

The effect upon the character of the Appellant as an Elder and Member of the Church, and his duty as to submitting to, or appealing from the judgment, would be very different on the one supposition from what it would be on the other. If he is suspended for violating a rule simply by the publication of circulars, or of any circular, then his suspension might be held to be simply caused by the breach of a strict rule which might be considered simply as a rule of convenience, but still a rule which must be enforced. In case of infringement of such a rule, no great moral blame could be attached to him, certainly nothing like that which attaches to him now when he may be looked upon (and as the Appellant believes and as he has great reason to believe, he is looked upon) as if he had been proved guilty, that is to say, found and adjudged guilty, after a fair trial, of publishing a circular containing false statements, and unchristian averments, and insinuations.

It is the duty of the Appellant, as he believes, to try and relieve himself from the consequences of the judgment, and he therefore desires to submit to the Presbytery as a Court of Appeal such considerations as may tend to shew he was not guilty of a breach of any "Rule" which was legally in force, or which could warrant his suspension from his office, nor of the greater moral guilt which a just and fair investigation, trial and condemnation, for publishing and circulating false statements, &c., would carry with it.

The rule has already been quoted, it is in these terms:

"That this Session expresses its disapproval of any one member unauthorized by the session, addressing the members of the congregation on business of the church by circulars or letters."

"This would seem to point to a disapproval of circulars or letters already published, and by implication only to include future circulars or letters. The circular in question it is admitted was not published at the date of the "rule". But assuming the applicability of the rule to circulars or letters, or even to one circular or one letter, by one, or more than one member of the Session, and assuming that there were appended to it words tending to shew the intention of the Session to treat a breach of the rule as matter of discipline by adding words such as, "on pain of subjecting a member so addressing the congregation to discipline" "to expulsion" "or suspension from office." Assuming it in fact to have been intended as an imperative order or rule of the Session with a penalty or punishment for its contravention clearly pointed out as a warning to an offending member—questions would still arise—Is such order valid? Is it not wholly beyond the powers and jurisdiction of the Kirk Session to try a member or punish him for a breach of it? The answer to these questions seems clear from the standards of the Church, from the opinions of authoritative and acknowledged writers and commentators on Church law—"Nothing is admitted" (says Hill, page 13) "as the ground of a process for censure but what has been declared censurable by the word of God, or some act or universal custom of this national church, agreeable thereto."

The article in the Polity of this Church already referred to, if not adopted as yet as positive, binding law is yet in conformity with the general practice and usage and may be quoted in support of older writers. "An offence the object of discipline, is anything in the principles or practice of a member of the Church which is contrary to the word of God, the confession of Faith and the Catechisms of the Westminster Assembly. Hence, nothing is to be regarded as just cause of discipline which cannot be shewn to be condemned by Scripture or by the es-