THE

BIBLICAL REPERTORY.

APRIL 1838.

No. II.

Art. I.—*A Compendium of Christian Antiquities: being a brief view of the Orders, Rites, Laws, and Customs of the Ancient Church in the Early Ages.* By the Rev. C. S. Henry, A. M. Philadelphia, Joseph Whetham. pp. 332. 8vo. 1837.

A petty ambition to be recognised as authors is, we fear, a growing vice among Americans. One of the lowest forms in which the passion shows itself, is that of abridgment. Not that abridgment, in itself, is evil; but because the abridger, in the cases now referred to, cannot deny himself the happiness of being thought a *bona fide* author, by that class of readers who confine themselves to title-pages. On the elegant title of the volume now before us there is no intimation that the book is not the offspring of the Rev. C. S. Henry. A very little turning of the leaves, however, suffices to show that it is all from Bingham, and on looking at the preface, we are gravely told, that "it makes no pretension to originality of investigation." This is not strictly true; for the *pretensions* of a book are to be looked for in the title-page; and besides, there is some pretension in the affected statement that "the work of Bingham has been relied upon, as to facts and authorities—as well as followed

Lord; and the Saviour shall receive the glory of a new and splendid triumph over one of the great master-pieces of Satan's power and malice.

The long-desired and glorious result presupposes and requires the employment of such an amount of appropriate Christian agency, as shall be commensurate with the great work which is to be performed. A spirit of general inquiry concerning the Christian religion, if it were now evinced by the Hindus, would be almost a calamity; it would certainly meet with disappointment, and disappointment in regard to such a subject would be a severe calamity. What could less than two hundred foreigners accomplish for one hundred and thirty-five millions of deeply interested, inquiring minds? We leave this question to produce its own effect upon the reader's mind. If the view which we have taken of this interesting subject should result in the addition of a single labourer to that small band who are now waiting for the harvest, we shall be highly honoured. The claims of India upon our Church in particular are very strong. The Presbyterian Mission in the Northern Provinces has opened our eyes to the wants of millions, and opened a channel of communication between them and us, which we have no right to leave dry or empty. The history and present prospects of that noble mission are, we trust, familiar to the minds of all our readers. If, however, at some future time, we should be able to present a rapid and continuous account of that good enterprise, we think it would excite even the most languid and indifferent to action.

Art. V.—1. *Facts and Observations concerning the Organization and State of the Churches in the three Synods of Western New York, and the Synod of the Western Reserve.* By James Wood. 1837.

2. *Legal Opinions respecting the Validity of certain Acts of the General Assembly of the Presbyterian Church.* By Messrs. Wood, Hopkins, and Kent. New York Observer, Sept. 16, 1837.

The measures adopted by the last General Assembly have now been the subject of constant discussion for more than nine months. The press has teemed with arguments both

for and against their validity and justice. Almost all our inferior judicatories have subjected them to a rigid examination, and pronounced an opinion either in their justification or condemnation. It may, therefore, be taken for granted, that the minds of all interested in the matter, are by this time finally settled on the one side or the other. We are not about to re-open the subject, or to traverse a new the ground passed over in our Number for July last. Since that time, however, events have occurred which have an important bearing on the prospects of our church and the duty of its members. To some of these it is our purpose to call the attention of our readers.

It must constantly be borne in mind that, according to the repeated declaration of the General Assembly, the object of the acts complained of, was the separation of Congregationalism from the Presbyterian church. For this purpose they abrogated the Plan of Union, and declared that no judicatory composed, agreeably to that plan, partly of Congregationalists and partly of Presbyterians, can have a constitutional standing in the Presbyterian church. As Congregationalism was known to prevail extensively in four of our synods, the Assembly applied the above principle to them, and declared that they could not, as at present organized, be any longer regarded as belonging to our church. Several other synods, within whose bounds there was more or less of this irregularity, were directed to correct the evil as far as it was found to exist, so that all the churches connected with the General Assembly should be organized agreeably to the provisions of the constitution. Such ministers and churches, within the bounds of the excluded synods, as were strictly Presbyterian in doctrine and order, and should wish to unite themselves with our church, were directed to apply to those presbyteries most convenient to their respective locations. And in case there were any regular presbyteries thus situated, they were directed to make application to the next General Assembly.*

* That this is a fair exhibition of the proceedings of the General Assembly is plain from their own declarations. The Plan of Union is declared to be "an unconstitutional act," and as such it was abrogated. *Minutes of the General Assembly*, p. 421. Secondly, it was resolved, "That by the operation of the abrogation of the Plan of Union of 1801, the synod of the Western Reserve is, and is hereby declared to be no longer a part of Presbyterian church in the United States of America." Thirdly, it was resolved that in consequence of the abrogation of the Plan of Union, the synods of Utica, Geneva and Genesee, "are and are hereby declared to be out of the ecclesiastical connexion of the Presbyterian church of the United States of America." *Minutes*, p. 444.

It is obvious that there were three courses open to those affected by these measures. The first was to submit to them. This course was adopted by the synod of New Jersey. In obedience to the requisition of the General Assembly, they directed the only presbytery within their bounds embracing Congregational churches "to take order, as soon as it can conveniently be done, to bring all churches within its bounds to an entire conformity with our standards, and to inform such churches that they can retain their present connexion with the presbytery on no other terms." "In giving," it is said, "the foregoing direction to the presbytery of Montrose, the synod have no desire to interfere with the friendly relations hitherto existing between the presbytery and the Congregational churches under its care, farther than to separate them from their present connexion, so that they shall not be considered a constituent part of the said presbytery, nor be entitled to a vote or representation in it." These resolutions were, as we understand, adopted unanimously; having received the support of some of those who, on the floor of the General Assembly, had been most prominent and zealous in resisting the abrogation of the Plan of Union. The same course was open to the four excluded synods. By separating themselves from their Congregational and accommodation churches, they could, in obedience to the General Assembly, apply either as individual churches or ministers to the most convenient presbytery; or as presbyteries to the next General Assembly.

This course would indeed require submission to measures which these brethren regarded as unkind and even unjust; and might, for a time, have occasioned many inconveniencies. But, on the other hand, it cannot long be regarded either as an injustice or hardship, that the General Assembly should

Fourthly, the synods of Albany, New Jersey, and Illinois are enjoined to correct the "irregularities in church order charged upon their presbyteries and churches." *Min.* p. 497. In answer to the Protest of the commissioners from the presbyteries helonging to the synod of the Western Reserve, the Assembly say: the Assembly of 1801 "had no authority from the constitution to admit officers from any other denomination of Christians to sit and act in our judicatories; and therefore no presbytery or synod thus constituted, is recognized by the constitution of our church, and no subsequent General Assembly is bound to recognize them." "The representatives of these churches, on the accommodation plan, form a constituent part of these presbyteries as really as the pastors or elders, and this Assembly can recognize no presbytery thus constituted, as belonging to the Presbyterian church. The Assembly has extended the operation of the same principle to other synods which they find similarly constituted." *Min.* 451.

require, that all churches entitled to representation in our judicatories, and to participation in our government, should conform to the constitution which they administer. It was submitted to the option of all the presbyteries within these synods, either to separate from Congregationalism or from the General Assembly. If they refused to do the former, they cannot long expect the sympathy of the public, should they be shut up to the other alternative.

The second course open to these synods, and to those who side with them, was to act upon the conviction which they avowed on the floor of the Assembly, that the time had come for an amicable division of the church. It will be recollected that a committee of ten, five from the majority and five from the minority, was appointed to effect this object. The committee agreed as to its expediency, under existing circumstances, and differed only as to the mode, not the terms of separation. The one party wished it to be made immediately by the Assembly, the other to have it referred to the presbyteries. By acting upon their own plan, and requesting those presbyteries which agreed with them to appoint commissioners to meet and organize as the "General Assembly of the American Presbyterian church," the division would have been effected in their own way. In this manner all contention might have been avoided, and all questions been amicably adjusted between the two bodies.

The third method was to assume that the acts in question were illegal and void, and to determine to proceed as though they had never been passed. This is the course which has been adopted; whether wisely or unwisely it is not for us to say. Without presuming to question either the motives or the wisdom of those who have advised this course, it may not be out of place to examine its probable results, and the correctness of some of the assumptions on which it is publicly defended.

Soon after the rising of the last Assembly, the presbyteries particularly interested, were called together, and, in most instances, resolved that they would retain their present organization; that they considered the Plan of Union a sacred compact, and therefore could not consent to the dissolution of the connection between them and the Congregational churches under their care; that they would, as usual, commission delegates to the next General Assembly, and instruct them to demand their seats in that body. As far as we know, not a single presbytery within the four synods has consented to

withdraw from their Congregational churches. Not satisfied with this separate action of the presbyteries, delegates were appointed, who met in convention at Auburn, August 17, 1837, and resolved, unanimously, that the acts of the General Assembly, disowning the four synods, "are null and void;" they declared that they consider the rights accruing to the churches from the Plan of Union to be inviolable, that "an almost immemorial usage and acquiescence have committed the original confederated parties, by whom the constitution itself was framed and adopted, to guarantee the validity of that important pact;" and that these churches "cannot now be dismembered and disfranchised."* That these brethren had a perfect right to take this course, no one can doubt. When it was submitted to their option either to separate from their Congregational churches, or from the General Assembly, they were certainly at liberty to make their selection. The question is, whether their refusal to submit to the abrogation of the Plan of Union, is consistent with their continued or renewed connection with the Presbyterian church? It certainly cannot be on any other ground than that the General Assembly had no authority to decree that abrogation, and to order the inferior judicatories to carry it into effect. This however, is a position which we are persuaded cannot be maintained. It is expressly relinquished in the legal opinion given by Mr. Wood, and is virtually renounced in that of Chancellor Kent. These brethren, therefore, have their own lawyers against them. Besides, there are comparatively few persons, not connected with one or the other of the four synods, who question the right of the Assembly to abolish the Plan of Union; there are more who doubt the propriety of the act disowning the synod of the Western Reserve, and still more who disapprove of that in relation to the three synods of New York. These brethren, however, can depend on the co-operation of those only, who go the whole length with them. They have selected the weakest, instead of the strongest position, at their command. To justify any one to vote that the commissioners from these synods should take their seats in the next Assembly, it is not enough that he should disapprove of the acts by which they were disowned, he must deny the right of the Assembly to decide that Congregationalists shall no longer sit and act in our judicatories, or

* See Minutes and Address of the Auburn Convention, New York Observer, October 7, 1837.

be represented in our General Assembly. The whole controversy is made to hinge on this one point. The entire synod of New Jersey has committed itself as to this matter, by acting in obedience to the command of the Assembly, and requiring the presbytery of Montrose to carry the abrogation of the Plan of Union into effect. Admitting the constitutionality and validity of that abrogation, the synod could not expect the commissioners from the presbytery of Montrose to be admitted to their seats in the next Assembly, had the order of the previous Assembly been disregarded. And we presume that the synods of Albany and Illinois cannot expect that the delegates from their mixed presbyteries can be allowed to sit. The Assembly has declared that "the existence of such presbyteries is recognized neither in the former nor the amended constitution of the church," and that they can recognize none such. These brethren say they *must* recognize them. The controversy is thus narrowed to the smallest possible limits. Those who think that the Plan of Union is inviolable, will of course vote for the admission of the delegates from the mixed presbyteries; but those who think the Assembly had a right to set it aside, must vote for their exclusion. Here is a general principle, adopted by the Assembly, applicable not to the presbyteries of the four synods only, but to all others of a similar character. Has then the General Assembly a right to say that they will no longer recognize any presbytery composed partly of Presbyterians and partly of Congregationalists? This seems to us a very plain point. Chief Justice Ewing says, an ecclesiastical body which is not organized in the manner provided and sanctioned by the constitution of a church, cannot be deemed a constitutional judicatory of that church.* Our constitution says that "a presbytery is a convention of bishops and elders within a certain district;" these presbyteries are, to a greater or less extent, conventions of Presbyterian ministers and Congregational laymen. Beyond doubt, therefore, they are unconstitutionally organized. It has been attempted to evade this argument, by assuming that the Assembly had a right to set aside the constitution; or that the original error has been so long acquiesced in, as to be now legally sanctioned; or that, admitting the right to repeal the Plan of Union, the abrogation, though it might prevent the formation of new churches under its sanction, could not deprive of its benefits

* Halsted's Reports, vol. 7, p. 219.

those already formed. The first of these assumptions need not be argued. For nothing can be plainer than that a body acting under a constitution cannot alter it. A corporation might as well pretend to change its own charter. The sesond assumption is much more plausible. It is not necessary, however, to argue the question, how far long continued, and general acquiescence can sanction unconstitutional acts. It is enough for our present purpose to show, that admitting all that can be demanded on this point, it does not help the case. We may safely grant that the long acquiescence in the Plan of Union had given it such a sanction, that Congregational laymen had a legal right to sit and vote in our judicatories, as long as it continued in force. But how does this prove that they have the right now that it is abrogated? As long ago as 1794, the Assembly formed an agreement with the Association of Connecticut, and subsequently with those of Vermont, New Hampshire, and Massachusetts, by which the Congregational delegates of these bodies were allowed to sit and vote in the General Assembly of the Presbyterian church, even in judicial cases. This arrangement was palpably unconstitutional. And yet during its continuance, the right of these delegates to vote, sanctioned by silent acquiescence for ten, twenty, or thirty years, could not, perhaps, on a given occasion, be successfully questioned. Now the arrangement is set aside, have they still this right? May delegates from all these Associations appear in the next Assembly and vote on all the great constitutional questions which may come before it? The supposition is absurd. And it is no less absurd to maintain that because Congregationalists had, under the Plan of Union, a right to sit and vote in our judicatories, therefore they have still the right after its abrogation.

It is obvious, therefore, these brethren are driven back to the extreme position that the Plan of Union could not be abrogated, which they must maintain in the face of common sense and of their own lawyers; or they must make the scarcely less desperate assumption, that the effect of the abrogation is only to prevent the introduction of new Congregational churches, but cannot affect our relation to those already connected with us. That is, that the repeal of a law only forbids its extension, not its continued operation. The Plan effected a union between us and Congragationalists, its abrogation dissolves that union. This is the common sense view of the case. The Plan says that Christians of another denomination may sit in our presbyteries, and be represented

in all our church courts; its repeal says that they can do so no longer. Such is admitted to be the effect of the abrogation of this term of agreement with the Associations of New England. Such is the acknowledged operation of the rightful rescinding of any compact between different states or churches. If our civil government had by law allowed the citizens of France or England certain commercial or political privileges, they might be rightfully enjoyed as long as the law continued in force, but would necessarily cease when the law was repealed. Had such citizens for a series of years been allowed to vote at all our elections, could they continue to claim the right when the law giving them the privilege was repealed? Admitting the right to repeal, there can be no question as to its operation.

We maintain, therefore, that if it be conceded that the General Assembly had the constitutional authority to abrogate the Plan of Union, every thing is conceded. If the Assembly had a right to say they will no longer recognize presbyteries composed partly of Presbyterians and partly of Congregationalists, then the whole case is decided; for it all turns on this one point. All that the Assembly did is included in that one declaration. They knew that all the presbyteries of the Western Reserve were thus organized, and they therefore said they could not any longer regard them as connected with the Presbyterian church. They thought they had sufficient evidence that such was the fact also with regard to the presbyteries of the three synods in New York; and they therefore made the same declaration with regard to them. In case, however, there was a mistake in any instance as to this point, it was ordered that any presbytery that could make it appear that its organization was purely Presbyterian, should so report itself to the next General Assembly. If the Presbyterians within these synods, chose to separate themselves from Congregationalists, they would place themselves out of the scope of the above mentioned declaration, and no obstacle was placed in the way of their being recognized.* The whole question therefore is, whether this declaration of the General Assembly, with regard to mixed presbyteries, is constitutional and valid? Can it be that such lawyers as Mr. Wood and Chancellor Kent have pronounced it to be "illegal

* The General Assembly say, "The Assembly has made provision for the organization into presbyteries and annexation to this body of all the ministers and churches who are thoroughly Presbyterian." p. 452.

and void;" that the General Assembly is bound, to the end of time, to allow Congregationalists to sit in our judicatories, to decide on the standing of our ministers, to form and administer our laws, pronounce authoritatively on our doctrines, while they themselves neither adopt our Confession of Faith, nor submit to our form of government? We can scarcely believe this to be possible. We are prepared to show, not that these distinguished gentlemen are bad lawyers, but that a false issue has been presented to them; and that they have consequently given an opinion which has no relation to the real point in debate. We think it can be made to appear, that admitting every one of the legal principles on which their opinion rests, the true point at issue is left untouched. The error is not in the law, but in the facts. We are not, therefore, about to enter the lists with these gentlemen as lawyers, but to show that their clients did not put them in possession of the real state of the case. It is no presumption on our part to claim to be better acquainted with the constitution of the Presbyterian church, and with the acts of the General Assembly, than the distinguished gentlemen above mentioned.

As far as we can discover, the opinions of Mr. Wood and Chancellor Kent* rest on the following principles and assumptions. 1. That the Plan of Union was not of the nature of a contract perpetually binding. 2. That the General Assembly had authority to form that plan. 3. That long-continued usage and general acquiescence forbid its constitutionality being now called into question. 4. That the revision of the constitution, in 1821, after the formation of the plan, was sufficient to sanction it; no objection having then been made to it. 5. That the abrogation of the Plan of 1801 could not effect that of 1808, and the churches formed under it. 6. That the acts relating to the four synods were of the nature of a judicial process. 7. That previous notice and opportunity of being heard are essential to the validity of any such process. 8. That the repeal of a law cannot annul or impair acts rightfully done under its authority.

1. As to the first of these points, Mr. Wood is very ex-

* We do not make any particular reference to the opinion of Mr. Hopkins, for he expressly waves the great point at issue, viz. "the constitutional right of repealing the Plan of Union of 1801." However clear and just may be the legal principles which he advances, they do not, except so far as they are identical with those contained in the opinions of the other gentlemen, appear to us to have any bearing on the case.

plicit. He says the Plan of Union was not a compact, "so as to render it obligatory on the General Assembly to carry into effect the measure, or TO CONTINUE ITS OPERATION ANY LONGER THAN THEY SHOULD DEEM PROPER. It was a measure originating with and belonging exclusively to the General Assembly." This is no doubt true. This concession is all that need be asked. The Assembly has done nothing more than is here admitted to be within their power. They have put an end to the operation of the Plan in question. On this point Chancellor Kent is not so explicit, and, we must take leave to say, is not quite consistent with himself. He, however, says expressly, "I am by no means of the opinion that the Presbyterian churches were to be always bound by such agreements, when they are found to be ultimately injurious." This certainly means that the Presbyterian church was at liberty to set this agreement aside, when it proved to be injurious. The assent of the other party, he adds, "could not be decently withheld." At most, then, there was an error as to courtesy; for no right is violated in not asking for an assent which the other party had no right to withhold. The General Assembly, however, agreed with Mr. Wood, that this was a measure belonging exclusively to themselves, and therefore did not think it necessary to make any application on the subject.

2. These gentlemen think that the formation of this Plan was within the legitimate authority of the General Assembly. As this is a point relating to the construction of our own constitution, we feel at liberty to question the correctness of this opinion. It is on all hands admitted, that the Assembly has no authority to alter the constitution in the smallest particular. Does the Plan in question effect any such alteration? The constitution prescribes one method in which churches are to be organized and governed, the Plan prescribes another; the constitution lays down certain essential qualifications for the members of our judicatories, the Plan dispenses with them; the constitution grants the right of appeal in all cases, the Plan denies it. Are not these alterations? We cannot conceive a plainer point.

3. It is said, however, that long-established usage and general acquiescence have great effect in determining the rights and powers of bodies. We admit the principle as thus stated. It is however liable to many limitations. In the first place, it is applicable only to doubtful cases. "Where the intent of a statute is plain," say the supreme court of the United

States, "nothing is left to construction."* "The constitution fixes limits to the exercise of legislative authority, and prescribes the orbit in which it must move. Whatever may be the case in other countries, yet in this there can be no doubt, that every act of the legislature repugnant to the constitution, is absolutely void." p. 167. "The framers of the constitution must be understood to have employed words in their natural sense, and to have intended what they have said; and in construing the extent of the powers which it creates, there is no other rule than to consider the language of the instrument which confers them, in connexion with the purposes for which they were conferred." p. 177. The rights and liberties of the people could in no country be preserved, if usage and precedent were allowed to close their mouths against oppressive and illegal acts. When Charles I. claimed the right to give to his proclamations the force of law, and to exact money under the name of benevolences, and without consent of parliament, he could plead, especially for the former, the usage of a hundred years. Henry VIII. Elizabeth, James I. had, over and over, done the same thing. Parliament had been silent; the people had acquiesced. Had the nation then lost its rights? Had Magna Charta become, by a contrary usage, a dead letter? Was Hampden justly condemned for refusing to pay these exactions? Nine, indeed, out of the twelve judges, decided for usage against the constitution. But did this alter the matter? Does any one now think Hampden wrong and the judges right? Under our own government it is a doubtful point whether congress have a right to establish a national bank. In this case, the decisions of the supreme court, the repeated acts of both houses of the legislature, the long continued acquiescence of the people, might perhaps be allowed to settle the matter. But is this the fact? Does the country feel itself precluded from raising the constitutional objection? And if, instead of being a doubtful case, it were one of palpable violation of the constitution, does any one imagine that the plea of usage and acquiescence would be listened to a moment? Our General Assembly, though a representative and legislative body, were long in the habit of inviting any minister, who happened to be present at its deliberations, to sit and vote as a corresponding member. No one objected. The thing went on, year

* Coxe's Digest of the Decisions of the Supreme Court of the United States, &c. p. 183.

after year, until it became an established usage. At last, however, when the church was enlarged, it was seen that this custom operated most unfairly on the distant portions, and was in fact subversive of the very character of the house as a representative body. Could usage be pleaded in defence of such a rule, or against its abrogation? It was in equal violation of the constitution that the Assembly so long allowed the delegates of the New England Associations to vote in its meetings. For this agreement, long usage might be urged. But does this prove either that the thing was right, or that the hands of the Presbyterian church were tied up so that they must forever submit to it? John Randolph said, he never could forget that the Book of Judges stood just before the Book of Kings. We do not admit the justice of the insinuation which he intended to convey by this remark. No country has less to fear, or more to admire in its judges. But we do believe there is no principle more dangerous to the rights and liberties of nations and churches, than that usage may be set up in opposition to express constitutional provisions.

A second limitation is suggested by Chancellor Kent himself, who says, this assent must be "given understandingly, and with a full knowledge of the facts." The acquiescence pleaded in behalf of the Plan of Union was not thus given. As first assented to, it was regarded a mere temporary arrangement for a few frontier churches. It continued to be regarded as such for a long series of years. The distant portions of the church scarcely ever heard or thought of it, or had the least idea of the extent to which it had been carried. When they came to learn that it was the basis of entire synods, containing hundreds of Congregational churches, they were astonished. This was a state of things of which they had not the least conception. The churches had no means of becoming acquainted with these facts. The reports of the western presbyteries to the General Assembly, the only source of information on this subject, do not, except in a few instances, state which of their churches are Congregational and which are Presbyterian. Thus in the minutes for last year there are, we believe, less than half a dozen churches, within the three synods, reported as Congregational, when, as appears from Rev. Mr. Wood's Pamphlet, there are at least one hundred and seventy-three.* The fidelity, candour

* We quote from the second edition as published in the Presbyterian.

and talent with which this report of Rev. Mr. Wood is prepared, entitle it to great confidence. He has performed a valuable service in spreading the information which it contains before the public. This is the more important as there seems to be a strong disinclination, on the part of those concerned, to allow the facts to be known. The Auburn convention appointed a committee on the statistics of the three synods, but no detailed report of the result of their labours, as far as we are informed, has been published. Seeing, therefore, that the churches generally knew little on this subject, it would be most unjust to infer acquiescence from ignorance. Because the distant presbyteries long assented to here and there a solitary individual voting as a corresponding member in the General Assembly, is it believed they would consent, with their eyes open, to all the neighbouring synods thus voting? In the present case the churches were ignorant of the facts; they thought themselves assenting to one thing, which proves to be another. They thought themselves assenting to a plan for sustaining feeble churches in "the new settlements;" when it turns out to be, in their estimation, a plan for permanently establishing Congregationalism in the Presbyterian church, to the entire subversion of its constitution. The Plan, with good intentions no doubt, had been monstrously perverted, both by extending and perpetuating it far beyond its original intention, and by an open disregard of its most important provisions. All this was done silently; the churches knew nothing about it. Can acquiescence, yielded under such circumstances, be used either in proof of an acknowledgement of the authority of the Assembly to form the Plan, or in bar of its abrogation? The argument from consent is used for both these purposes, though not by Mr. Wood. We are persuaded it is entirely worthless for either.

4. It is argued that as the constitution was revised and amended in 1821, and as no objection was then made to the Plan of Union, it must be regarded as constitutional. Had these gentlemen been acquainted with the facts in the case, it is hardly possible they could have advanced this argument. The Plan of Union was nothing but a series of resolutions on the minutes of the General Assembly. The revision of the constitution afforded no occasion to express any opinion on this subject. It was never alluded to. And we presume there was not a single presbytery in the whole church that so much as thought of it, when they assented to amendments proposed to them. It seems to us a monstrous proposition

that the churches, in assenting to the rule that presbyteries must consist of ministers and ruling elders, are to be held to have thereby assented to their being composed of ministers and Congregational laymen. The only use that can be made of the fact referred to is, to show the church was not sufficiently aware of the danger of these unions, to lead it to insert an express prohibition against any such violations of the constitution, on the part of the General Assembly. This, however, would be so completely a work of supererogation, that, were the constitution to be revised to-morrow, we do not believe the strictest man in the church would think it necessary to insert one word on the subject. The silent revision of the constitution, therefore, affords no argument for the acknowledgement of the power of the Assembly to form the Plan of Union, nor for the assent of the churches to that Plan, supposing it to be a compact. Mr. Wood uses the fact for the one purpose; Chancellor Kent for the other.

5. The abrogation of the Plan of Union of 1801, it is said, could have no effect upon that of 1808, or on the churches received under it. This has always appeared to us the most extraordinary argument connected with this whole subject. It is not surprising that these legal gentlemen, being told that all the Congregational churches within the three synods came into connexion with us, under the latter, and not under the former Plan, should say just what they have said. But it is surprising that the assertion upon which the argument is founded, should ever have been made. The Plan of 1808, according to the extracts from the minutes of the synod of Albany, published in the New York Observer, Sep. 12, 1835, and in the Presbyterian, Sep. 16, 1837, arose out of a request of the synod of Albany to the General Assembly to sanction their union and correspondence, upon certain terms, with the Middle Association, and the Northern Associate Presbytery. To this request the Assembly acceded. The former of these bodies, according to the report of 1809, embraced twenty-one churches, the latter, as we understand, about twelve or fifteen. Here then was permission to receive, on certain conditions, two definite ecclesiastical bodies, with their thirty-three or thirty-six churches. Can any one conceive how permission to receive thirty-six churches, can be tortured into a permission to receive two hundred? The number received must indeed far exceed two hundred; for almost the entire basis of three synods, embracing upwards of four hundred churches, was the Congregational churches

of that region.* Yet we are gravely told that all these churches were received in virtue of the permission to receive the two bodies just mentioned, with their thirty-six congregations. We do not understand this; and those who make the assertion are bound to explain it. What do the Auburn convention mean by saying "The WHOLE TERRITORY embracing the three synods of New York came into connexion with the Presbyterian church, so far as they were Congregationalists," in virtue of the Plan of 1808. Does this mean that the Assembly, in consenting to receive two ecclesiastical bodies, consented to receive *the whole territory* covered by the three synods, and therefore all the churches which then existed, or have since been formed upon it? If this explanation is too monstrous to be possible, what does it mean? There is no clause in the agreement which admits of its indefinite extension. It refers to those two bodies as then constituted, and to no others. If then the Congregational churches within these synods did not come in under the Plan of 1801, there is not a shadow of a warrant for the connexion, as it relates to by far the greater portion of them. That plan is the only one which covers the whole ground. It permitted a union with Congregational churches wherever found. There is indeed a sense in which this plan does not reach the case of many, perhaps, of most of these churches. It allowed of a connexion with those congregations only, which were of a mixed character, and which had a standing committee as a substitute for a session. In a multitude of cases, however, churches purely Congregational have been allowed to come in under its sanction.† The stated clerk of

* Dr. Peters said, on the floor of the Assembly, that the obligation resulting from the Plan of Union, "had now been transferred to a body twice, yes, five times as large as the Association of Connecticut. All these presbyteries and synods were not only organized on this Plan, but have called our ministers, &c." This was said in reference to the Plan of 1801, when we presume he knew as little of that of 1808, as we did. We refer to the statement merely as an admission of the fact referred to in the text.

† "The Plan of Union being adapted to a state of things where Congregationalists and Presbyterians were mingled in one congregation, and there being, in fact, *in these churches, no Presbyterians*, and none who understood their peculiar discipline, the churches were not, in fact, strictly speaking, admitted on that Plan. In nine cases out of ten, there were no standing committees, and the only difference between their then situation and their previous one, was the fact that one of the brethren occasionally went as a delegate to presbytery, who was regularly returned in their minutes as an elder." See the Circular Letter of the Association of Western New York, N. Y. Evangelist, Nov. 21, 1836. The above statement is made with special reference to the churches west of the Genesee river.

the presbytery of Buffalo, says, it was "an uniform rule in such cases" to wink at this irregularity, "by considering the whole church the standing committee." We think, by the way, that Chancellor Kent would admit that here was such a "new circumstance" as would justify the abrogation even of a compact; that an agreement to receive mixed churches is not an agreement to receive such as are purely Congregational. The conditions on which this Middle Association was received were, 1. That it should assume our name; though this was not insisted upon. 2. That it should adopt our standards of doctrine and government. 3. That the congregations, if they insist upon it, might manage their internal discipline agreeably to their old method, and that their delegates might sit as ruling elders. It is doubtful whether these conditions were complied with. Mr. Smith, the stated clerk of the synod of Albany, says, the association acceded to the invitation (which in the first instance proceeded from themselves) "declining, however, *the terms of adopting the standards.*" This may indeed be understood of the internal government of the churches. But if it refers to a refusal of the ministers to adopt our standards, then the whole thing is void, and the union never was sanctioned. This Plan then, at most, was nothing more than the permission to apply that of 1801, somewhat modified, to two ecclesiastical bodies. That this isolated fact should be made the basis of an obligation to receive all the Congregational churches in New York, is a perfect absurdity.

Nothing can be plainer than that the General Assembly in abolishing the Plan of Union, did, according to their own declaration, state that as the constitution does not recognize presbyteries composed partly of Presbyterians and partly of Congregationalists, they can no longer recognize them. If this declaration be constitutional and valid, it matters not now where these presbyteries may be found, whether in Massachusetts, New York, Pennsylvania, Ohio, Illinois, or South Carolina; nor when, nor by what means they were organized and connected with the Presbyterian church. All this debate, therefore, about the Plan of 1801 and that of 1808, as we understand the action of the Assembly, has nothing to do with the subject.

6. It is assumed that the acts of the General Assembly, relating to the four synods, were of the nature of a judicial process.

7. That previous notice and opportunity of being heard

are essential to the validity of any such process. These two points may be considered together. To begin with the latter. The correctness of the general principle which it states is readily admitted. There are, however, exceptions to it. The grand object of a judicial investigation is to arrive at a knowledge of facts; and the design of the various rules directing how such investigation is to be conducted, is to prevent misapprehension or perversion of those facts. There may, however, be cases so clear and notorious as to supersede the necessity of any such investigation, and to free any court from the obligation to observe those rules. It is a general principle that no man can be deprived of his liberty or property but by due process of law. Yet a judge may send any man to jail, without trial, for a contempt committed in open court. In like manner, were any minister to be guilty of open profaneness in the presence of his presbytery, he might be suspended or deposed by a simple vote. Or if a presbytery or synod had publicly and officially rejected the standards of the church, and avowed heresy, they might be declared out of the church by a vote of a superior judicatory. In all such cases, however, the offence must be public and flagrant. We make these remarks, not because they have any bearing on the present case, but because having admitted the principle, it was necessary to state the limitation.

This principle can have nothing to do with the case of the four synods, except on the assumption that the acts of the Assembly in relation to them were of a judicial nature. This, however, the Assembly deny. They state explicitly, that they do not intend "to affect in any way the ministerial standing of any members of either of the said synods; nor to disturb the pastoral relation in any church; nor to interfere with the duties or relations of private Christians in their respective congregations," but simply to declare in what relation they stand to the Presbyterian church. The ground of this declaration is not error in doctrine, nor immoralities in conduct, nor any other judicial offence, it is simply and solely unconstitutional organization. A General Assembly may assuredly entertain the question, whether an inferior judicatory is constituted according to the requirements of our form of government. And a decision of that question in the negative, is not a judicial decision. The Assembly first abrogate the Plan of Union, and then say they consider that abrogation as putting an end to their connexion with all bodies formed in pursuance of that Plan. This is no more a judicial

process than the severing our connexion with the Reformed Dutch church, or the Association of New Hampshire, would be.

The "gross disorders" mentioned in the second resolution, in relation to the three synods of New York, are not mentioned as *the ground* of the declarative act contained in the first resolution, but merely as an inducement for the immediate decision of the whole subject. Not one word is said of erroneous doctrine, nor of any other disorders than those connected with the Plan of Union.* The Assembly simply say that the fact the Plan has been abused, greatly increased their desire to put an end to its operation. All the remarks therefore in these legal opinions, about the injustice of a condemnation founded on vague charges and uncertain rumours, though true and important, have no relation to the present case. These synods were not judged on the ground of vague charges, nor on the evidence of uncertain rumours. They were not judged at all. The principle that the constitution does not recognize mixed presbyteries was applied to them; and it was left to their decision, whether they would continue in this mixed condition and stay out of the church, or separate from Congregationalism and come in. They have, it appears, decided for the former.

There are two misapprehensions in Mr. Wood's opinion which ought to be corrected. He seems to think that the ground of the decision of the Assembly was the previous, and not the present condition of these churches and presbyteries. "If a congregation," he says, "at present Presbyterian, were originally infidels, that circumstance would not furnish a reason for cutting them off from their ecclesiastical connection." Certainly not. And no church or presbytery is now cut off, because it once was Congregational. It is the present mixed character of the ecclesiastical bodies effected by the action of the Assembly, which was the ground and reason of their exclusion.

The second misapprehension is nearly allied to the former, and runs through the whole opinion. He supposes the declaration of the Assembly to relate to purely Presbyterian bodies, and to deprive them of their acknowledged rights. This however is not the fact. No regularly organized church

* The Assembly say, "Gross disorders which are ascertained to have prevailed in those synods, it being made clear to us that the Plan of Union itself was never consistently carried into effect by those professing to act under it." The disorders referred to, therefore, were irregularities connected with that Plan.

is affected by that declaration except in virtue of its connection with a mixed presbytery, and even then, only so far as to require it to seek a new presbyterial connexion. And no regularly organized presbytery is affected by it, except by being required to make its regularity known. The Assembly has not assumed the power of cutting off any regular ecclesiastical body. It has simply said it will no longer recognize mixed ones. Churches being connected with the Assembly only through their presbyteries, they can, even when regular, maintain that connection in no other way than by being connected with a regular presbytery. If their presbytery be disowned, they must join another, if they wish to continue the connection. If a Presbyterian church, no matter how regular it may be, should put itself under the care of an Association, or any other body not in connection with the General Assembly, it would be separated from us. And, by parity of reason, if it continues in connection with a body which the Assembly say they can no longer recognize, it forfeits its rights. But then it is its own act, not that of the Assembly.

8. Finally, it is said the repeal of a law cannot annul or impair acts rightfully done under its authority. This, too, we cheerfully admit. The law, however, must be a constitutional one; otherwise it is no law; it is a nullity. Our new school brethren pronounce certain acts of the last Assembly null and void. If so, would it be right to deprive their commissioners of a seat in the next Assembly, under its authority? They no doubt agree with us that nothing can be valid which rests upon an unconstitutional enactment. The principle above stated, however, has no application to the present case. The Assembly do not propose to annul or impair any acts rightfully done, even under the Plan of Union. No church or presbytery is to be cast off because it was originally organized under that Plan. The Assembly propose to act on the simple principle that the repeal of a law puts an end to its authority. It was formerly the law, whether right or wrong, that Congregationalists might sit in our presbyteries and be represented in the General Assembly. This is the law no longer. Of course they cannot now thus sit, or be thus represented. This is the whole case. It is a case with but one point in it. Has the General Assembly a right to put an end to the Plan of Union? or, is it bound to the end of time, to allow Congregationalists to be represented in all our church courts, and to make laws for us,

to which they will not themselves submit? On this point the judgment of Mr. Wood is clear and explicit. "But supposing," he says, "the assent of the Association to have been indispensable: when it was given, they had nothing further to do with the Plan. It then became the measure of the General Assembly alone, to be dropped, or acted upon, or modified, as they should deem advisable." It is upon this undoubted right the Assembly have acted. Nor have they gone beyond it. They have simply declared they will no longer allow what that Plan freely permitted. If therefore commissioners come up as the representatives in whole or in part of Congregational churches, that is, delegated by presbyteries in which those churches are entitled to a vote, they cannot consistently with the abrogation of that Plan, be allowed to take their seats. Should any one deny the propriety or justice of Presbyterians thus refusing to be governed by Christians of another denomination, when they conscientiously believe their doctrines and discipline are thereby seriously endangered, he certainly is entitled to his opinion, but we cannot think it worth while to try to convince him of his error.

We think we have now redeemed our promise, to show that the conclusions at which these legal gentlemen have arrived, are founded on false assumptions as to facts.* All the legal principles which they advance may be freely admitted, without at all affecting the real question at issue. One of them expressly, the other virtually, concedes the point on which the whole case depends. They admit that the General Assembly had the right to disconnect itself from the trammels of the Plan of Union; to resolve that they would no longer carry it into effect; that they could not allow Congregationalists, or their representatives, any longer to take part in the government of the Presbyterian church. If this be constitutional, valid, and proper, the case appears to us to be decided. Every presbytery within the four synods is, more or less, of a mixed character. Their commis-

* There cannot be a clearer proof of the ignorance in which these gentlemen were left of the proceedings of the Assembly than the following remark of Mr. Wood. "The dissolution of the Third Presbytery of Philadelphia," he says, "is, I think, subject to the same objection of want of notice and opportunity of defence." This act of the Assembly is thus placed in the same category with those relating to the four synods, though it is of an entirely different character. The dissolution of a presbytery does not disconnect its members with the Presbyterian church. The erection, division, or dissolution of presbyteries, occurs more or less every year, and in the regular operation of our system.

sioners, therefore, must appear as the representatives of Congregationalists as well as of Presbyterians, and consequently can be entitled to their seats only on the assumption that the abrogation of the Plan of Union is illegal and void.

Supposing this first step, marked out in the course proposed by our new-school brethren, to be decided by the commissioners from all mixed presbyteries, being refused a seat in the next Assembly, what is to be the next step? This has not been very clearly stated. It has, however, been often said, and, if we understand the meaning of the resolutions of several of their public bodies, publicly intimated, that it is proposed that these commissioners, and those who agree with them, should withdraw and organize themselves as the true General Assembly of the Presbyterian church in the United States. We do not know that this measure will be attempted. It is however so important, that it may not be improper to inquire for a moment into its probable results. There would then be two bodies, each claiming to be the General Assembly. We are not lawyers enough to say how the point at issue between them might be brought before a civil tribunal, but we presume a question as to the ownership of some property might easily be raised, which should turn on this point. Supposing this to be done, how would the case stand?

It is on all hands admitted, that the only point for the court to decide, is, to whom the property in controversy belongs. In order that any claimants should make out their ownership to the property of a religious society, or to any part of it, they must make it appear that they are members of that society. Mr. Wood tells us, "Though a religious society has an equitable beneficial interest in property held in trust for them, yet they take it, not in their individual, but in their social capacity; they take it as *members*, and only so long as they have the qualifications of members."* Again, on p. 54, he says, "An individual having an interest in property thus held, has not a vested interest. He is benefitted by it in his social capacity, and when he of himself and others with him, forming a party, cease to be members, from whatever cause, of that particular society, they cease to have an interest in the property of that society." Governor Williamson, the other counsel in this case, teaches the same

* See The Arguments of the Counsel of John Hendrickson, in a case (the Quaker case) decided in the court of chancery of New Jersey, p. 9.

doctrine. "If they withdraw and establish a new society, ... they cease to be members of the original society, and they cease to have any claim to the property when they cease to be members, their claim being merely as members, not as individuals." p. 164.

What then is necessary to constitute membership? Being the majority of the individuals of which the society was composed does not decide the point. Suppose the majority of a Protestant society should become Roman Catholics, or Mahommedans, would they constitute the original society, or continue members of it? This is a point very plain in itself, and happily one on which the authorities are very explicit and united. Mr. Wood tells us, "That when a majority of a church secede . . . . those that remain, though a minority, constitute the church . . . . and retain the property belonging thereto." "The secession of the majority of the members would have no other effect than a temporary absence would have on a meeting which had been regularly summoned." p. 54. "It matters not," says Mr. Williamson, "how many go, or how many stay; if five remain, or if only one remain, the trust must remain for the benefit of that one. . . . . Suppose the majority of the meeting had become Presbyterians, would they still be the same preparative meeting, or could they take the property with them?" p. 110. "The principle of majority has never been made the ground of decision in the case of a schism in a congregation or religious society. Such a principle is not to be found in our law books or systems of equity." p. 166. If this point does not depend upon numbers, upon what does it depend? There are two things necessary to membership in a religious society, adherence to its doctrines and submission to its discipline. This also is very plain. The doctrines of many religious societies are the same; as, for example, the Dutch Reformed, the Presbyterian, the German Reformed. A member of the one is not, on that account, a member of the other. And though he maintains the same doctrines, if he disconnect himself from one society and either joins, or in connexion with others, organizes another, his membership with the former, and all the rights accruing from it cease of course. It is hardly necessary to quote authorities for a truth so obvious. When a certain portion of the Dutch church withdrew and claimed to be the true Dutch Reformed church, the case was decided against them on this very ground. They had separated from the

constituted authorities of the church, and thereby forfeited their membership, though they retained their doctrines. "These persons," says Chief Justice Ewing, "after they withdrew, did not continue members of the Reformed Dutch church simply because they held the same religious faith and tenets with the members of that ecclesiastical body."*

Where there is in any religious society a regular series of depending judicatories, as in our case, the session, presbytery, synod and General Assembly, the question of membership depends on communion with the supreme judicatory. A session or presbytery not in communion with the true General Assembly, is not a session or presbytery of the Presbyterian church. In the society of Friends there are preparative, monthly, quarterly, and yearly meetings in regular subordination; hence a preparative meeting not in connexion with the regular yearly meeting, does not belong to that society. This was the point on which the great Quaker case, so often referred to, principally turned. J. H. the treasurer of the preparative meeting of Chesterfield, had loaned $2000 to T. S., the interest of which he had received for a series of years. In 1828, however, a schism occurred in that meeting. One party, the orthodox, withdrew, the other, being the majority, remained, and appointed S. D. their treasurer. Here then were two treasurers, both claiming the right to receive from T. S. the interest on the loan of $2000. T. S. applies to the court of chancery to compel them to decide their claims, that he might know to whom to pay the money. The immediate question for the court to decide, was, who was the true treasurer; and this of course depended on which was the true preparative meeting. To determine this it was inquired which is in connexion with the yearly meeting through the intervening links of a regular monthly and quarterly meeting? It then appeared that there were two bodies claiming to be the regular yearly meeting, the one meeting in Arch street, the other in Green street, Philadelphia. The preparative meeting of Chesterfield, of which J. H. was treasurer, was in connexion with the former; that of which S. T. was treasurer was in connexion with the latter. The question now was, which was the true yearly meeting? the orthodox in Arch street, or the Hicksites in Green street? On the decision of this question the whole case depended. It appeared that for more than a hundred years, there had

* See Halsted's Reports, vol. 7, p. 214.

been a yearly meeting of the society in Philadelphia, continued by regular appointment. This meeting was held in 1827 at the prescribed time and place, both parties being present and participating in the business, and when it adjourned, it was appointed to meet at the same time and place on the following year. Accordingly a body did thus meet in 1828. This was the orthodox meeting. In the meantime, however, the opposite party, dissatisfied with the proceedings of the meeting of 1827, had appointed a yearly meeting to be held at a different time and at a different place from those prescribed at the regular adjournment of the yearly meeting of 1827. Agreeably to this appointment, a yearly meeting assembled in Green street, claiming to be the ancient yearly meeting of the society of Friends. Here then were two bodies laying claim to the same character. As the orthodox meeting in Arch street met agreeably to adjournment, at the time and place regularly prescribed, the presumption was of course in its favour. Those who called the other meeting, and its defenders, were obliged to assume and to attempt to prove that the regular yearly meeting of 1827 had, by its proceedings, destroyed itself, and therefore that the meeting assembled by its direction, in 1828, was not the regular successor of the ancient yearly meeting of the society. As they failed in this attempt, judgment was given against them.

In like manner, on the supposition that our new-school brethren should organize themselves as the General Assembly, to substantiate their claim they must prove that the body from which they withdrew has forfeited its legal existence. The burden must lie on them. The presumption of course will be in favour of the body which shall assemble agreeably to the requisition of the General Assembly of 1837, and be constituted in the ordinary manner. This presumption will be greatly strengthened by the fact, that these brethren must recognize its character, by claiming their seats in it as the General Assembly. They will be driven therefore to prove that its refusal to admit them destroys its nature, so that it ceases to be what it was before that refusal. the General Assembly of the Presbyterian church of the United States. It matters not where the controversy about property may begin; whether it be a suit between two sets of trustees of an individual congregation, or between two men, each claiming to be the treasurer of the General Assembly; to this point it must come, and upon this hinge the case must turn. Is the

General Assembly destroyed by its refusal to acknowledge the rights of the delegates from mixed presbyteries to take their seats as members? Must it continue to allow Congregationalists to take part in the government of our church, or cease to be the General Assembly?

It appears from what has already been said, that the decision of this question cannot depend upon the number of delegates, who may choose to withdraw. It matters not whether they are a minority or majority; if they leave a quorum behind, it is the General Assembly, unless it can be proved to have destroyed itself. As courts of chancery have the right to protect trusts and to prevent their abuse or perversion, it is certainly possible for the highest authority of a church so to act as to forfeit its claim to the property of the society which it represents. In order to this, however, it must openly renounce either the faith or discipline of the society. Had the yearly meeting of 1827, of which the Hicksites complained, and from which they separated, declared themselves Presbyterians or Episcopalians, they could no longer be regarded as the yearly meeting of the society of Friends. Majorities are not omnipotent. "They have no power," says Mr. Wood, "to break up the original landmarks of the institution. They have no power to divert the property held by them in their social capacity from the special purpose for which it was bestowed. They could not turn a Baptist society into a Presbyterian society, or a Quaker into an Episcopalian society. They could not pervert an institution and its funds formed for trinitarian purposes, to anti-trinitarian purposes." p. 53. Mr. Williamson says, "If the superior churches change their doctrines, the subordinate ones are not bound to change theirs. If a part of the head changes its doctrines, and a part of the subordinate branches change theirs also, then those who separate and form a new head, will lose their right to the property; but if there is no dispute about doctrine, those who separate from the head will be considered as seceders, and will lose the benefit of the property. If the whole head changes its religious principles, the society which separates from it, and adheres to the religious principles of the society will not lose their rights." p. 165. A case strongly confirming this last position is cited by Mr. Wood, p. 55. A large part of a congregation left the jurisdiction of one of the Scotch synods. But they claimed to hold the property on the ground that they were the true church, inasmuch as they adhered to the original

doctrines of the church, and they alleged that the synod had departed from those doctrines. The court below decided in favour of the party who still adhered to the synod. In the House of Lords, where Lord Eldon presided, the court under his advice decided, that if these allegations of the seceders were true, they were entitled to the property, notwithstanding their secession. It being determined, however, that there was no departure from the faith of the church, on the part of the synod, judgment was given against the seceders. We admit, therefore, that it is possible for the supreme judicatory of the church to take such a course as to forfeit their character and authority, and to justify a portion of its members in withdrawing from it as no longer the supreme judicatory of the church to which they belong. It is obvious, however, that nothing short of such a dereliction from the doctrines or order of the church as is a real rejection of its faith or form of government can work such a result. It is not pretended that the Assembly has departed from the doctrines of the Confession of Faith; the only question therefore can be, whether the rejection of the delegates from mixed presbyteries is so inconsistent with our form of government, that the Assembly, which decides on such a measure, ceases to be the General Assembly of the Presbyterian church? Nothing short of this will suffice to establish the claim of the opposite party. "If this new society have separated from us," says Governor Williamson, "if they have withdrawn; *if they cannot show that the original meeting was dissolved*, they can have no claim to the property." p. 164. It is not enough, therefore, that the court should disapprove of any particular act of the Assembly; thinking it uncalled for, or severe; they must pronounce that it is a secession from the Presbyterian church; that it is such a renunciation of its doctrines or discipline as to justify its being deprived of its legal existence and privileges. As the simple question is, which of the conflicting bodies is the General Assembly? the new one cannot be recognized as such, except on the assumption that the old one is destroyed; destroyed too by the exercise of an undoubted constitutional right, viz. that of judging of the qualifications of its own members. This right is inherent in every representative and legislative body, and is essential to its independence and purity. It is a right, moreover, from the exercise of which there is no appeal. To whom can an excluded member of the House of Commons look for redress from its decision

that he is not entitled to a seat? To what court can the representatives elect from Mississippi now appeal from what they regard as an unjust decision of the House of Representatives, denying them their right as members? What would our religious liberties be worth, if this privilege were denied to religious bodies? if they were not allowed to say who do, and who do not conform to the standards of their church? or if every decision of an Episcopal convention, or Methodist conference, were liable to be brought under the review of the secular courts? "While the law," says Mr. Wood, protects individuals, it would be short-sighted indeed if it did not protect religious societies in their social capacity." They are to be protected in the maintenance of their doctrines, and discipline, and in the preservation of their property. "How," he asks, "are they to be protected in these important particulars? By guaranteeing to them the power of purgation, of lopping off dead and useless branches, of clearing out those who depart essentially from the fundamental doctrines and discipline of the society." p. 5. That is, by guaranteeing to them the right of judging of the qualifications of their own members. This right has ever been respected. "In determining the great question of secession (and of course of membership) the court," says the same legal authority, "always looks to the highest ecclesiastical tribunal, which exercises a superintending control over the inferior judicatories." p. 56. He refers to a case in New York, in which it was decided "that the adjudication of the highest ecclesiastical tribunal upon this matter (the standing and membership of a minister) was conclusive on the subject." He quotes also from Halsted's Reports to prove that the dissatisfied party cannot get clear of such decision "by changing their allegiance." In the case referred to, Chief Justice Ewing says, that civil courts are bound to give respect and effect to the constitutional decisions of ecclesiastical judicatories "without inquiring into the truth or sufficiency of the alleged grounds of the sentence." 7 Halsted, p. 220. "The decision of the church judicatory would not be final, if we may afterwards examine its merits . . . . If we ask, as we doubtless may do, by what warrant individuals exercise the powers and duties of ministers, elders and deacons (who were the trustees of the property in controversy), they may answer, by an election, appointment, or call, the validity of which has been decided and sustained by the superior judicatory to which the congregation is subordinate. Such being the fact, ulterior

inquiry on our part is closed, and I think with much propriety and wisdom." p. 223. There would be no security for church property, if this principle were not admitted. What would be thought of a decision which should strip Trinity Church of its property for an act sanctioned as regular and constitutional by all the authorities of the Episcopal church? We have in our own church many men who are avowed anti-sectarians; who think that the barriers which separate the different denominations of Christians should be broken down. It is a possible case, that men of these opinions should have, on some occasion, an accidental majority in the General Assembly. Suppose they should avail themselves of the opportunity to enact a Plan of Union, by which, not the favoured Congregationalist only, but the Episcopalian, the Baptist, and even the Papist should be allowed to sit and vote in all our presbyteries. This would be hailed with delight by many as the commencement of a new era, as the adoption of "a principle that could stand the test of the millenium." Would it then be all over with the Presbyterian church? Must its General Assembly forfeit its existence, and be deprived of all its property, should it repeal this Plan, and refuse to recognize presbyteries thus constituted? We have no fear that any decision so subversive of established principles, so destructive of the rights and liberties of ecclesiastical bodies, will ever be made.

We should think the monstrous injustice of any decision, which could answer the purpose of our new-school brethren, must alarm the conscience of the most obdurate man in the country. Here, in the event supposed, are two bodies claiming to be the General Assembly. The one continued by regular succession, is the representative of those by whom almost the whole of the property held by their trustees has been contributed. The other, the representative of some three or four hundred Congregational churches, and of about an equal number of Presbyterian ones, most of which were originally Congregational. It is proposed to apply for a decision which shall declare this mixed body the true Presbyterian church, and as such entitled to all the property collected and funded by the other party! And for what reason? Because the regular Assembly has resolved not to allow Congregationalists to vote, or to be represented in Presbyterian judicatories. We doubt not that every good man on the opposite side, would rather see the property at the bottom of the ocean, than that any such decision should be made.