

The Appellant as, will be seen from the Minutes, referred to these By Laws on the meeting of the 26th April but without effect. And it appeared that the By-Laws had not been signed by the Minister, nor by most of the Session, notwithstanding the positive terms of Article 21.—But it is submitted that this neglect does not nullify the Statutes or By Laws, nor can any action of the Session do so.

If the changes left open by the resolution of the Session would, (if carried into effect) amount to a change in the form, or mode of worship of the Established Church of Scotland, it is not within the Jurisdiction of the Session to sanction or render legal such changes.

Indeed under Article 18th of the by laws it would seem to be matter for the gravest doubt whether an Act of the Synod of the Established Church of Scotland itself, could validly alter or contravene the terms of the first Article of the By-Laws.

The Appellant submits this more general question to the wisdom of the Presbytery, and craves such action, as may define and settle the jurisdiction and powers of the Kirk Session of St. Andrew's as to the changes referred to, changes which the Appellant considered it his clear right and duty to oppose, and which he respectfully submits, the record will show he did oppose, by fair and legitimate means, without success it is true, but without falsehood, or misrepresentation, or unchristian averments and insinuations and without shrinking from the consequences, so strongly hinted at, in case he failed to retract or express regret for the circular.

The Appellant in conclusion, respectfully lays before the Presbytery the foregoing statement of his case as sufficiently indicating the points in respect to which he considers he is entitled to complain of the proceedings of the Session.

To these proceedings he begs the earnest attention of the Court as establishing the following points:

That the verbal statement of the Moderator recorded in the minutes of the 26th April as to the object of calling the meeting was erroneously treated by the Session as a charge and as on a charge too not requiring specification.

That this charge was virtually decided adversely to the Appellant on the very day on which it was made, by the passing of the resolution of the 26th of April.

From the verbal statement of the Moderator, as recorded in the minutes, the circular is said to contain "mis-statements and mis-representations." In the Resolution it is said: Mr. Johnston is charged to night with publishing a circular "containing false statements and "unchristian averments, and insinuations," shewing the necessity of a precise and definite written charge, and the danger of converting a verbal statement as to the object of meeting into a charge so different in terms and effect as given in the Resolution, from what it appears in the minutes.

That when served with the Resolution on the 27th April, the Appellant on the 29th April notified the Session by an answer respectful in its terms, that he denied the false statements &c., and demanded an investigation as to whether they were true or false.

That this was also refused, and was followed on the 29th by the answer being simply declared "unsatisfactory" and by the suspension of the Appellant from his office as if he had been fairly tried and found guilty, according to the law and practice of the Church. The judgment by its terms indicate plainly that in the opinion of the Session "severer measures" might well have been adopted, referring probably to the first motion to depose Appellant from Eldership.

The Appellant submits to the Presbytery, not so much whether the punishment was too lenient or too severe, but whether the Session acted regularly, and within its jurisdiction in, rendering