LETTER

TO

SIR GEORGE SINCLAIR, BART.

OCCASIONED BY HIS RECENT PUBLICATION OF A

"SELECTION FROM CORRESPONDENCE, &c."

IN REFERENCE TO THE

SCOTCH CHURCH QUESTION.

BY

JOHN HAMILTON, Esq.

ADVOCATE.

EDINBURGH: BELL & BRADFUTE, 12 BANK STREET;
LONDON: JAMES RIDGWAY, PICCADILLY; AND
J. NISBET AND CO. BERNERS STREET,
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A LETTER, &c.

EDINBURGH, 16*th April* 1842.

MY DEAR SIR GEORGE,

I beg to make a few remarks upon the opinion you have pronounced on the conduct of the General Assembly's Non-Intrusion Committee, in the observations which accompany the "Selection of Correspondence" you have lately published.

You accuse the Committee of inconsistency and unreasonable pertinacity, in their mode of treating your amended clause; and the ground of your charge is thus stated (*Correspondence*, p. 183): "When I consider how exactly the words of my amended clause carry out the very principle *laid down by the Committee, in the words which I have lately quoted, I am at a loss to discover, why* they evinced such a *determination*, first, to *question the import*, and then to *repudiate* the adoption of the basis of settlement which was assented to in October." The only explanation of their conduct which you suggest is, that they may have been actuated by personal "dislike" towards Lord Aberdeen. My first object will be to supply a more correct solution of this difficulty; and I shall then make one or two remarks upon topics of a more general kind, adverted to in your publication.

By a judgment of the House of Lords, pronounced in May 1839, it was, for the first time, ascertained that the civil rights of patrons, as they exist under an act of Queen Anne *(passed subsequent to the Union)* are inconsistent with a fundamental

principle of the Church, which provides that "no person be *intruded* into the office of the Ministry, *contrary to the Will of the congregation to whom he is to be appointed.*" Immediately on this judgment being pronounced, the General Assembly appointed the *Non-Intrusion Committee,—for the purpose* of endeavouring to obtain such a modification of the newly ascertained rights of patrons under the act of Queen Anne, as would bring their exercise *into harmony with the above fundamental principle of the Church.*

In spring 1840, Lord Aberdeen brought forward a bill, which was *strictly declaratory of the existing law under Queen Anne's act.* The main practical defect of the bill consisted in this, that while it contained some well-sounding phraseology about "regard being had to the spiritual welfare and edification of the people," and liberally declared *the powers of the Church Courts* in certain respects, it was *studiously* framed so as to restrict them to *the pronouncing of their judgment* on the *qualifications* of the presentee; and, so far from allowing them to give effect to the religiously expressed "*will*" or "dissent" of the congregation, when stated against a presentee, it most effectually precluded their doing so; and being, therefore, calculated and designed not to accomplish, but to defeat, the necessary and *only* object which the Church had in view, the bill was, of course, rejected by the Committee, and by the General Assembly.

In the autumn of last year, you proposed an *amendment* on Lord Aberdeen's bill, with the understood design of removing its essential defect, and of introducing such a legal recognition of the Non-Intrusion principle as would at least *enable* the Church Courts (if they felt themselves so required by a sense of duty) to apply the Non-Intrusion principle, without coming into collision with the civil rights of patrons. The amendment which you suggested for this purpose, consisted in introducing, at a certain place in Lord Aberdeen's bill, the following words, viz.: "Or in respect the said objections or reasons, though not in themselves conclusive in the judgment of the Presbytery, are entertained by such a proportion of the parishioners as, in the opinion of the Presbytery, to preclude

the prospect of his (the presentee's) ministrations proving useful to that particular congregation."

Now, the only question which the Church, or the Committee, could entertain, in regard to this or any other proposed measure, was simply—Whether it was calculated to admit of effect being given,—without civil interference,—to the religiously expressed "will" or "dissent" of a congregation in reference to a presentee? And what, therefore, I have to say in vindication of the Committee's proceedings on your amendment, is this,—that when, on the 1st and 2d of October, four or five members of the Committee were hurriedly convened, to decide summarily on your proposal, they *then* thought *(and on reasonable grounds)* that the above clause was calculated and intended to admit the application of the Non-Intrusion principle. But circumstances which soon after occurred, and more ample opportunity for consideration, satisfied the Committee that the clause was neither calculated *nor intended* to have any such effect; but that,—as it still limited the Presbytery to dealing with "the reasons or objections" stated by the people,—it would, when embodied in the bill, leave its effect substantially unchanged, and would still exclude the power of giving effect to the "will" or "dissent" of the congregation, however conscientious and solemn it might be. Upon this being ascertained, and the Government being brought to a distinct explanation of their purposes, the negociation upon the basis of your clause was necessarily at an end. I say that, both in forming their original opinion of the clause, and subsequently in changing that opinion, the Committee proceeded on *reasonable* and *sufficient* grounds; and that, under both circumstances, therefore, they acted in a way that was consistent with their duty.

And, *first*, as to the original opinion of the Committee,—without dwelling on the plausibility of the clause, viewed by itself and in the first aspect of it,—I confine myself to two remarks of a more definite and tangible nature.

1*st*, When the clause was submitted to *other* individuals, *the most competent to form an opinion of its import, they ascribed to it the same effect which the Committee, in the first in-*

stance did. Thus, *Lord Aberdeen himself*, upon your first sending the clause to him, "rejected" it (*Correspondence* p. 9); and the special ground on which he did so was, that "*it seemed to him* that it would render *any repeal of the Veto act quite illusory*" (p. 156);—in other words, it would *allow* the Church Courts, *in each case*, to do what the *Veto* act *required* them to do in every case, viz. *to give effect to the "veto" or "dissent" of the congregation.* And *Lord Cottenham* expresses his view in terms not less explicit (p. 178), "In saying that, under Lord Aberdeen's Bill, *with the alteration you propose*, going to the Presbytery would, in the present temper of the Church, be a mere ceremony, I did not mean that they would not exercise their power *conscientiously*, but, *on the contrary*, that, *adhering to the principle of their Church*, they *could not do otherwise* than reject the presentee, *simply because the majority of the Parish dissented.*" * * * "It would, therefore, be quite *immaterial* to all parties concerned whether *the dissent of the majority* were to operate *per se, as a veto, or to have that effect given to it by the Presbytery.*" * * * "Your proposed amendment would, practically, give effect to the *principle of non-intrusion*; but *so long only* as the Church think *the dissent of a majority* a proper ground of rejecting a presentee." When Lord Aberdeen, therefore, thought that your amendment would "render the repeal of the Veto act *quite illusory*," and Lord Cottenham was of opinion that, under it, the Presbyteries "could *not do otherwise* than reject the presentee *simply because a majority of the parish dissented*," the Committee may stand excused for, at first, attaching the same meaning to it. But,

2*dly*, *When you submitted the clause to the Committee, you informed them, not only that Lord Aberdeen put the above construction upon it, but also that the then Dean of Faculty did the same,* and said he saw distinctly that "*it would allow the Church Courts, in every instance, to give effect to the "veto" of the people, if they thought right so to do.*" Now, observe,—*these two individuals* (Lord Aberdeen and the then Dean of Faculty) *were the parties with whom*, through your intervention, *the Committee were negotiating;* and *when thus informed, therefore, upon your authority, that the parties with whom they were treating agreed to a*

clause, and ascribed to it the same meaning which they themselves did, and when thus assured *that there was a complete agreement as to the end to be accomplished, through the means of your clause,* how could the Committee hesitate to accept that clause as "the basis of a settlement,"—merely providing that Sir Frederick Pollock, as counsel for the Church, should be consulted, "in regard to *the terms of the bill* being such as, *clearly* and *fully*, to give the Church that recognition of her power and jurisdiction which *it is understood to be intended to convey.*"

Seeing, therefore, that you told the committee that Lord Aberdeen and the Dean of Faculty construed your clause as allowing full power to the Church Courts to give effect to the "dissent" or "veto" of the people, in every instance, if they thought proper so to do,—I beg to ask, Whether you think it right to hold the Committee bound to the terms of your clause, if it appear that, when the clause is embodied in the Bill, its terms do *not* admit of that construction, and do not admit of it, *in the opinion of Lord Aberdeen and of the Dean of Faculty themselves?* And if you think this would not be right,—then I ask farther, Where is the propriety of your founding (as you do) on the terms of the Committee's minute of 2d October, (in which they used expressions similar to those employed in your clause), *as proof* that the "principle laid down by the Committee," in the words which you quote, is different from the principle which you had told them that Lord Aberdeen and the Dean of Faculty *understood those words to express?* So long as the committee thought, (as Lord Aberdeen and others at one time did), that the terms of your clause were fitted to allow effect to be given to the "veto" or "dissent" of the people, they, of course, employed these terms *as expressing or importing that principle.* But, if these terms, in the ultimate and matured opinion of the Committee, of Lord Aberdeen, and of the Dean of Faculty, do *not* express that principle, are the Committee to adhere to *the terms* and to lose *the principle?* I should think not. On the contrary, I conclude that having, like Lord Aberdeen, changed their opinion respecting the import of the clause, they are, like his Lordship, entitled to *reverse* the practical reception which they give to it.

And this leads me to remark that, while the Committee, in October, felt themselves warranted in acquiescing, to the extent which they did, in your clause, *because* they *then* entertained a reasonable and indeed *unavoidable* belief that it was fitted and *intended* to allow liberty to the Church Courts to give effect to the Non-intrusion principle, by rejecting a presentee, in every instance, on the ground of the solemn "dissent" of the congregation, they were very soon afterwards led to a belief, *not less reasonable and unavoidable*, that the clause was *neither fitted nor intended* to have any such effect.

The circumstances which warranted this change of belief on the part of the Committee were these :—

1*st*, *Lord Aberdeen's opinion of the effect of the clause was entirely changed.* After deliberating and consulting respecting it, he became satisfied that, so far from "rendering the repeal of the Veto act illusory" (—by allowing the Church Courts to give effect to the dissent of the congregation, as he at first supposed),—it would, when incorporated in his bill, make no such alteration upon its provisions, and would, in truth, introduce nothing beyond what was in it from the first, and what he had always intended. That opinion his Lordship expressed, in the most explicit terms, to myself, and in circumstances which leave no room to doubt that he intended his opinion on the subject to be communicated to the Committee.

2*dly*, *The Dean of Faculty entertained the same opinion of the clause which Lord Aberdeen ultimately did.* Within a fortnight after the date of the minute of the Committee, he addressed a long and elaborate letter to Dr Candlish (15*th October*), in which he entered into a full exposition of his views. He there stated, that "Lord Aberdeen's bill *was framed on the principle of the jurisdiction of*, and *judgment by*, the Church Courts;" and that your clause and another suggested by himself *all proceeded strictly on the same principle;* and as to the Church Courts having power to reject on account of *the conscientious "dissent"* or "*veto*" of the congregation, he made it most apparent throughout, *that that continued, as much as ever, to be the peculiar object of his unmitigated opposition.*

3*dly*, Lord Aberdeen and the Dean of Faculty gave their assent to the introduction of your clause, *not until after his Lordship's opinion of its import had undergone the total change which I have described;* and both his Lordship and the Dean of Faculty agreed to the clause, upon the ground that it was *not to admit, but to exclude, effect being given to the "veto" or "dissent" of the congregation, however conscientious it might be.* I have no occasion to enquire when *you* became informed of the change in Lord Aberdeen's opinion respecting the meaning and intent of your clause, but I am bound to state that the Committee did not entertain, and from what you informed them, could not by possibility entertain, a shade of doubt that his Lordship's and the Dean's assent to the clause had been given on the construction *originally* put upon it; and that they never conceived a suspicion on that point until the receipt of the above letter by Dr Candlish, from the Dean of Faculty, on the 15th of October.

4*thly*, But—not only was such the ultimate opinion entertained *by Lord Aberdeen and the Dean of Faculty*, as to the import and intent of your clause, and such the views with which, *alone*, they, *as individuals*, assented to it;—but *these parties were the true and undoubted representatives of Her Majesty's government in the negotiation*;—and it thus appeared, therefore, that *the Government*, in assenting to your proposal, were not assenting *to that which the Committee had been, reasonably and unavoidably, led to believe they were*, but to something essentially different, to which the principle of the Church, and the duty of the Committee, absolutely forbade them to give the slightest countenance. Two or three members of the Committee were disposed to doubt how far the Government were guided by the counsels of Lord Aberdeen and the Dean of Faculty, and they were inclined to believe that the Home Secretary would put a different construction on your clause, and give effect to it accordingly. But the "Selection of Correspondence" shews how utterly vain were all such surmises; for it there appears (as the Committee never doubted) that the Government entertained the proposal *solely* in consequence of the recommendation of the Dean

(p. 10); that that learned person afterwards addressed to Lord Aberdeen an explanatory letter, to the contents of which you implicitly referred Sir James Graham for his guidance (p. 38); and that, in regard to the whole negotiation, Lord Aberdeen's "retirement from the field would, *necessarily be attended by that of his colleagues*," for "it would be a mere *delusion* to suppose that the Government would introduce or sanction *any measure in which Lord Aberdeen did not concur*" (p. 100). And not only did Sir James Graham, in subsequent communications to the Committee, officially express his own views, in terms which cannot be mistaken, but the recent avowal of his sentiments, made by him in his place in Parliament, must have removed the last doubt on the subject from the mind of every one; for he, on that occasion, declared that "every effort having been made by the Government during the recess, *as it had been made before, in the year* 1840, *by the Earl of Aberdeen, to settle the question by a declaratory law, he was now satisfied with the law as it stood, and was prepared to defend it on the responsibility of the Government.*"

After all this, however, some persons still allow themselves to be perplexed by subtle suggestions about the possible meaning and effect of the clause;—being, in truth, misled by the very same appearances which imposed, in the first instance, on the Committee. Had these appearances not been specious, they would not, of course, have imposed on the Committee, and still less upon Lord Aberdeen and Lord Cottenham; but that the ultimate and matured opinion of the late Dean of Faculty, of Lord Aberdeen, and of Her Majesty's Government, upon such a subject, can, by possibility, be erroneous, I am at a loss to understand how any man of practical judgment can, for one moment, persuade himself. It should be remembered that the question is,—not what plausible constructions, or glosses, some people may think they could contrive to put upon certain expressions, or how cunningly they think they could weave them into specious deliverances, to be issued forth by the Church Courts,—but, *what is the construction which it may be reckoned the Court of Session would put upon the entire bill?*—a question, though not of an easier,

certainly of a much more definite, nature, as well as the only one that is of the smallest practical importance. It is foreign to my purpose to enter into a critical examination of the legal construction and import of the bill. But this much I may say, that there can be no reason to doubt that the Dean of Faculty was perfectly correct, when he stated that the bill, *with your clause inserted*, would still proceed "*on the principle* of *the jurisdiction of*, and *judgment by*, the Church Courts." It seems equally plain that, under it, the Church Courts could, in no instance, set aside a presentee, unless they adjudged him tobe "*not qualified* for the charge;" and that, in virtue of its provisions, they might be required by the Civil Courts to admit a man as minister of a parish in opposition to the most conscientious and religious dissent, even of the whole congregation.

Without entering into any analysis of the various provisions of the bill, I content myself with referring to one specific and vital objection to which it is subject, viz., that pointed out with such admirable clearness by Dr Gordon, in the Minute of Committee, which was communicated to the Solicitor General, and by him to her Majesty's Government (*Printed "Proceedings" of the Committee*, p. 26, 27).

Dr Gordon there explains that, even if, under the amended Bill, the Presbytery would (as some suppose) have been, to any practical purpose, allowed to reject a presentee on the ground of the people's adherence to the "*reasons and objections*" stated by them against the settlement, there could not, under "*Reasons or objections*" *stated by the people*, be included "*the belief or conscientious conviction, on their part, that it would not be for the spiritual good of themselves, or their families, or the congregation, that the presentee should be inducted.*" "This *belief* (he adds) or *conviction* cannot in any way be considered as a '*reason* or *objection*' *coming from the parishioners*, though *the existence* of it is, in his (Dr G's.) mind, *a most valid reason for a Presbytery* refusing to settle a presentee. *As stated by the people*, it is simply *a declaration*, on their part, of the honesty of their motives in opposing the settlement, and not an explanation of *the grounds* of their opposition. Even

under a bill allowing the Church to give effect to "reasons or objections *of any kind*," or even to the people's *adherence* to them, she could not be entitled to hold *that* as a 'reason or objection' which is really *not one*, in the ordinary construction of these terms,—*unless* it were to be specially provided in the bill, that she was to be held at liberty to treat it as such, and to act upon it accordingly; *or, in other words*, to give effect, if she saw cause, to the continued adherence of the parishioners to *their belief*, or *conscientious conviction*, that it is not for the spiritual good of the parish that the presentee should be settled."

Now, I have no doubt you are aware *that it is, precisely, this "belief or conscientious conviction" on the part of a congregation, that the settlement of a presentee would not be for their spiritual edification*, which the present majority in the Church of Scotland conceive themselves *bound to respect, by not thrusting in a minister in defiance of it.* It is, in fact, the respect due to the *conscientious conviction* and *religious sentiment of a congregation, in relation to the appointment of their future pastor, which forms the very root and essence of the Non-intrusion principle, as it exists in the Standards of the Church, and binds the consciences of her ministers;* and any bill, therefore (such as Lord Aberdeen's, with your amendment), which does not admit of effect being given *to this conscientious conviction*, is a bill which *violates the fundamental principle of the Church*, and *the consciences of its members*, and *can be met by them with nothing but uncompromising opposition.*

But the most extraordinary circumstance attending this whole business is, that it appears, after all, that *you are yourself, in substance, entirely at one with Dr Gordon and the Committee.* You say, (p. 184), "If my amendment did *not* allow the Presbytery to receive and record and *give effect to* such an objection as is stated by Dr Gordon, I *should at once repudiate it, as inadequate or nugatory.*" If, then, the power to give effect to this objection is, in your opinion, so *essential*, that without it you would "*at once repudiate* your clause as *nugatory*," you must have agreed with the Committee in the *absolute necessity* of having any legislative measure, founded

on the basis of your clause, so framed as clearly to comprehend this *most essential* power. Dr Gordon has distinctly stated how that might very readily be accomplished; and you must have approved of every such proper means being taken to secure that the proposed legislative measure, founded upon your clause, should not be defective in this vital particular, which, according to the views common to yourself and the Committee, would have rendered it absolutely "*nugatory*." But *did the Government agree with you, that this power was to be comprehended under the measure?* I should be surprised to learn that they did. Nay, I think I am entitled to say that they *certainly did not*;—for, if they had, *why did they not at once acquiesce in Dr Gordon's explanation?* My conclusion is, that, *with* the explanation, they considered the clause fit to be treated only in the way in which you would treat it, *without the explanation*, viz., *to be* "*at once repudiated*."

Although it is now a matter of little practical importance, I would almost venture to recommend that you should yet ascertain whether *Lord Aberdeen*, or the Government, were prepared to allow the objection stated by Dr Gordon to be comprehended under the measure? Was his Lordship prepared to allow that "the belief or conscientious conviction, stated on the part of the people, that it would not be for the spiritual good of the congregation that the presentee should be inducted," might be given effect to, whensoever it prevailed to such an extent as (in the terms of the Committee's minute) "to render it, in the opinion of the Presbytery, inconsistent with their duty to proceed with the settlement?" My firm conviction is, that you will find that Lord Aberdeen, so far from being prepared to grant, was determined to *resist* and to *prevent*, any such concession. And, if so, then I would indulge the hope that you will, after all, agree with the Committee in thinking your clause a very *unsafe* basis of a settlement; and, —since the measure, proposed to be founded on it, was to *exclude* what you, as well as the Committee, considered to be *indispensable*,—that you will, at last, cordially unite with them in rejecting a measure, which thus, according to your own unhesitating opinion, would have been altogether "*nugatory*."

You will, I am sure, give me credit when I say, that I deeply sympathize in the disappointment to which you have been subjected by the issue of your protracted and harassing negotiation. At the same time, although it has failed in its immediate, and certainly most desirable, object, it should by no means be supposed that your labours have been thrown away, or that they have not served, indirectly, to effect some very important ends. In particular, the course and issue of your negotiation must have the important effect of shewing every intelligent observer that the opposition which the Church encounters, in obtaining a recognition of her Non-intrusion principle, is not directed against any one particular form of that principle, but *against the principle itself*, in *every* form *which it is capable of assuming*. Previously to your negotiation, there existed a pretty general impression, that, while the *Veto* act (as it is called) had been rendered very obnoxious in many quarters, and the *Call* was regarded as still more objectionable, yet, in the form of a discretionary power, to be exercised by the Church Courts, upon their official responsibility, the principle might be more readily conceded and brought into operation. But your negotiation has demonstrated that there never was a more entire mistake; and that, as this mode of working the principle is that to which the Church herself has always been decidedly averse, so it is *the very last* to which public men, of any class or party, are willing to lend their support. The "conscientious *conviction*" or "*belief*" of a congregation, described by Dr Gordon, accords so entirely with the Non-intrusion principle,—which forbids the thrusting in of a minister "contrary to the (religiously expressed) *will* of the people,"—that the two statements may be regarded as absolutely identical. Now, this principle may be fully carried out under the form either of *the Call* or of *the Veto act*, (or even of the Duke of Argyll's Bill); and, under a discretionary power vested in the Church Courts, the principle *might* still have justice done to it. But, in regard to this last mode, we now see that, while every *other* power will be freely and readily conceded to the Church Courts, *this one power, of giving effect to the "conscientious conviction," or religiously expressed "will," of the congregation,* is peremp-

torily denied; and, while all other powers are to be exercised by them on their official responsibility, they are, on no account, to be allowed *the responsibility of giving effect to the fundamental principle of their Church.* No sooner is their power proposed to be extended to *this* point, than Sir James Graham declares it to be "arbitrary" and "inadmissible;" Lord Cottenham condemns it in decided terms; and the whole Moderate party in the Church—under an erroneous apprehension that something of the sort was in the contemplation of the Government—hasten to denounce it as "*most mischievous, tyrannical, and oppressive.*" For this important disclosure, then, the Church is indebted solely to your negotiation; and it is one of the utmost practical value, as it must teach all Non-intrusionists to give up, for the future, the vain notion of *conciliating* (as they supposed), by bargaining for a settlement, on a footing opposed to their own wishes and opinions, and induce them more entirely to unite in seeking some more satisfactory mode of realizing their common and indispensable object.

But still it must be remembered, that in thus discovering to us that the discretionary power of the Church Courts is *the most* obnoxious form in which the Non-intrusion principle can be propounded, you have only filled up and completed our knowledge of the fact, that the opposition we encounter extends *to the principle itself*, in *every* form *in which it can be proposed.* It is, no doubt, a very painful consideration, that such an amount of opposition and prejudice should have been stirred up against a fundamental principle of the Church of Scotland, held as matter of conscience by a body of men, such as you describe the present majority of the Church to be. You justly say of that body of men (p. 34), that "it comprises *a very large proportion* of the *holiest*, the *ablest*, and the *most devoted* pastors, with which *any* church or *any* nation has, in *any* age, *been blessed.*" It cannot but be regarded as a very series and alarming state of matters, when such a body of men, instead of being publicly assisted and encouraged, are thwarted and opposed; and when all their piety, and distinguished ability, and devoted zeal, in the public service, cannot

obtain for them permission, simply to acquit their own consciences, by adhering to a fundamental principle of their Church. It is difficult even to conceive what can have prompted to an opposition like this, or how so many can have brought themselves to incur the pain and the responsibility of thus attempting to force the consciences of such a body of public servants, in regard to a matter of this nature.

Up to a certain point, indeed, the origin and character of the opposition admits of an easy and satisfactory explanation. The learned person who formerly occupied the situation of Dean of the Faculty of Advocates, (now an honourable Judge), was the individual who headed, in the Church Courts, the opposition there made against the revival of her fundamental principle, which the Church deemed it necessary and expedient to make in the year 1834. That he whose ardour thus prompted him, from the first, to stand forth as the champion of the opposing minority in the Church, should ever since have prosecuted his opposition, with that determined firmness of purpose, and that untiring zeal, which so remarkably distinguish his character, and that he should have succeeded in enlisting his noble friend, Lord Aberdeen, as a co-adjutor in his favourite project, is all extremely natural:—but it does not (perhaps?) so satisfactorily explain how the *Government of the country* should have become parties in pursuing the same line of conduct. To speak of Lord Aberdeen as a *mediator between parties* is preposterous. His Lordship's bill substantially embodies the exact motion which was brought forward by the minority of the Church in 1833 and 1834, *as a negative upon* the fundamental principle which the Church then desired to assert; and if anything more than another can be stated to be the specific aim and object of that bill, it is precisely to exclude and put down the fundamental principle which the Church has avowed. The bill is, therefore, to all intents and purposes, the bill of a partizan; and the effect of it, if passed, would be to reverse all the ordinary principles of Government, *by subjecting the majority in the Church to its minority,*—and that, too, in a matter which forms *a point of principle and conscience with the majority, while it partakes in no respect of that*

character as regards the minority. To seek, after this manner, to subvert the authority of the Established Church, as a constituted and self-governing body, and especially to do so by crushing the principle, and forcing the consciences, of such an invaluable body of public servants as you have described, would seem, to impartial observers, to be a monstrous, and necessarily a most destructive, attempt. Directed, as it is, against men of the very highest religious character, the attempt, if persevered in, can have no possible issue but to destroy the Established Church of the country,—and that at a time when, above all others, her services are most indispensable, and she is pre-eminently fitted and disposed to render them. Instead of trying, therefore, farther to explain how such an attempt has been so long persevered in, let us hope that it may now, at last, be desisted from, and that the Church may speedily be restored to that state of unexampled vigour, harmony, and peace, which so remarkably distinguished the history of the five years subsequent to 1834, during which her fundamental and most salutary principle remained in full and undisturbed operation.

While you have done justice to the character of the present majority of the Church, in describing them as a body of men pre-eminently distinguished by worth, ability, and practical efficiency, and while you fully vindicate their motives from the gross and scandalous imputations which have been heaped upon them,—bearing your unequivocal testimony to the fact that "their motives are *generous*, their efforts *disinterested*" (p. 180)—I observe that you are disposed to question whether they have adopted the means best calculated for the attainment of their object. Now, it would be too much to suppose that the majority in the Church can, by possibility, have escaped error, more than any other set of fallible men could have done, in all the particulars of their conduct; and as to the indiscretions which may have been committed by individuals, we can, of course, have no occasion to defend or justify them. But, as to the general course which the Church, collectively, has pursued, in the peculiarly difficult and trying circumstances in which she has been so long placed, she appears

to have employed all the means that presented themselves, tending towards the attainment of her object; and I am not aware that she has omitted any that held out a reasonable prospect of success. What strikes me most forcibly in regard to this matter is, that it must be very difficult to say *what* means, *within the reach of the Church*, are at all competent to cope with the spirit of opposition which you describe as prevailing, in high and influential quarters, against the recognition of her Non-intrusion principle. You state (and no doubt most correctly) that the mode of carrying out the Church's fundamental principle by means of the *Veto* is looked upon, very extensively in England, with "*unqualified abhorrence*," (p. 80.) You are aware, at the same time, that the mode of working the principle by means of *the Call* is considered still *more* objectionable; and as to the discretionary power of the Church courts, it now appears that that mode is *most of all* odious,—being regarded as "*arbitrary*," "*tyrannical*," and "*oppressive*." Now, such being the state of feeling in regard to *all* the various modes of carrying out the principle, the Church has tried them all in succession, but has failed equally in regard to all of them;—and how could it be otherwise, *so long as the state of feeling in relation to the principle* remains such as you have ascertained it to be?

It would rather appear that the only way of dealing with the matter is to endeavour *to change the state of feeling* which you describe, and which, as long as it exists, must present an insuperable barrier to our success. No doubt, it must have been an easy matter to stir up the most violent prejudice and "abhorrence" in the English mind against the Presbyterian principle of Non-intrusion; and the same might be done, perhaps still more readily, in regard to many other of the principles peculiar to our Presbyterian Church government and discipline. But that is no reason why we, on the one hand, should give up our principles, or why English legislators, on the other, should obstruct us in the exercise of them:—and if you were, to explain to them, that they not only are relieved from the responsibility of such interference, but *con-*

stitutionally debarred from the practice of it, it is difficult to suppose that they could resist the justice and the force of the observation.

But, still farther, *you* are infinitely better informed respecting Scotland than the parties to whom we are now referring; —being intimately acquainted with the principles of the Church and the various influences at work within her, as well as with the whole condition of the Scottish people, and the settled habits of thinking and feeling which make up their character and guide their conduct;—of all which the parties we speak of must be profoundly ignorant. In these circumstances, you know and see that the violent state of prejudice now unfortunately prevailing in England, has been excited by the most exaggerated, distorted, and unfounded representations, put forth by the most decided partizans on the one hand, and by the determined enemies of all establishments on the other; and instead, therefore, of yielding to groundless prejudices thus engendered, I cannot but think you would do well to join with the Duke of Argyll and Lord Breadalbane in the Upper House of Parliament, and Mr Campbell of Monzie and Mr Fox Maule in the Lower House, and with a large and daily increasing section of the most influential patrons and others (of both sides of politics), most deeply concerned in the welfare of Scotland, in endeavouring so far to disabuse the public mind of England as to make it possible at length to obtain for the Church, in some satisfactory form, that simple measure of justice which has been so long and so injuriously withheld from her.

If, besides telling your English friends of the high character, the invaluable services, the generous motives, and the disinterested efforts, of the present majority of the Church, you were also to tell them that the fundamental principle of her constitution, which she finds herself constrained not to violate in her ecclesiastical administration, so far from being monstrous or mischievous, as represented, is, in relation to Scotland, a most safe, salutary, and indispensable principle,—that the neglect of it, in days past, is that which has produced the greatest practical evils, as well as the only formidable schism which most injuriously weakens both the religious and politi-

cal energies of the nation,—that the revival of the principle in 1834 was productive of the happiest results, and that, for five years thereafter, the minority concurred most harmoniously with their brethren in carrying it into operation, and even in extolling its beneficial effects; and that there can be no reason to doubt, that *if merely let alone*, they would be found perfectly ready again to go on, as dutifully and harmoniously, with their brethren as before;—and if, to all this you were to add, that the only obstruction the Church meets with in carrying out her principle has arisen, unexpectedly, out of a statute passed subsequently to the Union, in direct violation of the national faith, then irrevocably pledged to the Church and Nation of Scotland;—if, I say, you were to press these unquestionable facts upon the attention of public men, with that sort of resolute zeal and honest warmth which the high interests at stake so imperatively demand, I cannot believe that our opponents could succeed, much longer, in restraining the British Parliament from performing that act of manifest justice, which is necessary to save the religious and political institutions of the country from impending ruin.

The extraordinary delay which has occurred in affording redress to the Church has greatly aggravated her embarrassments, inasmuch as the continued and necessary operation of her fundamental principle, has, under such circumstances, brought her into collision with the administration of the Civil Courts; who, again, have most unnecessarily involved matters still farther, by what most persons unhesitatingly pronounce to be unconstitutional aggressions on the spiritual province of the Church. I have no intention of entering into this subject here; but I must express my regret to find that, in various passages of your publication, you apply terms of unqualified condemnation to the conduct of the Church in this matter. I do not know whether you have fully studied this branch of the subject, or have duly considered how indispensable it was for the Church, (unless she meant to abandon her constitutional position altogether), not only to disregard the inept proceedings attempted by the Civil Courts, but to vindicate her authority upon those of her own sons, who, in so critical an emer-

gency, could desert their duty to her, eagerly to take the most active part in the designs of her enemies. Unquestionably, upon these points, you differ widely in opinion from many of those who have most carefully studied them,—including in the number nearly one-half (and that certainly not the least able) of the very Court whose encroachments are complained of. Allow me farther to observe, that when a constitutional difference, of this description, arises between two public Institutions, and when a learned, able, and excellent body of men, composing what forms unquestionably the most important institution of the kingdom, feel themselves called upon, in discharge of their public duty, to defend the essential interests of the Church, and of the Nation, against what they conceive to be unconstitutional aggression, to represent that in so acting they make themselves, *Rebels, Breakers of the law, and Disturbers of the public peace,* can serve no purpose but to shew that those who use such language are determined not to deal with the subject in a reasonable way. Even if the Church were less clearly right in this matter than she appears to be, she would still have been *bound by her public duty not* to desert her position, *so long as there remained room to doubt* whether it was not *constitutionally maintainable;* and although such, therefore, had been the circumstances in which she had defended her position, her conduct would not have afforded a shadow of ground for withholding, for a single day, that modification of the civil law which her fundamental principle and the public interests require to be granted. But, in truth, this is a branch of the subject upon which there already exists a very general disposition to do justice to the Church. The leading organs of public opinion in England find it impossible longer to give their countenance to the clamour that has been raised, and are now inculcating correct sentiments in regard to it; and from these and other indications, there is every reason to hope that we shall hear no more of "rebellion" and "breaking of the law," at least as applied to the conduct *of the Church* in this matter.

I shall only add, in conclusion, that I hope it will be under-

stood, that nothing has been farther from my intention than to say anything disparaging or discourteous towards Lord Aberdeen, or any of the other individuals who have been named,——all of whom are, unquestionably, entitled to promote the views which they entertain to the utmost of their power. It is, no doubt, very much to be regretted, that Lord Aberdeen, and others, should differ in opinion from the Church of Scotland;—but, as their opinion cannot alter the fundamental principle of the Church, so neither can it release the Church from the sacred obligation of adhering to that principle, nor the British Parliament from the not less sacred obligation of allowing her to do so.

I remain,

My Dear Sir George,

With much regard,

Yours very faithfully,

J. HAMILTON.

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