THE

BIBLICAL REPERTORY.

JULY 1837.

No. III.

Art. I.—*The Life of Jerome Savonarola.**

We are about to fulfil a promise in a former number, and to give some account of a Dominican monk, who was almost a Reformer. Our narrative will be framed chiefly from the materials collected by the diligent and able scholar whose work is cited in the margin: but we shall also collate other authorities, as well Roman Catholic as Protestant. No one who feels any interest in the stirring events which we detail, should be prevented by our sketch from recurring to the work under review, which is a notable specimen of historical compression, and does not well admit of abridgment.

What we offer is history, not panegyric. The foibles, excesses, and errors of the man are obvious to every Protestant reader; yet these are no more than spots on a bright object; and we wish to bring out into day the lustre of this noble soul. To the Protestant, the subject of our sketch will be attractive, as approaching very nearly to the evangelical character; to the American, as an undaunted martyr in the cause of republican rights. We happen to know that

* Hieronymus Savonarola und seine Zeit: Aus den Quellen dargestellt, von *A. G. Rudelbach*, P. D.—Hamburg, bei Friedrich Perthes. 1835. pp. xvi: 503.

weapon of his defence. The only effect of his reply is to draw down upon himself the additional charge of having misrepresented the opinions of his brethren. There stand his own words, expressly denying, on behalf of the New England divines in general, and of himself in particular, the doctrine of original sin. To prove now that they did not deny it, is only to convict himself of having slandered them. His own denial still stands in connection with his explicit avowal of the same doctrine in his Views in Theology, and his declaration that he has never changed his opinions upon the subject.

Charles Hodge

Art. V.—*General Assembly of* 1837.

The General Assembly of 1837 will probably form an epoch in the history of the American presbyterian church. We enter on the task of giving its history with very serious feelings. This is not an occasion either for exultation or crimination. The interests of the church and the honour of religion are too deeply involved in the proceedings we are about to narrate, to justify any one in approaching the subject with any other than a calm, humble, and impartial spirit. Such a spirit, we are well aware, it is very difficult, under existing circumstances, either to attain or preserve.*

The General Assembly of the presbyterian church in the United States met in the Central Presbyterian church, Philadelphia, on Thursday, May 18, 1837, at 11 o'clock, A.M., and was opened with a sermon by the Rev. Dr. Witherspoon, the moderator of the last Assembly, from 1 Cor. 1: 10, 11.

* It may be proper to repeat what we have said on former occasions, that it is not the object of these accounts of the proceedings of the Assembly, to give the minutes of that body, or to record all the motions and debates, but simply to select the topics of most importance, and to give the best view we can of the arguments on either side. We make no pretensions to indifference or neutrality. The arguments of those from whom we differ we try to give with perfect fairness, as far as possible, in the language of the reports given by their friends. But we do not undertake to argue the case for them. This we could not do honestly or satisfactorily. On the other hand, we endeavour to make the best argument we can in favour of the measures we approve, using all the speeches of the supporters of those measures, and putting down any thing which may happen to occur to ourselves. Our object is to let our readers know what questions were debated, and to give them the best means in our power to form an opinion of the correctness of the conclusions arrived at.

Immediately after the sermon, the Assembly took a recess until four o'clock in the afternoon.

In the afternoon the Assembly met, and the stated clerk having reported the roll, the members proceeded to the election of moderator. Dr. Green nominated David Elliot, D.D. of the presbytery of Ohio, and Mr. Cleaveland nominated Rev. Baxter Dickinson, of the presbytery of Cincinnati. The roll being called, it appeared that Dr. Elliot had received 137 votes, and Mr. Dickinson 106. The Assembly next proceeded to the election of clerks. The candidates for the office of temporary clerk were the Rev. Mr. Pratt and Rev. Mr. Cleaveland. Mr. Pratt received 133 votes, and Mr. Cleaveland 110. For the office of permanent clerk, Rev. Mr. Krebs received 141 votes, and the Rev. Mr. Duffield 100.

Memorial of the Convention.

The first subject of general interest brought before the Assembly was the memorial of a convention of presbyterian ministers and elders assembled in Philadelpha. This document was presented by Dr. Baxter, the president of the convention.* Its reception was strenuously resisted by Dr. Beman, who argued that, agreeably to precedent and rule, such documents could come regularly before the house only through the committee of bills and overtures. After some debate, it was finally decided that the memorial be received and immediately referred to the committee just named. The next morning the committee reported it to the house, whereupon Dr. Beman rose to oppose its being read. He objected, because it came from a convention, a body not known to that Assembly, an *ex parte* congregational council, &c. Dr. Beman stood alone in his opposition. The memorial was read and referred to Drs. Alexander, Green, Baxter, and Messrs. Plumer, Lowrie and Lenox.

On Monday morning Dr. Alexander, as chairman of the above named committee, reported in part as follows, viz.

"The committee to whom was referred the testimony and memorial of the convention of 1837, report that they have endeavoured to give to the subjects

* We should like to give this and other important papers entire, but are deterred from doing so by the following considerations. 1. The documents brought before this Assembly would of themselves nearly fill an ordinary number of this work. 2. Most of our readers will receive these documents in another form. 3. As the Protests, Answers, Letters, &c. presented to the Assembly relate to the subjects debated in the house, we should present our readers with the same matter in several different forms if we should give both a summary of the debates, and these various documents.

noticed in that paper, all the attention which time permitted, and which the contents of the document demanded. As the result of their deliberations, they submit, for the action of this body, a few resolutions, hoping to be indulged respecting other matters, until they shall be able, by further consultation, to mature something more, for the consideration of the General Assembly.

"It is proper here to observe that the general subjects of the memorial, viz. religious doctrine, church order and discipline, and reform on these subjects are lawful matters of memorial to the Assembly; and whatever may be thought of the details, none can read the document without feeling that it comes from men who are respectful, earnest, and solemn, and apprehensive of danger to the cause of truth.

"As one of the principal objects of the memorialists is to point out certain errors, more or less prevalent in our church, and to bear testimony against them, your committee are of opinion that as one great object of the institution of the church was to be a depository and guardian of the truth; and as by the constitution of the presbyterian church in the United States, it is made the duty of the General Assembly to testify against error, therefore,

"I. *Resolved*, That the testimony of the memorialists concerning doctrine be adopted as the testimony of this General Assembly (with a few verbal alterations), which is as follows, viz.

"1. That God would have prevented the existence of sin in our world, but was not able, without destroying the moral agency of man: or, that for aught that appears in the Bible to the contrary, sin is incidental to any wise moral system.

"2. That election to eternal life is founded on a foresight of faith and obedience.

"3. That we have no more to do with the first sin of Adam than with the sins of any other parent.

"4. That infants come into the world as free from moral defilement as was Adam when he was created.

"5. That infants sustain the same relation to the moral government of God in this world as brute animals, and that their sufferings and death are to be accounted for on the same principles as those of brutes, and not by any means to be considered as penal.

"6. That there is no other original sin than the fact that all the posterity of Adam, though by nature innocent, or possessed of no moral character, will always begin to sin when they begin to exercise moral agency; that original sin does not include a sinful bias of the human mind, and a just exposure to penal suffering; and that there is no evidence in Scripture, that infants, in order to salvation, do need redemption by the blood of Christ, and regeneration by the Holy Ghost.

"7. That the doctrine of imputation, whether of the guilt of Adam's sin, or of the righteousness of Christ, has no foundation in the word of God, and is both unjust and absurd.

"8. That the sufferings and death of Christ were not truly vicarious and penal, but symbolical, governmental, and instructive only.

"9. That the impenitent sinner is by nature, and independently of the renewing influence or almighty energy of the Holy Spirit in full possession of all the ability necessary to a full compliance with all the commands of God.

"10. That Christ does not intercede for the elect, until after their regeneration.

"11. That saving faith is not an effect of the special operation of the Holy Spirit, but a mere rational belief of the truth, or assent to the word of God.

"12. That regeneration is the act of the sinner himself, and that it consists in a change of his governing purpose, which he himself must produce, and which is the result, not of any direct influence of the Holy Spirit on the heart, but

chiefly of a persuasive exhibition of the truth analogous to the influence which one man exerts over the mind of another; or that regeneration is not an instantaneous act, but a progressive work.

"13. That God has done all that *he can do* for the salvation of all men, and that man himself must do the rest.

"14. That God cannot exert such influence on the minds of men, as shall make it certain that they will choose and act in a particular manner without impairing their moral agency.

"15. That the righteousness of Christ is not the sole ground of the sinner's acceptance with God; and that in no sense does the righteousness of Christ become ours.

"16. That the reason why some differ from others in regard to their reception of the gospel is, that they make themselves to differ.

"Against all these errors, whenever, wherever, and by whomsoever taught, the Assembly would solemnly testify; and would warn all in connection with the presbyterian church against them. They would also enjoin it upon all the inferior judicatories to adopt all suitable measures to keep their members pure from opinions so dangerous.

"Especially does the Assembly earnestly enjoin on all the presbyteries to guard with great care the door of entrance to the sacred office. Nor can the Assembly regard, as consistent with ministerial ordination vows, an unwillingness to discipline according to the rules of the word of God and of our standards, any person already a teacher, who may give currency to the foregoing errors.

"II. In regard to the relation existing between the presbyterian and congregational churches, the committee recommend the adoption of the following resolutions, viz.

"1. That between these two branches of the American church, there ought, in the judgment of this Assembly, to be maintained sentiments of mutual respect and esteem, and for that purpose no reasonable efforts should be omitted to preserve a perfectly good understanding between these branches of the church of Christ.

"2. That it is expedient to continue the plan of friendly intercourse between this church and the congregational churches of New England, as it now exists.

"3. But as the 'plan of union' adopted for the new settlements in 1801, was originally an unconstitutional act on the part of the Assembly, these important standing rules having never been submitted to the presbyteries, and as they were totally destitute of authority as proceeding from the General Association of Connecticut, which is invested with no power to legislate in such cases, and especially to enact laws to regulate churches not within her limits; and as much confusion and irregularity has arisen from the unnatural and unconstitutional system of union, therefore it is

"*Resolved*, That the act of Assembly of 1801, entitled, 'A Plan of Union,' be and the same is hereby abrogated.—[*See Digest, pp.* 297—299.]

"4. That our delegates to the bodies representing the congregational churches, be instructed to explain to them the reasonableness and even necessity of the foregoing measure."

After the acceptance of this report, a motion was made to adopt that portion of it which related to doctrinal errors. Mr. Mines said he was not ready to adopt the report. He could conscientiously vote to condemn the errors specified, but thought that there were other errors, on the opposite extreme, which also demanded condemnation. He wished, therefore, to add the following specifications to the list.

1. That man has no ability of any kind to obey God's commands or to do his duty. 2. That ability is not necessary to constitute obligation. 3. That God may justly command what man has no ability to perform, and justly condemn him for the non-performance. 4. That all the powers of man to perform the duties required of him have been destroyed by the fall.* Mr. Jessup moved the postponement of this subject until Tuesday morning at nine o'clock. This motion led to a debate which occupied most of the morning. The postponement was finally acceded to by a vote of 129 to 126. In the afternoon that part of the report which related to the abrogation of the plan of union between presbyterian and congregational churches, adopted by the Assembly in 1801, was taken up. The first resolution was adopted. When the second was proposed, Mr. Breckinridge moved to insert the words "at present" after the word "expedient." After some debate, the motion was withdrawn. On the third resolution, which proposed the abrogation of the said plan of union, a discussion ensued, which occupied the attention of the house during the remainder of the afternoon and the whole of Tuesday. The resolution was opposed by Messrs. Foot, Crocker, Graves, Woodbury, Loss, Spaulding, Johnston, Cleaveland, M'Auley, Hooker, E. White, Peters. It was advocated by Messrs. Green, Alexander, Junkin, and Plumer. At the conclusion of Dr. Peters' speech the previous question was moved and seconded by a vote of 129 to 123; when the main question was put, and the resolution passed; ayes 143, noes 110.

* We cannot refrain from making a remark on the extreme delicacy of calling on deliberative bodies, and especially on the highest judicatories of a church to affirm or deny doctrinal propositions. It would be well to remember with what sedulous care and frequent debate and comparison of views the Westminster Assembly revised and determined on the language employed in our standards. Luther and the other Wittemberg divines, when called upon to furnish the diet with a brief statement of the points of agreement and difference between them and the Romanists, utterly refused on the ground that it was too difficult and serious a matter to be done in a few days, which was all the time which could then be commanded. We see, however, that in our Assembly no hesitation is felt in moving on the spot, that such and such doctrinal propositions be approved or condemned. These remarks are not made in any special reference to Mr. Mines, but relate to a matter of frequent occurrence. As to this particular case, however, it will be seen that though we have four propositions proposed to be condemned, they all amount to the same thing, and they are so worded, that they may be affirmed or denied by the same person with equal truth and safety.

Abrogation of the Plan of Union.

With regard to the constitutionality of the plan of union, there seems to have been a diversity of opinion among those who opposed its abrogation. Dr. M'Auley said, "He readily conceded that the plan was at least extra-constitutional. The wonder was that it should ever have been considered otherwise. But those who entered into the arrangement considered the necessity of the case as rising above the constitution." Mr. E. White said, "That the contract was constitutional in its form, he should not attempt to argue. So far from this, he freely admitted that it was an open violation of all the principles of presbyterianism, save that of doing good, in good faith with our neighbour." We find however the following argument in the protest of the minority to prove that the plan was not unconstitutional. "The utmost that can be said on this subject is, that it is an act neither specifically provided for nor prohibited in the constitution. It cannot therefore be affirmed to be *contrary* to the constitution.

"The constitution provides, that before any constitutional rules proposed by the General Assembly to be established, shall be obligatory on all the churches, the approval of them by a majority of presbyteries must be first obtained. (Form of Government, chap. xii. sec. 6.) The act of the Assembly adopting the plan of union, it is admitted, was not previously transmitted to the presbyteries for their approval. It does not therefore follow, however, that that act was unconstitutional, because the provisions of the union were, neither in fact, nor ever regarded by any of the presbyteries as "constitutional *rules*" to be obligatory on *all* the churches. They were the mere terms of an agreement or treaty between the General Assembly of the presbyterian church and the General Association of Connecticut, and, through that Association, with all the churches which have been formed according to the terms of that treaty.

"In the act of the Assembly adopting that *plan of union*, the General Assembly, being constitutionally "the bond of union, peace, correspondence and mutual confidence, among all our churches," (Form of Government, chap. xii. sec. 4,) merely exercised its legitimate functions, agreeably to the constitution, (Form of Government, chap. i. sec. 2,) in declaring "the terms of admission into the *communion*" of the presbyterian church, proper to be required on the frontier settlements. And in this light the entire presbyterian

church has so regarded this plan of union from its adoption up to the present time, when the abrogation of it is publicly declared, by the advocates of the measure, to be *necessary* for the acquisition and perpetuation of power to accomplish the ends avowed and sought by the minority of the last General Assembly, and prosecuted by means of a convention, called at their instance, and holding its sessions cotemporaneously with those of the Assembly. For the following facts are undeniable, viz. 1st, that the plan of union now declared to be unconstitutional was formed TWENTY YEARS *before* the adoption of the present constitution of the presbyterian church; 2d, that this plan, at the time of the adoption of the constitution, was in full and efficient operation, and of acknowledged authority as common law in the church; 3d, that it had been recognized and respected, in numerous precedents in the doings of the General Assembly from year to year; and 4th, that for SIXTEEN YEARS *since* the adoption of this constitution, it has been regarded of equal authority with any act whatever to which the General Assembly is constitutionally competent.

"Had the plan of union and the act of the General Assembly adopting it, been regarded unconstitutional and null, as being either an assumption of power not granted, or a trespass on the rights of presbyteries, some remonstrance or objection to the imposition of constitutional rules for the government of all the churches, not legitimately enacted, would have been heard from some quarter before the lapse of one third of a century. Had the plan of union been thought illegal, or had it been designed or desired by the presbyteries in 1821, when the constitution was revised, amended and adopted by them a second time, to frustrate or resist the operation of this plan, unquestionably either the revised and amended constitution would have had embodied in it some provision against it, or some attempt at least, would have been made to that effect. The truth is, that the plan of union adopted by the General Assembly was felt to be morally binding, as a solemn agreement or treaty duly ratified by the power constitutionally competent to do so; and by no means the enactment of constitutional rules to be "obligatory on all the churches" for their government.

"It is to no purpose, in our opinion, to allege the unconstitutionality of the plan of union, by pleading that for a church to be regarded as a presbyterian church, it must according to our constitution be organized with ruling elders,

while that plan provides for the organization of churches in certain cases without such officers; because the plan of union designedly contemplates a process, which the Assembly was constitutionally competent to prescribe, and which the entire church had approved, by which churches on the frontier settlements may be organized partially at first on the presbyterian ground, and be gradually brought fully on to it; and because, if the provisions of the constitution prescribing the *full* form of organization proper for a presbyterian church, must in every case be minutely and completely observed, and any deviation from it should vitiate the organization, then must those numerous churches among us, in which there are no deacons, be for the same reason pronounced unconstitutional.

"The attempt to prove the unconstitutionality of the act of the Assembly adopting the plan of union, by attributing to the provisions of that plan the character of constitutional rules obligatory on *all* the churches, and by objecting that the presbyteries had not been previously consulted, strikes as directly and is as conclusive, against the plans adopted for the organization and government of the Theological Seminaries at Princeton and Alleghany; of the Board of Education and of Missions; and for the union and perpetuated existence of the presbyteries belonging to the General Synod of the Associate Reformed church, who were admitted into communion with the presbyterian by the terms of a plan of union agreed upon between that Synod and the General Assembly. For the provisions of these plans have never been transmitted to the presbyteries for their approval. If therefore the plan of union with the General Association is to be abrogated, because of alleged unconstitutionality on these grounds, so must be the rules and regulations, and the whole organization and government of the Theological Seminaries of the General Assembly, and also the act of the Assembly by which the presbyteries of the Associate Reformed Synod were united with the presbyterian church of these United States, by which the General Assembly became possessed of the valuable Theological Library known as the Mason Library, now in Princeton, and formerly belonging to the Associate Reformed Synod."

2. The second position assumed by the minority was, that the abrogation of the plan of union would be a violation of compact, and therefore could not be effected consistently with good faith. The parties to this contract were either the

General Assembly and the General Association of Connecticut, or the Assembly and the churches formed under the plan of union. Most of the speakers on either side took the former view. The opponents of the resolution argued that, although the Association of Connecticut had no authority over the churches in question, it had still a constitutional existence, and was competent to become one party to a contract. The Assembly of 1835, though they desired to prevent future action under the plan, had not ventured to interfere with the sacredness of a contract which had entwined its benefits and blessings with the growth and prosperity of so many of our rising churches. There were rights belonging, under this agreement, both to the Association of Connecticut and to those churches in the then new settlements to whom the compact had special reference. It was not to be admitted that because the Association of Connecticut was a less fixed and visible and tangible body than our own, therefore we had a right to nullify our own contract with it. Whatever might be the defects of their system of government, or the excellencies of ours, no diversity of government could disannul a solemn covenant deliberately made. There can be no impropriety in calling the plan of union a contract, for it was, in the first place, a proposition from the General Assembly, which, according to their own terms, was to become binding if the General Association of Connecticut should assent to it; and the implication was that if the Association did not assent, it was not to be binding. It was a plan of union, but it involved an agreement on their part and on ours. It was therefore a covenant, an agreement between two parties for their mutual benefit; an agreement between the presbyterian church on the one side, and certain branches of the congregational church on the other. Certain rights were in the congregational churches, and they entered into an agreement for the benefit of their brethren in the new settlements, and if we wished to put an end to the agreement, the decorous course would be to appoint delegates who should lay before them the resolution we contemplated adopting, and confer with them on the subject. It might be admitted that because the Association of Connecticut had ceased to hold a connexion with the congregational churches in the west, the original connexion between them might be considered as lapsed. But had the binding obligation of the covenant therefore lapsed? The parent had ceased to be, but instead of the parent, had come the offspring. New congregational churches

had risen up and mingled themselves with us, and become ours. The original obligation was now transferred to the churches, presbyteries and synods which had been founded on the faith of it; for the plan had extended its benign influence far and wide. Along all our frontier numerous churches had been formed on the faith of that covenant who never dreamed that its obligation had ceased. All those presbyteries and synods had not only been organized, but called our ministers, received and welcomed our agents, contributed to our funds, both permanent and occasional, and were in fact one with us, forming an integral part of the presbyterian church. If this plan of union was unconstitutional, what was to be said of the constitutionality of this resolution? It proposed a measure which must necessarily affect large portions of our church; and if the Assembly had no right to form any constitutional rule without first sending down the proposition to the presbyteries, by what authority can it pass an act essentially altering the organization of large portions of our body, without first submitting it in like manner?

3. Even if there were evils connected with the plan, the resolution does not propose the proper method of redress. It is unrighteous to judge and condemn whole communities *en masse*. But the Assembly is called upon not to accuse merely, but at once to condemn whole presbyteries and synods in the west. We want to know facts, and not the reports spread by rumour with her trumpet tongue. If it were true that error was creeping in through this plan of union, let it be shown; and, if possible, let the plan be constitutionally abrogated. Even could it be shown that there was some defect in the compact as originally formed, did it follow that it would be morally right, and according to the genius of presbyterianism, for the Assembly to rise up and at once to destroy it? Surely, if the supreme judicatory of the church, by overlooking the obvious unconstitutionality of the arrangement, had suffered it to stand for thirty-six years, it was that judicatory that was responsible for the consequences, and not those infant churches, who, in confidence of our veracity, had placed themselves under the operation of the plan.

4. Besides, the Assembly ought to look at the source whence this measure emanates. It has been brought up by the memorial of a convention. And what was this convention? And what is their object in proposing a measure like this? A dissatisfied minority of the last Assembly had, through an organ of their own, proposed a meeting immedi-

ately on the rising of the Assembly, to consist of a party minority; and the meeting was accordingly held. The invitation had been given in face of the world, but their proceedings were secret. Immediately afterwards, however, whispers were every where circulated that the church was to be divided. Then came a circular, next a pamphlet, then this convention. It had been many days in session, and its discussions were known to the moderator and other gentlemen on this floor. The result of the whole has been the presentation of this memorial. The memorial complained of the doings of the Assembly of 1836, insisted on the impossibility of continuing any longer with two conflicting systems of church government, and prayed for relief in the premises; and among the measures proposed to remedy the evil, this was one. The evils of the church had been largely discussed in the convention, and it had there been stated that the prominent evil consisted of certain doctrinal errors, and that out of these had grown certain irregularities in discipline. Now supposing the Assembly should abrogate the plan of union, because these errors were held by the churches formed under it, and then all these churches should rise as one man, and say aye to the condemnation of the whole list, what would then become of the argument for this resolution? And what a beautiful ground would then be left of appealing to those churches for the justice of your act? It would then be necessary to expunge almost every thing the memorial contained. The irregularities complained of have not arisen from the plan of union, for they are found in portions of the church which have never been subjected to its operation. This very convention is an irregularity. Its members complain of certain evils, propose certain remedies, and then come into this house to receive their own complaints, and grant their own petitions. The source therefore whence this resolution proceeds, and the result at which it aims, are strong reasons for its rejection.

5. Could this plan be rightfully and constitutionally abrogated, it would still be highly inexpedient to set it aside. Every one must be struck with the aspect in which this plan presents itself to the minds of the brethren who came from the region where it prevailed, and where its practical results could be best judged of. They all spoke of the blessings it had shed throughout all that region. They all deprecated its abrogation as a calamity, and spoke of the trouble and confusion which must necessarily ensue. This was the view of

entire presbyteries and synods; while only a small minority of particular presbyteries, and in some cases a solitary discontented individual, brought up an unfavourable report. The plan was originally proposed by those who saw the necessity for such an arrangement. The fertile regions of the west were rapidly filling up with a population mostly from New England. These people, accustomed to congregationalism, and unwilling at once to abandon it, and yet too few and scattered conveniently to support the ordinances of the gospel by themselves, were persuaded to unite, for this purpose, with their presbyterian neighbours. The result has been that hundreds of churches have been thus formed and sustained, which, but for this plan, might never have been formed at all. Entire presbyteries and synods now exist where, previously to the adoption of the plan of union, there were scarcely any presbyterian churches or ministers. The same necessity exists at present for this arrangement which existed then, though not in the same region of country. You hear, however, the brethren from Michigan and Illinois assuring you that the union is still essential to the support of their churches. One brother says he knows of at least twelve churches which must be deprived of the ordinances of the gospel if this resolution be adopted. The effect of this plan has been to bring into our body a multitude of sound presbyterian churches; its abrogation will drive multitudes into confirmed congregationalism, and that too of the worst kind, and will effectually prevent the spread and establishment of our system in many regions to which it would otherwise have easy access. The passage of the resolution in question cannot fail to produce extensive and lasting mischief.

The speakers in favour of abrogating the plan of union urged, in the first place, that it was entirely unconstitutional, and therefore null and void from the beginning, as well on the ground that the parties by which it was adopted were incompetent to make such an arrangement, as on account of the provisions of the plan itself. In order, therefore, to understand this subject, we must attend to both these points—the nature of the plan, and the competency of the parties. As to the nature of the plan, it will be perceived, on a reference to the Assembly's Digest, p. 297, 298, that it provides—1. That a presbyterian may be the pastor of a congregational church, and a congregationalist the pastor of a presbyterian church. 2. That the internal discipline of the congregational churches may be conducted on congregational princi-

ples, except when the difficulty relates to the presbyterian pastor, when the case must be referred to his presbytery, provided the church consent, if they do not, it must be referred to a mutual council. 3. That when a presbyterian church has a congregationalist for its pastor, the internal discipline must be on the presbyterian plan; i. e. a congregationalist may preside in a presbyterian church session, and administer presbyterian government which he neither approves of nor submits to. In case of difficulty between such pastor and his church, the matter must be referred to his association, or to a mutual council. In case a congregation consists partly of presbyterians and partly of congregationalists, the plan provides—1. That they should be formed into one church. 2. That a standing committee should be chosen to administer discipline; that a congregationalist may appeal from the decisions of this committee to the male members of the church, and a presbyterian to the presbytery whose decision shall be final, unless the church consents to a further appeal to the synod, or to the General Assembly. 3. That if the said standing committee of any church, shall depute one of themselves to attend presbytery, he may have the same right to sit and act in presbytery, as a ruling elder of the presbyterian church. It is obvious on the slightest reflection that there are almost as many direct violations of the constitution and form of government of our church, as there are distinct provisions in this plan. The constitution from its very nature is designed for presbyterians and for them only. None others can rightfully come under its provisions, nor take part in its administration. The constitution supposes and requires that our congregations should be presbyterian congregations, and our pastors presbyterian pastors. But this plan makes provision for the introduction into our body of congregational churches and ministers, and allows them to continue congregationalists. It is, therefore, opposed not merely to this or that special provision of our constitution, but it is at variance with its whole nature and design. It requires no argument or illustration to prove that it is contrary to our constitution that congregationalists, remaining such, should be made members of our church, any more than it needs to be proved that the citizens of France cannot, while they continue such, be the citizens of England; or that Canada cannot be one of the states of our Union, while it remains a province of Great Britain. Some of the brethren on the other side, have indeed said that the utmost

that can be maintained on this subject is, that the constitution makes no provision for such a plan of union, but that it is not unconstitutional. Such assertions can only excite astonishment. If any one could be found to propose in the congress of the United States, that Canada, Jamaica, Cuba, Hispaniola and Mexico, retaining their present political organizations and relations, should be included in our Union, and allowed to send delegates to our state legislatures, or to our national council, and still continue independent of all the enactments of those bodies, we venture to affirm that no second man could be found to say that such a proposal was not unconstitutional; nor would any man think it worth his while to quote chapter and section of the constitution for the purpose of arguing down such a proposal. It is only in the most liberal and accommodating of all churches, that such propositions could be made, or such assertions listened to. As the object contemplated in the plan under consideration, viz. the union of two distinct ecclesiastical denominations in one body, is at variance with the very nature of our constitution, we feel it to be almost a waste of time, to prove that the details of the plan are in opposition to almost all the leading principles of our system. Our constitution directs that churches shall be organized with a pastor and bench of elders, but this plan directs them to be organized in a different way. The constitution directs that church members, when charged with offences, must be tried by the session with the right of appeal to the higher courts; this plan directs that in some cases they are to be tried by the male members of the church, in others by a standing committee, and denies the right of appeal to the higher judicatories except when permission is granted by those who are not presbyterians. The constitution directs that every minister, when accused, must be tried by his presbytery, i. e. by his peers, men who have adopted the same standards and are subject to the same form of government with himself; this plan denies him this privilege, and requires him to be tried, at the discretion of others, by those who have adopted a different standard of faith, different rules of evidence, and a different form of government. Our constitution directs that before a man can be installed as pastor of a presbyterian church, or preside in a church session, he must adopt our confession of faith and form of government; but this plan allows a congregationalist to be a presbyterian pastor and the moderator of a presbyterian session. The constitution prescribes certain qualifications for

all ecclesiastical rulers, whether in the session, presbytery, synod, or General Assembly, but this dispenses with these qualifications, and allows a congregationalist to be the moderator, and congregationalists to be the constituent members of the church session; it allows men who have never been ordained to sit and vote in presbytery, and by so doing to have an equal voice with others, in the constitution of our higher courts, even though it makes no express provision for such persons themselves appearing as members of synod or of the General Assembly. The plan therefore is subversive of almost every one of the leading principles of our ecclesiastical system, whether in reference to the organization of churches, the qualifications of rulers, or the constitution of our church courts. It is not merely something apart or aside from the constitution, it is in direct contravention of its most important provisions.

By whom then was this plan proposed and adopted? It is very obvious that, making as it does numerous fundamental changes in our system, it could be rightfully introduced by no power short of that which can make and unmake the constitution at pleasure. The fact, however, is that it was adopted by the General Assembly, a body which has no authority to alter or suspend one of the least of our constitutional provisions. It cannot extend the time of study required of candidates for the ministry; it cannot alter the ratio of representation; it cannot dispense in any one instance with the constitutional requisitions for office. But here is an Assembly setting aside the rules which prescribe the mode of organization of churches, sessions, and presbyteries; allowing what the constitution forbids, and forbidding what the constitution directs. Should the American congress by resolution declare the present senators of the United States a hereditary peerage, and confer a seat in the upper house on the bishops of the Episcopal church, it is presumed it would be regarded as something more than a mere extra-constitutional measure; and that the Supreme Court would consume very little time in deciding on the validity of any claims arising under such a resolution. Congress however has quite as much authority to alter the constitution of the United States, as the General Assembly had to adopt a plan of union abrogating our form of government, and conferring on congregationalists the rights and power of presbyterians in the presbyterian church.

But even supposing for a moment the Assembly to be

competent to make such an arrangemenent, with whom was it made? The plan of union has been declared to be a compact. If so, with whom was it formed? Most of the brethren on the other side regarded it as a compact between the General Assembly and the General Association of Connecticut; while others represented it as a contract between the Assembly and the churches in the new settlements. The former were undoubtedly correct. If it is a compact at all, the contracting parties were the Assembly and the Association. They formed an arrangement relating to the new churches, but not with them. This is plain from the face of the record. It is called "a plan of government for the churches in the new settlements," which was "adopted by the General Assembly of the Presbyterian church in America, and by the General Association of the State of Connecticut." This plan was proposed by the Assembly to the Association, was to be binding if adopted by the latter, but not otherwise. Accordingly it is duly recorded that the plan was adopted by the said Association.* Now the question arises, what right had the Association of Connecticut to form a plan of government for the churches in the western part of New York? Had that body any manner of authority over those churches, any more than over the churches of South Britain? It is not pretended, here, nor elsewhere, that they had any such authority. They have no power even over the churches of Connecticut. All they could do, was to express their opinion, that, under the circumstances, the Assembly's plan was a good one. But is this a contract? Not at all. The Association had no constitutional right to make such a contract, and therefore for this reason, if for no other, the arrangement has no binding force, any longer than the Assembly chose to regard it. If the state of New Jersey should enter into a commercial treaty with Great Britain, prescribing a tariff of duties, it would be *ab initio* void, because the state has no authority to act in the business. The plan of union therefore cannot be regarded as a binding contract between the Assembly and the Association, because the latter had no authority in the case. We regard this however as a very subordinate point, because, whatever may have been the intention of the parties, or the form of the arrangement, the Association had really nothing to do with it, authoritatively, at the beginning; and it has nothing to do with it now. It is now and always has

* See Assembly's Digest, pp. 297—299.

been simply a domestic affair; a concern of our own. The only question therefore is, whether the Assembly of 1801 had any right to set aside all the fundamental principles of presbyterian church government, and, in direct violation of the constitution, to say that churches may be organized without ruling elders, sessions formed without one presbyterian member, presbyteries constituted partly of presbyterians and partly of congregationalists? This is a point which cannot be argued. It is too plain to admit of being proved. We think therefore the brethren would have acted far more wisely to say with Dr. M'Auley, that they "would not defend it on the ground of the constitution;" or with Mr. White, that "it was an open violation of all the principles of presbyterianism," than to assume the obviously untenable ground that the constitution, if it did not provide for such a plan, at least admitted of it. It always injures even a good cause to be sustained by arguments which hurt the understanding of every man to whom they are presented.

It has been said, however, that although the plan was not originally adopted by the presbyteries, yet, inasmuch as the constitution was submitted to their revision, since this arrangement was formed, and no objections were made to it, it thus was duly sanctioned. The constitution, however, was not made, as has been strangely asserted, after this plan was formed. It is now, in all its essential features, what it was before the revision of 1821. Not a single provision affected by this arrangement has been altered. This plan formed no part of the constitution or book of discipline submitted to the presbyteries for their reception or rejection. It was nothing more than a series of resolutions standing on the minutes of the General Assembly. Will it be pretended that the presbyteries were bound to look over the minutes of this body from its organization, and express their opinion of the constitutionality of every resolution, under the penalty of being forever after held to silence and acquiescence? The truth is that, at the time of the revision of the constitution, the plan of union had excited but little attention among the churches generally; and had this not been the case, the presbyteries could not regularly have expressed their judgment on the case, when called to decide on an instrument which made no allusion to it. Many of these brethren maintain that the Assembly has no right to have a Board of Missions, and insist that before such a board could be regularly established, the plan must be submitted to the presbyteries. Will

they then admit, that inasmuch as the Assembly had a Board of Missions before the revision of the constitution, the appointment of that board has received the sanction of the presbyteries? If so, why do they contend that it is now extra-constitutional?

It is argued, again, that even if the arrangement were unconstitutional in its inception, yet inasmuch as it is of the nature of a contract, it cannot, consistently with good faith, be set aside. We are not disposed to assert that there may not be cases in which an individual or a public body may form a compact which, from want of competency in the contracting parties, or from the subject matter of the agreement, may be void in law, and yet be morally obligatory. We deny, however, that the case under consideration is one of this kind. If a guardian, as the representative of his ward, makes a contract not only unfavourable but unreasonable and unjust in its own nature, ceding away rights and interests which that ward holds in trust for others, so far from its observance being morally obligatory, its abrogation becomes a moral duty. Such we maintain is the case in the present instance. The General Assembly of 1801, as the representative of the presbyteries, ceded away the fundamental principles of our system, gave up the guards and securities for order and truth which presbyterians deem essential. This they had no more right to do, than a guardian has a right to cede away the entailed estate of his ward. And the presbyteries, when they come clearly to understand the nature of the arrangement, and see not merely that it operates injuriously to their interests, but that it endangers the security of the sacred deposit of which they are the trustees, are as much bound to set it aside, as a ward would be to cancel an agreement of his guardian, which made him a party to a fraud or breach of trust. This is a very feeble and unfavourable illustration. When we hear of a contract, we naturally think of a valuable consideration which the one party receives from another, and the mind revolts at the idea even of a ward setting aside a covenant, though illegal, after he has enjoyed the benefit of it. The brethren on the other side have not been backward to avail themselves of this advantage. It is however a delusion. We deny that presbyterians ever received any valuable consideration in this case. It was at the beginning a concession, a yielding up, and not a receiving on our part. What advantage is it to presbyterians, who value their system, to allow churches to be organized with-

out elders, to permit congregationalists to constitute our sessions and presbyteries, to give to men the privilege of governing us, who refused to be governed by us? The advantage is all on one side. The repeal of the plan of union, therefore, is not analogous to the cancelling of an illegal sale after payment has been made. It is not even the recalling of a gift, so much as the refusal of a set of men to continue giving what they find they had no right to bestow, and what they are bound by every moral obligation to retain and preserve. It may be said, however, that inasmuch as multitudes of presbyterian churches have been formed under this plan, four synods now existing where forty years ago there were scarcely as many congregations, presbyterians have therein received great advantages. But we deny, in the first place, that this is an advantage. On the contrary, it is a great evil; not the formation of Christian churches, be it understood, but the formation of mongrel congregations, neither presbyterian nor congregational. We maintain that it would be far better for us and for all concerned, had the union never taken place; and if instead of the present anomalous plan, churches formed either on the one system or the other, had been regularly organized. In the second place, if these numerous churches with all their influence constitute the valuable consideration in the contract, are we not willing to give them up? Have we received any thing from this contract which we are not anxious to restore? It is a most unfair misrepresentation to hold us up as desirous to set aside a contract, and yet retain the valuable consideration. We deny that we ever received such consideration; and what our opponents regard as such, we are very ready to relinquish.

It is said, moreover, that certain rights have vested in these churches in consequence of the plan of union, which it would be a breach of faith to recall. A right, however, is a legal or equitable claim. What valid legal claim can arise under an unconstitutional act, void from its nature, *ab initio?* And what equitable claim can congregationalists have to govern presbyterians? We have very amiably submitted to be thus governed for a long series of years; but we cannot see that this submission confers the right of perpetual domination. The repeal of the union, therefore, takes away no legal or equitable right. It simply declares that presbyterian churches must be presbyterian churches, that presbyteries must be presbyteries, and that those who sit in our church courts must have the constitutional qualifications of mem-

bership, and be themselves subject to their own enactments. If such a measure can be made the subject of popular indignation, it must be by other means than fair representation.

2. The second leading argument in favour of the abrogation of the plan of union is its injustice and its injurious operation. To a certain extent this argument has been anticipated. The arrangement is essentially unjust and unreasonable inasmuch as it confers on congregationalists the privileges of membership in the presbyterian church, while they themselves continue independent of the laws which they enact and administer. This evil affects all our courts from the session to the General Assembly. Thus the moderator of a church session may be a congregational minister, who decides on the standing of presbyterians, and administers a system of discipline which he has never adopted. The presbyteries, which, according to the constitution, should be composed of ministers and ruling elders, may be, under this plan, and to a very great extent, in fact are, composed of congregationalists. The decisions of these bodies are binding on all the presbyterians within their bounds, but have no authority over the congregationalists, by whose votes they have been adopted. Again, our synods being delegated bodies, as far as the lay members are concerned, are also subject to the direct influence of congregational voters by whom the lay delegates are appointed. And, finally, the General Assembly being constituted by the representatives of the presbyteries, and presbyteries formed under the plan of union embracing congregationalists, the highest judicatory of the church is thus appointed, in part, by congregationalists. Thus through all our courts we have men deciding on our doctrines and on the standing of our members and ministers who have never adopted our standards; men are employed in making laws for us, to which they themselves refuse to submit. If this be not an absurdity, and an injustice, we know not what can be. As long as from the limited extent of the evil, it was a matter of insignificance, it was so treated. But since it has grown to be intolerable, we must cease to tolerate it. While there was only here and there a congregationalist in any of our judicatories, no one felt any concern about the matter; but now that a fourth or a third of our church courts are composed either of congregationalists or of their representatives, it is an imperative duty to put an end to the system.

There is another form of this same evil. According to the fundamental principles of our system, all our courts above the church session should be composed of equal portions of the clergy and the representatives of the people. But under the operation of this plan, we have presbyteries of twenty, thirty, or forty ministers, and only one, two, or three elders; synods containing from one to two hundred ministers, and from ten to twenty or thirty elders.* This, as far as a fair representation of the people is concerned, is a great injustice. This is not all. The presbyterian church is specially interested in the constitution of the General Assembly. As this is our supreme judicatory, any unfairness in the constitution of this body operates unjustly and oppressively on the whole church. Our book prescribes that the General Assembly shall be composed of one minister and one ruling elder for every twelve ministers and twelve churches.† But under the operation of this plan, a presbytery, with fifty ministers and two presbyterian churches, is as fully represented as though it had fifty churches; and a synod of two hundred ministers and ten or twenty churches, has as many members on this floor as though it had two hundred churches. That is, ten or twenty churches in some regions of the church, have as much authority in the Assembly as two hundred in other regions. In other words, there are hundreds of congregational churches, which are as fully represented in this house as the strictest presbyterian congregations in the land. Men who do not adopt our system have as much influence in its administration as those who do adopt it. They have as much authority to decide on the standing of our ministers, or the administration of our laws, determine on what presbyterians are to believe and teach, as though they themselves were presbyterians. Is this fair? Is it reasonable? Are

* The presbytery of Lorain, for example, contains twelve churches, of which only one is presbyterian. The presbytery of Trumbull has twelve ministers, and is said to contain but one presbyterian church. The synod of the Western Reserve has one hundred and eighteen ministers, and is said to have from twenty-five to thirty presbyterian churches. This statement was sustained on the floor of the Assembly by testimony of the members of the Western Reserve synod themselves.

† This is the principle of the book. The slight deviation occasioned by ministers without charges being represented is not taken into account, 1. Because this occurs more or less in all presbyteries, and therefore does not operate unfairly; and 2. Because such ministers being presbyterians have a right to be represented. 3. Because vacant churches are entitled to representation in the presbyteries, which are the constituents of the General Assembly.

we to be threatened with the indignation of freemen and the execration of posterity for putting an end to this system; for simply saying to our congregational brethren, You must stop making laws for us, unless you will submit to them yourselves; you must cease deciding what our standards allow or condemn, unless you choose to adopt them?

Again, the plan of union has been greatly abused, and in such a manner as to increase its injurious operation on the presbyterian church. It is obvious from the nature of the case, that it was originally designed as a temporary arrangement, and for the benefit of those feeble congregations consisting partly of presbyterians and partly of congregationalists. Those who formed the plan never contemplated any thing more than that a few frontier congregations should, for a short time, be allowed to organize themselves in this anomalous way. Instead however of this limited and temporary arrangement, we have an extended and permanent system fastened upon us. Instead of a few frontier churches, we have large synods; and instead of a temporary irregularity, we have a lasting alteration in the constitution of our churches and judicatories. It was never the design of the authors of this plan to introduce congregationalism as a regular constituent part of our ecclesiastical system. Their object was to bring congregationalists over to presbyterianism. If after a reasonable time the congregationalists could not be brought to adopt our system, the plain course of duty was to say so, and openly to abandon it. The plan therefore has been perverted by its being made permanent instead of temporary, and by making an arrangement designed for feeble frontier churches, the basis of large and flourishing synods.

It is a still greater abuse to extend the plan, as has been done, in a multitude of cases to which it was never intended to apply. Churches entirely congregational, and who sustain their ministers without any aid from presbyterians, have become nominally connected with our presbyteries, by simply allowing their pastors to be members of presbytery, and sending a male member of the church to sit as a ruling elder. Why was this? Why should churches which have no more to do with us, than the churches of New England, be numbered as presbyterian churches, and take part in the government of the church? This surely was never contemplated when the plan was adopted; yet the result has been to give a great increase of influence in our ecclesiastical courts to the congregational party. That the facts are as just stated, is no-

torious. They have been publicly, and all but officially, acknowledged. In the printed address of the Association of Western New York to the congregational churches of New England, it is stated as generally known that there "are a large number of churches, composed almost exclusively of descendants of the Pilgrims, originally constituted by missionaries from Connecticut and Massachusetts as congregational churches, and still retaining that form of government, *which, in the general census of the church, have been classed as presbyterians*, and in fact have been subject to their control." In speaking of the churches in the district of country west of the Genesee river, these gentlemen say, "The plan of union being adapted to a state of things, when congregationalists and presbyterians were intermingled in one congregation, and there being in fact *in these churches no presbyterians*, and none who understood its 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 up as a delegate to presbytery, who was regularly returned on their minutes as an elder." When dissensions arose in our body, they tell us, that "many, with the view of strengthening what they believed to be the liberal party in the presbyterian church, became presbyterians."* As this Circular Letter was designed to conciliate favour for the plan of separate organization of the congregational churches, and was thought to be incorrect in some of its statements, the Rev. Timothy Stillman, stated clerk of the presbytery of Buffalo, published "Strictures" upon it under his own name.† From these Strictures we learn the following facts. Up to the year 1817 the presbytery of Geneva embraced all the presbyterian churches and ministers in western New York. In that year that presbytery was divided by the synod of Geneva into four. One of these four, viz. the presbytery of Niagara, had jurisdiction over those churches and ministers situated west of the Genesee river, who had been previously connected with the presbytery of Geneva. The first time those breth-

* See this Circular at length in the New York Evangelist, Nov. 21, 1835.

† See New York Evangelist, March 19, 1836. The author of these "Strictures" very properly claims special authority for his own statements, because he lives "on the ground represented in that Circular," and because he has in his "hands all the presbyterian records."

ren (constituting the presbytery of Niagara) came together as an ecclesiastical body was Feb. 20, 1817. At this meeting they adopted the following rule, "that churches coming under their care, '*should give evidence of having adopted the confession of faith of the presbyterian church in the United States.*' But at the *first* stated meeting, held on the 18th of July following, this rule was amended, and the following adopted in its place, viz. 'Any church coming under the care of presbytery, shall give evidence of their soundness in the faith, by exhibiting their confession of faith and form of covenant. Churches formed within the bounds of presbytery on the congregational plan of internal government may retain that form if they wish.' " In July 1818 the Rev. Mr. Spencer made his appearance in presbytery "with clean papers from the Oneida association, and, without any reservers, asked to be received as a member of presbytery, and his request was granted, and at this time there were at least six congregational churches connected with the presbytery, some of which he himself had formed." Thus it appears that this presbytery of three members, at its very first stated meeting, rescinded the rule to require the adoption of our confession of faith, and within a little more than a year, had at least six congregational churches connected with it.

After quoting the statement from the Circular which we have already cited, viz. that in nine cases out of ten these churches had no standing committees, &c. &c., Mr. Stillman, instead of contradicting it, gives the following extraordinary explanation. "If these churches, after requesting to be received on the accommodation plan, would not have standing committees, because it savoured too much of presbyterianism, it was surely their own fault. Presbytery complied with their part of the plan, *and as was a uniform rule in such cases*, they winked at this want of compliance on the part of the negligent churches, *by considering the whole church the standing committee"!* In reference to the assertion that the delegates from these churches are regularly entered on the minutes as elders, the writer says, "I acknowledge that in the records of the presbytery, delegates of congregational churches are sometimes put down as elders, but it is also true that elders have been recorded as delegates. I will now furnish the true reason for this. The clerk does not know which churches are congregational and which presbyterian in half the instances. I doubt whether there is a minister of presbytery who can take our roll of forty-eight churches, and

designate with certainty the form of government in one half of them; and the reason is simply this, we treat them all alike, we know no difference, and therefore we make no distinction."* It is therefore formally admitted and published to the world, that the presbyteries make no distinction between churches purely presbyterian, and those formed on the plan of union, and those purely congregational; they "treat them all alike." By this gross abuse multitudes of churches which have no more connexion with us, even on the plan of union, than the churches of New England, are "in the general census of the church classed as presbyterian," and represented as such in our ecclesiastical judicatories.

A third abuse which deserves to be mentioned relates to these committee-men, as they are commonly called. We have seen that by a wonderful latitude of construction, and by a peculiar kind of winking, churches which have no committee are taken and deemed to have a very large one. But besides this, agreeably to the accommodation plan, these churches are allowed to delegate a member of their standing committee to attend presbytery; but no provision was made for such member's appearing in synod or the General Assembly. There was an evident propriety in this arrangement. The presbytery has jurisdiction over a limited district; its acts affects directly only its own churches, and these being partly congregational and partly presbyterian, there was some propriety in congregationalists having a voice in their decisions. But when they appeared in synod or the General Assembly they stretched, without the semblance of a plea from the plan of union, their authority over purely presbyterian bodies and over the whole church. We have consequently often seen the anomaly of congregationalists sitting in the highest judicatory of our church, and administering presbyterianism. Nay more, by a culpable negligence, they have appeared with regular commissions, certifying them to be ruling elders. This perhaps is not to be wondered at, as the presbyteries to which they belong regard congregationalists and presbyterians as completely on a par, and entitled to

* As to the charge contained in the Circular that many entered our church to strengthen the liberal party, the writer says that it is not true; that "they were acting for the glory of God and the best interests of religion at home, without the slightest reference to the conflicting interests of selfishness in the presbyterian church as a body." This may be true. We are not concerned about motives. It is enough that the fact is admitted that congregationalists were received without hesitation, and treated as presbyterians.

equal rights in the presbyterian church. Still it is a great abuse and a great evil. An elder, according to our system, is entitled to respect and confidence, not merely on account of the sanction given to his character by his election by the people, but on account of his pledge of attachment to our doctrines and order given at his ordination. It is therefore not merely an irregularity, hut a deception, however innocently done, to certify that a man is an elder in our sense of the term, who never has been ordained. And it is no less a deception, that such persons should be entered on the minutes of presbyteries as elders. It is certainly an argument against the plan of union that it has given rise to such abuses and irregularities.

The grand evil, however, attending the plan is, that it breaks down the hedge around our portion of the garden of the Lord, and allows it to be trodden down and wasted. Our system of government, our confession of faith, our whole constitution, are not to be reverenced for their own sake, nor are they to be treated as of no importance. We value them as means to an end. We believe that truth is necessary to holiness, and that discipline is neeessary to the preservation of truth. We have therefore covenanted together to admit no man into the office of teacher or ruler in our church, who does not adopt our system of doctrine, and pledge himself to adhere to our discipline. It is a gross violation of contract, therefore, for any presbytery to admit as minister or elder any man who does not sincerely adopt our standards. We are reproached with proposing a breach of faith in urging the abrogation of the plan of union. But let these brethren look at home. What has their whole conduct under this plan been, but one extended and protracted breach of contract? What constitutional or moral right have they to violate their engagements with their brethren not to dispense with the prescribed qualifications for office? Is there no violation of a constitutional and moral obligation, in admitting, without hesitation, shoals of men, whom, by the constitution and their promise, they are bound not to admit? They may say the plan allows of such admission. We admit, to a certain extent, the force of the excuse. It only turns, however, the burden of condemnation from their own shoulders over upon the plan itself. That plan is a wholesale violation of contract. It purports to authorise preshyteries to dispense indefinitely with the performance of their engagements with their fellow presbyteries. The plan is, from its nature,

wrong, and from the source whence it emanated, void. It ought therefore to be at once condemned, and declared of no authority. While we admit, cheerfully, the extenuation afforded by the adoption of the plan of accommodation, and by the tacit acquiescence of the presbyteries, to the irregularity in question, it is but an extenuation. The plan being unconstitutional, and proposing to set aside provisions which we are all pledged to support, ought long since to have been abandoned by all parties. And if these brethren will review their own course in applying its provisions to cases to which it was never intended to apply, and in pressing them far beyond their original intent, they will find abundant reason at least for silence on the subject of breach of faith.

We are accustomed to consider our constitutional provisions which prescribe the qualifications of church officers, and the mode of constituting sessions, presbyteries and synods, as something more than a dead letter. If they have no efficiency, they are of no value, and are undeserving of our respect. These provisions have been prostrated by the plan of union. And what has been the result? Does experience show that they may as well be disregarded as not; that they are perfectly inefficient as a protection from error and disorder; that the portion of the church in which they have been thrown down is in as desirable a condition as though they had been kept up? To answer these questions, there is no necessity to appeal to uncertain rumours. We shall appeal to notorious facts. There are two great parties in our church; the one in favour of a strict adherence to our doctrinal standards, the other in favour of a liberal construction and latitude of interpretation. Where is the local habitation of the latter party? The region in which the plan of union has operated. Deduct the ministers of that region from the liberal party, and the residue may almost be counted on the fingers. It is equally notorious that this party have departed more or less from the confession of faith. They profess to differ from old school men, whom they have never ventured to assert seriously were not faithful to the confession. This is, by implication, a clear admission of their own departure from it. We say, therefore, that in respect to laxity in doctrine, the disregard of the constitutional rules induced by the plan of union, has produced its natural effect. The new school, or liberal party, which, as a body, has come into our church under that plan, is notoriously the lax party as to

doctrine. Again, look over the record of the votes of the Assembly, and see from what quarter the advocates of error, the opposers of discipline for opinions, have come. From the scene of the operation of this plan. Again, where have Finneyism, Burchardism, and the nameless disorders and irregularities which have disgraced the church, been most prevalent and destructive? In this same district. Look at the statistical reports and official documents of the presbyteries and synods of that portion of the church; and see to what extent these disorders have unsettled pastors, and disturbed the peace of the church. According to the statistical reports of last year, in the three synods of Utica, Geneva, and Genesee, there are three hundred and eighty-four ministers (exclusive of the presbytery of Chenango), among whom, if we have counted correctly, there are only ninety-two pastors, and there are ninety-four ministers without charge, exclusive of presidents, professors, agents, and missionaries. In four presbyteries of the Western Reserve (the fifth furnishes no report) there are thirteen pastors out of eighty-one ministers. In a recent number of the Ohio Observer, edited, we believe, by the stated clerk of that synod, it is said, "Two years ago it seemed that the pastoral relation, and every other established scriptural usage of the church, would soon be broken up and be no longer known only in history." He rejoices that a change appears to have taken place, and states that four installations had occurred in the bounds of the presbytery of Portage within eight months.* The synod of Geneva, which is believed to have suffered less from these sources than any other in that region, in their pastoral letter, published in December last, "express their apprehension that the pastoral office is falling into disuse, and a stated ministry sinking into contempt with the people, by the frequent removals of ministers; even if any thing shall remain which can justly be denominated a ministry."† It would be easy to collect from official documents numerous examples of similar admissions and complaints. We are well aware that other circumstances have, in other portions of the church, produced,

* Quoted in the *Alton Observer*, June 15, 1837. The editor of the A. O. expresses his hope that a similar change may soon be effected in Illinois. This being a newer state, it is not so much to be wondered at that we find whole presbyteries there, Schuyler for example, without a single pastor.

† See Report of Mr. Plumer's speech before the Assembly in the New York Evangelist, June 17, 1837.

to some extent, similar results. We rejoice to know also that there is, in the district of which we have been speaking, much to commend and to be thankful for. The country is fertile and inviting, the population intelligent, enterprising, and homogeneous. It is not pretended that the plan of union has rendered these advantages of no avail. Our argument is that the churches there are, by their own admissions, in a far worse state, as to doctrine and order, than might reasonably have been expected had that plan, which breaks down the guards of our system, not been adopted and abused. This argument is not to be answered therefore by showing that in thinly settled portions of the church, where presbyterians form but a small portion of the scattered population, congregations are feeble, and regularly settled pastors few. It is sufficient to prove the evil effects of the accommodation system, that the sphere of its operation is the great theatre of looseness in doctrine and disorder in practice.

Can any impartial man doubt, in view of all these considerations, that it is the imperative duty of this Assembly to abrogate this plan, and declare it null and void? A plan which sets aside almost every important principle of our system as to organization of churches, the constitution of judicatories, and the administration of discipline; which emanated from bodies neither of whom had any right to originate or enact it; which has never received the sanction of the only competent tribunals; which introduces another church, retaining its organization and independence, as a competent part of our church, and gives it the right to administer a constitution to which its members refuse subjection; which subverts the principles of all free governments by introducing into our highest judicatory men who are not the delegates or representatives of those whom they govern; a plan which has been grossly perverted by being continued long after the circumstances it was designed to meet had ceased to exist, and by being extended to cases to which it was never intended to apply; which, by dispensing with the constitutional requisitions for church officers, and by setting aside other safeguards which our fathers erected, and which we have pledged ourselves to sustain, has proved a wide inlet for error and disorder. We believe all these things to be true, and we therefore believe it to be our solemn duty to declare the said plan to be fully and finally abrogated, as unconstitutional in its origin, and unjust and injurious in its operation.

Citation of Judicatories.

On Thursday, May 25, Mr. Plumer, from the committee on the memorial, made a final report, recommending that the Assembly take up and decide upon the items in the memorial relating to church order and discipline. This report was accepted. In pursuance of this plan, he subsequently moved the adoption of the following resolutions, viz.

1. That the proper steps be now taken to cite to the bar of the next Assembly such inferior judicatories as are charged by common fame with irregularities.

2. That a special committee be appointed to ascertain what inferior judicatories are thus charged by common fame; to prepare charges and specifications against them; and to digest a suitable plan of procedure in the matter, and that said committee be requested to report as soon as practicable.

3. That as citation, on the foregoing plan, is the commencement of process involving the right of membership in the Assembly, therefore,

Resolved, That agreeably to a principle laid down, chap. v. sect. 9, of the Form of Government, the members of the said judicatories be excluded from a seat in the next General Assembly until their case shall be decided.

The adoption of these resolutions was opposed by Messrs. Jessup, White, Beman, Dickinson, Peters, and M'Auley; and advocated by Messrs. Plumer, Breckinridge, and Baxter. After a debate occupying most of the time on Thursday afternoon and Friday morning and afternoon, the question was taken and decided in the affirmative, *yeas* 128, *nays* 122.

The resolutions were opposed on various grounds. 1. It was denied that the Assembly possessed original jurisdiction such as it is now proposed to exercise. The fifth paragraph of Sect. 1, in the chapter on Review and Control, is the strong hold of those who contend that the resolutions are constitutional. But what is the case contemplated in that article? It is, that there has already been some irregularity, in the proceedings of the lower judicatory, either apparent in the records, or proclaimed by common fame. This undoubtedly refers to a case of judicial action, or erroneous or defective record, or a case adjudicated in such a manner that the trumpet of common fame proclaims it wrong, and such that it can plainly be proved to be wrong before the superior judicatory. In the circumstances specified in the constitution, it would be right for you to cite a synod to appear before you and an-

swer and show what they have done in relation to the matter in question, in a case that has been before them. And after hearing their answer, you are to send the case back to them, with directions to do what the constitution and justice require. The words are "After which," that is, after the citation and answer, not after a trial, for the rule says nothing about a trial; but supposes that the case is sent back for trial to the judicatory which is cited. We cannot try and punish here. Suppose we were to cite the synod of Virginia, for heresy, in maintaining, in the face of all the former decisions of the General Assembly, that slavery is consistent with the Scriptures and the institutions of the presbyterian church. Well, our committee we will suppose have cited that synod. Then they must send down all the budget of charges they have collected, to tell the synod they must stay these irregular proceedings, on penalty of exclusion from the church. Every one knows that this cannot be the correct interpretation of the rule. Otherwise, it will make you a court of original jurisdiction, with power to cut off ministers, directly contrary to every provision of the book.

2. But admitting that, under certain circumstances, you have the authority to cite a synod, how do you get the right to cite a presbytery? The rule says, "the next superior judicatory," which limits it to the one immediately above. This provision is in the chapter on Review and Control, and it can give authority only by the express meaning of the words. The session is under review and control of the presbytery, the presbytery of the synod, and the synod of the General Assembly; because they only have the legal right to inspect their records. The General Assembly is, therefore, constitutionally restricted to action on the synods. Unless you can show, by some new ecclesiastical multiplication table, that the General Assembly is next above a presbytery or session or individual member, you have no right to issue a citation to them, and it would be an act of usurpation in you to do it. The General Assembly has indeed power to *reprove*. But can we not reprove without citation and conviction? We can reprove immorality in the south and in the north, on mere report, without alleging that any individual is guilty, and so without conviction. The power to cite presbyteries and church sessions is not the same with warning and reproving; and is in terms given to another body, to the next superior judicatory. If you cite a presbytery to appear here, they will file their plea in bar, that you have no

authority, and they will not answer. We have no right thus to take away the constitutional rights of synods, or to strike out, by a mere vote of the Assembly, an important word from the constitution. If we can interfere with presbyteries, by the same argument we may interfere with the sessions.

3. A third objection is the mode of proceeding. If these charges were against individuals, we should know how to proceed. But that this great court of errors should leave its proper judicial business, to hunt up criminals, is most extraordinary. You appoint a committee to find out offences, and then to find out the offerders. Are this committee to be clothed with the plenary powers of a presbyterian inquisition, to cite and try whom they please, and on what ground they please? Are they to report to you every rumour which the blast of the trumpet of Common Fame may blow over the land in any direction? Or by what rule are they to discriminate? We wish to know, and the churches ought to know, whether this committee are to be clothed with preliminary judicial powers. If so, in what do they differ from the prerogatives of an inquisition, except that the civil arm withholds its power? Or what better is a Protestant than a Roman Catholic inquisition? Our judicatories are in fact to be tried by this committee, without opportunity of defence; to be first adjudged delinquent, and then deprived of their seats; while it is perfectly understood by the commissioners from certain other judicatories, concerning whose irregularities common fame is at least equally loud, that if they will support this measure, no reports shall be entertained concerning them by the committee, and no words of reproof administered by the Assembly.

The whole mode of procedure is moreover unnecessary. Our constitution has made ample provision for the correction of all errors and disorders. Our system is very complete. Cast your eye down to the source of power in our church, the body of the people, and see an organized succession of church courts, guarding the interests of truth, and securing order and purity up to the General Assembly. Then look the other way, and see a system of control and supervision, going down in regular gradations, from the General Assembly to the synods, from synods to presbyteries, from presbyteries to individual ministers and church sessions, and from sessions to every individual member of the presbyterian church. What can be more complete than this system? Why do we want nullification here? What interest is not guarded?

What exigency is not provided for? There never was a government that had a provision for every case, like our government. For a case like the present, where an occasional majority, a mere factitious majority, are determined to perpetuate the power of the church in their own hands, and conscious that unless they do it now, Providence will never give them another opportunity, we grant the constitution has not provided.

The proposition to exclude from the next General Assembly the commissioners of all those judicatories which your committee may think proper to cite, is still more obviously an outrage upon the constitution. Chap. v, sect. 9, to which the resolution refers, gives no warrant for such a proceeding. That whole chapter relates to a specific subject, to process against a minister. Is the process, which you are about to issue, against any member of the next Assembly? No man is a member of the Assembly, until he is commissioned as such by his presbytery. And when a man comes here with his commission from a presbytery, he comes with authority paramount to all the authority which one General Assembly can have over another. Your committee of commissions are bound by them, and not by the votes of former Assemblies. In chap. iv. the provision authorizing a church session to suspend a member under process from communion, tallies exactly with that respecting the trial of a minister. Here is, in each case, an express authority for laying persons charged under a disability during trial. Where is the authority for laying a judicatory under disability? What has this General Assembly to do in the case at any rate? We have not to try them. When the next General Assembly come up, if they find themselves in such a position that it would be a disgrace to religion to allow the membership of such and such persons, they might possibly pass a vote of exclusion. But what have *we* to do with the regulations of the next General Assembly? This is not a perpetual body like a synod or presbytery. The members of the next Assembly will come up with their commissions from the presbyteries, and how can your committee of commissions exclude them from their seats? Besides, why should we punish presbyteries? This suspension of the right of representation is a real punishment. Why punish the presbyteries when only the synod is cited? Or are we to have a new measure wedge so beviled as to split only on one side, and so as to save such presbyteries in the synods cited as are of a fair, orthodox

complexion, and let them remain in good standing? If that is the plan, we should like to see the warrant for it in the book. To illustrate the character of this high-handed and overbearing measure—a measure hitherto unparalleled in the history of legislative or judicial proceedings—suppose that one of these United States should come into collision with the national government, on some point, what would be said if the government should propose, as a first step, to cite a sovereign state to appear at the bar of congress, and then appoint a committee to act as the scavengers of common fame, and bring into congress an ass-load of such matters as common fame deals in, for trial; and to crown the whole, propose, during the pendency of the process, to deprive the representatives of that state from their seat in the next congress? Why, the next congress would puff at such a resolution, just as the next General Assembly will puff your vote to deprive its commissioners of their seats. They will look at the commissions of the presbyteries, and will run over the puny and ineffectual legislation of this Assembly, just as a rail road car, impelled by a powerful locomotive, runs over a rye straw that may lie across its track.

The advocates of the resolutions argued substantially thus. The main question relates of course to the power of the Assembly. Has it the right to act in the manner proposed, viz. to summon injurious judicatories to its bar, and to institute and issue process against them? We maintain that it has both in virtue of specific provisions of the constitution, and of the general nature of our system. As to the first point it is very plain. It has been said, on the other side, that the Assembly is a mere court of errors, and possesses no original jurisdiction. This, however, is not the fact. It is a court of general review and control. It can direct its eye over the whole church, and wherever it sees evils to be corrected, it can correct them. The mode in which it is to be informed of such evils, and the mode of correction are definitely prescribed. The ordinary means of conveying such information are the complaints, appeals and references of lower judicatories, or of their members, or the review of records. But there may be cases which none of these reach; and express provision is made to meet such cases. "Inferior judicatories," says the Book of Discipline, c. 7. sec. i. 5. "may sometimes entirely neglect to perform their duty; by which neglect, heretical opinions or corrupt practices may be allowed to gain ground; or offenders of a very gross cha-

racter may be suffered to escape; or some circumstances in their proceedings, of very great irregularity, may not be distinctly recorded by them. In any of which cases their records will by no means exhibit to the superior judicatory a full view of their proceedings. If therefore the superior judicatory be well advised by *common fame*, that such irregularities or neglects have occurred on the part of the inferior judicatory, it is incumbent on them to take cognizance of the same; and to examine, deliberate and judge in the whole matter, as completely as if it had been recorded, and thus brought up by the review of the records." Here is not merely the authority, but the command to do precisely what these resolutions propose. When common fame, says the rule, informs the superior judicatory of the existence of error or disorder, it is incumbent on that judicatory to take cognizance thereof, and to examine, deliberate, and judge in the whole matter. Common fame has informed this Assembly of the existence of irregularities of a very serious nature. Not vague, uncertain rumour, but definite statements, which, we are morally sure, are correct. We know that there are many synods embracing churches not regularly organized, ministers and elders who never have adopted our confession of faith. We know that these and other evils have been long continued and widely extended, and we propose to act in relation to them precisely as the book of discipline directs. The first step, says the rule, to be taken is "to cite the judicatory alleged to have offended to appear at a specified time and place." Well, sir, is not this precisely what we propose to do? It is objected, however, that this whole rule refers to a case of judicial action in the court below, a special case improperly adjudicated, the knowledge of which is brought to the superior court, which is then authorized to examine into it and order it to be rectified. There is, however, no such limitation; and it would be preposterous that there should be. The rule specifies any "neglect or irregularity," which covers the whole ground, and does not confine the power of the superior court to specific cases of improper or irregular decisions. If it were known that Socinianism was allowed to be openly professed by the members of some of our presbyteries, may such presbyteries escape all interference or control by simply doing nothing, by neglecting all notice of such departures from the truth and all record on their minutes? Would not the superior court, under the rule which directs, that when, from

the neglect of a judicatory to perform its duty, heretical opinions or corrupt practises are allowed to gain ground, it is incumbent on the superior judicatory to take cognizance of the same, and to examine, and judge in the whole matter, have a right to cite such negligent judicatory and examine into the case? This is the precise case for which the rule was made. But again it is asked, "What can you do, if you do cite? you can only remit the charges and tell the inferior judicatory they must correct their irregularities. You cannot try and punish here." Suppose this to be true, what has it to do with the question? The objection has reference to the mode of issuing the case, and not to the right, or to the mode of commencing the process. The resolution on the very face of it, professes to be the first step in the process. When the judicatories cited appear at your bar, the first question to be decided will be, are the charges sustained? and the second, how is the cause to be disposed of? It will be time enough then to decide, whether the Assembly shall "deliberate and judge in the whole matter," or send the case down to the implicated judicatories with an injunction to correct the evils complained of. The objection, to say the least of it, is premature. It would be absurd however that a court should have the power to decide, and then be obliged to leave the execution of their decision to the option of the court below. The superior judicatory has undoubtedly the right to see that its decisions are carried into effect. This however is not now the point. The simple question is about citation. The perfect regularity of the course proposed is so plain that it is in various ways admitted by the brethren on the other side, as far as synods are concerned; the grand objection is that the right of citation is confined to the judicatory next above, and consequently that the General Assembly has no authority to cite a presbytery. To this objection it would be a sufficient answer to say that the resolutions make no mention of presbyteries. They simply recommend the appointment of a committee to ascertain whether there are sufficient grounds to cite any inferior judicatories to your bar. If that committee should, in their report, go beyond synods, and recommend the citation of presbyteries, it would be time enough to object to the adoption of such recommendation, that the Assembly had no immediate jurisdiction over the presbyteries; that they could be reached only through the synods. But, if in the ascending series of our system of church courts, so highly praised by the eloquent gentleman

on the other side, a synod may be omitted in case of appeal, complaint, or reference, and the cause be brought directly from the presbytery to the Assembly, as is constantly allowed, can any good reason be assigned, why, in the descending series, a synod may not in like manner be passed over, and the Assembly act immediately on the presbytery? It is indeed proper and expedient, in the great majority of cases, that both in ascending and descending the cause should go regularly up or down through the several courts, but this is not always the case. There are occasions when it is just as necessary, for the sake of speedy justice, that the highest court should act on a remotely inferior one, as that an appeal should come directly from the latter to the former. The Book renders it *incumbent* on the next superior judicatory to take cognizance of the neglect of the court below, but this does not forbid the highest court from interfering when any special emergency renders it necessary or desirable. If, while the Assembly was actually in session, a presbytery should decide that they would depose any of their ministers who should preach the doctrine of the trinity, we suspect few men on this floor would think it necessary to wait for the synod to interfere, especially if they had reason to believe the synod would sustain the decision.

Besides, it has been generally understood that the brethren opposite entertained different opinions as to the power of the Assembly from those which they now express. It was supposed they believed that this body could stretch its long arm over a synod and reach a presbytery, and even make and unmake it at pleasure. It is not many years since they actually exercised this power, and in known opposition to the wishes of a synod, constituted a new presbytery within its bounds. They were understood then to teach that the Assembly was clothed with plenary powers; that as a synod included presbyteries it possessed their powers in a wider sphere, and that the General Assembly, including both synods and presbyteries, might do all that either could do, within the whole compass of the church. Can these brethren complain if we should assume this matter as a *res adjudicata?* Must they cry out the moment their own principles are commended to their acceptance? Do they suppose that the constitution means one thing when they are in the majority, and another when they are in the minority? One brother indeed, (Mr. E. White,) all but avows this principle. He says, "The act of the General

Assembly erecting a presbytery in this city was null and void, and, in my view, the synod of Philadelphia acted right in nullifying the procedure," though he voted to condemn the synod, and to enforce the act he pronounces null and void. Such candour, however, is unusual. Taking then the extreme supposition that the Assembly had not, by the constitution, the right to act directly upon presbyteries, yet as these brethren have legalized the opposite interpretation, they would have no reason to complain if we should now act upon it. We say this, however, merely on the supposition that the case of citation of a presbytery is parallel to that of creating such a body. This we do not admit, and therefore are not prepared to allow that even those who have hitherto condemned the erection of a presbytery by the General Assembly, are inconsistent in advocating the right of citation.* The constitution is not a donation of powers, it is a limitation of them. The General Assembly does not derive its powers from the constitution, but from the delegation of the presbyteries. It is the presbyteries in Assembly collected. It is therefore an unsound principle that the Assembly has no right to exercise any power not expressly granted. It has the right to do any thing in the discharge of its duties as a supreme judicatory and supervising body of the church, which the constitution does not forbid. The presbyteries have limited and circumscribed the inherent powers of this body. We have no right to pass those limits. We can do nothing the constitution forbids, but we can do a vast many things which it does not enjoin. This whole discussion, however, is premature. Should the proposed committee recommend the citation of presbyteries, we can then decide whether we have the right to cite them or not.

The principal objection, however, is directed against the resolution which proposes that the members of judicatories cited should be excluded from a seat in the next Assembly. The argument on which this resolution is supported may be very briefly stated. It is readily admitted that there is no express warrant for such a proceeding in the book of disci-

* We think it right to say that we have never agreed with many of our brethren in the opinion that the Assembly has not, under any circumstances, the right to form a presbytery, without the consent of the synod or synods to which its constituent members belong. We believe the erection of the third presbytery of Philadelphia was unconstitutional, not because of want of power in the Assembly, but on account of the mode in which they exercised their authority.

pline. The authority for it, however, is not the less clear and satisfactory. The constitution expressly recognizes the right of a superior judicatory to cite and try an inferior one. This is admitted. But the constitution makes no specific directions how the trial is to be conducted. Does it follow that it cannot be conducted at all? Does the constitution recognize a right, and impose a duty, and then, by mere silence, preclude the possibility of exercising the right, or discharging the duty? Certainly not. If the Assembly has the right of trying, it has the right of ordering the trial, and, in the absence of special limitations or directions, must be guided by the nature of our system, by precedent, and by the general principles of law and justice. The constitution of the United States confers on the senate the right of trying public officers when impeached, but it prescribes no mode of procedure. Must the proceedings therefore stop, or be arrested at every step by the demand of an express warrant to collect testimony, to take depositions, or to send for persons and papers? When the right to try is conferred, every thing else is left to be regulated by precedent, the general principles of law, and the necessities of the case. In like manner the constitution recognizes the right of congress to preserve its own authority; but where is the warrant for its committees of investigation, for its power of arrest, its right of expelling its own members? There is no more reasonable and universally recognized principle than that a grant of power implies a grant of all that is requisite for its legitimate exercise. When therefore our constitution recognizes the right of the Assembly to cite and try inferior judicatories, it recognizes the right to conduct such trial. It prescribes minutely the method to be adopted when an individual is on trial before a session or presbytery, but it gives scarcely any directions for the mode of proceeding when a judicatory is on trial. The only course therefore to be taken is to consult the nature of our system, and the general rules of justice and propriety. In our system we find the principle distinctly recognized that when a man is on trial before a judicatory, he ceases to have a right to a seat in that judicatory, until his cause is issued; and still further, that even when the decisions of an inferior court are under review in the superior one, the members of the former are excluded from their seats. These, especially the former, are not merely constitutional rules, but they are self-evidently just and reasonable. Now by parity of reasoning, when a synod is on trial before this house, its

members have no right to a seat in it. The resolution refers to chap. v. sect. 9, of the Book of Discipline, for no other purpose than to show that the constitution recognizes the correctness of the principle upon which the Assembly proposes to act. As to the objection that the judicatories in question are not on trial before this Assembly, and that the next Assembly may disregard our decision, we answer that these judicatories are placed on trial the moment they are cited; the citation is the commencement of a judicial process, and that the next Assembly will be as much bound to regard the preliminary decision of this house, as its final decision. When this house decides that there is sufficient ground to cite a particular synod, and to suspend its members from a right to a seat, its decision is as much obligatory, as when it decides in the issue of a case on the final deposition or excommunication of a person or persons regularly on trial. Its decisions may be puffed at; but it will be in violation of the provision of the constitution and of justice, that no judicial decision shall be reversed, except by regular process.

After the adoption of the resolutions above referred to, Messrs. Cuyler, Breckinridge, Baxter, M'Kennan and Baird were appointed a committee to carry them into effect. At a late period of the sessions of the Assembly, this committee reported that the action of the Assembly, subsequent to the time of their appointment, rendered it unnecessary to cite any inferior judicatory. They contented themselves, therefore, with recommending that the synods of Albany and New Jersey be admonished to take special order with regard to certain alleged departures from church order in some of their presbyteries; that the synods of Michigan and Cincinnati be similarly admonished respecting errors in doctrine; and the synod of Illinois in reference both to doctrinal errors and church order.

The manifest alienation of the different parties in the house seems to have produced a general desire at this time for an amicable separation. With a view to accomplish this object, Mr. Breckinridge moved for the appointment of a committee to be composed of an equal number from the majority and minority, to consider and report on a plan for an amicable division of the church. This motion was adopted, and Mr. Breckinridge, Dr. Alexander, Dr. Witherspoon, Dr. Cuyler and Mr. Ewing were appointed on the part of the majority; and Dr. M'Auley, Dr. Beman, Dr. Peters, Mr. Dickinson and Mr. Jessup on the part of the minority.

The report on the memorial was then taken up, and Dr. Cuyler moved the adoption of the following resolutions, viz.

"Whereas it has been declared by this General Assembly, that the plan of union adopted in 1801 is unconstitutional, and it has been abrogated; and whereas the constitution of the Presbyterian church in the United States supposes all the churches under its care to be organized according to its provisions: Therefore, although we entertain a very high respect and fraternal regard for the churches and brethren of the congregational order, and shall rejoice to maintain with them Christian communion and brotherly intercourse, and shall always desire and pray that every blessing may be multiplied unto them from the great Head of the church;

"*Resolved*, That no church which is not duly organized, according to the provisions of our constitution, shall henceforth form a constituent part of any of our presbyteries, or be represented in any of our judicatories, unless they shall conform to our constitution, when they shall be cheerfully received.

"*Resolved*, That the above resolution shall be fully carried into effect before the presbyteries shall respectively elect their commissioners to the next General Assembly.

"*Resolved*, That it be affectionately recommended to the churches which have been united with this body in pursuance of the plan of union, and retain a congregational organization, if they shall elect still to retain such organization, either to form themselves into associations, or connect themselves with associations already formed.

"*Resolved*, That it be enjoined on all the presbyteries under the care of the General Assembly, to inquire, at their first meeting after the rising of this Assembly, whether all the ministers and ruling elders belonging to them have respectively taken upon themselves the obligations contained in chapter xv. sect. 12, subsections 2, 3, or chapter xiii. sect. 4, subsections 2, 3, of the form of church government; and if they shall ascertain that they have not, the presbytery shall require them to do so. And if they refuse or fail to conform to the requisition, if a minister, he shall thenceforth cease to be a minister of presbytery; and if a ruling elder, he shall cease from the exercise of his office.

"*Resolved*, That it be enjoined on the synods and presbyteries, that they see to it that the last resolution be carried into effect without delay.

"*Resolved*, That no minister under the care of this Assembly shall hold the pastoral office in a church of another denomination. And if any minister shall act as the stated supply of such church, he shall not be eligible as a commissioner to the General Assembly, nor be entitled to vote for commissioners. Foreign missionaries shall be exempted from the operation of this rule, till they are dismissed and united with some ecclesiastical organization in the missionary field.

"*Resolved*, That it be enjoined on all the presbyteries to examine all ministers and licentiates uniting with them from other denominations, and to require of them, in the form of the book, a full assent to the questions which are directed to be asked of the former at his ordination, and of the latter at his licensure, relating to the confession of faith and church government."

A desultory debate occurred on the first of these resolutions, which continued until the time of adjournment. On Monday morning Dr. Cuyler moved that the farther consideration of this subject be postponed, in order to await the result of the deliberations of the committee on an amicable division.

On Tuesday morning, May 30, Dr. Alexander, in behalf

of that committee, reported that they had not been able to agree, and that each party in the committee would make a separate report. It appeared that the committee agreed as to the propriety of a separation, as to the division of the funds, as to the names of the two bodies, as to the records of the church, as to its boards and institutions. They differed as to whether the division should be made at once by the Assembly, or whether the question should be sent down to the presbyteries; and also as to whether the present presbyterian church should be dissolved, and two new bodies formed, neither of which should be the successor of the one now existing; or whether the body retaining the name and institutions of the church, as at present organized, should be deemed in law and fact this present body continued. The minority state in their report "That the only point of any importance on which the committee differed, was that proposed to be submitted to the decision of the Assembly," viz. whether the division should be made by the present Assembly, or the question be referred to the presbyteries. After these reports had been presented, the committee was discharged, and eventually, on motion of Mr. Breckinridge, the whole subject was laid on the table by the following vote: yeas 139, nays 107.

Exclusion of the Synod of the Western Reserve.

Mr. Plumer then presented the following resolution: 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 the Presbyterian church in the United States.

This resolution was opposed by Messrs. Jessup, M'Auley, Cleaveland and Peters. It was supported by Messrs. Baxter, Plumer, Junkin, Ewing and Anderson. The debate occupied the attention of the house the greater part of the time from Tuesday morning until the close of the session on Thursday morning, when the question was put, and decided in the affirmative: yeas 132, nays 105.*

The opponents of the resolution argued thus. 1. This

* In the preceding sketch of the debate on the abrogation of the plan of union, some of the arguments presented were borrowed from the speeches delivered on the exclusion of the Western Reserve synod, as the constitutionality of that plan was reargued when this latter subject was under discussion. In like manner, in preparing the outline of the debate on the resolution respecting the Western Reserve synod, we have borrowed largely from the speeches on the exclusion of the New York synods, particularly from that of Dr. Beman, who, in his speech of Saturday and Monday, went at a great length into the whole question.

measure is professedly based on the assumption of the unconstitutionality of the plan of union. We deny, however, that the plan is unconstitutional, because no provision of the constitution was violated.* We admit it was not purely presbyterial in its character. And that the plan itself professes. It was, what it professes to be, neither more nor less, a scheme to promote union and harmony and piety among a class of inhabitants who were gathered together from different quarters, and with different views of church government. But we are now thrown upon such an age of new light, as to be told that a plan to promote piety and harmony is beyond the powers of our presbyterian constitution. If this plan is unconstitutional, because it was not submitted to the presbyteries, then the acts to establish the Princeton Seminary, and your Boards of Missions and Education are also unconstitutional. There is not a particle of provision in your constitution for these acts, and they were never sent down to the presbyteries for approval. If there should come a change in the balance of power in this Assembly, and we believe it will come, you are preparing a fine weapon to be used by your opposers; one which these hawk-eyed Yankees, it is to be feared, will use in their turn when they have the power. They will take your hated trio, the Seminary and the two Boards, and lay them on the block, and by a single fall of your patent, cut off the three heads at a single blow. And, if they ever do it, they will plead the precedent you are now about to set, as a full apology for such a stretch of power. Again, if the plan of union is unconstitutional, because not sent down to the presbyteries, the adoption of the Scotch Seceder churches was unconstitutional, for that was not sent down, and that act is both *ipso facto* void, and all that has been done under it, is void *ab initio*, and they are not in the Presbyterian church.

2. If we even admit that the plan was and is unconstitutional, it would not follow that the abrogation act sweeps away every thing which rests upon that plan. The principle that all the rights vested under an unconstitutional law are invalidated, and fall as soon as the law is abrogated, is

* These gentlemen differ very much on this point; sometimes they say the plan is unconstitutional, and sometimes that it is not; sometimes that it was unconstitutional at first, but has since been ratified, while some admit that it is utterly subversive of every principle of presbyterianism. "I admit," says Mr. Skillman, (*Qr.* Stillman?) "that the contract, as at first adopted, was not according to the constitution."—N. Y. Ob. June 3.

monstrous: it would break all the ligaments of society, and destroy all the vested rights of property. If it should be applied to the present case, then all the licensures, ordinations, and titles to church property, under the plan of union, were thrown to the winds. Your vote can never make it true; wise men and Christians will see the injustice; and half the state of New York will be involved in it. To show the unsoundness of this principle, we appeal to the opinion of one of the most eminent jurists that ever lived. Chief Justice Marshall, in giving the opinion of the supreme court in the Yazoo-land case, assumed the position, that as the state of Georgia was a party to the contract conveying those lands, that state could not disannul its own contract for any reason whatever. We admit that the decision of the court in the case itself, as between those parties, did not turn on this point, respecting the constitutionality of the act, but on the charge of bribery in the legislature. But in giving the opinion of the court, the venerable judge has incidentally laid down a principle, which bears directly on the case before us. "For a party," he says, "to pronounce its own deed invalid, whatever cause may be assigned for the invalidity, must be considered a mere act of power, which must find its vindication in a course of reasoning not often heard in a court of justice." Cranch's Reports, vol. vi. p. 135. Are we wrong then in assuming that if the law of the state of Georgia, conveying these lands, *had been* unconstitutional, the legislature that made the law, and then repealed it, could not by this take advantage of its own wrong, and proceed to annihilate contracts made and rights vested under the rule which they themselves had made? Again, the judge says, "When a law is, in its nature, a contract, when absolute rights have vested under that contract, a repeal of the law cannot divest those rights." Let us suppose, for illustration, that congress should pass a law which is in fact unconstitutional, supposing it to be constitutional, and the thing goes on for thirty-six years, and under its operation various rights have vested, and various institutions, commercial, literary or political, have grown up, for instance, in the state of Pennsylvania. Now, at the end of thirty-six years, the law is pronounced unconstitutional, what would be the effect of such a decision? We venture to affirm that no court or congress of the nation would ever attempt to carry out the decision, in the manner we are doing, to crush, not merely the institutions formed, but the state of Pennsylvania in which they have existed.

Why, sir, what do you propose? By the very principle assumed, you have only power to annihilate the institutions formed under the plan of union. But you propose to annihilate a whole synod regularly and constitutionally formed. If this is justice, it is justice with a vengeance. Let us take another case. Suppose the state of Georgia had, thirty-six years ago, invited the missionaries to come and labour for the benefit of the Indians, assuring them of protection, and by an unconstitutional law, had granted certain rights and privileges to the missionaries and the Indians, on the strength of which houses and towns had been built; and then after the process of civilization had been going on for thirty-six years, there was a decision, not of Chief Justice Marshall of glorious legal memory, but of a majority in a vacillating legislature, that is chosen every year, and changes as often, that the law is unconstitutional. Could they then take advantage of their own wrong, and immediately send out the sheriff, without process or trial, to imprison the missionaries, break up their settlements, and hang the poor Indians, for no other crime than that of exercising the rights which had been granted to them by a former legislature?

3. We may, however, admit every thing that is claimed, 1. That the plan of union is unconstitutional; 2. That the abrogation act sweeps away every thing which rests upon it, and what follows? Why you cannot touch one synod or presbytery; you merely sweep away the churches which are of a mixed character. There are many good and honest men on the other side of the house, whose minds are so filled with rumours that they have hardly room to receive the truth, who are therefore prepared to say aye to this resolution, supposing they are going to cut off a synod formed on an unconstitutional basis. But this is not the fact. Our book says that a presbytery consists of all the ministers within a certain district, and a ruling elder from each church. The presbyteries out of which this synod was formed were regularly organized by the synod of Pittsburg, and by the General Assembly of 1825 the presbyteries were regularly formed into a synod, which has been recognized ever since. Now admitting there are churches among them formed on the plan of union, and that this plan is unconstitutional and void, how does this affect the standing of presbyterian ministers and churches, or the standing of the presbyteries or synod. A minister becomes, by his ordination, a member of presbytery, and a constituent part of the presbyterian church. How is his relation to the

church affected by your pronouncing the plan of union unconstitutional? His standing is not on that plan, and therefore he does not fall, even though the plan be annihilated. You allow your ministers to be editors, teachers, farmers and merchants, without disowning them; are they necessarily out of the church the moment they become the pastors of congregational or mixed churches? It must be remembered that many of these ministers were regularly ordained by other presbyteries, about whose regularity there is no question. And yet you propose to declare them to be no part of the presbyterian church, merely because there are some churches connected with the presbyteries to which they now belong, whose organization you choose to pronounce irregular.

4. Whatever name may be given to this proceeding, it is to all intents an act of discipline. Upwards of a hundred ministers and churches are to be condemned without a trial. If there are irregularities and disorders within the bounds of this synod which it refuses to correct, your proper course would be to cite them to your bar; to ascertain, by judicial process, the real state of the facts, and if they refuse to abate these evils. to deal with them as the case may demand. But this resolution cuts them off without the show of a legal process. It virtually excommunicates them without the form of a trial.

5. The consequences of the principle on which this measure is based reach much farther than many seem to imagine. You cannot consistently stop short after the excision of the synod of the Western Reserve. If that synod is no part of the church, because the plan of union is unconstitutional, then all those synods and presbyteries embracing churches formed on that plan must also be disowned. What then will become, not only of the synods of Western New York, but of Albany and New Jersey? Why, there were in the Albany synod, as late as the year 1808, and by the authority of the General Assembly too, things which you will acknowledge to be a great deal worse than the plan of union ever was. By the express command of the General Assembly, they were required to have, and did have, on the floor of the synod, as members, A WHOLE CONGREGATIONAL ASSOCIATION. And now what will you do? We go yet further. That same Albany synod has controlled the acts of this body, and has furnished no less than five or six moderators in the seat which you now occupy. On the arguments of these brethren the Presbyterian church is unsound to the core; this

congregational gangrene has seized upon the very vitals of the body, and you cannot cut it out without destroying your own life.

Again, what are to be the legal consequences of these proceedings? Were you sitting in a state which had a court of chancery, his honour the chancellor might lay an injunction on your proceedings; and if it were done, a few hours would terminate the brief authority by which you sit in that chair. There can be no doubt that these proceedings can be reviewed in the courts of justice. Probably it would be the delight of the Pennsylvania legislature to crush your charter, if in one thing you depart from the line of the law; and if once done, it will be long before you get another. Let the men who are legislating against unconstitutional measures beware themselves not to do any thing unconstitutional. We know who said, 'He that taketh the sword shall perish by the sword.' And if you take the sword of illegitimate power, you may yourself fall by the sword of the civil power.

There is one thought more which deserves serious consideration. The act you propose to do, will fix indelibly on the Presbyterian church the character of utter faithlessness to her own solemn compacts. The church in this country is fast treading in the footsteps of the world. What is now the state of our commercial credit at home and abroad? It is gone. As a nation we have broken faith with the natives who put themselves under the broad wing of our national eagle for protection. We have torn our solemn treaties to piéces, and given their fragments to the winds of heaven; and to wind up the disgraceful drama, we have imprisoned the missionaries of the cross, who went forth, by our own sanction, to enlighten and cultivate the Indian race. But what are you doing? You are outstripping every thing which politicians have ever done. Go on and complete what you have done, and you will render American faith, in treaties and in commerce, and Presbyterian faith in religion, as notorious in modern history as Punic faith was in ancient days.

In support of the resolution, it was urged, 1. That it was neither in intention nor fact an act of discipline. Such act supposes an offence, a trial, and a sentence. The resolution, however, charges no offence, it proposes no trial, it threatens no sentence. It purports merely to declare a fact, and assigns a reason for the declaration. It has neither the form nor the operation of a judicial process. Should the resolution be adopted, it will not affect the standing of the members

of this synod as Christians, as ministers or pastors. It will simply alter their relation to the Presbyterian church. We do not propose to excommunicate them as church members, or to depose them as ministers. We do not withdraw our confidence from them, or intend to cast any imputation on them. We simply declare that they are not constitutionally a part of our church. Whether this declaration is consistent with the truth, and whether we have the right to make it, are the points now to be argued. The attempt to excite prejudice against the measure as a condemnation without trial, as a new method of discipline, as a high-handed and oppressive act of power, is uncandid and unfair. Is it an act of oppression for a court to declare that an Englishman is not an American, or that an alien is not a citizen? The decision may be erroneous, or it may arise from impure motives; but the effort to decry the mere mode of proceeding as an extra-judicial trial, a form of punishing without a defence, and before conviction, would be preposterous.

The resolution declares that the Western Reserve synod is not a regular portion of our church, and it rests this declaration on the unconstitutionality of the plan of union. Of course it is here assumed, first, that this plan is unconstitutional; and, secondly, that the synod in question is in the church only in virtue of that plan. The former of these points, having been already decided by the house, is now to be taken for granted. And this may the more safely be done because it has been freely conceded by members on the opposite side, and because it is so obvious as scarcely to admit of being proved. It is in fact as plain as that a congregational church is not a presbyterian church. With regard to the second point, we admit that something more is necessary than merely to prove that the plan of union is unconstitutional. It must be shown, in the first place, that the churches within the bounds of this synod were formed on the basis of this plan; secondly, that the abrogation of the plan effects the separation of those churches from this body; and, thirdly, that the connection of the synod is of necessity also thereby dissolved. With regard to the first of these points it is, as a general fact, a matter of historical notoriety, and might be as safely assumed as that the United States were originally British colonies. It is extremely difficult, however, to get at the details, and ascertain what proportion of these churches are still congregational. This difficulty arises from the censurable custom of reporting all the churches connected with

the presbyteries included within this synod as presbyterian churches, no matter what their real character may be. We are saved a good deal of trouble, however, on this point, by the admission of the commissioners from these presbyteries, that of the hundred and thirty-nine churches belonging to the synod, only from twenty-five to thirty are presbyterially organized; all the rest being congregational or mixed.* This, surely, is enough to show, what indeed every body knows, that this synod is essentially a congregational body; that the great majority of its churches have no other connexion with this Assembly than that which is given them by the plan of union. The question then is, does the abrogation of that plan dissolve this connexion? It undoubtedly does, unless you take measures to prevent it, and declare the contrary. The system has been so long tolerated, that this house would be justified in a court of equity, and would doubtless be sustained by the presbyteries, if it should see fit to allow time for the churches formed under it to re-organize themselves and come into regular connexion with this Assembly. But if, on the whole, the house thinks that the connexion should cease immediately, they have nothing to do but to make the declaration contained in this resolution. The operation of the abrogation is to dissolve the connexion. This is the common sense view of the case which every man would take who had not got bewildered by looking at detached fragments of legal reports; and which any one, who has patience to read a little more than a fragment, must take with increased confidence. The General Assembly pass a resolution declaring that churches organized in a certain way may be connected with our body; afterwards they rescind that resolution —what is the consequence? Why certainly to withdraw the permission and dissolve the connexion. The connexion was formed by the first resolution, it lasts while the resolution continues, and ceases when it is repealed. This is common sense. "The plan of union," says the N. Y. Evangelist, in announcing your previous decision, "is abrogated; and the churches which are built on that basis are now no longer a part of the Presbyterian church." It is, however, objected that, where a law is of the nature of a contract, its repeal cannot invalidate the rights which have vested under it. We admit the principle freely, but we ask, what is a law? It is an

* See the statement given to the Assembly by Mr. Brown, elder from the presbytery of Lorain, as reported in the Presbyterian, June 10.

enactment made by a competent authority, in the exercise of its legitimate powers. An act passed by a body that had no right to pass it, is no law; it has no binding force; it is legally nothing and can give existence to nothing legal. Suppose congress should enact that the king of Great Britain should be the president of the United States, would that be a law? If the British acceded to the proposal, it would be of the nature of a contract: and if the argument of the gentleman opposite be worth any thing, it would be binding in despite of the constitution or wishes of the country. The fallacy lies here in begging the question; in assuming that an unconstitutional act of a legislature is a law. It seems, however, that Chief Justice Marshall has sanctioned the principle that an act, though unconstitutional, is valid, if rights have vested under it. We hold this to be *a priori* impossible. Of all eminent jurists, that distinguished judge infused most of common sense into his legal decisions, and made the law, as far as possible, what it purports to be, the authoritative expression of the sense of right which is common to all men. The passage quoted in proof of the assertion is from the decision in the Yazoo-land case. "The legislature of Georgia," says the judge, "was a party to this transaction; and for a party to pronounce its own deed invalid, whatever reason may be assigned for the invalidity, must be considered a mere act of power." This passage bears more directly upon another point, viz. the right of this body to pronounce upon the validity of its own act. But it was used also to prove that rights vested under an unconstitutional act are valid. It is asserted that even had the act of Georgia in question been unconstitutional, according to Chief Justice Marshall, the sales made under it could not be set aside. Before looking at the report from which this sentence is quoted, or ascertaining the connexion in which it occurs, it is easy to point out the fallacy of the argument founded upon it. The very first clause assumes that the legislature of Georgia was a party to the transaction—but the legislature is not a party to an unconstitutional law—such a law is not an act of the legislature, it is the unauthorized act of a number of individuals sitting in a legislative hall and going through certain forms. A legislature is the agent of their constituents; and it is a rule of law as well as of justice that the deed of an agent, acting under written instructions, is not binding on his principal, if it be done in direct violation of those instructions. Let us suppose that the legislature of Georgia, or rather the men composing it,

should, in secret conclave, sell their whole state, with all its inhabitants, to some African monarch ignorant enough to make such a bargain, would it be binding on all future legislatures to the end of time? So say our clerical jurists; but it is a shame to evoke Chief Justice Marshall to deliver such law as this. Common sense would say that the African king had been cheated, but not that the state of Georgia had been sold. If any one will take the trouble to turn to the Report the gentleman has quoted, he will find that the first point made in the case, which it details, was, Whether the state of Georgia was seized of the lands in question at the time of the sale? the second, Did the constitution of Georgia prohibit the legislature to dispose of the lands? The former of these questions the court decided in the affirmative, the latter in the negative; and it is ever afterwards assumed throughout the decision that Georgia owned the lands, and that the legislature had a right to sell. The third point was whether this legal act was vitiated by the alleged bribery of some of the members of the legislature? This point the court refused to go into, as not properly before them, and because, if the corruption did take place, it could only vitiate the contract between the original parties, and could not affect the rights of innocent *bona fide* purchasers. The fourth point was, Whether a subsequent act of the legislature, setting aside this legal and constitutional contract of their predecessors, was valid? which was decided in the negative. This case, therefore, proves the very reverse of what it was cited to prove. "If the title," says judge Marshall, "be plainly deduced from a legislative act, *which the legislature might constitutionally pass*, if the act be clothed with all the requisite forms of a law, a court, sitting as a court of law, cannot sustain a suit brought by one individual against another, founded on the allegation that the act is a nullity, in consequence of the impure motives which influenced certain members of the legislature which passed the act." It is here assumed that if the law had been unconstitutional, it would be a nullity, the very opposite doctrine to that which the report is cited to prove. It requires, however, no judge to tell us that a man cannot sell what he does not possess; that he cannot convey a title to another which is not in himself; or that an unconstitutional act of any body is a nullity. It would be easy to cull from the Digest of the Reports of the supreme court hundreds of cases in which this principle is asserted or assumed. Thus the court say, "If any act of congress or of a legislature of a

state violates the constitutional provisions it is unquestionably void."* Again, "an act of congress repugnant to the constitution never can become the law of the land." Those acts which are of the nature of a contract are no exception to this rule. The case in Kentucky relating to the old and new court is a case of this kind. Where an officer is not removable at the will of the appointing power, the appointment is not revocable and cannot be annulled, it has conferred legal rights which cannot be resumed.† The act of that state appointing certain judges was therefore of the nature of a contract; the moment however the law creating the court to which it belonged was declared unconstitutional, the contract was annulled, and the judges were out of office. The state of New York passed a law of the nature of a contract, conferring on Robert R. Livingston and Robert Fulton certain privileges. This law was pronounced unconstitutional,‡ and the contract was rendered void. The act of the state of New Hampshire altering the charter of Dartmouth college was of the same nature; yet when the law was pronounced unconstitutional, all the appointments and contracts made under it were swept away. There are, no doubt, often cases of great hardship under the operation of this principle; and therefore special provision is generally made for them, either by enactments of the legislature, or by the courts of equity. The principle itself, however, is one of the most obviously just and universally recognized in the whole compass of jurisprudence. It would indeed be a deplorable thing, if a legislative body, in defiance of the constitution, could, under the influence of passion or self-interest, bargain away the rights, liberties and property of their constituents, and, under the plea of the sacredness of the contract, entail the bargain on all their successors.

Even admitting then that the plan of union adopted in 1801 was of the nature of a contract, yet if the plan is unconstitutional it is void; it has existed hitherto only by sufferance, and may at any time be set aside. There is, however, an unfairness in this mode of presenting the case. The plan of union is not a contract in the ordinary sense of the word; nor have absolute rights vested under it according to the common use of those terms. "The provision of the constitution [of the United States respecting contracts] never has," says judge Marshall, "been understood to embrace

* See Cox's Digest, p. 168. † Ibid, p. 169. ‡ Ibid, p. 177.

other contracts than those which respect property, or some object of value, and which confer rights which may be asserted in a court of justice."* The plan of union is little else than a declaration, on the part of the Assembly, that it will recognize churches organized in a certain way. The connexion thus formed was perfectly voluntary; one which either party might dissolve at pleasure. Should these churches meet and resolve to break off the connexion, presbyterians would make no difficulty about vested rights and the sacredness of a compact. But this is a point we need not urge, admitting the act to be of the nature of a contract, still, if unconstitutional, it is void, and imposes no obligation on future Assemblies. It is, therefore, only by the application of legal principles to a case to which they do not refer, that any plausibility can be given to the arguments by which this resolution has been so strenuously assailed. We are not about to pass an *ex post facto* law, nor to interfere with the vested rights of any set of men, but simply to declare that the voluntary connexion into which we entered by the plan of union with certain churches, is dissolved. These churches rest upon this plan; if the plan be removed, these churches are removed with it. What can be the meaning of the act of abrogation, if it is not to break off the anomalous and unconstitutional connexion, which it effected between us and the accommodation churches? If congress, twenty years ago, had formed a treaty, by which, in despite of the constitution, Canada and Mexico were allowed to send delegates to our national councils, would not the abrogation of that treaty put an end at once to the connexion? And would the complaint about vested rights excite any sympathy where the case was known and understood?

It has been asked what would be thought of a state, which, by an unconstitutional law, should invite missionaries to come and labour for the benefit of the Indians, assuring them of their protection, and granting them many privileges, and after houses and towns had been built, and the process of civilization been going on for years, should, on the plea of the invalidity of the law, without process or trial, proceed to imprison the missionaries, break up the settlement, and hang the Indians. It requires the utmost stretch of charity to believe that such an illustration is deemed pertinent even by its au-

* Wheaton's Reports, vol. iv. p. 629.

thor, or that it has any other design than to cast odium upon the members of this house. Let the case be fairly stated, and we are willing to submit it to the decision of the enlightened consciences of all good men. Suppose then that a state government had extended its protecting and fostering hand over the tribes on our borders, and granted them privileges inconsistent with the constitution, allowing them the right of representation, and an equal voice in making the laws of the state to which these tribes themselves were not amenable; and that in the course of years they had so increased as nearly to outnumber the legal inhabitants, would any good and honest man think it wrong for that state to say to these tribes, 'You are now sufficiently numerous and strong to subsist by yourselves; you have flourishing settlements and abundant resources; we have given you the privilege of sitting in our councils and of making laws for us long enough to teach you the nature of our system, which you deliberately reject; your institutions and habits are different from ours; your ideas of government are inconsistent with our system; the influence which you are exerting upon us we believe to be destructive; it is time we should part; we leave you all your settlements, all your resources; we desire to live at peace with you, and see you prosper, but we wish that you should cease to make our laws or administer them upon us, seeing you will not submit to them yourselves.' Is this a proposition to be compared to robbery and murder? Would the state which should use such language be worthy of universal abhorrence? Must its name be written "in letters of Egyptian midnight," for the execration of all ages? With what regard to candour or Christian feeling then can such obloquy be poured on the measure under consideration, or upon those who advocate it? We are neither robbers nor murderers. We take away no man's rights. We simply maintain our own indefeasible right to self-government, and refuse to be governed by men who will not submit to the system they administer.

The next question to be decided is, whether, admitting the unconstitutionality of the plan of union, and that the churches formed upon it are now no part of our church, does this authorize the declaration that the synod of the Western Reserve is no longer connected with this body? We answer this question in the affirmative. According to the constitution of our church, "As a presbytery is a convention of the bishops and elders within a certain district: so a synod is a convention of the bishops and elders within a larger district,

including at least three presbyteries."* The question then is, are these presbyteries or this synod conventions of bishops and elders? This question has been already answered. They are not such conventions. They are composed of a few pastors and elders of Presbyterian churches, and a large number of the pastors and lay members of Congregational churches. There is less than one of the former class to four of the latter. It is obvious, therefore, that these are not constitutional bodies. They are not in the church in virtue of the constitution. They are connected with us simply in virtue of the plan of union, and consequently when this plan is removed this connexion ceases.

Again, on the supposition that after all these accommodation churches are disconnected with this body, the presbyteries and synod still retain their connexion, we should have presbyteries and a synod composed almost entirely of ministers. These are not regular Presbyterian bodies. If ten or twelve of our ministers were to go into New England, and engage in teaching, or connect themselves with Congregational churches, no synod could constitutionally form them into a presbytery. And if they had been thus formed, this body would not be bound to recognize them. Synods have indeed the right to make presbyteries, but they are restricted by the constitution in the exercise of this right to make them out of Presbyterian ministers and elders. It is said, however, that since there are regular churches and pastors within the limits embraced by these bodies, they are presbyteries and a synod within the meaning of the constitution. The fallacy of this argument is obvious. These materials are indeed included within the synod, but do not constitute it. A number of Presbyterian, Episcopal and Methodist ministers and churches could never constitutionally be formed into a synod in our church. If such an anomalous body were ever recognized as a synod, it must be by some special arrangement. The question would then come up, is this arrangement constitutional? And as soon as this question is authoritatively decided in the negative, the irregular synod would be disowned. As to the objection that a minister becomes, by his ordination by a regular presbytery, a member of our church, and that we have no right to declare that he is not a member, we answer, it is admitted he is a member as long as he continues connected with a regular presbytery. If

* Form of Government, chap. ix. sect. 1.

however he joins a Congregational Association, he is no longer a member of our church, and if he joins a body connected with us by some special tie, he ceases to be a member as soon as that tie is sundered.

Having now proved that the operation of the decision of this house on the plan of union is to sever our connexion with the churches formed upon it, and that the organization of the synod of the Western Reserve is also pronounced by that decision to be unconstitutional, the only question is whether this Assembly has a right to make the declaration contained in the resolution under debate? We do not see how this point can be doubted. If the fact is so; if that synod is not formed on a constitutional basis, it must be competent for this house to say so. We are both a legislative and judicial body. It is the province of a legislature to decide what the laws shall be, and of a court to decide what they are. We have both these prerogatives. We can not only repeal the acts of former Assemblies, but if those acts are brought up by appeal, reference, or resolution, we can examine and decide whether or not they are consistent with the constitution.

It will be remembered that the Assembly of 1835 formed a compact with the synod of Pittsburg in reference to the Western Foreign Missionary Society; which the Assembly of 1836 felt no scruples in declaring unconstitutional. The power of the Assembly to decide on the validity of its own acts was not then called in question. Chief Justice Marshall's opinion that a party to a contract cannot pronounce its own act invalid, had not yet been discovered. The question has come up before this Assembly, whether the act of 1801, adopting the plan of union, is constitutional? And it has been decided in the negative. This resolution brings up the question, whether the act of 1825, erecting the synod of the Western Reserve on the basis of that plan is constitutional? Whatever doubt there may be as to the decision, there can be none as to the power of this house to make it.

It is asked, what would be thought if congress should declare a sovereign state out of the union? There are two false assumptions implied in this question. The first is that the judicial and legislative power are united in congress as they are in this body, which notoriously is not the case. The second is, that the synod of the Western Reserve is regularly in the church, and that we are about to cut it off by a simple legislative act. This is not the fact. We are not about to cut off a regular synod for heresy, which we admit, in all

ordinary cases, would require a regular process. We are simply about to declare that the act of the Assembly of 1825, constituting certain presbyteries composed almost exclusively of Congregational churches, was unconstitutional and void. We are about to say that a convention of Presbyterian ministers and of Congregational laymen, is not a convention of Presbyterian bishops and ruling elders, and that no act of any General Assembly can make it so. When a state applies for admission into the Union, the question, whether it is organized in a manner consistently with the constitution of the United States, is always presented. Should this question be decided affirmatively by congress, and this decision be subsequently reversed by the competent tribunal, the effect would of course be to throw the state out of the Union, or rather to declare that it never was constitutionally a member. The only difference between such a case and the one before us is, that the legislative and judicial functions in our civil government are divided; whereas they are united in this house by the constitution under which we act.

The objection, therefore, which has been urged against the competency of this house, on the ground that a party to a compact cannot declare its own act invalid, admits of several satisfactory answers. In the first place, the acts forming the plan of union and erecting this synod are not properly of the nature of a contract. They are simple legislative acts which this house is authorized to repeal. In the second place, an unconstitutional act of a body, is not and cannot be binding on its successors. It is not properly the act of the body, as has already been shown. Consequently even if the acts referred to were of the nature of a contract, they would be as devoid of any authority as an act of this Assembly to sell the United States. And in the third place, in virtue of the constitution of our church we have judicial as well as legislative power, and it is our appropriate business to review all decisions of this or any of our judicatories when brought properly before us.

There is another principle on which this resolution may be justified. Every church or community has the right to prescribe its own terms of membership; and its judicatories must be authorized to decide whether these terms in any disputed case are complied with or not. It is on this principle that we sit in judgment on the qualifications of our own members, and vacate the seat of any commissioner whom we find not to be duly qualified. And on the same principle we

have a right to decide whether a presbytery or synod is constitutionally organized; in other words, whether it is a constituent part of the church. For an unconstitutional body has no more right to a standing in our church, than a state with a monarchial form of government has a right to a standing in our national Union. In making the declaration contained in this resolution, therefore, we are assuming no irregular or unreasonable power, we are passing no *ex post facto* law, we are depriving no body of men of their vested rights. The only real question for debate is, is the declaration true? Is the synod of the Western Reserve constitutionally organized? If it is not, it has no more right here than an Episcopal convention.

We come now to the question of expediency. It is urged against the measure proposed that it will produce the most disastrous results. It will invalidate the licensures, ordinations and judicial acts of all these presbyteries, and unsettle the title to church property in all that region of country. Even if all these consequences were to flow from the passage of this resolution, it would not alter the state of the case. If that synod is not a synod, it is not a synod, no matter what the consequences may be of admitting and declaring the truth. But these evils are all fears of the imagination. No man's licensure, ordination or church standing will be affected by this measure. This Assembly acknowledges the validity of the licensures, ordinations, and judicial acts of Congregational associations and councils, why then should it cease to acknowledge such acts of these irregular presbyteries? As to the church property, we do not believe a single farthing will pass out of the hands of its present holders. This General Assembly does not hold the property of these churches, nor do its owners hold it in virtue of their connexion with this Assembly. If in any particular case the title supposes or requires the holders to be Presbyterians, it proves that those who gave the property wished it to be so held; and it can be forfeited only by the present holders becoming Congregationalists. It is said too that this measure will operate hardly upon regular Presbyterian ministers and churches connected with the synod. It must be remembered, however, that this body can act, in this case, only on the synod, or the body as a whole. If there is any portion of its presbyteries or congregations who wish to be connected with this Assembly, they can become regularly organized and effect the union without delay.

On the other hand, the expediency of the measure is obvious from the following considerations. In the first place, these churches are in heart Congregational, why should they then be called Presbyterian? That they do really prefer Congregationalism, is plain from the fact that although it is twelve years since they were formed into a synod, you hear it stated by their own commissioners, that not one fourth of their number have adopted our form of government. Besides, it is generally known, that it required very great exertion, on the part of those who do not belong to the synod, to prevent a general secession of these churches, and the adoption of Congregationalism in full.* Is it not preposterous and unreasonable that men, who can with difficulty be kept from rejecting the mere shadow of Presbyterianism, should be still nominally connected with our church, for no other purpose than to exert an influence in our church courts to which they have no right? In the second place, there is abundant evidence that the greatest disorders prevail in these presbyteries in reference to our system. Mr. Breck, of the presbytery of Cleaveland, has stated on the floor, that he never saw any elders ordained; that he *believes* the ministers adopt the confession of faith. Mr. Torrance stated he saw two Congregational ministers received into that presbytery without the constitutional questions being put. Mr. Kingsbury, though having a certificate of ordination as a ruling elder, when asked if, at his ordination, he had adopted our confession of faith? declined answering the question. It must be remembered that this evidence is not adduced as the ground of decision in a judicial case, but as a motive for action in a legislative one. All that kind of evidence which

* The New York Evangelist of June 24, 1837, quotes from the Ohio Observer, a paper edited, it is said, by the stated clerk of the Western Reserve synod, an editorial article advising the synod "to declare itself an independent body, changing its name, perhaps, for the Western Reserve General Consociation, and modifying its rules as circumstances shall seem to require. This done, then let the presbyteries resolve themselves into consociations, still maintaining the principles of government on which they ever acted, and abiding by the same rules, with such alterations as may be thought necessary." The spirit of the whole article is such as becomes a Christian minister, and is, in this respect, a striking contrast with the humiliating tone and language of almost all the new-school papers in their notices of the proceedings of the General Assembly. We refer to the article in the Ohio Observer as additional evidence, that public sentiment in the Western Reserve is decidedly in favour of Congregationalism. The moment the motives, whatever they may be, for maintaining the name and form of Presbyterianism, derived from their connexion with the Assembly, cease to operate, they avow their preference for Congregationalism. It remains to be seen what effect foreign influence may have on their determinations.

produces moral certainty as to the state of things in that region of country, may very properly be adduced as an argument why we should dissolve our connexion with a body in which our system is openly disregarded. We presume there is not an individual on this floor, who is not perfectly satisfied that there are such frequent and serious departures from presbyterial order permitted within the bounds of this synod, as would justify its excision by judicial process. This surely is a strong argument for passing this resolution, which we believe expresses the exact truth, that they are not now and never have been a constitutional portion of our church; a resolution which, while it frees us from the evils and responsibilities of the connexion, inflicts no injury on them. It leaves them every thing but the right to administer over us a constitution to which the majority of them are entirely opposed. The departures from Presbyterianism in this region are not confined to matters of government; we have every evidence such a case admits of, that what we believe to be serious departures from our doctrinal standards, prevail throughout this synod. We know what is the theology of Oberlin Seminary; we know what opinions the commissioners from these presbyteries have, at various times, avowed on the floor of the Assembly; we know, and every one else knows, that new-school theology, be it good or bad, is the theology of this synod. We believe this theology, especially in its recent shape, is not only inconsistent with our standards, but in a high degree injurious to true religion. Shall we then, in violation of our constitution, and in disregard of our solemn obligations, continue to recognize as a member of this body, a synod, which we believe is not entitled to be so regarded, and which we are certain is lending all its influence to spread, through our whole denomination, a system of doctrines we believe to be erroneous and destructive?

We believe then this whole case to be exceedingly plain. The plan of union, on which the churches of this synod are in general formed, we believe to be unconstitutional, and that its abrogation severs the only tie by which they were connected with this body. We believe that the act by which this synod was organized is also unconstitutional and void, and that, from the nature of our system and the constitution of our church, it is the rightful prerogative of this house to pronounce these acts to be invalid, and that the necessary operation of this decision is to declare the churches of this synod not to be a constituent portion of the Presbyterian

church. We feel bound to make this declaration, because it is true, and because, while it deprives no man of his ministerial or Christian standing, and robs no one either of his property or rights, it relieves us from a source of error and disorder which is distracting the peace, and destroying the purity of the church. We do no man injustice by declaring that congregationalists are not presbyterians, and have no right to take part in the government of the Presbyterian church.

After the resolution declaring the Western Reserve synod not to be a constituent part of the Presbyterian church had been adopted, it was decided that the commissioners from the presbyteries included within that synod, were not entitled to sit and vote in the Assembly. Their names were consequently omitted when the roll was called.

American Home Missionary and Education Societies.

On Thursday afternoon, June 1, Mr. Breckinridge moved the adoption of the following resolution. While we desire that no body of Christian men of other denominations should be prevented from choosing their own plans of doing good—and while we claim no right to complain, should they exceed us in energy and zeal, we believe that facts too familiar to need repetition here, warrant us in affirming that the organization and operations of the so called American Home Missionary Society, and the American Education Society, and their branches of whatever name, are exceedingly injurious to the peace and purity of the Presbyterian church. We recommend, accordingly, that they should cease to operate within any of our churches.

This resolution was supported by Messrs. Breckinridge, Boyd, Green and Plumer on the following grounds. 1. That the Home Missionary Society had, in former years, solicited and obtained the recommendation of the Assembly. There may have been reasons for the recommendation then; but if subsequent developements have led to a change of opinion, the Assembly is bound in faithfulness to counteract their own sanction of what they can no longer approve. 2. That the influence and power of this society were too great to be lodged in any hands unless there was direct responsibility to the church. No one man should have a controlling influence in locating eight hundred ministers, or have in his hands the means of their subsistence. 3. That the management of these societies, especially the former, had, it was believed, been such as to give them a party bearing on all the questions in

dispute in the church. The uniformity with which the missionaries of the American Home Missionary Society voted in the Assembly for or against certain measures; the long continued and unvaried opposition of many of the friends and of the agents of that society to the Assembly's Board, especially their conduct in the last Assembly in endeavouring to destroy that Board; the printed and other letters of the general agent, having the same general object in view, were appealed to in evidence on this subject. 4. These institutions are adverse to the presbyterian principles of representation and control. 5. The good done by these societies may, within our own bounds, be as effectually accomplished by institutions more in harmony with our principles, without the incidental evils before referred to.

The resolution was opposed by Mr. Johnson and Dr. Peters. The argument on this side consisted principally, 1. Of an historical detail of the origin and operations of the American Home Missionary Society, which was the one principally brought into view; and especially in an account of the various attempts at compromise and union between the two Missionary Boards. 2. Answers were given to the specific arguments and objections presented on the other side. Thus it was contended, that the power of the society was not so great as was represented; that the auxiliaries had authority to appropriate their own funds, and to choose their own missionaries; that the missionaries were directed to report themselves to the presbyteries, and were always dismissed if any complaints came from those bodies against them. Party bias and party efforts or designs were disavowed. 3. It was urged that these societies had been long in operation, had done much good, and had secured the affection and confidence of the churches. 4. That the resolution, though not imperative, was still an interference with the free choice of the people as to the mode they should adopt in doing good. 5. The resolution is adapted to embarrass the four hundred ministers in our church, who depend in part on the aid of one of these societies for their support, and the scores of youth under the patronage of the other. 6. That it is adapted to injure two of the most important benevolent institutions. 7. That it is founded on a mistaken idea of the responsibility of these societies, which it was argued was more direct and efficient than that of the Boards of the Assembly.*

* We are not insensible to the importance of the subject presented by this resolution. We have three reasons, however, for not entering more at large

The resolution was carried: yeas 124, nays 86.

Disowning the Synods of Genesee, Utica and Geneva.

Saturday morning, June 3, Mr. Breckinridge offered the following resolutions.

"Be it resolved by the General Assembly of the Presbyterian Church in the United States of America:

"1. That in consequence of the abrogation, by this Assembly, of the plan of union of 1801, between it and the General Association of Connecticut, as utterly unconstitutional, and therefore null and void from the beginning, the synods of Utica, Geneva, and Genesee, which were formed and attached to this body under and in execution of said plan of union, be and are hereby declared to be, out of the ecclesiastical connexion of the Presbyterian church in the United States of America, and not in form or fact an integral portion of said church.

"2. That the solicitude of this Assembly on the whole subject, and its urgency for the immediate decision of it, are greatly increased, by reason of the gross disorders which are ascertained to have prevailed in those synods, (as well as that of the Western Reserve, against which a declarative resolution, similar to the first of these, has been passed during our present sessions;) it being made clear to us, that even the plan of union itself was never consistently carried into effect by those professing to act under it.

"3. That the General Assembly has no intention, by these resolutions, (or that passed in the case of the synod of the Western Reserve,) to affect in any way the ministerial standing of any member of either of 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 only to declare and determine, according to the truth and necessity of the case, and by virtue of the full authority existing in it for that purpose,—the relation of all said synods, and all their constituent parts, to this body, and to the Presbyterian church in these United States.

4. That, inasmuch as there are reported to be several churches and ministers, if not one or two presbyteries, now in connexion with one or more of said synods, which are strictly presbyterian in doctrine and order: Be it therefore further *resolved*, that all such churches and ministers as wish to unite with us, are hereby directed to apply for admission into those presbyteries, belonging to our connexion, which are most convenient to their respective locations; and that any such presbyteries as aforesaid, being strictly presbyterian in doctrine and order, and now in connexion with either of said synods, as may desire to unite with us, are hereby directed to make application, with a full statement of their respective cases, to the next General Assembly,—which will take proper order thereon."

The debate on these resolutions was conducted by Messrs. Breckinridge, Plumer and Ewing on the one side, by Dr. Beman and Mr. White upon the other. In the course of the discussion Mr. Jessup moved to postpone the resolutions

into it. 1. We have only an imperfect outline of the debates on this subject. 2. In recent numbers of this work, we have devoted a great deal of space to the discussion of the questions here brought under review. 3. The importance of the other measures of this Assembly has rendered it necessary to fill our allotted number of pages with other matter.

with a view to cite the above named synods to the bar of the Assembly. The debate, however, seems to have been continued on the main question, till Monday afternoon, when, the motion to postpone being superseded by the previous question, the vote was taken on the first resolution, yeas 115, nays 88, non liquet 1. The other resolutions were then adopted, yeas 113, nays 60.

As we have already stated, almost all the points introduced into the debate on these resolutions, were discussed when the resolution respecting the synod of the Western Reserve was under consideration. All therefore that remains for us to do, is to state those grounds of argument which have a special reference to the case of these three synods.

It was objected, in the first place, to the adoption of these resolutions, that they proceed entirely upon a false assumption. They assume that the majority of the churches within the bounds of these synods, were formed upon the basis of the plan of union. This is not the fact. The majority of these churches are strictly presbyterian in their structure, and with few exceptions, even the small number of churches originally congregational, were not organized under the stipulations of the plan of union, but came in under a different arrangement, and possess rights on this subject, separate from, and independent of, the plan of union of 1801, secured to them by the Assembly of 1808, by which the synod of Albany was authorized to take the Middle Association under its care; in virtue of which arrangement commissioners of the said Association were admitted to the floor of the General Assembly, up to the time when the Association was dissolved, and erected into two presbyteries, regularly formed out of its materials. 2. In the second place, admitting the existence of the irregularity complained of, these resolutions do not prescribe the proper means of redress. If there are charges of irregular organization and other disorders brought against any judicatories, our constitution directs that such judicatory shall be cited to appear at a specified time and place, and show what it has done or failed to do in the case in question, chap. vii. sect. 1. par. 6. This is the regular constitutional course, and it is contrary to reason and justice to proceed to act on these charges until they have been properly established. 3. These synods have had no notice of an intention to sever them from the Presbyterian church, and have consequently made no preparation for defence against the charges brought in the resolutions, or for the

refutation of the false assumptions which they contain. No adequate opportunity can be afforded for this purpose during debate on this floor, even supposing that the charges could be now regularly entertained. 4. The kind of evidence on which it is proposed to act in this case, is irregular and unsatisfactory. It consists in vague rumours, indefinite statements, unsupported assertions, or letters and documents containing statements which we believe to be unfounded, and which we should be able to refute, if suitable time and opportunity were afforded. 5. The effect of passing these resolutions will be both unkind and injurious. It will be a virtual excommunication of four or five hundred ministers, in good and regular standing in the Presbyterian church. It must tend to disturb the peace of our congregations, to injure the usefulness of ministers, and to bring an indelible disgrace on the church.

Dr. Beman delivered a long and able speech in opposition to this measure, the main parts of which are incorporated in the argument presented above against the resolution respecting the Western Reserve synod. That argument, therefore, must be considered as belonging to the debate on these resolutions.

The same remark must be made in reference to the argument on the other side. If the plan of union is unconstitutional, if the churches formed upon it are no longer connected with our church, and if the unconstitutionality affects the validity of the acts organizing the synods which embrace these churches, of course the main point in debate relating to these three synods is, whether they were formed and attached to this body under, and in execution of, the plan of union? That they were thus formed was argued, from the historical fact that the plan of union was originally designed for the region of western New York, where these synods lie. It has been repeatedly stated and freely admitted on both sides of this house, that the plan was suggested by the members of the synod of Albany, which at that time embraced the whole western part of the state, and that it was adopted for their accommodation. When the question of the abrogation of the plan of union was under discussion, it seemed to be universally admitted that it was the basis on which the churches, as a body, in that whole region of country were founded. Rev. Mr. Foote stated, "That those who first settled the country in western New York, were chiefly emigrants from New

England, who had been trained from their infancy in the principles and habits of congregationalism. When the plan of union was submitted to them, there was a way opened through which they could get into intercourse with the large and venerable Presbyterian church. Though there were many difficulties at first, in bringing them to assent to it, they were gradually brought under its operation, and had been so for many years." Mr. Loss said, "The interior of New York was first settled from New England. The clergymen were congregationalists, and all the churches were of the congregational order; but the case was at present far different. . . . . They had first embraced the accommodation plan, and from that as a stepping stone they had passed within the pale of the Presbyterian church. . . . . What was true of the presbytery of Oneida, was equally true of most other presbyteries in the interior of New York. But for the accommodation plan, that whole region would have been filled with congregational churches." Mr. Spaulding said, "When the presbytery of Chenango was formed there had not previously been a Presbyterian church within its bounds. There were now eight." Another gentleman said five, and Mr. Sessions, in his letter, says three. Dr. Peters said, that he would be willing to yield the point as to the connexion of the Association of Connecticut with the western churches, but contended that the force of the contract was still binding. "In place of the parent had come the offspring. New congregational churches had risen up and mingled themselves with us, and become ours. The original obligation was now transferred to the churches, and presbyteries and synods which had been founded on the faith of it; for the plan had extended its benign influence far and wide. Along our frontier, numerous churches had been formed on the faith of that covenant. . . . . He felt bound to plead for the obligation of this covenant with our congregational brethren. That obligation had now been transferred to a body twice, yes, five times as large as the Association of Connecticut. All these presbyteries and synods *had not only been organized on this plan*, but had called our ministers," &c. &c.* After these repeated and strong admissions of the fact that the churches through western New York were generally organized on the plan of union, we are aston-

* See the reports of the debate on the plan of union, in N. Y. Observer of June 7, and 10.

ished to hear it said by some of these same brethren, not only that the majority of the churches are now strictly presbyterian, but that only a small number were originally congregational, and that even these, with few exceptions, did not come in on the plan of union.* When it was proposed to abolish that plan, they told us it was all-important, that almost all their churches, presbyteries and synods were organized upon it. The moment, however, we assume these facts as the basis of action, they tell us that, with few exceptions, their churches never had any thing to do with the plan of union, and that their presbyteries and synods were not organized upon it. It is evident that these brethren must use these expressions in a different sense on different occasions. We thought it was conceded as a notorious fact, that the great majority of these churches had, as these brethren stated, come into our church by the plan of union, that some were now regular in their organization, others still existed on the mixed plan, and some were purely congregational. We do not pretend to know the proportion which these several classes bear to each other. As Mr. Stillman tells us in his "Strictures" the members of the presbyteries to which these churches belong, do not themselves know. This, at least, he says, is the case with his own presbytery of forty-eight churches. How then can we know. We act on the general statement. If it is true, that "these presbyteries and synods were organized on the plan of union," then we say they were unconstitutionally organized. And by this we mean that an act of a synod erecting presbyterians and congregationalists into a presbytery is unconstitutional; and that an act of the General Assembly erecting such presbyteries into a synod is unconstitutional. And this house has an undoubted right to repeal such acts and declare them to be of no effect.

We are told, however, that a large part of these churches belonged originally to the Middle Association, which was first united to the synod of Albany, and then erected into two presbyteries. The brethren must see that this does not at all relieve the case. The objection to the plan of union is not to its name; it is to the thing itself; it is to the introduction of congregationalists, remaining such, into our church. It matters little whether this is done on a small scale, with

* See the Protest on Exclusion of the three synods.

separate congregations, or on a large scale, with whole Associations. The ground assumed is, that ecclesiastical bodies formed in this way, partly of presbyterians and partly of congregationalists, are unconstitutional, and ought not any longer to be connected with our church; that it is unreasonable and unjust, subversive of our principles, and destructive to the peace and purity of the church. The parties in conflict are essentially the presbyterian party on the one side, and the congregational party on the other. We admit that there are many ministers and churches belonging to this latter division, who have as good a right to the name of presbyterian and to a standing in the Presbyterian church as we have. But this Assembly must act in reference to ecclesiastical bodies, and not to individuals. And the resolutions under consideration make express provision for such cases. If they are more numerous than we have supposed, so much the better. We should be glad, if it should turn out that the majority of these ministers and churches are sincerely attached to our doctrines and discipline.

In support of the second resolution, which assigns as a reason for the speedy decision of this matter the prevalence of gross disorders within the bounds of these synods, extracts from various documents were read, such as the pastoral letter of the synod of Geneva, the letter of the Association of western New York, Mr. Finney's lectures, Dr. Beecher's letter to the editor of the New York Observer, &c. These documents were read not as evidence but as arguments. If it is true that extravagance and fanaticism have prevailed to a great extent in this region of country, it is certainly a strong reason for dissolving our connexion with these churches. It is no more intended by these statements to fix charges upon individuals, than it is the intention of the Assembly in its annual acknowledgment of the prevalence of the sins of sabbath breaking and intemperance, to fasten the imputation of these sins upon particular persons. The opposition on the part of the minority to the reading of these papers, we cannot but think unreasonable. Is it not universally the case, that when the state of things at the south is discussed, the laws and official documents and even newspaper accounts bearing on this subject are freely referred to? or when the condition of the north is under consideration, that the accounts of riots and mobs are freely cited? Such things may be fairly adduced as arguments, and are to be

answered as such, and not cried down as extra-judicial criminations.*

After the adoption of the resolutions above mentioned, the following additions to the standing rules were moved and adopted, viz.

"Resolved, that the following be added to the rules of the General Assembly:

"1. That no commissioner from a newly-formed presbytery shall be permitted to take his seat, nor shall such commissioner be reported by the committee on commissions, until the presbytery shall have been duly reported by the synod and recognized as such by the Assembly.

"2. When it shall appear to the satisfaction of the General Assembly, that any new presbytery has been formed for the purpose of unduly increasing the representation, the General Assembly will, by a vote of the majority, refuse to receive the delegates of presbyteries so formed, and may direct the synod to which such presbytery belongs, to reunite it to the presbytery or presbyteries to which the members *were before attached.*"

This was not introduced as a party measure. It was designed to guard against a general and serious evil. In times of much excitement there is always a strong temptation to increase the representation by an undue multiplication of presbyteries. If this course were adopted by one party, it would be followed for self-defence by the other. And we should have the disgraceful spectacle of our judicatories running a race for the acquisition of influence by this process of dis-

* See, in reference to this subject, the candid and honourable statement of a member of the Assembly from western New York, in the Hartford Watchman, July 15. "My own views on all the subjects before the house were freely expressed. I declared more than once before the Assembly, that the errors against which the convention testified do exist, and that I was ready to vote for their condemnation. In my views of the existence of these errors, and of the duty of condemning them, I presume at least one half of the delegation from the interior of New York coincide. There were many precious men on that floor from this section of the country. They are haters of Arminianism in every form, and have opposed it in every variety of circumstances. And yet men were found voting together there, who never vote together on theological subjects at home, especially on contested points. The men who coincide with me were disposed to make a frank disclosure of the condition of this region, while those of different views were entirely against it. And so strong was this opposition, that I was absolutely stopped by their clamour for 'order,' when I began to declare it.—And though the moderator pronounced me to be in order, yet it was impossible to proceed, so strong was the determination to keep in the dark all the facts respecting Oberlin, Oneida Institute, Myrickism, and the Perfectionists. It was my opinion then, and it is unchanged, that if there had been a full disclosure of facts, these synods would now have been in full connexion with the Assembly. Could you have seen the efforts I made to bring the subject fairly before the body, you would have found full evidence of my abhorrence of Newlightism. And could you see the letters which I have received from the Newlights since my return, you would have no doubt that every Arminian wished that I had not been in the Assembly."

memberment. It was therefore just and proper to forbid this method of proceeding on either side. As the advantage is understood to be greatly, as it now stands, on the side of the minority, it is certainly ungracious in them to complain of a rule which binds the hands of their opponents, and which prevents nothing that is fair and reasonable on their side.

Resolutions were introduced in relation to the third presbytery of Philadelphia, which, as modified by the mover, were adopted in the following form, viz.

"Be it resolved by the General Assembly of the Presbyterian church in the United States of America,

"1. That the Third Presbytery of Philadelphia be, and it hereby is, dissolved.

"2. The territory embraced in this presbytery is re-annexed to those to which it respectively appertained before its creation. Its stated clerk is directed to deposit all their records, and other papers, in the hands of the stated clerk of the synod of Philadelphia, on or before the first day of the sessions of that synod, at its first meeting after this Assembly adjourns.

"3. The candidates and Foreign Missionaries of the *Third Presbytery of Philadelphia* are hereby attached to the Presbytery of Philadelphia.

"4. The ministers, churches, and licentiates in the presbytery hereby dissolved are directed to apply without delay to the presbyteries to which they most naturally belong, for admission into them. And upon application being so made, by any duly organized Presbyterian church, it shall be received.

"5. These resolutions shall be in force from and after the final adjournment of the present sessions of this General Assembly."

Yeas 70, nays 60.

These resolutions were advocated on the ground of the unconstitutionality of the act of the Assembly by which this presbytery was constituted, and of the evils which had resulted, and were likely still farther to result from its existence in its present form. We have always regarded the formation of that presbytery as unconstitutional, though not for the same reasons as those most commonly assigned; and we are well aware that it has been a source of much trouble to the synod with which it is connected. We do not wonder therefore that a desire was felt to make such a disposition of the whole subject, as should put the matter finally to rest. We do not question the right of the Assembly to act in this case, and to dissolve the presbytery which they themselves had formed, but we cannot see the propriety of the manner in which it was done. It was said, that the Assembly has no authority to attach any minister to a presbytery without its consent. This, as a general rule, may be true. But in those cases in which the Assembly undertakes to assign limits to presbyteries, or to constitute or dissolve such bodies, they must determine who shall and who shall not belong to them. The

great difficulty arises from the anomalous position in which this act places the members of this presbytery. By the act of dissolution their presbytery ceases to exist. They are then members of no presbytery, and yet presbyterian ministers. They are indeed directed to apply for admission into the presbyteries to which they most naturally belong. Suppose, however, these bodies refuse to receive them. In what condition are they then? Are they in or out of the Presbyterian church? Is a minister turned out of the church by the refusal of a particular presbytery to receive him? This cannot be assumed as a constitutional mode of getting rid of a man. And if he is still a minister within the church, what is he to do? Is he to apply to some other presbytery to take him in? Or is he to remain unattached to any ecclesiastical body? It seems to us that the only proper method of disposing of this case, if it was taken up at all, was either to refer the whole matter to the synod, or at once to attach the members, as was done in the case of the foreign missionaries, to one or the other of the existing presbyteries.

The committee on the overture respecting Foreign Missions reported the constitution of a board, to be entitled, The Board of Foreign Missions of the Presbyterian church in the United States of America. This report was adopted; yeas 108, nays 29. The members of this Board were subsequently elected; and directed to hold their first meeting in the First Presbyterian Church in Baltimore, on the third Wednesday of September next. The resolutions reported by the committee on the memorial respecting doctrinal errors were adopted; yeas 109, nays 6, *non liquet* 11. The Assembly having disposed of various other items of business, and adopted the drafts of a pastoral and circular letter, it was

"*Resolved*, That this General Assembly be dissolved, and that a General Assembly, chosen in like manner, be required to meet in the Seventh Presbyterian Church, in the city of Philadelphia, on the third Thursday of May, 1838, at 11 o'clock, A.M."

In closing the account of the proceedings of this important General Assembly, there are one or two topics which call for a few remarks. The first is, the general character and deportment of the body. Every friend of religion must have been pained and humbled on reading the statements on this subject published in the papers in the interests of the minority. These accounts we believe, on the testimony of impartial witnesses, to be grossly unjust and exaggerated. That

there were occasional violations of decorum, by individuals on both sides of the house, and occasional manifestations of excitement, is no doubt true. But the published accounts are in various respects uncandid, and adapted to mislead. In the first place, they exaggerate the improprieties of particular persons, making them appear greater and more unprovoked than they really were. In the second place, they speak of the whole body as implicated in the misconduct of individuals. Even if all that is said were strictly true, could it be justly held up as an imputation on the whole General Assembly? It is notorious that the great majority of the house, on either side, took little part in the debates, and conducted themselves in every respect as became Christians and gentlemen. In the third place, these accounts are exceedingly partial. Every expression against which objection could be taken, coming from a member of the majority, is repeated and exaggerated, while the improprieties of members on the other side are passed over in silence. It is to the honour of the papers on the side of the majority, that they have abstained from this work of defamation. Not one word has been said in any paper, as far as we know, of the most extraordinary scene which occurred during the sessions of the Assembly. This silence has arisen on the one side from delicacy, and on the other from interest. As far as we can judge, from the testimony of those in whom we can confide, the general deportment of the members was unexceptionable; the improprieties on either side confined very much to individuals, and these were quite as frequent and as serious, to say the least, on the part of the minority, as on that of the majority. Yet this body is spoken of in the most opprobrious manner in the papers to which we have referred. The Boston Recorder says, "We could not, in good conscience towards God, nor in loving kindness to our readers, nor in justice to ourselves, give even an abstract of the proceedings of the body." The Alton Observer says, "With the close of its sessions closes the history of the General Assembly of the Presbyterian church in the United States of America. And alas! it may be said of that body, with perfect truth, that it died as the fool dieth. . . . . The crisis of these heart-burnings has now arrived; the inflamed imposthume has suppurated, and the stench of its offensive matter has pervaded the whole land like a pestilential presence."* The New York Evangelist

* We perhaps owe an apology to our readers for copying such language.

publishes a letter, which it says comes from one of the leading ministers of Connecticut, who asks, "Was it not a presbyterian who publicly declared, a few years ago, that at every meeting of the General Assembly there was 'a jubilee in hell?' And what was the spirit which actuated the majority of the General Assembly at their late meeting? . . . . Who can doubt, that one leading motive was the motive which actuated Satan when he fell from heaven—the love of superiority and power?" The Cincinnati Journal says, "All the forms of law, civil and ecclesiastical, have been set at naught. . . . . The greatness of the enormity would render idle all the expressions of reproach." Even the presbytery of Cayuga allow themselves, in an official document, to use the following language, "Resolved, That all the ministers and churches belonging to and under the care of this presbytery be, and hereby are, cautioned to beware of the insidious and seductive stratagems and efforts of the adherents of the majority in the late Assembly, who are endeavouring by false pretences, misrepresentations, and 'pastoral letters' (so called), to induce them to dissolve their ecclesiastical connexion," &c. This language is used in reference to the official documents of the General Assembly, and to a pastoral letter prepared by Dr. Baxter, Dr. Alexander, and Dr. Leland. The most laboured effort at misrepresentation has been made to produce the impression that the desire to protect slavery was the ruling motive of the majority. That this should be done by the abolition papers is not a matter of surprise. But that papers which have hitherto been of a different character, should take the same course, is not so easily accounted for. The Cincinnati Journal says, "We had no doubt, when the course of the General Assembly was manifested, and when the four synods were cut off, of the cause which was urging on that body to such extremes of violence. Our belief is confirmed by our correspondent. The question is not between the new and old school—is not in relation to doctrinal errors, but it is slavery and anti-slavery. It is not the standards that are to be protected, but the system of slavery." This correspondent of the Journal, a member of the Assembly, under the date of June 6, writes, "The resolutions for excluding the synods of Utica, Geneva, and Genesee, were offered by R. J. Breckinridge of Baltimore, and sustained by himself and W. S. Plumer of Virginia. The speech of the latter gentleman was the most unfair and uncandid that I ever heard. It was designed to excite the south to vote as one man against those synods,

because they had dared to oppose southern slavery." We have read one report of the speech here referred to, in the Presbyterian, which occupies several columns, and another still longer in the Evangelist, in neither of which have we discovered the least allusion to the subject of slavery. We have asked men of both parties who heard the speech delivered, and they unhesitatingly pronounce the statement untrue. The author of such a letter, if a church member, would, in this part of the church, be subjected to discipline. We have given but a specimen of the manner in which the Assembly and its doings are spoken of by the new school men and presses. And now we ask what can be the object? What good end, supposing the fact were so, can be gained by degrading the moral and religious character of one of the largest ecclesiastical bodies in the country? Are these brethren so determined to produce excitement and reaction, that they care not how religion is disgraced, or its ministers degraded, if they can but accomplish their object? Must the most exaggerated and unfair representations be spread over the whole country, no matter what evil results, in order to throw odium on the majority, and secure an ascendency for the minority? We are very poor moralists, if such declarations as those just cited are not more offensive in the sight of God, and to the feelings of good men, than the most exceptionable proceedings on the floor of the Assembly.

The only fair criterion by which to judge of any public body is their acts and their official documents. Individuals must answer for themselves. If the Assembly is judged by this criterion, we do not doubt that it will, in the main, secure the approbation of all dispassionate men, who shall take the trouble to understand the subject. The avowed, and we believe the real object, which the majority desired to attain, was to put an end to the contentions which had so long distracted the church, and to secure a faithful adherence to our doctrines and discipline. To accomplish this object, they determined, in the exercise of what they believed to be the constitutional authority of the Assembly, to separate from the Presbyterian church those who, having no constitutional right to a seat in its judicatories, were yet the main supporters of the prevalent errors and disorders. The fact was notorious that a large portion of our ecclesiastical courts were composed in great measure of congregationalists or their representatives. And it was no less notorious that these bodies formed the strength of the party which the majority have

ever believed to be more or less hostile to the doctrines and discipline of our church. It presented itself, therefore, as the most feasible, the most just and proper method of attaining the great object of peace and purity in the church, to separate from it the congregational portion. This we believe the Assembly had a perfect right to do. The only question was about the method of doing it. As to this point there was, no doubt, diversity of views, and very obviously a change of plan. The first step was the abrogation of the plan of union. With regard to this there is, we suspect, but one mind. There were then three methods proposed by which to carry that abrogation into effect. The first was that suggested in the overture from the New Brunswick presbytery, and was substantially the same as that presented in the resolutions offered by Dr. Cuyler. That is, to declare that neither the ministers nor lay-delegates of congregational or accommodation churches should be hereafter allowed to sit as members of any presbyterian judicatory. The second method was that of citing the bodies thus irregularly organized, and proceeding to correct the evil in question by judicial process. This plan would have been perfectly regular. But it would have been tedious and attended with protracted litigation. It was moreover strenuously resisted by the minority, as unauthorized, (though they themselves subsequently proposed it). It became evident, therefore, that it could not be carried through without increasing the contentions it was the object to heal. The third method was to proceed at once to repeal the acts of former Assemblies constituting certain synods composed partly of congregationalists and partly of presbyterians, as unconstitutional and void. That this summary course was not originally contemplated, is evident from the memorial of the convention itself, from the character of the debate on the abrogation of the plan of union, and from the fact that so much time was consumed in debate on the citation of judicatories, which, though resolved upon, was not carried into effect. What were the motives which led to the final adoption of the third method above stated, we are not fully informed. They arose no doubt out of a view of the circumstances of the Assembly, which those at a distance cannot fully appreciate. That it has many advantages it is easy indeed to see. It was undoubtedly constitutional, in relation to all such bodies as could be clearly proved to be formed on the plan of union, i. e. to be composed partly of

congregationalists and partly of presbyterians.* It was moreover summary. It prevented the prolonged agitation of the question and the consequent distraction of the church.

A third subject for remark is the position assumed by the minority and their friends since the rising of the General Assembly. They assume that the Assembly ceased to exist in law and fact after the vote vacating the seats of the commissioners from the Western Reserve, and that the acts excluding that synod and those of New York are unconstitutional and void. They therefore avow their purpose to send a full delegation to the next Assembly, and then and there to demand their seats in that body, and in case of refusal, to declare themselves the true General Assembly of the Presbyterian church in the United States, and, as such, to lay claim to all the property and institutions of the church. We are no lawyers, but law must be a very different thing from reason, if this be not a perfectly futile scheme. In the first place, they are not in fact the Presbyterian church of the United States; and no declaration of theirs can alter the fact. If they are the Presbyterian church, we should like to know what all the ministers, elders and congregations throughout New Jersey, Pennsylvania, the South and the West, are? Must a set of men, avowedly of congregational origin, who, as a body, by their own confession, came into our church by compromise and accommodation, be recognized as the only true church, to the exclusion of the whole original body by which they were received? If this effort is crowned with success, we may expect to see the Irish Catholic emigrants meeting to declare themselves the United States, to the exclusion of every man born in the country. If this plan could be accomplished, it would be without a parallel for injustice and violence, since the days when the presbyterian ministers of Scotland were excluded by the prelatists under Charles II. We have little doubt that before the year is over these brethren will be heartily ashamed of this project, and wish every record of their present purposes and avowals blotted out of existence.

In the second place, they admit the fact, which they profess to deny, in the very act of denying it. This is not a

* As the facts with regard to the three synods in New York are in constant progress of disclosure, and may be expected soon to come before the public in detail, the full discussion of this question is deferred for the present.

thing that often occurs, but it occurs here. The fact denied is, that the late Assembly had a legal existence after the exclusion of the commissioners of the Western Reserve; and yet the minority declare their purpose to appear on the floor of the next Assembly; thus recognizing that body as the legitimate and legal successor of the preceding Assembly. The Assembly of 1838, will meet only in virtue of the requisition of the Assembly of 1837, a requisition made on the last day and last hour of its sessions. But if the Assembly of 1837 ceased to exist in law ten days before this requisition was made, we should like to know by what authority another Assembly can meet. The Philadelphia convention could, with the same show of law and reason, claim to be the General Assembly and seize the funds of the church, as the minority convention of next year. If their assumption is correct, the General Assembly is dead, and the Presbyterian church, as a corporate body, is dead. The property has escheated to the commonwealth, and we must all begin anew. We should not wonder to see this ground assumed. It would not be near so strange as for the same individuals to sit and act in a body for near ten days after they declare it to have been dead in law and in fact.

In the third place, what do these brethren propose to accomplish? Suppose they should succeed in having their convention recognized as the true General Assembly, and invested with all the corporate property of the church—is this what they wish? This cannot be. They cannot wish to possess themselves of what they know and acknowledge is not theirs. When the proposition for an amicable separation was under consideration, they at once relinquished their claim to the institutions of the church and the funds connected with them. This is not a controversy about funds. That point created no dispute. What then is to be attained? The possession of the style and title of the Presbyterian church? That also was relinquished. The only point, as the committee of the minority state in their report, on which they differed from the committee of the majority, was whether the division should be made by the Assembly or by the presbyteries. If the presbyteries wish division, why can they not effect it? What is to hinder them from pursuing precisely the course which the minority pointed out. This way has not been closed by the action of the Assembly. We see indeed that it is beset with difficulties; but these existed at the time the proposition was made in as much force as

they do now. "The Presbyterian church in the United States of America" now exists; if any presbyteries wish to form an "American Presbyterian church," they have nothing to do hut to direct their delegates to meet and organize as the General Assembly of that body. They would then have all the rights and privileges which they could have enjoyed under their own plan of division, and would be exposed to no disabilities or forfeitures which would not have accrued under that plan. The proposition which they at first made, that the present ecclesiastical body should cease to exist, and two new bodies be formed, neither of which was to be considered the successor in law or fact of the present body, was the most extraordinary proposition ever submitted by one set of reasonable men to another. The effect of its adoption would be to alienate not only all the property held under the charter of the General Assembly, but of every thing held in virtue of a connexion with that body. It was in fact asking the majority to throw away and give up to the state all property which they hold in trust for pious uses. This breach of faith, and waste of funds, were asked for no conceivable reason, other than a dislike, on the part of the minority, to be regarded as the minority. It could have benefited them in no one respect in a legal point of view. It would only be involving the whole church in the difficulties which they think will now press upon a part. This proposition, however, was virtually withdrawn, when the committee of the minority reported, that the only question between them and their brethren, was whether the Assembly or the presbyteries should effect the separation.

Studious efforts seem to he made, for the purpose of excitement, to produce the impression that the action of the Assembly must unsettle the titles of church property to a great extent. A most unwise and improper editorial article appeared in the New York Observer of June 24, on this subject. In the article referred to, the idea is advanced that far the greater part of the property of the churches is held by titles which connect it with the General Assembly, and consequently that it is now at the mercy of any insignificant minority in any congregation disconnected with that body. In the first place, we do not believe this to be true. As far as we know, or can learn from legal men residing in different parts of our Union, church property is held, even in those districts which have always been presbyterian, in the great majority of cases, by titles which require nothing more than

presbyterianism. The idea therefore seems preposterous that congregationalists (and such were the founders of almost all the churches within the bounds of the excluded synods) should make their property dependent on a connexion with the General Assembly. In the second place, we do not believe that any court would give the property to an insignificant minority, when the very act of the Assembly, dissolving our connexion with these synods, disclaims all idea of excommunication or discipline. It is only where the majority have departed openly from the principles of those by whom the property was given, and in virtue of fidelity to which it is held, that such a decision would be just. The tendency of the courts in this country is so strongly towards the majority, that even in case of the most obvious departures from the faith of the society, it is difficult for the minority to secure even a portion of the property. The courts proceed upon the principle that the majority must govern, and have a right to decide, what is, and what is not consistent with the faith and order of the church to which they belong. In the third place, supposing the ground assumed to be valid, how can it be consistently urged by those who proposed that the present Presbyterian church should be dissolved, and the General Assembly cease to exist? According to their present doctrine, they wished to invalidate the title not only to their own church property, but also to that held by the church as a corporation, and by the congregations connected with the majority. Why was such a proposition made, if it was supposed it would produce such wide-spread disorder and distress? There are difficulties enough in the way of the proper adjustment of the existing causes of contention, without agitating the public mind with imaginary dangers. Our own belief is that when the present excitement has subsided, and religious principle resumed its proper, or even its accustomed influence, it will be found that both parties are disposed to do right, and when this is the case, there must be some way to bring these difficulties to a satisfactory conclusion.