

following passage:— “ I have now disposed of all my property to my family ; there is one thing more I wish I could give them, and that is the Christian religion. If they had that, and I had not given them one shilling, they would be rich; and if they have not that, and I had given them all the world, they would be poor.”

ARTICLE III.

A DISCUSSION OF SOME OF THE CHANGES PROPOSED BY THE COMMITTEE OF THE GENERAL ASSEMBLY IN THEIR REVISED BOOK OF DISCIPLINE*

The General Assembly of 1857 appointed Drs. Thornwell, James Hoge, R. J. Breckinridge, E. P. Swift, A. T. McGill and Charles Hodge, with Judges Sharswood, Allen and Leavitt, a Committee to revise the Book of Discipline. This Committee met in Philadelphia in August, 1858, Messrs. Leavitt and Allen being absent, and performed their task, devoting to it *four or five days'* labor. The result has for some months been published to the churches in the newspapers ; and the time is fast approaching when the Presbyteries will appoint the Commissioners to that Assembly which must pass upon the proposed changes. Meantime they have evoked little discussion, and that of a fragmentary character ; with the the exception of an article defending the most of the professed amendments, in the October number of the Princeton Review. This essay seems purposely to reveal its author as

* Notwithstanding the relations of this Review to the Chairman of the Assembly's Committee, and also Draughtsman of their Report; and notwithstanding our entire concurrence in the amendments they have proposed, with perhaps a single exception, we have, with his hearty and cordial consent, cheerfully given place to this article: being moved thereto, both by our respect for the author, by our love for free discussion, and by our sense of the great importance of the subject discussed.—EDS. S. P. REVIEW.

the respected editor of that Quarterly, Dr. Hodge, to whom we therefore take the liberty of referring. While our rules of discipline are not of as fundamental importance as our Confession, or even as our Book of Government, they greatly concern the comfort and rights of Presbyterians, and the peace of the Church. More than this—principles will be seen to be involved in this discussion which touch the fundamentals of our theory of the church. By thoughtlessly adopting legislative details, which are out of harmony with our theory, we greatly endanger the theory itself ; we shall gradually undermine it. This must be our justification for feeling, as humble members of that Church, anxious that the thorough examination of the Revised Book shall be made, so as not to allow the subject “ to go by default” in the approaching Assembly. After waiting for more experienced hands to undertake this discussion, until it will soon be too late, we now venture to occupy the attention of our brethren, with much diffidence and respect. As Presbyterians, we consider that no *apology* can, in any case, be necessary for the exercise of that right of free but courteous discussion which belongs to the humblest, as well as the first among us, touching every subject of ecclesiastical concernment propounded to our suffrages. We doubt not that all the members of the Assembly’s Committee would themselves be the last to wish this right of opposing their own report curtailed. We wish also to express, once for all, our high respect not only for the persons and characters of those distinguished brethren, but also for their opinions. When, indeed, we conceive of the reader as running his eye over the list of venerated and precious names which we have just recited, we cannot but feel that he may naturally conclude from that glance alone, that the objections urged against their work must be ungrounded, and inquire: “ Who is this that arrays himself against such odds ?” We are, indeed, in the account of literature and of fame, in comparison, as *nobodies* ; and it has caused a genuine diffidence to find ourselves differing from such guides. But we remember that we write for *Presbyterians*—a people least of all *addicti in verba ullius magistri jurare* — and that views maturely

considered, and honestly offered from love to the church and a sense of duty, are entitled to a fair hearing. For our remarks we ask no more. If any, or all of them, are ungrounded, let them remain without influence.

We shall take up those amendments upon which we wish to remark, in the natural order in which they occur, as we proceed from chapter to chapter. We have only to request of those who may take the trouble to read these lines, that each case may be weighed upon its own merits ; and that, if objections advanced against some of the proposed changes should seem to them insufficient, or even feeble, this may not prejudice the conclusion concerning other points. On a subject so extensive, great brevity cannot be promised; but it is promised that brevity shall be studied as far as is consistent with thoroughness.

Let the general objection, then, be considered, which lies against the changing of statute law wherever the change is not unavoidable. Language is naturally an imperfect vehicle of meaning; its ambiguities usually pass undiscovered, because no keen and contending interests test its possible or probable meanings. One may frame sentences which seem to him perfectly perspicuous ; but no human wisdom can foresee the varying, yet plausible constructions which the language may be made to bear. The fact that ambiguities cannot now be pointed out in the new phrases of the Revised Discipline, is nothing. No human skill in writing can avoid them, or foresee what they will be. Nothing but the touchstones of particular cases, as they arise, can reveal them. Hence the old statutes are better, because their language has already been tested by the adjudication of a multitude of varying cases under them, and fixed by established precedents. So that the old might be intrinsically worse than the new, and yet it might be most impolitic to exchange it. By altering our Book, we at once lose all the advantages resulting from all the litigation upon the articles amended, from the foundation of our government. We have just begun to enjoy the advantages of a good digest of the Assembly's precedents, fixing the meaning and extent of law, in the work of Mr.

Baird. How large a part of this will now be superseded and useless? It is not that we begrudge the loss of the mere labor expended in compiling and printing this useful work ; this, relatively to the church at large, is a trifle. But we lose the knowledge and usage, the costly result of seventy years' history and contest. Does any one dream that all these uncertainties will not have to be gone over again, before the intent of the new statutes is "ascertained" (to use the legal phrase), by a long series of adjudications ? How much uncertainty, how many judicial contests, how much confusion of right, and how much distress, must be witnessed, before the Revised Book shall have reached that comfortable degree of established certainty which was acquired by the old ?

The ambiguities of the old have indeed been asserted as a reason for revision; and it has been said that it is in some parts so faulty as to make church courts forever liable to uncertainties of construction. But this uncertainty, which is usually witnessed in the General Assembly, is due rather to the constitution of the court, to its unwieldy size and popular character, to the inexperience of its members in judicial processes, and to inattention, than to any peculiar vice in the language of our statutes. If our brethren think to eradicate these vexatious and ludicrous confusions from that large body, by making new statutes, we forewarn them that "Leviathan is not so tamed." Take the oft mooted point, as to who are "the original parties" in an appeal; which is most frequently cited in evidence of the imperfection of our present Discipline ; it would seem that "the original parties" can be no others than the *parties to the case at its origin*. The fact that so simple a matter has made so much trouble, reveals plainly enough the hopelessness of evading the annoyance, by making statutes new, and for that very reason, of less ascertained meaning. No sooner will these new laws be inaugurated, than the rise of litigated points will reveal in them ambiguities to which we were all blind before, including their very authors; but which, when once raised, will appear as obvious to us all, as was the way of making an egg stand upright on its little end to the Spanish Savans, after Columbus had shown them how to

flatten the shell. Seeing, then, that our present Discipline causes to no one any grievous wrong, it would be better for us, on this general ground, to “let well enough alone.”

It has been said that the Presbyterian is a conservative Church. Mankind often give very inconsistent manifestations of their professed principles. The past year, we have seen the conservatism of this great church thrown into quite a hubbub, by the proposal to correct a ridiculous typographical blunder on one page of its Hymn Book! But now it seems as though it were ready to commit itself, almost without inquiry, to a sweeping change of an important branch of its constitution. Is not this somewhat akin to “straining out the gnat, that we may swallow the camel?”

Chap. I. § 3. 4. The first departure of moment from the language of the old Book, is in the definition of what constitutes a disciplinable offence. The reader is requested to compare the new with the old. The tenor of the old makes the Bible the statute book of our courts, in judging the morals of all our people. See chap. I. § 3. 4. In the Revised Discipline, it is proposed to speak as follows :

§ 2. “An offence, the proper object of discipline, is anything in the faith or practice of a professed believer which is contrary to the word of God ; the Confession of Faith, and the Larger and Shorter Catechisms of the Westminster Assembly, being accepted by the Presbyterian Church in the United States of America as standard expositions of the teachings of Scripture in relation both to faith and practice.”

“Nothing, therefore, ought to be considered by any judicatory as an offence, or admitted as matter of accusation, which cannot be proved to be such from Scripture, or from the regulations and practice of the church formed on Scripture, and which does not involve those evils which discipline is intended to prevent.”

The latter paragraph is copied by the Committee, without change, from the old Book. The two changes here proposed are to teach that nobody can commit a disciplinable offence except “professed believers,” instead of including all “church members ;” and to introduce the Westminster Stan-

dards as the rule and measure by which discipline shall be administered. Of the former change, more anon. To the latter we object, in the first place, that here is one of the cases of mischievous ambiguity which were predicted as likely to attach to any new phraseology. Let this chapter become the law of the church, and we fear that we shall be ever debating whether it means that any act may be a disciplinable offence which is reprobated by either the Scriptures or the Westminster Standards; or that the prohibition of both these must concur to make an offence. The latter meaning would, of course, confine the possible range of disciplinable offences within the things prohibited in our Standards. And this is clearly the meaning attached to the whole chapter by the Princeton Review. Surely if anybody should know what the Committee mean, this author, himself a most able, diligent and influential member, should! He says, pp. 695-696:—
“ Among us, as Presbyterians, nothing can be regarded as an offence which is not contrary to the Westminster Confession of Faith or Catechisms.” * * * * “ We have agreed to abide by our own Standards in the administration of discipline. Outside of that rule, so far as our church standing is concerned, we may think and act as we please.” But when the church court comes to interpret this Revised Discipline in the light of its own language alone, it will probably remain in great doubt whether § 2 means what the Princeton Review says it does; or whether it only means that the manner in which our Standards interpret and apply the prohibitory precepts of Scripture, is to be the model and exemplar by which the judicatory ought to interpret similar parts of Scripture. And the paragraph then appended, standing, as it does in the very words of the old book, which is allowed to teach the opposite sense to that of the Princeton Review, will greatly aggravate this doubt. According to that paragraph, an offence to be disciplinable must, in the first place, involve those evils which discipline is intended to prevent ; and then it must also contravene Scripture, OR the regulations and practice of the church founded thereon. (The conjunction is disjunctive.) May not the Revised Discipline be understood to mean, with

the old one, that an offence which contravenes *either* Scripture or the Standards may be disciplinable ?

But let us suppose the Princeton Review is right, and that the Revised Discipline means to teach, that nothing shall be a disciplinable offence except what can be proved to be such out of the Westminster Standards. Then we object, secondly, that those Standards do not profess to be exhaustive in their enumeration of disciplinable offences. The circumstances of mankind vary so infinitely, that if a statute book were to enumerate, specifically, all the offences which will arise in all time, “ the world would not hold the books which should be written.” A complete moral code must therefore speak on this other plan; it must, within moderate compass, fix such general principles, and so illustrate and define them in concrete cases, that all possible forms of duty or sin may be defined therefrom, “ by good and necessary consequence.” This is what the Bible has done. But this requires infinite wisdom, which the Westminster Divines never claimed. Shall we accept the following consequence : that if perchance these fallible men forgot to enumerate (and they themselves not professing to make a complete enumeration, they were incapable of such an absurdity), some wicked act, which yet God’s Word, the acknowledged rule of life to Protestants, clearly describes as such an offence as maybe disciplined—therefore, forsooth, the sinner may commit this act as often as he pleases, and retain his church standing, unwhipt of justice ? For instance : the Larger Catechism (the most comprehensive) does not condemn *spirit rapping*, nor *lotteries*, nor *duelling*—three prevalent abominations condemned by God in principle, and most obviously disciplinable. Is it answered that these may be condemned out of the Westminster Standards by inference ? We rejoin, the expounder of the Revised Discipline in the Princeton Review has no right to resort to inferential interpretations of the Standards. He has objected to just such applications of the Word of God ; and we think all will agree with us, that if our church franchises are to be suspended on the inferences and interpretations of a judicatory, we would at least as willingly have the blessed Scriptures for the text as the imperfect writ-

ings of fallible men. When the glorious assembly of 1845 saved the Church, and probably the Union, by refusing to make slaveholding a bar to communion, did it ground its decision on the pettifogging plea that slaveholding was not mentioned as a specific "offence" in the Standards? Indeed, no! How would its decree have been shorn of its moral strength and glory, if it had done so? It recurred at once to the solid rock, by saying: *The "WORD OF GOD does not make slaveholding " an offence ;" therefore cannot we.* May God forbid that any thing shall ever be the Statute Book of Presbyterian Church Courts, as to Christian morals, except the Holy Bible.

This leads to the third remark, that there is obvious ground of distinction between adopting a human composition concerning theological opinions as the test of official *status* and privilege, and making a human composition concerning Christian ethics the test of church membership. This, for three reasons. The ethical precepts of God's Word are vastly less subject to varying and doubtful construction than the doctrinal statements. The theological system may be represented with substantial completeness, or at least in a manner perfectly characteristic and discriminative, in a limited set of propositions; whereas the forms of moral action are endlessly diversified. And last: when we require our deacons and presbyters to stand or fall officially by a doctrinal composition of human authority, we do not call in question a personal franchise which is inalienable to the Christian, but only a privilege which the Church confers. It is the *Christian right* of the credible believer to enjoy the Church communion; it is not a *right* of any believer to serve the brotherhood in office when the brotherhood do not want him in office. So that it may be very proper for us to take a human composition as the doctrinal test of qualification for office, while yet we take only God's own precepts as the statute book of Christian ethics.

The main objection against all this is, that then no one would be certain what he had to count upon, because of the contradictory opinions of Christians concerning the ethical teachings of the Bible. It is said some Christians think slaveholding, some wine-drinking, a *malum per se*. The obvi-

ous reply is, that no institution administered by imperfect system which makes the possible imperfections fewest and least mischievous. And this will be to retain the Bible as our Statute Book in ethical matters. For, as has been said, its ethical precepts are so perspicuous, that the serious differences of interpretation are rare. The Standards of the Church, and the General Assembly, may properly, as they have done, fix these disputed points from time to time : (a function very different from taking the place of the Bible as a complete ethical code for judicatories.) And surely, if the Bible is not a book perspicuous enough to protect the Christian from judicial wrong, when he has three higher courts above the first, to which he may appeal for protection, it can scarcely be claimed as a sufficient rule of life for the simplest child of God. Chapter I, § 6.—The Revised Discipline proposes to change the propositions which here assert that all baptised persons “ are members of the church,” are “ subject to its government and discipline,” and when adult are “ bound to perform all the duties of church members,” in the following respects. For the first proposition it substitutes the words : “ are under its government and training.” At the end of the paragraph it proposes to add the following:—“ Only those, however, who have made a profession of faith in Christ are proper subjects of judicial prosecution.” This change was foreshadowed in the alteration of sec. 3.

We cannot but regard it as both unnecessary and unfortunate. The doctrine of the Bible is, that the object of God in instituting the marriage of saints is “ to seek a godly seed,” (Malachi 2: 15,) that God has therefore included and sanctified the family institution of saints within the church institution, that school of Christ ; promising to be “ a God to us and to our seed,” (Gen. 17: 7;) that therefore the initiatory sacrament should be administered to the children of saints as well as to themselves (Gen. 17: 12—Matt. 28: 19); and that though these unconverted children are excluded from certain privileges of the church to which faith is essential, first by their lack of understanding, and next by their own voluntary impenitency,

yet they are as truly and as properly the objects of the moral teaching and government (*διδασκαλία, disciplina*) of this spiritual school, as the saints themselves, until they wickedly repudiate their church covenant. For both the Scriptures and experience teach, that the children of the saints are the main hope of the Christian cause, and that youth is the time to train and form the soul; so that if the church excluded the children of saints from its discipline, it would be manifestly recreant to its great end and object; which is, to propagate the knowledge and service of God in the earth. This has ever been the theory of the church universal, with the painful exception of Anabaptists and Immersionists. To this theory the language of the old Discipline is, to say the least, sufficiently faithful. Why then soften it, when by so doing we give a pretext to these adversaries to glory, as though we found our theory untenable, and were receding from it ? Boasts and taunts have already been provoked by this proposed change, which are not only painful, (for this is a trifle,) but most injurious to God's truth.

Indeed, it cannot be denied that a desire to soften the old and time-honored phraseology is a significant indication of our departure from the practice of our system. The Presbyterian Church has, alas! come far short of its duty to impenitent baptized persons, in neglecting the pastoral and sessional oversight of their demeanor, faithful private admonition, Bible class and catechetical instruction) and the righteous purging out of the membership by discipline, of those who show a persistent intention to repudiate their parents' covenant with God, either by continued unbelief or by overt immoralities. But if we find ourselves recreant to our Scriptural theory in our conduct, shall we, therefore, degrade our theory so as to make it tally with our sinful practice ? or, shall we not rather, as men that fear God, raise our practice to our theory?

We see no advantage, but only disadvantage, in the substitution of the word *training* for *discipline*. “ Though both terms have in some respects the same import, we are particularly attached to the latter in this connexion, because of its immemorial use; and especially because it is more compre-

hensive, embracing all that instruction, guidance, care, advice, counsels, admonition, restraint, reproof and encouragement, which should be given, as the case may demand, to all who are members of the church and under its care—whether communicants or non-communicants. We prefer it, moreover, because it is more expressive of the Apostolic commission: ‘Go ye, therefore, and teach (*disciple*) all nations.’ Now, the church is a school where the disciple is instructed in the lessons there taught.” These words of another we can cordially adopt, as expressing just views.

Farther : if we roundly assert, as even the Revised Discipline does, that “*all baptized persons* are members of the church,” we see little consistency in then exempting a large class of them from its government. Is it intended to be taught that whenever a baptized person, arriving at years of understanding, fails to believe, repent and commune, he is by his own act excommunicated ? Surely not; for then all baptized persons would not be members of the church, as the Revised Discipline asserts ; there would be a large class of baptized, persons not church members. The article, to be consistent, should have said : “*all baptised infants* are church members.” Now, what kind of citizenship is that which does not place the citizen under the government of that commonwealth of which he is citizen ? We cannot understand it. The General Assembly of 1856 did itself say, in answer to an overture, that the relation of impenitent baptized persons to the church is that of minors to a commonwealth. The state of a minor is in general this ; that while he is debarred, by reason of some remaining personal disqualifications, from certain of the higher privileges of the citizens, he enjoys the protection and other advantages of the commonwealth, and, if sane, is subject to its laws and penalties in the main as the other citizens are. A minor may not steal, nor commit arson, nor stab, nor murder,; and if he does, although he has not been allowed to vote, to sit in juries, and to hold office, he will be tried and punished. If, then, the Assembly adopts this Revised Discipline, it should retract its definition of 1856 ; but the truth and good sense which are in it no General Assembly has power to retract. The member-

ship of baptized persons, if once granted, is forever inconsistent with their formal exemption from discipline.

Again, if this doctrine is adopted, our Standards will be, in the opinions of the great majority, out of joint at another place. The Book of Government, (Chap. XV. § 4,) excludes every person from voting for pastor “ who refuses to submit to the censures of the church, regularly administered; or who does not contribute his just proportion, according to his own engagements, or the rules of that congregation, to its necessary expenses.” The more common opinion is, that in these words the Book intends to describe what non-communicating, baptized persons may vote ; for it is plausibly urged, if none such may vote, why does the Book use a periphrasis ? Why does it not cut the matter short by saying:—“ In this election only communicants may vote ?” Now, if this is correct (a point which we may not here decide) the Book clearly contemplates some baptized non-communicants (old enough, too, to pay and vote), who are yet submissive to church censures. Are these church censures inflicted without “ judicial prosecution ?” Hardly, for then it could not very well be said that they are “ regularly administered.”

The closing words of this chapter in the Revised Discipline say that no one, except professed believers, is “ subject of judicial prosecution.” It has been remarked, that these words need not be objected to, “ because a case is never heard of in which a baptized impenitent person is subjected to such prosecution.” We are by no means ready to make the admission. Even on the ground asserted in excuse of the proposition, it is liable to the objection, that it decides more and broader principles than the case requires—a fault which every intelligent judge would reprobate in secular laws. But we are by no means sure that the church always does right, in so totally disusing this power of judicial citation over impenitent persons. The most plausible theory on which our present policy can be excused, of leaving the impenitent baptized persons of the church so “ at loose ends,” would be this; that when a baptized child reaches and passes the years of moral responsibility, refusing to believe and repent, he is by this sin of unbelief virtually *self-suspended*

from sealing ordinances. But he is still under the guardianship and teaching of the church, and under its pastoral oversight. Now, we ask, may not a *suspended member* be cited and tried for a subsequent offence? May he not be excommunicated for a subsequent offence? Do we not give him a letter of dismission as a member suspended, to the care of another church when he emigrates? And this leads us to remark, that a legitimate and beneficial use of this power of citation over non-communicants may easily be imagined. Let us suppose a church in which the Bible theory of “the School of Christ” was not so deplorably neglected as it usually is, in which the baptized children were practically considered by pastor and session a part of their sacred charge, their jurisdiction; where the children, after due instruction in their tender years, re-received pastoral admonition as they came to years of understanding, that they were now “bound to perform all the duties of church members,” to repent, believe, give Christ their hearts, and thus remember Him at his table; where this first admonition was followed up with occasional faithful and tender remonstrances upon their continued irreligion, reminding them again and again of the voluntary nature and sinfulness of their unbelief. Many of these lambs of the flock, we may be sure, would early give their hearts to the Saviour. These become members in full communion. Many others would continue some time impenitent, but regular in their Christian morals, habitual frequenters of church ordinances, and in the main, docile and respectful towards Christianity, so far as natural temper went. These would properly be retained as the citizens in their minority in the Christian commonwealth, still precluded from the full franchises, but enjoying (we say *enjoying*, for would they not themselves esteem them privileges?) the public and private admonitions of the presbyters. But a few would practically repudiate their Christian birth-right and cast scorn upon it, by profanely deserting God’s house, word and Sabbaths, or by contemptuous repulses of pastoral instruction and love, or by overt and deliberate crimes. Now, what are these? Are they still church members? If it is said, no! we ask, by what process did they cease to be such? Formally, they are still

members; but why sleeps the rod of discipline, which ought to be wielded to cleanse God's house of pollution and scandal ? Shall Immersionists point at these blots, these " spots in our feasts of charity," and say that this is the inevitable result of infant church membership ? We reply, that the appropriate solution of these cases ought to be in the exercise of that " judicial prosecution" which the Revised Discipline proposes to exclude. Instead of suffering them to fall by neglect into a virtual excommunication, which yet is not a formal and regular one, (a treatment of the case of all others most dishonorable to the church, and dangerous to the misguided souls themselves,) let them be cited by the session. " They would probably contemn the summons ?" " Well, let them do so; let the citation be repeated, and let them be formally excommunicated for contumacy. Thus the church is rid of the scandal of their membership in the only consistent way, and her final testimony is borne against their sin. This, let us say, would be agreeable to the usages of the primitive church, which subjected *catechumens* to her discipline, as well as communicants. If it be urged that men, professedly impenitent, would usually scorn the whole process, and that, therefore, the process would be improper, inasmuch as discipline owes so much of its value to the support of the moral approbation of society, we rejoin by asking, how the sentiment of Christian society has become so lax and unsound on this point ? Is it not through this very neglect of pastoral discipline ? " We repeat with emphasis ; let us not attempt to plead a state of things produced by our own sin as our justification. Let us rather reform. But in fact this discipline, if righteously administered, would even now be far from contemptible in the eyes of many baptized unbeliever, for they often value their church privileges highly.

When it is said that none are " proper subjects of judicial prosecution, except those who have made a profession of faith in Christ," the idea obviously involved is this : that it is unreasonable to exercise a church government over a man, to which he has not given his own voluntary assent. This squints far too much towards the Independent idea, that the church is a

voluntary society. If the act of the parents, in bringing the child under the covenant of baptism, cannot properly place him under church jurisdiction, except it be confirmed by the child's own assent, why should they perform it in his infancy at all? Let the baptismal covenant be *something*, or *nothing*. If it is any thing at all, how can it effect less than we have attributed to it? As to the necessity of a personal and voluntary consent to constitute any one a subject of church government, we remark, that our theory does no baptized person wrong; because God has not given to any human soul the right to choose whether he will belong to His visible kingdom or not. To decide that he shall, in advance of his own assent, robs the child of no privilege; for it is no privilege of a rational and moral soul to be a subject of Satan, and heir of damnation; which is usually the only other alternative to a visible church membership. Church government is as much an "ordinance of God" for man as civil government. As our sons are *born* citizens and subjects of civil commonwealths, whether they choose it or not, (and not constituted subjects by their free assent,) so are the children of the people of God baptized into His commonwealth; they are citizens by His ordination.

There is, therefore, no consistent stopping place for us, between treating all baptized persons as *bona fide* members of the visible church, until their membership is legally severed, and accepting the Anabaptist theory of the church. We must either go the whole length, or give up our principles. For these reasons we greatly prefer the old phraseology to the new, and deprecate the adoption of the latter, as committing us to grave error, and as placing our Discipline in formal opposition to our creed.

Chapters II, III, IV. These chapters of our present book are, in the Revised Discipline, somewhat transposed and condensed. The changes in principle are slight, and either unobjectionable, or positively commendable; and something is perhaps gained in perspicuity and naturalness of order. But here we must make one objection. The fourth chapter (of actual process) in the Revised Discipline, concludes the first section, which in other respects is equivalent in substance to Chap. IV.

§ 5, of the present book, with these words: “ At the second meeting of the judicatory, the accused shall plead, in writing, to the charges; and if he fail to do so, at the third meeting of the judicatory they shall be taken as confessed, provided he has been duly cited.” The reader is left in doubt of the meaning of this provision, and of the kind of case it is intended to meet. Does the first member of the sentence mean that the accused, after being duly cited to appear in person, and after enjoying his “ten free days,” may still remain absent, and answer only in writing ? How, then, is the trial to proceed at this second meeting, as it ought-in due course? Or does it mean only, that being personally present, he is to answer “guilty,” or “not guilty,” on paper, instead of uttering his answer in the open court with his lips, while the clerk records it ? Again ; what is the sort of case covered by the second member of the sentence ? If it is meant for the case of a man who obeys the citation, who is bodily present in the judicatory, and who yet will not open his lips to say either “guilty” or “not guilty,” we presume this is a case which will never occur. The man who intended to be thus stubborn would very surely refuse to come at all. We can hardly suppose that the Committee mean this provision for the case of the man who, when cited, refuses to attend; for not only is that case distinctly provided for elsewhere, but it is to be dealt with differently. The offence charged, says the Revised Discipline shall, in this case, not be taken as confessed,” but *shall be examined* in the absence of the contumacious accused, the court appointing some one to represent him. See sec. 4. In such a work as this, the smallest uncertainty is an important blemish, for no one knows how much confusion it may cause.

Chap. V.—Of Process against a Minister. The only alterations proposed by the Revised Discipline in this chapter, are of secondary moment. To the 5th section, which provides for placing a minister on his trial at the charge of a personal accuser, or of a persistent common fame, the Committee propose to add the following words : “ Nevertheless, each Church Court has the inherent power to demand and receive satisfactory explanations from any of its members concerning any

matters of evil report.” The manner of asserting this power appears at least incautious. It is provided in the present Discipline that where a common fame does not possess the permanency and probability which would make it proper ground of process, the person aggrieved by it may, of his own motion, go before his appropriate judicatory, and demand a judicial investigation, which the court is in such case bound to grant. Now, if it were said that the brethren of a minister, when they believe his character to be suffering under such a common fame, and he still appears unconscious or indifferent to the injury done his reputation, should have leave to advise him to avail himself voluntarily of an explanation, or of the examination above described, we could heartily approve. And such advice might, in a strong case, be enforced by reminding the minister under evil report how the rumors, if neglected, might gather such strength as would oblige his brethren to open an actual process against him on common fame. But farther than advice no judicatory should be allowed to go, without those regular forms of judicial process which are so necessary to the protection of equal rights. The sentence under remark, as it now stands, would seem to give a judicatory power to compel a brother, (who should be held innocent till he is proved guilty, but who is suffering under the infliction of evil tongues,) to take his place in the Confessional against his own consent. Suppose the suffering brother should say that he, in that discretion which the constitution gives him, has judged it best to let the vile tattle die of its own insignificance and falsity, without notice ; or that the nature of the case is such that explanation would be mortifying or indelicate, while yet no guilt attaches to it ; or that the very act of placing him on the stool of confession, and thus singling him out from all the brethren, (to whose innocency his own is in *point of law* exactly equal, (is an infliction on his good name and feelings; and that he therefore regards this explanation which is “ demanded” of him as a grievance and a *quasi* penalty? The plain doctrine of liberty and equal rights is this: that no ruling power shall have leave to impose on any one of its subjects, any thing which is of the nature of a discriminating infliction,

which is not equally imposed at all times on all the subjects until he is proved to be deserving of the infliction by a conviction duly reached by course of law. We may not do any pain whatever to one member of a judicatory, which is not equally done at the same time to all the members, unless he consents, or unless he is *proved* to deserve it, by being confronted with his witnesses. It is tyranny. No court should be allowed to proceed further in this matter than advice. The annual inquiry held by the Methodist Conferences, in “passing the character” of members, is far less odious than this provision may become; because that inquiry is held as to all the brethren alike. In fine; the provision proposed by the Committee is *new*; let us beware: for we do not know how it may work, until we learn by an experience, which may be a bitter one.

The next objectionable change proposed by the Committee is the total omission of section 9th, which now provides, that when a minister is under actual process, the judicatory may have discretion to suspend his privilege of acting as a presbyter and member in all matters in which his own rights as a defendant are not concerned, until his acquittal. The Committee should not have expunged this section unless they meant to take away this discretion absolutely, for *the silence* of the Statute Book can never, with safety, be allowed to convey any discretion to the ruling bodies, as to the rights of the ruled. Here, at least, the principle of strict construction must be upheld by any one not almost insanely reckless. The ruler must claim no powers except those expressly granted, or necessarily implied in the law by which he rules; all other powers must be regarded as intentionally reserved from, and denied to him. Otherwise, what safety would individuals find in constitutions and laws? We must therefore understand that by suppressing this 9th section, the Committee mean positively to deprive judicatories of this discretionary power. Why, then, did they not suppress the parallel enactment, in Chap. IV. § 12, (old book § 18,) in which discretionary power is granted to take away from the layman, or ruling elder, the right of communing while under process? Why this partiality? It is invidious. If the *probable guilt* of a layman or elder makes

it improper, in some cases, to allow him to approach the Lord's Supper for a time, lest perhaps it be found afterwards that he hath profaned it; does not the *probable truth* of some shameful or atrocious charge against a minister make it yet more improper that he should be allowed, in the interval of examination, to sit and rule in Christ's house, wielding all the high and sacred powers of a governor and exemplar to the flock? Surely the probability of a profane character in a minister is more mischievous, more shocking than in a layman; and the sanctities of Christ's kingdom should be guarded against such a man with greater, not with less, jealousy. We fear the intelligent laity of our church will be tempted to take note, that the Committee which proposes this invidious distinction was a Committee of preachers, with one exception.

The other noticeable change proposed in this chapter, is the entire omission of the 14th section. In our present Book this section recommends that "a minister under process for heresy or schism should be treated with Christian and brotherly tenderness," that "frequent conferences ought to be held with him, and proper admonitions administered." All this the Committee propose to suppress, leaving no intimation that there is to be any difference between the temper of the prosecution, where we have to separate from us the devout and pure Christian, whose understanding has been unfortunately entangled concerning the perseverance of the saints, or unconditional decrees, and the wretch who has abused a sacred profession as a cloak for his villanies. But, surely, there is a wide difference in the kind and degree of the guilt in the two cases. We hold, indeed, that man is responsible for his belief, and that error is never adopted, as to points adequately taught in the Scriptures, without some element of sinful feeling or volition in the shape of prejudice, haste, egotism, or such like. But yet there is this wide difference, that unless we are ourselves insane, we who sit in judgment on our brother do not ourselves claim theological infallibility. We recognize a multitude of other brethren who hold opinions similar to the ones we are prosecuting in him, (supposing that his heresy does not affect the fundamentals of redemption,) as members of the true visible

church; and we commune with them at the Lord's table. Yea, we may probably commune with the heretical brother himself, after his condemnation, as a true, though erring brother. Here indeed is the vital difference between the trial for heresy, and the trial for crime; that unless the heretic has denied fundamental truths, our condemnation does not separate him from the visible Church of Christ, (possibly not even from our own branch,) but it only deprives him of that official character among us which it is now not for edification that he should hold. If he does not choose to remain a Presbyterian layman, he may take a certificate of membership and join the Methodist, the Baptist, the Lutheran, the **Menonite**, the Moravian, the Episcopal, or some other communion, where our principles will still require us to meet him as a brother in Christ. But when a person is disciplined for *criminal conduct*, we condemn him on the principle that there is no evidence he is Christ's servant at all; when we turn him out of the Presbyterian Church, we turn him also out of the Church Catholic; we transfer him to the kingdom of Satan. Even were a minister disciplined for heresy in fundamentals, if his morals continued pure, there would still not be that social degradation, that pollution of character as a citizen and neighbor which attaches to crime; and the frailty of the human understanding admonishes us to judge very leniently of the guilt attaching to errors of head, where the heart appears sincere. For these reasons we conceive that there is a broad distinction between the case of the heretic, and that of the moral apostate, and that the Book of Discipline has done most Scripturally, most appropriately, in enjoining a different treatment. Our zeal is so apt, alas! to run into bigotry, and our love of truth into party spirit, in times of theological schism, that the caution contained in this 14th section is eminently wise and seasonable. Let us by all means retain it. Why was it proposed to omit it? Do we set ourselves up as superior to the framers of our constitution in our righteous abhorrence of error, and fidelity to truth? Chap. VI. of the Revised Discipline is a short, but wholly a new chapter. It is entitled, "Of cases without process." The 1st section enacts that persons who confess, or who committed

the offence in the presence of the court, shall be condemned without process. The cases of those who confess their offence seems to be sufficiently provided for in the chapters on “ actual process;” where it is said that if the party plead guilty, judgment shall immediately follow. As to the other case, every deliberative body is necessarily clothed with so much of power over its own members as to prevent and redress “ breaches of privilege” committed on its floor; this is essential to self-preservation. But farther than this we cannot, perhaps, go with safety. When an offence is committed on the floor of a judicatory, and of course usually against itself or one of its members, the body will be in no safe temper to administer justice with wisdom and mercy. We surmise that few of these *extempore* verdicts (passed as they might be, so far as this chapter goes, within five minutes after the judicatory had been agitated and inflamed by the outrage) would be satisfactory to their own authors, after they had slept upon them. In case of such an offence in open court, calling for any thing heavier than a reprimand, the charge and citation might be immediately made, with propriety, and a sufficient number of members or spectators then and there detailed as witnesses; but still, it is far better that the “ ten free days” should intervene before the sentence is passed. The judges will have time to cool; perhaps the offender also. The Princeton Review reasons : “ that the end of a trial is to ascertain the facts of the case; if these are patent to all concerned, there can be no use in a trial.” Not so! the trial is to ascertain not only the facts, but also a penalty righteously apportioned to the degree of guilt, and for the latter end, not only knowledge of facts, but deliberation, is necessary.

Again : the language of the proposed enactment is general, “ his offence having been committed in the presence of the court.” Does this mean that, if a minister, for instance, commit an offence in the presence of a Synod or General Assembly, that body may discipline him immediately; thus usurping the jurisdiction which the Constitution gives to the Presbytery ?

The 2nd Section of this Chapter will probably strike the

reader as somewhat amusing. It provides that if there be an appeal from one of these *ex tempore* judgments, (as there doubtless will be, in most cases,) as there is no accuser, some communicating member, subject to the jurisdiction of the same court with the appellant, shall be appointed to defend the sentence, and shall be the appellee in the case. The object of this curious provision evidently is, to sustain symmetrically the theory which is carried out in the rest of the Revised Discipline, that when any appeal or complaint is taken up, the court appealed from has no longer any other relation to the case than that shared by all others represented in the superior court. But when a judicatory prosecutes on common fame, through the agency of its "prosecuting Committee," or when it pronounces sentence in one of these anomalous "cases without process," it is virtually a party in point of fact. On one side is the condemned man, and on the other side is the court condemning; and there is nobody else in the affair. The problem then was how to avoid having the court appear as a party to the appeal in such cases as these. It is strange that the Committee did not see that their expedient is either a mere fiction, or else that it still leaves the lower court in the virtual position of appellee in the case. When they have picked up this *anybody* to appear in the higher court, defend their sentence, and play the *role* of party to the appeal, does he not appear as their representative or counsel? Then they are themselves virtually present as a party, *per alium, non per se*. If not, where is the propriety of making this individual a party to the case; when, in fact, he is no more a party than any other communicant in the church? In whose behoof does he appear? Not in his own, surely, for personally he has no more business there than anybody else; if he appears properly at all, it must be as counsel for the court appealed from. He is to "defend the sentence;" that is, *their sentence*. In doing this, he defends them; so that, after all, the court appealed from appears (by their counsel) as defendant, that is, as appellee, to answer the appeal. We beg the reader to believe, that this is not a "mere strife about words," as we shall see when we come to the chapter on General Review and Control.

The concluding section of this new chapter contains a proposition so startling and dangerous, that we confess the two points just criticised seem to us in comparison almost trivial. It says: "In cases in which a communicating member of the church shall state in open court that he is persuaded in conscience that he is not converted, and has no right to come to the table of the Lord, and desires to withdraw from the communion of the church; if he has committed no offence which requires process, his name shall be stricken from the roll of communicants, and the fact, if deemed expedient, published in the congregation of which he is a member."

The attempt has been made several times in General Assemblies, (as in 1848 and 1851,) to establish this most sweeping, mischievous and un-Presbyterian usage, which it is here proposed to legalize. It has been argued that discipline cannot be the proper means for getting such a member out of the church, because there is no "offence" for which to discipline him; that if this unregenerate church member were to come to the communion, while conscious that he had not the preparation of heart, he would be guilty of hypocrisy and profanity—and we may not discipline, that is, *punish* a person for not doing that which would have been a heinous sin, if done; that the candor and honor of such persons, in resigning a name which they feel themselves unworthy to wear, deserves praise rather than censure; that many young persons are hurried into the church in times of religious excitement by imprudence of Christian friends or even church officers, and by their own inexperience, and these ought not now to be punished by an odious brand of church discipline, for an indiscretion involuntary, and mainly due to others. Such are the arguments which have been plausibly and eloquently urged more than once on the floor of the Assembly. Let it be remembered, also, that the same respected brother who acted as Chairman of this Committee of Revision, when Chairman of the Assembly's Committee of Bills and Overtures, in 1848, advised the Assembly to adopt the same principle which his Committee has now sought to embody in our Revised Discipline. The Assembly then refused to follow his advice; we devoutly hope

that it will do so again. We recall this, not to cause *odium*, but as a piece of history, instructive and appropriate in the premises.

But when we turn to the Princeton Review, we are—we must be pardoned for saying it—amazed both at the arguments advanced, and the *slightness* with which so important and extensive a revolution is dismissed. The discussion occupies *nine lines*, and is composed of the following reasons: that “ hundreds of such cases are occurring from year to year,” (as though a bad practice ought to repeal a good rule, instead of the good rule’s abolishing the bad practice;) “ that no man should be coerced to violate his conscience,” and that, “ the church is so far a voluntary society that no one can be required to remain in it against his will;” (remarks which would have some relevancy, if it was proposed that Church Sessions should coerce a man to commune when he knew himself unfit—whereas, the duty enjoined is *to become fit* by obeying the great command to believe; and if Church Sessions wielded for this purpose civil pains and penalties, instead of merely spiritual means); and that “ he should not be visited with ecclesiastical censure simply for believing that he is not prepared to come to the Lord’s table;” (a statement which we will correct in due time.)

On the other hand, it has been solidly argued in the Assembly, that church membership is an enlistment for life, and should be an indissoluble tie; that this permission to throw off the bond at pleasure would teach most low and ruinous conceptions of the nature of the church, and the sacredness of the union to her, as though it were little more than a Debating Society, or an Odd Fellows’ Club; that the proposed policy places the Presbyterian Church on the same level as the Methodist, in opening a wide “ back-door” for the escape of those loose and heterogeneous accessions which the genius of Methodism approves, whereas our institutions repudiate them; that the person desiring dismissal to the world might be mistaken in condemning his own spiritual state, because of melancholy or Satanic temptation, (as many humble Christians have been;) and that, if the consequences of entering the com-

munion of the church unconverted seem mortifying to his pride, that false step was his own, and no one else can so justly be held responsible for it. But these reasons, while just, do not display the full force of the objections. We argue farther : First, That this permission once granted to Church Sessions in form, there will be nearly an utter end of church discipline. Backsliding members, who have just committed some disciplinable offence, will come to the Church Session before the rumor of their wickedness has become flagrant—state, with a gentlemanly *nonchalance*, that they have concluded they were mistaken as to their conversion, and demand to be instantly “ *marked-off*.” Oftentimes others, who are conscious of a growing love for sin, and purpose to yield to temptation, will take the same step in advance, by way of preparation, and thus we shall have the holy and glorious kingdom of our Lord Jesus Christ degraded almost to the level of one of those vain Temperance Societies, which unprincipled men join in the Summer, and from which they remove their names in December, preliminary to their “ Christmas spree !” In many cases transgressors will be allowed to evade discipline in this way, even after their offences have become quite flagrant, for discipline is painful and invidious work; and those who know Church Sessions know that they will often yield to this strong reluctance, and get rid of the troublesome member in this shorthand way. They will be able to say : “ Well, the man demanded leave to withdraw, and our Revised Discipline makes it obligatory on us to grant it, where the member says he has no new heart. We did indeed know that there were some rumors of immorality; but we had not such authentic evidence as would justify the commencing of a process in due form; under these circumstances we did not feel authorized to refuse his demand, and now he is out of our power.” Let this article be made the public law of our Church, and we fearlessly predict, that in due time the righteous and sacred fear of the rod of discipline will be unknown among us, except in rare cases. In all conscience it is rare enough now, without this new door for laxity.

But secondly; we utterly deny the position on which the

whole plausibility of the opposing argument rests; that there is no “offence” for which to discipline such a moral, candid person, confessing his unregenerate state. What, is there no sin when he is disobeying that command—“This do in remembrance of me?” It is forgotten that this person’s disqualification for communing is not an involuntary, physical disqualification. Men speak of it as though it were something like a broken leg, or a chain, which kept them away from the Lord’s table. But whose fault is it, that the unconverted member has not the proper state of heart to approach that sacrament? Whose but his own? Said Christ, “And *ye will not* come unto me that ye might have life.” That the person has not the proper affections to come, is his sin; his great parent sin. And shall one sin be pleaded as justification for another sin? If a man commit the crime of brutifying himself with ardent spirits, shall he plead that sin as apology of the second crime of doing some brutal act, while in that state? Both human and divine laws say, no!

Is there, then, no sin which is disciplinable, because there is no overt immorality, when the man has himself confessed the great, the damning sins, of being unwilling to believe and trust Christ,—thus making God a liar; (I John, 5: 10;) of feeling no gratitude and love to a lovely, dying Saviour,—which is equivalent to a profession of ingratitude and indifference; and of entertaining no desire whatever to be released by Christ from his depravity and rebellion,—which is the same thing as saying that he would rather be depraved and a rebel than not? But these feelings of trust, gratitude, love, desire for holiness, are just the feelings which would fit him to commune; the absence of them is voluntary and active wickedness towards God. Shall the Book of Discipline teach that unbelief and enmity to Christ are not sins? Not so teach the Scriptures. They say that unbelief is the sin, because of which sinners are condemned already by God, (John 3: 18;) that when the Holy Ghost comes to the heart, he convinces it of sin, because it has not believed on Christ. (John. 16: 9.) This, then, is the great mother sin, “the head and front of our offending.” But perhaps the ground may be taken, that while unbelief, absence of love to

Christ, impenitency, are sins, even great sins, they are not of the class of *disciplinable offences*; but, like various Christian imperfections, ought to be dealt with only from the pulpit, and in other teachings. We reply, that the church judges it proper to *keep out* from her communion a whole world of professed transgressors for this very sin ; it were strange if the same sin inside her pale cannot be properly punished by *putting out* the transgressor. The Princeton Review, in introducing the Revised Discipline to notice, states and defends, with eminent propriety, the distinction between sins which are not, and sins which are, *disciplinable offences* for a church court. In this sense, as it teaches, all sins are not “offences;” and it sums up by saying : “ It is only those evils in the faith or practice of a church member which bring disgrace or scandal on the church, as tolerating what the Bible declares to be incompatible with the Christian character, which can be ground of process.” Are not avowed impenitence and unbelief incompatible with Christian character; and does not their tolerance in communicants “ bring disgrace or scandal” on the Romish and other communions, which formally allow it, in the eyes of all enlightened men? They are, then, a disciplinable offence. But hear St. Paul, (1 Cor. 16 : 22:) “ *If any man love not the Lord Jesus Christ, let him be Anathema, Maranatha.*” Here we have the very formulary of excommunication pronounced; and it is against the man who “ loves not the Lord Jesus Christ:” that is, just the man who, in modern phrase, avows himself as “ lacking in the suitable qualifications for the Lord’s Supper.”

The church, we hold, is solemnly bound to teach the same doctrine in her discipline which she preaches from her pulpits; otherwise she is an unscriptural church. She is bound to testify by her acts, as well as her words, against that destructive and wicked delusion, so prevalent, in consequence of the wresting of the Doctrines of Grace, that because grace is sovereign, therefore the failure to exercise gracious principles is rather man’s misfortune than his fault. It is this dire delusion which hides from men the sinfulness of their hearts; it hath slain its ten thousands. With what consistency can the pulpit

proclaim that unbelief is sin, and then send forth the same pastor into the Session Room, to declare to the misguided transgressor, in the tenfold more impressive language of official acts, that it involves no censure, and that its bold avowal is rather creditable than blameworthy ? Shall not the blood of souls be found on such a session ?

Now, it is true, that to make a hypocritical commemoration of the Lord's death, without either faith or repentance, is a greater crime than the open avowal of the sin of unbelief. But this is far from proving the latter no sin. We grant that he who candidly owns the wicked state of his heart, and refuses to perform a hypocritical deed, acts far less criminally than he who simulates love and faith, while feeling none, and " eats and drinks damnation to himself;" but this is far from granting that he does rightly. By his own showing, he is candid in avoiding pretence ; but he is also disobedient and unthankful. He is not a secret traitor; but he wishes to be an open, armed rebel. He is not indeed a Judas, but he is an unbelieving, hostile Caiaphas. Shall we still be told that we cannot discipline him, because he has done nothing wrong? Here, then, is the Scriptural ground on which to judge his case. He is a member of the visible Church, and under its jurisdiction, probably by the valid act of his parents, and certainly by his own voluntary act. It may be he acted heedlessly, indiscreetly, in subjecting himself; yet it was his own free act. Let him then be dealt with for the *sin of unbelief*; that great master sin, that parent sin, that sin so purely voluntary, and so decisive of unconverted character. He has avowed it; let him then be treated as a man who confesses a disciplinable offence.

Here it may be objected, that whatever the Bible may decide of the voluntariness and sinfulness of unbelief, no unregenerate man thinks thus of it; and therefore the unconverted church member in question, and all other men of the world, will be filled with indignation at what they conceive to be unreasonable punishment; and thus the Session will not be upheld by that " approbation of an impartial public," from which their discipline (a power only moral and spiritual) must

derive a large part of its force, according to the Book of Government itself. We reply that it is only an evangelical public opinion which is to be regarded by the church with respect. God forbid that the kingdom of Christ—that sacred and majestic commonwealth, which is appointed to be, in all ages, the exemplar and defender of immutable righteousness—should become a truckling trimmer to every wicked caprice of unsanctified opinion and prejudice. Let it be hers rather to control, enlighten and elevate public opinion, by the consistency and moral courage of her teachings and acts. But we reply again; that in the case under discussion, the fact that *discipline* is administered is not at all incompatible with the making of such differences, in the mild and paternal character of the proceedings, as the true character of the case justifies. The Session, if it is reasonably prudent, will remember that the sin of unbelief, in a moral man, implies none of that social degradation which applies to swindling, or falsehood, or unchastity; and they will throughout deal with the unhappy man so as to relieve his feelings from the bitterness of this misapprehension. When they hear that he absents himself from the Lord's table, they will indeed cite him. But a *citation* from a pastoral body is not necessary a peremptory document, denouncing contingent shame and wrath, sent forth to drag the reluctant culprit trembling to their bar! Why may it not be a true citation, and yet say in substance, with pastoral affection, that the Session, his true friends, tender and forbearing, see this ground to fear that his soul is not prospering; and therefore, in loving anxiety for him, ask an interview, and a candid statement of his feelings? Then, after all proper care to discover that the person is not one of God's feeble lambs, who is writing bitter things against himself because of a morbid conscience, or Satanic bufferings, the next step should be to urge on him, with all a pastor's loving fidelity, the gospel offer; to show him how the unfitness for the Lord's table which he has avowed, is his sin, which it is his duty to forsake at once, and from which it is his privilege to be at once delivered by the Saviour, if he will only believe. Then at length, if he persists in declining to accept Christ, he should be solemnly

but tenderly instructed of his guilt and danger, and the Session should do judicially, on the ground of his own avowal, what he had requested, except that they should *debar* him from the Lord's table until repentance, instead of giving him *license to neglect it*. But if the person were amiable and moral, it would be proper to spare his feelings the mortification of publishing his suspension from the pulpit, as the Book of Discipline expressly authorizes judicatories to do. Being informed of the issue himself, he might be left to publish it by his visible absence from the Lord's Supper. In no case should a Church Session proceed against such a case, to the extreme of excommunication, unless the person inculpated added to his confession of unregeneracy, contumacy or crime. As long as his demeanor was moral and respectful to Christianity, he should be only remanded to that condition of religious minority, self-suspended by unbelief from sealing ordinances, in which the Assembly has decided all impenitent baptized persons stand. Some one may say that a judicial process, thus conducted, comes practically to the same thing with the course recommended in the Revised Discipline. We reply, that it is as truly devoid of unrighteous harshness; but that it has this vast difference and advantage : It is faithful to the Bible theory of the church and of the Gospel.

The last remark may suggest a further objection to the provision of the Revised Discipline. It says of the impenitent member, " his name shall be stricken from the roll of communicants." But such applicants would almost universally consider that the transaction made a final end of their church membership, and of the jurisdiction of Pastor and Session. This, indeed, would usually be their object in making the application. We should be sorry to believe, indeed, that it is the meaning of the Committee of Revision. Yet surely it is an objection, that this summary dismissal from the communion should be misunderstood by the party himself, as it usually will be, as a *dismissal from the church*. But to what other body can he be dismissed ? There is but one other, the kingdom of Satan. The Revised Book itself says that " all baptized persons are church members;" and such they must continue

until their membership is severed in a legal way. Now, is it right to take this moral person who, according to the reasonings of those we oppose, has just signalized his candor, and his reverential respect for the sacraments in a very pleasing manner, and make this the occasion for giving him up to the jurisdiction of Satan, and of repudiating all that watch and care, and pastoral instruction, which the church has hitherto exercised towards him? Is it lawful for the church to do this? Does she not neglect her charge therein? While it is lenient in seeming, it is in fact a far greater severity than regular discipline. In a word, the whole conception of church membership, on which the proposition is founded, is incompatible with the Presbyterian theory of the church. It might be in place in the Discipline of some society which combined the principles of the Independents and Immersionists.

Chapter 7.—Of witnesses. The only important change in this chapter is the making of the *parties* to a judicial process *competent* witnesses, leaving the degree of their *credibility* to be decided by the judicatory. The other alterations are chiefly those of condensation, and seem to be, in the main, improvements; as when the seventeenth section (Revised Discipline) states, in a few lines, with sufficient distinctness, the cases in which, and conditions on which, new testimony may be introduced, which in the present Book are expanded with unnecessary minuteness into a whole chapter; (the ninth.) To return to the point first mentioned: several secular judicatories have introduced of late the usage of allowing parties to testify, and with seeming advantage. The old argument against it must be admitted to have some force; that it is too severe a test and temptation to be applied to poor human nature, to bear witness in its own behalf. But on the other hand it is urged, with solid force, that it seems very unreasonable in a court to go every where else hunting up testimony about a transaction, except to the two men who knew all about it, meantime silencing them. Two remarks may be made in confirmation of this: First, that the secular Courts of Equity, or Chancery, in England and America, (to which a spiritual court ought surely to approach nearest in the spirit of its jurisprudence,) have, in many cases,

adopted this principle from time immemorial. The parties at Equity file their declarations under oath; because the judge is supposed to allow them some degree of credibility, according to their sincerity, as expositions of the state of facts. It is true that these declarations are popularly supposed to be attended with a good deal of “hard swearing;” but the tendency of self-interest to falsify is powerfully checked by the knowledge of the fact, that the other party is also at liberty to introduce all the testimony he can get, and that, if any part of the declaration is proved false by this evidence, the credibility of the whole is damaged.

Secondly : According to our present Book of Discipline, the exclusion of the parties from the witness-stand may sometimes most unreasonably defeat justice, when one of the witnesses is compelled to act as accuser, so that only one other is left to testify, while the Book requires two. It seems to us improper, however, to make it the uniform law, that all parties shall be compelled to testify; for in some cases a man might thus be compelled to testify against himself, an abuse repudiated by all liberal legislation. The fifteenth section (in present Book sixteenth) provides that a church member summoned to testify may be censured for his refusal to obey. It would be well to introduce a clause, here or elsewhere, excepting persons appearing as defendants in a cause, from this censure for refusing to testify. Otherwise, misunderstanding may arise.

Chapter 8.—We come now to the eighth chapter, corresponding with chapter seventh, in our present book, which treats of the review, and appellate jurisdiction of superior judicatories over inferior. Here we find some important and questionable modifications proposed. As to their importance, we may adopt the estimate of the Princeton Review, which (in defending them) says: if the third section of this chapter “should be ultimately adopted, it matters comparatively little what becomes of the rest of their recommendations.” In the present book, and the new one, this chapter begins with two prefatory paragraphs : to these the Committee propose to add a third, as follows :

“When a matter is transferred in any of these ways from an

inferior to a superior judicatory, the inferior judicatory shall in no case be considered a party, nor shall its members lose their right to sit, deliberate and vote, in the higher courts.”

This seventh chapter of our present Book of Discipline has been the most common butt of the complaints against our system. Many strong and eloquent pictures have been drawn, (as in the Princeton Review, p. 717,) of the confusions which often arise from appeal cases, of the tedious investigations, complicated questions of order, waste of time in the General Assembly, and extrusion of business of more general importance. We are thoroughly convinced that the hope of finding a remedy for this evil in the present, or indeed in any revision of our book, will be found wholly delusive. That evil is due to the popular constitution, and large numbers of our higher judicatories, and to their inexperience of judicial transactions, not to the defective provisions of our Statute Book. That book is the work of our wisest men, has been already perfected by repeated revisions (the last of which was performed by a Committee embracing Drs. Alexander and Miller, and which labored upon it, not *four or five days*, but parts of *three years* !) and is probably as wise as it can be made. The true remedy is probably to be found in an amendment of our Book of Government, constitutionally admitting compact judicial commissions in our higher, or at least our highest courts. But much of the evil is inevitable. *We are yet to find the place, or the court, where judicial investigations are NOT tedious, laborious and intricate* ; unless, where a summary tyranny cuts matters short by disregarding rights, and running a fearful risk of injustice. But we proceed to remark :

In some cases at least, the inferior judicatory *is* and *must be* a party before the superior, when appealed from ; and in every case it assumes necessarily so much of an interested attitude, as to make it unfit to sit, deliberate and vote, in the courts above, to which the appeal is taken. Suppose the new chapter concerning “ cases without process” adopted ; and suppose an appeal or complaint taken against such a sentence ; or suppose an appeal from a conviction on “ common fame ;” who, we pray, is the “ other party ?” unless it is the judicatory

pronouncing the sentence ? There is no accuser : or, if the prosecution is on “ common fame,” the accuser is imaginary; the real accuser is the prosecuting Committee, which is nothing at all except it is the representative of the judicatory that appoints it. There is *nobody* in the case at all except the defendant and the judicatory; and as there are presumed to be two parties, the latter *must be* one. We have already seen the thin evasion by which this obvious truth is attempted to be hidden. The Revised Discipline provides that in these classes of cases, if there is an appeal, the judicatory shall appoint somebody to play the part of “ appellee;” but we trust it was made plain, that either this fictitious “ appellee” must appear as the representative of the lower court before the higher, or his appearance is wholly absurd. But if the former view is true, then the court appealed from is, in reality, a party to the appeal, and appears by its counsel.

The very conception of an appeal or complaint makes the court below, to a certain extent, a party. When the individual who was cast, appeals or complains—*against whom*, we pray, does he appeal or complain ? Not, surely, against the accuser, (where there is a personal accuser.) The complaint is *against the judicatory which cast him*; as he conceives, unjustly. And when his appeal or complaint is “ entertained” by the higher court, what is the thing which is investigated ? Is it not the *sentence passed below* ? The body appealed from or complained against, the body whose that sentence was, is surely then a party to the question. This follows inevitably from the nature of an appeal or complaint. If we inquire what is the object of the appellant, the nature of the process appears yet more strongly. The whole motive of his process is, to remove his cause to the jurisdiction *of other judges*. He considers the judges of the lower court as incompetent, unfair or prejudiced, to some extent; and, therefore, he appeals to the other judges, in order that he may avoid the injustice which he conceives himself as suffering in that lower court. Now, what a mockery is it to appoint him in part (perhaps in large part) the same old judges! It is an intrinsic absurdity in the view of common sense. Nor is it relieved by the feature which distin-

guished Luther's course, when he appealed from his Holiness the Pope *ill-informed*, to his Holiness the Pope *well-informed*. For, according to the provision of the Revised Discipline, (as well as the old); these judges judging the appeal against themselves are not conceived of as any better informed; they are forbidden to take into the account, at the second hearing, any thing additional to the first record. Once more : let us suppose a case cited by the Princeton Review itself, for an opposite purpose, indeed " A Session finds a man guilty. The Presbytery reverses that decision. The Session appeals to Synod. Here the Session and the Presbytery are the parties. The Synod may reverse the judgment of the Presbytery. Then the Presbytery appeals, and the Synod and Presbytery become the parties before the Assembly." This, objects the author, would be the case under the present book. But how can it be otherwise, in fact, we ask, under any book ? When the Session appeals against the Presbytery which has reversed its sentence, against whom is its quarrel waged on the floor of the Synod ? Against the Presbytery. This is inevitable. And if the Presbytery appoints some " appellee" to answer the Session's appeal, he answers it *in the Presbytery's defence*. This is the fact, blink it as we may by a fictitious arrangement.

The Princeton Review presents four arguments against the present book, where it treats the court appealed from as a party to a limited extent before the court above, and excludes them from a vote on the re-adjudication. In briefly discussing these few heads, we shall be able to present the remainder of what we have to say with sufficient method.

First, It is urged that it is very unfair and unjust to assume, as our present book does, that a judge must become a partizan by sitting upon a cause; and secondly, that his having judged it once does not disqualify him, but rather prepare him better for sitting on it again. If our present book, we reply, assumed that Presbyterian Ruling Elders and Ministers are usually so wicked that they would sit the second time with hearts consciously and sinfully prejudiced to reject all amendment of their verdict, though seen by themselves to be wrong, this would be very harsh. But what the book assumes is this obvious truth,

that good men are infirm, liable to unconscious prejudice and pride of opinion ; and, for whatever reason they may have decided once, in a given way, liable, *for that reason*, to decide the same way a second time when the case is presented on the very same *data* as at first. But the nature of the appeal (in the Revised Discipline just as in the old), necessarily requires that nothing shall be admitted into the discussion but what is in the record of the lower court. If any man denies this as a true description of human nature, or as too derogatory, he will find very few practical men concurring with him. But again : the very nature of the appeal is, that the party cast desires a new trial *by other judges*. In securing the right of appeal, the constitution grants this desire. See the first paragraph of the chapter in either the present or revised form. The constitution, therefore, excludes the lower court from sitting again, not because it would brand them as prejudiced partizans, but because the defendant has asked for *new judges*, and the constitution has determined to gratify him.

In the third place, the Princeton Review urges that the usage of our present discipline is, in this respect, contrary to that of most secular courts in our country. It is said that, in no secular court of appeal are the judges of the lower court “arraigned before the higher court, and made to defend themselves for having given a certain judgment.” And the appeal, it is asserted, is “often reheard by the same judges associated with others.” Of the latter assertion, we remark first—that in the courts of appeals in most commonwealths, and in the courts to which the most of the interests of citizens are referred, the judges of lower courts appealed from have no seat at all. In some, at least, of the United States, the Judge of the Circuit Courts of law is *expressly forbidden* to sit on the hearing of an appeal from his decision, in the District Court of Appeals, which is composed, for the rest, of Circuit Judges. Different and superior judges, in the majority of cases, wholly compose the higher court. This is the rule ; the opposite is the exception. Again : in the exceptional cases in which judges assemble from their circuits into a general court, to hear appeals from one or another of their own body, the court

appealed from forms an exceedingly small part of the superior court appealed to. As the Princeton Review remarks, rather suicidally : “ Often the appeal is from a single judge to a full bench;” so that the vote of the judge who has already adjudicated the case forms a very small, and comparatively unimportant element in the second decision. But, after all, in nearly all civil courts of law and equity it is *a jury*, and not the judge, that decides upon the issue made up in the case. Let us run the parallel fairly, and we shall make the moderator of the judicatory correspond to the judge in the secular court, while all the other members of the judicatory correspond to the jury. Who would ever dream, in any civil court in America, of suffering the same *jurymen* to sit in the new trial of a case? “ When a new trial is granted, if there is no change of *venue*, at least a totally new jury is impanelled. Not one of the old jury is allowed to sit. The judge may be assumed to be dispassionate, for he has been the mere umpire of the debate ; he has not passed on the issue at all. Again : when a jury is formed to try a man accused of crime, each man of the *venue* is questioned solemnly whether he has formed *and expressed* an opinion as to the guilt or innocence of the accused. If he declares that he has, he is dismissed. The law assumes (most properly) that human nature is such that the mere expression of an opinion, much more its deliberate utterance after full examination, creates at once some bar, unconsciously, yet truly, to the equal admission into the mind of lights for, and lights against, the conclusion formed. But the judicial function is a sacred one—and, therefore, perfect *dispassionateness* is the essential qualification of all who sit as judges. From all these facts we argue, that the usage of civil courts is against the Princeton Review; and that, in the general, it expresses the obvious principle of common sense, that an appeal should not go to the same judges. But now note, that in every case, according to our Book of Government, the lower court is represented in the court next above, and in most cases largely represented. Here, then, is the overwhelming, the decisive answer to this whole doctrine of the Revised Discipline ; that it is every way probable the lower court appealed from would,

in many cases, have a controlling majority in the court appealed to: so that, if they were allowed to sit, the right of appeal would be virtually disappointed ; the case would be re-adjudicated by the same votes. The author in the Princeton Review, with a singular fatality for adducing instances destructive to his own argument, has on page 710 supplied us with just such a case. We complete his statement a little, so as to make the following supposition : There is a Synod composed of one large and two or three small Presbyteries. In the large Presbytery a case of discipline is adjudicated, and the party cast appeals to Synod. The meeting of Synod either takes place within the bounds of this large Presbytery, or else the interest of its members in this litigation carries the bulk of them to the Synod. A Synod's quorum *may be* constituted of three members from one Presbytery, three from a second and one from a third. Suppose in this case three from the second, one from the third, and quite a full representation from the large Presbytery, instead of only the *minimum* of three. Where now is the appellant's new trial ? It is substantially the same court; the same majority which has already condemned him is still overwhelming. Let us suppose another case. There is a small Presbytery of few and scattered churches. An appeal goes up against the Session of one of its more important churches. The moderator and delegate of that Session sit in Presbytery, and though there is a constitutional quorum, the only other members may be two ministers, of whom one is moderator; so that the vote in the upper court is two against one. " If the pastor and elder were required to withdraw, no quorum would be left!" True : but the injustice of this mockery of an issue to the appeal would at least be arrested and suspended. It has long been the glory of our Republican Church discipline, that it gives the best possible guarantees to protect its humblest member against injustice. Our intelligent laity will naturally regard this feature of the Revised Book as an infringement of their rights, and as the introduction of a new element of power, anti-republican in its nature. Is it so that the minister or layman who conceives himself as unjustly condemned by a Presbytery, is to be deprived of that privilege

of a freeman, carrying his rights before different judges; and that this Presbytery shall still (in part) be his masters to the end, whether he consents or not ?

To the plea that no civil court of review arraigns the inferior judge appealed from before it, to defend the sentence he had pronounced, we reply : Neither does our present book “ *arraign*” the lower court before the upper, or treat it as “ *on trial*” in the same sense with the culprit it had convicted. This is an exaggerated statement of the case. The upper court does what common sense requires ; it extends to the lower court which has already examined the case, the courtesy and the right of explaining and enforcing its grounds of decision, before the final judgment is pronounced which is to affirm or reverse it! Only to this extent is the lower court “ a party.” So obvious is the reasonableness of this courtesy, that we presume in those civil courts where “ the appeal is from a single judge to a full bench,” that judge is, as a matter of politeness, if not of established usage, invited to explain his decision before his brethren vote. But more : the authority of church courts is only spiritual. The only sanctions they administer are moral, and their force is chiefly dependent on the confidence and approval of a sanctified public opinion. The circuit judge of law cares comparatively little whether his judicial accuracy be often discredited by the adverse decisions of a court of appeals ; for he has the strong arm of force, the terrors of jails, whipping posts and sheriffs, to enforce his authority. But the church court has nothing but the moral support of public opinion. How much more important, then, that the decisions of a lower should be closely scanned, and yet not rashly discredited, by the reversals of a higher court ? Its reputation for fairness is a sensitive and precious thing. More than dollars and cents is concerned in it—even the honor of Christ and his cause; hence the high propriety of allowing the court appealed from to justify their decision to their brethren before they pronounce on the case. This right and privilege the Revised Discipline proposes to abolish. Again : according to our present Discipline, the reversal of the higher court *may* imply censure on the lower court. (Chapter 7, section 3, § 13.)

Nobody will dispute, that, if this provision is to stand, the court appealed from *must* be allowed to appear as a party to this extent—*i. e.*, to defend their own decision before the appeal is “ issued.” It would be wickedness to refuse it; for it would be judging men unheard. The Committee of Revision have, indeed, expunged this section, in their zeal to propagate the pet idea, that the lower court is in no sense a party when appealed from ; but in doing so, they have exceedingly erred. For all agree in asserting the general principle of *responsibility of a part to the whole*. See this admirably expounded as one of the essential features of Presbyterianism, in Dr. Hodge’s discourse on the Church before the Presbyterian Historical Society. To deny this is to repudiate Presbyterianism. The superior court may not resign the right and duty of censuring the unjust sentence of the inferior court, if it deserves censure. Now, we beg the reader to note, that the *mode* known to the constitution of our church, in which the higher court judicially reaches a judge sitting in the lower court to censure him for his unrighteous judicial acts, is through this very chapter on General Review, Control and Appeals. It has been said that a civil court of appeals does not consider the judge below who is appealed from, as arraigned before it, to defend the righteousness of his decisions. “ We reply, no : for a very good reason ; that the civil constitution provides a regular mode of *Impeachment* before a different tribunal, for reaching the unrighteous judge. But, in our Church Government, our mode of impeachment is practically to be found in the provisions of General Review, Appeal and Complaint. These are our forms of enforcing judicial responsibility. Hence the appeal or complaint *ought* to bring the sentence from below under a liability to censure, if wrong ; and hence again, the lower court *ought* to be first heard in defence of it.

The fourth objection of the Princeton Review is, that “ the present plan is cumbrous and almost impracticable.” A picture is then drawn (which must be acknowledged to be striking, whatever its justice), of an appeal or complaint, commencing in the Church Session, and going up ultimately to the General Assembly, where at length it appears with the original

accuser and respondent, the Session, the Presbytery, and the Synod as parties, all in a *general muss*, and inextricable confusion. To one, who has studied our present Book of Discipline, and is familiar with the legitimate routine of appeal cases in our Church Courts, this picture so obviously appears a caricature, that he can scarcely credit the gravity of its limner. If we look into the provisions of our present Book, we find that, in defining the order of proceedings for issuing an appeal or complaint, and in all other places, the *judicatory* appealed or complained against is ever mentioned in the singular number. Nowhere is there one word to indicate that any parties appear before the superior court, except the two original parties, and the lower court from which the appeal immediately comes. The result is the same if we search, legitimate precedents. There is not a case in Baird's Digest, where courts appealed from ever appeared thus in the Assembly, "two or three deep." On the contrary, p. 138, in the case of Abby Hanna, in 1844, we have the very case predicated by the Reviewer; an appeal came all the way from the Church Session, through Presbytery and Synod, to the Assembly. Yet, while the Assembly had all the proceedings of all the subordinate courts read, only the Synod appeared at the fifth; step of the proceedings to justify its sentence. The General Assembly, entertained the appeal only as from the Synod; the sentence of that body alone was before it immediately; the proceedings below were only read for the history of the case. If a superior court has ever acted otherwise, it was only from comity—or by license; not because of any demand of our book.

Let us note here, also, that the supposed necessity for this change, in order to clear up the doubt about the "original parties," is wholly imaginary. That doubt arises among us again and again, not because the Assembly has not repeatedly cleared it up in the most perspicuous manner, by precedent after precedent, decision after decision; not because the language of the Book itself is ambiguous; but only because, in large and inexperienced judicatories, there always are, and always will be, so many members who are heedless, forgetful, or inattentive to the proper sources of information. If the

reader will consult Baird, pp. 138, 139, he will find that the editor has correctly deduced from the precedents of the Assembly, the following principles, which cover all imaginable questions as to who are “ the original parties :”

“ There may be

“ A responsible *prosecutor* and the *defendant*.

“ A prosecuting *Committee* and the *defendant*.

“ Upon a *fama clamosa* case, the *court* may itself, without prosecutor or committee, conduct process against the *accused*.

“ A *subordinate court* under grievance, may enter complaint against a *superior court*.

“ A *minority* or *others* may complain against the action of a *court*.

“ A process may be conducted by *one court* against *another*?

“ Whatever aspect the case may afterwards assume, at every stage of its process to final adjudication before the highest court, the parties above specified are the original parties in the cases severally—*minutes passim*.”

The Princeton Review has waxed so emphatic as to style the complications which it describes as “ this Upas tree;” an application at which we fear the dignity of that respectable old rhetorical fiction will be somewhat hurt, as being scarcely a *nodus vindice dignus*. But we suggest that a moderate attention to these precedents already existing, and collected so conveniently for use by Mr. Baird, would have been sufficient to cut down the tree, or even to “ eradicate it, root and branch,” without making such extensive havoc among our good old laws in the effort to come at it.

Chapter VIII : Section III.—This section treats, as in the present Book of Discipline, of the management and effect of appeals. All the modifications of any moment proposed by the Committee in this particular, are indicated in the first paragraph. In place of the present definition, which describes an appeal as “ the removal of a cause already decided from an inferior to a superior judicatory by a party aggrieved,” the Revised Book begins thus :

“ I. An appeal is the removal of a case already decided from an inferior to a superior judicatory, the peculiar effect of which

is to arrest all proceedings under the decision until the matter is finally decided in the last court. It is allowable in two classes of cases. 1st. In all judicial cases, by the party to the cause, against whom the decision is made. 2d. In all other cases when the action or decision of the judicatory has inflicted an injury or wrong upon any party or persons, he or they may appeal; and when said decision or action, though not inflicting any personal injury or wrong, may nevertheless inflict directly, or by its consequences, great general injury, any minority of the judicatory may appeal.”

The reader will bear in mind that a complaint (which is allowed by the present book to any one who disapproves of any of that class of decisions described under the second of the above heads) does not suspend immediately the operation of the decision complained against, while an appeal does. The practical question therefore, is : Should we grant the privilege of arresting the operation of such decisions as would come under the second head, while the recourse is had to the superior judicatory ? The first remark we make hereupon is, that the Princeton Review states the history of this question in a manner calculated to prejudice its fair solution. It says : “ A cloud of obscurity rests on the present book, both as to the cases in which an appeal is allowable, and as to the persons authorized to appeal.” It then proceeds to state that the uniform usage of the Scotch Church, and of our own, for the first hundred years, together with *the necessity of the case*, had admitted appeals to lie in other than judicial cases; but that at length differences of opinion had arisen, and *in one case* the Assembly had decided that appeals can only lie in judicial cases—deciding therein contrary to *all* usage and necessity. Now, the simple statement with regard to what is represented as this one false step of the Assembly, is the following:—Various and contradictory opinions and usage prevailed in our inferior judicatories on this point. In 1839 the sense of the Assembly was definitely sought on this point by a complaint from a lower judicatory; and it was decided by the Assembly that an appeal can only lie in judicial cases, while in all other kinds of decisions the complaint is the proper proceeding. On this

principle the Assembly has uniformly and consistently acted ever since in a number of cases ; as well as all other law-abiding judicatories in our church. This, then, is the *one case* in which the Princeton Review considers the Assembly blundered ! It has blundered on in the same way, with marvelous persistency, for nineteen years. Let the reader remember that as our Book of Discipline stood prior to 1820, no distinction whatever was indicated by it between appeals and complaints. The great men who then revised it introduced new and discriminative language on this subject : (why? unless they intended to establish a distinction,) but the confused usage which had been prevailing for two generations retarded the clear practical establishment of the distinction till 1839. Then, the attention of the Assembly being invoked, it spoke out in terms so unambiguous, that the usage has been uniform ever since. So that, in fact, instead of having “ one case,” “ against *all usage*,” we have nineteen years of usage on each side. It is true that the Princeton Review did strenuously oppose the Assembly’s decision; but we suppose any one will hardly deny to the Assembly the right of settling legal precedents to please itself.

The Assembly, then, for nineteen years at least, has not thought that any cloud of obscurity rests on the present Book in this point. To all, at least, who regard the Assembly’s precedents as of force, the meaning of the book is clear enough. As to an obvious “ necessity” for granting appeals in other cases than judicial trials, the Assembly evidently does not consider that it exists. That is, it is not a necessity founded on natural right, that any body shall have the power of arresting the effect of any decision whatever for so long a time as a litigious spirit can protract an appeal in its passage through all the higher courts. This claim, now dignified with the name of a moral necessity, the Assembly intended most explicitly to refuse. It has been urged that it would be a sorry remedy for the man condemned to be hung, to review his sentence and declare it erroneous, after he had been executed; and so that decisions not judicial, may result in irreparable wrong, unless

the party injured be allowed to arrest their operation by an appeal, while a higher body examines their justice ; because, if allowed to go into force at all, they may produce effects which their reversal cannot repair. We reply: to give to any or every litigious person the power to tie up any or every decision by an appeal, would much more surely work irreparable mischief. The chariot wheels of the church might be perpetually scotched. No human institution can be made to work so perfectly as to render any resultant wrong impossible. All that the wise legislator hopes, or attempts, is to study the *juste milieu*, by which the probabilities of wrong and loss on either hand may be most probably reduced to their *minimum*. Our book, to protect our rights as well as possible, has given us some form of recourse to the highest court, against any and every decision by which we may conceive ourselves or the church injured. To allow us to take this recourse against every sort of decision, in such a form as would arrest its operation for a whole year, might fatally hamper and embarrass important action. On the other hand, there are some decisions of such a nature that, unless they can be held in suspense, their reversal would be a very imperfect remedy of the injustice. The book, therefore, decides most wisely, that the forms of recourse shall be such, that judicial decisions shall be thus arrested, (with three exceptions, section 15.) But judicial decisions are just those in which personal right and church franchise are concerned. No man's membership, office, or fair standing, can be touched without trial ; and if he chooses to appeal, they cannot be definitively injured till his appeal is heard. But these are all the perfect rights which he possesses as a church member. It is therefore proper that the privilege of arresting the decision should cover these, and no others. It has been urged, on the other side, that a pastoral relation might, for instance, be unjustly dissolved ; that in spite of a complaint from the pastor, the pulpit might be declared vacant, and another pastor installed—thus rendering the mischief irreparable. We accept the instance : we reply that it is not a personal franchise of an individual to labor in one particular charge rather than another, contrary to the discretion of the

Presbytery, to whom the constitution commits the oversight of that charge.

Again : we must repose some confidence in the wisdom and justice of the lower courts. Brethren argue for this power in individuals to arrest all their decisions, till a higher court is invoked, as though there was no trust to be placed in them. We assert that, so far from being too rash or harsh, they are almost uniformly too forbearing and considerate; and that the chances of wrong involved in this power are exceedingly small.

And lastly : the most obvious exception may be taken to the generality of the terms in which the Revised Discipline defines the right of appeal. First : in any judicial case the party who is cast may appeal. Next, any party or person who considers himself as directly injured by any kind of decision may appeal. And last, when a minority of a judicatory conceive that any sort of decision causes great general injury, either directly or by its consequences, although it does not in the least injure them, they may appeal. And every such decision is : then tied up, often to the irreparable loss of the church, until it is reheard by one, two or three, higher courts! We beg the reader to remember that the effect of the appeal is peremptory. The appellant, and not the judicatory appealed from, is practically the judge of the question whether the appeal is proper, and should lie until the higher court to which the appeal is taken entertains it. To decide that the injury done is not such as to justify an appeal, is the prerogative not of the court appealed from, but of the court appealed to; and this of necessity ; for unless we give this power to an appeal, it would be a remedy wholly futile. The court appealed from might say : “ We do not consider this a proper case for appeal;” which would be equivalent to giving them the power of saying to the aggrieved party, “ you shall not appeal.” The lower court must therefore bow to the force of the appeal, and submissively stand in abeyance till the higher court has spoken. Let the exceeding vagueness of the terms in the Revised Discipline be considered, together with their vast comprehension, and the reader will see that practically a completely indefinite extension is given to the right of appeal—“ *Any body* may appeal—

from *any thing* which *any church court* may decide.” Such should have been the words of the article ; for then we should at least have had perspicuity. But we foresee that the interpretation of the limits to the right of appeal, as drawn by the Revised Discipline, will produce more confusion and debate than all the mooted points together which remain to be adjudicated by the Assembly in the present book. Here, indeed, are “ clouds of obscurity,” more portentous, bigger with the muttering thunder of tiresome speeches and noisy difference, than any which brood over the other.

The remainder of the Book of Discipline has received at the hand of the Committee few alterations, and they are either minute, or of a beneficial character. We propose, therefore, to detain the attention of the reader no longer than to apologize for the demands already made on his patience, and to close by invoking the serious attention of Presbyterians, and especially of the officers of the church, to the subject. It is high time that they were carefully examining the proposed changes. If they are as unsatisfactory to the majority of our brethren as they are to us, they had better be arrested in the General Assembly. Their recommendation by the Assembly to the Presbyteries, will only prolong the discussion, and at the same time embarrass it, by giving a new element of factitious strength to the new articles. If, indeed, they are strong in the preference and approbation of the majority of Presbyterians, (as we devoutly hope they are not,) then it is proper that they should be recommended and adopted. But, until that fact is fairly evinced by the final decision, candid discussion is the right and duty of all interested. Let us again express, in concluding, the unshaken confidence we entertain in the fidelity and integrity of the Committee. If any word that has been written seems to indicate aught else than a respectful and modest (though sometimes decided) difference of opinion, it is our wish that it had never been written, and that we could detect it, to erase it. The course of the discussion has inevitably led us into frequent notice of the reasonings which the Princeton Review advances in favor of the Revised Discipline. While candor has compelled us frequently to dissent from the

arguments, it also demands our cordial tribute to the dignified, amiable, and Christian tone in which that article was written. If, in these respects, we have not succeeded in imitating it, we must acknowledge that failure as our error and misfortune.

ARTICLE IV.

MORPHOLOGY AND ITS CONNECTION WITH FINE ART.

The royal astronomer, Professor Airy, in a lecture delivered before the Royal Institution, 1850, states that no body of knowledge should be considered a science until the facts and phenomena are referred to their appropriate cause—that the *idea of causation* enters as a necessary element into our conception of a true science. That astronomy, in spite of the beautiful laws established by Kepler, was not a science until the time of Newton, and optics in spite of the beautiful laws established by Newton, only became a science in the hands of Fresnel. In a word, that true science is not the knowledge of the *laws* of phenomena but of the *cause* of phenomena.

Now, this distinction is beyond doubt a just and good one ; but, as it seems to us, pushed much too far by the learned Professor. It is true, indeed, that in physical science, the knowledge of phenomenal laws always precede the knowledge of *causal laws*, and therefore always marks an immature condition of science. But the knowledge of *law* is always science, whether it be formal laws or causal laws—for law is the expression of Divine thought. This is the great and real distinction between science and popular knowledge. But on the contrary it is doubtful, in most cases at least, whether in referring any class of phenomena to their so-called cause, there is any real change in the kind of knowledge; whether it is any thing more

