

ther-in-law), and Presidents Blair and Hope in our own day, are all more or less directly in favour of the existence of this particular power; while the general doctrine of the absolute independence of the Church courts in matters ecclesiastical, and the incompetency of this Court to interfere with them, except as to *civil* consequences, is distinctly recognised by Stair, Kames, Lord Prestongrange, and Mr. Crosbie, and in the arguments and decisions of this Court itself in the cases of Auchtermuchty, Lanark, and Dunse—especially as reported by Lord Monboddo—I must be permitted to say, that *the novelty* is, beyond all dispute, on the side of those who have recently challenged its legality, and not of those who are still inclined to uphold it: And, indeed, when I further consider the unanimous and unchallenged votes by which the law admitting the chapel ministers and those of the parliamentary churches to the full privileges of the establishment, in 1833 and 1834, and the decision actually pronounced, upon the assumption of this legality, by this Court in 1836, (though afterwards departed from,) I can entertain no doubt that the clear recognition of this power in the statute of Will. IV., as to voluntarily endowed churches, was not introduced inadvertently or without due consideration; but upon a clear and, I cannot but think, a most reasonable conviction in those who prepared it, that by the law, as then understood, these appointments were beyond doubt within the lawful power and competency of the Church. I cannot, therefore, part quite so lightly as some of your Lordships seem inclined to do with this distinct recognition of the power now questioned, in a recent statute of the realm; and though, I know not what doubts, and I know not what fears, have since fallen upon us, I feel myself constrained to say, that *I shall hold as long as I can by the law which I learned in my youth, and have yet seen no reason to abandon in my old age.*"

Let the pleadings then at the bar of the civil courts—let the opinions of the Judges, whether in the majority or in the minority, of the Court of Session—let the opinions of the Law Lords who expressed their minds on the Auchtermuchty cases—let all these be considered, and it will be evident that, while there were opposing parties pleading for very different objects in the courts, while there were conflicting opinions among the Judges of the Court of Session as to the decisions that ought to have been given in the cases referred to; there was but one opinion entertained by the counsel, by the Judges, and by the learned Lords in the House of Peers, as to what must be the position of the Church under the authority of the decisions which have been actually given, which have now become final, and which the State, by the rejection of the Claim of Right, has declared to involve the terms on which the Establishment is now upheld. What one

portion of these men aimed at, what another portion of them deprecated, as necessarily involved in that interpretation of the laws which met with the sanction of the State, has been fully realized; and the Ecclesiastical Establishment of Scotland is now divested of every particle of freedom as a Church of Christ. It is formally placed, as a mere corporation, under the control of the Court of Session. As Dr. McCulloch, Minister of the West Parish, Greenock, accurately expressed it, "the Church is laid prostrate at the feet of the civil Magistrate."

It is very evident, then, that the Establishment now upheld in Scotland cannot be recognized as the proper representative of the Church that was established at the Revolution. If the "outed Ministers" could have submitted to such terms as those on which the Establishment is now kept up—if they could have yielded as submissively to the moulding of the civil magistrate as the men who now occupy the parish pulpits in Scotland; it is very clear that there could have been no need to prepare the way for their return to the Establishment, by the abrogation of the Parliamentary enactment asserting the King's supremacy "in causes ecclesiastical;" there could have been no reason why they should ever have occupied the position of "outed ministers" at all. A Church whose very women could suffer martyrdom rather than compromise the crown rights of the Redeemer, would not readily acknowledge as their legitimate descendants a body who, rather than forego their temporalities, would yield the most abject submission to the dictation of Caesar in respect to the affairs of Christ's house. But there is as little reason to suppose, that the Seceders of the Associate Presbytery would acknowledge as their genuine representatives those who, witnessing such sad defections, had no testimony to lift up against them. They would scorn the idea that the protest which had been left with the Establishment in 1733 could meet the exigency of the case that was presented in 1843.

It is, however, quite possible that new ground may be here taken up, and that the brethren of the Presbyterian Synod may maintain that they have extended their Protest and their Testimony beyond that which was maintained by the primitive Seceders—that whereas they simply lifted up their testimony against the prevailing moderate majorities of their day, the brethren of the Presbyterian Synod lift up their testimony against the entire Church as an Ecclesiastical Establishment, and would trace all the evils of that bondage to which the Free Church would not submit exclusively and necessarily to the very condition of an Established Church. This would be speaking out; and it seems, at least, to be the bearing of the remark which the brethren make when they say, "So far from approv-