

*Composed*

**ECCLESIASTICAL PROCEEDINGS,**

*W. Brown*

IN THE CASE OF

*Mr. Donald McCrimmon*

**Mr. DONALD McCRIMMON,**

A RULING ELDER OF THE PRESBYTERIAN CHURCH,

WHO WAS SUSPENDED

*From sealing ordinances, and from the exercise of his office,*

BY THE SESSION OF OTTERY'S CHURCH,

FOR MARRYING THE SISTER OF HIS DECEASED WIFE;

INCLUDING

His trial before the Session, his appeal from the decision of the Session to the General Assembly of the Presbyterian Church, and the Assembly's proceedings in relation to this case.

TO WHICH IS ADDED

**A SPEECH,**

DELIVERED IN THE GENERAL ASSEMBLY OF THE PRESBYTERIAN CHURCH,

ON THE 1st OF JUNE 1824,

IN OPPOSITION TO MR. McCRIMMON'S APPEAL,

AND

IN DEFENCE OF THE DECISION OF THE SESSION;

WITH

*A brief concluding Address to the several Presbyteries.*

~~~~~  
BY COLIN McIVER, V. D. M.  
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FAYETTEVILLE:

PRINTED FOR THE AUTHOR AND PUBLISHER.

1827.

Pamphlet Collection  
Duke Divinity School

TO

*The Ministers, Ruling-Elders, and Members;*

OF THE

PRESBYTERIAN CHURCH,

IN THE

**UNITED STATES OF AMERICA,**

THE FOLLOWING PAGES,

ARE

AFFECTIONATELY INSCRIBED,

BY

THEIR FELLOW-LABOURER

AND

SERVANT IN THE GOSPEL,

**COLIN McIVER.**

**PREFACE.**

THE following sheets are submitted to the serious consideration of the Ministers, Ruling-Elders, and Members of the Presbyterian Church, with my sincere desire and ardent prayer to the Father of all mercies, that, under his blessing, they may be made subservient to the promotion of his glory, and the advancement of the Redeemer's kingdom. They comprise the minutes of the Session of Ottery's Church, in the case of Mr. Donald McCrimmon, including their decision, by which they suspended him from the sealing ordinances of God's house, and from the exercise of his office, as a Ruling-Elder, in consequence of his having taken to himself the sister of his deceased wife;—extracts from the minutes of the Presbytery of Fayetteville, and of the Synod of North-Carolina, containing the opinion of these judicatories, in relation to alliances which they consider as Divinely prohibited; Mr. McCrimmon's appeal from the decision of Ottery's church, to the General Assembly of the Presbyterian church;—extracts from the Assembly's minutes, in relation to this case; with a few remarks on one of these minutes; the rejected report of a Committee of the Assembly, on this subject;—the Speech I delivered in the Assembly, on the 1st of June 1824, in opposition to the appeal here referred to, and in defence of the decision of the Session; and a brief concluding address to the several Presbyteries. The recent procedure of the General Assembly of our church, in reference to this case, has induced me to think, that the present publication cannot be unseasonable; and whatever may be thought of the sentiment herein advocated, I cannot but indulge the hope, that the publication itself will, under the blessing of God, subserve the cause of truth, either by establishing and confirming the minds of those who may seriously peruse it, in the belief of the sentiment here attempted to be supported, if found to be agreeable to the Oracles of God; or, if the sentiment, on full, fair, and patient investigation, be found to be erroneous and unscriptural, by eliciting, from the pen of some

abler and more accurately discerning writer, such arguments and scriptural evidence, as may clearly point out the error; and shew all concerned, on which side of this interesting question, the truth really lies. The object of the Speech herewith presented, when originally delivered, was, that it might have its due influence on the minds of those who composed the Assembly to whom it was addressed; and, all things duly considered, I cannot think any apology now necessary for adding, that the object of publishing it, at this time, is, that, if it contain any arguments in support of Divine truth, these arguments may exert all the influence to which they are entitled, on the minds of those who compose the several Presbyteries, connected with the General Assembly, in deliberating on the important question, on which they have been required to send up their respective decisions to the next General Assembly. Were the judicial process relating to this case, which originated in the Session of Ottery's church, in December 1823, and which terminated, (however strangely it may appear) without decision, in the General Assembly, in June, 1824, still pending, I should not feel myself at liberty to publish any thing on the subject. But as, from the moment the Assembly of 1824 referred the question involved in this case to a committee, with instructions to report thereon to the Assembly of 1825, the business ceased to partake of a judicial character, I humbly conceive, that, from that moment, every restraint which duty and propriety had previously imposed, has been effectually removed. I think it proper to make these remarks, because the language inadvertently employed in the minute of the last General Assembly, on this subject, would, to those who are ignorant of the circumstances of this case, seem to convey the impression, that the case still retains its judicial character; that the appeal to the Assembly was from a decision of the Presbytery of Fayetteville;—and that the appellant, even while the last Assembly was sitting, was still waiting for relief. Now, all this is contrary to fact. The truth is, that the General Assembly of 1824, so far tried the appeal, as to hear the documents in the case read,—to hear the arguments of the parties,—and to spend some time in deliberating thereon;—but they left the matter undecided; and referred the

question involved in the case, to a select committee, with directions to make report on the subject, to the Assembly of 1825. From the date of this procedure, it is obvious to my mind, that the business no longer retained a judicial character; for, even if this committee had reported to the Assembly of 1825, that they considered the decision of the Session, as contrary to the Standards of our church, and to the word of God; and if that Assembly had adopted such an opinion, as their own deliberate judgment in the case, such an act, on the part of that Assembly, could not, in the least degree, have affected the decision of the Session; because that Assembly, not being the one before whom the parties, in this case, had appeared, and pleaded their causes, could have no authority, to pass any judicial decision, in the case. Neither was this, as stated in the minutes of the last Assembly, an appeal from a decision of the Presbytery of Fayetteville; for that Presbytery never had the appellant before them: he appealed *directly* from the decision of the Session, to the General Assembly of 1824: nor yet did the appellant apply to any subsequent Assembly for relief; for the fact is, that, even without waiting to be informed of the result of his appeal, he withdrew (with what regard to order, regularity, and propriety, let others judge) from the government of the *Presbyterian*, and became a member of the *Baptist* church. These errors, in the minute of the last Assembly on this subject, I thought it necessary here to correct; because, although they evidently arose from an oversight of the person who drew up the minute, I considered them calculated to mislead. With Mr. McCrimmon, then, the Presbyterian church has no further concern. The question, however, which has grown out of his appeal, and which the Presbyteries are now called to decide, is certainly a question of deep interest; and one which, all men of reflection will allow, ought to be maturely weighed, in all its bearings, before it is decided. But for the act of the last General Assembly, which directed the Presbyteries to decide this question, the present publication had not appeared. In deliberating on this question, the Presbyteries, in my humble opinion, would do well, previous to any decision thereon, to consider the force of the following very striking remarks, submitted by

a committee of the General Assembly of 1803, to the Assembly of 1804, on the subject of proposing alterations in the Confession of Faith, and Catechisms of our church. "The *creed* of every church," said this judicious committee, "as it ought to be derived immediately and wholly from the word of God, must be considered as standing on ground, considerably different, from that which supports the system of forms and regulations, by which worship shall be conducted, and government administered. And, if it be once rightly settled, can never be altered with propriety, by any change of time or external circumstances of the church. We cannot wish to see any retrenchment made. It would give alarm to many of our people, who might suspect that this was but the introduction to innovations of more importance. And it is by no means to be considered as a vulgar or unfounded prejudice, when alarm is excited, by alterations and innovations in the creed of a church. There are many reasons of the most weighty kind, that will dispose every man of sound judgment and accurate observation, to regard a spirit of change, in this particular, as an evil, pregnant with an host of mischiefs. It leads the Infidel to say, and with apparent plausibility, that there can be no truth clearly revealed in scripture; because not only its friends, of various sects, but of the same sect, pretend to see truths in it at one time, which, at another, they discover and declare to be falsehood. It hurts the minds of weak believers, by suggesting to them the same thought. It destroys the confidence of the people generally, in those who maintain a system which is liable to constant fluctuations. It violates settled and useful habits. It encourages those who are influenced by the vanity of attempting to improve what wise men have executed, or by the mere love of novelty, to give constant disturbance to the church by their crude proposals of amendment: and it is actually found to open the door to lasting uneasiness, constant altercation, and finally to the adoption of errors, a thousand-fold more dangerous and hurtful, than any that shall have been corrected. In a word, what was true when our Confession and Catechisms were formed, is true now. We believe that this truth has been most admirably and accurately drawn

into view, in these excellent performances. They have become venerable for their age. Our church has flourished under their influence; and we can see no reason to alter them. If there are a few things (and few they must be, and of less importance, if they exist at all) which, it might be shewn, could be expressed more correctly, and in a manner less liable to objection, it is not proper, with a view to obtain this, to expose ourselves to the great inconveniencies and injuries that have been specified." That I may not, however, even by implication, do injustice to the last General Assembly, I must here observe, that their act, or resolution, above referred to, and which calls forth this publication, does not actually *recommend* to the Presbyteries to rescind, or alter the section of our Confession of Faith to which that resolution refers; nor does it even furnish evidence that a majority of those who composed that Assembly were in favour of such alteration. The resolution only, as if for the purpose of setting all disputes on this subject for ever at rest, directs the Presbyteries "to take this matter into serious consideration, and *send up, in writing, to the next General Assembly, an answer to the question, whether the above-quoted clause of our Confession shall be erased?*"

With the Speech herewith presented, I thought it best, to give also, the minutes of the Session, and of the General Assembly, and Mr. McCrimmon's appeal; as they all appear to be necessarily connected; as, indeed, I considered the whole essential to a correct view of the subject; and as I thought the reader might find it convenient, occasionally to refer from one of those papers to another.—As, in the original preparation of the Speech here referred to, when designed only for the hearing of the Assembly to whom it was addressed, my object was, to present truth, in as obvious and striking a light as was practicable, I freely availed myself of every thing which I found suited to my purpose, in the writings of authors of reputation; and, although it would not have been a very difficult task to have clothed their thoughts in different language; yet, wherever I found the language of those authors more forcible than any I could myself employ, I have not hesitated to give their sentiments, in their own words. The reader will perceive from the references in

the margin, that I am largely indebted to the late venerable Dr. Livingston of New-Brunswick, for several valuable thoughts incorporated into my Speech. In preparing it now for the press, as it is designed particularly for the perusal of the members of the several Presbyteries, I have somewhat enlarged it, by incorporating into it several quotations from other authors, not contained in it when delivered. These, as well as a few additional remarks of my own, which occurred in transcribing, will be found, in the present publication, enclosed within crotchets.

Should my worthy brother, Dr. Ely, who appeared before the Assembly of 1824, as Mr. McCrimmon's advocate, or others who entertain his sentiments on this subject, be of the opinion that this publication is calculated to mislead the Presbyteries, by giving a partial, or one-sided view of the great question presented for Presbyterial decision, I have only to observe that I am not conscious of keeping back, or leaving unanswered, any argument of importance, on their side of the question, which has fallen under my notice; and that, if I have, I trust this publication will appear sufficiently early to enable him or them to counteract, what he or they may consider its unfavourable tendency, by publishing his or their views on this subject; and thus, giving the Presbyteries both sides of the question. I hope no one will be so ungenerous, as to infer from this remark, that I am vainly disposed to attach undue importance to my own exertions on this subject; yet, I am free to confess, that I do attach very great importance to the subject herein discussed; and that I am very anxious, that truth, on which side soever of this question it may be found, may ultimately produce conviction on the minds of those, to whose decision, this great question is now confided.

I conclude this Preface, by submitting to the serious consideration of my Reverend Fathers and Brethren, the following judicious remarks, from the pen of the late Rev. Dr. Jonathan Edwards of New-Haven. "If," said this eminent Divine, "after weighing the arguments in favor of the doctrine for which I plead, together with the objections and the answers to them, any should remain doubtful and undetermined concerning the question, it is certainly advisable to be on the safe side. A man commits



“no crime in marrying some other person beside his wife’s  
 “sister: but whether he will not commit a real crime, a  
 “real violation of the Divine law, in marrying his wife’s  
 “sister, is, at least, a very disputable point. Prudence,  
 “therefore, plainly points out to him what part to act.  
 “And, considering that we are required to abstain from  
 “all appearance of evil, who can, with a good conscience,  
 “willingly go as near the verge of evil as possible, and  
 “yet not come within it? In another point of view, is it  
 “expedient for a man to marry his wife’s sister? By such  
 “a marriage, he would deeply grieve and wound the most  
 “of his Christian brethren. And, willingly to do this, is  
 “to feel and to act very differently from the Apostle Paul,  
 “who would not eat meat as long as the world should  
 “stand, if thereby he should offend his Christian brethren.  
 “In these times of revolution and innovation, some seem  
 “disposed to innovate in every thing, religious and moral,  
 “as well as political; to throw by old practices and old  
 “opinions, without inquiring whether they be well or ill  
 “founded; and to change, merely for the sake of change:  
 “or rather, under the pretence of liberty, originality, and  
 “improvement, to throw off all restraint, in morals and  
 “religion. This, surely, cannot be reconciled with scrip-  
 “ture, or reason; with good sense, or with common pru-  
 “dence. Though some, among other changes and revo-  
 “lutions, are already prepared, and are endeavouring to  
 “effect one with respect to the subject which has now  
 “been under consideration; yet it is to be hoped, that  
 “our churches, and the Ministers of the Gospel, will not  
 “proceed to any innovation in this case, without proper  
 “deliberation; that they will carefully consult the voice  
 “of reason, and consider how far the general practice of  
 “marrying wives’ sisters will conduce to the preservation  
 “of the purity of the morals of the people;—how far it  
 “will extend or limit those social connections between dif-  
 “ferent families which cement society, promote improve-  
 “ment, friendship, and kind offices among the different  
 “constituent parts of the community; how far it will tend  
 “to keep particular families by themselves, and uncon-  
 “nected with their fellow-citizens; and how far this will  
 “tend to promote narrowness, selfishness, mutual jealou-  
 “sy, and enmity among fellow-citizens, and aristocracy

“and civil broils in the State. The lower classes of man-  
“kind are naturally jealous and envious toward the great  
“and affluent. But, will not the practice of marrying  
“wives’ sisters naturally tend to keep the great and the  
“affluent unconnected with the rest? And whether that,  
“especially in a Republican government, like our own,  
“can be subservient to the public good, and whether it  
“will not naturally tend to aristocracy, I leave every one  
“to determine. But above all, it is to be hoped, that be-  
“fore any innovation is made in this matter, all concern-  
“ed, and especially our churches and ministers, will care-  
“fully consult the voice of Scripture, and the revealed  
“will of God. To the law and to the testimony: if we  
“speak not according to this word, it is because there is  
“no light in us. And if there, it shall be found, that the  
“marriage in question, is, by plain implication, forbidden  
“in the same manner as several other marriages, as the  
“marriage of a grand-son, the marriage of a mother’s bro-  
“ther’s wife, and the marriage of a husband’s grand-son,  
“which we all acknowledge to be forbidden, the conse-  
“quence is plain;—that ministers, churches, and all indi-  
“vidual members of our churches, are bound to unite  
“their influence against a growing evil.”

**ECCLESIASTICAL PROCEEDINGS,**  
IN THE CASE OF  
**Mr. DONALD McCRIMMON,**

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EXTRACT FROM THE MINUTES OF THE SESSION  
OF  
OTTERY'S CHURCH.

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Session met, at the call of their temporary Moderator.

PRESENT,

The Rev'd Colin McIver, who was appointed by the Presbytery of Fayetteville to officiate as Moderator, (this church being, at present, without a Pastor) and Messrs. Elijah Ottery, Hezekiah Ottery, Alexander Ottery, Alexander Morison, Angus Morison, and Donald McCrimmon, Ruling-Elders:

Opened with prayer.

A report, having prevailed in this neighbourhood, touching the conduct of Mr. Donald McCrimmon, a member of this Session; which report, is considered and believed by many, to be deeply injurious to the interests of the Redeemer's Kingdom, inasmuch as, in the opinion of not a few, it implicates the said Donald McCrimmon in the crime of *incest*; it was, therefore,

*Resolved*, That Session institute a serious and solemn inquiry into the said report, and adopt such measures in relation thereto, as duty and discipline may require.

Mr. McCrimmon, being present, and having freely consented, that Session should immediately proceed to try him, in relation to the prevailing report, and dispense with the customary formality of a citation, the following charge, at the instance of COMMON FAME, was duly tabled against him; viz:

“COMMON FAME LOUDLY PROCLAIMS, that Donald McCrimmon, a Ruling-Elder of Ottery's church, forgetful of his obligations as a Professed Christian, and as an officer of the church of Christ, to maintain a life of purity, is guilty of the crime of *incest*, in having, not more than five weeks after the death of his wife, the late Hannah McCrimmon, taken to himself, Mary Dunlap, the sister of his said deceased wife, Hannah;—the said Mary being the daughter of the same father and of the same mother with the said deceased Hannah; and that the said Donald McCrimmon, has continued, and does still continue, to live with the said Mary Dunlap, in the same state of intimacy and co-habitation, as if she were his lawful wife.”

The above charge being read to the accused; and he, being called on by the Moderator, to say whether he was guilty or not, made the following answer; viz:

"The facts stated in the charge now read, viz: that, five weeks after the death of my late wife, Hannah McCrimmon, I did take to myself, Mary Dunlap, the sister of the said Hannah, as my wedded wife; and that, ever since, I have continued, and do still continue to consider, and treat, the said Mary, as my lawful wife, I do fully and freely admit;—but, that in so doing, I am guilty of the crime of *incest*, I do absolutely deny."

Session, on hearing the above answer, reminded Mr. McCrimmon of his having, at the time of his ordination, as Ruling-Elder, "sincerely received and adopted the Confession of Faith of this church, as containing that system of doctrine taught in the Holy Scriptures;"—on which he admitted this fact; but yet denied, that, in the act above charged against him, he had done any thing inconsistent with such reception and adoption of the Confession of Faith.

Session, then, referred him to the last clause of the 4th section of the 24th chapter of the Confession of Faith; where it is declared, that "the man may not marry any of his wife's kindred nearer in blood than he may of his own, nor the woman of her husband's kindred, nearer in blood than of her own." Mr. McCrimmon admitted that this clause apparently condemned the act above charged against him; but professed himself unable to perceive, that the said clause was so supported by Scripture, as to prove him guilty of incest.

Session by a reference to the several texts of scripture quoted in the Confession of Faith, in support of the above clause, laboured to convince Mr. McCrimmon that the said texts contained sufficient evidence of the incestuous nature of the connection, into which he had entered; and to impress him with a sense of the aggravated nature of his offence: and they exhorted him, to separate himself, henceforth, from the said Mary Dunlap; assuring him, that, in their judgment, as expressed in the standards of our church, his marriage with the said Mary "can never be made lawful by any law of man, or consent of parties, so as they may live together as man and wife:" but, notwithstanding all the efforts of Session to bring the said offending brother to a true sense of what they believed to be his duty, he positively declared, that it was *his deliberate intention*, to continue, to consider, to live with, and treat, the said Mary, as his lawful wife as long as he and she should live. Whereupon,

*Resolved*, That this Session do adjudge the said Donald McCrimmon, to be guilty of the crime of *incest*, in taking to himself, Mary Dunlap, the sister of his deceased wife; and in living with her, in the same state of intimacy and co-habitation, as if she were his lawful wife; and that the said Donald McCrimmon be, and he hereby is, henceforth, suspended from the exercise of his office, as a Ruling-Elder of this church; and also, from the sealing ordinances thereof, until he separate himself from the said Mary Dunlap: and give satisfactory evidence, of penitence and reformation.

The sentence of suspension, was then pronounced by the Moderator; which was followed by prayer to Almighty God, that it might please him to accompany this Rod of Discipline with his blessing.

Mr. McCrimmon gave notice to the Session, that it was his intention

to appeal from the above decision, to the next General Assembly of the Presbyterian church;—that certain resolutions of the Presbytery of Fayetteville, and of the Synod of North-Carolina, on the subject to which the above decision of this Session relates, induces him to consider both these judicatories as having prejudged his case; and consequently to decline appealing to either of them; and to appeal directly to the General Assembly; and that he would, in due season, lodge his appeal, and the reasons thereof, in writing, with the present officiating Moderator of this Session.

Perfectly satisfied of the justice of the above decision, yet, desirous that Mr McCrimmon should enjoy every reasonable facility for having his appeal seasonably and fairly issued, the Session unanimously consented, that the accused should pursue the course announced in the above notice of his intention. It was, therefore,

*Ordered*, That an authentic copy of all the proceedings of Session, in this case, be duly transmitted to the next General Assembly of the Presbyterian church.

*Resolved*, That the present officiating Moderator of this Session, be, and he hereby is, requested, to defend, before the next General Assembly, the above decision of this Session; and to vindicate its conformity with the adopted standards of our church, and with the word of God.

Adjourned, *sine die*. Concluded with prayer.

Truly extracted from the minutes of Session,

COLIN McIVER, *Moderator Pro tem.*

ELIJAH OTTERY, *Clerk.*

*Extracts from the Minutes of the Presbytery of Fayetteville, and of the Synod of North-Carolina, containing the opinion of these judicatories, in relation to alliances which they consider as Divinely prohibited, referred to, in Mr. McCrimmon's notice to the Session.*

*Extract from the Minutes of the Presbytery of Fayetteville.*

*Resolved*, As the opinion of this Presbytery, which opinion is also fully expressed in the public standards of our church, that a man who marries any of his former wife's kindred, nearer in blood than he may of his own, and a woman who marries any of her former husband's kindred, nearer in blood than she may of her own, are, according to the doctrines taught in the word of God, inadmissible to the privileges of the church.

Truly extracted from the Minutes of Presbytery,

COLIN McIVER, *Stated Clerk.*

*Extract from the Minutes of the Synod of North-Carolina.*

Synod do judge, that the marriage of a man, with his deceased wife's sister's daughter, is criminal, and highly offensive; and that *all such marriages are truly detestable*, and ought to be strenuously discountenanced; and that the persons contracting them, are, *by no means admissible to the sealing ordinances of the church.*

Truly extracted from the Minutes of Synod,

COLIN McIVER, *Stated Clerk.*

The preceding extracts, from the Minutes of the Session of Ottery's church, of the Presbytery of Fayetteville, and of the Synod of North-Carolina, were all, in connection with Mr. McCrimmon's appeal, submitted to the General Assembly of the Presbyterian church, in June 1824.

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## MR. McCRIMMON'S APPEAL.

To the Reverend, the General Assembly of the Presbyterian church, in the United States of America.

The APPEAL of Donald McCrimmon, a Ruling-Elder of Ottery's church, from a decision of the Session of the said church, by which decision, the said Donald McCrimmon, has been suspended from the exercise of his office, as a Ruling Elder, and from the sealing ordinances of the church, on a charge of INCEST; to which charge, the said appellant did plead, at the time of trial, and still pleads, in this, his appeal, NOT GUILTY.

*Dear Brethren*—In the exercise of a privilege guaranteed to me by the Constitution of the Presbyterian church, I do hereby appeal to your Reverend Body, from the decision of the Session of Ottery's church, by which decision, I have been suspended from the enjoyment of privileges I have long held dear, and from the exercise of an office, the duties of which, I have endeavoured to discharge, in the best manner of which my poor abilities would admit.

In presenting this, my appeal, I am aware, that, in the 6th article of the 3d section of the 7th chapter of the discipline of our church, it is declared, that "appeals are *generally* to be carried, in regular gradation, from "an inferior judicature, to the one immediately superior;" but as this article *does not require*, that appeals be thus *invariably* carried up; and as repeated instances have occurred, of appeals having been tried by the Assembly, in which this regulation has been dispensed with, I humbly apprehend, that, if, in this instance, I can produce good and substantial reasons for passing by the Presbytery of Fayetteville, and the Synod of North-Carolina, the Assembly will not consider this, my appeal, as irregular; but will duly try it, and pass such decision thereon, as they shall deem best suited to promote the glory of God, and the good of his earthly Zion.

For appealing directly to the General Assembly, from a decision of a church Session, the following are my reasons; viz:

1. The situation in which I am placed, by the decision from which I now appeal, is a situation of a most delicate nature; and one, too, in which, to be kept long in a state of suspense, must be peculiarly painful. Should I strictly adhere to the regulation just referred to, the probability is, that I could not expect a final decision of my case, till May 1825; and this long state of suspense, would be to me more painful than I can well express.

2. The Presbytery of Fayetteville have, on their records, a resolution, which, in my opinion, has pre-judged my case. This resolution is expressed in the following words; viz: "*Resolved*, as the opinion of this Presbytery, which opinion is also fully expressed in the public standards of our

"church, that a man who marries any of his former wife's kindred, nearer in blood than he may of his own, and a woman who marries any of her former husband's kindred, nearer in blood than she may of her own, are, according to the doctrines taught in the word of God, inadmissible to the privileges of the church."

3 The records of the Synod of North-Carolina contain the following judgment, in a case nearly similar; viz: "Synod do judge, that the marriage of a man, with his deceased wife's sister's daughter, is criminal, and highly offensive; and that *all such marriages are truly detestable*; and ought to be strenuously discountenanced; and that the persons contracting them, are, *by no means admissible to the sealing ordinances of the church.*"

Having now, as I humbly trust, obviated the difficulty, arising from my passing over two superior judicatories, in this my appeal, I have yet to account for my personal absence; as the Book of Discipline declares, that "an appellant shall be considered as abandoning his appeal, if he does not appear before the judicatory appealed to, on the first or second day of its meeting, next ensuing the date of his notice of appeal, except in cases in which the appellant can make it appear, that he was prevented from seasonably prosecuting his appeal, by the Providence of God." That my case is of this description, is a fact, of which the Assembly will be convinced, when I inform them, that I am a poor man; that I have a large family to support; and that I cannot, in justice to myself and them, afford the expense of travelling from my present residence to the city of Philadelphia; and there, prosecuting this, my appeal.

Having premised these statements and remarks, I will now proceed, directly, to state the reasons of this, my appeal.

I do, then, seriously and solemnly, appeal, from the decision of the Session of Ottery's church, which accompanies this document, for the following reasons; viz:

*First*,—Because, although the 4th section of the 24th chapter of the Confession of Faith does declare, that "the man may not marry any of his wife's kindred, nearer in blood than he may of his own, nor the woman, of her husband's kindred, nearer in blood than she may of her own;" yet, the texts of Scripture, quoted in the margin, do, in my opinion, fail to support this proposition; nor can I find any text, in all the Bible, that I can understand as proving this doctrine.

*Secondly*,—Because, in the list of kindred mentioned in the Book of Leviticus, the sister of a deceased wife, is not once mentioned, as a person whom it would be unlawful for a man to marry; although the 18th verse of the 18th chapter of that book, contains a prohibition in relation to a wife's sister, *in the wife's life-time*; which seems to imply, that, *after the wife's death*, such a marriage might be lawful.

*Thirdly*,—Because the Session of Ottery's church, in making up their judgment, in my case, did not rest contented with considering and pronouncing the act which they so severely condemned, as merely a rash and inconsiderate act of indiscretion, or as a step unadvisedly and injudiciously taken; (all which I freely, admit; and for which, I would, without appeal, have willingly submitted to their censure, admonition, rebuke, or suspension:) but they have proceeded so far as to adjudge me to be guilty of the crime of *INCEST*; and to determine it to be essential to my repent-

ance for this crime, that I separate myself from the woman whom I have chosen as my wife.

*Fourthly*,—Because, after all the light I have been able to obtain on this subject, I cannot but think, that a separation from her whom I now consider and believe to be my wife, so far from atoning for any indiscretion of which I have been guilty in marrying her, would itself, be a crime, more offensive to God, than the act of our coming together.

*Fifthly*,—Because the assertion of the said Session, that “my marriage with the said Mary can never be made lawful by any law of man, or consent of parties, so as we may live together, as man and wife,” although it is sanctioned by the language of the Confession of Faith, is yet, in my opinion, totally unsupported by the Holy Scriptures.

*Sixthly, and Lastly*,—Because the decision of said Session is at variance, with the opinions expressed, at different times, in similar cases, by the General Assembly of the Presbyterian church, to which I now appeal. In the year 1797, in the case of a man who had married his former wife’s brother’s daughter, and in the year 1802, in the case of a man who had married his former wife’s sister’s daughter, the General Assembly have declared it to be their opinion,—“that the marriage referred to, was not of such a nature, as to render it necessary to exclude the parties from the privileges of the church.” To the same purpose, in the year 1804, the General Assembly have said, “that they cannot advise to annul such marriages, or pronounce them in such a degree unlawful, as that the parties, if otherwise worthy, should be debarred from the privileges of the church;” and, in the year 1821, in the case of a person who, like myself, had married the sister of his deceased wife, the General Assembly have said, “that they are by no means prepared to decide, that such marriages, as that in question, are so plainly prohibited in the scriptures, and so undoubtedly incestuous, as necessarily to infer the exclusion of those who contract them, from church privileges.” With these repeated declarations of former General Assemblies fully in view, it may be naturally supposed, that I do not,—that, indeed, I cannot anticipate a confirmation of the decision from which I now appeal;—so diametrically opposed to the sentiments of the collected wisdom of our church. True it is, I am not ignorant, that, in each of the cases here referred to, the Assembly have expressed, in strong terms, their disapprobation of the marriages in question: yet, much as they disapproved of them, they did not think proper to annul them. This is, to my mind, conclusive evidence, that they did not consider such marriages, as either a nullity, or an abomination in the sight of God.

These considerations, I acknowledge, afford me no small encouragement, to appeal to your Reverend Body, from the decision of the Session of Ottery’s church, above referred to; and, if you should not find it expedient to reverse the said decision (which, nevertheless, I hope you will do,) but leave it, as former Assemblies have done, to the discretion of the Session, to dispose of it, according to their own views of duty, I yet cannot but confidently hope and believe, that I shall have the consolation of reflecting, that the said Session, should they continue to enforce their decision, will do so, unsupported by the advice or concurrence of the General Assembly.

As the Providence of God, in the manner already stated, prevents me from personally presenting my appeal, I have prevailed on the Rev’d. Ezra



Stiles Ely, D. D. to appear before you, as my Advocate; and I hope the Assembly will allow him to plead my cause, and also appoint such other counsel, to manage my defence, as they may think proper.

And now, reposing perfect confidence, in the wisdom and piety of your Reverend Body, to decide the case in such a manner as you may judge best adapted to promote the glory of God, and the edification of his church, I freely commit my cause into your hands: and, praying, that the great Head of the church may preside in your deliberations, I subscribe myself;

Dear Brethren,

Yours unfeignedly.

DONALD McCRIMMON.

*Extracts from the Minutes of the General Assembly of the Presbyterian Church, in relation to the case of Mr. Donald McCrimmon.*

June 1st, 1824, A. M.

An appeal of Mr. Donald McCrimmon from a decision of the Session of Ottery's church having been submitted to the Assembly by the Judicial committee, was taken up; and Dr. Ely was, agreeably to the request of the appellant, appointed to support the appeal.

The documents on the subject were read; and Dr. Ely and Mr. McIver were heard at some length; the former in support of the appeal, and the latter in defence of the decision of the Session. Adjourned till 4 o'clock, P. M. Concluded with prayer. See printed minutes, p. 207.

FOUR O'CLOCK, P. M.

The Assembly met, and was constituted by prayer. The minutes of the last Session were read.

The unfinished business of the morning was resumed; viz: the consideration of the appeal of Mr. McCrimmon. The parties were heard till they were satisfied, and the roll was called, agreeably to a constitutional rule on the subject.

Dr. Leland, Mr. Robert Kennedy, and Mr. William L. Maccalla, were appointed a committee to prepare a minute proper to be adopted by the Assembly on the appeal. See printed minutes, p. 207.

JUNE 3D 1824, A. M.

The committee appointed to prepare a minute on the appeal of Mr. Donald McCrimmon from a decision of the Session of Ottery's church, suspending him from the office of Ruling-Elder, and from the privileges of the church, reported, and their report being read, was *accepted*. After some discussion, the further consideration of it, was *postponed*; and the *subject of the appeal* was committed to Drs. Blatchford, Richards, Chester, Romeyn, McDowell, Miller, and Janeway, maturely to consider the subject, and report on it to the *next* Assembly. Mr. McCrimmon was suspended on account of marrying the sister of his deceased wife. See printed minutes, p. 214.

### *Remarks on the preceding Minute.*

The word "*accepted*," here used, in reference to the report of the committee, it will be readily perceived, does not imply, that the Assembly *adopted* the sentiments it contained; but only, that they received it, as a regular document, for the purpose of deliberating how it should be disposed of. The concluding part of the minute shews, that it was not ultimately adopted. Partly on this account, and partly, perhaps, from an indisposition to encumber the minutes, it was not placed on record. Having, however, preserved a copy of it, and believing, that many of the readers of these pages, will, on perusal of it, unite with me in thinking, that it was a very correct and judicious report; and that the Assembly ought to have adopted it; it is here presented to my readers, as the next article; and, although it is not expressly said in the minute, that the report was *rejected*; yet, I have thought proper to entitle it "*The rejected report*;" because, after *accepting* it—not to adopt it, but to *postpone* the further consideration of it, was, in my judgment, virtually to *reject* it. It is worthy of further remark, that it was, "*the subject of the appeal*," and not *the appeal itself*, that was committed to the Ministers, whose names are inserted in the preceding minute. It is, I think, obvious to the slightest observation, that the appeal itself, could not, with propriety, be referred to them, unless they had been directed to report to that same Assembly; but, inasmuch as they were required to report, to the *next* Assembly, the business, if I have any correct understanding of its true nature, from the moment of the adoption of the preceding minute, ceased to partake of a judicial character.



### *The rejected report of a Committee of the Assembly, on the subject of Mr. McCrimmon's appeal.*

The committee appointed to draft a minute on the appeal of Donald McCrimmon, who has been suspended from the office of Ruling-Elder, and from the sealing ordinances of religion, by the Session of Ottery's church, report the following.

Whereas the appellant acknowledges the fact of marrying the sister of his deceased wife, and confesses that he believes such marriages to be inconsistent with the Confession of Faith of this church, but not inconsistent with the word of God, and offers no objections against the regularity of the proceedings of said Session; and whereas the Assembly believe, it would be improper for them, to shrink from responsibility, or refuse to give an explicit decision, where it is regularly demanded; therefore, after hearing the parties until they declare themselves satisfied, and after maturely considering the subject,—Resolved, that this Assembly do believe, that such marriages are inconsistent with the word of God, and the standards of the Presbyterian church; (See ch. 24, sec. 4) and they do affirm the decision of said Session, and it is hereby affirmed.

*Further extracts from the Minutes of the General Assembly of the Presbyterian church, in reference to Mr. McCrimmon's appeal.*

MAY 24, 1825, A. M.

The committee appointed by the last Assembly on the subject involved in the appeal of Donald McCrimmon, did not report. Resolved that they be continued.—See printed minutes, p. 253.

MAY 19, 1826, P. M.

The committee appointed by a former Assembly on the subject involved in the appeal of Donald McCrimmon, did not report.

*Resolved*, That this Committee be discharged, and that this subject be committed to Dr. Neill, Dr. Herron, Mr. Fisher, Dr. Chester, and Dr. Axtell, with instructions that they report during the Sessions of the present Assembly. See printed minutes, p. 9 and 10.

MAY 29, 1826, A. M.

The committee on Mr. McCrimmon's appeal from a decision of the Presbytery of Fayetteville, confirming his suspension from the communion of the church, for having married his deceased wife's sister, reported that, in their opinion, no relief can be given to the said McCrimmon without an alteration of the Confession of Faith, chap. xxiv, sec. 4, the last clause of which declares, that "the man may not marry any of his wife's kindred "nearer in blood than he may of his own, nor the woman of her husband's "kindred nearer in blood than of her own;" but inasmuch as a diversity of opinion and practice obtains on this very important subject, your committee beg leave to submit the following resolution, viz:

*Resolved*, That the Presbyteries be and they hereby are directed to take this matter into serious consideration, and send up in writing to the next General Assembly, an answer to the question, whether the above quoted clause of our Confession shall be erased?

The above report was adopted.—See printed minutes, p. 22.

☞ On this minute there are some remarks contained in the preface, to which the reader's attention is particularly requested.—See pages iv. and v.

A

## SPEECH

DELIVERED IN THE GENERAL ASSEMBLY OF THE PRESBYTERIAN CHURCH,

ON THE 1st OF JUNE 1824.

IN OPPOSITION TO MR. McCRIMMON'S APPEAL,

AND

IN DEFENCE OF THE DECISION OF THE SESSION

OF OTTERY'S CHURCH.

*Moderator*—The subject on which, it now becomes my province, through you, to address this Reverend General Assembly, never was, and I am persuaded, never will be, to me, a subject productive of the smallest pleasure. I enter on its discussion, with that reluctance, which every man feels, who engages in an unpleasant duty. So unpleasant, indeed,

sir, is this subject to me, that I could not be persuaded to embark in it, by any consideration, short of a deep conviction of duty. Such conviction, however, does, with me, outweigh all other considerations; and all the objections to my engaging in this cause, which have been suggested to my mind by my aversion to an unpleasant subject, are at once put to silence. I bring, then, sir, to the defence of the decision of the Session of Ottery's church, a firm conviction, that I now appear in the defence of truth and of purity;—that the Session, in forming a decision which promotes a cause so sacred, deserve the countenance, the approbation, and the warm and unanimous support of this General Assembly;—and that, consequently, the appeal of Mr. Donald McCrimmon from so just a decision, ought not to be sustained. The minutes including the decision now appealed from, do, in my judgment, furnish this Assembly with abundant evidence, that the session, in all their deliberations on this subject, have acted with all that care and circumspection which the great importance of the case demanded; and that, whilst, on the one hand, they felt and exercised all that tenderness towards their offending brother, which the compassionate spirit of the gospel called for; they kept steadily in view, on the other, their solemn accountability to the great head of the Church; and, in view of this accountability, were resolved, in this case, as much as in them lay, to be found faithful to their master. At the same time, sir, they were duly sensible, that they were, themselves, an imperfect, fallible body of men; and that, therefore, it was possible, their judgment might be erroneous. On this account, they readily consented to the present appeal; for, as they possessed the testimony of an approving conscience, they had nothing to fear from an investigation of their proceedings; and, as their main object was, the promotion of Zion's best interests, they felt no disposition to throw any obstacles in the appellant's way; but were perfectly willing, that he should enjoy every facility, for having his appeal fairly and seasonably issued. I trust, however, I shall not find it difficult to prove, that, if, in the decision now appealed from, the session have fallen into an error, it is an error into which they have fallen, in excellent company;—an error which has obtained the solemn sanction of a body of men, whose memory, multitudes of the faithful followers of Jesus, have long held dear;—even that same learned, judicious, and godly assembly of divines, who met at Westminster, in the year of our Lord 1643, and there composed that excellent Confession of Faith, which we have, since, all adopted, as the Confession of our Faith. In consulting this excellent summary of scripture-doctrine, I find sentiments, which, if admitted, will completely justify the decision of the Session. In the 4th section of the 24th chapter of the Confession of Faith, it is declared, that “Marriage ought not to be within the degrees of consanguinity, or affinity forbidden in the word; nor can such incestuous marriages ever be made lawful by any law of man, or consent of parties, so as those persons may live together as man and wife.” This general proposition, I presume, no member of this Assembly will think of controverting; yet, while this is admitted, some may be disposed still to ask, Does our Confession of Faith absolutely pronounce the act, of which the appellant, in this case, stands convicted, an incestuous act? I maintain, Moderator, that it does; and I doubt not, but this Assembly will concede the position, on a fair comparison, of the appellant's alleged offence, with the language of the Confession of Faith. What, then, is the appellant's offence? From the testimony before you, even

the testimony of his own confession, he stands convicted, of having taken to himself,—the sister of his deceased wife. And, on this act, what judgment does the Confession of Faith pronounce? In the same section, to which I have already referred, it is further declared, that “the man may not marry any of his wife’s kindred, nearer in blood than he may of his own; nor the woman, of her husband’s kindred, nearer in blood than of her own.” Will it be contended, sir, that the appellant might lawfully have married *his own* sister? If he might, then, I allow, the Confession of Faith does not condemn him; but, if he might not, then, neither, according to the rule just recited, might he marry *his wife’s* sister. I apprehend, however, that no member of this Assembly will think of contending for the lawfulness of a man’s marriage with *his own* sister. If, then, I am correct in this apprehension, it must follow, as a matter which admits of no controversy, that the standards of our church pronounce that man guilty of incest, who takes to himself, the sister of his deceased wife. Of this truth, the evidence I have furnished, will, I think, by every member of this Assembly, be considered as amply sufficient. All evidence, however, relating to this point, is, on the present occasion, quite unnecessary; as the appellant himself distinctly admits, that what the Session has charged against him as an offence, is explicitly condemned, as incestuous, in the Confession of Faith: my only reason, then, for offering any proof on this subject, was, that I felt extremely unwilling to take the advantage of an admission, which, to others, the appellant might seem to make, without sufficient reflection.

And if the decision of the Session be thus clearly supported by the Confession of Faith; which, I think, no one will now deny,—I ask,—have they not a right, to calculate, with confidence, on the countenance, the approbation, and the support of this General Assembly? Is there any sound principle of reason, upon which such support can be denied them? Can you venture to sustain the appeal now before you, when you clearly perceive, that it is an appeal from a decision, which is firmly fortified by the Constitution of our church? What, sir! Sustain an appeal, from a decision, supported by that Confession of Faith, which every member of the Session,—which even the appellant himself,—yea, which every member of this General Assembly, has, at his ordination, publicly and solemnly professed, to have “sincerely received and adopted, as containing that system of doctrine taught in the Holy Scriptures?” Sustain an appeal from a decision, supported by that Confession of Faith, to the doctrines contained in which, former General Assemblies have publicly and solemnly declared their uniform adherence? Sustain an appeal, from a decision, supported by that Confession of Faith, a strict and undeviating adherence to the doctrines contained in which, former General Assemblies have *strictly enjoined* on the judicatories and churches under their care? Sir, I should find it extremely difficult, to reconcile such a supposition, with the confidence I repose in the good sense, orthodoxy, and fidelity, of this General Assembly. But, sir, there is no need of apprehension on this subject; for, if sentiments found repeatedly expressed on your records, be correct, then am I warranted in saying, that this Assembly have *no authority* to make any decision, that shall contradict any part of the Constitution of our church; and that, should they venture to do so, any decision thus made by them, must, of itself, be *null and void*. The Assembly of 1804 acknowledged this position, when, in a letter addressed to the Rev. David Rice, of Kens-

ucky, speaking of a measure, which they considered unconstitutional, they expressed themselves thus: "But, were our opinion on this subject different from what it is, we cannot lawfully and conscientiously depart from our present standards, till they be changed, in an orderly manner, by the consent of a majority of the Presbyteries, which compose the body of the General Assembly." A similar testimony was also given, by the Assembly of 1816, and expressed, if possible, in even more explicit and unequivocal terms. Their words were these: "The articles of the Constitution, must govern the Assembly themselves; and cannot be altered or abrogated, but in the manner pointed out in the Constitution itself."

If these principles be just, sir, and I presume they will not be controverted, I might now, without any further investigation of the subject, justly claim from this Assembly, a decision, in favor of the appellees, and against the appellant. If the standards of our church, have pronounced the marriage now in question, an incestuous marriage, I humbly apprehend, that this General Assembly are bound to decide, that the word of God, the only infallible rule of faith and practice, has pronounced, against such marriage, the same condemnatory sentence. This, sir, I think, I might insist on, without subjecting myself to the imputation, of being, any way, unreasonable, in my expectation: but, as this would fall short of satisfying the appellant; who, while he admits that the Confession of Faith justifies the decision of session, yet contends, that the texts of scripture quoted in the Confession do fail to support the proposition therein contained, and tells us, moreover, that he can find no text in all the Bible, from which, in his opinion, the doctrine for which I contend, can be proved;—I am willing to extend this investigation, even as far as he wishes it:—I am willing to go, "to the law, and to the testimony," and if, on such investigation, I shall be able to show, that "agreeably to the rules of just interpretation, the marriage of a deceased wife's sister, is actually forbidden" in God's Holy Word, then sir, I cannot doubt, but this Assembly will, not only condemn the appeal; and confirm the decision appealed from; but also, pronounce the question now before us, as "decided by an authority, which it would be impious to contradict, and dangerous to disobey."\*

Let us proceed, then, sir, in the fear of God, seriously to inquire, what testimony he has given us, on the subject now before us, in his Holy Word.

In entering on this inquiry, it is of importance, that I distinctly announce what it is I propose to prove; and in what manner my proof is to be exhibited. I propose, then, to prove, that God, in his Holy Word, has actually forbidden the marriage of a man, with the sister of his deceased wife. This, sir, I propose to prove,—not by pointing to a text which literally expresses this prohibition; but, by shewing, that, "agreeably to the rules of just interpretation," this prohibition is contained in the Oracles of God. If a person who wishes "to have a correct conscience on this subject," should "take his Bible, and search diligently to find the words, 'Thou shalt not marry thy wife's sister;'"—I grant you, that he will search in vain: if he should also critically search, to find the words, "Thou shalt not marry thine own daughter;"—he will be equally disappointed. "But will he, then, gravely lay aside his Bible," and take it for granted, "that these instances of marriage are lawful, because he does not find them forbidden, expressly, in so many words? God forbid!" With equal truth, and

\* Livingston.

good sense, might he conclude,—“that it is lawful to *steal a woman or child*, and sell it, because not expressly forbidden; although it is” explicitly “declared, that *whosoever stealeth a man, and selleth him, shall surely be put to death.*”\* From so gross a mistake as this, even common sense will save any person of ordinary understanding or reflection. But, in what part of the Holy Scriptures, shall we commence our search? That there is such an offence against God, as that which we denominate incest,—that this offence is an abomination in the sight of God;—and, that, in his Holy Word, he has given us all the information that is necessary to enable us to ascertain, wherein that offence consists,—are positions, which, I presume, no one who is familiar with his Bible, will hesitate to admit. But, in what part of the inspired volume, shall we find this necessary information? Shall we find it in the Old Testament, or in the New, or in both? If we look into the New Testament, for information, respecting “the degrees of consanguinity, or affinity, within which, a man or woman may, or may not marry,” we find, in this part of the scriptures, “not one word” on the subject, “except John’s reproof of Herod, for having his brother Philip’s wife; and Paul’s reproof of the Corinthian church, for communing with a man that had his father’s wife,” which he considered as “a notorious scandal. And why do we find no marriage-table, or scale, in the New Testament? For the best of reasons,” sir:—“Jehovah had already given one, in the Old Testament,—never yet repealed,—fit, in its nature,—sufficiently liberal for the convenience of the human family,—and designed to be permanent. This table, or law of God, is found on record, in the 18th chapter of the book of Leviticus.”† In this chapter, I apprehend, sir, we are to find the true solution of the question now before us; “for there is no other passage in the Bible,—not a single paragraph to be found in the Old or New Testament, where the prohibited degrees are enumerated, excepting in this 18th chapter of Leviticus, and a few verses in the 20th chapter, where some of the precepts are repeated.”‡ The 6th verse of the 18th chapter, contains a general law on the subject now before us, wherein all persons are forbidden to marry any that is “near of kin” to them. In the next 11 verses, commencing with the 7th and ending with the 17th, the limitations of this law are particularly specified, pointing out, in 15 distinct cases, the degrees of kindred, within which, marriages are prohibited, under this general law. That this general law, with its various limitations, can relate to nothing else than to prohibited marriages, I think, must evidently appear,—“from the express designation of the crime,—the definition of the subjects of the law,—and the minute enumeration of the *degrees of kindred*, which constitutes the basis of the prohibitions. Any attempt to prove, or illustrate this, would be superfluous. The object of the law, and the meaning of the divine law-giver, cannot be mistaken.” I conceive it “impossible,” sir, “to hesitate in determining, that this is a law, which condemns, what is called *incest* ;” and “that its immediate scope and design is, to draw the line of prohibitions; and ascertain, with precision, the degree of kindred, within which, God forbids the consummation of marriage.”§

Before I consider the particular prohibition, which is the immediate ob-

\* From an anonymous tract.

† Report of the Synod of South Carolina and Georgia.

‡ Livingston.

§ Ibid.

ject of our present inquiry, I beg leave, sir, to state a few plain principles, which I believe to be essential to the true interpretation of this law; and which, I hope, this Assembly, will readily admit. It will, then, sir, I trust, be allowed

1st. That "the term, *near of kin*, specifies that degree of relation which "approximates too closely, to render a marriage legitimate, between persons thus related;" and that "the *nearness of kindred* is the essential principle of the law against incest."\*

2ndly. That the prohibitory phrase, which is familiar to all the members of this Assembly, and which, for an obvious reason, I forbear to repeat, "is used to signify marriage;" and that "the meaning" of it "cannot be mistaken."†

3dly. That "the term, *wife*, in this law," invariably "signifies, *widow*." This position, I think, cannot well be controverted; for, "were the husband still alive, it would be adultery, which is not the crime intended, or designated, in this law."‡

4thly. That "in the enumeration of the degrees of relation, the sources, by consanguinity and affinity, are indiscriminately blended;"—that "the relations of the husband, and the relations of the wife, in consequence of the union produced by marriage, are considered as equally near to both;" and that "no distinction is made, in the direct or lateral line, between those who are related by blood and by marriage."§

5thly. "That, wherever a degree of kindred is named and prohibited, all the relations, either in consanguinity or affinity, which are in the same degree, and especially such as are nearer, than that which is mentioned, are necessarily included, and equally forbidden."||

6thly. That "the same prohibition which binds a man, is equally binding upon a woman:"¶ and

7th and lastly. That "every relation of the same degree, when reversed, must be understood to be as much included in the precept, as if it had been specifically mentioned:" for, "to have repeated all these, *vice versa*, would have unnecessarily multiplied the words of the law, without rendering them more explicit, or intelligible."‡‡

These principles being premised, I am now ready, to consider the particular prohibition, which is the immediate object of our present inquiry. Where, then, Moderator, shall we find the evidence, that God has forbidden a man, to marry the sister of his deceased wife? It is found, sir, in the 16th verse of the 18th chapter of Leviticus; where a man is expressly forbidden, to marry his "*Brother's Wife*." "To remove every temptation, and silence all prevarication upon this article, the same precept is," in the 21st verse of the 20th chapter, plainly "repeated: '*If a man shall take his brother's wife it is an unclean thing.*'"||| This, sir, agreeably to the principles already stated, is, in my apprehension, tantamount to a declaration, that, "*If a man shall take his deceased wife's sister, it is an unclean thing.*" Those who controvert the doctrine for which I contend, may, perhaps, feel disposed to smile at this suggestion: yet, sir, if I ask those very persons, whether a man may lawfully marry his own daughter, they will not hesitate in saying, that he may not: if I then ask them, how they prove this, from scripture, they will confidently refer me to the 7th verse of the 18th chapter of Leviticus: where a man is forbidden to marry his own mother. This is

\* Livingston. † Ibid. ‡ Ibid. § Ibid. || Ibid. ¶ Ibid. ‡‡ Ibid. ||| Ibid.



the only text, from which they can prove it. They will tell me, that a daughter is as nearly related to her father, as a son is to his mother;—that, therefore, if God has forbidden a man to marry his mother, he has, by the very same law, forbidden a woman to marry her father; and, that, if he has said, that a woman may not marry her father, he has also, necessarily said, that a man may not marry his daughter. This reasoning, sir, I confess, I cannot resist; and therefore, precisely, in the same manner, I prove, from scripture, the unlawfulness of a man's marriage, with his wife's sister: I say, no one will deny, that a sister is as nearly related to a sister, as a brother is to a brother. If, then, God has forbidden a man to marry his brother's wife, he has, by the very same law, forbidden a woman to marry her sister's husband; and if he has said, that a woman may not marry her sister's husband, he has also necessarily said, that *a man may not marry his wife's sister*. Will it be said, sir, "in objection to this demonstration, that the relationship of a sister's husband, is further off, and more remote, than the relation of a daughter to a father?" This sir, is worse than trifling: "admitting it is further off;—the same Divine Being forbids both: one as truly as the other, and both on the same principle." And here, sir, I cannot help observing,—that "those who speculate upon the style in which the law of marriage is" expressed, "and complain that it is not sufficiently explicit, would do well to remember, that the scriptures were not written, in the '*words which man's wisdom teacheth, but which the Holy Ghost teacheth,*' or taught. It is dangerous, therefore, to indulge this complaint. To impeach the wisdom of the Divine Spirit, carries something in it impious and shocking. All should remember, that Moses, in the 18th chapter of Leviticus, laid down *what was law*, respecting marriage. He had not done this before; nor was he here treating of the breaches of this law. But, after stating the ground work of the law, he *identified relations simply; which relations, as such, might not intermarry*. A son might not intermarry with his mother, whether his father was living or not. A nephew might not intermarry with his aunt, or uncle's wife, whether his uncle was living or not; and so, of all the rest. Relations, *simply as such*, are forbidden. Of course there was no need of calling a mother, a father's widow,—an aunt, an uncle's widow, —or, a brother's wife, a brother's widow."\*

[ "It is presumed, that it is not possible to conceive of a reason against marrying a brother's wife, which will not apply, in its full force, against marrying a wife's sister. The prohibition, in the one case must equally apply in the other. Things which are alike, in themselves, are alike virtuous or vicious: arguments, therefore, from analogy, or similarity, are no less conclusive and satisfying, by the common consent of mankind, than such as have their foundation, in express commands and prohibitions. The ill effects of marrying a wife's sister, are as great as those of marrying a brother's wife; and the reasons of the prohibition are stronger, in some respects, than for the prohibition of the marriage of a brother's wife. There is more danger of a man's practising undue familiarities, with a wife's sister, than with a brother's wife. The temptations are greater; and the opportunities more numerous. Brothers' wives are commonly fixed in different, and often in distant families. They are married women, or widows. But, a wife's sister, is often brought into

\* From an anonymous tract.

"the same family, in a single state, in all the vigor and beauty of youth. The temptations to incontinency are greater, and the opportunities far more numerous, in this case, than in that of a brother's wife. When a man marries a wife's sister, he makes no new relations, he forms no new friendships, does nothing to enlarge his knowledge of mankind, or to enlarge the circle of love and kind offices. But the whole tendency of it is, to prevent the diffusion of wealth and benevolent affection; to increase a selfish principle, and the undue influence of a combination of relatives; and, in this way, to disserve the general happiness of society."\*

I trust, sir, I have now clearly shown, that the appellant's *first* reason for appealing from the decision of Session, is not sufficient to justify this General Assembly, in sustaining his appeal. I must now consider his second reason; which is, that, "in the list of kindred, mentioned in the book of Leviticus, the sister of a deceased wife, is not once mentioned, as a person whom it would be unlawful for a man to marry: although the 18th verse of the 18th chapter of that book, contains a prohibition, in relation to a wife's sister, *in the wife's life time*; which seems to imply, that *after the wife's death*, such a marriage might be lawful." The first part of this reason, sir, I think I have already sufficiently answered. [In addition, however, to what I have already said, in relation to a literal, or express prohibition, it may here be proper, simply to remark, that, if what the appellant here contends for "prove any thing, it proves too much, and so proves nothing; for it implies,—that it is lawful for a woman to marry her grandson, though it is expressly forbidden that a man marry his grand-daughter; and that it is lawful for a man to marry his mother's brother's wife, though he may not marry his father's brother's wife;—that it is lawful for a woman to marry her father's sister's, or mother's sister's husband, though it is not lawful for a man to marry his father's brother's wife;—that it is lawful for a woman to marry her husband's grandson, though not for a man to marry his wife's grand-daughter."† This, it will be recollected, I have already sufficiently exposed;] yet, the last part of the appellant's 2d reason, appears to claim a few remarks. The question, here, sir, is, what is meant by the words, "*a wife to her sister*," in the 18th verse? This question, sir, the translators of the bible have satisfactorily answered, in the marginal reading, where they explain it to mean, "*one wife to another*." ["The same Hebrew phrase, *Isha el achotha*, here translated, *a wife to her sister*, is found, in eight other instances only, in the whole Hebrew Bible, in none of which it is applied to a natural sister; but, in every one of them, it is applied to inanimate substances. Thus, it is used twice, in Exodus xxvi. 3. 'The five curtains shall be coupled together one to another, and other five curtains, shall be coupled, one to another.' The literal translation of the Hebrew is this. 'The five curtains shall be coupled, *a woman to her sister*,' and five curtains shall be coupled, *a woman to her sister*.' The same phrase occurs in the 5th verse of the same chapter. That the loops may take hold, *one of another*. The literal translation of the Hebrew is, 'The loops receiving *a woman to her sister*.' Again, in the 6th verse, 'And couple the curtains together.' In Hebrew 'And couple the curtains, *a woman to her sister*.' So verse 17th, 'Two tenons shall there be in one board, set in order, *one against another*;' in the Hebrew,—'set in order *a woman to her sister*.'

\* TrumbaH.

† Edwards.

"Ezekiel i. 9. 'Their wings were joined one to another :' In the Hebrew,  
 "'Their wings were joined, a woman to her sister.' Verse 23a of the  
 "same chapter,— And under the firmament were their wings straight, the  
 "one toward another :' In the Hebrew,— were straight, a woman to her  
 "'sister.' Chapter iii 13. 'I heard also the noise of the wings of the  
 "living creatures, that touched one another :' In the Hebrew,— that  
 "touched, a woman to her sister.' On the authority of Buxtorf's concor-  
 "dance to the Hebrew Bible, I assert, that these eight are the only in-  
 "stances of the use of this phrase in the whole Hebrew Bible, besides  
 "Leviticus xviii. 18. And, since, in all these, it is applied to inanimate  
 "substances, which cannot, in the literal sense, be sisters to each other, I  
 "submit it to my learned auditors, how far this is an argument, that, in our  
 "text too, it does not mean a natural sister. If it shall be determined,  
 "that, in our text, it does not mean a natural sister, the sense of the phrase  
 "will be the same which it bears in all other places; and the translation  
 "will also be the same;"\* namely, that which the translators of the Bible  
 have given us in the margin ] It is clear, then, sir, that, in this 18th  
 verse, there is not a word about incest: it is a plain prohibition of poly-  
 gamy; and the reason of this prohibition is, that "Polygamy is a source of  
 domestic vexation; and destructive of all the interesting ends of marriage.  
 "If the natural sister of the wife were here intended, it could not, even  
 "then, be considered as an implicit permission to marry such sister after  
 "the death of the wife; for this" would contradict what "was already ab-  
 "solutely forbidden in the 16th verse;" and besides, it is to be observed,  
 that "the whole cause of the prohibition, in the 18th verse, refers to the  
 "vexation of the wife:—but why should her sister be specified as the most  
 "vexatious partner? The pretended argument to recommend the marry-  
 "ing of a deceased wife's sister, would" surely "prove," sir, "that, of all  
 "other women, she would be the least exceptionable, and the most desira-  
 "ble associate of a living sister. But, that the natural sister cannot be  
 "meant, is evident; because the law would then imply that a man might  
 "marry any other, in the lifetime of his wife, provided she was not her sis-  
 "ter; which would be implicitly to license polygamy, instead of forbidding  
 "it:—an inference, which no modest commentator would dare to counte-  
 "nance."† By this I would not be understood to mean, that my good  
 brother Dr. Ely, is not a modest commentator, although, as the advocate  
 of the appellant, in this case, he has contended that, under the Old Tes-  
 tament dispensation, polygamy was lawful. I cannot but think, that it was  
 through an oversight, that he quoted, in support of such an opinion, both  
 in his defence of the appellant, before this Assembly, and in his published  
 synopsis of Didactic Theology, the 15th, 16th and 17th verses of the 21st  
 chap. of Deuteronomy, where it is directed, that, "If a man have two wives,  
 "one beloved and another hated, and they have borne him children both  
 "the beloved and the hated; and if the first born son be hers that was ha-  
 "ted, then it shall be, when he maketh his sons to inherit that which he  
 "hath, that he may not make the son of the beloved first-born before the  
 "son of the hated, which is, indeed, the first-born; but he shall acknowl-  
 "edge the son of the hated for the first-born, by giving him a double por-  
 "tion of all that he hath: for he is the beginning of his strength, the right  
 "of the first born, is his." This passage, does indeed, recognize the ex-

\* Edwards.

† Livingston.

istence but by no means justifies the *practice* of polygamy. That it was then, as unlawful as it is now, is, to my mind, very clear, from the evidence furnished by the Holy Scriptures on the subject, and although the patriarchs indulged in it, their history, in my opinion, plainly shews, that, by this very offence, they often drew down upon themselves, the divine displeasure.\*

[“ It is plain, by the prophet Malachi, by our Lord, and by the Apostle Paul, that polygamy was unlawful under the Old Testament. The passage in Malachi to which I refer, is chapter ii. 13—15. ‘He regardeth not the offering any more, or receiveth it with good will at your hand. Yet, ye say, Wherefore? Because the Lord hath been witness between thee and the wife of thy youth, against whom thou hast dealt treacherously. Yet she is thy companion, and the wife of thy covenant. And did he not make one? Yet had he the residue of the spirit. And wherefore one? That he might seek a godly seed. Therefore take heed to your spirit, and let none deal treacherously against the wife of his youth.’ In this passage all are forbidden to deal treacherously with the wives of their youth. And what was meant by dealing treacherously with them, is explained in these words, ‘And did he not make one?’ i. e. one woman for one man. ‘Yet he had the residue of the Spirit,’ and was abundantly able to have created more women for one man, if it had been lawful, and best for him to have more. And ‘wherefore’ did he make but ‘one’ woman? ‘That he might seek a godly seed.’ i. e. because monogamy, or the having but one wife, is subservient to godliness, and polygamy is hurtful to it. Thus does this prophet clearly decide against the lawfulness of polygamy, under the Old Testament. The testimony of our Saviour, on this head, is not less express and pertinent: it is in Matt. xix. 4—6 ‘Have you not read, that he which made them at the beginning, made them male and female? And said, For this cause shall a man leave father and mother, and shall cleave to his wife: and they twain shall be one flesh. Wherefore, they are no more twain, but one flesh.’ They *twain*,—not they *three or four*, were to be one flesh; and a man was to leave father and mother, and cleave to his *wife*,—not to his *wives*. And this was the design and institution of God, *from the beginning*,—under the *Old Testament*, as well the *New*. The Apostle Paul also quotes the same words, from Gen. ii. 24, and continues them, in the same sense, as you may see in Eph. v. 31. ‘For this cause shall a man leave his father and mother, and shall be joined to his wife, and they *two* shall be one flesh.’ Thus clearly, it appears, that polygamy was unlawful, even under the *Old Testament*; and consequently, that there is no license for it given in Leviticus xviii. 18; as there is, if that text be understood to refer to a natural sister”†] I conclude, then, sir, that all inferences, or arguments, in favor of marrying the sister, *after the death* of the wife, deduced from this verse, are frivolous and ridiculous.

\* Although it is not a matter of much consequence, I choose here to state a fact, in relation to the remarks, to which this note is appended, the commencement of which is distinguished by this mark [□] Dr. Ely had made the first speech; and I proceeded to deliver mine, as previously written, until I came to the above quotation from Dr. Livingston’s book, respecting polygamy; when I thought proper to make some reference to Dr. Ely’s speech, and, consequently, added *extempore*, what is here given, as nearly in the words which I uttered at the time, as my memory would enable me to commit to writing, when I returned from the Assembly to my lodgings in the evening.

† Edwards.

Before I proceed to notice the appellant's next reason for appealing, I must say a few words, in relation to a popular plea in favor of the marriage, I now oppose, founded on the 5th and 10th verses inclusive, of the 25th chapter, of the book of Deuteronomy; where, it is alledged, that God himself expressly enjoined the marriage of a sister-in-law, in cases where a brother died without male issue. "True." Moderator; "he did: and, when an anti-christian age comes on, and the Jewish polity returns, and it becomes necessary to ascertain, by keeping a distinct register of Jewish families, and tribes, and property, the lineage and birth of the true Jesus, and the right of property at the year of Jubilee;"—then, sir, I will agree to, and even commend, the religious and state policy of such a marriage;—but not till then.\* [If it be urged, that the injunction here referred to "is a repeal of the general law under consideration, to this, it is only necessary to reply, that an exception to a general law, or a proviso, in a particular case, is never considered as a repeal of the law, but a confirmation of it in all other cases in which there is no exception, nor proviso. See Numbers xxvii. 8. 'And thou shalt speak unto the children of Israel, saying, If a man die, and have no son, then ye shall cause his inheritance to pass unto his daughter.' This is the case with respect to all general laws. Did a proviso or a particular exception, in some case, under a general law, repeal it, almost all laws would be repealed: for there are few, if any, without a proviso, or some particular exception to the general law."† But as already hinted, "as the necessity of keeping up every family distinct, which was the reason of the exception to the law against marrying a brother's wife, does not now exist among us, Gentiles; so the exception itself does no longer exist; and the general law is left to operate in its utmost extent."‡]

The pretence, that the law in Leviticus is not moral, but ceremonial, I consider scarcely worth attention: for, where, sir, will such a principle lead us?—But once admit this principle, sir, and then, it will follow, not only, that "a Christian may marry his sister-in-law," but that "he may" even "marry his nearest relatives by consanguinity;" for on this supposition, "there is no law in the book of God, to bind him to the contrary. If the precept respecting one relation be ceremonial, then, all the precepts are ceremonial:—a discrimination is impossible. The Jews, then, were restrained from committing abominable crimes; but Christians may perpetrate those very sins, with impunity." Surely, sir, no man of reflection will urge such a plea, "and look at the unavoidable conclusions, without blushing at" his "prejudice, and" his "rashness"§ ["But what absolutely determines the point, that the prohibitions in Leviticus xviii., are moral, and not ceremonial, are the verses which immediately follow these prohibitions, particularly the 24th and 25th. 'Defile not yourselves in any of these things; for, in all these, the nations are defiled which I cast out before you. And the land is defiled: therefore do I visit the iniquity thereof upon it, and the land vomiteth out her inhabitants.' And verse 27th—'For all these abominations have the men of the land done, which were before you, and the land is defiled.' Words to the same effect follow these prohibitions in the 23d verse of the 20th chapter. 'And ye shall not walk in the manner of the nations which I cast out before you.'

\* Report of the Synod of South Carolina and Georgia.

† Trumbull.

‡ Edwards.

§ Livingston.

"By all these incestuous marriages, the Canaanites were defiled; and for  
 "these abominations, the very land in which they dwelt, was sick of them;  
 "and God abhorred them, and cast them out. But they were never under  
 "the ceremonial law, nor any other law peculiar to the nation of Israel.  
 "They knew nothing of the law of Moses, or the Jewish polity. All  
 "these marriages, here prohibited, were violations of the moral law, or of  
 "the light of nature; or such instructions as God had given them, previ-  
 "ous to the writing of the law of Moses. The prohibitions were written  
 "in the law of Moses, to guard his own people from those very sins, for  
 "which he destroyed the nations which were before them, to whom the  
 "laws of Moses were never published. It is impossible, therefore, to con-  
 "ceive, how they should be defiled, and why God should abhor them, on  
 "any other account, than for their sins against the light of nature, or the  
 "moral law. Nothing, therefore, can be more certain, than that the prohi-  
 "bitions are of a moral nature, and binding upon all mankind. They were  
 "binding, before the law of Moses was written, and still binding; and will  
 "be so for ever. It is pleaded by some, that these prohibitions were ce-  
 "remonial, because they say, the 19th verse of the 13th chapter was cere-  
 "monial, and belonged to the Jewish polity only. But it is by no means  
 "granted, that this was ceremonial. The contrary is abundantly evident,  
 "as it is a sin, like others, charged against the Pagan inhabitants of Ca-  
 "naan, who never had been acquainted with the law of Moses; and is  
 "declared by God himself to be among those very abominations, for which  
 "he cast them out of their land. The prohibition was made, to prevent  
 "God's own people, from committing those very sins, against the light of  
 "nature, by which the Heathen made themselves abominable, and for which  
 "they were destroyed; and that the land might not vomit them out, as it  
 "had done its former inhabitants. Besides, the prophet Ezekiel men-  
 "tions it among other great abominations, and gives it as part of the  
 "character of a righteous man, that he keep himself from it." See  
 Ezekiel xviii. 5—9.

"With respect to the objection, that the laws of Moses no more con-  
 "cern us, than the laws of Solon or Lycurgus, and that, therefore, noth-  
 "ing can be pleaded, from Leviticus xviii. and xx. against marrying a  
 "wife's sister, more than from the laws of those Pagans, it may be ob-  
 "served, that this is rather the objection of the Infidel, than of a Chris-  
 "tian. Will any Christian maintain, that we have nothing to do with the  
 "ten commandments, with the laws against idolatry, beastiality, sodomy,  
 "nor any kind of incest? Have we nothing to do with the laws against  
 "man-stealing, murder, and those which relate to the Sabbath? Will any  
 "Christian maintain this? Certainly, he will not. But, where are their  
 "laws relative to these, but in the books of Moses? Are not these laws  
 "vouched by the prophets, and by Christ and his Apostles, as the laws  
 "of God? The laws respecting incest are moral laws. They prohibit  
 "sins, of which the Heathen were guilty, who were never under the law  
 "of Moses. They are, therefore, no less to be regarded by us than the  
 "other laws of God."

"Again: With respect to what is pleaded relative to *convenience*.—that  
 "no person is so suitable to come into the place of a deceased wife, as her  
 "sister:—that none are so likely to be kind and faithful to her motherless  
 "children, it may be answered, that this is only an appeal to corruption,  
 "to human feelings, and opinions,—against the law, the wisdom, and

“goodness of God. He knows, with infallible certainty, what is most  
 “suitable, in all cases, and what will always promote personal, domestic,  
 “and public happiness:—nothing, therefore, is to be pleaded, against his  
 “will. Were this a valid plea, it might be pleaded, with equal force, for  
 “a brother’s marrying his own sister, and for a daughter’s marrying her  
 “own father: for, who would be so kind to a man and his children, as his  
 “own sister? Who would be so kind to a daughter, and her fatherless chil-  
 “dren, as her own father? And who, in the world, would be so kind a wife,  
 “as a man’s own daughter?—But, how invalid, and absurd, are all such  
 “pleadings. Objections like these never ought to be mentioned in oppo-  
 “sition to the Divine law.”\* “Besides; it is by no means a conceded  
 “point, that the sister of a deceased woman, married to her husband, is  
 “more likely than another person, to be kind to her children. It is said,  
 “that orphans have been more frequently murdered by uncles and aunts,  
 “than by any other persons.”

“It is pleaded, that the case of marrying a wife’s sister, is very different  
 “from that of marrying a brother’s widow;—that there are very few, if  
 “any instances, in which a man marries, or wishes to marry his brother’s  
 “widow. But the instances of men who marry, or wish to marry their  
 “wives’ sisters, are very numerous; which shews, that the feelings of hu-  
 “man nature are very different, in the different cases; that the minds of  
 “men, in general, revolt from the idea of marrying a brother’s widow, but  
 “not at all from the idea of marrying a wife’s sister, and that, therefore,  
 “we cannot justly argue, from the one of these cases to the other. To  
 “this, it may be answered, that it is no proper matter of wonder, that  
 “men do not so frequently marry their brothers’ widows, as their wives’  
 “sisters: for they do not so generally choose to marry any widows, as  
 “they do maidens. It may be presumed, that as many instances may be  
 “produced, in which men have wished to marry their brothers’ widows, as  
 “can be produced, in which they have wished to marry their wives’ sis-  
 “ters, who are widows. If women were at liberty to make overtures to-  
 “wards marriage, we might expect as many instances of such overtures  
 “made to husbands’ brothers, as are now made to wives’ sisters; which  
 “would shew, that human nature no more revolts from the idea of marry-  
 “ing a brother’s widow, than from that of marrying a wife’s sister.”†

“Another consideration, which, it is conceived, ought to have some  
 “weight, in this case, is, the greatness of the sin of incest, taken in con-  
 “nection with “the improbability that men ever will come to repentance,  
 “confess and forsake it. When a man becomes guilty of it, in marriage,—  
 “the embarrassed and distressed condition he must be in, if he should be  
 “convinced of his error,—that he had been guilty of, and lived in incest;—  
 “love to his wife, and to his children;—his unwillingness to expose them to  
 “shame, and utterly to renounce and put them away,—would all be so ma-  
 “ny bribes, to blind his eyes, and to prevent all conviction of his sin, let  
 “the means of it be ever so great. The very apprehension of such terri-  
 “ble consequences, would engage him to use every argument and excuse  
 “possible, in his own vindication; and would give force to them, in his  
 “own mind, though they might be very inconclusive, and of little conside-  
 “ration. Besides;—when men commit great sins; and persist in them,  
 “for a long time, it hardens the heart; and blinds it more and more; and

\* Trumbull.

† Edwards.

“ God gives them up, as a judgment for their sins, to final blindness and impenitency. There is, therefore, little probability, that persons guilty of the incest of which I have been treating, will ever be brought to a conviction of their sin. Should they be brought into great doubts and fears, with respect to its lawfulness or be rationally convinced of the unlawfulness of their connection, their habit in sin, and their strong affection to a wife and children, would have a powerful tendency to prevent them from confessing and forsaking it. On supposition any person should be really convinced of his sin, in such a case, and become a true penitent; in what an unhappy condition must he be, on temporal accounts.” He must not only confess, but forsake his sin;—and must renounce conjugal duties,—to the woman he most dearly loved. How painful, to look back on his life, as a life of incest; and on his children,—as the fruit of an abominable, incestuous connection! Who could be willing,—who could, consistent with reason and prudence, put himself into a condition, in which he would be exposed, to such evil, distress and danger?\*

“ But I must return, sir, to the appeal; [in the further consideration of which, we shall, perhaps, by and bye, find a practical illustration of the weight due to this last mentioned consideration.] The appellants 3d, 4th and 5th reasons for appealing, are, I think, pretty nearly allied; and may be disposed of together.

His 3d reason is, that “ the Session of Ottery’s church, in making up their judgment, in his case, did not rest contented, with considering and pronouncing the act which they so severely condemned, as merely a rash and inconsiderate act of indiscretion; or as a step unadvisedly and injudiciously taken:—all which,” it seems, “ he freely admits; and for which he would, without appeal, have willingly submitted, to their censure, admonition, rebuke, or suspension;—but, that they have proceeded so far, as to adjudge him to be guilty of the crime of Incest; and to determine it to be essential, to his repentance for this crime, *that he separate himself from the woman, whom he has chosen, as his wife.*” [Who, that is free from prejudice, does not, here, at once, perceive, the dangerously deceptive nature of that sin, to which the appellant has yielded? Conscience seems to tell him, that he has, in some degree, transgressed; and even inclines him to submit to such punishment, as might, in his mistaken and deluded apprehension, be due to sins, not very highly aggravated, in their nature;—but he cannot, for a moment, indulge the thought of forsaking this sin;—its deceitfulness blinds him, so that he cannot perceive its heinous nature; and persuades him that it is venial;—nor can he, by any effort of his mind, be brought to the conviction, that it amounts to Incest. The more he reflects on this subject, the deeper, it appears to me, is his infatuation. This, I think, will appear more and more, in the progress of his appeal.]

His 4th reason is, that, “ after all the light he has been able to obtain on this subject, he cannot but think, that a separation from her whom he now considers and believes to be his wife,—so far from atoning for any indiscretion of which he has been guilty, in marrying her, would, itself, be a crime, more offensive to God, than the act of their coming together.” [It is, indeed, not strange, that, plunged as he is in guilt, he should thus think, and thus plead. It is the very nature of the crime into which he has fallen, thus to delude its unhappy victim.]

\* Trumbull.



His 5th reason is, that "the assertion of the said Session, that his marriage with the said Mary can never be made lawful by any law of man, or consent of parties, so as they may live together as man and wife, although it is sanctioned by the language of the Confession of Faith, is yet, in his opinion, totally unsupported by the Holy Scriptures." [O, how essential a qualification for the successful searching of the oracles of God, is a mind, deeply impressed with a sense of the malignant nature of sin,—sincerely disposed to forsake it; and unreservedly willing, as well as anxiously desirous, to receive, embrace, and yield to the influence of truth, at whatever sacrifice!]

On each of these three reasons for appealing, I wish, [in addition to the passing observations already made] to submit a few brief remarks.

Had the Session acted, sir, without any reference to duty, or responsibility; had they forgotten, in whose service they were engaged, and the nature of the trust committed to them;—had they lost sight of the high character they were called to sustain, as Judges of a Court of Jesus Christ;—it is possible, they might have been disposed to gratify his wishes. In this case, they might even have suffered his offence to have passed unobserved:—but, sir, when they considered, whose service it was they were engaged in; and recollected, that a period must arrive, when they must render an account of all their proceedings, to that God, who is of purer eyes than to behold iniquity; they must have been aware, that they had some higher end to consult, than the wishes of any man. It, therefore, became them, sir, to be careful,—that, in the important matter before them, the judgment they should form, should be "according to truth;" and such a one as might safely be submitted, to that supreme Judge of all, who, most assuredly, will "bring to light the hidden things of darkness, and make manifest the counsels of the heart." Under this conviction, sir, they durst not consider, or treat, the offence into which they were inquiring, "merely as a rash and inconsiderate act of indiscretion; or as a step, unadvisedly and injudiciously taken:" they conscientiously believed it to be an offence of a much deeper, and much more highly aggravated nature: they believed it to be INCEST;—an offence, which, the Lord, in his Holy Word, calls "wickedness," and "abomination," and, on account of which God drove, and the land vomited out, those who were guilty of it. Of this aggravated crime, sir, I think I have proved the appellant to be guilty: and, if the proof I have offered be sufficient, in the judgment of this Assembly, I apprehend, the session will not be charged with the exercise of excessive severity;—as if they took pleasure in making the offence of their brother appear greater than it really was. That man, sir, who, after having grievously sinned against God, can gravely call the act which he has thus committed, "a mere act of rash and inconsiderate indiscretion, or a step unadvisedly and injudiciously taken;" and then plead, that to persevere in the commission of this very sin, must be more acceptable to God than to forsake it,—or, which is even worse,—that, to forsake it, must be more offensive to God, than to persevere in it;—the man, sir, who can deliberately act thus, and profess this course to be the result of a serious inquiry into the mind and will of God,—is, indeed, to be pitied, for his infatuation;—but, in a Judicatory of Christ's church, I should think it an impious prostitution of God's ordinances, to extend, to such a man, the privileges of God's house. This remark, however, must be understood, as founded on the supposition, that I have already proved the appellant to be guilty of Incest; and, if the evidence I have offered, be considered, by the Assembly, as amounting to such proof, it must follow, that the appellant's marriage with his deceased wife's sister, "can never be made lawful, by any law of man, or consent of parties, so as they may live together, as man and wife;" and that the Session, when they asserted this, did assert that, which was not only sanctioned by the language of the Confession of Faith, but also fully supported, by the unerring testimony of the Holy Scriptures.

It may, sir, on a superficial view of this subject, appear hard,—that a person, in the appellant's situation, should, previous to his restoration to sealing ordinances, be required to separate from the woman whom he has chosen, at

a wife; but, it ought to be recollected, that the hardship is one of his own choosing: "The church is not," and cannot be" accountable, for the hardships, in which a "transgressor of a Divinely revealed "law, may have involved himself. She may, and she does pity and pray for him;—but, having no "legislative, but only a declarative and executive authority, in God's house, "she cannot, from sympathy, undertake, like *Popes*, profanely to dispense "with, or alter the divine constitution, or laws in the Bible. By reading the last "chapter of the book of Ezra, we shall find, that 113 persons brought themselves, their wives and children, into great difficulties, by profane, that is, "forbidden marriages. Nothing but the dissolution of those connexions could "appease the wrath of God towards the culprits, and the society or community to which they belonged. Although these things took place" more than two thousand "years ago, our sympathy is, even yet, strongly excited, when, "by faith in the sacred word, we see upwards of a hundred men, putting away their wives,—women they probably loved, and children too, even where "there was no incest in the case, as in the case in question:" yet, sir, "human "sympathy and commiseration, cannot, must not nullify the operation of the "statutes of the Lord. Sinners must 'bear their own iniquity.' Their hardships, both in this life and in the next, are brought on them, by their own "rashness; and with their eyes open. Whose commiseration," sir, "is not "excited, by the sight of the execution of a felon, dying according to the "laws of God and man? But yet, the law must be respected and fulfilled, for "the general good of society, and in honor of the divine authority."\*

I come now, sir, to the appellant's *last* reason for appealing;—a reason on which he appears to place great reliance: and by urging which, he seems to hope, that he will ultimately triumph. Here he tells you, sir, that he appeals, to this Reverend Body,—“Because the decision of said Session is at variance “with the opinions expressed, at different times, by the General Assembly of “the Presbyterian church, to which he now appeals.” He then makes such quotations from these opinions, as appear to him to suit his purpose; and concludes with expressions of strong confidence, that this Assembly will not confirm the decision from which he appeals. Sir, I ingenuously confess to you, and to my Reverend Fathers and Brethren of this General Assembly, that, in meeting *this* part of the appeal, I feel myself, in no small degree, embarrassed, by a sense of the peculiar delicacy and difficulty of the task, which I have undertaken. This embarrassment, however, does not arise from any want of confidence in the justice, or the truth, of that cause, of which I now appear as the advocator; but, it proceeds from a trembling fear, lest, in pleading the cause of truth, I should manage its defence so injudiciously, as to wound the sensibility of such of my Reverend Fathers and Brethren, as entertain, on this important subject, sentiments which do not entirely accord with my own. But, Why should I indulge such a fear? Surely, in an Assembly of men who love truth, I have a right to calculate on the exercise of that candor, which will incline all who possess it, to bear with whatever may proceed from an honest zeal for truth; although this should not, at all times, be in perfect harmony with their own views of the same subject. The fact, then, sir, on which the appellant so much relies, is readily conceded. It is granted, sir, because,—Alas! it cannot with truth be controverted,—that the decision from which the present appeal is taken, is, indeed, “at variance with the *opinions* expressed, at different times, by the General Assembly of the Presbyterian church.” Sir,—for the honor of the Presbyterian church,—were it of any use, I could most heartily wish, that this were a proposition which the appellant could not establish;—but, unhappily, the archives of this General Assembly, do bear testimony on this subject, which cannot be resisted. Well; Moderator:—Be it so:—I must take it as I find it. It is, however, no small alleviation of that regret, which I feel in consequence of this fact,—that it is with *opinions*, and not with *decisions* of the General Assembly, that the decision of the Session of

\* Report of the Synod of South Carolina and Georgia.

Ottery's church, is found to be at variance. Happily, sir, for that Session, and its cause,—however strange it may appear,—the fact is plain and palpable, that,—often as this subject has elicited the *opinion*, it has never yet, in one single solitary instance, called forth a *decision* of the General Assembly of the Presbyterian church. It has long been to me, sir, I will freely own, a matter of deep concern, that such opinions as those quoted by the appellant, have ever found a place on the General Assembly's records; and I am not without hopes, that *this* General Assembly, in taking a view of the present case, will perceive, that these very opinions, have had an unhappy influence, in contributing to the increase of evils, which we all deplore. As that charity which “beareth, believeth, hopeth, and endureth all things,” will not suffer me to put an unfavorable construction on the acts of any of my Fathers and Brethren, I feel no disposition whatever, to ascribe to any of those Assemblies, whose opinions the appellant has quoted, any other motive, in forming and expressing these opinions, than a sincere desire to promote the glory of God, and the good of his church on earth: but, as it is equally characteristic of the same charity, that it “rejoiceth not in iniquity, but rejoiceth in the *truth*,” I hope I shall not be considered as giving evidence of deficiency in that christian grace, if I freely express what I think, in relation.—*not to the authors* of these opinions, but, *to the opinions themselves*. Let us, then, Moderator, for a few moments, attend to these opinions, as they appear on your records; and endeavor, if possible, to ascertain, what weight they ought to have, with this Assembly, in disposing of the present appeal. The Assembly of 1797, in the case of a man who had married his former wife's half-brother's daughter, and afterwards, the Assembly of 1802, in the case of a man who had married his former wife's sister's daughter, expressed themselves thus: “Resolved, that, “although the Assembly would wish to discountenance imprudent marriages, “or such as tend, in any way, to give uneasiness to serious persons, yet, it is “their opinion, that the marriage referred to, is not of such a nature as to render it necessary to exclude the parties from the privileges of the church.” In a similar case;—i. e. in the case of a man who had married his former wife's sister's daughter, the Assembly of 1804 expressed themselves, thus:—“The Assembly, having given repeated *Decisions* ;”—I quote, Moderator, literally from the records; but, this must be a mistake;—it ought to be, *opinions*, “in similar cases, cannot advise to annul such marriages, or pronounce them “in such a degree unlawful, as that the parties, if otherwise worthy, should be “debarred from the privileges of the church;—but,—as great diversity of opinion appears to exist on such questions, in different parts of the church; so “that no absolute rule can be enjoined with respect to them, that shall be universally binding, and consistent with the peace of the church; and, as the “cases in question are supposed to be doubtful, the Assembly is constrained to “leave it to the discretion of the inferior judicatories, under their care, to act, “according to their own best lights, and the circumstances in which they find “themselves placed.” The remaining opinion, to which the appellant now before you refers, is that which was given by the Assembly of 1821, in the case of a Mr. William Vance, who, like the present appellant, had married the sister of his deceased wife. In this case, the Assembly expressed their opinion as follows; viz: “Resolved,

“1. That, in the opinion of this General Assembly, the marriage of a man “to the sister of his deceased wife, and all similar connexions, are highly inexpedient, unfriendly to domestic purity, and exceedingly offensive to a large “portion of our churches.

“2. That it be, and it hereby is, earnestly enjoined upon the Ministers, Elders, and Churches of our communion, to take every proper occasion to impress the sentiments contained in the foregoing resolution, on the public “mind; and, by all suitable means, to discourage connexions, so unfavorable “in their influence, on the peace and edification of the church.

“3. That while the Assembly adopt the opinion, and would enforce the “injunction above expressed, they are by no means prepared to decide, that

“such marriages as that in question, are so plainly prohibited in Scripture, and so undoubtedly incestuous, as necessarily to infer the exclusion of those who contract them, from church privileges. They, therefore, refer the case of Mr. Vance back again to the Session of the church of Cross-creek, agreeably to former decisions.”—Here, again, Moderator, is another mistake: it ought to be,—former *opinions* “of the General Assembly in similar cases, to be disposed of, in such manner, as the said Session may think, most conducive to the interests of religion.”

I presume, Moderator, it will be unanimously admitted, by this Assembly,—that nothing contained in any of the acts of former Assemblies, now recited, can properly be said to amount to a *decision* of the question now before you; and that they are merely acts, expressive of the *opinions* of those Assemblies by which they were adopted. Here, perhaps, it may be proper to inquire, why these Assemblies, instead of *deciding* a question of so much magnitude, contented themselves with barely expressing their *opinions*, on this great question? For pursuing this course, sir, they might, for aught we know, have had many weighty reasons, which their views of expediency might, possibly, have forbidden them to express. From an inspection of the records, however, in connection with some known facts, *one* reason may be gathered; and I am inclined to think, it is the only one, which, at present, it is important for us to ascertain. In each of the cases referred to, the subject was presented to them, in a shape, which did not appear to them *absolutely* to require a decision; and they seem to have apprehended, that, while, on the one hand, the expression of an opinion, might have answered the purposes required; yet, on the other, an *absolute decision*, on which side soever it might be given, might have been productive of very unpleasant consequences. This, sir, I infer, from the following facts, relating to the cases already recited. In the year 1797 the subject came up, in the form of a reference from the Synod of Virginia;—in 1802, it came, in the form of a request, for the direction of the Assembly, in a case of discipline, from the Session of the church of Westminster, in Jefferson county, State of Tennessee; and, in 1804;—in the form of a reference from the Synod of Pittsburg. These facts, sir, are, all, matters of record. In 1821, the subject did, indeed, come up, in the form of an appeal; but, it was ascertained, on inquiry, that the appellant had never partaken of the Lord's Supper; and that his case had originated in an application to the minister of Cross-creek church, for the baptism of his child; which privilege, the session of that church, refused to grant him. I think it proper to remark, sir, that I state this fact,—not on the authority of your records; but from a personal recollection of what occurred, in the Assembly of 1822, when the Session of Cross-creek church petitioned the Assembly to take upon themselves the responsibility of the case, by an absolute decision; which the Assembly refused to do. Now, although these reasons for substituting an *opinion* for a *decision*, in each of the cases here referred to, are, in my humble judgment, far from being sufficient; (for I think it the duty of superior judicatories to strengthen the hands of the inferior; and our discipline declares all baptized persons, as members of the church, and proper subjects of discipline;) yet as they appear to have satisfied the minds of these Assemblies, so far as to have influenced their acts; my present object, in referring to the circumstances just stated, is, to shew, that,—even were I to grant the sufficiency of the reasons which appear to have influenced the Assemblies of 1797, 1802, 1804 and 1821, in all these specified cases, they are reasons which cannot, with the least shadow of propriety, be adduced, in favor of subjecting the case now under consideration, to a similar result. The present appeal, sir, brings the subject before you, in a shape very different from any in which it has heretofore appeared; and exhibits the question to be determined, under circumstances, which, in my humble opinion, loudly calls for an absolute decision. Here, sir, you are presented,—not with an application from a church Session, for advice, in a case of discipline;—not with a reference, from a church Session, Presbytery, or Synod;—nor yet, with an appeal, on the part of a person, whose claims to atten-

tion, on the score of his past standing, can, at all, be considered as doubtful: but, you have, before you, sir, an appeal, regularly and constitutionally brought up; and the appellant is a man, who, not only has heretofore enjoyed the sealing ordinances of God's house,—but has also exercised a very important office in the church of Christ; namely, the office of a Ruling Elder. You find, too, sir, from the language employed, in his appeal, that he possesses no small ingenuity, in defending the course which he has pursued; and if, by sustaining his appeal, you suffer this ingenuity to be further displayed, in our church, so far as it may operate in inducing others to follow his example; and if you thus pave the way for giving such an example a still more specious appearance; by repeatedly admitting, in the prosecution of future appeals, the exercise of such powerful talents as have been employed in his defence, before this Assembly, by our brother, who has appeared here as his advocate;—it is hard to say, to what extent, an evil, already by far too prevalent, may be permitted to spread, in our church. I trust, sir, that these statements and remarks, will satisfy this General Assembly, that the period is now at hand, when a regard for the best interests of Zion imperiously demands, that the important question now before you, should be disposed of, in firmer and more decisive terms, than those which appear in the acts of former Assemblies. But, sir, the question still returns,—What weight is due to these sentiments of former Assemblies, in disposing of the present appeal?—To the opinions of a General Assembly, sir, which is the highest judicial tribunal in our church, it is certain, that very great deference is due:—yet, while this is cheerfully conceded, it must also be allowed, that, to the binding authority of such opinions, there are certain prescribed limits, beyond which, it were sinful to yield to them. These prescribed limits, sir, are found, in the constitution of our church, and in the word of God. Any act of the General Assembly, which contradicts, either the one or the other of these, is, of course, null and void. Sir,—I would not willingly speak in offensive terms, of those acts of former General Assemblies, to which I now refer; yet, the remarks I am about to make, are extorted from me, by a sense of duty, and a regard to truth. From every view, then, which I can take of these opinions,—so far as they go to deny the marriages in question to be incestuous, I am constrained to consider them,—contrary to the doctrine contained in our adopted standards;—contrary to what we find taught in the word of God;—unfriendly to the purity of the church;—subversive of discipline; and unhappily calculated to encourage a species of alliances, highly offensive to Jehovah. That they are contrary to the doctrine contained in our adopted standards, is a position which presents itself to my mind, with evidence so clear, that I cannot but think, every member of this Assembly, will grant it, without hesitation. That they are contrary to what we find taught in the word of God, will be admitted, if the evidence I have already adduced from scripture, to prove the incestuous nature of that connexion into which the appellant has entered, be deemed, by this Assembly, sufficient for that purpose; and, if it be not, then, I confess, no other evidence I can produce, can afford me the hope of satisfying the Assembly, on this point. I consider these opinions, sir, unfriendly to the purity of the church; because I regard the crime of Incest, as the offspring of impurity, I consider them unhappily calculated to encourage, a species of alliances, highly offensive to Jehovah; because, such is the view I am constrained to take of them, when I examine the testimony of the Holy Scriptures, concerning incestuous marriages: and, I consider them, sir, as subversive of discipline; because, it does appear to me, that their natural and direct tendency is, to enfeeble and pull down the hands of the inferior judicatories, instead of strengthening and holding them up, when they attempt to exercise or enforce discipline on this subject.

Of this last position, sir, I think, this General Assembly are furnished with a very forcible illustration, in the appeal now before them. The Assembly of 1797, have told us,—and the Assembly of 1802, have repeated the assurance, that they “would wish to discountenance imprudent marriages, or such as tend, in any way, to give uneasiness to serious persons.” And where, Moderator, do we find *imprudent marriages discounte-*

nanced? Are they discountenanced in the resolution, in which we find this wish expressed? Are not the marriages there referred to, confessedly "imprudent?" Do they not, to say the very least of them, tend to give much "uneasiness to serious persons?" If this be their character,—(and scarcely will any one attempt to deny the fact)—then, surely we might expect to find, in these resolutions, some strong expression of the Assembly's disapprobation. And how, sir, is this disapprobation expressed? Truly, Moderator, it is almost enough to excite a smile of pleasantry, to find, as a substitute for such expression of disapprobation, the following language:—"yet, it is their opinion, that the marriage referred to, is not of such a nature as to render it necessary to exclude the parties from the privileges of the church." Is this, sir, the way to discountenance such marriages? To me, sir, it really appears to be the direct way to countenance and encourage them. If this opinion be binding on the inferior judicatories, I would ask,—how is discipline ever to be exercised, in a case of this nature? Or how can they fulfil the wish expressed in this resolution—to discountenance marriages, which all agree to be alike imprudent and offensive? Perhaps it may be said, that the Assembly of 1804 have relieved the inferior judicatories from the dilemma, in which the binding authority of this opinion has placed them, in the declaration, that the Assembly are constrained "to leave it to the discretion of the inferior judicatories, under their care, to act according to their own best lights, and the circumstances in which they find themselves placed." Here, sir, it is true, there is left, to the inferior judicatories, a discretionary power, on this subject: but,—to what purpose is this discretionary power? Does not the very first clause, in the very act which gives this discretionary power, render such power entirely nugatory, by declaring, that the Assembly "cannot advise to annul such marriages, or pronounce them in such a degree unlawful, as that the parties, if otherwise worthy, should be debarred from the privileges of the church?" If this be understood as a direction, not to debar the parties, in such cases, from the privileges of the church, (and if it be not thus understood, it has no meaning) how can the matter with propriety, be said to be "left to the discretion of the inferior judicatories?" Suppose it should be the discretion of an inferior judicatory, to debar such parties, would not the parties be ready to plead, that such discretion was contrary to the advice of the General Assembly?—Yes, sir: you have before you, sufficient demonstration of this; for this very plea is actually made, by the appellant in the present case. It was idle, then, sir, to talk of a discretionary power, thus fettered, and thus clogged. In the same act, sir, we are further told, that in consequence of the great diversity of opinion which appears to exist, on such questions, in different parts of the church, "no absolute rule can be enjoined with regard to them, that shall be "universally binding, and consistent with the peace of the church." If I understand this expression aright, sir, the import of it seems to be, that, if an "absolute rule," enjoined by the General Assembly with regard to such questions, should be made "universally binding," such an "absolute rule," would not, in the opinion of the Assembly who passed this resolution, be "consistent with the peace of the church." It is, indeed, very true, sir, that all church judicatories are bound to maintain, "the peace of the church;" and to regard it as an object of sacred importance; but, if my judgment be correct, this is to be done, only in subserviency to the purity of the church. The Apostle James, who wrote, as we all believe, by divine inspiration, informs us, that, "the wisdom that is from above, is first pure, then peaceable." [From this inspired declaration, I apprehend, we are warranted to conclude, that, however desirable peace may be, yet, if, in any instance, purity and peace cannot be both maintained together, the former is, at all events to be preserved, even at the sacrifice of the latter; and that, if, disregarding this dictate of inspired wisdom, we should attempt to preserve peace, at the expense, or sacrifice of purity, the consequence will be, that the peace thus temporarily secured, (for temporary only it can be) will in the end, be found,—not to be a true and lasting, but a false and fleeting peace. But besides,—with all due deference to the superior judgment of the Assembly, whose act I now consider, I must be permitted to say, that, when they affirm, that "no absolute rule can be enjoined, with respect to such questions, that shall be universally binding, and consistent with the peace of the church;" they appear to me, to take for granted, what remains to be proved. When members of our church enter into such connexions as those we now consider, the question is, Shall they be debarred from the privileges of the church; or shall they be permitted to enjoy them? To try this question, in reference to the "peace of the church," then, let an "absolute rule" be enjoined, with respect to it; and let that "absolute rule" be, that all who contract such marriages, shall, during the existence of such connexions, and until the church receive satisfactory evidence of repentance, be excluded from sealing ordinances: let this rule be made "universally binding;" and then, I ask, is it more likely, that "the peace of the church," would thus be disturbed, or broken, than it would

be, by suffering such persons to enjoy the privileges of the church? To me, it appears, that such peace as is most desirable, would certainly be much more readily secured, by the exclusion of such persons, than by retaining them in communion. If they are excluded, those who take a serious view of the subject, will approve of the exclusion; and none will be offended, but the abettors of such alliances; and, if they choose to withdraw with those who are thus excluded, let them do so:—our church, in my humble opinion, will enjoy much more tranquility without them, than with them: Whereas,—if we allow our members to form such connexions, and to enjoy, at the same time, the privileges of the church,—if I may judge from what has already happened, I think myself safe in saying, that we have no ground whatever, to calculate on the enjoyment of peace: for, many serious persons,—many of our most valuable members, will be offended;—the toleration of such offences, will give them constant uneasiness;—and, while we thus grieve the godly, we do, so far, dishonor the religion of that blessed Redeemer, whose glory, we are bound, in all we do, to promote; and who, on the subject of offences, has expressly enjoined it upon his followers, to take heed, how they offend, even the very weakest of his disciples;—solemnly declaring, that “it were better for” such an one, “that a millstone were hanged about his neck, and that he were drowned in the depth of the sea.” Thus, it appears to me, that if due pains be taken to preserve the *purity* of the church, such peace as is really valuable and desirable, will thereby be effectually secured. But, the Assembly have further said, that “the cases in question are supposed to be *doubtful*.”—If so, it is certainly the wisest course, to be on the safe side. Allow it to be *barely possible*, that the marriages in question are *lawful*;—yet,—as many persons who are alike godly and intelligent, consider them *unlawful*;—as it is admitted, on all hands, that other connexions will answer the important ends of marriage, much better, and will be much less liable to objection;—as all persons may innocently avoid the connexions in question; and thereby secure to themselves the approbation of the wise and good;—I cannot perceive, what evil can result, from our resolutely setting our faces as a flint, against all such marriages; and excluding from communion, all who contract them: and, when this is done,—if they can find churches of other denominations, who, on this subject, are less scrupulous than we are, to receive them, and allow them to enjoy sealing ordinances,—I, for my part, am perfectly willing, that *such* churches, should enjoy all the *benefit* to be derived from holding *such* members; while they take, at the same time, as, in such a case, they must do, the *responsibility*, of extending to them, those privileges, which *we cannot give them, with a good conscience*. If the question be asked,—Is it warrantable, on scriptural principles, to exclude persons from the enjoyment of sealing ordinances, for an act, in respect to the offensive nature of which, there is, among the confessedly godly, a diversity of opinion?—I answer, that, in my humble opinion, such exclusion is perfectly warrantable. An inspired Apostle has enjoined it upon us, to “abstain from *all appearance* of evil;” and, I think, that, even the most strenuous opposers of the doctrine for which I contend, with regard to the marriages in question, will, at once, admit, that—professing christians, who, with a knowledge of the sentiments entertained by many of the godly, on this subject, will persist in contracting such marriages, as those now under consideration, do, to say the very least of it, violate this Apostolic injunction. These considerations all unite, in producing on my mind, a deep conviction, that, in relation to all such marriages as those referred to in the Assembly’s minutes, the injunction of an “absolute rule,” excluding, without exception, all who contract them, from the privileges of the church, and made “universally binding;”—is not only a measure, every way “consistent with the peace of the church,” but also, highly expedient; on scriptural principles, perfectly warrantable;—and, moreover, loudly called for, as a matter of duty.] The Assembly of 1821, sir, have, indeed, gone further than any preceding Assembly, in expressing their disapprobation of “the marriage of a man to the sister of his deceased wife, and all similar connexions;”—for, aware, how little it availed, to “wish,” with former Assemblies, “to discountenance imprudent marriages, or such as tend, in any way, to give uneasiness to serious persons,” they have, with great propriety, pronounced them to be, not only “highly inexpedient,” but, also,—“unfriendly to domestic purity, and *exceedingly offensive* to a large portion of our churches.” In addition to this, they have “*earnestly enjoined it*, upon the Ministers, Elders, and Churches of our communion, to take every proper occasion to impress these sentiments on the public mind; and, by all suitable means, to *discourage* connexions, so unfavorable in their influence, on the peace and edification of the church.” These sentiments, and these injunctions, sir, so far as they go, have my most cordial approbation; and, doubtless, they will meet with the most cordial approbation of all, who have a due regard for the purity of the church:—but, alas! sir,—a subsequent resolution, has so enfeebled, and frittered away the force of these sentiments and injunctions, as to render them, *completely a dead let-*

ter. How, sir, are Ministers, Elders and Churches," to "impress on the public mind," the sentiments,—that such marriages are "highly inexpedient;"—that they are "unfriendly to domestic purity;"—and that they are,—“exceedingly offensive to a large portion of our churches?" How are they to "discourage connexions," which the Assembly declare to be "so unfavorable in their influence on the peace and edification of the church?" Are they to *impress* these sentiments on the public mind, and to *discourage* such connexions,—by extending to those who contract such marriages, the sealing ordinances of God's house? To my mind, sir, such a course would appear the least likely imaginable, to produce these desired effects: and yet, sir, the very Assembly that have laid these injunctions on us, have seriously told us, that "they are by no means prepared to decide, that such marriages as that in question, are so plainly prohibited in scripture, and so undoubtedly incestuous, as necessarily to infer the exclusion of those who contract them, from church privileges." Sir,—if I betray weakness, forgive me; but, I must own, I am almost ready to weep, when I think on the effect, which such a resolution is calculated to produce! Moderator, I am fully persuaded, that the view I have taken of the natural tendency of such sentiments, when they come from an Ecclesiastical tribunal of the highest standing in our church, is not a visionary or chimerical view: I cannot doubt, but their direct tendency is,—to enfeeble and pull down the hands of those, who, by the exercise of wholesome discipline, would wish to promote the purity of the church. The appeal before you, sir, is a practical comment on this remark. See, sir, how the appellant has availed himself of the advantages, thus unwarily afforded him! He scruples not to tell you, sir, that, "with these repeated declarations of former General Assemblies fully in view, it may be naturally supposed, that he does not, that, indeed, he cannot anticipate a confirmation of the decision from which he now appeals,—*sq diametrically opposed, to the sentiments of the collected wisdom of our church.*" Who, sir, can hear an appellant talk, in this style, and not regret, that the shadow of a warrant for such language, on such a subject, is to be found on the records of the General Assembly?—But, this is not all; sir:—the appellant is not restrained, by the expressions of the Assembly's disapprobation of such marriages, which he finds on their records:—by these, he is not at all restrained from indulging a confident expectation that they will frown upon the proceedings of the Session:—He thinks he can condemn the Assembly,—even out of their own mouths:—it is, to him, proof sufficient of the lawfulness of such marriages, that the Assembly "have not thought proper to annul them." "This," it appears, is, "to his mind, *conclusive evidence,*" that the Assembly "did not consider such marriages, either as a nullity, or as an abomination in the sight of God." This, it seems, was enough to silence all his scruples; and, "these considerations," he adds, "afford him no small encouragement, to appeal to this General Assembly, from the decision of Session;" and, to finish the climax of confidence in the strength of this, his last plea, he concludes by observing, that,—if this Assembly should proceed no further in his favour, than former Assemblies have proceeded in favour of similar offenders, he is, nevertheless, sure, that he "shall have the consolation of reflecting,—that,—should the said Session continue to enforce their decision, they will do so, *unsupported by the advice, or concurrence of the General Assembly.*" And will you, sir, by sustaining this appeal, suffer so impudent, so unblushing, so gross, so daring a transgressor, thus to triumph in his impurity? Will you, thus, sanction the complete prostration of that wholesome discipline, which Christ hath appointed in his church; and thus, suffer the man who disregards this discipline, to escape with impunity? The high opinion I entertain, sir, of the firmness, piety, and fidelity of this Assembly, forbids me, for a moment, to indulge such a supposition. But, if, contrary to all my expectations, this appeal should be sustained, then, sir, in vain will the Assembly "wish to discountenance imprudent marriages, or such as tend, in any way, to give uneasiness to serious persons:"—in vain are we enjoined, to impress it on the public mind, that such marriages are "highly inexpedient, unfriendly to domestic purity, and *exceedingly offensive* to a large portion of our churches:"—and, in vain are we exhorted, to discountenance or *discourage* connexions, so "unfavorable in their influence on the peace and edification of the church."

There is, Moderator, a fact stated on the records of the Session of Ottery's church, in connection with the appellant's marriage, which I think deserving of the notice of this Assembly, in disposing of the present appeal. The fact, sir, to which I refer, is, that the marriage in question took place, not more than five weeks after the death of his first wife. Although it may be said, sir, that this circumstance, in itself considered, cannot properly be called a direct violation of any express law; yet, it must be allowed to be, in general estimation, an offence against decency; and therefore, an aggravation of the principal offence, for which he was arraigned, before the Session. And here, sir, permit me to observe, that due attention to decency, in all things, is, by no means, an unim-



portant part of Christian duty. "Whatsoever things are just,—whatsoever things are true,—whatsoever things are honest,—whatsoever things are pure,—whatsoever things are lovely,—whatsoever things are of good report,—if there be any virtue, or if there be any praise,—think on these things." With this affecting and sublime group of words,\* sir, an "inspired Apostle suggests the influence and extent of sanctified principles; and recommends that beauty of holiness and undeviating rectitude of Christian manners, which include all that is implied in decency and delicacy."† Apart from the circumstance to which I have adverted, sir, the appellant's marriage with his sister-in-law, is itself, even independently of the testimony of scripture on this subject, an offence against decency. Were we even to admit, sir,—“that a doubt might be cherished, whether a sister-in-law be a relation within the prohibited degrees, must it not still be acknowledged, that, to marry such a relative, is a rash and dangerous act? Is it not perilous, to advance, as near as possible, to the brink of a precipice? Is it safe, is it prudent, is it consistent with the christian character, to approach deliberately to the very verge of an abominable and accursed crime, under the infatuated and fluctuating hope, that, perhaps, it may possibly, be an exemption?—But,” sir, “it is not only rash and dangerous to the individuals:—it is also injurious to the community. In the confidence of protection from a man, who, by his marriage, has been brought into the family, and become a brother, the younger sisters are always in the habit of associating familiarly and frequently with the married sister. Their former affection is not interrupted by the introduction of a new relative.—This is proper. It is consistent with the most rigid rules of morality. It is founded on the indisputable presumption, that the sister of the wife, is now also become the sister of the husband, and he is her brother. No suspicion of indecency can arise in her mind, nor any imputation of indelicacy, upon the part of the public. She may come, remain, or go, in all the safety of innocency, under the broad shield of the divine law, and the universal consent and approbation of society. But, let it once be adopted,—let practice establish the detestable principle, that the sister, after the death of the wife, may become *not at all related* to the husband;—that she may be, to him, a stranger, and as much the legitimate object of marriage as any other woman;—and her frequent and familiar visits must cease. She can no more come to his house, or be oftener seen in the company of her *brother-in-law*, than she may frequent the house, or be familiar in the company of any other married man. The affectionate intercourse of the sisters is at an end.”‡

I am sensible, sir, that I have trespassed too long on the patience of this General Assembly; but, the very great importance which I attach to the subject before you, must be my apology.

And now, Moderator, permit me, in conclusion, to ask, What will this Assembly do with the appeal before them? Will they, after the example of former Assemblies, send it back to the Session from whence it came, to be disposed of, as that session may think duty and expediency requires?—If so,—in vain do we boast of the excellency of our constitution, which protects the rights and privileges, both of appellants and appellees; and, in vain, in cases of this kind, may inferior judicatories look up to the General Assembly, to strengthen their hands, in the exercise of discipline. Will they sustain the appeal, by reversing the decision of the Session? Of this, sir, I can have no apprehension: for, before this Assembly can, with any semblance of justice, reverse the decision of the Session, in this case, there are two things, which they must previously do; for which, I am well persuaded, they are not prepared. They must, first, expunge, sir, the doctrine on which that decision is founded, from the standards of our church; and then, with a sacrilegious hand, expunge it from the Bible.

\* Livingston.

† ibid

## A BRIEF CONCLUDING ADDRESS TO THE SEVERAL PRESBYTERIES.

*Reverend and Beloved Fathers, Brethren, and Fellow Labourers in the Gospel :*

THE last General Assembly of our church have committed to your decision, a question of very great importance. The 4th section of the 24th chapter of our Confession of Faith, contains, in its last clause, this declaration, designed as a rule, for ascertaining, what marriages are prohibited in the Holy Scriptures; viz: "The man may not marry any of his wife's kindred, nearer in blood than he may of his own; nor the woman, of her husband's kindred nearer in blood than of her own." The Assembly have, in their wisdom, thought proper to direct you, "to take this matter into serious consideration; and to send up, in writing, to the next General Assembly, an answer to the question, whether the above quoted clause of our Confession shall be erased?" Deeply impressed with a sense of the importance of this question, and, aware of the diversity of opinion, which, unhappily, exists, in our church, on the subject to which this question relates, I have been induced to obtrude the preceding pages on your attention, in the hope, that, under the blessing of God, you might, by the perusal, be somewhat assisted, in coming to a correct decision, on the very interesting question before you. With my present views of this subject, I confess, that I would seriously deprecate the erasure referred to, as the introduction, into our church, of a most serious evil: but, I have that confidence in your piety and wisdom, which assures me, that, in this matter, as in all others, the glory of God will be your object; and his holy and infallible word, your guide; and that, by the efficacious influence of his grace and spirit, he will preserve you from error. Your knowledge of Ecclesiastical History will, doubtless, furnish you with numerous proofs of the many violent dissensions, and other extensive mischiefs, which, in all ages, have resulted from the indulgence of a spirit of innovation; and hence, you will naturally conclude, that a change, in the standards of our church, should not even be attempted, unless it should *clearly* appear, that a change *is absolutely necessary*. While, therefore, it is our duty, on the one hand, to be, at all times, open to conviction; we are, on the other, under equal obligations, to be cautious, not to be driven about by every wind of doctrine; but, to "hold fast that which we have, that no man take our crown." It has, indeed, long been my own opinion, that the doctrine taught in the clause of our Confession of Faith which now claims your attention, is also the doctrine taught in the Oracles of God. Finding some of my Fathers and Brethren whom I sincerely love and highly esteem, entertaining and expressing a different sentiment, I have taken considerable pains, in investigating this subject; and the result has been, that the more I have investigated, the stronger has been my impression, that, on this subject, the Bible and the Confession of Faith, taught the same doctrine. The quotations I have made, in the preceding pages, will shew, that, in this opinion, I am far from standing alone. If, however, of the investigation which this subject is now to undergo, the result shall be, that the Presbyteries shall be induced to rescind "the above quoted clause of our Confession," I hope, that the scriptural light producing such result, will be so presented to our churches, that all may be satisfied, that the change thus affected, shall have arisen, not from an impatient and restless *spirit of innovation*; but, from a rational, well-founded, and scriptural *conviction of its absolute necessity*. But, let it not be forgotten, that, if the clause of our Confession here referred to, be erased, *it will be incumbent on the Presbyteries to supply a substitute*; for, this, it must be recollected, is the only definite rule for ascertaining prohibited marriages, which the standards of our church contain.

That he who has all hearts in his hands, may direct you, in this matter, to do that which shall be well pleasing in his sight, is the fervent prayer of,

Reverend Fathers and Brethren,

Your affectionate fellow labourer in the Gospel,

COLIN McIVER.

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### ERRATA.

The following ERRORS escaped the notice of the author, until it was too late to correct them.

Page 30, line 41—For *their* read *there*.

Page 32, lines 17, 18, 19, 20, and 21—read all this paragraph, without quotations.

Page 34, line 17, For *mullify* read *nullify*.

Page 34, line 38, For *advocote* read *advocate*,

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