

cited to compare and answer—namely, whether or not there did not exist good reasons for serving them with a libel previous to deposition from the office of the holy ministry. The procurator introduced the subject with a very edifying speech. It is well known that the learned gentleman, as well as divers members of his family, occupy a high place at the Scottish bar.—And yet, though in daily intercourse, in his professional capacity, with the judges of the Court of Session, we find him in his place in the Commission of the Assembly, bearing a testimony fully as decided as any of his clerical friends against the doings of the civil court. After stating the case, and shewing that no other alternative was left than to libel these even ministers—we find the following remarks illustrative of the duty of the church to proceed in her own path without regarding the civil courts.—And who can gainsay the truth of them? If the church is a church of Christ, she must have freedom to follow out the end of her existence, the maintenance of truth and righteousness in the land—if she is not a church of Christ, let her by all means be rejected—but to acknowledge her in this capacity, and to fetter her in the doing of those things which her great head has committed to her care, is both inconsistent and wicked. The more free she is to obey the pure precepts of Christ, the greater the good that must follow. The Procurator proceeds:

Sir,—It has always appeared to me that, when two courts of co-ordinate jurisdiction come, or are supposed to come, into collision, then, unless when the subject of conflict happens to be one which may be remedied by a conference between them, as is supposed to have been the case with the Court of Session and the Barons of Exchequer about thirty years ago, the truly dignified course of proceeding is, that each court should hold on its own way, without appearing to be conscious of the existence of the other court, excepting when it cannot by any possibility avoid it. The act which it may be the duty of either court to do, should be done solely and simply because it is its duty, and should neither be done when it is not so, nor withheld when it is, because some other court, having no power of review, either ordains it on the one hand, or prohibits it on the other. I am not saying that we should not, in another shape and for another purpose, declare what we please as to our own independence of any other court, or of all courts on earth. That, sir, we may do in our deliberative capacity; we have done so on more occasions than one, and I have cordially concurred in such declarations. But in our judicial capacity, where we have nothing else to do than to

determine the case before us, I can conceive nothing more unjudicial, nothing more undignified, and nothing more unwise, than to make any mention of any other court whose supremacy over us we do not acknowledge. It is unwise, because the mention of any other court, in our judgment, gives that court a pretence for interfering which it could not otherwise by any possibility have.

After arguing the case at some length on the principles stated above, the learned gentleman moved to the following effect:—That the Commission find the said William Cowie, William Allardyce, James Allardyce, James Walker, William Mason, James Thomson, John Cruickshank, and James A. Cruickshank, still continue contumacious, they now, in obedience to the injunction of the General Assembly, at its meeting on the 1st of June last, resolve to serve them with a libel, as therein directed, and appoint Mr. Candlish, Dr. Patrick Macfarlan, Mr. Moncrieff, Mr. Banneiman, Mr. Dunlop, and the Procurator, to prepare the draft of a libel, and to report to this or some future diet of the Commission.

Dr Cook, of St. Andrews, in a speech of great length opposed the motion, arguing that obedience to the civil courts could not be defined as *criminal in a libel*, and concluded, with moving to the effect that in all the circumstances of the case, they saw no reason to serve the seven ministers with a libel, and report the matter to next assembly. He was answered by Dr. Macfarlan, Dr. Simpson, and others.—After the debate had been protracted for some time, Dr. Chalmers rose and addressed the house, but for some time his voice was inaudible. He said, on whatever principle the Established Church may be based in other lands, nothing can be clearer than the principle on which the Church of Scotland is founded. It is not a fiction called up from the viewless depths of antiquity; we read it in the broad daylight of history. We find it in the articles of her leagues, in the watchwords of her persecuted congregations, and in the testimonies and the dying confessions, which, if they had been recalled, would have drawn from the stake or from the scaffold her sainted martyrs. And if ever acts of Parliament could be illumined or interpreted by the events which gave them birth, then I say that our spiritual independence—the full recognition of our spiritual independence—is as clear as if written with a sunbeam. But we do not stand in need of this light from without, seeing that we are in possession of a light from within, in having our Confession engrossed among the acts of the legislature, and made part and parcel of the statute law. It is there recognized by the law of the land, that Christ is the only King and Head of his Church, and that he hath appointed in it a government distinct from the civil magistrate. Now, this is not a peculiar privilege, which I contend for as a novelty belonging to our own church alone,