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*James Thomson*  
*1847*

REMARKS

ON THE STATUS

OF THE

PRESBYTERIAN CHURCH



IN THE BRITISH COLONIES,

ADDRESSED TO THE

Scottish Presbyterians of Van Diemen's Land.

BY JAMES THOMSON,

HOBART TOWN ACADEMY.

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HOBART TOWN;

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THIS ATTEMPT TO ASSERT THE RIGHTS OF THE SCOTTISH  
PRESBYTERIAN CHURCH IN THE BRITISH COLONIES, IS RES-  
PECTFULLY PRESENTED TO HIS ASSOCIATES OF THE COM-  
MITTEE, APPOINTED TO CARRY INTO FULL EFFECT THE  
CONNECTION OF THE PRESBYTERIAN CHURCH OF HOBART  
TOWN, WITH THE ESTABLISHED CHURCH OF SCOTLAND, BY

JAMES THOMSON.

*15th October, 1835.*

At page 7, as an illustration of the sentiments held by the Home Government, regarding the claims and rank of the Presbyterian Church in the Colonies, it is stated that Dr. Lang's memorial was presented to Sir George Murray. This is not correct. Sir George Murray was not Secretary for the Colonies, in 1834. The fact that the memorial was presented to the Secretary for the Colonies in that year is, however, correct; and the answer given to it is as is stated in page 9. The inference deduced from the fact is not affected by this mistake, as to the individual who was Secretary. The line of policy alone is the subject of comment, not the conduct of an individual. The argument is, however, strengthened by this inadvertent mention of Sir George Murray's name, for whilst he was Secretary for the Colonies, the Presbyterians of Sydney forwarded a memorial to him, through the Governor, General Darling, requesting a small salary for a Scotch schoolmaster, to teach the children of the middle and lower classes of Presbyterians in Sydney. They were refused, with the observation, that the Presbyterians had got enough from the Government already. At that time, the Presbyterians received £400 a year, from the Government, and the Episcopalians £18,000. The principle which led to this answer, led also to the answer made to Dr. Lang's memorial—that principle is that the Episcopal is the Established Church of the Colonies, and that the Presbyterian is merely a secondary Church, and ought to be thankful for any small share of favour the Government may choose to bestow.

TO THE VENERABLE THE GENERAL ASSEMBLY OF THE CHURCH  
OF SCOTLAND,

## THE PETITION

OF A COMMITTEE APPOINTED BY THE CONGREGATION OF THE  
SCOTTISH PRESBYTERIAN CHURCH IN HOBART TOWN, VAN  
DIEMEN'S LAND,  
HUMBLY SHEWETH—

That a Congregation of Scottish Presbyterians has existed in Hobart Town for upwards of twelve years, claiming a connection with the Church of Scotland.

That in the year 1823 the Government of Van Diemen's Land made provision for the permanent existence of a Presbyterian Congregation in Hobart Town, in connection with the Established Church of Scotland, by the appropriation of an allotment of land for the erection of a Church for a Congregation in such connection, on which a Church was built by public subscription—that it has since assisted in building a manse, and assigned a parcel of ground to the Congregation, as a burial ground—and that about two years ago, the Legislative Council appropriated the sum of £1,250 of the public revenue, to assist in the erection of a Church, for the accommodation of such of the inhabitants as are in such connection.

That the Presbyterian Congregation in Hobart Town has hitherto existed without a constitution, and is altogether in a very anomalous state, from which circumstance the interests and welfare of the Presbyterian Church have, in many respects, suffered very materially.

That circumstances affecting the prosperity of the Congregation, have lately pointed out the necessity of applying to be brought within the jurisdiction of the General Assembly of the Church of Scotland, without which the stability of the

Presbyterian Church in Hobart Town, cannot be ensured either in doctrine, or in discipline and government.

That, with the view of effecting this object, at a Public Meeting of the Congregation of the Scottish Presbyterian Church in Hobart Town, held on the 20th day of May, 1835, the following Resolution was agreed to by the Congregation :—

“ The grounds on which the proceedings of the last Meeting should be re-considered, being—1st, That two allotments for the Church, and Burial Ground, in connection therewith, were given, by the Local Government, for the purpose of creating an Establishment in connection with the Church of Scotland, as by law established; 2nd, That the Minister of the Church which was erected ten years ago, has been paid a stipend, by the Government, as the Minister of such an Establishment; 3rd, that the grant of £1,250, to assist in building St. Andrew's Church, was made by the Government, in furtherance of the same object; and 4th, that the Congregation has always claimed such connection, Resolved, therefore, that this Meeting do carry into effect, the establishment of this Church, in connection with the Church of Scotland, as by law established, and endeavour to obtain a constitution for it accordingly, so that it may be based upon public principles, and not partake, in any respect, of a private Establishment, which would be most injurious to the interests of the Presbyterian Church in this Colony, and effectually check its growth.”

That this Committee was appointed by the Congregation, and empowered to take the necessary steps to carry into effect the said Resolution, and others, come to by the Congregation at that Meeting.

That in performance of this duty, this Committee now comes before your Venerable Assembly, and humbly and earnestly requests that you will take into your consideration the desire of the Congregation, expressed in that Resolution, and adopt such measures as may in your wisdom seem meet for bringing the branch of the Church of Scotland, existing in Hobart

Town, into full and complete connection with the Parent Church, and for establishing it on such a basis as will bring it within the jurisdiction of the General Assembly of the Church of Scotland.

That the attention of this Committee, since its formation, has been directed to the consideration of the standing and condition of the Church of Scotland in the Colonies, and that one of its Members has drawn up a pamphlet, entitled, "Remarks on the Status of the Presbyterian Church in the Colonies,"—a copy of which this Committee respectfully begs to lay before the General Assembly—from which it appears, that, although the Episcopal Church has hitherto enjoyed favour and support from Government, so peculiar and to so great an extent as to lead to the opinion, that it is the Established Church of the Colonies, which designation it indeed adopts, and assumes the rank and rights belonging to that character, and is acknowledged, as the Established Church of the Colonies, by Government, that the Presbyterian Church in the Colonies has an equal right to the support and countenance of the Legislature and the Government, and has in every respect, an equal status and equal claims.

That, as each Church exists as an established Church, in Britain, only within the limits assigned to it by law, in the Colonies, the two Churches meet on neutral ground, and from the fourth article of the Treaty of Union between England and Scotland, which declares that "there shall be a communication of all rights, privileges, and advantages, which do, or may belong to the subjects of either Kingdom," whatever advantages are conferred upon one Church, out of Britain, can be claimed as a matter of right, by the other.

That there have been passed many Acts of Parliament making provision for the existence of the Episcopal Church in the British Colonies, and for its due regulation in matters of discipline and government; and that, from not being so highly favoured in this, or in any other respect, the Presby-

terian Church is in a less flourishing condition than might be expected from the nature of the population of the Colonies, and is not held in the consideration to which it is entitled, as a branch of one of the National Establishments.

That, as Bishoprics have been established in the Colonies, by Act of Parliament, for the due government of the Episcopal Church, and public provision made for the support of Episcopal Clergymen, it would be no more than justice, and in conformity with the fourth article of the Treaty of Union, that Presbyteries and Synods should, by the same authority, be established with equal privileges and immunities, and similar public provision made for the support of the Ministers composing them—a measure which seems altogether necessary to ensure the welfare of the Presbyterian Church, and to support the honour, and assert the dignity of the Established Church of Scotland.

That this Committee would respectfully state, that by such means, the Church of Scotland might extend its influence over every portion of the British Empire, and form a centre of union to every Colonial Scottish Presbyterian Church, by which not only the interests of religion, and of the Church of Scotland would be advanced, but the affections of a large and influential body of Colonists secured to the Mother Country.

That this Committee, in making an appeal to the General Assembly, of their own and their Fathers' Church, do so in the utmost confidence, that it will be favourably received, and that such measures will be forthwith pursued, as will ensure, not only to the Congregation which this Committee represents, but to all the Presbyterian Inhabitants of Van Diemen's Land, the full enjoyment of every right, belonging to them, as members of the Scottish National Church—and this Committee cannot but perceive that in effecting this object, the General Assembly will be vindicating the rights of the Scottish Church in all the British Colonies.

That for this reason, independent of other considerations,

this Committee looks with the utmost trust to the General Assembly—and relying upon its wisdom and its justice, claims for the Scottish Presbyterians, as a right, belonging to them, the support and protection of the great Council of their National Church.

That this Committee would submit to your Venerable Assembly, that there are at least five or six townships and districts in Van Diemen's Land without Clergymen, where the appointment of Ministers of the Church of Scotland is very desirable, and from the great number of Presbyterian emigrants, that there is a loud call upon the Church of Scotland to make arrangements to provide Ministers for their spiritual welfare; and in support of this statement, this Committee begs respectfully to call the attention of the Assembly to the following extract from a Minute of His Excellency the Lieutenant Governor of Van Diemen's Land to the Legislative Council, 10th September, 1835.

“ The Ecclesiastical and School Establishments are estimated at £14,185 16s. 10d., independent of grants, in aid of the erection of Churches and school-houses.

“ These establishments are altogether inadequate to the wants of the country—more Clergymen, and a larger number of schools, are exceedingly required. It may be observed, that the charges under this head, are in other countries, provided for by local rates, or by ceding a proportion of the produce of the soil; and it is obviously very desirable, that some permanent arrangement should be made, for the support of a department, on which so much depends, and to the importance and usefulness of which, I am glad to perceive, that there appears to be but one opinion, throughout the Colony!”

That this sum of £14,185 16s. 10d., was increased by the Council to £14,455 16s. 10d., of which £450 is appropriated to the support of four Presbyterian Ministers; £5,953 14s. is employed for purposes connected with an Episcopal Establishment of ten Clergymen, and a few Lecturers and Catechists.

and £7656 10s. 4d. to support Orphan and Government Schools in the Colony, exclusively under Episcopalian management and instruction, and the remaining £395 12s. 6d. is afforded to the Roman Catholic community.

That this Committee would humbly suggest, that the General Assembly would materially benefit the cause of religion and of the Presbyterian Church, by using its influence with the British Parliament, to prevent a monopoly of any permanent provision which may be made for the support of religion in Van Diemen's Land, from being enjoyed by the Episcopal Church—which would be altogether subversive of the principle of the equal status of the Churches, and highly injurious to the cause of the Presbyterian Church.

That heretofore the Episcopal Ministers in Van Diemen's Land have been wholly supported by the Local Government, under the direction of the Secretary for the Colonies; and that the principle of the fourth article of the Union points out the propriety of a similar provision being made for the support of Ministers of the Church of Scotland—more especially as, in Van Diemen's Land, so great a portion of the revenue is supplied by the Scottish Presbyterian inhabitants.

That, should the General Assembly, in consideration of the number of Presbyterian inhabitants in Van Diemen's Land, determine to use the necessary measures to establish Presbyterian Churches in the Colony, it will be necessary, in order to ensure the due instruction of the rising generation, and to secure their attachment to the religion of their fathers, that there should also be established a School, on the Parochial School system of Scotland, in connection with each Presbyterian Church, as the Government Schools now existing in Van Diemen's Land are all under the management of the Episcopal Clergymen, and are in many respects inadequate to serve the purposes of education, from the imperfect and limited plan of instruction pursued in them.

That this Committee, in coming before the General As-

sembly, has only fulfilled the duty it owes to the Presbyterian Congregation of Hobart Town; and it fully relies, that the decision come to by the General Assembly, and the measures pursued by it, will so establish the Church in Hobart Town, as will render it altogether unnecessary to resort to any private method of ensuring to that Church a suitable constitution, by which it would be deprived of the advantages, belonging to the members of an Established Church, and placed in a situation, in no respect different from that of Dissenting or Seceding Communities.

That the Episcopal Church in this Colony, by Charter of Incorporation, is empowered to hold Church property, and that its Archdeacon holds the character of an Incorporation, and this Committee respectfully suggests the propriety of a similar provision being made by Act of Parliament, or Royal Letters Patent, by which the Kirk Session or other competent body may be empowered to receive, hold, and convey Church lands and other property; and this Committee also suggests that provision on this, and other matters, necessary to establish Churches in Van Diemen's Land, and to place them on an equal footing with the Episcopal Churches in the Colony, in respect of the permanent provision, contemplated by the Local Government as necessary to be made to support the interests of religion in the Colony, and in every other respect, might be effected in the Act of Parliament, for the due Government of the Australian Colonies, which it will be shortly necessary to pass upon the natural expiry of the present Act.

This Committee earnestly and respectfully entreats of the General Assembly of the Church of Scotland to take these matters into consideration, and to adopt such measures as will obtain for the Presbyterian Church in Hobart Town a Constitution, by Charter or other public Act, for its establishment in connection with the Church of Scotland, and for securing to the Congregation, both Members in communion and Seat-holders, every advantage attending such connection, and to

make such provision as will bring it under the jurisdiction of the General Assembly; and, generally, to use such means as may appear to the wisdom of the Assembly calculated to ensure the welfare and prosperity of the Presbyterian Church and Presbyterian inhabitants of Van Diemen's Land.

(Signed) CHARLES M'LACHLAN,

A. MOODIE,

W. MURRAY,

JOHN ROBERTSON,

HUGH MURRAY,

THOMAS YOUNG,

JAMES THOMSON.

## REMARKS,

&c. &c. &c.

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IN an attempt to shew, that the Presbyterian Church in the Colonies is not a Secondary Church, but that it has an equal station—and equal claims upon the Government with the Episcopal Church, it is first necessary to enquire if the latter is the Established Church of the Colonies ; and if it possesses either the legal status, or the exclusive rights in the Colonies, possessed—in England—by the Church of England, from which it is derived. This is necessary, for the obvious reason, that, if it is so established, and has a legal title to these rights, no other Church can come into competition with it ; and any claim urged in favor of

the Presbyterian Church must consequently fall to the ground.

It is commonly assumed, not only by the Episcopal Clergy of the Colonies, but by the Government, and by the community generally, that the Episcopal Church is so established—and that it possesses all the rights belonging by law to an establishment. The title, *Established Clergy* is adopted as their designation by the Clergy themselves, and is conferred on them by the Government. It is, in truth, looked upon as their proper designation. The use of this title has become so familiar, that the character which the expression is intended to signify, when legitimately employed, is attributed to the body claiming it, as a just and rightful possession; and however unfounded the claim may be, so long as it remains unchallenged, it is attended with consequences, as important to the public, as if the right was full and undoubted.

Those who have been for any length of time in the Colonies, or who know any thing concerning their internal organization and management,

must be well aware of the truth of this statement. It seems, indeed, to be a part of the policy, which has hitherto regulated the system of Colonial Government, to countenance the supposition, that the Episcopal Church possesses all the attributes, and all the exclusive privileges which belong to an establishment, and to act as if its interests alone ought to be consulted, in every point regarding the religious instruction of the people, and the education of the rising generation. Nay, there are not wanting examples to shew, that the existence of the Presbyterian Church is considered a matter to be lamented, as injurious to the interests of religion itself.\*

There are many striking proofs in the history of the progress of the Australian Colonies, that such is the policy of the Government. The circumstances connected with the formation of the Presbyterian Church in New South Wales—the variety of obstacles thrown in the way of its success—the reluctant and parsimonious

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\* See Extract from the "Charge of the Bishop of Barbadoes," in the Appendix.

hand with which any aid was extended to it, and the care taken to let it be understood that this aid was a matter of mere favor, whilst every assistance is given, readily and willingly to the Episcopal Church, shew the feeling existing, that there is a great difference in the station and claims of these Churches. This difference is supposed to belong to the character, and not to the degree of their claim, on Government. Were the degree of the claim alone considered, it might be ascertained by a reference to the number of the inhabitants of each denomination; and the amount of assistance requisite to be given, might thereby be ascertained. But it seems to be considered, that any reference to numbers is uncalled for, and that the Episcopal Church is of such a status—from its being Episcopal—as entitles it to peculiar and exclusive support from the Colonial revenue; whilst the right of the Presbyterian Church to any definite position, is denied, or overlooked. The former in fact is esteemed an Established Church. In the proclamation, indeed, announcing the reception of the King's letters

patent, erecting an Archdeaconry, and appointing an Archdeacon, the Episcopal Church is expressly styled Established. One of the classes of the Colony required to attend to the matters contained in these letters patent, is entitled "the Established Clergy," plainly intimating the understanding existing on the part of the Government of that day, that the character of the Episcopal Church, is that of an Establishment. Such is the understanding still.

The Home Government also, is influenced by the same sentiments. The answer given by Sir George Murray, when Secretary for the Colonies, to an application by Memorial, presented by Dr. Laug, in 1834, sufficiently shews this. The Memorial requested, that an annual sum, not exceeding £150, might be granted for the support of a Presbyterian Minister, in any town or district of New South Wales where the Presbyterians should contribute the sum of £100. Assistance in building such Presbyterian Churches, as the wants of the population might require—equal to that afforded

for the erection of Episcopal Churches, and Roman Catholic Chapels, was also applied for. In addition to these requests, a small salary was requested to be allowed, for the support of a Presbyterian Schoolmaster, wherever a Scots Church should be established. This Memorial was recommended to the favourable consideration of Sir George Murray, by thirty-one of the Scottish Members of Parliament—that is, by two-thirds of the number of Members sent to Parliament from Scotland at that time. Nothing can be more reasonable than the request of the Memorial. The wants of the Presbyterian population were stated. The assistance allowed by Government for the support of the Presbyterian Clergy, was shewn to amount to no more than £600 per annum—whilst the Episcopal Clergy and Episcopal Schools had the annual sum of £18,269 allotted to them out of the public money, and the Roman Catholic Clergy £2,300. This was so striking a disproportion, that it ought of itself to have pointed out the propriety and reasonableness of granting the request of the Memorial. But

this, it would appear, could not be done without consulting the Archdeacon of New South Wales, who was shortly expected in London. And, accordingly, Dr. Lang was informed that the question of religious instruction for the Australian Colonies, would be laid before that gentleman, on his arrival. Thus the Archdeacon, a high Dignitary of his own Church, was appointed practically a Judge in a matter relating to Ministers of a Church recognizing no disparity of rank among its Ministers, and consequently opposed in principle to the system in which he held a prominent place. He was, in fact, appointed a Judge in his own case—and not only so—but in a question where a system was concerned, which he was bound by every possible consideration to support. Where, although as a man he might see the reasonable nature and justice of the request of the Memorial, the principle known by the term *esprit de corps*, could not but come into operation, and influence his judgment and his decision. What that decision was, is not known; but whatever it

was, it argued either a want of knowledge as to the independent character of the Church of Scotland, and the principles it maintains, or a desire, arising from political considerations, to exalt the Episcopal, by depressing the Presbyterian Church. The former supposition is not to be presumed. The latter is more likely to be correct. The sentiments of Sir George Murray, as an individual, are hostile to the assumption of exclusive rights by the Episcopal Church in the Colonies; but the political arrangements over which he presided, required that he should consider that Church as possessing the character and rights of an establishment; and made it necessary to magnify the consequence and office of the Archdeacon, as Chief Ruler over that establishment. It is hoped that the interests of the Presbyterian Church in the Colonies, and elsewhere, are in safer keeping than in the hands to which Sir George Murray would have entrusted them, and that they are built on so sure a basis, that they can bear many a rude shock without being overthrown. And it is not in

this age of enquiry, when every question is brought to the test of the grand principle of right, that the hostility of the powerful can upset a well founded cause. The opposition of men in authority will not check free enquiry, nor prevent a just cause from finally prospering. This proposal to refer the propriety of affording aid to the Presbyterian Church to the Archdeacon, is a satisfactory proof of the light in which the Episcopal Church is viewed in the Australian Colonies, and of the strong desire existing to depreciate the character and depress the interests of the Presbyterian Church. The disparity noticed in Dr. Lang's Memorial, between the assistance afforded to the two Churches, is very striking, and is a strong evidence of partiality and unfairness in the distribution of the public funds appropriated to the support of religion. It requires only to be stated, to satisfy every man that the distribution is not made on the principle of doing the greatest possible good to the public. The Presbyterians form a numerous class of the inhabi-

tants of New South Wales. The terms of the Memorial prevented the possibility of the erection of a Presbyterian Church, and the settlement of a Presbyterian Minister in any locality where there was not a large body of Presbyterians; and the refusal of the assistance requested, was equivalent to a declaration that the interests of this numerous body were unworthy of attention—where Episcopacy was concerned. The distribution is regulated, in fact, more with a view to the advancement of the cause of Episcopacy, than to the advancement of the cause of religion. And the answer of Sir George Murray is founded on the principle, that whatever is done to further the cause of Presbyterianism, is so much subtracted from the just inheritance of the Episcopal Church.

The same system of policy has been followed in every other British Colony. In Canada, in 1791, a large portion of the public lands was set apart by Act of Parliament, for the support of a Protestant Church and a Protestant Clergy. The phrase, Protestant, seems to

have been carefully chosen by the framer of the Act, for it occurs again and again. He seems to have been aware that there would be an objection to the appropriation of so large a portion of the public lands exclusively to the Episcopal Church; and that a question might arise, not only as to the justice, but the legality of making so marked a distinction between the two branches of the Protestant Church, established in Great Britain; and therefore, he used the general term of Protestant Church. In the succeeding sections of the Act, however, the Governor of the Canadas is empowered from this land to endow Episcopal Churches; and from this it is very conveniently held by the friends of the Episcopal Church, that the Presbyterian Church is not to derive any benefit from the provision made by this Act of Parliament, for the support of the Protestant Religion. For many years no Church received any share of this Parliamentary provision, but the Episcopal Church. Every claim was resisted and refused. It may not be so of late years. If the exclusive system

is still continued, it must arise altogether from a want of enquiry as to the right of the Episcopal Church to enjoy exclusive patronage or privileges in the Colonies, and to the erroneous opinion, that it possesses the character of an Established Church. Nothing can be more decisive evidence of the policy of the British Government, regarding the Churches, than this Act of Parliament. By the use of the general terms Protestant Church, and Protestant Clergy, it very warily avoids giving any opportunity of raising the question of the right of the Episcopal Church to exclusive public support; and, in fact, it makes no provision for such support, but it gives the Governor of the Colony power to confer the public land appropriated to the service of the Protestant Church, only on the Episcopal part of it. And thus without raising the question, the purpose of excluding the Presbyterian Church from any share of this public provision, is fully attained. The Act is, in fact, a species of state jugglery, and it served its temporary purpose. It prevented a disagreeable question from

being agitated, and gained the object desired by its framers as effectually as if that question had been decided, in favour of the cause they supported. This is, however, a complete exposure of the weakness of the pretensions of the Episcopal Church to hold the rank of an Establishment in the Colonies, and to enjoy exclusive support. It shews, in the most satisfactory manner, that these pretensions cannot be supported. Who avoids the discussion of the justice of any claim, but he who knows that the claim cannot be supported, and that it will be found a thing of naught, when thoroughly sifted ?

This Act of the Legislature is thus a sort of test by which the claims of the Episcopal Church, and the policy followed respecting it, may be tried. There is no positive expression of its right to enjoy exclusive support ; but yet care is taken that it shall obtain it. By a little dexterity, the Protestant Church and the Episcopal Church are made convertible terms, and without a declaration of the right it is made to enjoy one of the privileges of an

Establishment. Thus it has all along been with the Episcopal Church in the Colonies—it has, by the tacit consent of the community, been allowed to take possession of the station, and to enjoy many of those rights which cannot legally belong exclusively to any Church which does not possess the rank of an Establishment.

Can any evidence be produced, that the Episcopal Church in the Colonies holds such a rank? On what authority are its pretensions founded? Has it any legal claim to be considered an establishment? If it has not, it has none of the characteristic marks belonging to the Established Church of England, to which there is so evident a desire to assimilate it.

In answer to this assertion it may be urged, that an express enactment or legal provision is not requisite to give it the standing and character of an establishment—that it flows from the Church of England—that the stream partakes of the nature of its source—and that the descendant is possessed of the inherent constitutional peculiarities which formed the character of the progenitor. It may be stated that the

laws have created an Established Church in England, and that the ordination of that Church confers upon the individuals who receive it, as a natural inheritance, all the requisites which constitute an Established Clergy, and that the Church, whose Ministers they are, is, in consequence, an Established Church, in every British Colony where it is found. Such, or similar reasons, are probably the grounds on which the opinion is so generally held, that the Episcopal Church is the Established Church in the British Colonies. To ascertain the weight of these arguments, it is necessary to enquire into the nature of the English Established Church, and to ascertain the circumstances on which its possession of the character and rights of an establishment depends. Unless these circumstances are correctly understood, it is impossible to form a just or definite idea of what is intended by the phrase, Established Church of England.

In the early state of Christianity in England, its Ministers had, in most, if not in all respects, the character of Missionaries, and had no fixed

or permanent residence, or place of public worship. When their spiritual offices were required, in any particular locality, they resorted thither, and remained till their duty was fulfilled. They had no fixed provision made either for their temporal or their spiritual necessities. The offerings of the people, made at the altar, or at the collections, or occasionally in the shape of contributions, formed their means of support. But when the owners of landed estates founded Churches, a resident Clergy sprung up, who officiated in these Churches, and received, as the means of their support, an allotment of land, or glebe, and a manse. Besides this, the tithes of the estate, or manor of the builder of the Church, were assigned to the Minister of the Church, and the district thus paying tithes, formed a parish. Hence the parishes were co-extensive, in most instances, with the estates of the builder of the Church. All these—the endowment of land—the manse—the freehold of the Church and Church-yard, and the tithes were vested in the Minister of the Parish, or Parson. To prevent

the possibility of these possessions descending to his heir, it was provided by the law, that the holder of the endowment, in his character of Parson, should never die. This was effected by constituting him, and his successors, a Corporation; so that, in the words of Blackstone, "the present Incumbent, or Parson of a Parish, and his predecessors, who lived seven hundred years ago, are in law, one and the same person, and what was given to the one, was given to the other also."

Such was the provision made by the wealthy and pious of ancient times, for the support of religion and its ministers in England; and such it remains to this day. The lands and possessions thus assigned constitute a benefice. They are the only fixed provision made for the support of the regular services of the Church, and for the maintenance of the holder of the benefice—the Parson, or other Incumbent.

These benefices are all, however, separate and distinct, and the revenues arising from their possession are also separate and distinct. They do not furnish a common fund for the

support of the Clergy. In his character of a Corporation, each Parson, or other Incumbent, has strictly and exclusively the full right to the enjoyment of all the revenue derived from his benefice.

The lands thus assigned to the use of religion were held by the tenure of Frankalmoigne, by which the Incumbent "was bound of right to make orisons, prayers, masses, and other divine service, for the soules of their Grantor, or Feoffor, and for the soules of their heires which are dead, and for the prosperity and good life, and good health, of their heires which are living."\* By the same description of tenure they are held to this day, but instead of masses and prayers for the souls of the dead, the reading of the Book of Common Prayer was substituted by Act of Parliament, at the time of the Reformation of Religion.

The holders of these benefices form, when spoken of in a collective capacity, the Established Clergy of the Church of England. Each being in himself a Corporation—the Church—

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\* Institutes.

meaning by that word the Clergy—comprehends many Corporations ; but it is not a Corporation in itself. In this sense, the whole body of the Incumbents of the various benefices may be termed the Establishment of the Church of England—as indeed, they in reality form that Establishment. To belong to that Establishment, the possession of the orders conferred by a Bishop, is not the only requisite. The possession of a benefice is also necessary. The circumstance of being in orders, according to the rules of the Episcopal Church, does not in itself constitute the holder a member of that Establishment—nor does it necessarily give him any rights or privileges, beyond such as belong to the discharge of spiritual duties, with this exception, that it gives him the qualification necessary to hold a benefice.

There is an ambiguity, it may be observed, in the terms Established Church of England, and Clergymen of the Established Church of England. The Protestant Episcopal Church, according to the provisions of the Act of Uniformity, is the Established Church of England

in one sense, and persons in the orders of that Church, are Clergymen of the Church of England in the same sense; but in another, the Clergymen who hold benefices, taken in a collective capacity, or the mass of the Spiritual Corporations of England, form the Established Church of England, and they alone are properly styled Clergymen of the Church of England. In the latter sense, a beneficed Clergyman may be designated a Clergyman of the Establishment, and one unbeneficed, a Clergyman of the Established Church. A beneficed Clergyman has all the temporal rights accruing to him from the possession of a benefice, and all the spiritual attending his possession of orders. An unbeneficed Clergyman has only the latter. The peculiar rights of a Clergyman of the Establishment, derived from the holding of a benefice, are bounded by his benefice—his spiritual he bears about with him from his character of an ordained person. Distinct from his benefice, the only privileges naturally flowing from his character of an ordained person, are of a spiritual nature, possessed in

common with every other ordained person. To this character may be added, by special provision of the law, the exclusive power of acting in certain specified cases; but the only inherent property of ordination, is wholly of a spiritual nature. The distinction, arising from the possession of Episcopal orders, gives no character of a civil nature, and no possession of peculiar civil rights or privileges. The circumstance of Episcopal ordination gives a capacity indeed for enjoying rights of a peculiar nature, but no more. In England an Episcopally ordained person has not of necessity any peculiar rights. These are conferred by a power altogether distinct from that which confers the Episcopal character, and till that power confers them, they cannot be possessed. In the Colonies this must also be the case. The rights possessed by the Church of England, flow from the benefices, in which they are inherent. These they hold by common law, and not by any legislative enactment.

It is only in the matter of qualification necessary to be possessed by the holders of be-

benefices, that the Legislature has interfered. The rights possessed by the Incumbent are inherent in his character of Parson, and have been always the same. The Legislature has not increased or diminished them. It has, indeed, to meet the circumstances of the times, modified, not altered, the tenure by which benefices are held ; but this does not affect the rights attached to their possession. The reasons for modifying the tenure are obvious. Before the Reformation, all benefices were, of necessity, held by Roman Catholics. The service each holder of a benefice used, was prescribed by the Bishop of the diocese, in which it was situated, each Bishop having the right of forming a liturgy for the use of the Clergy of his own diocese. There was no uniform liturgy for the whole Church. There was the same faith, but a variety of services, all going under the general name of Service of the Church. There was the use of Sarum—of Bangor—of York, and of Lincoln.\* These various uses continued for some time after the Refor-

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\* Burn's Ecclesiastical Law—Public Worship.

mation. By a statute of Edward the Sixth, these divers forms of prayer are complained of as evils, and one general form of prayer was established. This was the first Act of Uniformity, establishing a liturgy for the Church of England. This Act required all holders of benefices to read a liturgy, authorised by the Act, but it made no regulation as to the qualifications necessary to be possessed by the holder. This Act was annulled in Mary's reign, and the Roman Catholic religion and service were restored. The Parliament in the early part of Elizabeth's reign, passed a second Act of Uniformity, restoring the Book of Common Prayer of Edward the Sixth, with some additions, which continued as the Church service till the reign of Charles the First, when, in the year 1643, it was enacted by Parliament, that the Directory should be used in its place. The Presbyterian Church was thereby raised to the rank of the Established Church of England, and held that character till the Act of Uniformity, 13th and 14th of Charles the Second, was passed. This Statute of Uniformity, entitled,

“ An Act for the Uniformity of the Public Prayers, and Administration of the Sacraments, and other rites and ceremonies, and for establishing the form of making, ordaining, and consecrating Bishops, Priests, and Deacons in the Church of England,” enacted, that no benefice, or Church preferment, should be held, except by persons Episcopally ordained, and that the Book of Common Prayer should be used in all Churches and Chapels in England and Wales, under severe penalties. By one of the enactments, all Clergymen who held benefices, were ordered to receive Episcopal ordination, under the penalty of deprivation, before a fixed day—St. Bartholomew’s. In consequence of this, 2,000 Presbyterian Clergymen were deprived of their livings on that day.

The Established Church of England has thus had various modifications and changes—at one time it was Roman Catholic, then Protestant Episcopal—again Roman Catholic—a second time Protestant Episcopal—then Protestant Presbyterian, and afterwards Protestant Episcopal—as it now continues to be. All these

changes have been effected by statute, enacting that the benefices should be held upon certain conditions—that is, declaring the modification of the tenure, by which the Incumbent might legally hold a benefice, with all its rights and privileges; but no additional rights were conferred by any of the Acts of Uniformity, the rights possessed are all inherent in the benefice itself. Nor did these Acts of Uniformity provide any fund belonging to the Church—each benefice is complete in itself—a separate and distinct possession, affording revenue, and giving a title to temporal privileges, only to one individual, its holder. The Act of Uniformity limits its enactments to England and Wales; and as the benefices to which it refers, exist only in England, this was a matter of necessity. Its provisions relating only to the qualifications necessary to be possessed by the holder of a benefice, could not extend beyond the limits of those benefices.

Beyond the bounds of the realm of England, where then is the Church of England? or what exclusive secular rights can be possessed by,

Clergymen in the orders of that Church—merely from that circumstance? The rights belonging to the holder of a benefice, they evidently do not possess—nor have they the fictitious character of Parson, possessed by such holder, attached to their spiritual character. These rights depend upon circumstances, existing only within certain fixed limits, beyond which the rights cannot therefore exist. Any argument drawn from the ordination of the Episcopal Clergymen in the Colonies, being of the same nature as that possessed by Clergymen of the Church of England, goes only thus far, that they are as truly Episcopal Clergymen as their brethren of England; but it gives no title to enjoy exclusive privileges in the Colonies, such as are the privileges enjoyed by Clergymen in England. The privileges and distinctions of the Clergymen of the Church of England exist independently of their Episcopal character; they are derived from their benefices, and whatever privileges they enjoy beyond these, have been created for them by statute—such as the exclusive right of officiating in the ceremony

of marriage. This privilege, like all others, is limited to England; it does not attach to Episcopal Clergymen beyond seas.\* To this there may be exceptions, but these must be created exceptions, for which there must also be statute. The Episcopal Church is the Established Church of England therefore, only because it has been declared by statute, that Clergymen ordained by that Church shall alone hold benefices. It is favoured by the law in England, but this is statute law, and the marks of favour conferred upon it are bounded by limits prescribed by that statute.

The Episcopal Church then in the Colonies, has nothing of the peculiar character of the Episcopal Church of England. The circumstances conferring that peculiar character, do not exist in the Colonies. There are no benefices, no endowments, and no Statute of Uniformity. Whatever be the nature of the position held by the Episcopal Church in these Colonies, it must be very different from that of the Church of England. It is not, it is true,

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\* See Appendix.

requisite that an Established Church should be constituted exactly after the model of the English Church. The law may confer privileges and immunities in various ways, but they must be conferred by law, to give any Church or community a right to hold them. Do any such privileges belong to the Episcopal Church in the Colonies? Has the law in any way acknowledged it, and to what extent? On the answer given to these enquiries, the question entirely depends. The claim to the exclusive character of an Establishment, it has been shewn, cannot be supported by the circumstance of a connection with the Church of England. If there is no other argument supporting the claim, it must be abandoned; and no argument but one resting on legislative authority, will be sufficient, on which to found a claim to be considered an Established Church.

Without peculiar and distinguishing privileges, we can form no idea of an Established Church. Favour may be shewn to a Church to any extent the Government of a country may think fit; and that favour may be displayed by

marks of unlimited bounty, without giving to that Church any such character as that which attaches to an Established Church. "It is to be known," says Herbert Thorndike, Master of Sidney College, Cambridge, and Prebendary of Westminster in the time of Charles II., in his work on the Rights of the Church in a Christian State—"It is to be known, that any religion is made the religion of any State, by two manner of means—that is, of temporal privileges and temporal penalties; for how much toleration soever is allowed several religions, in any State, none of them can be counted the religion of the State till it be so privileged, as no other can be privileged in that State. Though it becomes the religion of that State, still more manifestly, when penalties are established, either upon the non-exercise of the religion established, or upon the exercise of any other besides it. Those of the Congregations seem indeed hitherto to maintain, that no penalty can be inflicted by any State, upon any cause of religion—to which point I will answer by and by—which if it were so, there could no

religion be the religion of the State, but by temporal privileges." These two distinct marks of a State religion, which is only another term for an established religion—are possessed by the Church of England. It is established by temporal penalties, and enjoys temporal privileges. The penalties are, no doubt, now much modified, but originally they were very severe. The privileges are still as great as ever ; and whilst it enjoys them, no other Church can be so privileged, in England. But has the Episcopal Church in the Colonies any such temporal privileges, as that no other Church in the Colony can be so privileged ? And what are they ? None such exist ; and therefore this Church wants one of the great requisites, without which, according to Thorndike, no Church can hold the character of an Established Church. Can such temporal privileges be derived from a connection with the Church of England ? The privileges of that Church are derived from the possession of the benefices, and cannot exist where they do not exist. Where are the benefices in the Colonies—where are the privi-

leges attached to them? And by what law, or Statute of Uniformity, is their possession limited to the Episcopal Clergy?

The Episcopal Church thus claims the character of an Established Church, when it would appear it has none of the characteristic marks of one. It is merely a favoured Church; any other character is an assumption, which will not bear examination. It may be said, that its character of an Established Church is supported by the Legislative enactments, creating Bishoprics and Archdeaconries. This however is an establishment of a very different description from that of the Church of England.

The term Established is very ambiguous. By the Act of Toleration the various congregations of Dissenters from the Church of England are, in one sense, as fully established upon compliance with the requisite conditions of that Act, as the Episcopal Clergy are established, upon compliance with the conditions required by the Act of Uniformity. By the latter Act, the conditions are, ordination in a certain specified mode, and the use of the Book of Com-

mon Prayer—by the former, the taking of the oaths of supremacy and allegiance, and the due registration of places of public worship. The Act of Toleration is not an Act of connivance, or mere exemption from former laws. It was made that the public worship of Dissenters might be legal, and entitled to public protection. In this respect the Church of England, and the Dissenters from the Church, are equally established by law, and this is the language of more than one of the most celebrated English Judges. Yet there is this great distinction between them, that the Ministers of the Church of England are in possession of various rights, and important privileges, not possessed by Dissenting Ministers. In the Colonies, therefore, the Episcopal Church may be established by law, in the sense in which the English Dissenting Church is established, and yet it may not be an Established Church, in the usual acceptation of the term. It may be more—it may be legally acknowledged, and legally provided with Ministers of various ranks and offices; and public lands, and

funds may be appropriated to its use, and yet it may have no exclusive temporal rights, and none of the privileges which appertain to the Church of England Establishment. And such is the case. Bishops, and other functionaries of the Episcopal Church in the Colonies, are legally appointed and provided with incomes from the public. Their functions are prescribed by Act of Parliament, their powers are specified, and Courts of Justice are bound to acknowledge their existence; and yet this Church may not possess the characteristic qualities belonging to an Establishment.

On the strength of the Act of Parliament, or Royal Charter giving them existence, and a constitution, the Clergy belonging to the constituted Bishoprics and Archdeacons can possess no secular rights or privileges, if such are not therein assigned them. It is by legislative enactment alone, that these Bishoprics and Archdeacons exist; and if at their formation no peculiar secular privileges were attached to them, to be enjoyed by the Incumbent, on the sole ground of his being the In-

cumbent, whatever rights he may lay claim to cannot be possessed, from the mere circumstance of his being Bishop or Archdeacon ; and he must look elsewhere for authority by which to support his claim. A Bishop's functions are spiritual, not secular. It is not inherent in his character to have the exclusive right of acting in certain secular matters, and of exercising certain secular duties, or enjoying certain secular privileges. Whatever right of that nature may be possessed by a Bishop, is altogether contingent—the mere creature of accident, that is, of legal formation ; whereas, his spiritual functions are all inherent in his very existence as Bishop. Without their possession he would not be a Bishop. We can form no notion of a Bishop who has not authority over his Clergy ; but we can conceive that he may have no authority over Laymen. A Bishop is complete in all the functions proper to him, when he has the powers of ordination, and of clerical jurisdiction ; and yet he may possess secular jurisdiction in matters testamentary and matrimonial. But this possession is accidental, not

inherent in his office. With such secular jurisdiction he is in all respects a Bishop, without it he is no less so.

Bishoprics and Archdeaconries may therefore be created by law, or established, for the phrase is immaterial, without their office-bearers having attached to them, any of the privileges or powers which belong to Bishops in England. The existence of Bishops is necessary for the due regulation of the affairs of an Episcopal Church, and for this purpose they are created; but except for the due exercise of their spiritual functions, in maintaining discipline, and regulating the internal affairs of the communities over which they preside, they have no powers or privileges granted them. They are, in fact, only to be viewed in the same light as office-bearers in any community invested with a corporate character, who regulate the affairs of that community, and represent it, but enjoy no privileges, on the ground of being such office-bearers, beyond those expressed in their Charter of Incorporation. The existence by law of Bishoprics and Bishops so constituted,

does not convey any idea similar to that implied in the term Establishment ; neither can the Colonial Episcopal Church assert any claim to such a character, on the mere ground of the erection of such Bishoprics by Act of Parliament.

But to put the matter in another light. By the last East India Bill, provision was made for the appointment, or establishment, of a certain number of Presbyterian Ministers, in the various Presidencies of the British Dominions in the East Indies ; and they were placed under the Ecclesiastical jurisdiction peculiar to the Presbyterian Church. Here then is a Presbyterian jurisdiction, authorised by Act of Parliament to be exercised in the East Indies, as full and complete, according to the laws of the Church of Scotland, as is the jurisdiction of the Bishop appointed by the same Act. The words of the Act are, referring to the Presbyterian Ministers,\* “ and (they) shall be subject to the Spiritual and Ecclesiastical jurisdiction in all things of the Presbytery of

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\* See Extract from the Act, in Appendix.

Edinburgh, whose judgments shall be subject to dissent, protest, and appeal to the Provincial Synod of Lothian and Tweeddale, and to the General Assembly of the Church of Scotland." The jurisdiction of the Church of Scotland in the East Indies is, by this Act of Parliament, legalised and established. Would it from this be a valid argument, that the Church of Scotland is, in the general acceptance of the term, the Established Church in the British Dominions in India? The Establishment of that Church is as complete, as far as it goes, as is the Establishment of the Episcopal Church; and yet it cannot reasonably be asserted, that its establishment has any reference to secular matters, or extends further than to the internal arrangements and discipline of the members of its own communion, in matters peculiar to that communion. The claim to the character of an Establishment, possessed by the Episcopal Church in India, is of no greater extent; and if this constitutes such a character as belongs to the Established Church—in England, in the one case, it does so in the other.

The deduction is apparent, and absurd. On this supposition, there will be existing in the same country two Churches, each with a character exclusively its own, and possessing exclusive temporal rights, which are possessed, at the same time, by the other.

The mere circumstance of the erection of Bishoprics and Archdeaconries in the Colonies by authority of Parliament, does not of itself, therefore, constitute the Episcopal, an Established Colonial Church, in the usual meaning of the term. Unless the Act expressly constitutes it with the character of an Establishment, and makes the due provision for its existence in that character—a measure which it is difficult to see the possibility of effecting—that Church must move in a much less exalted orbit than the Church of England, and be satisfied with humbler rank, than what is claimed as a matter of right by that dignified Establishment.

In the constitution of the various Bishoprics erected in the Colonies, by Act of Parliament, is there a single allusion to lead us to

suppose that any powers, or exclusive privileges beyond those necessary to be exerted by the Bishops, in matters belonging to their clerical jurisdiction, are extended to them? Not the most distant. The boundaries of the dioceses are fixed—the salary is declared—the number of Archdeacons and of other Ministers determined—retiring annuities provided—persons ordained by such Bishops, declared unable to hold benefices in England—and limited in the exercise of their clerical functions to the Colonies—and besides this, nothing. These are merely provisions for the internal management of a Clerical community, and the support of its office-bearers, such as may be made when Parliament may see fit, for the existence and internal management of Presbyteries in the Colonies, and the support of the Clergymen composing them. Bishoprics and Presbyteries, sanctioned by a legislative enactment, may well co-exist. Such Clerical Establishments do not necessarily interfere with each other, in any matter, except where exclusive civil rights are attached to the Churches to

which they belong. In the Colonies, these establishments may move steadily along, each in its own orbit, without being disturbed or retarded in its progress by the proximity of the other. Where there is no opposition of interests, as to matters secular, there can be no room for any contest between the Ministers of the two Churches, except one—the noblest and the most excellent—that in which the welfare of their hearers is the object aimed at.

These views must satisfy every man, that the Episcopal Church in the Colonies cannot possess the standing or character of an Established Church, on the ground of the legislative enactments forming its Bishoprics and Archdeacons. Nor do its Clergymen possess the attributes of an Established Clergy. The argument drawn from their connection with the Church of England, arising from their ordination being received from its Bishops, and from their use of the same service, and adherence to the same doctrines, however plausible, is not well founded. It has been shewn that it is not the mere circumstance of Episcopal ordi-

nation that confers upon the Clergy of the Church of England their peculiar and exclusive rights and standing. That ordination must undoubtedly, as the law now stands, be possessed, to give a capacity for enjoying these rights. But it only gives a capacity. The rights depend upon a very different qualification. The Episcopal Clergy in the Colonies have the capacity arising from ordination, but they have neither the qualification, nor the rights flowing from it. They do not form an Established Church. They are no more than the Ministers of a favoured Church.

But there is a great distinction to be drawn between a favoured and an Established Church, and there is also a distinction between favoured by Government, and favoured by law. The Episcopal Church is, in both these respects, a favoured Church, and the favour shewn to it by Government, is founded upon the favour in which the law holds it, by constituting it the Established Church of England. This is a legitimate reason for the Colonial Government affording it protection and support. If

a Church is to be supported at the public expense, it must be so on the grounds that the morals of the people are thereby benefited—that one of the great objects which ought to be aimed at by every Government, the welfare of the people is thereby promoted, and the public safety and happiness advanced. These are valid grounds for supporting a Church, and sufficient to justify an appropriation of the public money for the support of a body of men having such objects in view. The only question is, of the various denominations of religious instructors, on which is Government to bestow its patronage. In this it is to be guided by the declarations of the Legislature—the voice of the community. It is not to be expected that Government can balance the merits of the numerous classes into which Christians are divided, and decide on their relative merits. The Legislature has already made a decision, and by that decision the Executive must abide. On this principle the Episcopal Church has hitherto been a favoured Church in the British Colonies, and from its ranks have been

drawn the public Ministers of religion, who have been countenanced and supported by the various Colonial Governments. But the Episcopal Church has not an exclusive claim to be thus favoured and supported.

The large grants of the public funds made to the Episcopal Church in the Colonies, acknowledge the principle, that in distributing the funds set apart for the support of religion, the Ministers of the Church established by law are to have a preference. Whatever views may be entertained of the expediency or in expediency of a Church Establishment, there is one point on which there can scarcely be a doubt—that so long as there is such an establishment, the Government is bound to recognise it. This principle guided the British Government in the arrangements made for the support of the Episcopal Ministers of religion in the Colonies. And the same principle can be urged in asserting the claims of the Presbyterian Church upon Government for support. It is also an Established Church. The Episcopal is the Established Church of one portion of the em-

pire, the Presbyterian of the other ; and whatever argument can be urged from that circumstance in favour of the one, can with equal force be urged in support of the claims of the other. It is a Church equally favoured by the law, and in the eyes of the Government it should be so also. It is only in as far as the law has given it a character, that the Government acknowledges the Episcopal Church as a fit recipient of its favour. The Presbyterian Church possesses the same character, derived from the same source, the public act of the Imperial Legislature.

It is not necessary to enquire into the nature of the Established Church of Scotland. It was necessary to do so in the case of the Church of England, to shew that there were circumstances connected with it which rendered the argument commonly used, in support of the claim of the Episcopal Church, to be the Established Church of the Colonies, its connexion with the Church of England, namely, of no force. No such exclusive claim is made by the Presbyterian Church. It may be stated,

however, that from the time of the Reformation, with one or two short intervals, when it sunk under the strong arm of arbitrary power, exerted in favour of Episcopacy, till the period of the Union of England and Scotland, the Presbyterian Church was the Established Church of Scotland. And it formed a fundamental principle in the arrangements that led to the incorporation of the two kingdoms, that it should still remain so. It was accordingly, in the strongest and most express terms, enacted by the Imperial Parliament, that it was a fundamental article of the Treaty of Union, that the Protestant Presbyterian Church should for ever be the Established Church of Scotland, and in the same terms that the Protestant Episcopal Church should be the Established Church of England. Within the bounds of each country, its own Established Church is paramount; without these bounds, the two Churches are on an equality, and it would evince the blindest prejudice, to suppose otherwise, upon due consideration of the question.

By the Fourth Article of the Union, it is provided that there shall, in certain matters, be no more favour shewn to the subjects of one kingdom, than to the subjects of the other; and that there shall be "a communication of all rights, privileges, and advantages," which belong to the subjects of either kingdom, except where it is otherwise expressly agreed to in the Articles of Union. The justice of this provision is evident. The Union was an incorporating union, by which the two kingdoms were formed into one, reserving certain privileges, to be possessed by certain classes in each kingdom, within its own limits. Without these limits, no provision was made regarding such privileges, except this general one, that in all things, except where it is in the Articles of Union otherwise agreed to, there shall be a communication of privileges. In the Colonies, as the provision made by the Union, regarding the two privileged Churches, refers only to England and Scotland, the principle of a communication of privileges comes into operation. Had any provision been

made, giving exclusive rights to the Episcopal Church in the Colonies, this principle would have been inoperative. But there is no such provision. On this principle, then, whatever support may at any time be given to Episcopal Clergymen in the Colonies, on the grounds of their connection with the Church of England, may justly be claimed by Presbyterian Clergymen, on account of their connection with the Church of Scotland. And it is not in the power of Parliament itself, without infringing upon this Article of the Union, to make any provision; by which public support or privilege shall be enjoyed by one Church to the exclusion of the other. The power of Parliament is said to be unbounded. Parliament is omnipotent. In a legal, but not in a moral sense, it may be so. On the question of the Irish Church, Sir Robert Peel said, "Has Parliament the right—not the abstract legal right, for who can doubt its right in that sense? But has Parliament the moral and equitable right to appropriate Church property to secular purposes?" And, in the

same way it may be asked,—Has Parliament the moral and equitable right, to grant to Ministers of the Episcopal Church, in the Colonies, any privilege or provision, to the exclusion of the Ministers of the Presbyterian Church. Hitherto indeed, no peculiar privileges have been granted by Parliament, to that Church, nor is it probable that there ever will, even were this Article of the Union not a bar to such a measure.

But there has been an assumption, on the part of the Episcopal Church, of many of the privileges of an Establishment, and a denial of the right of the Presbyterian Church, either to equality of rank, or to equality of privileges.

On the strength of the Fourth Article of the Union, the Presbyterian Church may rest its cause, and claim from the Legislature all the attention to its interests, which has been shewn to the Episcopal Church.

The British Colonies are to the Churches established in Britain, neutral ground. This has not yet been occupied by either, in such a way as to shut out the other. And it is not only

the duty, but it ought to be looked upon as the honour of the Scottish Church, to use every means calculated to ensure the growth of that Church in regions where there is so numerous a body of Scotsmen. There seems to be no obstacle in the way, from any created or prescriptive right possessed by the Episcopal Church. The force of the claim, arising from a connection with an Establishment, is as powerful on the one part as on the other. And if the Legislature fosters and protects one Church, on the ground of such connection, there seems no reason to suppose, that it will be guilty of so great an inconsistency as to refuse the same support to the other—urging, as it does, the same argument in favour of its claim.

These views seem to be borne out in every respect by the legislative provision made for building Churches, and supporting Ministers in foreign ports. By 6 Geo. iv. c. 87. s. 10. the two Churches in foreign ports are placed upon exactly the same footing. When a sum of money has been raised by the Episcopal

residents in the place, for the purpose of building an Episcopal Church, the Consul is authorised to apply a similar sum to the furtherance of that object; and to pay to the Chaplain a salary, equal in amount to that which is paid by his congregation—and the same provision is made, when the Presbyterian residents build a Church for worship, according to the standards of the Church of Scotland. There is no preference here given to the Episcopal Church—each Church is placed on a footing of equality. Any preference would have shewn the grossest partiality and injustice. The principle on which this provision is made, applies with equal force to the British Colonies, as to a foreign port. In neither does the Episcopal Church exist, as an Establishment. In neither has it any peculiar or exclusive claims. It is not the Established Church of the empire. It is only the Church of a portion of the empire. Without the limits of the empire, or in any part of the empire of Great Britain, where it has no exclusive standing or privilege, it cannot urge

any claim for support, but that arising from the circumstance of its being one of the Established Churches of the Empire. In fact, in such a situation, the Churches meet on the utmost equality of terms, and there can be no better proof of the light in which the Legislature looks upon the question of the standing of the two Churches in the Colonies, than that furnished by the Enactments, as to Churches in the Foreign Port Act.

This Act is of a late date—1826. Some years before, the situation of the Presbyterian Church in India, had come under the notice of Parliament. The principle of the equality of claim possessed by the two National Churches, when out of Great Britain, had probably on that occasion been so clearly seen, as to lead to the provisions of the Act regarding Churches in Foreign Ports. This supposition is borne out by the late enactments, regulating the affairs of the East Indies; and also by the Act 4 and 5 WILL. IV, c. 95, in reference to the Colony of Southern Australia.\* By the East

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\* See Appendix.

India Bill, in each of the four Presidencies, of the Chaplains maintained by the Company, two are always to be Ministers of the Church of Scotland, who are to be under the Spiritual and Ecclesiastical jurisdiction of the Presbytery of Edinburgh; and by the Act for Southern Australia, the Chaplains to be appointed by the Government of that territory, are to be Ministers either of the Church of England or of Scotland.

The principle by which Parliament has been regulated in passing these Acts is evidently that of the equality of the Churches, when out of Britain, and the community of privileges enjoyed by them.

These Acts of Parliament form a strong confirmation of the principle on which the argument against the possession of the character of an Establishment by the Episcopal Church in the Colonies, has been founded. Without the confirmation arising from their authority, it is true, the argument, if it is good at all, would be equally so; but it is satisfactory to find that the line of argument, by which an

attempt is made to arrive at the truth, is boren out by authority of so high a character. It may not perhaps be necessary to observe that neither the East India Bill, nor the Act for the Government of Southern Australia, enacts that the Episcopal and the Presbyterian are the Established Churches of the countries to which they refer. Such an attempt would have been futile. There is in no Colony an Established Church, in the strict sense of the word. There has been a favoured Church, or an exclusive system existing as to the Church; but there is no Established Church. And these two bills were evidently passed to prevent the existence of this exclusive system, in the East Indies and in Southern Australia. And so directly hostile is the spirit of the East India Bill to the system of exclusion, that a provision is made, that nothing contained in the Bill shall be so constructed, as to prevent the Governor in Council from granting to any sect or persuasion of Christians, not being of the Church of England, or of the Church of Scotland, such sums as may be expedient for the purposes of

instruction or for the maintenance of places of worship. This provision furnishes an indirect argument in support of the view that has been taken of the equal rank and claims of the Presbyterian and the Episcopal Churches. Whilst the other denominations of Christians are not excluded from receiving support at the discretion of the Government—these Churches have a special provision made for them. Had the statute placed the Presbyterian Church in the situation of the Churches that may receive discretionary support, and made public provision only for the Episcopal Church, it might have done sufficient for the purpose of supporting it, but it would not have done sufficient to satisfy its claim to the possession of a community of privileges with the Episcopal Church, when out of Britain.

Thus it seems to be satisfactorily shewn, that the Episcopal Church is not the Established Church of the Colonies—and that, whatever be the claim it possesses upon Government, from its connection with the Established Church of England, an equal claim is possessed by the

Presbyterian Church, from its connection with the Established Church of Scotland. The consequences which should flow from this equality are obvious; but they must be left to the energy and perseverance of the Presbyterians in the various Colonies, to work out. If they are not true to their own interests, and make a determined stand, when any attack is made upon them, the blame must attach to themselves alone, if these interests are destroyed or injured. There are two mediums which they may employ in urging their rights—one is a direct application to a reformed Parliament, in which they will find advocates, able and willing to support any just cause—and the other is a reference to the General Assembly of the Church of Scotland.

By the Act of 1833,\* in reference to Colonial Churches, that venerable and influential body has given evidence of the interest it takes in their condition; and from this circumstance many advantages will flow. The standing of these Churches will now be more apparent, and

\* See Appendix.

they will henceforth form a part of a great whole, looking to one common centre for counsel, and for aid. However much the interests of the Scottish Presbyterians in the Colonies may have been overlooked, they have not lost their attachment to that Church, whose history is so full of animating recollections, which cling to the heart in every change of circumstances. They never forget that its foundations were laid with much toil, and much suffering, and much glory—and that the same men who reared its walls, slacked not in working out the liberties of their native country. How strong a bond of union might there not be formed from this feeling, by which to attach to the interests of the Mother Country, a numerous and influential body of men, in every British Colony, by sentiments of the purest, and at the same time of the most powerful description.

The Church of Scotland may thus form a centre, to which will be drawn, by a powerful moral force, the affections of Scotchmen, in every British Colony.

But, independent of such views, the benefits resulting to the cause of Presbyterianism, in the Colonies, would neither be few, nor small. The history of Presbyterianism in the Colonies, has hitherto been far from bright or cheering. And, it is only to be imputed to the conviction of its value, as a system, in the minds of those who have continued faithful to its cause, that it has not been still more gloomy. But if the connection between the Presbyterian Churches in the Colonies, and the Church of Scotland had been closer; if there had been a communication kept up between them; if in cases of emergency or doubt, a reference had lain to the General Assembly; but better still, if the Colonial Presbyteries and Synods had been so constituted, that an appeal lay directly from them to the General Assembly, by which the Presbyterian Church would have been brought within the jurisdiction of the Church of Scotland, its condition would at this day have been very different. That this is practicable, would appear, by a reference to the East India Bill. By it, the Presbyterian Chaplains

and Churches are brought within the jurisdiction of the General Assembly. What has been done, in their case, might have been done in the case of other Churches. This may, in many, if not in all cases, still be done. And thus might be formed a system, by which the interests of the Presbyterian Church, throughout the whole British Empire, would be firmly knit together, by being placed under the care of the same Ecclesiastical Court, which would then become the General Assembly of the whole Scottish Presbyterian Church.

The appointment of the Colonial Church Committee, limited as it is in its objects, may be, and no doubt will be, of much benefit to the cause of Presbyterianism in the Colonies. But, with all deference, it may be said, that the General Assembly would have consulted the advantage of that cause, by giving the Committee more extensive powers. Instead of authority merely to correspond with Colonial Churches, and to give them the aid of advice, had it empowered the committee to enquire into the state of the Presbyterians in the

Colonies ; to ascertain their wants, in respect of Churches, and Ministers ; and to devise a plan, by which all the existing Churches might be brought within one general jurisdiction, the benefits to be derived from its labours, would be incalculably increased. It does not seem sufficient to secure the interests and rights of the Presbyterian Church in the Colonies, that the committee should merely correspond with the Presbyterian Churches already existing. It seems requisite that it should be empowered to use the proper measures for forming Churches, and providing Ministers, where they are required.

The care with which the interests of the Episcopal Church have been nurtured in the Colonies, by creating the Establishments requisite for the due ordering of that Church, might with much advantage be imitated by the supporters of the Presbyterian Church. The Parliamentary enactments, by which Bishoprics and Archdeaonries have been formed in the Colonies, have given to that Church the means of enforcing discipline, and have made provision

for the temporal wants of the Clergy. And from the view which has been taken of the equality of the claims of the two Churches, on the support and countenance of the Legislature, there can be no difficulty, it is presumed, in obtaining similar provision, by Parliamentary enactment, for the existence in the Colonies, of the Spiritual Courts essential to the Presbyterian system.

By Parliamentary enactments, the temporal wants of the Ministers of the Episcopal Church in some Colonies, are provided for from the public funds, and pensions secured to them upon retirement, at the lapse of a certain period of years. Thus, by the Act 6 Geo. iv. cap. 88, the West India Bishops and their Clergy receive salaries from the consolidated fund of the United Kingdom. A provision for the support of Colonial Presbyterian Clergymen, it is not too much to expect, will also be made by Parliament, upon proper representation. In the erection of Spiritual Courts the Episcopal Church has also been cared for. By the letters patent,

erecting an Archdeaconry in New South Wales, the Archdeacon is made a Body Corporate, with power to receive in that capacity whatever lands or other possessions the Governor may bestow upon the Episcopal Church ; and all Judges and Courts are bound to recognise him in this capacity, and to give effect to his decisions as Archdeacon.\* Without some similar provision for the erection of Presbyteries, in the Colonies, they may exist, in name, but that will be all. Unless the Courts of Law are bound to acknowledge them, and carry their decisions into effect, they might as well not exist. By a private agreement, the Ministers may be bound to abide by the decisions of the Presbytery, as is the case in associations for private purposes. But this is no sure basis on which to place the cause of the Presbyterian Church. It is open to many objections. Cases may occur where the sentence of the Presbytery may be opposed, and then its utility and respectability must cease. And though a private agreement might point out a mode by which

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\* See Letters Patent, erecting Archdeaconries, in Appendix.

the authority of the Presbytery might be maintained, yet this would be tedious, expensive, and uncertain. This is a point deserving the attention of the Colonial Church Committee.

Whether this view is correct or not, the constitution of the various Churches and Presbyteries in the Colonies deserves consideration, and the means by which they are to be held inviolable enquired into. And if it is found necessary to make a legal provision for the attainment of so important a point as that of placing the Church on a secure basis, a Reformed Parliament will not refuse to one of the Established Churches of the Empire, what has been granted to the other.

The necessity of due care in preparing the constitution of a Church, is evident from the history of the Presbyterian Churches in England. From having faulty constitutions, one hundred and seventy of the Presbyterian Churches in England, once holding the standards of the Church of Scotland, have lapsed into Socinianism. Similar defects in the original organization of Colonial Churches may

produce similar results. And this lamentable circumstance is too striking a warning to be lost sight of.

Whatever view is taken of the matter, the same conclusion is come to, that to support the dignity and station, and to secure the existence and prosperity of the Presbyterian Church in the Colonies, there is need of something more than is contemplated in the appointment of the Assembly's Colonial Committee. These views seem to have occurred to Dr. Forbes, as appears from his speech when the draft of the Act of Assembly, regarding Colonial Churches, was approved of. "It was evident," he said, "that in passing this enactment, the Assembly recognised these Synods and Presbyteries as a portion of the Church of Scotland, and should it unfortunately happen, that any of the Ministers should act inconsistently with the character of the Church, in what way would the Assembly deal with them?"\*

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\* In the formation of the New South Wales Presbytery, no provision appears to have been made, for the due exercise of jurisdiction by that Court, or for carrying its sentence into

An extensive field is now before the Church of Scotland. It requires only a moderate share of exertion, on the part of that Church, to draw towards it its emigrant children, by bonds of the strongest affection. Never in the annals of the Presbyterian Church, was there such a prospect before it. The extensive system of emigration, which forms so marked a feature in the history of the present generation, presents the means by which the principles of Presbyterianism may be diffused over the world, and by which Pres-

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effect. As far as appears from the report of the proceedings, when it was formed, there was only a tacit understanding among the Ministers, who agreed to form a Presbytery, without any legal deed or constitution, which a court of law would recognise, so as to enforce obedience to its decisions. If this is correct, that body will require to be re-modelled or formed altogether anew. Has it any constitution? Has it adhered to the Act of the General Assembly, acknowledging Colonial Presbyteries? Is it considered by its Members, a Presbytery, such as is contemplated by the Act of Assembly of 1833? Or is it a Presbytery, unconnected with any superior Church Court?

These observations are made, not to disparage the Presbytery, but to shew how much care is necessary in the establishment of Presbyterian Churches. For one of its Members, the writer has a sincere personal esteem—for all, goodwill and respect, as Ministers of the Church of Scotland.



byterian Churches may be formed, extending from the Arctic to the Antarctic, acknowledging the authority, and rejoicing in a connection with the Church of Scotland. How long this feeling may be kept alive, must depend upon the principles impressed upon the minds of the rising generation. The children of the present Scottish Emigrants, to be influenced by the spirit of their fathers, must be reared as their fathers were reared. But where are the means? If these means are not supplied, when the present generation passes away, there will arise another, which will care for none of these things. Such however, needs not be the case. The hand of the husbandman is all that is wanted. There is sufficient work for him to do—and the vineyard, in which he is called upon to work, will prove neither barren nor unfruitful.

It is hoped that these observations will induce not only the Presbyterians in the Colonies, but the friends of that cause in Scotland, into whose hands they may fall, to see the necessity of taking immediate measures to place the

Presbyterian Church in the British Colonies on a secure foundation, for the sake not only of the men of the present, but of many future generations. The present opportunity may never again occur. And to what quarter are Scottish emigrants to look for the means of securing spiritual instruction, or when there is difficulty or doubt, in matters regarding their Church, but to the Church of their native land? That Church was reared by the labours and the sufferings of their forefathers. It is supported by the affections of their brethren. To the Church which now enjoys the fruits of these labours and sufferings, they make their appeal, and calling to mind the zeal—the ardour—the unquenchable spirit, which dwelt in the breasts of the ancient fathers of the Church, and assured that that spirit, and that zeal, are yet alive in their successors, they feel that they will not make their appeal in vain. The days are passed when the sword and the spear secured to the Presbyterian Church its freedom, and its rights; but the deeds of the men who purchased that free-

dom with their blood, who feared not to enter the gloom of the dungeon, who quailed not at the tyrant's frown, and looked with calmness on the blood-stained scaffold, still live. And the descendants of these men, claim a share in the purchase of their fathers. The spirit against which these warrior-martyrs struggled, is not extinct. It is not yet even dormant, though modified by many restraining circumstances. Against that spirit, the Scottish emigrants have still to contend; not, it is true, with the weapons of former days; but it is no less a contest. In this contest, they ask the aid of their fathers and their brethren, sitting now at ease, enjoying in their well-fenced stronghold, the fruits of the labours of their common ancestors. And they will not ask in vain. In the hearts of their countrymen there is an advocate, who will not be mute. In the ranks of their Church, they will find supporters, whose hands will be strong in their cause. When brother calleth aloud to brother, surely his voice will be heard. To the General Assembly of the Church of Scotland,

the Presbyterian Church looks for aid, and in no Colony is it more necessary for its well-being, to enjoy the countenance and superintending care of that Assembly, than in Van Diemen's Land.

The Presbyterian inhabitants of the Island are very numerous. They are at least equal in number to the Episcopalian settlers. In some large districts, with scarcely an exception, the settlers are Scottish Presbyterians. In point of intelligence and respectability they are at least on an equality with any class; and in the performance of all the duties of good citizens they may challenge a comparison with their Episcopalian Fellow Colonists. To look upon Van Diemen's Land as an English Colony, or as possessing a preponderance of Episcopalian inhabitants, would be a mistake. If we are to take into account only the emigrant settlers, the preponderance would rather be in favour of the Presbyterian inhabitants. Besides the emigrant settlers, great numbers of Scottish mechanics are to be found in every town, and township, and district. For their

spiritual welfare, it is not too much to suppose that the Church of their native country should pay some regard. The moral condition of that class of men has long been pointed to as a proof of the advantages resulting from the Scottish Presbyterian system, and has been used as an argument for the diffusion of universal education. To watch for the spiritual welfare of this large body of men, and to keep alive in them a vigorous moral principle, should be a sufficient reason to induce the Church of Scotland, to extend its care to the Scottish Presbyterians in Van Diemen's Land. It has been found already by experience, that the want of its superintending care has been attended with much disadvantage to the cause of the Presbyterians in this Colony; and there is no prospect that the Presbyterian Church will ever be placed upon a secure basis, unless by its assistance.

The Presbyterian Clergymen already in the Colony are four.—In Hobart Town, the Reverend Archibald Macarthur, ordained as a Missionary Minister to Van Diemen's Land,

by the United Associate Synod—in Launceston, the Reverend John Anderson, ordained by the New South Wales Presbytery—at the Macquarie River, the Rev. John Mackersey, an ordained Minister of the Church of Scotland—and at Bothwell, the Rev. James Garrett, A. M. ordained by the Burgher Synod. The latter gentleman also went through the regular course of studies required by the Church of Scotland, and attended the Divinity Hall of the Glasgow University for four years. Each of these Ministers has a Government allowance, in addition to the stipend paid by the Congregation. There is still an ample field for other Presbyterian Ministers.\*

The Presbyterian Church in Van Diemen's Land has not, it is true, met with the oppo-

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\* The following notice appears in the *Christian Instructor*, for August, 1834, under the title of *Minister for Van Diemen's Land*:—

“ In letters received from the Rev. Mr. Macarthur, from Hobart Town, Van Diemen's Land, he expresses an earnest wish that a Minister or Missionary may be sent to this Colony. The spiritual necessities of the Colonists, among whom he will chiefly labour, are of the most urgent kind; but they would at the same time be most ready to provide for a pious, active,

sition it experienced, for so long a period, in New South Wales. It has been all along, to a certain extent, supported by Government. This support, however, it would seem, has been afforded more as a matter of grace and

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and useful Missionary. Mr. Macarthur writes in the most encouraging terms, in regard to the prospects of a Missionary in that quarter of the Globe."

In a letter recently received from him, dated 5th February, 1834, he says:—

"My present Church being too small, we have just marked out the foundation for a new and larger one. The estimate is £3,000, the Church to contain between 800 and 900 sitters. The Local Government has agreed to give £1,250, in aid of the undertaking, subject to the sanction of the Home Government. The Congregation have already subscribed upwards of £1,200. Their liberality has indeed astonished many in this place. For my own part, I feel it to be much cause of gratitude to the Great King and Head of the Church. Pray for us, my dear Sir, that the blessing of God may rest on the undertaking, that the house may rise in his favour, be finished in his abundant goodness, and that many within its walls may experience the Gospel to be the power of God unto their everlasting salvation.

"There are here, besides myself, three other Presbyterian Ministers in this Colony, Messrs. Mackersey, Garrett, and Anderson. Mr. Anderson is in Launceston, the principal town on the other side of the Island. The other two are in the interior. Our Governor, though an Englishman, is very friendly to the Presbyterian Kirks, and occasionally worships with us on the Lord's Day."

favour, or from a general feeling of the propriety and utility of giving aid to institutions, having in view the important object of disseminating religious knowledge, than from any acknowledgment of the claim of the Presbyterian Church, arising from its character of a National Establishment. Indeed, the refusal given to the application of the Scottish inhabitants of Launceston, for assistance, in the erection of a Presbyterian Church, fully establishes this point. To the memorial of the Presbyterians, presented some years ago, Lieutenant Governor Arthur gave a pointed refusal. The only supposition on which this refusal can be accounted for, is the existence of a feeling on the part of the Government, that the Episcopal Church has paramount claims on its countenance; and that any aid afforded the Presbyterians, is to be placed to the credit of its liberality.\* The principle of the superior and exclusive claim of the Episcopal Church, was

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\* This supposition is borne out by the fact, that prior to this, the Episcopalian Churches in the Colony had been built either wholly, or in a great measure, by the Government.

still more conspicuously displayed, in the observation which accompanied the refusal, that there was an Episcopal Church at Launceston, which was considered amply sufficient for the wants of the inhabitants.

The general support given to the Presbyterian Church, then, is not to be attributed to any acknowledgment that its claim to public support, is founded on the same principle as that of the Episcopal Church. The Roman Catholic Church, has also, from its formation received support. The propriety of this is at once acknowledged. But it receives this support, as a measure of good government, upon the principle of utility and expediency. And it is only on this principle, that it can look for it. The Presbyterian Church urges a claim of a very different character—a claim founded upon a national compact. In the support then, given by the Government of Van Diemen's Land to the Presbyterian Church, there has been more liberality displayed, than by the Government of New South Wales, but no departure from the doctrine that the Epis-

copal Church is an Established Colonial Church.

The disparity of the public revenue appropriated to the support of the two Churches, is a striking proof of the truth of this statement.

By a minute of Lieutenant Governor Arthur to the Legislative Council, it appears that the sum of £5,953 14s. is to be appropriated in 1836, to the support of the Episcopal, and £550 to the support of the Presbyterian Church. The number of Episcopal Clergymen in the Colony, is ten. There are besides, five or six Catechists and Lecturers. The salaries paid the Episcopal Clergymen range from £250 to £350, but besides this, each has a house and many very large allowances.

But although generally, little aid has been afforded to the Presbyterian Church in Van Diemen's Land, there is an exception in the case of Hobart Town. In the year 1823, Lieutenant Governor Sorell appropriated a considerable piece of ground in Hobart Town, for the purpose of building a Church for a Congregation of Presbyterians, professing to be in con-

nection with the Church of Scotland. On this ground, a small Church was built, which has ever since been occupied by the Presbyterian Congregation. From the increase in the numbers of the Congregation, and with the view of providing Church accommodation for the Scottish emigrants, expected to arrive, under the pauper emigration system, an application was made, about three years ago, to Government, for aid in erecting a larger Church, and some time afterwards, the sum of £1,250 was voted by the Council, for that purpose, at the recommendation of Lieutenant Governor Arthur.

In thus affording the sum of £1,250, to assist in building St. Andrew's Church, Lieutenant Governor Arthur carried into effect the object for which the ground on which the Church is built, was appropriated, by his predecessor. This was substantially stated in the document by which the land is held to be for the erection of a Church, for the use of a Congregation in connection with the established Church of Scotland. In his address to the Legislative Council, Lieutenant Governor Arthur stated, that

he proposed to appropriate "the sum of £1,250 towards the erection of a Presbyterian Church, for the accommodation of such of the inhabitants as are in connection with that part of the Protestant Church of Great Britain, which is by law established in Scotland."\* The Congregation was required, before receiving the money, to raise an equal sum, and to give security for its due application. This is strictly in accordance with the terms of the Foreign Port Act.

The provision thus made in Hobart Town, for the accommodation of a Presbyterian Congregation, and the existence of a Presbyterian Church, in connection with the Established Church of Scotland, ought to be hailed, by every sound hearted Presbyterian in Van Diemen's Land. It gives a security that the Church in the capital of the Island, will be under the superintending care of the parent Church. By this, the rights and interests of the Presbyterians will be secured, and the danger of any perversion of doctrine, or innovation in the Presbyterian system effectually

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\* Minute to the Legislative Council, 3d October, 1833.

guarded against. This Church, will also form a nucleus, round which, other Churches in the same connection will be formed, and thus, it may be hoped, that the faith which the Scottish Presbyterians brought with them to the land of their adoption, will be handed down, in all its purity, to their posterity. This, it is to be hoped, is the commencement of much good: But it is only a commencement. The Church at Hobart Town, is in a very anomalous state. It is without a constitution. The Congregation has indeed, all along, considered itself in connection with the Church of Scotland, but that connection, has not, as yet, been fully realized. There have been difficulties, to prevent this. It was not till 1833, that the General Assembly of the Church of Scotland provided a medium through which the circumstances of Colonial Churches might be brought under its notice. The time, it is hoped, has however, now arrived, when the connection of this Church with the Church of Scotland, will be carried into full effect. It is a point which has long been anxiously desired,

by those members of the Congrégation, who belong to the Church of Scotland, and they alone, have any right to claim such connection. But it is not only their interest, but that of every member of the Congrégation, whether originally a Presbyterian, or not, if he sees any beauty in that pure and primitive Church, to exert every energy, in effecting the closest possible connection, with the Church of Scotland. In what other way can it be ensured, that there will be a succession of faithful and zealous Ministers, or that there will be maintained, purity of doctrine, and integrity of principle? What thought can be more cheering, than that to so learned and so pious a body of men as the General Assembly of the Church of Scotland, application may be made, in doubt and difficulty, whose duty it will be to watch, that there exist, in this Colonial branch of the Church, neither spot nor blemish, in doctrine, or discipline? Without such connection, the Church in Hobart Town will lean indeed on a broken reed, at the mercy of every change of circumstances. With

such connection, its foundations will be firmly and securely fixed. No argument can be urged, of what nature soever, to counterbalance these advantages. Are the members of the Congregation, Scottish Presbyterians? Have they attachment to the Church of their fathers? Do they wish to see that Church prosper? Do they wish to have a share in its prosperity, by establishing the Presbyterian Church of the Colony on a firm basis? Then they must do what is in them, to draw close the connection which they claim, with the Church of Scotland. It is their only security. The Scottish Presbyterians of Hobart Town, have only one feeling on this point; a feeling of anxious desire, that the Church of their native country should countenance and protect them. This feeling was strongly evinced, at the Public Meeting,\* held on the 20th of May,

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\* At this Meeting, there was some opposition of a technical nature, as to the legal character of the Meeting. Many of the objectors, were not, however, Scottish Presbyterians, but were originally, either Dissenters from the Church of Scotland, or from the Church of England, with one or two former Episcopalians. To the second resolution, there were only two opponents. The resolutions, since the meeting, have been

1835. The Congregation, at this meeting, by the second resolution, expressed its purpose of endeavouring to realize that connection, and appointed a Committee to carry that object into effect. In the hands of that Committee is a most important duty—the welfare of the Presbyterian Church, depends on the successful result of their commission.\*

The natural course to be pursued by the Committee will be, to make an application, through the Colonial Church Committee, to the General Assembly, on the matters which the Congregation entrusted to them. It will in this application be necessary to state, fully and distinctly, the anomalous situation of the Church,

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signed by upwards of a hundred Scottish Presbyterians, in Hobart Town, belonging to the Church of Scotland.

\* It is understood that Lieutenant Governor Arthur has transmitted a dispatch to the Secretary for the Colonies, in reference to the affairs of the Presbyterian Church in Hobart Town, in which, it is probable, there will be given a full account of its situation and circumstances. The Committee of the General Assembly will, no doubt, be furnished with a copy of this dispatch by the Secretary for the Colonies; at all events the Hobart Town Presbyterian Church Committee might suggest the propriety of an application being made for one.

and to point out the evil consequences which will attend a continuance of such a situation. The want of a constitution is a radical evil, and might lead to the greatest calamities. How evident is this in the case of the English Presbyterian Churches, which have fallen from their original purity into the depths of Socinian infidelity, attended not only with all the ruin to themselves, which must accompany such doctrines, but bringing a slur and a disgrace upon the Presbyterian Church itself. They fell into this depth of humiliation and danger, from the want of well-framed constitutions, which left them at the mercy of the rich and influential members of the Congregation, or from defective trust deeds, which enabled the trustees to lord it over the Congregation with a high hand.\* The evils attending the want of a constitution have been already experienced by the Presbyterian Congregation of Hobart Town—it is to be hoped that they have been nipped in the bud. Besides a constitution, it will be necessary to

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\* See Appendix for an illustration of the evils attending defective trust deeds.

apply for every other necessary provision by which the Church may be in all times coming under the superintendence and care of the General Assembly. There will be a necessity for providing for the due exercise of jurisdiction by that Body, which has been so correctly styled "the Ecclesiastical Parliament of Scotland." For this purpose it may be necessary to obtain a Royal or Parliamentary Charter, or enactment, similar to that providing for the jurisdiction of the General Assembly being extended to India. In this all the Colonial Churches holding connection with the Church of Scotland, might be included. On these points the Committee will only need to touch. It will doubtless appear evident to the Members of the Assembly, that some such provision is necessary, and their knowledge of business will point out to them the proper plan to be pursued. The Committee will also, it is presumed, feel it requisite to point out the provision that is made in Hobart Town for the existence of a Church of Scotland Establishment, and in doing so, they need only refer to the

statements in the introduction to the second resolution of the Public Meeting. Another point to be noticed will be, the disparity of the Government salary, in the case of Episcopal and Presbyterian Ministers. Whatever sum is thought necessary to support one class of Ministers in a respectable station in society, it is not too much to suppose, must be necessary for the other also.

There are many points connected with the state of the Presbyterian Church in Van Diemen's Land, to which the attention of the Presbyterian Community has, for a long time, been forcibly drawn, and it may not be amiss, as they bear a close relation to the object for which the Committee was appointed—the welfare of the Presbyterian Church, and the Presbyterian inhabitants—to glance shortly at them. The first and the most important is, that of education.

The public institutions for affording education to the youth of the Colony generally, are wofully defective. The system on which they are carried on is radically bad, and until

it is completely overthrown—the schools supported by Government are nothing but a mockery and a deception. The sums expended on them from the public purse, for which the public should receive some advantage, are thrown away, and perish. Nay, more, the expenditure of this money does evil. In these schools the youth are supposed to receive some benefit—when, in fact, so far as mental culture goes, they receive none. The mechanical operation of repeating—day after day—the prescribed and unvarying task, by which not a single idea is called into existence, or a more vivid colour given to an old one, is indeed a sure and certain means of clouding the dawn of intelligence, and checking the growth of reason, and of preventing the formation of a strong-minded and deep enquiring race of Colonists. And if it could be supposed, that any men could be so base and so wicked as to devise a scheme, by which the energies of the mind were to be systematically paralyzed, they could find none more suitable to their purpose, than that which prevails in the Government

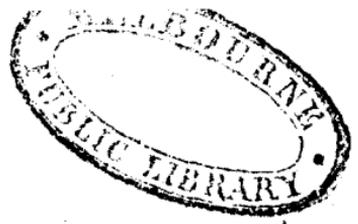
Schools of the Colony. The money expended by Government on these schools, is thus, so far from being beneficial, an unmixed evil. It prevents the rise of schools where instruction would be received. If the present teachers of these schools were not tied to that mind-degrading system, they would find a mode of imparting useful instruction. At present they cannot depart from their prescribed and limited course. By that system there is a shew of fruit, but it is, like the apples of Pandemonium—a fair false shew. And yet, on such schools, including the Orphan Schools, the sum of upwards of £6,000 is annually expended, and exclusive of these institutions, of upwards of £2,000. The Presbyterian inhabitants have no confidence in these schools—they have been accustomed to a school system of a different description. The parochial school system of Scotland does not limit the pupil to one unvarying, monotonous course of study, in which scarcely memory is cultivated. The Scotch parish schoolmaster cultivates the intellect of his pupils, and is not prevented from carrying

them forward in the paths of learning, by being bound to a dwarfish and limited course. In the Scotch parish schools the first literary characters of Scotland have been reared, and have walked from their humble thresholds, to take up a high place in the Universities. The Scotch parish schoolmaster, by an old regulation, was required, before receiving his appointment, to prove himself "perfite in Latin," which in those days was a sure mark that he had received a liberal education; and by a late decision of the General Assembly, no one is eligible to hold a parish school, who has not a knowledge of Greek. In these schools there is no limit, but the ability of the pupil, assigned to his advancement in learning and knowledge—and these schools are open to all. Such are the schools which the Presbyterians desire to see established in Van Diemen's Land—at which the poorest and humblest individual may see his child receive as sound, and as complete an education, as that received by the son of the most wealthy. A tenth part of the annual sum bestowed upon the Government Schools, would be sufficient to

establish in Hobart Town, and Launceston, and in the districts in the interior, schools on a similar principle. Till the Presbyterians have schools of their own, one at least in connection with every Church, arranged on a similar plan with the parish schools in Scotland, the interests of the Presbyterian Church will not be secure. Even were the Government Schools liable to no objection, on the ground of their system of instruction, there would be this drawback, that to the utmost possible extent, they are the handmaids of the Episcopal Church. The children attending them, receive the instructions prescribed by that Church, as the best means of advancing its interests. So long as these interests, and the interests of the Presbyterian Church are opposed, the schools connected with the Episcopalian Church, will not be suitable establishments for the children of Presbyterians. Government, then, to place the two Churches on an equality, must either establish Presbyterian schools, or modify the present schools, both as to the system of education, and the description of religious instruc-

tion. To this subject, the Hobart Town Committee, in any communication they make to the General Assembly, may, with great propriety, advert. In the mean time, till some definitive plan is arranged, some measure should be entered upon, preliminary to an extended system of Presbyterian instruction. For this, there will soon be the facility afforded, of a free school-house, when St. Andrew's Church is opened. The present place of worship, may then be converted into a school. To the schoolmaster, the Government will, as a matter of course, afford a salary, equal to that paid to the masters of the Episcopal Schools, and make the usual allowances. The answer to any application, made for this purpose, will, at least, be a test of the understanding of Government, as to the standing of the Presbyterian Church.

This proposal is founded on the supposition, that there will hereafter, as formerly, be supported, an establishment of Episcopal Schools. If schools are established on a system of liberal instruction, and of freedom from sectarian



spirit in religion, the object which a public spirited citizen should aim at in education, will be effected ; but if one Church has its proselytizing institutions, the other should at least have the means of self-defence. The public money is not to be expended in support of a system of education, of an exclusive and defective character.

This objection applies to the plan proposed by Archdeacon Broughton, for the establishment of a Grammar School, to be supported, to a great extent, by Government, that is, by the public. And this is the second of the points, to which allusion was made. This proposed school, was to be a public school, to be called "the King's School,"\* "with a view to the sole honour of Almighty God, and to promote a reverence for his commandments, by training up the rising generation, and all succeeding generations in this Colony, for ever, in the faith of Jesus Christ," and to assist in accomplishing this laudable purpose, it is pro-

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\* Extract from Archdeacon Broughton's Plan of a Public School.

posed—" That the masters and scholars shall attend Divine Service in the Established Church,\* every Sunday morning and afternoon, and on the great festivals ; reservation being made, that the parents, or guardians of any scholar, may obtain for him, exemption from this regulation, by certifying at the time of his admission to the school, their desire, that he should attend at some other Place of Worship," The head master is also required " to explain to the two higher classes, in two weekly Lectures, of one hour each, the intention and efficacy of the Sacraments, as explained in the Church Catechism, and generally, the Doctrines of the Established Church." " And at the periods of Epiphany, Lent, Easter, Whitsuntide, the Ember weeks, and Christmas, he shall more particularly advert to the Doctrines and Ordinances therewith connected, and shall carefully explain the services appointed by the

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\* Again, the assumption that the Episcopal Church is the Established Church of the Colonies—to which every preference is to be given.

Church, for the celebration of such festivals and seasons.”

From his standing in the Episcopal Church, the Archdeacon was perhaps bound to make such a proposal for an exclusive system of education. His duty is, to support his Church. For the same reason, it is the duty of Presbyterians to oppose and reject such a scheme, as derogatory to the equality possessed by the two Churches, and inimical to the principles of the religion they profess. On other grounds, it might be, and ought to be opposed, and no doubt, it will be so. Should it, however occur, from any conjunction of circumstances, that this plan of a public school is ever carried into effect, by Government, without many and material modifications, it will be the duty of the Presbyterian inhabitants, to apply to Government for the establishment of a seminary, where their children and the children of Christians of other denominations, may be educated, without being under the necessity, of either joining in the peculiar services of the Episcopalian Church, or of bearing the odium.

of being "marked men." And why is the Episcopal Church to make such a distinction, among the children of the community? Why must the pupil spend his time in hearing Lectures about Epiphany, Whitsuntide, and the Ember weeks, or be noted among his companions, as in that matter, differing from them? Why should one set of boys be empowered to look upon themselves, as privileged above their fellows, at the expense of the public?

The day has gone by, for the establishment of such a system. Somewhat, however, is to be learned, from the scheme of the Archdeacon. He holds that his is the Established Church. On what does he found this supposition? He feels that it is the dominant Church. Can he say why it should be so? The Episcopal Church has claims to honor and distinction, and those of no trifling description. The principle which justifies the assertion of the claims of the Presbyterian Church, calls for the acknowledgment of the claims of the Episcopal Church. Its rights are

readily granted, but to the extent only that similar rights are claimed for the Presbyterian Church. In reason, and in justice, the claims of the two Churches stand or fall together.

The Hobart Town Church Committee, as representing to a certain extent, the whole Presbyterian community of the Island, and thus interested in every arrangement made by Government, regarding the Church and the education of the youth of the Colony, will, in all probability, draw the attention of the General Assembly to the measure adverted to in the Governor's last Minute to the Legislative Council, of making a permanent arrangement, for the support of the Ecclesiastical and School department. In this measure, the Presbyterian Church has an interest, and if any attempt is made, to limit the provision to the Episcopal Church, it will be an unjust and an illegal proceeding. A general measure of this nature is very desirable, but in its advantages, the two Churches are equally entitled to share; and as the provision will be made, not for the Churches and Clergymen, now in

existence, but for the support of religion, in future years, no arrangement can lawfully be made, by which one of the Churches, shall be deprived of its publicly recognised right. There are two ways of making this provision ; either by setting apart a portion of the public land as a State Fund, for the support of Churches and Schools, as occasion may demand, or by endowing particular Churches. The first plan seems to be least objectionable ; the last would be unfair in principle, and injurious in practice.

A claim has been urged that the Clergymen of the Episcopal Church have the exclusive right of solemnizing matrimony. This is altogether unfounded. It is besides, a claim interfering with the consciences of the parties, entering into this connection. No argument can be urged, for their possession of that privilege. They hold it by no competent authority. It belongs to them, neither by common nor by statute law. The Minister of any community of Christians, may officiate on the occasion of entering into the state of marriage—if indeed, the offices

of a Clergyman or Minister, are at all necessary. As a matter of order, they may be so ; but they do not seem to be requisite, so far as the legality of the marriage is concerned.\*

If by these remarks, the standing of the Presbyterian Church in the Colonies, has been ascertained, and its rights asserted, it will now be the duty of its Members, to claim that standing, and to urge those rights. In doing this, they will have the good wishes of all liberal minded men, both in this Colony, and in the Mother Country.†

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\* The Members of the various denominations of Christians, not Episcopalians or Presbyterians—the rights of these bodies being in all things equal—ought to take the opinion of some Counsel, learned in the law, on the views stated in the Appendix, on the subject of Marriage ; and if they find them correct, they should combine to prevent the right of solemnizing Marriage, from being taken from their Ministers by Act of Council.

† It is only justice to state, that several gentlemen, not Presbyterians, have very liberally contributed to the Presbyterian Fund, for carrying into effect the resolutions of the late Meeting in the Presbyterian Church. Thomas Anstey, Esq. M. C. besides doing so, immediately after the Meeting wrote to a Member of the Committee appointed, expressing his satisfaction at the result of the Meeting.

The cause of justice will finally triumph. Should this attempt to aid the cause, be attended with the most trifling success, it will indeed afford the writer inexpressible satisfaction.

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POSTSCRIPT.

The attention of the General Assembly, should in a particular manner, be drawn to the following extract from the Governor's Minute to the Legislative Council, dated 10th September, 1835.

"The Ecclesiastical and School Establishments are estimated at £14,185 16s. 10d., independent of grants, in aid of the erection of Churches and school-houses.

These establishments are altogether inadequate to the wants the country—more Clergymen, and a larger number of schools, are exceedingly required. It may be observed, that the charges under this head, are in other countries, provided for by local rates, or by ceding a proportion of the produce of the soil; and it is obviously very desirable, that some permanent arrangement should be made, for the support of a department, on which so much depends, and to the importance and usefulness of which, I am glad to perceive, that there appears to be but one opinion, throughout the Colony!"

There is an extensive field, for useful exer-

tion, before the Church of Scotland, in Van Diemen's Land. Hundreds of Scotsmen would rejoice in the thought, that their native Church felt an interest in their welfare. Five or six townships or districts could be pointed out, where the establishment of a Minister of the Church of Scotland, will be attended with much public good, and where at present, there is no Minister of either Church. In any steps, taken by the Assembly, for the establishment of Ministers in Van Diemen's Land, arrangements should be made, with the Home Government, that the same emoluments and allowances of Manse, Forage Money, &c., received by Episcopal, should be enjoyed by Presbyterian Ministers. This cannot be objected to. The Scottish Presbyterians, furnish a large share of the public revenue, and their advantage is to be consulted in its expenditure, as much as that of any class.

PUBLIC MEETING  
OF THE  
PRESBYTERIAN CONGREGATION.

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It may be necessary to give a short statement of the circumstances, which led to the Public Meeting of the Presbyterian Congregation, held in the Presbyterian Church, in Hobart Town, 20th May, 1835.

When St, Andrew's Church had been for some time in progress, the Congregation thought it would be advisable to obtain a Deed of Grant from the Crown, as a title, by which they might hold the ground, on which the Church and the Manse are built. At a Meeting held to consider this matter, it was resolved to apply for a Grant, embodying a Trust Deed, by which the Land, Church, and Manse were to be placed in the hands of three Trustees, to be held by them for the use and behoof of the Rev. Mr. Macarthur, and the Congregation, so long as they should together form and constitute the said Church, and for the use and behoof of future Ministers and Congregations. The Congregation was described in the Deed of Trust, as one following, or professing to follow, the doctrines and form of Government of the Church of Scotland. By the proposed Deed, the Trustees were bound to obey the directions of the Congregation. This resolution was not come to without opposition. It was objected, that the phrase " professing to follow the doctrines, and Government of the Church of Scotland," was very loose, and left room for corruption, both in Doctrine and Government. It was also objected, that by placing the Church in the hands of Trustees, for the use and behoof of the Rev. Mr. Macarthur, and the future Ministers,

it gave them an interest, such as would prevent the removal of any Minister, who might depart from Presbyterian Doctrine, or in any way become liable to expulsion. There was no provision made in the Deed, for the sentence of a Presbytery being imperative upon the Trustees, nor was there any provision made, for connecting the Church with such a Court, at any future time. And even had there been so, no decision of the Presbytery, in any case regarding the Minister, could have called upon the Trustees to act, unless by the direction of the Congregation. So that it would depend upon the Congregation, whether the decision of a Presbytery would be obeyed, or not; a state of things totally subversive of the Presbyterian system. And there was also a possibility that in some moment of caprice or irritation, the Congregation might direct the Trustees to expel the Minister, which from the terms of the proposed Trust, it would be obligatory upon them to do, unless indeed, they took upon themselves to decide as to the legality or illegality of these directions.

These provisions of a proposed Trust, seem inconsistent with the principles of Presbyterian Church Government. The intention of Government evidently was that the Church should be in connection with the established Church of Scotland. Any measure, however desirable, which had a tendency to prevent this connection, would have been inconsistent with these intentions, and prejudicial to the interests, of the Presbyterian Church in the Colony, for all time to come.

No object ought to be more desired than a close connection with the Church of Scotland. It is the best security for the growth of the Presbyterian Church in Van Diemen's Land, and for the respectability and welfare of its supporters. These, and other reasons, induced a number of the Members of the Congregation to call a Meeting of the Congregation, by Public Requisition, to re-consider the business of the preceding Meeting. At the Meeting which was in consequence held,

There was some opposition on technical grounds. Only two however, voted against the second—which is the most important—resolution.

It is gratifying to the supporters of the Meeting to know, that their conduct is approved of, with scarcely an exception, by the whole Presbyterian Community, and that of those who opposed the Meeting on a variety of technical grounds, only two voted against the second resolution—for carrying into effect the connection with the Church of Scotland ; and it is not improbable that these two were either originally Seceders from the Church of Scotland, or Dissenters from the Church of England—as the greater part of the opponents of the Meeting consisted of individuals belonging, at home, to these connections.

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*Requisition to the Rev. Archibald Macarthur, Minister of the  
Presbyterian Congregation in Hobart Town.*

We, the Undersigned, Members of the Presbyterian Congregation in Hobart Town, having learned with great regret, that a majority of the Managers of the Church did, on Thursday the 7th instant, resolve that the purposes of Trust, approved of at the last Congregational Meeting, should be placed in the hands of Mr. Walker, with liberty to shew the paper to those who were interested, but not to allow a copy to be taken, and which course was resolved upon after the request of several Members of the Congregation to have the document printed, for the information and consideration of all interested, do therefore hereby request you to call a Meeting of the Congregation, to take into consideration the conduct of the Managers in this matter, and at the same time fully to reconsider the proceedings of the last Meeting of the Congregation, which was too thinly attended to ascertain the real sentiments of the whole body ; and for the purpose of every one

interested being duly advertised of this Meeting, we request that it may be called for Wednesday, the 20th instant, and that this Requisition be read by you to-morrow, and next Sunday, after the forenoon and afternoon services.

*Dated this 9th day of May, 1835.*

JAMES THOMSON,  
 THOMAS YOUNG,  
 JOHN ROBERTSON,  
 WILLIAM ROBERTSON,  
 ROBERT KERR,  
 JOSEPH DIXON,  
 HUGH MURRAY,  
 H. ADDISON,  
 J. E. ADDISON,  
 JOHN JACKSON.  
 WILLIAM MACROBIE.  
 ANGUS MURRAY.  
 WILLIAM MURRAY.

The Reverend Mr. Macarthur having refused to read the foregoing Requisition till he had consulted the Managers, it was read by one of the Requisitionists at the conclusion of the forenoon service, and notice of a Meeting at the same time given. This we approve of and confirm, and hereby call a Meeting of the Presbyterian Congregation, for Wednesday, the 20th instant, to be held in the Presbyterian Church, at 7 o'clock in the evening, for the purposes mentioned in the Requisition.—*May 11, 1835.*

JAMES THOMSON,  
 THOMAS YOUNG,  
 JOHN ROBERTSON,  
 WILLIAM ROBERTSON,  
 ROBERT KERR,  
 JOSEPH DIXON,  
 HUGH MURRAY,  
 A. ADDISON,  
 J. E. ADDISON,  
 JOHN JACKSON,  
 WILLIAM MACROBIE,  
 ANGUS MURRAY.  
 WILLIAM MURRAY.

*Proceedings of a Meeting of the Presbyterian Congregation, held in the Presbyterian Church, on Wednesday, the 20th of May, 1835, pursuant to a Public Requisition, signed by thirteen Members of the Congregation.*

Moved by Mr. John Robertson, seconded by Mr. Joseph Dixon ;

That Mr. Hugh Murray be the Chairman of the Meeting.—carried unanimously.

Mr. Joseph Dixon was elected Clerk.

The Chairman opened the proceedings of the Meeting, by reading the Requisition, by which the Meeting was called, and declared it duly constituted, for the purposes mentioned in the Requisition.

Two protests were put in, against the legality of the Meeting, one signed by five of the Managers, the other, by nineteen Members of the Congregation.

Moved by Mr. James Thomson, seconded by Mr. Joseph Dixon ;

That the Minutes of the last Meeting be produced, and read.

Dr, Turnbull, seconded by Mr. H. Hopkins, moved as an Amendment ;

That this Meeting do declare itself incompetent to call for the minutes of the last Meeting of the Congregation—negatived.

A scrutiny was demanded, by Dr. Turnbull, on the Amendment—again negatived.

Original Motion carried. Minutes of the last Meeting read.

1.—Moved by Mr. Thomas Young—seconded by Mr. John Robertson.

A majority of the Managers of the Presbyterian Church, at their Meeting, on Thursday, the 7th instant, having come to

the Resolution, that the draft of the purposes of trust, approved at the last Meeting of the Congregation, which was very thinly attended, should be placed in the hands of Mr. Walker, with liberty to shew the paper to those interested, but not to allow a copy to be taken, even although it had been requested, by several Members of the Congregation, that so important a public document, should be printed, for the information and consideration of all concerned, this Meeting of the Congregation, expresses its regret, that the Managers should have considered themselves called upon to follow such a line of conduct.

Moved, as an Amendment, by Dr. Turnbull—seconded by Mr. John Walker.

That this Meeting is incompetent to take into consideration the conduct of the Managers—Amendment put and negatived.

The original motion was then put and carried, by a majority.

2.—Moved by Mr. James Thomson—seconded by Mr. William Murray.

“The grounds on which the proceedings of the last Meeting should be re-considered, being—1st, That two allotments for the Church, and Burial Ground, in connection therewith, were given, by the Local Government, for the purpose of creating an Establishment in connection with the Church of Scotland, as by law established; 2nd, That the Minister of the Church which was erected ten years ago, has been paid a stipend, by the Government, as the Minister of such an Establishment; 3rd, that the grant of £1,250, to assist in building St. Andrew’s Church, was made by the Government, in furtherance of the same object; and 4th, that the Congregation has always claimed such connection. Resolved therefore, that this Meeting do carry into effect, the establishment of this Church, in connection with the Church of Scotland, as by law established, and endeavour to obtain a constitution for it

accordingly, so that it may be based upon public principles, and not partake, in any respect, of a private establishment, which would be most injurious to the interests of the Presbyterian Church, in this Colony, and effectually check its growth."

Carried by a majority.

3.—Moved by Mr. Joseph Dixon—seconded by Mr. John Jackson.

"Resolved, that the portion of the proceedings of the Meeting of the 22nd April, founded upon the Report of a Committee, appointed at the last Annual Meeting of the Congregation be rescinded, as upon re-consideration, insufficient to carry the views and purposes expressed in the preceding Resolution into effect; and that application be made to the Law Agents of the Church of Scotland, for drafts of such deeds, and such instructions, as will enable Presbyterian Establishments to be brought into effect in this place, upon the principle of ensuring to the Members of the Congregation, both Members in Communion and Seat-holders, all powers and privileges competent to be enjoyed and exercised by a Presbyterian Congregation, in connection with the Church of Scotland, and that no application be made, for a grant from the Crown; till such drafts and instructions be obtained.—Carried unanimously.

4.—Moved by Mr. Hugh Addison—seconded by Mr. Angus Murray.

"Resolved, that a Committee of seven individuals, be appointed, to carry these resolutions into effect, and that the following gentlemen form the Committee, viz. Messrs. M'Lachlan, Moodie, Young, James Thomson, John Robertson, Hugh Murray, and William Murray, four of whom shall form a quorum—Mr. Young to be Convener."—Carried unanimously.

5.—Moved by Mr. J. E. Addison—seconded by Mr. Robert Sutherland.

"Resolved, that a subscription be entered into, under the

management of the Committee, for the purpose of defraying the expenses incurred in carrying into effect the purposes of the preceding Resolutions."—Carried unanimously.

6.—Moved by Mr. William M'Robie,—seconded by Mr. George Hutton.

"Resolved, that the proceedings of this Meeting be signed by the Chairman, on behalf of the Meeting, and by all the Members of the Congregation, who approve of the Resolutions agreed to, and that they be inserted in the Newspapers of Hobart Town."—Carried unanimously.

7.—Moved by Mr. James Thomson—seconded by Mr. Joseph Dixon.

"That the Chairman do leave the Chair, and that Mr. William Robertson do take the same."—Carried unanimously.

8.—Moved by Mr. John Robertson—seconded by Mr. Hugh Addison.

"That the thanks of this Meeting be given to the Chairman, for his conduct in the Chair."—Carried unanimously.

HUGH MURRAY, Chairman.

Thomas Young  
 Simon Fraser  
 John Robertson  
 John White  
 Richard N. J. Trotter  
 James Morris  
 William Robertson  
 John Robertson  
 John Jackson  
 Pringle White  
 John Wiseman  
 Alexander Gellie  
 William Murray  
 Angus Murray  
 Adam Smith  
 H. M'Farquhar  
 Charles Grace  
 David Bow  
 J. E. Addison

Hugh Addison  
 John Thomson  
 George Brown  
 David Barclay  
 John Brown  
 George Hutton  
 William M'Robie  
 William A. Mackay  
 John Kean  
 Alexander Fraser  
 Robert Sutherland  
 John Macdonald  
 Leonard Pearson  
 Charles M'Arthur  
 Robert Caldwell  
 Archibald Muir  
 John Mezger  
 Stephen Coombs  
 Matthew Muir

Andrew Haliburton  
 Thomas Johnson  
 Joseph Moir  
 Archibald Menzies  
 John M'Phail  
 Joseph Dixon  
 James F. Strachan  
 Gilbert Robertson  
 Thomas Barclay  
 William Harvey  
 Robert Jeffrey  
 A. J. Russell  
 H. S. Thomson  
 John Thomson  
 Peter M'Intyre  
 J. Makepeace  
 David Sterling  
 W. C. Wilson  
 William Scott  
 Robert Mann  
 William Brown  
 A. M. Nicol  
 William Wilson  
 John Fisher  
 John Brown  
 William Cummings  
 G. Boyle  
 Henry Davidson  
 Ramsay Williamson  
 James Livingstone  
 Thomas Burn  
 John Moir  
 John Petrie  
 David Macqucen  
 Hugh Cameron  
 S. Williamson  
 George Finlayson  
 John Moffat  
 James Fisher

John Muir  
 James Thomson  
 Samuel Douglas  
 Hugh Murray, jun.  
 James Reid  
 A. G. Watson  
 Alexander Smith  
 William Dalgliesh  
 G. H. Anderson  
 J. Montgomery Gordon  
 James Anderson  
 William Anderson  
 J. H. Thomson  
 James Skene  
 Angus M'Leod  
 Thomas Carlaw  
 Alexander Brunton  
 George Ralweger  
 Simon Fraser  
 John Norman  
 James Blair  
 John Blair  
 Charles Wood  
 John Wood  
 John Johnston  
 G. Williamson  
 John Sterling  
 John Bell  
 James Carmichael  
 John M'Cracken  
 John Martin  
 J. J. Jeffrey  
 Archibald Maclachlan  
 Peter Dudgeon  
 Duncan M'Pherson  
 Robert Kerr  
 Adam Cumming  
 J. Ferguson  
 John Burn

*Members of the Congregation and Presbyterian Inhabitants:  
 approving of the Proceedings of the Meeting.*

Note.—The Requisition and the Notice, calling the Meeting, were inserted:  
 in the Hobart Town Newspapers.

A few days after the Meeting, the Committee received the following letter:—

*Colonial Secretary's Office, 23d May, 1835.*

GENTLEMEN.—The Lieutenant Governor, having perceived in the last *Courier*, an advertisement, containing certain Resolutions passed at a certain recent Meeting of the Presbyterian Church, when a Committee was appointed, for the purpose of carrying into effect the connection of the Congregation with the Church of Scotland, I am directed to inform you, that without expressing any opinion upon the validity of the proceedings which then took place, His Excellency considers that it may be proper that the Government should be made aware of the intentions of the majority of the Congregation, which carried the published Resolutions, more especially in reference to the stability of the appointment of the Clergyman, who has been so long recognized by the Members of the Church, and by the Government, as the Presbyterian Minister for Hobart Town—and I am therefore to request that you will be pleased to furnish me with the necessary information to His Excellency.—I have the honor to be, Gentlemen, your very obedient Servant,

(Signed) JOHN MONTAGU.

*To C. M'Lachlan, Esq., and others, composing the Committee of the Presbyterian Congregation, appointed at a Meeting on the 20th May, 1835.*

To this the Committee replied:—

*10, Liverpool-street, Hobart Town, 4th June, 1835.*

SIR.—I have the honor to inform you, that I am directed by the Committee, appointed by the Congregation of the Presbyterian Church, in Hobart Town, at a Meeting held on the 20th ultimo, to acknowledge the receipt of your communication of the 30th of the same month, addressed to the Committee, and to give you the following reply thereto, agreed upon by all the Members of the Committee, with the exception of Mr. John Robertson, who could not be consulted, as he is now in Launceston.

The only instructions which the Committee has received are simply what appear upon the face of the published Resolutions, and the intentions of the Congregation appear, from these Resolutions, to be plain and simple.

With regard to the Minister, the Committee has received no instructions, and consequently it cannot enter upon the subject.—I have the honor to be, Sir, your obedient humble Servant,

THOMAS YOUNG.

*Chairman of the Meeting, and Convener of the Committee.*

It is considered necessary to publish the following documents, in reference to the Government aid to the Presbyterian Church:—

*Hobart Town, 29th August, 1832.*

SIR.—It having been a subject of serious concern with the well disposed of the community, that there should be such a very inadequate provision for the numerous and rapidly increasing population of this place, in the present limited accommodation afforded them for the celebration of Divine Service; and whilst this consideration has had its due weight with Government in the measures which have been adopted, and are still in progress, for meeting the existing wants of the Members of the Church of England in this respect, and the opportunity of attending Divine Service, has been in like manner enlarged amongst the Members of the other Christian communions around us, we cannot but regret, in common with the other Members of the Scotch Church, the inadequacy of the present Church accommodation, which is limited to 240 sittings, in an edifice ill suited to extend the benefits of a Christian Ministry to the encreasing population around us, as indeed it ere long will be, even to those rising up within its own pale.

The subject of a suitable enlargement of the present Church has frequently come under our anxious consideration, but there appeared so many obstacles to its accomplishment, as well from the inadequacy of our funds, as from the difficulty of effecting such an alteration as would realize our expectations, from the narrowness of the building, and the lowness of its roof, that the idea was as often abandoned, for the addition that would be required, could only be made at an expense nearly equal to the original cost of the present Church, which would require to be unroofed, and thus rendered unavailable for the purposes of Divine Service for several months, and even when completed, its shape and construction would necessarily be unfavourable to both the Minister and his hearers.

The only way, therefore, which seems left, by which this most desirable object can be accomplished, combining economy, convenience, and a suitable regard to the existing wants of the Public, appears to be, the erection of an entirely new Church of the dimensions required, and in a situation that will extend the most widely the benefits it is calculated to confer on the numerous population of Hobart Town. In this respect it will be seen, that the opinions originally entertained by the Managers of the Scotch Church respecting the site of the edifice, is now considered in some measure erroneous, inasmuch as it is inconveniently remote from the most dense portion of the po-

pulation, and the expectations that were originally entertained of the extension of the neighbourhood in the direction in which it is situated, now appear not likely to be realized; and as we are unanimous in our view of the necessity of an entirely new building, we cannot but regard it as desirable to place it where the convenience of the public will be consulted, and its advantages be the most extensively felt.

The difficulty of providing a more appropriate site for a new Church can be easily removed, if, when the grant for the present Church allotment is prepared, a provision be inserted, granting power to the Managers to dispose of one half of it for the erection of a Church, reserving the other moiety for the Clergyman's Manse, which is only in furtherance of the original intentions of Government on the subject, when an arrangement can be easily effected by which a spot of ground can be procured in a more central situation, without at all encroaching on the funds that may be raised for the building.

With respect to the size of the proposed building, the Managers conceive it particularly desirable that it should be estimated with a view to the prospective, as well as the existing wants of the rapidly increasing population, and we do not think we at all exceed due bounds when suggesting, that it should not have less than 700 sittings, independently of a gallery, which should also be erected at the same time, as a measure of eventual economy. This estimate contemplates the appropriation of a certain number of free sittings for the benefit of the poor, a measure that every benevolent mind will regard as particularly desirable, and we doubt not will meet with the concurrence and approbation of Government, especially when it is considered as in accordance with the provision made in the late Act of Parliament for the erection of Churches in England and Scotland, and seems particularly called for in this place, where a population of about 6,000 have at present accommodation for not more than one third of their number in the different places of public worship collectively.

In prosecuting this most desirable measure, therefore, we anticipate the liberal co-operation of a benevolent public; but as the erection of such a building will involve an outlay of not less than £2,500, we cannot indulge the hope of seeing the object obtained without greater assistance than we can expect from such sources. We have taken some pains to ascertain what amount we shall be likely to realize by opening a public subscription in aid of the building, and we fear it will fall very far short of even one half of the amount required. Induced, however, by a sense of the paramount duty and necessity of

making a more suitable provision for the moral and spiritual welfare of our Fellow Christians around us, we have resolved on making ourselves responsible to the extent of £1,250, in furtherance of the object, and we would respectfully submit the subject to the benevolent consideration of Government, not doubting that it will meet with a degree of attention suited to its importance, as one of the most powerful and influential agents for the promotion of the moral improvement of the people, involving alike the interests of the Government and the Governed.

In soliciting the liberal assistance of Government on the present occasion, we would expressly understand that it would be final as far as relates to the future repairs of the Church, which would of course remain with the Managers and Congregation.

(Signed) A. MOODIE,  
JOHN WALKER,  
HENRY HOPKINS,  
STEPHEN COOMBS,  
WILLIAM GUNN,

For Capt. PAT. WOOD,  
ARCHIBALD MACARTHUR.

*John Burnett, Esq., Colonial Secretary.*

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1st January, 1833.

SIR.—The Managers of the Scotch Church, not having received any reply to the communication they had the honour of submitting through you on the 29th August last, in regard to the inadequacy of the present Church accommodation, and desirous of obviating as speedily as possible, the evil complained of, and of extending the benefit of divine truth, it was resolved, at a Meeting recently held for the purpose, that we should request of you to bring the subject again under His Excellency's notice, and to inform us whether the proposals the Managers took the liberty to suggest, are likely to be acceded to on the part of the Government.

(Signed) A. MOODIE,  
JOHN WALKER.

*John Burnett, Esq., Colonial Secretary.*

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*Extract from Minutes of Proceedings of the Annual Meeting of the Congregation, held 2nd April, 1833.*

“ A Member of the Congregation requested to be informed,

whether the Managers had not written to the Government, craving aid in building a new Church.\*

"Mr. Walker answered in the affirmative, and read a copy of a letter signed by six Managers, bearing date 29th August, 1832.

"Mr. Walker said, that a second letter, dated 8th January, 1833, had been transmitted, referring to the former, and requesting an answer.

"Mr. M'Arthur explained to the Congregation, that this application had been made by the Managers, under circumstances originating in a private interview he had had with the Lieutenant Governor, which did not enable them to consult the Congregation before transmitting it.

"Resolved, on the motion of Dr. Turnbull, that the Managers be requested to press for an answer to their former letters, to apply for aid as for a National Church, and to prepare for this end, a Memorial,† to be signed by the Members of the Congregation."

*Colonial Secretary's Office, 25th October, 1833.*

SIR,—I am directed by the Lieutenant Governor to inform you, and the other gentlemen, who on behalf of the Congregation in this place, in connection with the Church of Scotland, as by law established, subscribed the letter of the 29th of August, 1832, addressed to me, praying the assistance of the Government, in the erection of a new Church, in consequence of the deficient accommodation, bad construction, and inconvenient situation of the present one, setting forth that two thousand five hundred pounds would be necessary for this purpose, and pledging yourselves to provide a moiety of the amount, that His Excellency has considered your application, in the Executive Council, and acquiesces in the sum of one thousand two hundred and fifty pounds, being appropriated

\* It should have been added, that the Member objected to the proceeding of the Managers, in proposing to alienate the Church property, and that without consulting the Congregation.

† No information is to be gained from the Minute Book of the Managers, regarding the preparation of this Memorial. It must be in the recollection of all the Congregation, however, that a Memorial was prepared, requesting aid for the erection of a new Church, designated a National Church, and signed by the Members of the Congregation, and giving the number of the individuals composing each Member's family. This important Memorial was never presented to the Government. The gentleman who undertook the duty, was so unfortunate as to lose it, and, as the Managers were not immediately made aware of this untoward circumstance, no steps were taken to replace it.

according to your request, under the following conditions:—

1.—Sufficient security being given by the applicants for the appropriation of the like sum, according to their letter of the 29th of August, which may be accomplished by their giving their personal undertaking.

2.—Their coming under an obligation that the Church shall be completed within a reasonable time.

3.—Their providing for the poor as many pews as may be considered necessary by the Government.

4.—Should it be called for before the commencement of the building; they will provide a plan and specification thereof, for the consideration and approval of the Government.

5.—The applicants, or so many of them as may be required, will bind and oblige themselves to refund the said one thousand two hundred and fifty pounds, should the Right Honourable the Secretary of State disapprove of the measure.

The money will be advanced in three separate sums, in the same manner as has been pursued upon similar applications having been made by the Congregations belonging to the Established Church of England—the first when the work is commenced; the second when it is half finished; and the third upon its completion.

I have the honour to be, Sir,

Your very obedient servant,

(Signed) J. BURNETT, Colonial Secretary.

*A. Moodie, Esq., &c., &c.. &c.*

*Hobart Town, November, 1833.*

SIR,—We have the honour to acknowledge the receipt of your letter of the 25th of October, 1832, addressed to A. Moodie, Esq. in answer to the application made on the 29th August, 1831, on behalf of the Congregation of the Presbyterian Church in this place, and to state, that we beg for ourselves, and as authorised by the Congregation, most respectfully and gratefully to acquiesce in the conditions, under which His Excellency has kindly complied with our request, to advance the sum of one thousand, two hundred and fifty pounds, towards the erection of a new Presbyterian Church.

1.—The applicants or present managers are prepared to give their personal undertaking for the appropriation of a like sum, according to their letter of the 29th August.

2.—They are prepared to oblige themselves that the Church shall be completed within a reasonable time.

3.—They will provide for the poor as many pews as may be considered necessary by the Government.

4.—They will transmit a plan and specification of the work, for the consideration and approval of the Government, should it be called for, before the commencement of the building.

5.—Messrs. Hopkins and Walker (two of those who signed the requisition of the 29th August,) are prepared to bind and oblige themselves to refund the said one thousand two hundred and fifty pounds, should the Right Honourable the Secretary of State disapprove of the measure.

We are instructed to bring under His Excellency's notice, the circumstance, that from the extension of the town towards the brickfields, the probable buildings in the domain, and the expected improvements of the streets, leading to the site of the present Church, it does not now appear to be necessary to exchange any part of the present Grant, for the purpose of acquiring another situation. It has been thought that if the new Church be placed facing Bathurst-street, about twenty feet from the footpath, in the centre of the land, the object contemplated by the managers in proposing to alter the situation of the Church, will be sufficiently attained, and it has been accordingly agreed that it should be so placed.

In conclusion, we beg respectfully to state, that the recent numerous arrivals of poor Scotch emigrants, under the Government bounty, who cannot obtain accommodation in our present Church, renders the accomplishment of the work more urgent than ever.

It is therefore of the utmost importance, that an immediate commencement should be made, and we are now engaged in making the necessary preliminary arrangements.

We have the honour to be, Sir,

Your most obedient, humble servants.

(SIGNED BY THE MANAGERS.)

*The Honourable the Colonial Secretary.*

*Extract of a Minute of His Excellency, Lieutenant Governor Arthur, to the Legislative Council, 3rd October, 1835.*

“I have also included in the Estimates for 1833 and 1834, the sum of £1,250, towards the erection of a Presbyterian Church, for the accommodation of such of the inhabitants, as are in connection with that part of the Protestant Church of Great Britain, which is by law established in Scotland; as the present building is much too small, and in almost every respect, ill adapted for Public Worship; and the managers have, on behalf of their constituents, pledged themselves to apply, in raising a more commodious building, a sum equal to that afforded by Government.”



## APPENDIX.

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*Extract from the Second Charge of the Bishop of Barbadoes, 1831.*

“The continuance, through the blessing of God, of international peace, has happily prevented any interruption or uncertainty in my communications with the several parts of the Diocese; and though in one island the destruction by storm of almost every religious edifice, and the still prostrate state of no less than seven out of its eleven Parish Churches, cannot but have operated unfavourably on the interests of religion, as far as that highly important branch of it, the public worship of God is concerned; and though in those Colonies where the influence of the Church of Rome prevails, the door of Scriptural knowledge has yet need to be thrown open; and though in those same Colonies the members of the Kirk of Scotland have recently evinced a disposition to form themselves into congregations of their own, and to withdraw themselves from the public ministrations of our Church, with which they have so long and happily communicated, and have thus weakened in outward appearance at least, that front, which it was so important for us as a body of Protestants, to have maintained unbroken; and though, in every part of the Diocese, it must with grief be confessed that we have had, and still have to contend with much practical infidelity, worldly indifference, long cherished prejudices, and many vicious propensities and habits; yet amidst all these seemingly discouraging circumstances, I cannot but entertain the conviction that the knowledge of religious truth is every year gaining ground, and beginning, under God’s blessing, to exert a salutary influence over men’s opinions and actions.”

Thus the Bishop of Barbadoes. The Kirk of Scotland is found here in strange company—Storm—the destruction of seven Churches—the Church of Rome—the Kirk of Scotland practical infidelity—worldly indifference—long cherished prejudices—vicious propensities and habits—are lamented over, as “the discouraging circumstances” which prevent or retard the

knowledge of religious truth. A goodly company of discouraging circumstances truly, these. There are some fears, however, that they will not long agree among themselves. Some of them have long had a rooted antipathy to each other. The Kirk has long been striking right and left at *her* of Rome. Practical infidelity, worldly indifference, and vicious propensities—how it has made up the matter with them, to the sore annoyance of the Bishop, is hard to say. How would John Knox stare to see the Kirk in such company, and so employed. Let these, the other enemies of religion, however, beware. The Kirk may be employed in a very different way from what the Bishop would insinuate, and may, perhaps, be laying a deep scheme against its alleged confederates; and practical infidelity and vicious propensities may yet be found to have no love for her company or presence.

How would the sentiments of the Bishop of Barbadoes have sounded in the ears of that Prelate, had they been delivered by a Presbyterian Minister, in a sermon delivered before a Presbytery, with the words Church of England in the place now occupied by the Kirk of Scotland. Would he have seen any just grounds for supposing that the interests of religion were injured by the members of the Church of England forming themselves into separate congregations, or have supposed that the Protestant front was thereby weakened? Would it not have been a matter of congratulation rather, that the adherents of that Church were becoming so zealous for the peculiarities of their mode of worship, and have formed a strong reason for the hope that the spirit of true religion actuated their minds, and led to this step? Such seems a fair inference. Is the front of Protestantism weakened by the encrease of Protestant Churches, and conscientious Protestant Church-goers? What Church has shewn greater zeal for the principles of Protestantism than the Church of Scotland? If she has not witnessed a good confession, what Church has? How much more consistent a Protestant feeling would it have displayed, had the Bishop congratulated the Clergy of his Diocese, that although seven Episcopal Churches had been laid in ruins, yet that so great a calamity had in a measure been remedied, and the evil consequences of a short-coming of Protestant places of worship had been so far obviated by the erection of Churches by the members of the Church of Scotland. "From the zealous character of the Ministers of that Church," might the Bishop have said, "I have every reason to trust that the cause of the Protestant Church and the interests of true religion will be much advanced within the bounds of my Diocese; and I shall

feel my heart encouraged, and my hands strengthened in my endeavours to check infidelity, to correct long cherished prejudices, and to eradicate vicious propensities, by the knowledge that I have the assistance of a Church whose Ministers have the satisfaction of knowing that their exertions are well bestowed, by witnessing the fruits of their ministry in the moral and religious character, and habits of the inhabitants of the country in which they hold the responsible and honourable character of an Established Clergy."

Such sentiments would have been as honourable as they are correct; and the Bishop of Barbadoes might have held them, and uttered them, without giving up one iota of his Episcopal dignity, or forsaking his "*long cherished prejudices.*"

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#### *The Law of Marriage, in the Australian Colonies.*

The question as to what is a lawful marriage in the Australian Colonies is of much importance. In the early history of the Colony, many individuals of extensive property formed Colonial marriages, as they were called; that is, they lived as husband and wife, without observing the religious ceremony, looked upon as necessary to give validity to that engagement. The offspring of such marriages is commonly considered illegitimate, and not entitled to inherit the father's property. By the law of England, as it now stands, such marriages occurring in England would doubtless be of no force, and the offspring would labour under all the disabilities attending upon those born out of wedlock; but such does not seem to be the case in the Australian Colonies, as the statutes relating to marriage, do not extend to these Colonies. The law of marriage in England was very much modified, if not altogether in some respects altered by the Act 26th G. 2. Before the passing of that act, a contract made *per verba de presenti*, as when the man said to the woman "I do take thee to my wife," and the woman then answered "I do take thee to my husband," was a legal marriage, as was also a contract made *per verba de futuro, cum copula*; as when a man says "I will take thee, at some future time, to be my wife," and the woman says "I will take thee to be my husband," and they afterwards live as husband and wife. And it was held by Chief Justice Holt, that if there was an express contract on the part of the man, and the woman countenanced it, and by her actions, at that time, behaved herself as if she agreed to

the matter, although she made no actual promise, yet that was an evidence of a promise on her part. In this respect, the common law of England agrees with the civil as well as the canon law. The Church indeed requires that there shall be the intervention of a priest, as a matter of order, and the Ecclesiastical Court may admonish and punish for contumacy, if the parties refuse to celebrate the marriage, in the face of the Church. In *Wigmore's case*, noticed under the article *Marriage*, in Burn's Ecclesiastical Law, Chief Justice Holt held that by the canon law, a contract *de presenti* is a marriage, and also a contract *de futuro*, if the contract be executed, and the man does take the woman, and they (the Ecclesiastical Courts, viz :) can only punish for not solemnizing the marriage according to law, but not so as to declare the marriage void. And in a note on this passage, it is stated, that a contract, *per verba de presenti*, amounts to an actual marriage, which the very parties themselves cannot dissolve, by release or other mutual agreement; for it is as much a marriage in the sight of God, as if it had been *in facie Ecclesie*.

By the common law, marriage is looked upon merely as an ordinary contract; and where there is ability, from age, that is, if the woman is 12 and the man 14—soundness of mind and consent of the parties, there is a legal marriage entered into. The consent of the parents is not requisite. But by the Act 26 G. II. c. 33, it is rendered imperative that parties shall enter into the contract of marriage by banns or license, in a Church or Public Chapel, and before two witnesses, before a parson, vicar, or curate, and all marriages otherwise solemnized, are void. This Act is, however, confined to England. Section 18, among other exceptions, declares that it shall not extend to Scotland, or to marriages solemnized beyond seas. This made a material alteration in the law of marriage in England, but it did not affect the Colonies. Thus, in the Bahamas, the only Act of Parliament in force regarding marriages, is Act 32, H. 8, c. 38. "*Clarke's Summary of Colonial Laws*, note, page 618." This Act relates to the Levitical degrees. It may be made a question, if the Australian Colonies and the Bahama Islands are in exactly the same situation, as regards the Act of 26, G. II. The former Colony has been acquired by occupation, since the passing of the Act, and on the strength of the principle, that Colonies acquired by discovery or occupation, are subject to the *general* law of England, as it existed at the time of their occupancy, so far as is consistent with their condition of an infant Colony, it

may be held that the law as to marriage, is affected by the Act 26 Geo. II. But there are many of the requirements of this Act which could not be fulfilled in these Colonies, at the time of their settlement, and perhaps not even at the present time, such as the publication of banns, in Churches or Chapels, where banns had been published before the passing of the Act, and such Church or Chapel must be situated in the Parish where the parties dwell. These two requirements, it would have been impossible to attend to, at the original settlement of these Colonies, and it appears impossible that they can be attended to even now.

The validity of the marriages entered into, in the first stages of the Colony, must depend on the common law, as stated above, by which, a simple consent is all that is necessary to constitute a good and valid marriage, to all intents and purposes, without the intervention of a Minister of religion. It seems clear that Section 1st of the Act had no force in the Colony, in former years, nor has it even now. It is there stated, that all banns shall be published in the Parish Church, or some public Chapel, where banns have been usually published, belonging to the Parish or Chapelry where the parties to be married dwell. There were then, and there are now, no Parish Churches and no public Chapels, where banns had been usually published. But if it is held that the Act does notwithstanding extend to the Colony, although there are no Parish Churches or public Chapels, wherein to publish banns; by Section 8, every person solemnizing marriage in other places, viz.; in any other place than a Church or Chapel, where banns had been usually published, is to be judged guilty of felony, and transported for fourteen years, and all marriages so solemnized are void. If the Act extends to the Colony, every marriage entered into, appears to be, by the Act, void, although entered into in a Church. If the Act does not extend to the Colony, the common law as to marriage is in force, and there is no necessity for the intervention of a Minister of religion, to give validity to the marriage contract, and a simple contract forms a valid legal marriage.

The Marriage Acts since 26 Geo. II. were passed expressly to amend certain provisions in that Act, and can have no force where that Act never was in force. The Act 4 Geo. IV. c. 76, is expressly limited to England. The common law as to marriage seems then to be the law of the Colony. This matter is deserving of being carefully enquired into. The consequences resulting from this view of the law are very important. It may affect the validity of marriages solemnized in the usual way—if

one of the parties had previously entered into any contract *per verba de presenti*, or *per verba de futuro cum copula*; for the second marriage is, *ipso facto*, void. It may also change, in many cases, the destination of property. This view also shews that the exclusive right to perform the ceremony of marriage, claimed by Episcopal Clergymen, is a mere assumption, and that any Minister is entitled to officiate on such occasions.

It is deserving of notice, that the Supreme Court has no jurisdiction, except as to administration and matters testamentary. It cannot take cognizance of improper marriages, as may be done by the Ecclesiastical Court in England. There are causes, such as consanguinity, &c. rendering marriages voidable by sentence of the Ecclesiastical Court, although they are not void *ab initio*—nor till after the sentence of the proper Court, during the life of both parties. The Supreme Court of Van Diemen's Land does not seem to be empowered to entertain any suit regarding such marriages.

Burn's Ecclesiastical Law has this note, under the head, Marriage, page 476 :—" British subjects resident in a British settlement abroad, are governed, with respect to marriage, by the law which existed here before the Marriage Act, viz. the canon law. Therefore, where two British subjects, being Protestants, were married at Madras, by a Portuguese Roman Catholic Priest, according to the Catholic form, in the Portuguese language, in a private room, and the ceremony was followed by cohabitation, this was held to be a valid marriage, though without a license from the Governor, which it is the custom at Madras to obtain."—*Latour v. Teesdale*. 2 *Marsh. Rep.* 243. 8 *Taunt.* 830. S. C. A. D. 1816.

So it is here. The canon law, which is the same as the common law in this matter, prevails. A simple declaration made by two individuals, is a legal marriage, which cannot be dissolved; and the children of such marriage are legitimate, and enjoy all the rights attached to such a character, and the wife has the usual rights of dower, &c.

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### *East India Bill.*

Anno Tertio et Quarto, Gulielmi IV. Regis.

CAP. LXXXV.

SEC. 102.—And be it enacted, that of the establishment of chaplains maintained by the Company at each of the presidencies of the said territories, two chaplains shall always be

ministers of the Church of Scotland, and shall have and enjoy from the said Company such salary as shall from time to time be allotted to the military chaplains at the several presidencies. Provided always, that the ministers of the Church of Scotland to be appointed chaplains of the said presidencies as aforesaid, shall be ordained and inducted by the Presbytery of Edinburgh, according to the form and solemnity used in the Church of Scotland, and shall be subject to the spiritual and ecclesiastical jurisdiction in all things of the Presbytery of Edinburgh, whose judgments shall be subject to dissent, protest, and appeal to the provincial Synod of Lothian and Tweedale, and to the General Assembly of the Church of Scotland. Provided always, that nothing herein contained shall be so constructed as to prevent the Governor-General in Council from granting from time to time, with the sanction of the Court of Directors, and of the Commissioners for the affairs of India, to any sect, persuasion, or community of Christians, not being of the united Church of England and Ireland, or of the Church of Scotland, such sums of money as may be expedient for the purpose of instruction or for the maintenance of places of worship.

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*Act regarding Southern Australia.*

Anno Quarto et Quinto, Gulielmi IV. Regis.

CAP. XCV.

SEC. 2.—And be it further enacted, that it shall and may be lawful for His Majesty, his heirs and successors, by any order or orders to be by him or them made, with the advice of his or their Privy Council, to make, ordain, and subject to such conditions and restrictions as to him or them shall seem meet, to authorise and empower any one or more persons resident and being within any one of the said provinces, to make, ordain, and establish all such laws, institutions, or ordinances, and to institute such courts, and appoint such officers, and also such chaplains and clergymen of the Established Church of England or Scotland, and to impose and levy such rates, duties, and taxes as may be necessary for the peace, order, and good government of His Majesty's subjects and others within the said province or provinces, provided that all such orders, and all laws and ordinances, so to be made as aforesaid, shall be laid before the King in Council, as soon as conveniently may be, after the making and enacting thereof respectively, and that the same shall not in anywise be contrary or repugnant to any of the provisions of this Act.

*Extract from the Act for a Union of the two Kingdoms of  
England and Scotland.*

Anno Quinto Annæ Reginae.

CAP. VIII—ARTICLE IV.

That all the subjects of the United Kingdom of Great Britain shall, from and after the Union, have full freedom and intercourse of trade and navigation to and from any port or place within the said United Kingdom, and the dominions and plantations thereunto belonging, and that there be a communication of all other rights, privileges, and advantages, which do, or may belong to the subjects of either kingdom; except where it is otherwise expressly agreed in these articles.

ARTICLE XXV.

2.—Our Sovereign Lady, and the Estates of Parliament, considering that by the late Act of Parliament, for a treaty with England for an Union of both Kingdoms, it is provided, that the commissioners for that treaty should not treat of or concerning any alteration of the worship, discipline, and government of the Church of this Kingdom, as now by law established; which treaty being now reported to the Parliament, and it being reasonable and necessary that the true Protestant religion, as presently professed within this Kingdom, with the worship, discipline, and government of the Church, should be effectually and unalterably secured; therefore Her Majesty, with the advice and consent of the said Estates of Parliament, doth hereby establish and confirm the said true Protestant religion, and the worship, discipline, and government of this Church, to continue without any alteration to the people of this land in all succeeding generations; and more especially Her Majesty, with the advice and consent aforesaid, ratifies, approves, and for ever confirms the fifth Act of the first Parliament of King William and Queen Mary, intituled, "*An Act ratifying the Confession of Faith, and settling Presbyterian Church Government;*" with all other Acts of Parliament relating thereto in prosecution of the declaration of the Estates of this Kingdom, containing the claim of right, bearing date the eleventh of April, one thousand six hundred and eighty-nine; and Her Majesty, with advice and consent aforesaid, expressly provides and declares, that the aforesaid true Protestant religion, contained in the above-mentioned Confession of Faith, with the form and purity of worship presently in use within this Church, and its Presbyterian Church government and discipline (that is to say) the Government of the Church by Kirk Sessions, Presbyteries, Provincial Synods, and Ge-

neral Assemblies, all established by the aforesaid Acts of Parliament, pursuant to the Claim of Right, shall remain and continue unalterable, and that the said Presbyterian Government shall be the only Government of the Church within the Kingdom of Scotland.

3.—And further, for the greater security of the aforesaid Protestant religion, and of the worship, discipline, and government of this Church, as above established, Her Majesty, with advice and consent foresaid, statutes and ordains, that the Universities and Colleges of Saint Andrew's, Glasgow, Aberdeen, and Edinburgh, as now established by law, shall continue within this Kingdom for ever; and that in all time coming, no Professors, Principals, Regents, Masters, or others, bearing office in any University, College, or School, within this Kingdom, be capable to be admitted, or allowed to continue in the exercise of their said functions, but such as shall own and acknowledge the civil government in the manner prescribed, or to be prescribed by the Acts of Parliament; as also, that before or at their admission, they do and shall acknowledge and profess, and shall subscribe to the foresaid confession of faith as the confession of their faith, and that they will practise and confirm themselves to the worship presently in use in this Church, and submit themselves to the government and discipline thereof; and never endeavour, directly or indirectly, the prejudice or subversion of the same, and that before the respective Presbyteries of their bounds, by whatsoever gift, presentation, or provision, they may be thereto provided.

4.—And further, Her Majesty, with advice aforesaid, expressly declares and statutes, that none of the subjects of this Kingdom shall be liable to, but all and every one of them free of any oath, test, or subscription within this Kingdom, contrary to, or inconsistent with the aforesaid true Protestant religion, and Presbyterian Church government, worship, and discipline, as above established; and that the same within the bounds of this Church and Kingdom, shall never be imposed upon, or required of them, in any sort. And, lastly, that after the decease of Her present Majesty, (whom God long preserve), the Sovereign succeeding to her in the Royal Government of the Kingdom of Great Britain, shall in all time coming, at his or her accession to the Crown, swear and subscribe, that they shall inviolably maintain and preserve the aforesaid settlement of the true Protestant religion, with the government, worship, discipline, right, and privileges of this Church, as above established by the laws of this Kingdom, in prosecution of the claim of right.

5.—And it is hereby statuted and ordained, that this Act of Parliament, with the establishment therein contained, shall be held and observed in all time coming, as a fundamental and essential condition of any Treaty or Union to be concluded betwixt the two Kingdoms ; without any alteration thereof, or derogation thereto in any sort for ever : as also, that this Act of Parliament, and settlement therein contained, shall be inserted and repeated in any Act of Parliament that shall pass for agreeing and concluding the aforesaid Treaty or Union betwixt the two Kingdoms ; and that the same shall therein be expressly declared to be a fundamental and essential condition of the said Treaty or Union in all time coming. Which articles of Union, and Act immediately above written, Her Majesty, with advice and consent aforesaid, statutes, enacts, and ordains, to be and to continue, in all time coming, the sure and perpetual foundation of a complete and entire Union of the two Kingdoms of Scotland and England, under the express condition and provision, that this approbation and ratification of the aforesaid Articles and Act, shall be no ways binding on this Kingdom, until the said Articles and Act be ratified, approved, and confirmed by Her Majesty, with and by the authority of the Parliament of England, as they are now agreed to, approved, and confirmed by Her Majesty, with and by the authority of the Parliament of Scotland, declaring nevertheless, that the Parliament of England may provide for the security of the Church of England, as they think expedient, to take place within the bounds of the said Kingdom of England, and not derogating from the security above provided, for establishing of the Church of Scotland, within the bounds of this Kingdom ; as also the said Parliament of England, may extend the additions and other provisions contained in the Articles of Union, as above insert, in favours of the subjects of Scotland, to and in favours of the subjects of England ; which shall not suspend or derogate from the force and effect of this present ratification, but shall be understood as herein included, without the necessity of any new ratification in the Parliament of Scotland.

6.—And, lastly, Her Majesty enacts and declares, that all laws and statutes in this Kingdom, so far as they are contrary to, or inconsistent with, the terms of these Articles, as above mentioned, shall, from and after the Union, cease and become void.

7.—And whereas, an Act hath passed in this present Session of Parliament, intituled 'An Act for securing the Church of England, as by law established,' the tenor whereof follows:—

Whereas, by an Act made in the Session of Parliament; held in the third and fourth year of Her Majesty's reign, whereby Her Majesty was empowered to appoint Commissioners, under the Great Seal of England, to treat with Commissioners to be authorised by the Parliament of Scotland, concerning an Union of the Kingdoms of England and Scotland, it is provided and enacted that the Commissioners to be named in pursuance of the said Act, should not treat of or concerning any alteration of the liturgy, rights, ceremonies, discipline, or government of the Church, as by law established within the realm. And whereas, certain Commissioners appointed by Her Majesty, in pursuance of the said Act, and also other Commissioners, nominated by Her Majesty by the authority of the Parliament of Scotland, have met and agreed upon a Treaty of Union of the said Kingdoms; which Treaty is now under the consideration of this present Parliament. And whereas, the said Treaty, (with some alterations therein made), is ratified and approved by Act of Parliament in Scotland; and the said Act of Ratification, is, by Her Majesty's Royal Command, laid before the Parliament of this Kingdom. And whereas, it is reasonable and necessary, that the true Protestant religion, professed and established by law in the Church of England, and the doctrine, worship, discipline, and Government thereof, should be effectually and unalterably secured; be it enacted by the Queen's Most Excellent Majesty, by and with the advice of the Lords spiritual and temporal, and the Commons, in this present Parliament assembled, and by authority of the same, that an Act made in the thirteenth year of the reign of Queen Elizabeth, of famous memory, intituled "*An Act for the Ministers of the Church to be of sound religion;*" and also another Act made in the thirteenth year of the reign of the late King Charles the Second, intituled. "*An Act for the Uniformity of the Public Prayers, and administration of sacraments, and other rites and ceremonies, and for establishing the form of making, ordaining, and consecrating Bishops, Priests and Deacons in the Church of England (other than such clauses in the said Acts, or either of them, as have been repealed or altered by any subsequent Act or Acts of Parliament), and all and singular Acts of Parliament now in force for the establishment and preservation of the Church of England, and the doctrine, worship, discipline, and government thereof, shall remain and be in full force for ever.*

8.—And be it further enacted, by the authority aforesaid, that after the demise of her present Majesty (whom God long preserve) the Sovereign next succeeding to Her Majesty in the

Royal Government of the Kingdom of Great Britain, and so for ever hereafter, every King or Queen succeeding and coming to the Royal Government of the Kingdom of Great Britain, at his or her coronation, shall in the presence of all persons who shall be attending, assisting, or otherwise, then and there present, take and subscribe an oath to maintain and preserve inviolably the said settlement of the Church of England, and the doctrine, worship, discipline, and government thereof, as by law established, within the Kingdoms of England and Ireland, the dominion of Wales, and town of Berwick upon Tweed, and the territories thereunto belonging.

9.—And be it further enacted by the authority aforesaid, that this Act, and all and every the matters and things therein contained, be, and shall for ever be holden and adjudged to be a fundamental and essential part of any Treaty of Union to be concluded between the said two Kingdoms; and also that this Act shall be inserted in express terms in any Act of Parliament which shall be made for settling and ratifying any such Treaty of Union, and shall be therein declared to be an essential and fundamental part thereof.

10.—May it therefore please Your Most Excellent Majesty, that it may be enacted, and be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that all and every the said Articles of Union, as ratified and approved by the said Act of Parliament of Scotland, as aforesaid, and hereinbefore particularly mentioned and inserted; and also the said Act of Parliament of Scotland, for establishing the Protestant religion and Presbyterian Church Government within that Kingdom, "*An Act for securing the Protestant Religion, and Presbyterian Church Government,*" and every clause, matter, and thing in the said Articles and Act contained, shall be, and the said Articles and Act are hereby for ever ratified, approved, and confirmed.

11.—And be it hereby further enacted, by the authority aforesaid, that the said Act, passed in this present session of Parliament, intituled "*An Act for securing the Protestant Religion, as by law established,*" and all and every the matters and things contained, and also the said Act of Parliament, of Scotland, intituled, "*An Act for securing the Protestant religion, and Presbyterian Church Government,*" with the Establishment in the said Act contained, be and shall for ever be held and adjudged to be, and observed as fundamental and essential conditions of the said Union; and shall in all times coming be

taken to be, and are hereby declared to be fundamental parts of the said articles and Union; and the said articles of Union so as aforesaid ratified, approved and confirmed by Act of Parliament of *Scotland*, and by this present Act, and the said Act passed in this present Session of Parliament, intituled "*An Act for securing the Church of England*," as by Law established, and also the said Act passed in the Parliament of *Scotland*; intituled, "*An Act for securing the Protestant Religion, and Presbyterian Church Government*," are hereby enacted and ordained to be and continue, in all times coming, the complete and entire Union of the two Kingdoms of *England* and *Scotland*.

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*Letters Patent, appointing an Archdeaconry in New South Wales.*

PROCLAMATION,

By His Excellency, Sir Thomas Brisbane, K. C. B., Captain General, and Governor in Chief in and over His Majesty's Territory of New South Wales, and its Dependencies, &c. &c. &c.

Whereas His Majesty has been graciously pleased, by letters patent, bearing date the 2nd day of October last, to erect an Archdeaconry, within our Colony of New South Wales, and its Dependencies, including Van Diemen's Land, and to nominate the Rev. Thomas Hobbes Scott, to be the first Archdeacon thereof; And whereas the said Archdeacon hath reported to me his arrival in this Colony; I do hereby, in His Majesty's Name, notify and proclaim to ALL His Majesty's Subjects, the erection of the said Archdeaconry, in this Colony, and its Dependencies, and the appointment of the Reverend Thomas Hobbes Scott, to be the first Archdeacon thereof; and I do hereby require all the Clergy of the Established Church, and other His Majesty's Subjects, to yield all due Canonical obedience to the said Archdeacon, who will forthwith enter upon the duties of his Archdeaconship.

GIVEN under my hand, at Government-house, Sydney, the Eighteenth Day of May, in the Year of Our Lord, One thousand eight hundred and twenty-five.

"THOMAS BRISBANE." (L. S.)

By His Excellency's Command,  
F. GOULBURN, Colonial Secretary.  
God save the King!

*George the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith,*

To all to whom these presents shall come,

Greeting :—

Whereas the doctrine and discipline of the United Church of England and Ireland, are professed and observed by a considerable number of our loving subjects, resident within our Colony or Settlement of New South Wales and its Dependencies, including Van Diemen's Land; And whereas it is expedient to make further provision for the due regulation and order of persons duly ordained to officiate, as Ministers of the United Church of England and Ireland, within the same Colony or Settlement: We have determined to constitute within the same Colony or Settlement, our Archdeaconry, subject, during our pleasure, to the jurisdiction, Spiritual and Ecclesiastical, of the Bishop of Calcutta, for the time being; and we do hereby erect, found, and constitute our Archdeaconry in and over the British Territories within the said Colony of New South Wales and its Dependencies to be styled the "Archdeaconry of New South Wales," and to be subject and subordinate to the Bishop of Calcutta, and his successors, as aforesaid, according to the Ecclesiastical laws of this Realm; and to the end, that this our intention may be carried into full effect, We having full confidence in the piety, learning, morals, probity and prudence of our well beloved Thomas Hobbes Scott, do name and appoint him, the said Thomas Hobbes Scott, Clerk, to be Archdeacon of the said Archdeaconry of New South Wales, as aforesaid, so that he, the said Thomas Hobbes Scott, shall be, and be taken to be, in all things, Archdeacon of the said Archdeaconry of New South Wales, and by virtue of this our nomination alone, enter into, and fully absolutely possess and enjoy the said office of Archdeacon, within the said Archdeaconry, subject to the powers of revocation and resignation hereinafter more particularly expressed; and we do hereby signify to our right trusty well-beloved, the Reverend Father in God, the Lord Bishop of Calcutta, that We have nominated the said Thomas Hobbes Scott, so to be Archdeacon of New South Wales, to be subject and subordinate, during our pleasure, to him and his successors aforesaid. And for a declaration of our Royal Will and pleasure, in regard to the duties and functions to be exercised by the said Archdeacon and his successors: We do hereby declare, that the said Archdeacon shall be within the said Archdeaconry, assisting to the Bishop of Calcutta, in the exercise

of his Episcopal jurisdiction and functions, according to the duty of Archdeacon, by the Ecclesiastical laws of our Realm of England, and in as full and ample a manner, as the same are, or may be lawfully exercised, by any Archdeacon, within our Realm of England, save as hereinafter excepted; and We do further will, ordain, and declare, the said Archdeacon shall, within his Archdeaconry, be and be taken to be, without further appointment, the Commissary of the said Bishop and his successors, and shall exercise jurisdiction, in all matters, according to the duty and function of a Commissary, by the said Ecclesiastical laws; and we do further direct, that during the vacancy of the said Archdeaconry, or until the person who shall be appointed by us, to fill the same, shall arrive, and take on him the duties of the said office, and certify the same in writing to the Governor of our said Colony or Settlement, the said duties shall be performed by some discreet Minister, in Priest's orders, of the Church of England, who shall be nominated, for that purpose, by our Governor, for the time being, of the said Colony or Settlement of New South Wales; and We command, and by these presents, for Us, our heirs, and successors, strictly enjoin all and singular, our Governors, Judges, and Justices, and all and singular Chaplains, Ministers, and others, our subjects, within the Territories aforesaid, and that they, and every of them be, and by all lawful ways and means, aiding and assisting to the said Archdeacon, and his successors, in the execution of the premises, in all things; and we do further will and direct, that the said Archdeacon and his successors, may and shall, from time to time, appoint a proper and sufficient person, in the said Archdeaconry, to act as Registrar thereof; and in case of no Registrar being so appointed, or the Registrar being unable to act, during the vacancy of the said Archdeaconry, We will and direct, that the person officiating as such, as above directed, may appoint any sufficient actuary, to do all acts and things, to the said office of Registrar appertaining; and We do further ordain, that the Supreme Court of Judicature, in New South Wales, shall have such and the like jurisdiction and power of interfering by Writ of Prohibition, or Mandamus, subject to the same laws, restrictions and rules of practice, as is, or has been exercised by our Court of King's Bench, at Westminster, in regard to proceedings in the Ecclesiastical Courts of England, regard being had, nevertheless, to any special provisions or exceptions, contained in these, our Letters Patent, or to any other laws or regulations, specially applicable to; or concerning our Colony or Settlement of New

South Wales, as aforesaid; Moreover it is our Royal will and We do hereby declare, and ordain, that nothing herein contained, shall extend, or be construed to extend, to repeal, vary, or alter the provisions of our Charter, whereby Ecclesiastical jurisdiction was given to the said Court of Judicature, so far as the same does not relate to the correction of Clerks, or the Spiritual superintendance of Ecclesiastical persons, or to give to the said Archdeacon, or his successors, any authority or jurisdiction whatsoever, in causes, testamentary or matrimonial; or in matters now cognisable in the said Court, except as herein last before excepted. Moreover, We will and grant, by these presents, that the said Archdeacon be a body corporate, and make, and constitute him a perpetual Corporation, and to have perpetual succession; and that he, and his successors, be for ever hereafter, called or known by the name of Archdeacon of New South Wales; and that he and his successors, by the name aforesaid, shall be able and capable in the law, and have full power to purchase, take, hold and enjoy, such Manors, Messuages, Lands, Rents, Tenements, Annuities, and Hereditaments, of what nature or kind soever, in fee, and in perpetuity, or for term of life or years, as by grant of licence from our said Governor, he or they shall at any time be authorized to take, hold, and enjoy, within our Territories, in the said Island or Settlement, and all manner of Goods, Chattels, and Things personal whatsoever, of what nature or value soever; and that he, and his successors, by and under the said name, may prosecute, claim, plead, and be impleaded, defend, and be defended, answer and be answered, in all manner of Courts, of Us, our heirs, and successors, and elsewhere, in and upon all singular causes, action, suits, writs, and demands, real, personal, and mixed, as well temporal as spiritual, and in all other things, causes, and matters whatsoever; and We do hereby declare, that if We, our heirs, or successors, shall think fit to revoke or recall the appointment of the said Archdeacon, or his successors, for the time being, and shall declare such our or their pleasure, by Letters Patent, under the Great Seal of the United Kingdom, then every such Archdeacon, shall, from and after the notification thereof, in such manner, as in the said Letters Patent shall, from time to time, be directed to the said Archdeacon, to all intents and purposes, cease to be Archdeacon, as aforesaid: And for removing doubts, with respect to the validity of the resignation of the said office of the said Archdeacon, it is our further will and pleasure, that if the said Archdeacon, or his successors, shall, by instrument, under his hand and seal, delivered to Us, or to

the Governor of our said Colony, or Settlement, for the time being, and duly accepted and registered, resign the office of Archdeacon aforesaid, such Archdeacon shall forthwith, cease to be Archdeacon, to all intents and purposes, but without prejudice to any responsibility, to which he may be liable, in law or equity, in respect of his conduct in office; And further, to the end that all the things aforesaid may be firmly holden and done, We will and grant to the said Thomas Hobbes Scott that he shall have our Letters Patent, under our Great Seal, of our United Kingdom, duly made and sealed.

In Witness whereof, We have caused these our Letters to be made Patent.

Witness Ourselves, at Westminster, the Second Day of October, in the Fifth Year of our Reign.

By the King himself.

(L. S.) "BATHURST."

*Extract from Proceedings of the General Assembly of the Church of Scotland, Saturday, May 18, 1835.*

COLONIAL CHURCHES.

Principal Macfarlan then rose to give in the report of the Committee on Colonial Churches, of which he is convener. Two years ago he had introduced into the General Assembly, from the Synod of Glasgow and Ayr, the subject of the status of the Ministers of the Church of Scotland in the British Colonies, and proposed that the Assembly should give to them all the encouragement and support which was in its power. He then read the various deliverances by the Assembly on that subject, and stated that the committee were last year prepared with a report, but which having, owing to the pressure of business, been delayed till the last day of meeting, it was thought advisable, owing to the importance of the subject, to delay presenting it. Since that time, the Committee held several meetings, and as their Convener, he was now prepared to report the result of their proceedings. The Church, he thought, was now called upon to express the interest they took in the spiritual welfare of their brethren in the British Colonies, and the Committee proposed a declaratory act, which they hoped the Assembly would at once authorize, as it was consistent with all the existing laws of the Church, in the power of the Assembly to pass, and in his humble opinion, of the utmost importance, to thousands and thousands of their expatriated brethren, in every quarter of the world. He then

read a draft of the proposed act, which declared—That it was proper for ordained Ministers of the Church of Scotland, connected with any fixed Congregation in the British Colonies, where circumstances admitted, to form themselves into Presbyteries and Synods, adhering to the standards of the Church of Scotland. That no Minister should be received as a member of such Presbyteries or Synods, who was not ordained by some Presbytery of the Church of Scotland. That no Minister of the Church should be afterwards received as a Minister, who did not come specially recommended, by the Presbytery, by which he was ordained, or in which he had for some time resided. That no probationer of the Church should receive ordination, but those who could produce certificates of good character and conduct, from the Presbytery within whose bounds he had resided before leaving Scotland. That it is expedient that Presbyteries should be allowed to ordain probationers. That lay members of such congregations returning to Scotland shall be entitled to church privileges, on producing certificates from the Minister of the Church to which they have belonged. That it be recommended to probationers removing to the Colonies, to put themselves under the inspection of the Presbytery, where they go to reside, and on returning, to produce certificates, from such Presbyteries, of their good character and conduct, during their absence. That a Committee be named, to correspond with such Churches in the Colonies, to give them advice on any question, on which they may wish to consult the Church of Scotland, and to afford such aid, as may be in their power to provide, regarding the rights and interests of the Church.

The Rev. Principal then at some length, dilated on the importance of this subject, and defended the various clauses proposed by the enactment. The importance of the subject, he inferred from the fact, that in the Canadas alone, there were 30 Congregations in connexion with the Church of Scotland; 50 in Nova Scotia; and that in various other quarters of the Colonies, they were rapidly increasing. He therefore entreated the Assembly to do all in its power to strengthen the hands of the Ministers of these Churches, and to promote their increase and prosperity.

Rev. Mr. Paul, of Tullynesse, said he felt, as he believed every one did, the great importance of the subject, which had been brought before the Assembly, and of the enactment they were called upon to sanction.—But he thought, on a matter of such interest, they should decide, after calm and deliberate consideration, and suggested, that the act should lie on the

table for a few days, and that a number of copies be printed and circulated, among the members.

Dr. Cook agreed entirely with what had now been proposed. Here was a very important act, which for their own honour, they ought to pass in the most deliberate manner.

Dr. Andrew Brown scarcely ever expected to hear so powerful a voice, as had been raised, from the other channel, and could not resist his warmest approbation to the zeal, with which the Committee had prosecuted their labours.

Dr. Cook rose again, to say, that while he wished the report to lie on the table, there could be but one opinion as to the labour and ability of his reverend friend, and therefore proposed that the thanks of the meeting should be given to Dr. Macfarlan, and the Committee.

Principal Macfarlane professed his acquiescence, in the delay proposed, although he thought, from the subject having been so long before the Assembly, his proposition would have been at once agreed to.

Dr. Brunton and Rev. Mr. M'Lellan said a few words, after which, the Moderator returned thanks to Dr. Macfarlane, for the unwearied zeal, he had shewn in the prosecution of the great object brought before them in the Report.

The Assembly then adjourned, at a little past 5, till Monday at 12 o'clock, then to meet, in the West Church of St. Giles.

*Friday, May 24, 1833.*

Professor Macfarlan gave in the report of the Committee, on Colonial Churches, and the draft of a declaratory enactment, relative to the ordained Ministers of the Church of Scotland, not connected with any fixed Congregation, in the British Colonies, to form themselves into Presbyteries or Synods.

Dr. Forbes felt some difficulty, with regard to the consequence of the proposed motion. It was evident, that in passing this enactment, they considered these Synods and Presbyteries, as a portion of the Church of Scotland, and should it unfortunately happen, that any of the Ministers should demean themselves, and act in a way inconsistent with the character of the Church, in what way could the Assembly deal with them? He stated it as his intention, with a view to remove this difficulty, to bring in an overture on the subject.

Professor Macfarlan said, the Assembly had no jurisdiction over those Ministers, nor gave them any status in our Church. They only extended to them a brotherly, or rather he should say, a fatherly care, giving them such counsel and advice, as they might consider best for their interest. The Church only received back its own licentiates, and no other; but he should

be most happy, if his reverend friend, Dr. Forbes, would pay attention to the matter, and embody any plan whereby the correction of improper conduct, could be facilitated. The report and draft of enactment, were approved of.

*Declaratory Enactment and Recommendation, as to Colonial Churches.*

Edinburgh, 25th May, 1833, Sess. 9.

The General Assembly of the Church of Scotland, did, and hereby do, enact and declare, that it is proper and expedient for ordained Ministers of the Church of Scotland, connected with fixed Congregations, in any of the British Colonies, to form themselves, where circumstances permit, into Presbyteries and Synods, adhering to the standards of this Church and maintaining her form of worship and government.

That no Minister should be received as a member of any such Presbytery or Synod, when first formed, who has not been ordained by a Presbytery of this Church; that no Minister should be afterwards received as a Minister, who does not come specially recommended from the Presbytery by which he was ordained, or in which he had last resided; and that no probationer of this Church should receive ordination from any such Presbytery, except on his producing extract of license, with a testimonial of his good character from the Presbytery or Presbyteries, within whose bounds he has resided, down to the time of his leaving Scotland.

That it is not expedient for such Presbyteries, in the present state of education, in the Colonies, to exercise the power of licensing probationers; but that licentiates of the Church of Scotland, who shall be ordained by any such Presbytery to particular charges, in the manner above described, shall remain in full communion with the Church of Scotland, and retain all the rights and privileges which belong to Licentiates or Ministers of this Church; and that members of Congregations, under the charge of Ministers so ordained, shall, on coming to Scotland, be admitted to Church privileges, on the production of satisfactory certificates, of their religious and moral character, from the Minister and session of the Congregation, to which they have severally belonged.

And the Assembly earnestly recommend to all Ministers and Presbyteries of this Church, who remove to those Colonies, in which such Presbyteries are constituted, to put themselves under the inspection of the Presbytery, of the bounds within which they may reside; and in the event of

their returning to this country, to produce testimonials from such Presbytery, or Presbyteries, of their character and conduct, during their absence.

The General Assembly further named a standing Committee, to correspond with such Churches in the Colonies, for the purpose of giving advice on any question, with regard to which they may choose to consult the Church of Scotland, and affording them such aid as it may be in the power of the Committee to give, in all matters, affecting their rights and interests.

COMMITTEE.—The Moderator, Dr. Chalmers, Dr. Singer, Principal Macfarlan, Dr. Forbes, Dr. P. Macfarlan, Dr. Dickson, Dr. Lee, Dr. Hill, Mr. Beath, Dr. Inglis, Dr. Nicoll, Dr. Burns, Dr. Mearns, Dr. Baird, Dr. Macgill, Dr. Lamont, Dr. Boyce, Dr. Ritchie, Dr. Brunton, Mr. Marshall, Dr. Brown, (Eskdalemuir) Dr. Mitchell, Dr. Brown, (Glasgow) Mr. Muir, Dr. Smith, Dr. Muir, Mr. Leith, Mr. Clugston, Mr. James Glen, Mr. Stewart, (Cromarty) Mr. Gillespie, Mr. Maclellan, Mr. Whitson, Mr. Cupples, Dr. Brown, (Langton) Mr. John Paul, the Lord President, the Lord Justice Clerk, Lord Moncrief, the Procurator, the Dean of Faculty, the Solicitor General, Dr. Cook, H. Paul, Esq. George Buchan, Esq. D. Milne, Esq. Walter Cook, Esq. Colonel Leith Hay, Robert Dundas, Esq.—Principal Macfarlan, Convener,

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*Evil consequences resulting to Presbyterian Churches, from want of Connection with the Church of Scotland, and defective Trust Deeds.*

*Proceedings of the General Assembly, Friday, 24th May, 1833.*

#### SCOTCH CHURCH IN LONDON.

The last subject taken up by the Assembly, was a memorial from the Ministers and Elders of the Scotch Presbytery of London, setting forth a number of evils, under which they laboured, arising from the vague informal relation, in which they stood to the Church of Scotland; suggesting, that if they were placed in the same situation in this respect, as the Church in India, it might tend to remove those evils; and the memorialists prayed that the Assembly would appoint a Committee to consider the evils complained of, with a view to suggesting a remedy.

A short conversation ensued, in which, Dr. Duncan, of Ruthwell stated, that there were at present, 270 Socinian Congregations in England, of which 170 were originally orthodox;

and he believed, had they been recognised by the Church, they would have been orthodox yet. Mr. M'Naughton, of Paisley, urged from his own experience, the benefits which would arise, from the Church recognising the London Presbytery; and on the motion of Mr. Clugston, of Forfar,

“The Assembly, anxious to promote the comfort and interest of their brethren in London, as far as in their power, appoint a Committee, to consider what might be necessary to be done, under the whole circumstances of the case, and to report to next General Assembly.”

*Extract from the British Magazine, April, 1834.*

“The pamphlet ‘*On the Manchester Socinian Controversy*,’ is worthy of the serious attention of all who take an interest in the comparative advantages of a national establishment and the voluntary system, as it forcibly illustrates the practical effect of some of those fundamental principles for which the advocates of the latter so zealously contend. It appears, (p. xlvii.) that; of two hundred and six chapels possessed by the Socinians at the close of 1824, in England alone, one hundred and seventy ‘were originally orthodox!’ In other words, all these chapels last mentioned, with their ample *endowments*, so far from being used, pursuant to the declared intention of the founders and endowers, for the diffusion of those doctrinal views which they ‘held to be of vital and eternal moment,’ are now notoriously perverted to ‘the support of a system of doctrine which is subversive of all their own faith and labours, and which they conscientiously believed to be utterly ruinous to the everlasting welfare of mankind.’ (p. xxxv.) ‘The above statement has (in truth) an aspect sufficiently alarming to the friends of truth and righteousness,’ (p. xlvi.) and ‘the effects produced on the souls’ of the congregations thus exposed to the narcotic influence of Socinianism, ‘is a subject eternity alone can fully disclose.’ (p. c.vii.) The work, however, of itself discloses sufficient to enable us to estimate the actual value of that form of discipline, *under which* funds, to an immense amount, ‘in a nation where law and justice are respected, have been permitted to be perverted to objects which the founders of those charities loathed, and never regarded without horror.’ (p.219.)”

And again—

“In most instances, the *majority* of the worshippers, who were orthodox, yielded to the necessity of departing, either at once or gradually, because the *few*, who, being *trustees*, appointed the minister, and had the power of the funds, forced upon them Socinian teachers.’ Cases in point are easily found:—

for instance, we are informed, in p. 174, that, after the removal of Mr. Rhodes, 'a Calvinistic Divine,' from Stannington Chapel, Yorkshire, 'the trustees, contrary to the wishes and remonstrances of the inhabitants (contrary to the earnest and respectful solicitations of nearly the *whole congregation*,) who desired to have an *orthodox* pastor," (p. 19.) appointed Mr. Gibson, an Unitarian Minister; in consequence of which, most of the hearers left the chapel. The present minister is the Rev. Peter Wright, an Unitarian minister. The congregation consists of about thirty or forty persons, though the chapel will contain 400 or 500; and the gentleman, who claims the *right of presentation* to this chapel, is Samuel Shore, Esq., of Meersbrook, one of the trustees of Lady Hewley's estates. In May, 1825, the inhabitants most respectfully memorialized the aforesaid Mr. Shore, 'the acting trustee' (who 'enjoys a high reputation for uprightness and benevolence!') on the subject of this 'most flagrant perversion,' humbly begging him to allow 'the chapel and its endowments to be devoted to the purposes for which they were designed.' The memorialists, however, got nothing in return but their labour for their pains; for this most upright and benevolent gentleman replies, in the name of himself and the other trustees, 'that it would be acting contrary to our duty to give any countenance to those propositions.' (p. 23). It therefore appears, (say the dissenting Editors, p. 25.) 'that, to accommodate five Socinians, the trustees of Stannington Chapel consider it to be their duty to deprive an entire district of the benefit of the chapel, which was unquestionably built and endowed for the accommodation of the inhabitants by orthodox men, and for the propagation of orthodox doctrines!!!' So 'anxious for man's rights,' (in the words of the liberal Mr. Harris,) is 'the spirit of Unitarianism.' (p. 11). Another instance, equally striking, has occurred in the case of Bridgend Chapel, in Glamorganshire, which was 'originally orthodox;' and its ministers were invariably orthodox until 1806, when the majority of the church and congregation were expelled by the forcible introduction of Socinianism by the trustees.' (p. 178.)

"In the appendix, No. 4, the reader will find many curious particulars illustrative of the management of Lady Hewley's charity, of which the public has lately heard something, but not enough. Into these I have neither time nor space at present to enter, further than to subjoin a few fragments as specimens. One Mr. Robert Moody, formerly of York, 'who was a trustee of the charity for about thirty years' (viz., from 1740 to 1770,) states, in certain memoranda which he left, that

'one of the trustees, in a private conversation, told me, two years ago, that the estate was a freehold; that a majority had a power to dispose of it at discretion.' (p. 209); and this doctrine (we are told, p. 210) 'is avowedly the sentiment of the Unitarian body at the present day.' A very comfortable doctrine it doubtless is, particularly when we further learn, 'that no account whatever has been given by the trustees to the *public* of their receipts and payments; they account only to each other;' (ibid.) The total rental of the property managed on this liberal system 'is said to exceed 4000*l.* per annum.' (p. 197).

"Three generations of one family have served the office of trustees to this charity—viz., the late Mr. Samuel Shore; his son, Mr. Samuel Shore, senior; and his grandson, Mr. Samuel Shore, junior. Contemporary with Mr. Moody, there was a Mr. Thomas Lee in the trust; there is a gentleman of the same name at present; and how many there have been between these two we do not know. There are now two gentlemen of the name of Heywood in the list of trustees;' p. 211. Illiberal and narrow-minded people may very probably put a wrong construction on this apparent monopoly of management, not considering that it must have originated in the extreme difficulty which the surviving trustees would, on every vacancy, experience in finding successors possessed of the requisite species of 'uprightness.'"

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A few days after the Meeting of the 20th May, the following Letters were published in the *True Colonist* Newspaper. They form the ground-work of the "Remarks on the Status of the Presbyterian Church in the Colonies." They are republished at the request of several Members of the Presbyterian Church Committee.

*To the Scottish Presbyterians of Van Diemen's Land.*

In calling your attention to the state of our national Church, in the Australian Colonies, I am actuated by the laudable motive of attempting to do her good service, by advocating her rights, and in such an attempt, I fully rely on having, not merely the favourable regard of her well-wishers, but the ready and willing co-operation of all who call themselves her sons; and should this, my expectation, be realized,

I doubt not, but in good time, such a strength will be called into action in her behalf, that the good fight will be won, and that justice will be at length afforded her, which has been hitherto shamefully denied, and a full acknowledgment made of her title to all the rights and privileges, which can be enjoyed by any Church, of pretensions how great soever. For our Church, although poor in worldly possessions and honours, when compared with her sister of England, holds herself in the proud attitude of equality, in every thing besides; and although she cannot point to broad domains and gorgeous palaces, and cannot "clothe herself in purple and fine linen, and fare sumptuously every day," she can assert the dignity of the station she holds among the Churches, when she points to her chartered and inalienable rights. But should there even be such lukewarmness among those who by every tie of national feeling and honour, are bound to stand forth in this cause, as to induce them to leave it without support, it has such inherent strength, that though it may, for a season, be baffled, it cannot ultimately be defeated; and if there is any meaning in national faith, and any integrity in national treaties, it must, at last be successful. A few men, with the zealous spirit which Dr. Lang has displayed, in the strenuous and unwearied exertions he has made to assert the rights of the Scottish Church, to be held as an Established Church, equally with the Episcopal Church, employing their energies in a proper direction, would speedily settle a point, which is considered doubtful, only because it has not been put in a proper light, and the force of the arguments that can be urged in its support, not fully brought forward.

In perusing Dr. Lang's account of New South Wales, I could not but put the question to myself, how does it happen, that so much opposition was made, to the attempt to form in the Colony, a Church, whose doctrines and mode of religious worship are acknowledged to be, in a peculiar manner, congenial to the growth of morality, especially when so great a portion of the population is by birth connected with the division of the British Empire, where that Church is established, by the laws of Great Britain. In answering the question, it is true, I found no great difficulty, the answer was too obvious; but what scorn did I not feel at the reply, given by Sir Thomas Brisbane, to a Presbyterian memorial requesting assistance to build a Church in Sydney. "Toleration," said he, "is the glory of England, and therefore, if Presbyterians did not approve of her ritual, she did not forbid them to worship in any other way, which they might think more likely to

glorify religion." What! the Church of England extend toleration to the Church of Scotland! The Church of England tolerate a Church as ancient, as independent, as free, as pure, as herself. Well did Dr. Lang, answer His Excellency—"Scotsmen are not reduced to the necessity of receiving toleration, as a boon from the Church of England. Their civil and religious liberties were won for them by the swords of their forefathers, and they were a degenerate race, if, in every situation, they did not vindicate their right to both." This is an answer dictated by a bold and noble spirit—a spirit which would not brook the least stain of obloquy to be cast upon his native land, or his Church; but, actuated by the zeal which warmed the hearts of her ancient warrior-martyrs, when they quelled a proud oppressor's might, and led the van in the struggle for the Civil and Religious Liberty of Britons, spurned at the degrading thought that the purchase of his fathers' bloody toil was to be held on the terms of toleration. And craven, indeed, must be the heart of the Scotsman, who cannot sympathize with the proud feeling of national independence, and national honor, which dictated this reply. But my scorn was not unmixed with surprise at the ignorance displayed by Sir Thomas, a Scotsman, as to the standing of the Scottish Church. Did he not know that the same hand which deals a blow at the Church of Scotland, injures, to an equal extent, the Church of England? Did he not know that they stand, or fall, together? That the tenure, by which they hold the rank of National Churches, is the same—nay, that the title of the reigning branch of the ancient Royal Dynasty depends on the validity of the tenure by which the Church holds her rank. Severe was the reproof of Earl Bathurst, upon learning, through the *Morning Chronicle*, the nature of the reception given to the Presbyterian Memorial, directing Sir Thomas immediately to advance one-third of the cost of building the Scots' Church, and "regretting that His Excellency had put to their probation Members of the Church of Scotland in the Colony—the Established Church of one of the most enlightened and virtuous portions in the Empire."

The line of conduct pursued, in this instance, by Earl Bathurst, satisfies me that he knew well the strength of the claim of the Church of Scotland, to all the privileges and immunities of an established Church in all and every of the British Colonies, and that he was well aware of the slight of hand by which the friends of the Church of England had managed to obtain a monopoly of these advantages, and to

devour so large a share of the fat of the land; and, knowing this, and being himself one of her friends, he feared lest the agitation of the question of right should be entered upon, and the truth at last arrived at, that her boasted "toleration" merited another name. That must be a bad cause which shudders at fair and honest discussion—which can at one time make the boldest claims, and, at another, deprecate the very mention of these claims—which puts on a pleasant smiling countenance, so long as its claims are tacitly allowed, but shews its inherent worthlessness by the blackness of its scowl, wherever there is the least symptom of hesitation as to such acknowledgment. If the claims of the Church of England, as regards the Colonies, are founded in truth, her friends need not fear any enquiry into them; if they are based on any thing but truth, the cause of justice demands an investigation, and the Church herself should court it. Far be it from me to say a word against the Church of England; whilst I conscientiously differ from her in many things, I admire her in others. I look upon her as a strong bulwark of Protestantism—I admire the unwearied labour and deep-read, extensive learning of her sons—and whilst I cry aloud for my own right to enjoy freedom of thought and of speech, I should be a base renegade to my principles, were I to blame others for exercising the same right. But the question now, is neither the value of the Church of England, nor of the propriety of an establishment. It is simply, has this Church a right to the claim it urges of being considered the sole Established Church in a British Colony, and, on the strength of that claim, of monopolizing the whole of the public money expended in the support of religion and public education. The question is not, is the Church of England the best promoter of the interests of religion and of morality, from its institutions and instructions—but, has it an honest claim to be the only publicly acknowledged vehicle by which these interests are promoted and extended? The question is, has it a just title to abstract from the public funds the immense sums which have been, for so many years, profusely lavished upon its Ministers, whilst the Ministers of an establishment, equally national, are left to pick up the crumbs which fall so scantily from the luxuriously covered tables of their fortune-favoured brethren: and I shall rejoice if any thing I can bring forward has the tendency of drawing the attention of the numerous body of Scottish Presbyterians, who hold, in every sense, so respectable a place in the ranks of our Colonial community, to the strength of their position, when they plead for the acknowledgment of an

equality of rights with the English Church, on the ground of the independence of the ancient Scottish Kingdom, in her Monarchy and in her Church; and though, in this Colony, I am the first, on these grounds, to stand forth and plead the cause of my countrymen and fellow Presbyterians, I trust there are many in Van Diemen's Land, who are possessed of some of the fire which blazed forth in their forefathers, whenever a rude hand was attempted to be laid on their well-won rights. Our brethren at home are, at this moment, standing forth in defence of their civil rights—shame be to us if we are recreants in the strife when our religious privileges call us to the field.

The subject to which I now wish to draw your attention, is, in its own nature, interesting. It involves the great political principle, that, unless the Act of Union between England and Scotland expressly destroyed any peculiar rights possessed by Scotsmen, as natives of a Free and Independent Kingdom; and which might, therefore, be exercised by them at all times, in accordance with the common law of nations, these rights were tacitly reserved and secured by that Act; and might, in reference to the other contracting party, be called into operation, when circumstances so required. For, if such were not the case, the same rule would hold good with that other contracting party, and there would ensue either continual clashing of interests, which the Act itself was intended to prevent, or the parties must remain stationary through all succeeding ages—neither advancing nor retrograding—which, from its absurdity, could not be contemplated. Upon the strength of this principle, even had there not been express stipulation to the purpose, the Scottish Established Church could have claimed all the immunities and privileges which, it is contended, she now holds in this and every British Colony, by the terms of the Union; and though it is more gratifying that it can be shewn, by public paction, that the claims of that Church are undeniable, the same conclusion might have been arrived at by a different line of argument. But the subject is also interesting, in reference to the late Public Meeting of the Scottish Presbyterians of Hobart Town, when they took up the impregnable position, that they have a connexion with the Church of Scotland, as by law established; and, although, in none of their Resolutions is there any reference to its being the duty of the Government to acknowledge that right and promote it, the fact is not the less certain, that to the very extent that the Government of a British Colony is called upon to support and establish the Christian Religion, as professed by the Protestant Episcopal Church of England, established

by law, it is bound to support and establish the same Christian Religion, as professed by the Protestant Presbyterian Church of Scotland, established by the same law. And as it is certain that the Government of a British Colony, which should decline or hesitate to support the English Episcopal Church, would be guilty of a gross dereliction of its duty, as it is certain that in declining or hesitating to support the Scottish Presbyterian Church, it would be equally guilty. For, as the laws of Great Britain recognize, and are founded in many respects upon the Christian religion, and as, consequently, the administrators of these laws, are bound to recognize that religion, and to do it honour; so any act which tends to do it dishonour, or any negligence which may bring it into disrepute, is highly censurable and unbecoming. And as a Government is bound to recognize and support a system of religion, so far as the law demands, and must do so to the full extent demanded by the law, and must not in any respect be limited in granting such support by personal favour or caprice, it can make no distinction except where the law makes distinction; and as the law recognizes the claims of the Episcopal English Church and the Presbyterian Scottish Church to an equal extent, out of Great Britain, any act leading to the exclusive honour of one Church, to the neglect or dishonour of the other, is a neglect or dishonour of the law, which says they shall be equally honoured and supported. But, even although in the Resolution passed at their Meeting, no reference is made to the Government to carry the object of the Resolutions into effect, the powers of the Committee are very large, and will bear them out in calling upon Government to carry the Resolutions into effect, when it cannot be doubted that such will be done.

This reasoning is founded upon the principle that the English and Scottish Churches, established by law, have equal rights and privileges in all the British dominions, except where such is precluded, to one or the other, by express law. This is however contrary to the commonly received opinion, and it will be requisite to put it in such a light as to make it fully apparent. The common opinion that the Episcopal Church is the Established Church of the Colony, is founded on the notion, that because the Episcopal Church is the Established Church of England, an Englishman, when he emigrates to a newly founded Colony carries it with him, in the same manner as he carries with him, as his natural birthright, all the English Laws applicable to his circumstances. And as it has hitherto occurred in almost all cases, that emigrants have found in their land of adoption, the form of an establishment of a Church,

according to the practices and uses of the Church of England; such English emigrants have very naturally supposed, that their Church had in its very essence some peculiar property which enabled it to take possession, without the least doubt or hesitation of the lofty places of the sanctuary, and there to build its quiet nest. And this was a mistake very naturally and no less willingly fallen into by Englishmen. But I blush when I think of the want of enquiry among Scotsmen on this subject—I feel shame when I consider my own carelessness, and my own apathy! What a cold reckless indifference to the merits of a question, which ought to make the heart of Scottish men to leap within them—the dignity of their native Church. What a slur upon the foresight of our ancestors, to take it for granted, that they left this matter unprovided for—what a slur upon ourselves to suppose so for a moment—and if any Scottish man has seen the question in the simplicity of its truth, and has, from self-interest, or self-seeking, or favour, or fear, kept it back, I cannot find language too powerful to express the depth of his degradation, and the contempt in which I would hold him.

Does then, the Episcopal Church, *ex necessitate*, from its being the Established Church of England, become the Established Church of a British Colony? This has been hitherto taken for granted, and has led to the appropriation of a large, a lavish expenditure, for its support, and to serve its purposes—and not only so—but land, houses, and innumerable advantages, have flowed upon it, on the strength of the same understanding.

The Episcopal Church here, indeed, uses the same ritual—the same forms, ceremonies and observances, as the Church of England; but that does not constitute it an Established Church; and even if it had all the perfections of Episcopalianism, that could be derived from the most powerful, and and most exalted of the Protestant Episcopalian Churches—the Church of England, namely, and if its Ministers had enjoyed in England, years of undoubted close connection with the Established Church of that portion of Great Britain, and had themselves been Archdeacons, and Vicars, and Rectors, they could not have brought with them the character of an exclusive Protestant Established Church. And it is now my business to make this point good. And first, what constitutes a Church an Established Church? It must be either the common law, or the statute law. If it is the common law, there must exist in the Church Establishment all the marks which constitute a good custom, but no Protestant Church has such

marks. No one has been in use so long, that the memory of man "runneth not to the contrary." Nor can any one Church, at all events, the Church of England cannot, shew that it never has had such an interruption, as would cause a temporary ceasing. For throwing out of view that in the time of Henry VIII. it was only in a state of transition, and that there was only a groping in the dark, as to the mode of proceeding, with the great work, that had commenced, whereby men were in the long run, left free as to matters of conscience—all the acts in favour of reformation in matters of religion, both those of Henry VIII. and Edward VI. were repealed by the Acts 1st and 2nd Philip and Mary; and here was the first interruption, causing that temporary ceasing, which cuts off any claim the Church of England has to be considered an Established Church by common law. And after its revival in the reign of Elizabeth, by the renewal of the Act of 25th Henry VIII. it had a new beginning. Again, it is well known that the authority and existence of the Episcopal Church was abolished in England, by Parliament, when the "solemn league and covenant, for the reformation and defence of religion, the honour and happiness of the King, and the safety of the three kingdoms, of England, Scotland, and Ireland, was agreed upon by Commissioners from the Parliament, and Assembly of Divines in England, with Commissioners from the Convention of Estates, and the General Assembly of the Church of Scotland, and by both houses of Parliament in England, and taken and subscribed by them, Anno 1643; and subscribed by all ranks of people, in England and Scotland, the same year." By this Covenant, the English Parliament, and all estates of people bound themselves, to "endeavour," I quote the words of the League, "the extirpation of Popery, Prelacy, (that is, Church Government, by Archbishops, Bishops Deans, Archdeacons, and all officers depending upon that hierarchy") and thereupon the Presbyterian Church was established in England, with all its forms of congregational, classical, provincial, and national Assemblies, and thus continued till the passing of the Act 13th Charles II. called the Act of Uniformity, by which the Episcopal Church was again established, as the National Church, the Presbyterian Clergymen being ejected, and Episcopalian Clergymen placed in all the Churches. From this period, the Episcopal has been the Established Church of England, but clearly not from common law, for it is seen that it has had more than one interruption and revival. It is then, the circumstance of being supported by special Statute, that it holds

its rank, as an Established Church. The Statute 13th and 14th Charles II. is entitled, "*An Act for the uniformity of the public prayers, and administration of Sacraments, and other rites and ceremonies, and for the purpose of making, ordaining, and consecrating Bishops, Priests, and Deacons, in the Church of England.*" And it declares, that "All Ministers in any Church or any other place of public worship, *within England, Wales, or Berwick-upon-Tweed*, shall use the morning and evening prayer, celebration and administration of both the Sacraments, in order, as mentioned in the book annexed to this Act, entitled "*The Book of Common Prayer, &c.* and the morning and evening prayers therein, shall on every Lord's Day, be solemnly read by every Minister or Curate, in every Church or Chapel, or other place of public worship within this Realm." It is important to observe, that the act limits the obligation to do the matters it enjoins, to England, Wales, and Berwick-upon-Tweed, as it shews that its provisions do not extend beyond the bounds of the Realm. Now in the Act of 5th Ann, for securing the Church of England, as by law established, this Act of Uniformity, is expressly quoted, as the foundation on which the Church of England Establishment is reared—and as no provision is made by the Act, for the extension or existence of the Church of England, except in England, Wales, and Berwick-upon-Tweed, no Establishment can exist out of those limits, arising in any way from the provisions of this Act; nor can the circumstance of any number of English Episcopalians, taking up their fixed residence in any part of the British Dominions beyond sea, create a legal Establishment, with the exclusive rights and privileges enjoyed by the Episcopal Church in England, and commonly, but incorrectly, supposed to be in existence in these Colonies. The fixed residence of a body of English Episcopalians in any Colony, cannot surely, create a right to any peculiar privileges, or any title to the character of an Establishment, when to create a right to such privileges and such title in England, an express Act of Parliament was found to be necessary. Nor does it appear possible, that any exclusive privileges can, by any but a legal method, be attached to any body or community, however useful their services may be, or however desirable and proper it may appear, to bestow certain privileges, on account of the due performances of such services, on those who so perform them. It appears, then, that no Episcopalian Clergyman of the Established Church, can carry with him from the shores of England, any right or title to any privilege, or immunity, or station, from the sole ground of his being such an Epis-

episcopal Clergyman, however high his rank may have been in the Church of England, and however lofty his attainments, and that the standing of a Protestant Episcopalian Clergyman, of the Established Church of England, when out of England, is precisely similar to that of a Protestant Presbyterian Clergyman, of the Established Church of Scotland, when out of Scotland—and so of the members of these Churches respectively.

Where then, is the boasted toleration of Sir Thomas Brisbane? Where, but in a presumptuous assumption—and on this assumption, so fallacious, and at the same time so bold, has it hitherto been held, that the Presbyterian Church is only a secondary Church, and that any little countenance bestowed upon it, or assistance rendered it, has been an act of mere grace—has been granted more from good-will, than as a matter of right. But it is not so—the right of the Established Presbyterian Church of Scotland, beyond sea, is in all respects, of equal force, with the right of the Established Episcopalian Church of England; and I have no hesitation, in stating, that in a future address, I shall make out this point so clearly, by express Enactments of Parliament, and plain clear public declarations to that purpose, that it will appear, with all the evidence of demonstration. In the meantime, it rests with you, my fellow-countrymen, to determine whether you will make any attempt, to raise yourselves and your Church from the low state in which you have so long remained, and to say what measures you will adopt for that purpose. Your claim is just—your rights are indisputable—and unless you are totally devoid of that spirit which has for ages animated Scottish men, you will spare neither time nor exertion till that claim and those rights, are publicly acknowledged.

A MEMBER OF THE PRESBYTERIAN CHURCH COMMITTEE.  
Hobart Town, 5th June, 1835.

*To the Scottish Presbyterians in Van Diemen's Land.*

In my former address I pointed out that the English Established Church is merely the creature of the Act of Uniformity, the object of which was to create a uniform mode of religious worship throughout England, and, with that intent, as many circumstances gave a preponderance to the Episcopalian party at that time, it was enacted, by their influence, that no benefice should be held but by such ecclesiastical persons as had received Episcopal Ordination; and the form of such ordination as should in future be held valid was expressly provided for. Were it not for this Act, and one or two passed in preceding reigns,

nothing could prevent those holding the right of presenting to vacant benefices from doing so to any religious instructor, ordained or qualified by what authority soever. Indeed, prior to this Act, even a layman became a parson *de facto*, when presented and inducted to a benefice, which might be, and which was done, before the passing of this Act, as is stated by Dr. Burn, in his Ecclesiastical Law. The Act itself confirms the truth of this doctrine, by the provision it makes that the King's Professor of Law within the University of Oxford may, even though a layman, hold "the Prebend of Shipton, within the Cathedral Church of Sarum, united and annexed unto the place of the same King's Professor, for the time being, by the late King James of blessed memory." But from the passing of this Act no person was admitted to hold a benefice, or allowed to possess any spiritual dignity, except such as were qualified in the manner prescribed by the Act. Episcopal Ordination is not in itself sufficient to give a title to hold a benefice, the Episcopal Ordination must be the ordination required by the Act, and no other—and no minister of religion can be entitled to consider himself a minister of the Church of England, but such as can of right, according to law, be admitted to a parsonage, vicarage, or benefice in England. The Act in fact, provides for the existence of a body of men who are to possess certain rights and privileges, and all who have a right to such possessions belong to this body. This body is entitled "The Church of England," but it cannot be said that an episcopal minister belongs to that Church, who has no title to the rights and privileges belonging to its ministers; he may be in connection with it, from his having received ordination from one of its Bishops, and yet he may not be a minister of that Church, in the strict sense of the phrase.

This may be made more evident from attending to the 59th Geo. III., where it is recited "that whereas it is expedient that the Archbishops and Bishops of this realm should from time to time, admit into holy orders, persons specially destined for the cure of souls in His Majesty's foreign possessions, *although such persons may not be provided with the title required by the canon of the Church of England, of such as are to be made ministers*; and whereas it will greatly tend to the advancement of religion within the same, that due provision shall be regularly made for a supply of persons properly qualified to serve as parsons, vicars, curates, or chaplains," and then it is enacted, that the above Archbishops, or the Bishop of London, or any Bishop authorised by them, may admit to the holy orders of deacon or priest, any person whom he shall consider duly qua-

lified, specially for the purpose of taking on himself the cure of souls, or officiating in any *spiritual* capacity in His Majesty's colonies or foreign possessions, and residing therein. And it is also enacted, that no person so admitted shall be capable of holding or of being admitted to any benefice, or any ecclesiastical dignity soever within the United Kingdom, or of acting as curate therein, without the previous consent and approbation in writing, under hand and seal, of the Bishop of the diocese in which any such benefice is situated; nor without like consent of the Archbishops and Bishop of London—having first produced testimonials of his behaviour when residing abroad from the Bishop, or Governor in Council of the Colony, or from the Colonial Secretary of State; and it is further enacted, that no person admitted into holy orders by the Bishops of Quebec, Nova Scotia, or Calcutta, or any other Archbishop or Bishop than those of England or Ireland, shall be capable of officiating in any Church or Chapel of England or Ireland, without special permission of the Archbishop." Such persons so admitted into holy orders, are no doubt ministers of the Episcopal Church, but not of the Episcopal Church of England, so as to render them capable of enjoying all the rights, privileges, and immunities belonging to the ministers of that Church, and therefore, in the strict sense of the term, they cannot be denominated ministers of the *Church of England*, and can enjoy none of the rights peculiar to Ministers of that Church. What rights, privileges and immunities do they then enjoy—and by what authority do they enjoy them? This is the point. Do they enjoy any? The rights and privileges of the Church of England, within the realm of England, are ascertained and fixed, not only as to what they are in themselves, but as to the source from which they flow, and the authority by which they are enjoyed. But ministers so ordained, have no especial, fixed and ascertained immunities, or privileges, inasmuch, as the enactment which authorises the calling them into existence makes no provision for their enjoying any peculiar privileges. Of this body of Episcopal Ministers are some of our Colonial Clergymen. But it is not necessary to limit the observation to ministers so ordained; it applies equally to ministers ordained strictly according to the Act of Uniformity, as whatever rights that Act confers are confined to England. Whatever rights then claimed to be possessed by Episcopalian ministers, in this Colony, must be so on the strength of some statute of Parliament, if such could be made, creating certain rights, and limiting the possession of them to these ministers. But as there is no such act or statute, it follows, that Episcopalian ministers, in these

Colonies, have no higher standing, and no greater immunities on account of their ordination flowing from the Church of England, than Presbyterian ministers, on account of their ordination being derived from the Church of Scotland. The minister ordained specially for the Colonies, has indeed less appearance of any claim to have peculiar privileges attached to him, as minister, than the Presbyterian; for whilst the latter, ordained by the Church of Scotland, can hold from that ordination any benefice in Scotland, the former cannot hold any such in England. But setting this consideration entirely aside at present, and looking at the question fairly and broadly, it appears that ministers, Episcopal and Presbyterian, in connection with the Churches of England and Scotland respectively, meet in the Australian Colonies, on neutral ground, and that neither can say to the other, "Friend, I am higher than thou," and that so they must remain, till by a law specially made by constitutional authority, limitations be set to their natural right and legal status of equality. This is the result of each of the Churches being a legally established Church, and it may not be without advantage to bring forward the paction by which their independence and equality are acknowledged and ratified, and to quote from it at length. In the 25th article of the Act of Union, passed in Queen Anne's reign, it is stated that an Act had passed in the Parliament of Scotland, for securing the Protestant religion within the Kingdom of Scotland, as follows;—

"Our Sovereign Lady, and the Estates of Parliament, considering that by the late Act of Parliament for a Treaty with England for an Union of both Kingdoms, it is provided that the Commissioners for that Treaty should not treat of, or concerning any alteration of worship, discipline, and government of the Church of this Kingdom, as now by law established, which Treaty being now reported to the Parliament; and it being reasonable and necessary that the true Protestant religion, as presently professed within this Kingdom, with the worship, discipline, and government of that Church, should be effectually and unalterably secured; therefore, Her Majesty, with the advice and consent of the said Estates of Parliament, doth hereby establish and confirm the said true Protestant religion, and the worship, discipline, and government of this Church, to continue without any alteration to the people of this land, in all succeeding generations; and more especially Her Majesty, with advice and consent aforesaid, ratifies, approves, and for ever confirms the 5th Act of the first Parliament of King William and Queen Mary, intituled, "*An Act ratifying the Confession of Faith, and settling Presbyterian Church Go-*

vernment;" with all other Acts of Parliament relating thereto, in prosecution of the declaration of our Estates in this Kingdom, containing the Claim of Right, bearing date the eleventh of April, 1689; and Her Majesty, with advice and consent aforesaid, expressly provides and declares, that the aforesaid true Protestant religion, contained in the above-mentioned Confession of Faith, with the form and worship presently in use within this Church, and its Presbyterian Church Government and discipline, (that is to say) the Government of the Church by Kirk Sessions, Presbyteries, Provincial Synods, and General Assemblies, all established by the aforesaid Acts of Parliament, pursuant to the claim of Rights, and shall remain and continue unalterable—and the said Presbyterian Government, shall be the only Government of the Church within the Kingdom of Scotland." And in a succeeding article of the treaty, " Her Majesty declares and statutes, that after the death of her present Majesty, the Sovereign succeeding her in the Royal Government of the Kingdom of Great Britain shall at all time coming at his or her accession to the Crown, swear and subscribe that they shall inviolably maintain and preserve the aforesaid settlement of the true Protestant Religion with the Government, Worship, and Discipline, Rights and Privileges of this Church, as above established by the laws of this Kingdom in prosecution of the Claim of Rights." It is then declared that, " Whereas, by an Act made in the Session of Parliament, held in the 3d and 4th year of Her Majesty's reign—Her Majesty was empowered to appoint Commissioners to meet with Commissioners authorised by the Parliament of Scotland, to treat of a union between the two Kingdoms of England and Scotland. And whereas, it is reasonable and necessary that the true Protestant Religion, professed and established by law in the Church of England, and the Doctrines, Worship, Discipline, and Government thereof, should be effectually and unalterably secured; Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, that an Act made in the thirteenth year of the reign of Queen Elizabeth, of famous memory, intituled an Act for the Ministers of the Church to be of sound religion; and also another Act made in the thirteenth year of the late King Charles the 2d, intituled an Act for the uniformity of the public prayers and administration of Sacraments, and of other rites and ceremonies, and for establishing the form of making, ordaining, and consecrating Bishops, Prebends, and Deans in the Church

of England, (other than such clauses as have been repealed and altered by subsequent Acts) and all and singular other Acts of Parliament now in force, for the establishment and preservation of the Church of England, and the Doctrine, Worship, Discipline, and Government thereof, shall remain and be in full force for ever; and be it further enacted, by the authority aforesaid, that, after the demise of Her Majesty, the Sovereign next succeeding to Her Majesty in the Royal Government of the Kingdom of Great Britain, and so for ever hereafter, every King and Queen succeeding and coming to the Royal Government of the Kingdom of Great Britain, and at his or her coronation shall, in the presence of all persons who shall be attending, or, otherwise, then and there present, take and subscribe an oath to maintain and preserve inviolably the said Settlement of the Church of England, and the doctrine, worship, discipline and Government thereof, as by law established within the Kingdoms of England and Ireland, the dominions of Wales, and town of Berwick-upon-Tweed, and the territories thereunto belonging." Then follow two enactments—the first ratifying and confirming the Articles of Union, and an Act for establishing Presbyterian Church Government within the Kingdom of Scotland; and the second, declaring that the Act for securing the Church of England, as by law established, and an Act for securing the Protestant Religion and Presbyterian Church Government in Scotland are declared to be essential and fundamental conditions of the Union. It has been thought necessary to quote thus largely from the Act of Union, that all possibility of mis-stating its import might be avoided, and that its very words being given, it might speak for itself.

What conclusion could any calm and unprejudiced mind, upon perusal of this important treaty come to, were a question to occur as to the relative character of the two Churches, so far as dignity of station was concerned? What but this, that they are in every possible respect equal within their prescribed limits. The terms by which each is designated, are in every important particular the same, "The true Protestant Religion professed and established by law in the Church of England;" "The true Protestant Religion and Presbyterian Church Government of the Church of Scotland." The solemn oath taken at his coronation, by the Sovereign, to protect and defend the Church of England, within its limits, is at his succession to the Crown, taken to protect and defend the Church of Scotland, within its limits; and nothing but prejudice, the strongest conceivable, can come to any other con-

clusion. What then can make any alteration in their circumstances, without those limits, so as to lead to the exaltation of the one, and the depression of the other? And by what rule is such exaltation to take place? Does any Englishman recognise Scotland, as a more honourable, or more independent kingdom than his own? Does any Scotsman recognise England as a more honourable, or more independent kingdom than his own? Will the Englishman yield this point? Ought the Scotsman to do so? But this matter has been provided for. The great Statesmen of the days of the Union, had an important and difficult part to play, and they played it well; they foresaw that such questions might, and in the course of events, must inevitably occur, and they devised a mode of preventing any evil which might therefrom result. That provision is made in the 4th article of Union, which declares "That all the subjects of the United Kingdom of Great Britain, shall, from and after the Union, have full freedom and intercourse of trade and navigation to and from any port and place within the said United Kingdom, and the dominions and plantations thereto belonging, and that there be a communication of all other rights, privileges, and advantages, which do or may belong to the subjects of either kingdom, except where it is otherwise expressly agreed in these articles."—What words can be more clear, more carefully chosen, applying so completely to every case that can possibly occur? On the strength of the Treaty of Union, our Church may safely rest its cause. The Presbyterian Church is protected by it in Scotland, as carefully as the Episcopalian Church is protected in England; and their interests do not, and cannot clash out of these countries, and wherever—in whatever corner of the habitable globe an Episcopal Church is formed and protected by the British Government, there it is competent for Scotsmen to form a Presbyterian Church, and to claim the same protection. On this Treaty the existence of the British Empire depends, and wherever that Empire is recognised, there the treaty itself must be recognised, and all claims founded upon it must also be recognised. Thus, it is a matter so clear and so intelligible, that in a British Colony the Churches meet on neutral ground, that were it not easily explained, how it has come to pass that the Episcopalian Church has risen to its present pre-eminence here, where a Presbyterian Church has at the same time existed, it would be a matter of some astonishment, to any one directing his attention to this act of union, that such is the case. It is a matter of greater astonishment, that Scotsmen have hitherto been so silent, that they have so quietly sub-

mitted to this partiality, and to the degradation attempted to be heaped upon them. But their rights are not to be lost by prescription—they have still their claim, in all its force, and they have a constitutional means of enforcing that claim. Their silence hitherto, is not to shut their mouth for ever; and if they firmly and prudently assert the dignity of their Church, and claim for it equal privileges, and equal countenance with the Sister Church, they can hardly fail of success. And they should bear in mind, that what they do, is not done in a private capacity, and that their own interests alone are not at stake—but that they are acting as the representatives of their country, and of their Church—that in their hands are placed, to a certain extent, the honor of the one, and the rights of the other—and that future generations may, and will be effected by the doings of the present men of Scottish birth and Presbyterian principles in Van Diemen's Land—and will award either censure or praise, according to the extent that their actions are influenced by right motives—are founded on public principles, and carried forward with undeviating rectitude.

A MEMBER OF THE PRESBYTERIAN CHURCH COMMITTEE.  
Hobart Town, 12th June, 1835.

*To the Scottish Presbyterians in Van Diemen's Land.*

The views I have endeavoured to support, as to the standing of the Episcopal Churches in this Colony, are in no degree, inconsistent with the King's Letters Patent, erecting the Archdeaconry of New South Wales, but seem thereby, rather to be borne out and confirmed. These Letters Patent, do not recognise, in any way, the existence of the Episcopal Church, as the Established Church of the Colony; they do not advert to it, as possessing, or being entitled to possess, the peculiar claims to be supported, by the local Government, nor do they invest it with any right to make such a claim. The Archdeaconry was erected for certain reasons, such as would be assigned for the erection of any corporate body, and is constituted in a similar way. The reasons for its erection are expressed in the preamble, which is as follows; "Whereas the doctrines and discipline of the United Church of England and Ireland, are professed by a considerable part of our loving subjects, resident within our Colony of New South Wales, and its Dependencies, including Van Diemen's Land; and whereas it is expedient to make further provision for the due regulation and order of persons duly ordained, to officiate as Ministers of the United Church of England and Ireland, within the same Colony or Settlement, we have determined to constitute with-

in the same Colony or Settlement, our Archdeaconry, subject during our pleasure, to the jurisdiction, Spiritual and Ecclesiastical, of the Bishop of Calcutta, for the time being." Such are the reasons for erecting the Archdeaconry, in which there is no allusion made to the right of the Episcopal Church, to the possession of the character of an Established Church, which would not have been omitted, had such a character belonged to it. The Letters Patent then name the first Archdeacon, state his duties, and constitute him a perpetual corporation, with perpetual succession, and declare him capable of purchasing property of all kinds, and of holding such lands as may be granted by the Governor, being nothing more than the privileges of a corporation. Indeed, the provisions of these Letters Patent, merely serve to ensure the due regulation of the Episcopal body of Clergymen, in these Colonies, in the same way, as the provisions of a Charter of Incorporation, serve to regulate the affairs of any private company, as a bank, or other community. But they do not give to that body any claim to exclusive rights or privileges, or to the peculiar protection and countenance of the Government, much less to be supported solely from the public funds. In short, they do not confer upon it any right to be considered as an Established Colonial Church, according to the popular notion. It would have been competent to His Majesty, immediately after granting Letters Patent, erecting "The Archdeaconry in New South Wales, to have granted for the due regulation of the affairs of the Presbyterian Church, his Letters Patent, erecting "The Presbytery of New South Wales," without at all affecting the interests of the former, or interfering with its proper functions, or affecting in any way, its claim to a legal provision. That, it is improper to make such a legal provision, I do not mean to say. I support the principle of establishments; but I mean to say that, hitherto, no legal provision has been made for the establishment and maintenance of any distinct body of Clergy, so as to constitute a Colonial Established Church. The peculiar and almost exclusive support given by Government in many, and so great a variety of ways to the Episcopal Church has arisen from a partiality, flowing from the supposition that it possesses a legal claim to support, from its adherence to the doctrine and discipline of the Church of England. Without legal and constitutional provision made by Statute for its existence, there can be no Colonial Established Church, and when such provision is made, as there are two bodies, each equally acknowledged by the laws of the country—that which is done for the support and encourage-

ment of the one, will also be done for the same reason for the support and encouragement of the other, in proportion to the number belonging to each Church ; but, hitherto, the support of Government has not been so regulated. The sums of public money expended, in supporting the Episcopal Church, is out of all proportion, when compared with the petty donations bestowed in support of the Presbyterian Church—taking into account the numbers of the latter body. For were all who belong neither to the Episcopalian, nor Presbyterian Church, to be deducted from the gross number of the Inhabitants of Van Diemen's Land, it would be found that at least one-half of the remainder would, in all probability, consist of Presbyterians ; and yet whilst the sum of six or seven thousand pounds of the public money is annually expended on the Episcopal, the Presbyterian Church in the Colony receives about five hundred, that is a fourteenth-part. This is contrary, not only to reason and justice, but to the plainly expressed directions of the British Legislature, as to the rule by which assistance shall be given to the two Churches of England and Scotland, when not within their own limits : that is, when situated as they are in these Colonies. For it cannot be too fully expressed, that here the Churches are on neutral ground ; and in so far, they are placed in the same situation as if they existed in a country not in any way connected with Great Britain, except by the friendly relations subsisting between civilized Christian nations in a state of peace ; and in framing any statute in which the interests of the two Churches here were to be provided for, the same reasons would be influential, which would prevail in framing a statute, providing for the interests of these Churches, in such foreign places ; and a similar provision would, as a necessary consequence, be made in each case. But by the 6 G. 4 c. 87, it is stated that, " Whereas Churches and Chapels, for the performance of Divine Service, according to the rites and ceremonies of the United Church of England and Ireland, or of the Church of Scotland, have been erected, in divers foreign ports and places, and Chaplains have been appointed for the performance of Divine Service in the said Churches and Chapels ; and it is expedient to afford encouragement for the support of the said Churches and Chapels, and to promote the erection of others in foreign parts and places to which His Majesty's subjects may resort, and be resident, in considerable numbers. Be it enacted, that at any foreign port or place in which a Chaplain is now or may at any future time be resident and employed in the celebration of Divine Service according to

the rites and ceremonies of the united Church of England and Ireland, or of the Church of Scotland, and maintained by voluntary subscription or rate levied among or upon His Majesty's subjects residing at such foreign port or place, it shall and may be lawful for any Consul General or Consul, in obedience to any order issued by His Majesty to advance and pay from time to time towards the maintenance of any such Chaplain any sum of money not exceeding in any one year the amount which during that year may have been raised at such port or place for the like purpose, by any such voluntary subscription or rate aforesaid." In another section it is enacted, that when at any such place a sum of money shall be raised requisite for defraying one-half of the expense of erecting or purchasing a Church, for the celebration of Divine Service according to the rites and ceremonies of the united Church of England, and Ireland, or of the Church of Scotland, His Majesty's Consul has a similar power to supply the other half of the expence of building or purchasing a Church. Now here is a direct acknowledgment of the status of the two National Churches in such places being equal, and of the propriety and reasonableness of making a similar provision for the support and encouragement of each. The inference is evident. There is the strictest analogy, on this point, between foreign ports and places, and a British Colony. In the former, foreign ports, namely, neither the English nor the Scottish Church has any peculiar exclusive claim to the support and assistance of the British Government; because such claim runs counter to the provisions of the Act of Union, and would not be admitted by the Supreme Legislature, bound so reasonably, and so imperatively to be guided by that Act. And therefore in making provision for the welfare and support of one of the Churches, it was bound to make the same provision for the other; and it is by no means a bold assertion, that had the British Parliament, in the Act regarding foreign Churches, given a preference to one of the British Churches, established by law, it would have struck a blow at the sanctity of one of its own enactments.

The principle by which the Parliament would be guided in making any provision for the support of the Christian Church in these Colonies is, by this Act clearly laid down; on no other principle could an enactment be framed with any regard to justice or law, having such purpose in view; and I would put it to every member of the Legislative Council, who may have perused the remarks that I have made, and especially to the Presbyterians of that Body, whether they can justify the ap-

propriation of six or seven thousand pounds annually to the uses of *nine or ten* Episcopal Clergymen, who besides are in possession of houses, lands, and other valuable advantages provided by the public, when the *four* Presbyterian Clergymen have in all only five hundred pounds annually.

The principle I have endeavoured to establish, is borne out to the utmost extent by various other Acts of Parliament. The 3rd and 4th, William IV. cap. 85, enacts, that of the establishment of Chaplains at each of the Presidencies in the East Indies, of which there are four, two Chaplains shall always be Ministers of the Church of Scotland, with a salary equal in amount to that of the Military Chaplains, at the several Presidencies; such Presbyterian Chaplains being ordained and inducted by the Presbytery of Edinburgh, and subject to its Spiritual and Ecclesiastical jurisdiction, with appeal to the synod of Lothian and Tweeddale, and to the General Assembly of the Church of Scotland—thus fully recognizing the equality of the Churches in the British foreign Settlements. But the importance of the subject, and the variety of topics bearing upon it, which cannot be fully entered upon through the columns of a newspaper, point out the propriety of embodying these letters in a pamphlet, with other matter in elucidation and confirmation of the same views—and I hope soon to have the pleasure of addressing the numerous body, whose interests I now advocate, more fully than I can at present do, from the shortness of the leisure time I have been able to bestow on the preparation of my remarks. If, in the mean time, these observations have served no other purpose, than that of calling your attention to the rights of our Scottish Church in a British Colony; I shall consider my time well bestowed—from the conviction I entertain, that the more carefully, and the more fully, the point is enquired into, the more clearly it will appear that the Scottish Presbyterian Church has as valid a claim to be supported and protected, and countenanced by Government, as any Church can possibly possess.

A MEMBER OF THE PRESBYTERIAN CHURCH COMMITTEE.  
*Hobart Town, June 19th, 1835.*

FINIS.