

MINUTES

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OF THE

GENERAL SYNOD

OF THE

REFORMED PRESBYTERIAN CHURCH,

SESSION SEVENTEENTH,

HELD IN THE CITY OF PITTSBURGH,

October, 1834.

WITH AN APPENDIX, CONTAINING

TWO OVERTURES:

- I. On the 'Jury Act,'**
- II. On the Magistrate's Power,**

CIRCA SACRA.

NEWBURGH.

PRINTED BY C. U. CUSHMAN.

1834.

MINUTES

OF THE

GENERAL SYNOD.

PITTSBURGH, Oct. 8th, 1834.

Synod met agreeably to adjournment, at 7 o'clock, P. M. The Moderator, Rev. John Cannon, opened the meeting with a Sermon on the subject assigned him, from Rom. 13, i. "*Let every soul be subject unto the higher powers; for there is no power but of God: the powers that be are ordained of God.*" After sermon, the Court was constituted by the Moderator with prayer.

Adjourned to meet same place, to-morrow at 9 o'clock A. M.

Same place, 9th Oct. 9 o'clock A. M.

The Court met and was constituted with prayer. The members of the present Synod were ascertained, when it appeared that there were present from the

SOUTHERN PRESBYTERY,

| MINISTERS. | RULING ELDERS. |
|------------------------|-------------------|
| Rev. R. GIBSON, | Mr. JOHN HOUSTON. |
| " J. R. WILLSON, D. D. | |
| " C. B. M'KEE, | |
| " M. RONEY, | |
| " D. SCOTT, | |

NORTHERN PRESBYTERY.

" S. M. WILSON.

OHIO PRESBYTERY.

| | |
|------------------|----------------------|
| " JOHN WALLACE, | " ABRAHAM PATTERSON, |
| " D. STEELE, | " CHAS. TONER, |
| " J. B. JOHNSON, | " ALEX. FOSTER. |

PITTSBURGH PRESBYTERY.

| | |
|-------------------|--------------------|
| " JOHN CANNON, | " THOS. GEMMIL, |
| " JAS. BLACKWOOD, | " SAM'L STERRIT, |
| " THOS. SPROULL, | " NATHAN JOHNSTON. |
| " WM. SLOANE, | " SAM'L WYLIE. |

From the Western Presbytery no representation.

The Rev. Robert Gibson, was chosen Moderator; Moses Roney, Clerk, Thomas Sproull, Assistant Clerk.

ARGUMENT FOR THE JURY LAW.

[Published as an Overture.]

IN the year eighteen hundred and six, presbytery which at that time, was the highest judicatory of the church, passed an act respecting serving on juries. This act presbytery declares to be "absolutely prohibitory." Thus, the members of the Reformed Presbyterian Church in the United States are prohibited from acting as jurors in courts of justice. By this law every member of the community is bound : every member binds himself to obey it, when he assents to the terms of communion prescribed by the church, on his admission to her membership and peculiar privileges.

But, it is not enough to know that such an act has obtained the sanction of our highest ecclesiastical authority ; and that every member voluntarily binds himself conscientiously to respect it. The mere existence of a law, is not evidence of its righteousness, even, when enacted by competent authority : the existence of a law is one thing, and its character is another.

On the admitted fact of the jury law, it is still the duty of every member of the church to be fully satisfied in his own mind, that such a law was necessary ; and that it was enacted on grounds which gave it an authority over the conscience. Not only, that it has the obligation of being framed by competent authority, it must be warranted by the testimony of the church ; and founded on the scriptures of truth. Every man should stand prepared to give satisfactory reasons for the sentiments which he adopts, otherwise it is prejudice, and not truth which influences him. His sentiments may indeed be true, but as far as he is concerned, there is no proof of their truth. To assist the sincere inquirer, the following vindication of the jury law is given by synod.

It may be said, in one word, that the Reformed Presbyterian Church in the United States prohibits her members from serving on juries, because doing so, is immoral. To establish this charge is the object of the present discussion. It is an admitted principle, that a Christian should abstain from all immorality ; nay, that he should abstain from the very appearance of evil. If then, immorality can be fixed on the government of the United States, it follows as a matter of course, that it is the duty of a Christian to abstain from every act that recognises, or implies a resignation of its moral character, as the ordinance of God.

Whatever is inconsistent with the scriptures, or, in other words, immoral, is from its very nature void and without obligation on the conscience. It is not meant by this, that *any* defect or fault in a civil government would render it invalid and destroy its claims to be the ordinance of God. Perfection is not expected in civil, any more than in ecclesiastical government. In the present imperfect state of man, with all the advantages of a perfect law to direct him, he cannot individually attain perfection; it would be worse than idle, then, to look for it in *any* of the social institutions of man. But, while it is admitted that *every* defect in a civil government will not invalidate its moral character: yet we are far from admitting that *no* defect may destroy its claim to be the ordinance of God. A defect may be of such a kind as to destroy the most distant pretention to this claim: sin consists in *want* of conformity to the law of God, as well as in the *transgression* of it.

There are evils essential to the federal and state constitutions "which render it necessary to refuse allegiance to the whole system," the sinfulness of serving on juries may be argued then, from both the federal and state governments. And the sin involved in either of these views is sufficient to induce the intelligent and conscientious witness of Christ to abstain from serving on juries, or doing any other act that may directly, or by implication, include an acknowledgment of these governments as God's moral ordinance.

The act of presbytery which prohibits serving on juries, is sustained by two distinct considerations of the government of the United States, viewed as one whole system:—the sinfulness of the United States and state constitutions;—and the sinfulness of the laws under which the juror may be called to serve, and to which he is bound to give efficacy, by his decision as a juror.

I. The sinfulness of the United States and state constitutions.

The Constitution of the United States comes first in order. And before the value of this part of the argument can be appreciated, it may be necessary to show that the constitution and government of the United States are properly national. Without entering upon a lengthened proof of this, the statement of the following facts will it is hoped, be considered satisfactory.

1. The federal constitution was framed in the name of the *people* of the different states. In this respect, it differs from the articles of confederation, which were originally entered into amongst the *states*. "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty, do ordain and establish this constitution for the United States of America. The people by their representatives, assembled in convention, did "ordain and establish this constitution." Being established by the *people* of the United States, it is not a confederation of sovereign nations, but a national government.

2. The federal government does not operate on *states as such*, but on the people individually. It is upon the people, and not on the state governments, that the constitution and laws of the federal government

take effect. Mr. Hamilton, in his commentary and vindication of this part to the federal government says, "It must carry its agency to the persons of the citizens. It must stand in need of no intermediate legislations; but must itself be empowered to employ the arm of the ordinary magistrate to execute its own resolutions. The majesty of the national authority must be manifested through the medium of the courts of justice. The government of the Union, like that of each state, must be able to address itself immediately to the hopes and fears of individuals."* The fact that the federal government operates on the people individually, is evidence that it is a national government.

3. The federal constitution, the laws of the United States, and treaties made by the United States, are the supreme law of the land. "This constitution, and the laws of the United States, which shall be made in pursuance thereof, and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding."† This furnishes us with another proof, that the government of the United States possesses a national character. The residuary power, which is reserved to the state governments, and allowed by the federal constitution, does not in the least interfere, nor is in any way inconsistent with the national character of the latter. If it did interfere with this, then the reserved rights of individual citizens, which are as clearly preserved by the federal and state constitutions as that of the residuary sovereignty of the states themselves, would be an unanswerable argument against this residuary sovereignty of the states. "The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."‡ Did we adopt the opinion, that the federal is not a national government, because the state governments have certain residuary powers; then, also, we must admit that the state governments are not national governments, because the people have reserved certain rights, which they have not delegated to either. And thus we would be forced to admit the absurdity, that there is no national government, whatever, in the United States. A view of the subject, which would lead us to such a conclusion, is not worthy of being further exposed.

It will now be admitted, that the federal government is national; and that an acknowledgement of it, involves an acknowledgment of its moral character, whether righteous or impious. Nor is this remark to be understood as an admission, that there would be nothing sinful in acknowledging the Constitution of the United States, if it did not possess a national character. We disclaim such a conclusion. If the Constitution of the United States contains immoral principles, the acknowledgment of these is sinful, and utterly at variance with the duty and obligations of a witness of Jesus, whatever may be its peculiar politi-

* Federalist, No. 16. See also, No. 15.

† Constitution of the United States, art. 6, sec. 2.

‡ Amendments to the Constitution, art. 10.

cal character. And an attempt to cover sin, or even to apologize for it on the ground of any such nice political distinction, is unworthy of a Christian, and merits unqualified reprobation. Whatever may be the nature of an association, if it includes immorality in its constitution, it comes under the command, "Say ye not the confederacy to all them to whom this people shall say a confederacy."

The federal government possesses the attributes of a national government; the moral character of it is, therefore, to be tried as such. Before we proceed to examine the moral character of the Constitution of the United States, it will be necessary first to identify the juror with the federal government, when he performs the duties of his office. Two things must be established to give validity to our argument. It must first be shown that the juror, by acting in this capacity, actually identifies himself with the federal government; and secondly, that the federal constitution is immoral. If either of these is incapable of proof, then, this part of the argument fails as a defence of the jury act. Though it might be proved that the constitution was immoral, if it could not be proved also that the juror acted under its authority, then the sinfulness of the constitution could not be charged upon him. On the other hand, though it could be proved that the juror acted under the authority of the constitution, if the constitution could not be convicted of immorality, then there would be no sin in serving as a juror.

That the juror identifies himself with the federal government appears,

1. From the consideration that he acts as a citizen of the United States. No individual is, or can be a citizen of any one state without being at the same time a citizen of the United States. "The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states."*

2. The juror is a judiciary officer. The jury is an essential and indispensable part of the court in which the juror acts. In all cases where the law has prescribed trial by jury, judgment cannot be obtained without the judicial services of the juror. The jury are sole judges of all matters of fact that come before the court in which they serve; and in many cases too, they are called to determine the law as well as the fact.

3. The juror acts under the authority of the federal constitution.— "The senators and representatives before mentioned, and the members of the state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by an oath or affirmation to support this constitution."† As far as the strength of our argument is concerned it is not of any importance whether the juror in *every*, or in *any* case swear or affirm that he will support the Constitution of the United States. According to the spirit of this article, his acting as a juror implicitly recognises the constitution. The juror is, for the time being, a judicial officer, and the article which has been

* Constitution, art. 4. sec. 2.

† Constitution, art. 6. sec. 3.

already quoted from the federal constitution binds every officer, whether legislative, judicial, or executive, to support the federal constitution.

The relation of the juror to the United States government has now been ascertained; so that if it embraces or practices immorality, this may be fairly charged on the juror as voluntarily acting under an immoral constitution of government.

We proceed now to establish the charge of immorality against the Constitution of the United States.

1. It does not acknowledge or make any reference to the existence or providence of the Supreme Being. The nation, as such, has no God. This is an essential evil in the constitution, which involves the hideous charge of national atheism! "The general government is erected for the general good of the United States, and especially for the management of their foreign concerns: but no association of men for moral purposes can be justified in an entire neglect of the Sovereign of the World. No consideration will justify the framers of the federal constitution, and the administration of the government, in withholding a recognition of the Lord and his anointed from the grand charter of the nation."*

2. The United States Constitution, does not recognise the revealed will of God. All moral government flows from God the Sovereign of the Universe, and must be regulated by his will, otherwise it cannot bind the conscience. In the original state of man, the moral law, which was written on his heart, included in it the will of God relative to this as well as all other moral duties. To meet the exigency of man's fallen condition, God has given a new revelation of his will, in the scriptures of the Old and New Testaments. All who enjoy this new, and *now* more perfect revelation of the will of God, are bound to regulate their civil and political relations by it, as well as those that immediately relate to the worship of God. To proceed on the ground that man may dispense with the instruction of scripture in the constitution and management of civil government, is unquestionably to set aside the authority of God when He speaks to us in the holy scriptures. The universal depravity of human nature unfits men for performing either the personal or social duties of life, in a manner agreeable to the will of God. The scriptures contain instructions how all these duties are to be performed. "To the law and to the testimony" we are commanded to look. And on no moral principle whatever can it be admitted, that men may form their constitutions of civil government according to the mere light of nature, when the author of nature has given another and a more perfect rule by which they may be framed. The authority which binds men to the light of nature, as far as it is applicable, binds them also to the scriptures, as the subsequent and more complete revelation of the will of God. "Revelation contains the true standard of civil government. It prescribes the supreme criterion according to which those states which have obtained this superior light should act in forming their constitu-

* Scriptural View, &c., by Alexander McLeod, D. D.

tions, choosing their officers, and determining their leading objects."* In the Constitution of the United States, however, there is not the most distant allusion to the revealed will of God. The Bible, as containing the fundamental principles of political morality, is not even indirectly acknowledged. Here then is an evident violation of a moral duty.—Men are bound, as has been proved by the preceding observations, to make the Bible the basis of their political constitutions; but the United States of America have entirely excluded it from the charter which binds them together as a nation.

3. The Constitution of the United States acknowledges no subjection to the Lord Jesus Christ. A moral right to exercise universal dominion has been given to Him as the Mediator, by God the Father, "He hath put all things under his feet, and set him far above all principality, and power, and might, and dominion, and every name that is named, not only in this world, but also in that which is to come."† In the whole universe of created existence there is not a solitary exception to the mediatorial rule of Christ. He has moral authority given to him over all things for the sake of the Church, which is his body. Every intelligent being is bound to obey the Redeemer, and submit to his authority. Civil society, and all communities, are in their congregated character equally bound with individuals to honor Him. On their part it is not a matter of choice—"nations and their rulers are placed in a state of subjection to the Lord Jesus Christ, the Prince of the kings of the earth, and are bound to acknowledge his mediatorial authority, and submit to his law; framing their laws, appointing their officers, and regulating their obedience in subserviency to the interests of his kingdom."‡ The revealed commands of God bind them to give obedience to the Lord Jesus Christ in all their social relations. "Be wise now, therefore, O ye kings; be instructed ye judges of the earth. Serve the Lord with fear, and rejoice with trembling. Kiss the son lest he be angry, and ye perish from the way when his wrath is kindled but a little."§ The claim which the Mediator has to the homage of nations is held forth by his mediatorial exaltation and dignity. "He hath on his vesture and on his thigh a name written, King of kings, and Lord of lords."|| The constitution and government which have no respect to the Mediator and his authority, as "Prince of the kings of the earth," are in a state of rebellion and opposition against "the Lord and his Anointed." They are destitute of an important moral feature, that justly exposes them to the charge of impiety. The Constitution of the United States is chargeable with this impiety. It makes no mention of the Lord Jesus Christ, nor his right of rule, over the nations. It condemns the commands of God that enjoin obedience to his authority, and as far as moral principle is concerned, the language of the Constitution respecting "the Lord and his Anointed" is, "Let us break their bands asunder, and cast away their cords from us."¶

* Application of Scriptural Principles to Political Government, by the Rev. Peter Mac-indoe, A. M.

† Eph. i. 22, 20, 21.

‡ Summary of the Principles and Testimony of the Reformed Presbyterian Church in Scotland, p. 55.

§ Ps. ii. 10, 11, 12.

|| Rev. xix. 16.

¶ Ps. ii. 3.

There are principles essential to the moral character of a civil constitution and government, destitute of which, no government can be the ordinance of God. Of three of these essential and radical principles of the ordinance of God, the Constitution of the United States is destitute. That a government may furnish an exemplification of magistracy agreeable to the will of God, from whom this ordinance flows, the constitution of government must explicitly avow and acknowledge the existence, providence and authority of God. It must be framed according to the revealed will of God : and it must include a professed subjection of the government to the Lord Jesus Christ the Mediator. The Constitution of the United States is destitute of all these three essential characteristics of God's moral ordinance of government. It has no regard to the mediatorial reign of the Lord Jesus Christ ; and is therefore chargeable with rebellion against Him. It rejects the revealed will of God ; and is therefore infidel. It does not acknowledge the existence of the Supreme Being ; and is thus godless.

Besides these essential defects, the Constitution of the United States contains also positive immoral principles.

1. By it unoffending men are held in perpetual slavery. It declares, that "the migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight."* On the ground of this immoral enactment, the shameful traffic in human beings was carried on for twenty years ! Thus, as far as human authority could legalize it, the infamous trade of stealing, selling, and buying fellow-men, with all the evils connected with, and arising from slavery, were made lawful by a provision of the constitution. And, although the further importation of slaves was prohibited by congress at the close of the period stated in the constitution, yet *slavery* was not, and is not abolished : it reigns with all its horrors, not only in many of the states existing at the time of the framing of the constitution, but, also in some of those that have been erected since that time. The constitution is thus blotted and defaced, by giving a constitutional sanction to one of the most profligate and immoral practices that can possibly dishonor a civilized nation. By this article of the constitution, the hands of the legislature, had they been disposed, were tied up from doing any thing to stop the importation of slaves for twenty years ! And then, they were not bound by the constitution to put an end to it ; they were only at liberty to do so, if they thought it expedient ! By an act of congress, however, the further importation of slaves is forbidden, but as far as the constitution is concerned, the trade may again be resumed, if congress deem it advisable. The constitution sanctions the principle of slavery !

2. The Constitution of the United States violates the principles of justice, by giving to the citizens of slave-holding states an influence in the national legislature proportioned to the number of their slaves ! This charge of immorality refers to what has been called the three fifths

* Constitution, art. 1, sec. 9.

principle, which is included in a specific provision of the constitution. "Representatives and direct taxes shall be apportioned among the several states, which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed three fifths of all other persons."* By this, the number of representatives which a state may be entitled to send to congress, will, in the case of slave-holding states, be increased in proportion to the number of slaves within the state. Every five slaves will increase the proportion of representation equal to an addition of three free persons. Had the slave been merely degraded to the condition of being three fifths of a man, this would have been bad enough; but it is far worse thus to degrade him, and then throw the calculated reversion of his humanity, politically into the hands of the tyrant who holds him in slavery!

To illustrate this, take two states; the one a slave-holding, the other a non-slaveholding state. These may be supposed equal as to the number of free citizens which they respectively contain; but the former has within it two hundred and fifty two thousand slaves, which, according to the three fifths principle, entitle it to four more representatives in congress than the latter. The political privileges of electing representatives and of making laws for the nation, are thus increased in proportion as the citizens of a state act unjustly, by holding in bondage their fellow men; and thus crime is rewarded.

Nor is this all the evil involved in this part of the constitution; it takes for granted also the propriety of slavery, and constitutionally recognises it as just and right!

3. The Constitution of the United States contains the infidel and anti-Christian principle, that a nation as such ought not to support, nor even recognise the religion of the Lord Jesus Christ. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.†

It is unquestionably the duty of nations to make public provision for the maintenance of the worship of the true God as He has made himself known in the scriptures, whenever these scriptures are enjoyed. Apart from this, we cannot attach any satisfactory meaning to such prophetic parts of scripture, as declares that kings shall be nursing fathers, and queens shall be nursing mothers to the church. Apart from this, we cannot comprehend how the kings and judges of the earth shall render that homage unto the Son of God, which they are commanded to yield—"Kiss ye the Son." "Yea, all kings shall fall down before Him—all nations shall serve Him."

Whatever difficulty there may be in making a national provision for the support of religion, and it is admitted to be a very delicate task: yet, to lay it down as a fundamental principle in the constitution, that no establishment of religion shall be made, is irreconcilable with the obligation, which every nation, enjoying the light of Christianity, owes to the Lord Jesus Christ, the Prince of the kings of the earth.

* Constitution, art. 1, sec. 2.

† Amendments to the Constitution, art. 1.

Nor is the tolerating clause in the concluding part of this reprehensible article of the constitution blameless. With unconcern, the nation determine to do nothing in behalf of the religion of the Lord Jesus Christ; but it determines also, not to prohibit the grossest superstitions and idolatries, but suffer them to exist under cover of the sacred name of religion. The toleration included in this, is not only a guarantee to the worship of the Christian religion, under the name and pretext of which the basest superstitions and errors have been brought forward; but *any* and *every* kind of religious service is included. The general term religion, without any reference to Christianity, is employed, and furnishes a security to the Jew, the Mahometan and the Pagan, equal to that of the worshipper of the living and true God.*

“That magistrates should use their power for promoting the worship of God in their dominions by all the legitimate measures they can employ, seems to be one of the first dictates of morality. The obligation to do this, results from the moral relation in which they stand to him, —from the moral principles with which they have been endowed, and from the moral purposes, for which they have been intrusted with the civil office they fill. That they should fill such an office over communities of rational beings, without providing for the due support of his worship, which deserves the precedence of all other objects that fall within their jurisdiction, is surely an outrage on morality, as well as an insult to religion.”† Such an outrage and insult are offered by the constitution and government of the United States against morality and religion. Against such conduct, the testimony of the church declares that it is the duty of the Christian magistrate to take order, that open blasphemy and idolatry, licentiousness and immorality be suppressed, and that the church of Christ be supported throughout the commonwealth.”‡

We proceed next to consider the state constitutions; and here the charge of immorality is as fairly applicable as in the case of the United States' Constitution.

1. In the state constitutions, magistratical authority is ultimately referred to the will of the people, irrespective of divine institution; nor does this appear to be simply an oversight, but a deliberate expression of opinion, that civil government flows from the will of the people. This is a radical evil that pervades every individual state constitution without exception: and an evil, too, of incomparably greater magnitude than may be imagined upon a mere superficial view of the subject. To show the nature and magnitude of the evil, we introduce, in this place, two passages; one from the Constitution of Pennsylvania, and the other from that of Ohio. “All power is inherent in the people, and all free governments are founded in their authority, and instituted

* Expositions given by the highest authority, correspond with what has been said above. “The government of the United States, is not in any sense founded on the Christian religion. It has in itself no character of enmity against the laws or religion of Mussulmen.” Tripolitan Treaty, as quoted by Dr McLeod, in his Scriptural View.

† Application of Scriptural Principles, by the Rev. Peter Macindoe, A. M. p. 279.

‡ Reformation Principles, p. 106.

for their peace, safety and happiness. For the advancement of these ends, they have at all times an indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper."* All men are born equally free, and every free republican government, being founded in their sole authority, and organized for the purpose of protecting their liberties and securing their independence; to effect these ends, they have at all times a complete power to alter, reform, or abolish their government, whenever they may deem it necessary."†

Governments thus founded on the "sole authority" of power "inherent in the people," irrespective of the will of God, and in opposition to the plainest statements of scripture, which declares that there is no magisterial "power but of God;" and that "the powers that be are ordained of God" may, indeed, be the ordinance of men, but are not in any wise the "ordinance of God." "They have set up kings, but not by me—they have made princes, and I knew it not," is, perhaps, the best description that can be given of such governments.‡

Very different is the view given in our subordinate standards. "God the supreme Lord and King of all the world, hath ordained civil magistrates to be under him over the people, for his own glory and the public good, and to this end he hath armed them with the power of the sword, for the defence and encouragement of them that are good, and for the punishment of evil doers."§ "The primary origin of political government is the will of God." He "has elevated civil government to a place among divine institutions, by recognising its existence, defining its objects, and prescribing its general principles."|| This is the ground upon which the conscience of an enlightened Christian feels the obligation to obedience. Whatever may be the political character of a government—however prudent may be its adaptations to the state of society—whatever provisions it may make for the political rights of men, if it has no regard to the authority of God as the origin of government, it has no claim upon the conscientious obedience of the Christian. That cannot be the ordinance of God which make no acknowledgment of him, either as having instituted it, or given rules by which it is to be regulated; but which, on the contrary, bases the institutions of government on the will of man.

2. The state constitutions do not acknowledge the Bible as the supreme standard of government. While they found civil government on the "sole authority" and "inherent power of the people," and bring it down from the rank of being a divine institution, they exclude also, the Bible as the standard of rule. They do not acknowledge it in their civil relations; but, on the contrary, bind themselves to the federal constitution and laws of the United States as the supreme law of the land. We are disposed to interpret this as favorably as possible, and admit that the supremacy of the United States Constitution and laws, has relation

* Constitution of Pennsylvania, art. 9. sec. 2.

† Ohio, art. 9. sec. 1.

‡ Hosea, viii. 4.

§ Westminster Confession of Faith, chap. 23.

|| Macindoe's Scriptural Principles, p. 111 and 118.

to the constitution and laws of the different states. That the former are supreme, and the latter are subordinate to them.

But when all reference to the Bible is carefully excluded from the United States and the state constitutions—when not even an allusion is made to the Bible as the standard of civil government, by which all its arrangements ought to be directed, we cannot conceal from ourselves the painful conclusion, which must be drawn from this expression, “supreme law of the land,”—it does and must signify “supreme” to the utter exclusion of the revealed will of God in the Bible.

3. There is no acknowledgment of the Lord Jesus Christ, the Prince of the kings of the earth, in any of the state constitutions. There is no expression of that homage, which the nations owe to the Mediator, and which they are commanded to render him, lest they be broken in pieces, when his wrath is kindled but a little.*

4. According to the state constitutions, infidels are qualified to hold office and bear rule.

In none of the states are infidels excluded from office, with the exception of Massachusetts, in which, the governor, lieutenant governor, and the members of both branches of the legislature, are required by their oath of office to declare their belief in the Christian religion. But when it is recollected, that the avowed Socinian, with only the name of Christian, without any of its peculiar distinguishing characteristics, is admitted to be a Christian, and can be qualified to hold the highest offices in the commonwealth, Massachusetts will scarcely be deemed an exception.†

In the constitution of the other states there is no restriction in the oaths of office; and in practice, the declared infidel and open enemy of the gospel has as unreserved an access to office, as the sincere and enlightened believer in the truth and doctrines of the Christian religion. In the Constitution of Pennsylvania, this infidel principle is not only expressed, but expressed in the most offensive manner, “No person who acknowledges the being of a God and a future state of rewards and punishments, shall, on account of his religious sentiments, be disqualified to hold any office, or place of trust or profit, under this Commonwealth.” This is decreeing iniquity by a law. Where the light of the gospel is enjoyed, “States are bound to select for their rulers only men who possess the several qualifications prescribed in the volume of Revelation. They are not left to their own discretion, their own judgment, or their own inclinations in this matter. They are not referred to the provisions of their own charter, which may be defective, or to the practice of other countries, which have received no better guide than the light of human reason. But, they are required to look into their Bible, the ultimate criterion,—to observe what qualifications it demands, in

* For a more enlarged view of this evil, the reader may look at what is said in illustration of a similar remark, respecting the United States' Constitution in the preceding part of the argument, p. 6.

† To this, perhaps, North Carolina ought to be added. In this state a denial of the truth of the Old or New Testaments, or of the Protestant religion, is a disqualification for office in the civil department. The value of this will, however, be best known by the common practice.

rulers worthy to preside over Christian countries, and to fix only upon those candidates in whom a considerable portion of these qualifications is found to exist.* The Reformed Presbyterian Church declares it to be an error, "That infidel, heretical, or immoral persons may be lawful civil magistrates in a land enjoying the Bible," and against it they have lifted a testimony.† In the scriptures, the following description is given of magistrates, "able men, such as fear God, men of truth, hating covetousness;" and such only nations are commanded to choose as their magistrates.‡ Constitutions of government that set aside these dictates of moral duty and Christian obligation, are certainly far from possessing the character of being "the ordinance of God, for good to man." It contains immorality against which we are bound to testify.

5. The State Constitutions guarantee a right to every citizen to worship God according to the dictates of conscience. They declare too; that they will not prohibit any form of worship that does not interfere with the public peace. No power on earth has a right to guarantee the former; and the latter is an expression of fatitudinarianism unworthy of a people privileged with the light of the gospel of Jesus Christ. The following passages from the Constitutions of Pennsylvania and New-York afford a fair specimen of the state constitutions generally, "That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences." "The free exercise and enjoyment of religious profession and worship, without discrimination and preference, shall for ever be allowed in this state, to all mankind."

We hold as a first principle on this subject, that no government has a right to interfere with the consciences of its citizens, and compel them to the belief and profession of particular opinions on the different subjects of Christian inquiry. This would be exercising a power which God has not committed to the civil magistrate; and for the exercise of which he is not competent: God alone is Lord of the conscience. The magistrate, nevertheless, "hath authority, and it is his duty to take order, that all blasphemies and heresies be suppressed."§ He "may not enforce the profession of religion by the sword—nor assume any manner of power or authority in the church of Christ. But it is his duty to see that the violation of the moral law on the open contempt of the being of God—in gross and public idolatry—in open blasphemy of the name of God—or in open profanation of the Sabbath—as well as in open injustice, licentiousness and immorality, be duly restrained."|| The magistrate, without constituting himself a judge of Christian doctrines, or in the least infringing on the conscientious scruples of a sincere profession of the Christian truth, or injuring the civil and religious rights of citizens, may "take order" that one part of the law of God be applied as well as another. We cannot comprehend, why the magistrate should be allowed to restrain men from violating the second table of the

* Macindoe's Application of Scriptural Principles, p. 314.

† Summary of Principles and Testimony, &c. p. 59.

‡ Exod. xviii. 21.

§ Westminster Confession of Faith, chap. xxiii. 3.

|| Summary of the Principles and Testimony, &c. p. 55.

decalogue; and that it should be considered an outrage upon conscience and the liberties of men, that they be restrained as it respects the first table of the decalogue: the moral power which the magistrate possesses to enforce obedience to the former, gives him a right to enforce obedience to the latter. If his power of restraint in the one be invalidated, it will be impossible to defend him in the possession of the other. Holding, as we do, that "all power is of God," we hold also, that the civil magistrate is bound by the law of God to maintain its integrity by punishing all known violations of it, as it respects the first, as well as the second table. Any attempt to disjoin the precepts of the decalogue on the part of civil magistrates, so as to assume a power of punishing the violation of some precepts, to the exclusion of others, is arbitrary. The revealed will of God, which gives to the magistrate all the moral power which he possesses, makes no such distinction. "He is the minister of God, to thee for good. But, if thou do that which is evil, be afraid; for he beareth not the sword in vain; for he is the minister of God, a revenger to execute wrath upon him that doeth evil."^{*}

A constitution of government, which declares that every man has a right to worship God according to the dictates of his own conscience, irrespective of the scriptures of truth, gives a constitutional sanction to an immoral principle, and places itself in opposition to the authority of God, which obliges all men to submit to the "law and to the testimonies." It attempts to confer a right, which God has not given to magistrates to exercise, and which cannot be conferred on man; and which, to speak with reverence, God himself cannot exercise. The conscience of man is depraved; the moral perfections of Jehovah therefore, forbid that He should give him license to act according to the dictates of conscience as it relates to his own worship. On the subject of religion, God has given a clear and extensive revelation to man, by this, and not according to the dictates of his conscience and understanding is God to be worshipped. For a constitution to guarantee a right to worship God according to the dictates of conscience, is indirectly to authorize whatever impieties the carnal and deceitful heart of man may devise, under the name of religion! Magistrates may neither, on the one hand, force their own religious opinions upon citizens, nor, on the other, authoritatively tolerate any thing that is declaredly in opposition to the word of God. It is one thing to punish a man because of his opinions; and it is another thing to restrain him from publishing opinions, which may be both dishonoring to God and injurious to society; the former would be persecution, the latter an administration of justice; the former a magistrate may not do, the latter he is bound to do as the minister of God, for good to man. Although a magistrate must not invade the sanctuary of conscience and private opinion; yet, on no account is he warranted to tolerate the least falsehood of sentiment by declaring constitutionally that every man has a right to hold whatever religious opinions he pleases. The declaration of such a principle is immoral and irreligious!

* Romans xiii. 4.

We have in the preceding pages given a brier, but we nope, at the same time, a convincing view of that part of the argument, which arises from the immorality of the United States and state constitutions. The former has been demonstrated to be a proper national government, and ought, therefore, to possess the moral features of such. If it is defective in its moral provisions; if it contains positive immoral principles, and both of these we presume have been proved, it necessarily follows that it is an immoral constitution of government. It has likewise been shown, that the juror recognises the United States' Constitution, and morally identifies himself with it, by serving on a jury; the conclusion, then, is unavoidable,—the immoralities, which belong to it, are chargeable on the juror. “They, who consent unto the unrighteous deeds of others, are chargeable with guilt as well as the principal actors. This is a principle held sacred, in all well regulated courts of judgment amongst men.”* On this principal, whoever acknowledges, although indirectly a constitution of government gives his approbation to it, whether it may be good or evil.

That the state constitutions are defective in great moral principles, and also contain immoral provisions, has been demonstrated. Nor is it controverted, that a juror identifies himself with the constitution of the particular state in which he acts. The immorality of the constitution of the particular state is thus chargeable on the juror, as well as the immorality of the United States' Constitution. Not only does the juror recognise these, he virtually recognises the whole system of government of the United States and the different states, considered as one whole. This is the view which is generally, we might say, universally adopted with the exception of the advocates of southern nullification.—“Agreeably to the remark already made, the national and state systems are to be regarded as one whole. The court of the latter will be natural auxiliaries to the execution of the laws of the Union, and an appeal from them, will as naturally be to that tribunal, which is destined to unite and assimilate the principles of national justice, and the rules of national decision.”† Such is the opinion of Mr. Hamilton, whose judgment on this subject all must respect. The United States and states' constitutions, are one whole, so that whoever recognises one part virtually recognises every part of the system at the same time. It is, therefore, “necessary to refuse allegiance to the whole system.”

II. The sinfulness of the laws, under which the juror may be called to serve, and to which he is bound to give efficacy, by his decision as a juror.

The laws, under which the juror acts, are in many instances immoral. Let it be understood, at the same time, that perfection is not expected in human laws; yet with this admission, it is maintained that no man can execute, or aid in executing an immoral law, without being chargeable with sin.

To enter upon an extensive examination of this part of the subject is

* Truth no Enemy to Peace, by the Rev. John Reid, proposition 6th.

† Federalist, No. 82.

impracticable ; nor is it at all necessary for the illustration of the principle on which the jury law was enacted. While the church, when she passed the jury law, might have a reference to the particular laws of the United States and state governments, she had especially in view the general principles of law on which the juror in the United States may be called to act.

An intelligent and conscientious Christian, who understands that he is bound by the word of God ; and that he ought to be directed by it in all things civil as well as religious, will not assent to the unqualified statement of principle that the constitution and laws of the United States founded thereon, are the supreme law of the land, and the reason is, because the constitution does not acknowledge the being, providence, nor word of God ; and because it recognises and admits several immoral principles. But if the Christian feels it to be inconsistent with his obligations to the Lord Jesus Christ, to *admit the principle* that an immoral constitution and the laws founded thereon, should be recognised as the *supreme* law of the land, he ought to feel it still more inconsistent with his obligations to *act on the principle*, which every juror does, by the very fact of his serving on a jury. By his oath the juror binds himself to give judgment according to the law : and that law embraces the laws of the particular state in which the juror acts, and the laws and Constitution of the United States, with all treaties, which may be entered into by the United States ; and these last are the supreme law of the land. Thus the juror submits himself to be directed by that, which has already been proved to be immoral. There is thus as complete a recognition of the United States' Constitution, as could be involved by the most formal avowal of its principles, or even, as by an oath of allegiance ! To act officially under the direction of an immoral law, as the juror does, by the very act of serving on a jury is beyond doubt, sinful.

On the general ground then, that the constitution and laws of the United States, and all treaties made, or which shall be made by the United States form the supreme law, by which the juror is directed, is itself a sufficient reason why a Christian, who believes that he ought not to bind himself by an immoral law, nor officially act under its direction, should refuse to serve as a juror. Is it immoral to exclude all reference to the Governor of the Universe in a constitution of civil government ? Is it immoral to exclude all reference to the revealed word of God as the supreme rule of action in civil government ? Is it immoral to refuse allegiance to the Lord Jesus Christ in a constitution of civil government ? Is it immoral to hold offending men in slavery ? Is it immoral to violate the principles of justice, by giving to slave-holding states an influence in the national legislature in proportion to the number of offending fellow-creatures they may hold in bondage ? In fine, is it immoral to refuse to give a national sanction and support to the religion of the Lord Jesus Christ ? Then is it sinful to serve as a juror in the United States, because all these immoralities are embraced in the constitution, which is part of the supreme law by which the juror is solemnly bound to give his determination.

The sinfulness of the laws under which the juror acts we shall now exemplify, by reference to particular cases.

In a very considerable number of states slavery is allowed and practised to an enormous extent. In these states the law authorizes citizens to buy and sell, and in many respects to hold as mere property human beings! And in some states, possession of a certain number of slaves is an indispensable qualification for being a representative in the legislature.* In such states a juror must often have occasion to act in cases connected with this iniquitous practice; in these cases no juror can act without giving his practical approbation to slavery. In the application of civil and criminal jurisprudence unnumbered questions of litigation in a great variety of forms must occur; and necessarily call for the award of a jury—as it respects the sale, the purchase, and treatment of slaves. In every such case, the juror, whatever may be his private judgment must act, and give his decision, as if slavery were perfectly lawful and moral! For example:—In a case where the payment of a debt is disputed, it appears by evidence with which the jury is furnished, that payment has been made either in whole, or in part, by slave property; according to the existing state of things under which they act, the jury are bound by their oaths to admit such payment as legal. Say, in such a case does not the juror acknowledge the practice of slavery as just, and give it all the advantage and support of his official authority? Not even the cunning of jesuitism can evade this conclusion!

Nor, is the sinfulness of the law in this respect confined to slaveholding, it may be equally exemplified in those that are called free states. In the latter, a juror may be called to give judgment in cases in which the sinful practice of slavery must be acknowledged, as well as in the former. Instances of this kind occur not unfrequently. Suppose for example, the sale and purchase of a lot of slaves, within the bounds of a slave-holding state; this in such a state is a lawful transaction. But in the final adjustment of accounts between the parties thus selling and buying, the transaction is litigated in a free state, in consequence of the residence of the defendant being in the latter. The case comes before a jury; and here the juror, though in a free state, must give his sanction to the sin of slavery, by acknowledging the legality of the transaction. For although the sale of slave property is not legal in the state where the trial takes place; yet its legality must be sustained, on the ground that it was a legal transaction in the state where the sale was made. This is determined by the supreme law of the nation. “Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state.”† And one of the public acts in many of the states, is the legalization of slavery!

We are aware that some men, who would not dare to vindicate the abominable traffic in human beings; and who admit that to serve on a jury

* See the Constitution of South Carolina.

† United States' Constitution, art. 4. sec. 1.

in such a case, as that which has now been supposed, would be an encouragement of the sin of slave dealing ; yet find an excuse for objecting to the jury law, as an unnecessary and uncalled for restriction on the members of the Reformed Presbyterian Church, on the ground that in all such instances the juror may avoid serving, by stating to the court that he has prejudged the case. We deem it necessary to glance in passing at this practical argument against the jury law, not because of its strength, but because of its plausibility. It is well adopted to impose on a man, and lull his conscience to sleep, when he is more anxious to find an apology for his sinful practices, than to forsake them : but as an argument against the present law and usage of the church, it is in the last degree frivolous and unavailing. It will be recollected, that it has already been demonstrated, that the very act of serving on a jury *whatever* may be the *case of trial*, involves the recognition of an immoral system, and is, therefore, inconsistent with the obligations of a witness of Christ. The objection referred to, entirely loses sight of this essentially important part of the question. But even, on the view of the objector himself, it will be found that his argument is worthless, as an objection against the necessity of the jury law. The propriety of this remark becomes evident.

1. When it is considered that the objection tacitly admits that there is something morally wrong in the constitution and laws, under which the juror is called to act. Were there nothing wrong, there would be no need to avoid serving on a jury, in any particular case.

2. The juror does not know when he is sworn what facts may come before him, nor upon what facts he may be called to give his decision. By the testimony offered, very unexpected facts may be brought out, and on these may depend the whole determination of the juror's mind ; but these he does not know till after he has been sworn to try the case, and the trial has made progress. In such a case, the juror has not an opportunity of avoiding to serve ; he has involved himself in a moral difficulty, before he is aware that a difficulty exists.

3. The principle of the argument is false. An individual objects to the necessity of the jury law because he may avoid serving in certain given cases, by declaring that he has prejudged the case. The declaration however is not true ; he *has not prejudged* the case. It is possible he may have judged the law, but the case he has not judged, nor can he judge the latter, till the evidence is laid before him. The objection is founded on a very palpable mistake ; namely, the confounding of the laws on the subject of slavery, and the fact of being a slave. As it respects the former, the opinion of the juror is not asked ; nor in the case is it of any value what opinion the juror may have ; it is only as it respects the latter, that he is called to give his award. The only thing for the juror to ascertain, is the fact of such a transaction satisfactorily proved ? And he must give his determination accordingly !

Having removed this plausible objection, we resume the exemplification of the sinfulness of the laws, under which the juror may be called to act : another instance of which, may be found in the practice of

public and private lotteries. Although this species of gambling is prohibited in some of the states, it is legalized in others. But in the former as well as in the latter, lottery transactions may come before a jury. For example, in New-York or Pennsylvania, where lotteries are nominally abolished, and declared to be illegal, litigated cases arising out of the sale of lottery tickets, which has been made in other states, may be judicially investigated. It may be proved by evidence before a court that a disputed debt has been settled by the transference of lottery tickets; and this a jury would be bound to admit as a fair business transaction, because it was legal in the state where the sale took place. And thus, a juror would give his sanction to the abuse of God's ordinance of the lot, as well as to a system of gambling, which in some states has been declared to be a public nuisance!

We shall offer only one other example, of the sinfulness of the law under which a juror may be called to act. We refer to a particular aspect of the evil of slavery. Although slavery has been abolished in some states, yet according to the United States' Constitution, in these the principle must be acknowledged "no person held to service or labor in one state under the laws thereof, escaping into another, shall in consequence of any law or regulation therein be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor is due."* In virtue of this article, of the national constitution slaves who have left their owners and taken refuge in any of the free states are seized and dragged back to bondage. The judiciary and executive officers in free states are bound to give all aid, and official assistance for the recovery of absconding slaves.

A sheriff or constable refusing to apprehend a runaway slave, upon application being made to him for this purpose,—or a magistrate refusing to grant a warrant of removal on evidence being given of his former servitude,—or a person employing a runaway slave knowing him to be such, is liable to a prosecution. In all these cases the law has determined certain penalties. Suppose any of these cases occurring and brought before a court, a juror must be destitute of the feelings of humanity if his judgment and conscience did not approve of the conduct supposed, and yet by his oath he is bound to give judgment against the party, the *fact* being proved.

The charge of sinfulness has now been proved both against the constitutions under which the juror acts; and the law by which he is directed. The propriety of the jury law will then it is presumed be admitted. Here we might leave the argument to produce conviction on the mind of every candid reader; but, there is a practical view of the subject which merits especial attention before we conclude the discussion. This, though no other reason existed against serving on juries, should have sufficient weight to hinder a disciple of the Lord Jesus Christ from acting as a juror in the United States. If a Christian serves on a jury, he must often act with unprincipled and immoral men. And in no case does he know the principles and moral character of his fellow jurors, till these are discovered in *their* judicial intercourse.

* United States' Constitution, art 4. sec. 3.

With infidels, Jews, and others equally unprincipled, he may be called to act, and that under the solemnity of an oath. Thus, he will be associated with men, with whom we are persuaded no Christian ought to have any voluntary association for moral purposes. In point of principle it is wrong, for a disciple of Christ thus morally to connect himself with irreligious men. Such an association will also, in practice be found hurtful to the feelings and experience of a Christian. Frequent intercourse and exchange of sentiments on very important questions which involve the grounds of moral obligation; and respecting which, men of the character which we have supposed, entirely exclude all reference, must always be painful and often injurious: as the continual dropping of water wears away the hardest stone; so an improper intercourse among men may very likely make a breach on the principles and feelings of a Christian. Familiarity with men of pernicious opinions has often been the means of ruining individuals, whose moral and religious opinions, but for this, would have been of the purest kind. A Christian might find himself very unpleasantly situated in being compelled to yield to a verdict against which, both his understanding and his heart recoiled. It is no secret that designing individuals have often wearied out others on a trial by jury and compelled them reluctantly, to give a judgment to which as individuals they would not have assented.

In the practical view of the subject which we are now taking, it is not too much to say that a Christian exposes himself to temptation, by serving as a juror. And every considerate person will admit that it is an imperative duty to avoid temptation. How can a man who has the fear of God before his eyes, deliberately place himself in circumstances in which he will necessarily be exposed to the temptation of committing sin? How can a Christian consistently say, when addressing the throne of his Father in Heaven, "Lead me not into temptation," and immediately proceed and unite himself in a sworn association, with irreligious and unprincipled men? The bounden duty of a witness of the Lord Jesus is, to abstain from every unholy association and cheerfully submit to inconvenience. It is better to suffer than to sin.