In accordance with the suggestions made at last meeting of Session, it was *Resolved*, That a committee be appointed to prepare a minute or reference to the resolution adopted at that time, in the matter of Messrs. — and —, and report thereon. Messrs. —, —, and — were appointed the committee. The Moderator presented a communication from Mr. —, dated 20th inst., notifying the Session of his intention to appeal from their decision, in his matter with Mr. —, to the — Presbytery of New York, and requesting a copy of all the proceedings had by the Session in that matter—which was read and placed on file; whereupon it was *Resolved*, That the Clerk be authorized to furnish Mr. — with copies of the proceedings, and all papers referred to therein, which he may desire.

"Resolved, That the Clerk communicate to Mr. — the foregoing minute.

"Adjourned with prayer to Friday evening, 26th inst."

December 26th, 1862. "Present, Rev. — —, Moderator; Elders —, —, —, —, and —. Minutes of previous meeting read and approved. The committee appointed to prepare a minute in reference to the resolution adopted on the 17th inst.—in the matter of Messrs. — and ——presented their report, which was accepted and adopted."

Here are distinct charges and specifications presented to Session for adjudication, after reconciliation seemed impossible, either by personal correspondence or through mediation, proposed by one of the parties, at different times and in different ways, and attempted by Committees of Session.

These charges are serious, such as, if proved, would deeply implicate the Christian character of the accused, and if not proved, or discovered to be without foundation, should subject the accuser to disciplinary reproof.

Session, in exercise of its prerogative, read the papers put into its hands, not embracing the testimony and evidence, but only the charges, necessary illustrations, and argument on the formality and validity of said charges. Discovering a serious wrong somewhere existing between these brethren, the Session endeavors, by various means, to bring them into a state of brotherly love.

An agreement for settlement is signed, but very soon abandoned,

* See the second footnote on page 22.

† This paragraph, now in brackets, is the one in the original book of minutes, interlined into the foregoing resolution, in pencil—five days after that resolution had been approved and served on me—and before referred to as "interpolated minutes."

on the erasure of the name of the accused by himself, without the consent of the other. A judicious and facile plan, devised by an eminent D. D., is offered to the Session, but was either not acted on, or failed of the desired result. Whereupon the Session finally dismissed the case, without a judicial hearing.

It must be apparent, that, as far as the matter was before the Session, in the documents read, and herein quoted, the complainant in the case took especial pains to bring the matter to an amicable termination, by various propositions of his own, and intervention of others. His own proposals rejected or misunderstood, he asks for the "ultimatum" of the other party. A member of Session also interceded with the accused, and its Committee invites him to an interview, but all in vain. (See "New Phase," p. 54.)

The fact of an offence still stood glaringly before the Session, and is recognized in their proceedings with the parties. In order to a reconciliation privately and by personal effort, they would act. To proceed judicially they would not.

Was the action of Session, in dismissing the case and refusing to proceed judicially, justifiable?

It ought to be noted, in the first place, that there is a manifest confusion of ideas and of action, on the part of the Session. They themselves, by Committees, after reading the charges and specifications, interpose, in the way of personal appeal to the accused, evidently feeling that there was an offence to be removed. Successful, so far as to get an agreement signed between the parties, to refer to mutual friends, that was annulled by the erasure of the name of the accused by himself, without knowledge of the other party, the next day after the signature. Thereupon, the Session dismissed the case thus: "Resolved, That in view of all the circumstances of the case, and in the exercise of the discretion enjoined upon the Session by our Book of Discipline, it is inexpedient for the Session to entertain the charges and specifications, and that the same are hereby dismissed;" and "that the Clerk be authorized to communicate the aforesaid *Decision* to —."

It is evident that Session did not take up the case judicially, in the constitutional sense of that word; that is, the parties were not summoned, nor notified of procedure, were not cited, nor were witnesses heard, nor were pleas entered, nor was there a vote of Session on the question of guilty or not guilty of all, or of any of the charges. Yet Session did enter on the consideration of the case, as recorded in a minute of Jan. 29th, 1863. "The Session have *carefully considered* the whole subject during a period of *several months*," about seven, it would seem from their Records. How "carefully" the charges were considered does not, of course, appear; but it is presumable, from the recorded result, in connection with the various efforts to effect reconciliation, that the great

question was how to dispose of the case without regular process of trial ; for, during all this time, no testimony seems to have been heard, or if so, it must have been *ex parte*.

It becomes, therefore, a necessity for us to inquire whether the decision of Session was correct or not. Charges, with specifications, were made "in due form," as appears from their Records, with offer of testimony and witnesses ; and this, after all previous means of reconciliation, required by the Book and by the Law of Christ, had "been used." "*All the circumstances* of the case" were "in view," when the final decision to dismiss was made. Whether or not *all* the circumstances essential to a proper decision were in view is not very clear ; nay, the contrary seems rather probable, inasmuch as witnesses were not heard, and the accused party did not appear, except in the position of refusal to submit the case to referees of his own choice.

Again, the final resolution of dismissal is based on "the exercise of the discretion enjoined by our Book of Discipline." Chapter i, art. v, the place referred to, reads thus : "The exercise of discipline in such a manner as to edify the Church, requires not only much of the spirit of piety, but also much prudence and discretion. It becomes the rulers of the Church, therefore, to take into view all the circumstances which may give a different character to conduct, and render it more or less offensive, and which may, of course, require a very different mode of proceeding in similar cases, at different times, for the attainment of the same end."

It must be noted here : 1. That the Book does not "enjoin" the *exercise of discretion* ; but "the exercise of *discipline* requires much discretion." 2. The Session seems to have mistaken the meaning of this article, in making it a ground or reason for its exercise of discretion. They exercised a discretion entitling them, as they judged, to dismiss a case of charges entered in due form before the Court. Now there is no such discretion in the Book. Let us see. *a.* Chap. i, art. i : "Discipline is the exercise of *authority*, the application of *laws*." Substitute in art. v, for discipline, its definition thus given, and we shall find the sense of art. v. "The *exercise* of AUTHORITY and the *application* of LAWS require much discretion." This, certainly, can only refer to actual, active discipline ; to cases, in which authority is to be felt, and laws are to be applied, in the punishment of offenders. *b.* "Circumstances may render conduct more or less offensive, and may require a very different mode of proceeding, in similar cases, at different times." *A different mode of proceeding, in similar cases.* How can this be applied, at all, to the refusal to try a case. But, on the interpretation supposed to be correct, the whole is clear and sensible. An offence may be more or less heinous, or the conduct may be more or less of an "offence." This must be determined by a prudent discretion, and, thus discriminated, similar cases

may require, at different times, different modes of proceeding with the offender. For example: Falsehood or defamation may be provoked or not; may be more or less hurtful in its effects, and therefore a different dispensation or application of law would be required. Here would be exercise of authority and application of laws, i. e. *discipline*, in the sense of the Book. c. "Take into view all the circumstances which may give a different character to conduct." That is, on taking up a case, for the "exercise of discipline" (which is the subject of the art.), consider "all the circumstances" bearing on the conduct complained of, and now to feel the exercise of authority, in order to determine the precise quantum of penalty. It does not, surely, mean that these circumstances are to be taken into view, in order to determine, before taking up the case, whether the conduct is or is not such as the complainant declares.

There is, in fact, no discretion to refuse to hear charges tabled in "due form," as was the case with those under consideration, but only to ascertain whether they are regular or not. Book of Dis. ch. iv, art. i: "When all other means of removing an offence have failed, the judicatory to which cognizance of it properly belongs, *shall judicially* take it into consideration."

This is so plain that "the wayfaring man, though a fool, need not err therein." Only two points require notice. *First*: Was there "an offence?" This is conceded by the Session. *Secondly*: Had "all other means of removing it" failed? This the Session equally concedes; or at least, its proceedings and the documents render it indisputable. The conclusion, therefore, follows: the inexorable demand on Session, that it "SHALL JUDICIALLY take" the subject "into consideration." An offence exists. All other means of removing it have failed. Then, or therefore, the judicatory is bound to judicially take it up, or to proceed to trial. The statement is so authoritative, the duty so incumbent, that it seems unaccountable that the imperative injunction should have been overlooked or disregarded.

Is it presumable that any Session or any Moderator of Session entertains the opinion that a Court of Jesus Christ, in the Presbyterian Church, can, in the exercise of an unlimited discretion, annul a specific law of that Church, laid down in its Book of Discipline? This were an assumption of prerogative, or an usurpation of authority, not only utterly unknown to the Constitution of the Presbyterian organism, but utterly subversive of its fundamental principles. That Church, in its organization, is essentially and emphatically Republican, not Democratic, guarding *the rights* of the church members, by a well-adjusted representative system.

But if any one of its courts can, at its own discretion, say: "Although commanded by the supreme authority to proceed to adjudicate a case, we, in this particular case, judge it indiscreet to proceed to

trial," there is an end of law and constitution, a revolution of the church organization, an arbitrary usurpation of power, an annihilation of the rights of the people, the installation of an irresponsible oligarchy.

The article on which I am now remarking, also, ch. iv, art. i, decidedly confirms the interpretation given to art. v, ch. i, because it is utterly inconsistent with that other rendering of it, which gives to a court the option, in its discretion, of judicially considering or dismissing charges tabled in "due form." It were equivalent to this: "When all other means fail, you *shall judicially* take up the case; yet, in your discretion, however, you *may not*. You can dismiss it." The two articles cannot be read consistently, and give to art. v, ch. i, the sense adopted both by Session and Presbytery, to wit: that there is unlimited discretion in the court, liberty to take up or to dismiss a case like the present, which involves all the precedents, demanding actual process.

It is very evident that the Constitution never conferred on any of its courts the right to dismiss regularly tabled charges, and thus, by possibility even, to deny to the humblest of Christ's little ones, the privilege of a fair and full hearing in presence of the offender. It is the loosest of loose constructions so to read the book.

And assuredly it will not be contended here, that, although Session did not try the case, yet it did, in a sense, "judicially take it into consideration." The heading or title of chapter iv, "OF ACTUAL PROCESS," and indeed the entire chapter, forbids such an understanding of these words, quoted from its first article. So does the action of Presbytery on the case, for that is founded on the fact that there was no judicial consideration, "no trial on the merits." Yet one can scarcely fail to notice great confusion of ideas in the proceedings and minutes of the Session, on this subject; at one time acting as if judicially, at another as if mere counsellors, quoting from articles referring only to judicial action, and applying them to their own action, which they pronounce not judicial.

There would be a question, in some minds, whether the charges were not really judicially considered, as they were so formally taken up, and the documents read and *discussed* at length, and a *decision* pronounced in regular form. If so, these reasons, at length, for the decision are required to be given in the record, which, although not at the time, was subsequently done by the Session; thus conforming to the requisitions of the Book, in cases of actual process begun, whilst they deny that this was their course, and represent their proceedings as only prefatory to efforts for private "reconciliation"; and failing this, as only adjutory to their "exercise of discretion" in dismissing the charges. See *Letter of Stated Clerk*, April 21st, 1863, paragraph fourth, p. 53 of "New Phase."

If the "discretion enjoined" be represented as founded on ch. iv, art. iv, then Session dismissed the case on one or more of the grounds

therein specified, and would thus implicate the complainant as a man of "malignant spirit," or "not of good character," or as "deeply interested in the conviction of the accused," or as "litigious, rash, or highly imprudent." But the Session totally and repeatedly disavow any such reason for their "exercise of discretion" in the dismissal of the case. In the Minutes of Dec. 26th and of Jan. 29th, and also in the Letter of Stated Clerk above quoted, the highest expression of confidence in the Christian character of the complainant is recorded. "On no point were the Session more united than in expressing their entire confidence in the Christian character of the brethren whose case was before them." The Session unanimously, cheerfully, and frankly state that their action was not based upon "*anything* objectionable in your Christian character."

On the other hand, the reasons recorded in the Minutes are not such as are embraced in the aforesaid article of the "Book of Discipline," which represents "great caution" as necessary; and, consequently, must have been based either on a general exercise of discretion, presumed to be granted in ch. i, art. v, or as an attribute of humanity always in place.

The suggestion, by some one, that a Session is the counterpart of a Grand Jury, is scarcely worth a passing notice. It is sufficient to say, that our church *has no such body*, without adverting to the marked dissimilarities between the two organizations.

UNESSENTIAL POINTS.

The Session might be censured: 1. For not giving sufficient prominence, in their Records, to the fact that regular charges, with specifications and offered testimony and witnesses, were before them.

2. For omission to note their own efforts and those of complainant and others, to effect a reconciliation, and the reasons of failure.

3. For the opening of the subject and correction of the Minutes after the case had been decided, and appeal and complaint made to the Presbytery. See "New Phase."

4. For omission to act on a proposition for settlement devised by a prominent D. D. of the Presbyterian Church.

5. For grounding their exercise of discretion on the "origin, nature, long standing and peculiar history of the case," and, perhaps, at the same time, misunderstanding the position and claim of the complainant.

6. For even intimating, that wrong done "officially" or in conjunction with others, in a corporate capacity, can, in the least degree, detract from the wrong, or shelter the offender.

PRESBYTERIAL PROCEEDINGS.

The prosecutor, in this case, having failed to get a hearing before the Session, carried up his case, by Appeal and Complaint, to the Presbytery.

To the Rev. _____,

NEW YORK, Jan. 3d, 1868.

Moderator of the _____ Presbytery of New York:

REV. AND DEAR SIR: The undersigned respectfully represents, that on the 19th of Dec. last, he received from the Clerk of the Session of _____ Presbyterian Church a paper, of which the following is a copy, viz.:

"_____, Esq.:

"NEW YORK, Dec. 18th, 1868.

"DEAR SIR: I am authorized by the Session of the _____ Presbyterian Church to communicate the following resolution to you, passed last evening:

"*Resolved*, that in view of all the circumstances of the case, and in the exercise of the discretion enjoined upon the Session by our Book of Discipline, it is inexpedient for the Session to entertain the charges and specifications of Mr. _____ against Mr. _____, and that the same are hereby dismissed."

"Attest,

"_____, Stated Clerk."

The undersigned begs leave to *appeal* from this decision, and to *complain* of the action of the Session in the case, for the following reasons, viz.:

First, because the record or minute of said decision is informal and incomplete, inasmuch as it does not properly designate either party to the complaint referred to; nor does it give the reasons for the said decision "at length," as is enjoined in our Book of Discipline, chapter iv, section xxiii.

Secondly, because no proper or fair investigation of the said charges was ever had, no opportunity ever having been given to the undersigned to appear in person to explain, or with witnesses to testify in the said case, as was often requested by him. (See his several communications to the Session, now referred to Presbytery.)

Thirdly, because there was, as appears to the undersigned, a manifestation of great prejudice and partiality in the case on the part of certain members of the Session; first, in that while the said charges were virtually acknowledged by the said _____ in a correspondence (copies of which were before Session, and will be referred or submitted to Presbytery) twice commenced by the undersigned, to effect a reconciliation upon Christian principles—and while in that correspondence the undersigned made various and repeated offers for a reference of all matters of difference to the arbitrament of mutual Christian friends, which the said _____ persistently declined, no notice is taken by the Session of any of these facts, and their decision is rendered and recorded without any reference to these conciliatory acts; and 2dly, in that while my said charges and complaints were under consideration, namely, on or about the 5th day of June last, in conformity to my suggestions in my communications to Session, they appointed a committee of three of their own number "to confer with the said brethren separately and jointly, with a view to a reconciliation of the matters in difference between them, and to report thereon to the Session;" and while, at the request of the said committee, I cheerfully met with them, and would gladly have met with Mr. _____, and while I promptly assented to every expressed request, and offered and stood ready to do anything which should be indicated by said committee as my duty to do, with a view to a settlement and reconciliation with the said _____, and while the said _____ declined all such friendly and Christian overtures, and persistently rejected all such means of reconciliation, by refusing to meet either the committee or me, and while these facts were all stated to, and fully known to the Session, their minutes, under date of October 20th, only show the record "that they (the committee) had been unable to accomplish the object for which they were appointed." ("The report was accepted and the committee discharged,") and the Session thus concealed or ignored all these important facts in their proceedings, and left it to be inferred that the undersigned was wholly, or mainly, or equally guilty of contumacy, and of a refractory disposition, and equally amenable to the discipline and censure of the church, as is enjoined in our Book of Discipline, chap. iv,

secs. 9 and 10; and by the same acts the Session withholds from the undersigned the credit, to which he would seem to be entitled, for his known willingness at all times to adjust all these unhappy differences by reference to mutual Christian friends. In proof of all of which the undersigned refers to the Minutes of Session, and to the testimony of Elders —, —, and —, and other members of said Session. And the undersigned especially and earnestly complains of the aforesaid action of the said Session, and respectfully asks that their said partial and unjust action may be corrected, and that their minutes may be ordered to be amended and recorded so as to truly and fairly represent the proceedings in the case. And 3dly, in this, that subsequently while the said charges were under consideration, viz., on or about the 6th day of November last, their further discussion was postponed to allow one of the brethren, informally, to make another and final effort for a friendly adjustment of the said difficulties; and that while, after much kind and long-continued effort on the part of said brother, a plan of reference was agreed upon, reduced to writing and signed by all the parties, and which was subsequently annulled and destroyed by the erasure of his name by the said — without the consent or knowledge of the undersigned, and the peremptory closing of the said negotiations by the said — in writing, offering therefor reasons which did not exist, and misstating my position in the case; and that after said facts were made known (verbally reported) to the said Session, no reference to the same appears upon their minutes; but the whole is ignored, and the subsequent decision of Session is rendered as if none of these conciliatory acts of the undersigned, and none of the refractory and contumacious acts of the said — had ever come to the knowledge of the said Session. In proof of these last allegations, should it be required, the testimony of the brother above referred to, and other members of the Session, will be offered, and reference will be made to the memoranda and correspondence in the hands of the said brother and myself, and to the Minutes of Session.

Fourthly, because the said decision of Session is unjust and greatly injurious to the undersigned, and unauthorized by the Book of Discipline, which nowhere "enjoins" an unlimited and unqualified plea of "inexpediency" to govern decisions in such cases.

Fifthly, because the reason assigned for such decision, viz., "in view of all the circumstances of the case," &c., is, without some qualification, calculated to do great wrong, and to bring reproach and contempt upon the Church of Christ, inasmuch as it leaves it for each one to imagine and assign reasons injurious to the undersigned, or Mr. —, and prejudicial to the honor of the church, as will be more fully suggested to Presbytery by the undersigned.

For all the foregoing reasons, and for such other causes, explanations, and evidence as will be submitted, the undersigned *complains* of the actions and minutes of said Session as unjust and very injurious to his Christian honor and reputation, and reproachful to the Church of Christ; and he *appeals* from its said decision to the said — Presbytery of New York, and asks of that reverend body to reverse the said decision in the court below, to order a correction of their records and minutes, and to take such further action in the premises as will vindicate the Christian honour of the undersigned, and save the Church of Christ from further contempt and reproach.

I am, reverend and dear sir,

With very great respect,

Yours, &c.,

SUPPLEMENTAL COMPLAINT TO PRESBYTERY.

REV. ———,

NEW YORK, January 10th, 1868.

Moderator of the — Presbytery of New York:

REV. AND DEAR SIR: Having yesterday received from the Session of the — Presbyterial Church, the minutes of their proceedings in the case of my charges against Mr. —, it now becomes my duty, in consequence of

the numerous irregularities and errors in said proceedings and minutes, injurious alike to my Christian honor and to that of the Church of Christ, to submit the following additional complaints, which you will please consider as supplemental to my appeal and complaint submitted to you on the 3d instant, and to be laid by you before the — Presbytery of New York.

FIRST. I complain, that while I submitted to said Session specific and grave charges and complaints (and, as their minutes say, *in due form*), with the simultaneous presentation and offer of abundant testimony to sustain them—embracing no less than twelve distinct communications and documents—their minutes refer to them generally, *only* as “the communication of Mr. —,” and once only as “certain papers and documents * * * in relation to certain matters at variance between him and —,” thereby ignoring and suppressing from their records the important fact that grave charges had been presented by me against —; and then, when resolving to appoint a committee to confer “with said brethren,” they take pains to record that “the Session, without in any way committing themselves to any future action in this case, do hereby resolve,” &c. (see Minutes of June 5th), thus manifesting their partiality and their early determination not to enter upon an investigation of the case, greatly to my prejudice, and to the reproach of said Session.

The subsequent corresponding action of the Session, in not entering upon their minutes the report of the Committee so appointed, “at length,” as enjoined by our Book of Discipline, was referred to in “my appeal and complaint,” of which this is a supplement, and to which I now refer.

SECONDLY. I complain, that after the Session had, without any reasons assigned, declined to entertain my charges against Mr. —, and had formally “dismissed” them, and had served on me official notice of their said decision without reasons, and I had presented to them and they had received my formal notice of intention to appeal from their said decision, they subsequently, viz., on December 22d, five days after their said decision was rendered, and the case was dismissed, and three days after my notice of appeal was served upon them, reopened the case, and appointed a committee “to prepare a minute or reference to the resolution,” &c., &c.; after the entry of which minute of the meeting of December 22d, there were interpolated in the minute of December 17th, *in pencil*, the words following, viz.: “The expediency of preparing a minute to accompany the above resolution was deferred to the next meeting of the Session for consideration;” and upon the 26th following, or nine days after the said decision was rendered and the case was dismissed, the said committee reported to Session a “minute or reference,” which was approved and adopted, and to which I beg the attention of Presbytery as it now stands upon the records of said Session.

In proof of all the specifications in this complaint, I refer to and offer the said book of minutes, and the testimony of —, Stated Clerk of Session, and the several Elders, members of said Session.

THIRD. I complain of the great inaccuracy of the aforesaid supplemental minute, and of its lamentable misrepresentations of the facts in the case referred to—and of the great wrong and injustice thereby done to me, and to the honor of the Church of Christ.

1st, in this: That the assertion in the said minutes, that “the charges in question are based upon a certain report made in the year 1857 by the managers (of whom — was one) of a commercial corporation to its stockholders,” &c., &c., is a statement wholly unsustained by the facts as they exist, and as they were clearly and explicitly stated by me in my said complaints, as then and now in the possession of Session.

2d. The allegation that I had “failed in my efforts for the adjustment of my alleged grievances before the Board of Managers,” &c., is equally incorrect and unwarrantable, and insinuates actions and motives on my part which never existed.

3d. The further statement in the said minute that “the Session made the appropriate efforts toward a reconciliation of those brethren without success,” without stating the fact well known to the Session that Mr. — was wholly responsible for this failure, he alone being contumacious and refractory, and

he alone refusing to meet and treat with the committee appointed for that purpose, is a great manifestation of partiality, and injustice to me.

4th. The expression in the same minutes of the continued "confidence of the Session in the Christian character of both these brethren," while the grave charges "duly submitted" by the one against the other, with their appropriate proofs and tender of witnesses, are still in the hands of the Session uninvestigated, seems to be not "in accordance with any discretion enjoined in our Book of Discipline."

While the thought cannot for a moment be entertained that any considerable number of the said Session would knowingly and willingly so misrepresent the facts so clearly and specifically presented as were my charges against Mr. —; yet all must admit that such carelessness in their statements, so many errors and omissions in their records, and such failures to avail themselves of information and evidence so constantly pressed upon them, show most conclusively that no "careful consideration of the subject" could ever have been had; and justify me in asking that all of the said Minutes after the resolution dismissing the case, including the words interpolated, as herein explained, may be expunged from the records of the said Session; or failing to grant me this, that the said records may be ordered to be so revised and corrected as to conform to a true statement of the facts in the case, and to a fair representation of the proceedings of the said Session; and the undersigned further requests that Presbytery will adopt such other action in the premises as will secure to him that relief and justice of which he believes he has been deprived in the court below.

I am, reverend and dear sir, with very great respect, yours,

It appears from the minutes of Presbytery, that "the General Rules for Judicatories" were adopted for the government of Presbytery for this session." This was opposed by a member, as *ex post facto*, and objected to by the complainant in this case.

In conformity with rule xl, a Judicial Committee was accordingly appointed by Presbytery, composed of six of its prominent members. To this Committee, on motion, the appeal and complaint was referred. After a long absence, the Committee reported as follows:

The Judicial Committee, in this matter, deem the following principles and facts to be relevant, as well as important and obligatory:

1. An appeal or complaint presupposes a trial on the merits of the case, with a result; which result is identified with the "decision," from which alone the transfer of the case to a superior jurisdiction is recognized by our Book.

2. As there has been no trial on the merits of the case, no appellate jurisdiction can as yet be invoked.

3. When a case is preferred to the court of first resort, said court is to consider whether it is proper to institute trial or to dismiss it, as our Book of Discipline, chapter iv, section iv, and in other places, both recognizes and enjoins.

In the exercise of Christian discretion and prerogative, the court below appears to have solemnly and unanimously determined against judicial action on its merits, and so have recorded their opinion with sufficient fulness, as previous to any action on the merits of the case. Hence, the committee find and recommend that the matter be dismissed.

And the Report was adopted.

The Report consists of four "principles and facts," deemed by the Committee "relevant, important, and obligatory." The facts are these:

“There has been no trial on the merits.” “The court below determined against judicial action.” The principles, the following: *a.* “An appeal or complaint presupposes a trial on the merits, with a result,” or recorded “decision,” and from such a decision “alone (*only* they meant) the transfer of the case to a superior jurisdiction is recognized by our Book.” *b.* The “court of first resort is to consider whether it is proper to institute trial or to dismiss the case.” *c.* The dismissal of the case by Session was an “exercise of Christian discretion and prerogative.” The facts are granted; the principles not. The last, respecting “discretion and prerogative,” has been sufficiently discussed, and it is thought disproved, under Sessional Proceedings (pp. 24–28). The second, also, has perhaps received as much consideration as it merits, especially in the remarks on arts. i and iv of ch. iv. It may be additionally said, however, that the assertion of such a principle of unrestricted option would render the Session an irresponsible power, and station it, at the gateway of Zion, as an arbitrary guard, not wielding the sword of justice, but brandishing the weapon of tyrannic rule. The poor man must needs fear to approach, with his humble petition, for right and justice, and every man, whatever his position, must be at the mercy of the guard. They have only to say: “Enter thou canst not,” and he is shut out from all complaint or appeal. If the action of a Session is beyond control; if, in a case implicating moral character, and the standing of church members, and the interests of Christ’s kingdom, it can just decide not to try the case, and thus exclude the possibility of justice, it usurps sovereignty; and that sovereignty becoming arbitrary, it might rule with a rod of iron, and crush out the life’s blood of Christ’s body, the Church. Caution, it is true, is essential in the exercise of all powers, of all authority; but even that caution is to move within a circumscribed limit, to keep within its well-defined orbit, and not to become eccentric. The centripetal force, binding it to its proper centre and circumference, must not be overcome by the centrifugal, carrying it off in a tangent beyond its proper relations, and thus disturbing the order and harmony of the whole system. The first principle, however, reasserted in the second clause of the Report, as applicable to the case, is that one of the three, which demands special notice, under the present head of proceedings. “There can be no appeal nor complaint of any proceedings or *decision*, except the final result of a trial on the merits of a case.”

A unanimous vote of Synod, without discussion, has already pronounced this principle or assertion of the Committee, to be “false and erroneous,” anti-presbyterial and unconstitutional. Yet, having the sanction of such names as constituted the Committee, it might seem to require some elucidation. How it was possible to limit the “*transfer*”

(for that is the word used in the Report) of a case from a lower to a higher court, to the "result" of a regular trial, and pronounce this the equivalent or synonym of the word "decision," is hardly conceivable. The opinion of the Committee, however, was given by several of its members, during the discussion of the Report, which was limited to the first two paragraphs, or the principle now before us. The advocates of this interpretation, contended that, in the Session, there was no trial on the merits, consequently no result, consequently no decision such as would authorize an appeal; that the papers offered by the party appearing, were an appeal, and consequently to be ranged under ch. vii, sec. iii, "Of Appeals"; that this section, in its several articles, evidently contemplated a trial, by using the terms, "cause," "trial," "sentence," etc., attributives implying regular hearing of the case, and a decision in the form of a judicial sentence, or judgment.

There can be no question, that the term "decision," in several articles of this section iii, ch. vii, is "identical" with a final resolution or recorded result of a regular trial: and yet it is equally evident, from art. iii of this section, that a proceeding, in certain cases, may be so nearly identical with a regular trial, as to be subject to the same rules: e. g. "declining to receive important testimony; hurrying to a decision before the testimony is fully taken." The party accused might not be cited to appear, nor any witnesses; and thus the accuser be under trial with but a partial hearing or reading of his case, and the decision become, to all intents and purposes, a judicial decision, from which the party, whose case is thus dismissed, should have full right of appeal.

Even granting, however, that, in this case, there was no right of appeal, strictly speaking, it can hardly be seriously maintained, although gravely and positively asserted by the Committee, in their first principle, that a party thus summarily dismissed cannot even make "complaint" to a higher court: in other words, that there is no appellate jurisdiction. This principle once adopted, and there is an end of all justice; a subversion of all Presbyterial rights.

What consequences must directly follow? Let us see. Appeal is excluded. Complaint excluded. Reference, of course, does not apply. Review of Records fails to meet the cases. No other process is left, under our Book. Hence follow, irresponsibility, independence, absolutism of the Session. Oligarchy for Republicanism. Unlimited powers and prerogatives for limited. Tyranny for Justice. Revolution for Order.

Another logical, but monstrous, consequence from this new principle is, that every kind of decision of a lower court, except a judicial sentence, is exempt from "the review of a superior judicatory," notwithstanding the emphatic declaration of the Book, that "EVERY KIND of decision which is formed by any church judicatory, except the highest, is subject to the review of a superior judicatory, and may be carried before

it, in one or the other of four ways," those above specified. Put the Committee's principle in juxtaposition. "Only a decision, which is identical with the result of a trial on the merits, can be transferred to a superior jurisdiction." A rather positive contradiction of the statement of the Book.

That the dismissing resolution of the Session was a "decision" of some kind is indisputably evident, and so denominated by Session itself; and that it was a decision of such nature as to authorize its being "carried before" a superior judicatory, by way of complaint, is equally clear.

Yet, in the face of all this, the Presbytery, by dismissing both complaint and appeal, upholds the action of the Session, and erects around it an impassable barrier. Let your decision only be anything but one resulting from a regular trial, and your action is above and beyond review or correction. There is no appellate jurisdiction. The party aggrieved cannot appeal, nor complain; and certainly "Reference" is not in his power, as that belongs, not to individuals, but only to judicatories: and "Review" of Records does not bring up the case. Thus the principle of the Report not only contradicts the Book, in its provision that "every kind of decision may be carried up," but equally so in its other provision of four ways; for, in such case as the present, it excludes every one of them, denies all; leaves absolutely no way.

How monstrous all this is in principle, or want of principle, could easily be made manifest in practice. Suppose a party in a church, matrimonially connected with the pastor, and through him, with others of note and influence, guilty of evident malpractice, in his relations with another member of the church, should be charged, by the latter, with this unchristian conduct, and the case be brought before the Session, for official action, then could the Session, perhaps to avoid an excitement or for other reasons, suppress the whole matter, and leave the aggrieved party utterly helpless, and deeply wound the cause of Christ.

UNESSENTIAL POINTS.

1. The brevity of the minutes, in such a case, is rather to be deplored, although it is true that only results are usually recorded.

2. A dismissal of the complaint, without a hearing, because the inferior court chose so to determine the case.

3. The fact that, the case having been committed to the "Judicial Committee," whose duties are clearly defined, that Committee, whilst proclaiming the case not a judicial one, and not reporting the process of procedure as required by the Book, yet acted judicially. Some would have presumed that they should have simply reported the case back to Presbytery, as not falling within their province. Otherwise, if taking it up judicially, they should have reported simply, in conformity with the Book: "Rules for Judicatories"—No. 40.

4. The omission by both the Committee and Presbytery to call for the "documents," which had been before the Session.

SYNODICAL PROCEEDINGS.

The complainant gave notice to Presbytery of appeal to Synod; but, for reasons specified in the "New Phase," did not appear to prosecute it. This is to be regretted, for then the case would have been fully discussed, and there is no doubt, Synod would have directed Presbytery to correct its proceedings, and remand the case to Session for judicial process. The case, thus, only came up on Review of the Records of Presbytery. The Committee, to whom they were referred, reported adversely to the principles adopted by Presbytery; but resting on the fourth of these principles or facts, presuming that the Presbytery had acted with knowledge and judgment, proceed thus: "But, inasmuch as Presbytery dismissed the case, not on this ground, but on the ground that 'in the exercise of Christian discretion and prerogative the court below (i. e. Session) appears to have solemnly and unanimously determined against judicial action on its merits, and so recorded their opinion with sufficient fulness,' the assumption of the false principle has led to no result which makes it the duty of the Synod to require the Presbytery to revise and correct its proceedings."

This Report was made and adopted, just before the close of the last afternoon session of Synod, when many were anxious to return home in the next train just about to leave, and in the midst of an exciting debate on the subject of Temperance. Without attention and explanation, it was, probably, not understood under these circumstances, and few, if any, were disposed at that late hour, to broach a subject which must have detained the Synod, at least another day.

Whilst, therefore, the Synod rightly denounced as "false" the principles, 1 and 2, of Presbytery's Report, it inadvertently sanctioned the action of the Session in dismissing the case in the "exercise of Christian discretion," and upheld the Presbytery in "finding and recommending that the matter be dismissed."

Inasmuch as the Synod's Committee confined itself to the brief Records of the Presbytery, and had not even a single hint nor suggestion from any of the minority of Presbytery, and especially as the merits of the case were consequently, in no way, before them; it is not surprising, that they relied on the recorded judgment of the Presbytery, as to the "Christian discretion" exercised by the Session, in dismissing this case, and refusing a trial on the merits.

Having assumed the duty of review, at a late hour of the session, the Committee limited its attention to the "FIRST" part of its duty defined in the Book, ch. vii, sec. i, art. ii, to wit: the constitutionality and regularity of the proceedings. The "SECOND" part of its duty was "to

examine whether the proceedings have been wise, equitable, and for the edification of the church." This part of such Committees' duty is too often overlooked, and hence disastrous results follow. Of course, in order to determine the *equity* of proceedings, something, yea, much, must be known of them.

Inasmuch as the Records of the Presbytery do not present the case as before the Presbytery's Committee, but are quite meagre, the Committee of Synod, not going back of these Records, could not pronounce on the wisdom, equity, and edification of the proceedings. But, inasmuch as they have also fallen into an error, in respect to the ground of the Presbytery's action, it becomes necessary to review, somewhat, their report and the Synod's action.

It will be perceived, from their Report, that they understood, whether from suggestion or otherwise, that the dismissal of the matter by Presbytery was founded on the fourth or last principle of its Committee's report, viz., that the Session had acted with a "Christian discretion and prerogative" in its resolution or decision to dismiss the case, although the Committee of Presbytery only say: "the court below *appears, etc.*"

This judgment of theirs was evidently and solely founded on limiting the illative adverb "Hence" to the fourth principle or paragraph, instead of extending its force to the concatenation of principles, to the four as constituting a unity, and together making up the premise in order to the conclusion, the reasons for the illative use of "Hence" with its clause defining the result, namely, the dismissal of the matter.

It may be needful, or at least most convenient for readers, here to requote paragraph 4 of Presbytery's Report: "4. In the exercise of Christian discretion and prerogative, the court below appears to have solemnly and unanimously determined against judicial action on its merits, and so have recorded their opinion with sufficient fulness, as previous to any action on the merits of the case. Hence, the Committee find and recommend that the matter be dismissed." Let this be thus read, by itself, and it would be rather a singular report for a Judicial Committee to make; one of which the authors of that report would not be ambitious to be accounted the fathers.

But if the preamble be read, as a part of the Report, which it of course is, it becomes absolutely essential and incumbent to regard the "Hence" as referring to the totality of the principles, as that which led the Committee and the Presbytery to the conclusion, preceded by "Hence." Thus: "The Judicial Committee, in this matter, deem the following *principles and facts* to be *relevant, as well as important and obligatory.*" All relevant and obligatory. "Hence," for these reasons, relevant and obligatory, "the Committee find, etc."

But we of the Presbytery are not left to this natural and necessary

construction of the whole Report, but do know that this was the understanding as well of the Presbytery as of the Judicial Committee; and no member of the Presbytery will deny the fact, that the whole discussion of the Report was confined to the "false principle" asserted in paragraphs 1, 2, and that no reference was had, at all, to "exercise of discretion" or anything of the kind. The Committee stood valiantly on the ground of that principle, whilst it is believed that not one of the Presbytery present pretends to entertain or assert the idea, that the illative "Hence" refers to anything less than the four preceding "principles and facts, relevant, important, and obligatory."

The Synod, therefore, as well as its Committee, on whom Synod relied, has inadvertently attributed no influence on the decision of Presbytery, to the very principle which chiefly, if not exclusively, did influence their vote, and which Synod itself has condemned: whilst, on the erroneous presumption that the dismissal of the matter, by Presbytery, rested on the principle of "Christian discretion," Synod has declared that, "the assumption of the false principle has led to no result which makes it the duty of the Synod to require of the Presbytery to revise and correct its proceedings." Thus making it very evident that, had they known the facts, and properly understood the reference of the word "Hence" to the body of the Report, they would unquestionably have required such revision and connection.

Justice would seem to demand, that the revision and correction should yet be made; for unquestionably the Synod stands in a false light, the Presbytery has egregiously erred, and the Session should, at least, review its proceedings, in the light of the Book of Discipline of our Church.

It would seem, from a remark made in Presbytery, by one of the Commissioners, that some of the Session, not only expected, but desired the case to be remanded to the Session for judicial action: and it is far from clear, that the principles of Presbyterianism should be allowed to suffer, from want of moral courage to apply those principles to specific cases, however troublesome and trying. The complainant, indeed, has abandoned the personal case, and will evidently prosecute it no farther; but that does not determine the duty, nor vindicate the dignity of the Church and its Government.

The Committee, in its Report, altogether excludes from the view of the Synod, the "false principles" of Presbytery's Report, as any part of the ground or basis on which the dismissal was recommended and adopted; and confines the attention of Synod to the one principle of "Christian decision," as that on which solely the dismissal was voted and approved. Consequently both were in the dark, and had not the real case before them.

But, even if the question before the body were simply, whether the

case was or not rightly dismissed, without trial, on the ground of "Christian discretion," it is very much doubted whether they would affirm that decision. This question has been fully considered, under the head of "Sessional Proceedings;" and it seems to the writer, that the positions there taken are of some weight, and would influence Synod to the same conclusion, to a decision adverse to that of the Session, in the case of the charges before them "in due form."

CONCLUSION.

To sum up very briefly. Charges, with specifications, are laid before a Session for official action. Evidence and witnesses are offered. The charges are grave, and clearly amount to an "offence," in the definition of the "Book of Discipline." The Session concedes the offence, and does not deny that the case is regularly presented for consideration. It attempts, however, first to reconcile the parties, by efforts for a mutual conference, for reference to Christian friends acceptable to both, by agreements signed, etc. Then all failing, for reasons hereinbefore detailed, Session, on an assumed right of unlimited or supreme discretion, then dismisses the case, without any hearing or judicial process, as required by the Book. Thus it deprived an aggrieved person of all his Presbyterio-constitutional rights, and usurped the prerogatives of sovereignty, independency, and irresponsibility. This assumption was also, as appears from Minutes and Documents, accompanied by some rather extraordinary proceedings.

The "decision" of the Session, as it is styled, was complained of to Presbytery, in due form. This Body, instead of hearing the case and remanding it to the Session for judicial process, adopts a Report abounding in false and erroneous principles; among others, wrong interpretation of articles of the Book, in respect to discretion, and denying the right of complaint, on the ground that there had been "no trial on the merits," and of course dismissing the case. This action of Presbytery was strenuously objected to, at the time, by some of its members, as a violation of the Constitution of the Church. Notice of appeal to Synod from this decision of Presbytery, was given by the appellant, but its prosecution subsequently abandoned, as it seems, from weariness of the case, and for other reasons assigned in his public exposition of it. ["New Phase."]

It came up, however, before Synod, in the Review of the Records of Presbytery. The Committee to whom they were referred, reported adversely to the principles adopted by Presbytery; but, under a false or incomplete view of the case, recommended no correction of the action of Presbytery, and left the case as it was. Synod, however, acted in the dark, and is not, as a body, therefore, much to blame.

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Yet, the whole case, from beginning to end, is a monstrosity in Presbyterianism; and greatly to be deplored: none the less, because it has left the action of both Session and Presbytery open to a suspicion of undue and unbecoming influence and motives, suggested by some, and openly attributed in the "New Phase." Neither into such suspicions, nor the grounds of them, can we here enter, the object of this Review being far other, and entirely above and beyond such a horizon.

The Reviewer hopes and believes that he has been influenced by no other consideration than that of the *right*, in the opinions and judgments herein expressed. His sole aim has been to interpret the Constitution, according to its real and abiding sense, to uphold it against false principles and wrong assumptions, and thus to guard the Church against the evils which must ultimately follow in the wake of loose constructions, and consequent dangerous usurpations of power.

We must sedulously guard against allowing ourselves to depart from well-established principles and practice, in specific cases, because we foresee great excitement, and, perhaps, serious trouble, in particular churches, growing out of the rigid application of those principles to such special cases. Better that ten structures built upon it should fall, from some defect in the mortar, than that the foundation itself be impaired: for, "if the foundations be destroyed," saith the Psalmist, "what can the righteous do?" Great convulsions sometimes occur, in the maintenance of a principle, but however temporarily grievous and disastrous, the greater results immeasurably outweigh them. *Fiat justitia, ruat cælum.*

Woe to the Presbyterian Church, and sad the day, when her warders watch not well, her sentinels sleep at their posts or become indifferent to the defence of her forts; when her foundation stones can be removed, one by one, at the discretion of those in power! But we have no such apprehension, although we thus speak. It is believed there is as much sincerity, truth, and honesty of purpose, in the officers of the Presbyterian Church, as can be found in any human organization, and as much deep and earnest devotion to the principles of its noble Constitution. Errors, such as have occurred in this case, may be consistent with a desire to do rightly, and men are, unconsciously to themselves, partially influenced by personal relations and fears of evil.

The spirit of the hour is such, perhaps, as to lead to disregard of constitutions and of established law, and hence calls for unwonted watchfulness and wisdom, on the part of ecclesiastical organisms, lest that spirit of freedom from shackles steal in unawares upon them and eat out the very life of the organism.