

subject, he moved a series of resolutions against the bill.

STRATHBOGIE CASE.

MR. DUNLOP then rose and said, the subject on which they were about to enter was of a very solemn and serious kind; and he desired to proceed to the consideration of it in the spirit so well recommended by his friend Mr. Robertson, when the cause was last before the house. However little credit might be given by some individuals to the statement, he believed he could sincerely say, that so far from entertaining any desire to exercise severity against the gentlemen at the bar, the struggle was to repress those feelings of kindness and tenderness which might induce the House to carry leniency farther than strict justice and the interests of the Church required. To that extent they were bound to carry severity, whatever might be their personal feelings; and he trusted that no such feelings would induce them to shrink from their duty in carrying out what was necessary to maintain authority in the Church. He must commence by recalling to the recollection of the house the circumstances under which those rev. gentlemen appeared at the bar of the Assembly. The call of Mr. Edwards, the presentee to Marnoch, was signed by only one parishioner. Mr. Edwards had officiated among them for several years as assistant to their minister, and had been removed by him on a strong expression of disapproval of his services, by a large body of the parishioners. After the moderation of the call, it was proposed to the Presbytery by the presentee, that the declaration appended to the veto act should be administered to the dissentient parties. They were accordingly cited before the Presbytery to take this declaration, and then the presentee came forward with an accusation of caballing, and declined to put the declaration. After due time allowed for proof, he came forward (the patrons having withdrawn their concurrence) and said, I do not propose to substantiate any charge of caballing. The Presbytery said, well, we now will press the declaration, and appointed another meeting of the parishioners. It issued ultimately in this, that the General Assembly of 1838 remitted to them to reject the presentee. That sentence the Presbytery obeyed, and the sentence of rejection stands in record upon their books. In the meantime the patron acquiescing in the judgment of the Church Courts presented Mr. Hendry. Mr. Edwards then raised a civil action similar to that raised by Mr. Young in the case of Auchterarder, and also applied for an interdict against the Presbytery settling Mr. Hendry. The Presbytery referred the matter to the Synod, and the Synod directed them to proceed to the settlement of Mr. Hendry. They declined, and resolved that the Court of Session had jurisdiction in the matter, and that they were bound to obey its

interdict. The matter was brought up ultimately last year to the General Assembly, which pronounced the following deliverance. [The learned gentleman then read the deliverance.] That was the judgment not of the Commission, but of the Assembly enjoining the Presbytery not to determine the matter themselves, but to refer it to the Commission, that that Court might determine it. This was so far from doing any thing of which the Presbytery had reason to complain, that it was a judgment intended to protect them from the injurious consequences of any procedure that might be ordered by the civil authority. It was intended to relieve them, inasmuch as, if they were called upon by the Civil Court to settle Mr. Edwards, they were not allowed to act on their own responsibility, and thus subject themselves to a civil suit, but were directed to report to the Commission, which would take upon itself the responsibility of the matter. The Commission took up the case, and pronounced the following judgment:—

[The learned gentleman here read the judgment of the Commission.]

The Commission took every plan of preventing a collision with the civil power. They had a presentation from the legal patron in favor of Mr. Hendry; but they did not order the Presbytery, as in case of Lethendy, to establish the pastoral relationship between Mr. H. and the parish of Marnoch. They said, "Leave matters as they are: it may be that the Legislature may have passed some enactment before next Assembly, that might enable them to come to a satisfactory resolution on the subject." They forbade the Presbytery from settling either party. And if the Presbytery were called upon by Mr. Edwards to proceed to his settlement, they could say to him, "We have no option in the matter; we are prohibited by the strong and imperative injunction of the Commission from taking any steps, under certification that we shall be answerable for disobedience to their interdict." A change of circumstances, however, took place. Mr. Edwards obtained a decret in his action, similar to that which Mr. Young obtained in the case of Auchterarder, finding that the Presbytery had acted illegally in rejecting him, and were bound and astricted to take trial of his qualifications, and if they found him qualified, to admit, and receive him as minister of the parish of Marnoch. This sentence being intimated to the Moderator of the Presbytery, a requisition was immediately presented to him by several members of the Presbytery, calling upon him to summon a *pro re nata* meeting to take the decret into consideration. The Moderator most properly provided himself with extracts of the proceedings of the Assembly and of the Commission in the case, and called a meeting of Presbytery for the 12th of November, to take into consideration, not only the sentence of the civil courts, but also those of