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COLLECTIONS
AND
OBSERVATIONS
Methodiz'd ;
Concerning the WORSHIP, DISCIPLINE, *and*
GOVERNMENT of the CHURCH of
SCOTLAND.
In Four BOOKS.

Contra Rationem, nemo Sobrius ; Contra Scripturam, nemo Christianus ; Contra Ecclesiam, nemo Pacificus sentit.

EDINBURGH,

Printed by the Heirs and Successors of Andrew Anderson,
Printer to the QUEENS *most Excellent MAJESTY,*
Anno Dom. M DCC IX.

To the Honourable,
 Sir JOHN MAXWELL

O F

NETHER-POLLOCK,

Knight. Baronet;

One of the *Senators* of the *College* of
Justice.

My Lord,

IT was Matter of Re grate, especially about the Beginning of our Happy Revolution in the Year One Thousand Six Hundred and Eighty Nine, that the Judicatories of this Church, very much wanted fix'd and establish'd Rules, for directing their Proceedings; Or, tho' they had them, yet they lay so scattered and hid, that Intrants to the Holy Ministry, and the Younger Pastors; yea even some among the more Aged of that Sacred Order, were too much Strangers to them. The Consideration

ration whereof, did chiefly move me to set about this Work : And if my Endeavours herein, may but a little contribute to the Benefit or Service of the Office-Bearers and Guides of this Church, it is a Reward greater than I deserve. However, to testify the Honour and Respect I have for your Lordship, I Dedicate them to You, one of Her Honourable Ruling Elders. It gives no small Satisfaction to all Honest Men who know You, that Ye still Enjoy the Ancient Heretage of Your Honourable Family, in Despite of all the Illegal Attempts made against both Your Excellent Father and Your Self, under the two Reigns before the Year One Thousand Six Hundred and Eighty Nine. But above all, it is Ground of Praise to G O D, That You Walk in the Steps of such a Father, and those of Your Pious Mother. That You may all the Days of Your Life go on, and Serve Your Generation according to the Will of GOD, and in the End be Gathered to Your Godly Progenitors in His Eternal Glory, is the Hope and Wish of

My LORD,

Your Lordships very

Humble Servant,

WALTER STEUART.

The Preface.

I Have already, in my Dedication, hinted at the Design and Usefulness of these Collections, unto the Office-Bearers in this Church; And if there be yet among them any want of Uniformity or Exactness in the Exercise of the Discipline, Worship and Government thereof, it may not without Ground be imputed to our not Training up the Students of Theologie ex professo at Universities, in the Knowledge of these as well as in Her Doctrine. Therefore, to prevent all Grounds for fearing of such Ignorance, and the bad Effects thereof; it were fit, that Professors of Divinity were enjoined to give their Scholars Lessons on these Subjects: And till a better Compend be composed, these Collections are humbly offered, to be recommended by Professors to their Students: For, except this Subject be studied and understood by Ministers and Elders, their Memories may well be burdened with their Duty, but their Judgments, till then, shall still remain ignorant and unsatisfied about it.

Now, as for those of our Neighbour Churches in this and the other Island, who now differ from us, I hereby present them with that Form of the House of GOD in SCOTLAND, with which their Pious, Wise and Learned Predecessors did once so Passionately desire Uniformity. So that when ever it shall please our Great and Good GOD to animate their Successors with
the

the like Spirit, they may fall about Building conform to this Pattern. Not that I propose this Work as the Deed of the Church of SCOTLAND, or of any Judicatory therein; only in so far as what is Collected or Observed in it, shall be found Supported by their Acts or Universal Customs.

The Materials of these Collections, and in Particular, of what is said on that Title concerning Parochial Visitations by Presbyteries were chiefly gathered from, and lay scattered among the Old and Late Manuscript and Printed Acts of General Assemblies, the Overtures concerning Discipline, Transmitted by them to Presbyteries, the Directory for Worship and Church-Government; And the Constitutions of some other Churches have been Helpful to the Compleating of the Composure. Beside, I thought it not Improper to Add, here and there, some Hints of Civil Laws, which I hope the Reader will not find Unuseful or Impertinent, seeing there are some Circumstances concerning the Worship of GOD, and the Government of His Church common to Humane Actions and Societies, which are to be Ordered by the Light of Nature and Christian Prudence, according to the General Rules of the Word.

I have divided these Collections into four Books. The First Treats of Church Government, which principally concerns Her Office-Bearers and Judicatories. The Second is concerning the Worship of GOD and Sacred Things, with what Relates to the Maintenance thereof. The Third and Fourth Books Treat of Church-Discipline; The One concerning Errors and Scandals: And the Other about the Method of Reclaiming and Censuring the Erroneous and Scandalous.

E R R A T A.

Page 10: Line 16: for *Ministers Call*, read *Minister Calls*. Page 30: Line 30: for *Applications*, read *Amplifications*. Page 33. Line 12. read by *Promise and Supplication*.
Ibid: Line 17. for § 19. *Tit.* 25. read § 11. *Tit.* 8. Page 35. Line 10: for *is*, read *are*.
P. 45. L. 3. for *where*, read *whence*. P. 58. L. 21. for *to Represent*, read *to be Represented*.
Page 78: L. 18. dele *he is*. *Ibid*. L. 19. for *to be Rebuked*, read *he is to be Rebuked*. P. 85.
L. 7. for *thir*, read *their*. P. 87. L. 10. for *perpetuat*, read *perpetual*. P. 127. L. 14. for
when, read *then*. P. 139. L. 19. for 1545: read 1645. P. 146. L. 2. for *mutus perdu-*
cet, read *mutuus perduret*. P. 158. L. 28. for *Censure*, read *Conferre*. P. 160. L. 16. for
Orderly, read *Disorderly*. P. 183. L. 3. for *Rolls*, read *Bolls*. P. 203. L. 1. read *to Intro-*
mett: P. 249. L. 21. for *their*, read *other*. P. 254. L. 10. read *Vagabonds*. By Car. 2:
P. 255. L. 21. for *were*, read *was*. P. 260. L. 23. dele *as*. P. 262. L. 30. read *Relapfe*.
P. 271. L. 3. for *easier*, read *safer*: P. 299. L. 5. for *he heard*, read *be heard*.

COLLECTIONS

James AND *Woodfoot*
OBSERVATIONS
Methodized, &c.

one BOOK First.

TITLE I.

Of the Election and Ordination of Pastors.

§ I. **O**UR Lord Jesus Christ hath instituted a Government and Governours Ecclesiastical in His House, with Power to meet for the Order and Government thereof : And to that Purpose the Apostles did immediately receive the Keys from the Hands of their Lord and Master Jesus Christ, who hath, from time to time, furnished some in His Church, with Gifts for Government, and with Commission to exercise it when called thereunto. And it is also agreeable to, and warranted by the Word of God, that some others, besides those who labour in the Word and Doctrine, be Church-Governours to joyn with the Ministers of the Word, in the Government of the Church, and Exercise of Discipline : Which Office-Bearers, Reformed Churches do commonly

The Intrinsic Power of the Church, the Divine Warrant and Power of Her Judicatories, Pastors, and Elders Assented.

call *Ruling Elders*. It is likewise agreeable to the same Word, that the Church be governed by several sorts of Judicatories, such as, Kirk-Sessions, Presbyteries, Provincial and General Assemblies; All which have Power, one in Subordination to the other, to call before them any persons within their own Bounds, whom the Ecclesiastical Business, which is before them, doth concern, either as Party or Witness, *vide Cap I. Act II. Assm. 1707.* The Church of *Scotland*, by this Article, denies the Independency of Presbyteries and Provincial Synods, as much as they do the Independency of a single Congregation. But till the Churches become all of one Mind in the Lord, and Civil Rulers become Her Nursing-Fathers, in their several Independent Kingdoms and Governments; It would seem, till these good Days come, the Churches are to manage their own Affairs Independently upon each other: Not that this Independency proceeds either from Scripture or the Nature of the Church, but from Restraint and Misunderstandings. See the last Title of this Book.

The various Names given to Pastors, and why? Titles of Dignity in the Church favour of Popery.

§ 2. Pastors, Bishops, and Ministers, are they who are appointed to particular Congregations: In respect whereof, sometimes they are called *Pastors*, because they feed their Congregations; Sometimes *Bishops*, because they watch over their Flocks; Sometimes *Ministers*, because of their Service; Sometimes also *Presbyters* or *Seniors*, for the Gravity of Manners which they ought, and are supposed to have. *vide Polity of the Kirk, Cap. 4.* By the Act of Assembly Decemb. 17, 18. 1638. Art. 19. Seing the Office of Diocesan or Lordly Bishop is removed and abjured by this Kirk, it's thought fit that all Titles of Dignity, favouring more of Popery than of Christian Liberty, as Chapters with their Elections and Consecrations, Abbots, Priors, Deans, Arch-Deacons, Preaching-Deacons, Chanters, Sub-Chanters, and others, having the like Title, be no more used hereafter, under pain of Church Censure.

§ 3. When

§3. When the Presbytery are well informed that a Parish, for the most part, is Unanimous to elect a fit person to be their Pastor: Then they are to appoint One of their Number to preach on a Lord's-Day in the vacant Congregation, and, after Fore-noon's Sermon, to intimate, that Elders, Heretors, Magistrates, and Town-Council (when that Vacancy happens in a Burgh-Royal) and Heads of Families do meet at the Church on such a Week-Day, (being always ten free Days after the Intimation) in order to the electing of a fit person to supply their Vacancy. Which Order seemeth most agreeable to that Apostolical Practice, *Acts 6. 3.* *Wherefore, Brethren, look ye out among you, seven Men of honest report, full of the Holy Ghost, and Wisdom, whom we may appoint over this business.* And the Presbytery, for Ordinary, waits till the Electors apply to them for that Intimation; Which Application will stop and interrupt the *Jus Devolutum*, (of which hereafter) although it be made by a few Electors, because their Meeting to apply hath no Conveener.

§ 4. By the Act of Assembly August 4. 1649. The Church-Session is to meet and proceed to the Election, and it doth most properly belong to them as the Representatives of that Congregation, to look out for a fit person to be their Pastor. But seeing the Heretors (especially such as reside in the Parish) and Magistrates, with their Town-Council, in Burghs, are the most lasting as well as the most considerable Heads of Families, on whose Satisfaction and Assistance, the comfortable Living of Ministers may much depend, the 33 *Act, Sess. 2.* of *K. William and Q. Marie's* Parliament hath joyned them (being Protestants) with the Elders in subscribing of Calls to Ministers. It is to be minded, that both Session and Town-Council do subscribe personally as the Heretors do. By the above-mentioned Act of Assembly, no person, under the Censure of the Kirk, is to be admitted to vote in the Election of a Minister. By

Intimation for the Electors to meet, is made by the Presbytery, but ordinarily upon their Application. A few applying, stops the Jus Devolutum.

Who are habile Electors, who not? And what makes a Call Legal?

the 6 Act of the 4 Sess. of K. William and Q. Marie's Parl. all persons whosoever, giving Voice in calling of Ministers, are, at their Meeting appointed for that Effect, to swear the Oath of Alledgeance, and subscribe the same, with the Assurance.

When a
Presbytery
may plant a
Vacancy,
Tanquam
jure Devolu-
tuto.

§ 5. By that same last mentioned Act of Parliament, it is Enacted, That if Application be not made by the Elders and Heretors of the Parish, to the Presbytery, for the Call and Choice of a Minister, within the space of six Moneths after the Vacancy, that then the Presbytery may proceed to plant a Minister *tanquam jure devoluto. vide, Sect. 3. sub finem.* And that forecited Act of Assembly 1649. Appoints, where the Congregation is disaffected or Malignant, the Presbytery to provide them with a Minister. Where a Parish, or its greater part, is Remiss or Erroneous, and therefore will not, or delays to call a Minister, the Presbytery, in that Case, by their Power from Christ, may give a Mission or Call to a particular person, and ordain him to labour in the Work of the Ministry among that people; By virtue whereof, he hath Right to enjoy both Office and Benefice. By the 18 Canon *Concilii Antiocheni*, it is determined, *Si quis ordinatus non ierit in parochiam ad quam est ordinatus, non sua quidem culpa, sed propter populi re-cusationem, vel aliquam aliam causam, quæ a se non oritur is sit & honoris & muneris particeps.*

The Meet-
ing of Elec-
tors; The
Election it
self; The
Call signed;
The Power of
the absent
Electors ac-
cresceth to
these pre-
sent.

§ 6. When the Day is come on which the Electors were appointed to meet, by the above-mentioned Order of Intimation, the Minister whom the Presbytery ordered to Moderate at the Election, having ended Sermon, and dismissed the Congregation, except these concerned, is to open the Meeting of Electors with Prayer, and thereafter they proceed to vote the person to be their Minister, as they are called upon by the Session-Clerk, who is also Clerk to that Meeting: Which Vote being taken and carefully marked, the Moderator is to pronounce the Mind of the Meeting,

viz. That a Call be given to the person named : Which the Clerk is to have ready drawn up to be read and signed by them in presence of the Moderator. The Meeting of Electors having been convened upon the Presbyteries Intimation, if either Heretors, Elders, or Town-Council be wanting or absent, their Power accresceth to these present, they having all had the lawful Advertisement given them, and none of these distinct Bodies has a Negative upon another.

§ 7. We the Heretors, Elders, and Magistrates of the Town-Council of _____ being destitute of a fixed Pastor, *Form of a Call.* and being most assured by good Information, and our own Experience of the Ministerial Abilities, Piety, Literature and Prudence, as also of the Suteableness to our Capacities of the Gifts of you Mr. *A. B.* Preacher of the Gospel, or Minister at *C.* have agreed, with the Advice and Consent of the Parishioners foresaid, and Concurrence of the Reverend Presbytery of *D.* to Invite, Call and Intreat. *Likeas,* We by these Presents do heartily Invite; Call and Intreat you, to undertake the Office of a Pastor among us, and the Charge of our Souls. *And furder,* upon your accepting of this our Call, promise you all dutyful Respect, Encouragement and Obedience in the Lord. In Witness whereof, &c.

§ 8. Thereafter the Moderator is to attest, that conform to the Presbyteries appointment, he did Moderate at the Meeting of Electors, the Plurality or All whereof present, made choice of Mr. *A. B.* to be their Pastor at such time and place. Which Attestation he is to sign upon the Call, *See Sect. 33.* In case there be a Parity among the Electors Votes, (that is, when they split or divide in their calling of two persons) Then the Moderator must either be allowed the casting Vote, or else Application must be renewed to the Presbytery to convene the Electors a second time. *The Attestation of a Call. And what is to be done, if the Electors divide in voting.*

§ 9. The

Patronages described, and how acquired at first?

§ 9. The Right of Patronage according to *Streinius* his *Summa Juris Canonici*, is a Power to present a fit person to a vacant Church Benefice: Which Right is acquired several ways; As, 1. When one gifts Ground to build a Church upon. 2. If with consent of the Bishop one build a Church. 3. If one bestows upon a Church, or Mortifies to these serving the Cure thereat, some considerable Maintenance: These three ways are contained in that known Verse, *Patronum faciunt, Dos, Ædificatio, Fundus*. The 4th way is, An immemorial Custom of Presenting. 5. By a Privilege and Gift thereto derived from the Pope.

Patronages, how considered under Prelacy.

§ 10. The Right of Patronages with us in times of the late Prelacy became so twisted with other secular Interests, that it was expressly avowed and pleaded for as a part of a Man's private Patrimony, the Rights whereof he had settled and confirmed to him and his Heirs, as these of his other Estate, by Charters under the Seals, and might lawfully sell and dispose of it, and from which he could not be excluded without Injustice; These Rights were then transmitted according to the common Degrees and Rules of Blood.

The Opinion of this Church of it.

§ 11. This Church maintains that the Patron's pretended Privilege of a Negative Interest in the Call and Maintenance of Ministers, is a sinful and wronguous Usurpation, without Warrant from the Word of God, destructive of the true Liberties and Interest of the Church, and most scandalously offensive to all Ranks of Christians therein. This is gathered from their Writings and Sermons, and Act of Assembly August 4. 1649.

Call presented and approved.

§ 12. The Minister who moderated the Call, and these commissioned to prosecute the same, shall next Presbytery Day present the Call to them. If they find no ground to demurr upon granting their Concurrence, then they are to grant the same, which the Clerk is to signify upon the Call. But if they find Grounds to delay or refuse their

Ap-

Approbation, in that case these are to be particularly condescended upon in their Records : Thus the Presbytery is vindicated from Arbitrary Procedure, and Parties concern'd have Access to make Answer for themselves.

§ 13. If the Call be to a Probationer within the Presbyteries Bounds, then the Presbytery is to put him upon Tryals, in order to Ordination. But if he be under the Inspection of another Presbytery, then the Presbytery to whom the Call was first presented, and with which they have concurred, is to write, or send one of their Number, together with the Parish Commissioners, and desire that Presbytery where the Probationer resides, to concur with them in offering the Call to him, and Injoyning him to repair to the Bounds to which he is called, and there submit to the ordinary Tryals, in order to Ordination. How the Call should be prosecuted to a fixed Minister, see in the following Title.

Calls prosecuted to Expectants, or Ministers.

§ 14. It is to be remembred, that no Probationer or Minister, is to receive any Call to a vacant Congregation, but from the Hands of the Presbytery to which they belong : For, it is by their Determination, that the Calling and Entry of a Minister is to be ordered and concluded. *K. William and Q. Marie's Parl. Sess. 2. Cap. 23.*

Calling and Entry of a Minister is to be directed by the Presbytery.

§ 15. Ordination is the solemn Act of the Presbytery, setting apart a person to some publick Church-Office : For this see the *Directory*. It is agreeable to the Word of God, and very expedient that such as are to be ordained Ministers be design'd to some particular Church, or other Ministerial Charge ; See the *Directory* and *Heads of the Polity of the Kirk*. As also, the *1st Act, Cap. 1st* of the *French Church Discipline* : Wherein they agree, that Ministers shall not be ordained, without assigning them a particular Flock.

Ordination described : No Ministerium vatum.

§ 16. By the same Article Ministers must be fit for the Flocks which shall be assigned unto them. And by the Act

Mens Gifts should be suited to their Post

of Assembly 1596, ratified December 1638, it is determined, That because Men may be fit for some-places, who are not meet for others: The principal Places are to be provided with Men of most worthy Gifts, and none are to accept of a greater Charge than they are able to discharge. Indeed when a Minister is endowed with Prudence, and hath Love and Respect from his People, a greater Charge will be easier to him than to another.

*Tryals of an
Intrant to
the Ministry.
And serving of his
Edict.*

§ 17. On a Probationer's accepting of the Call of a Parish, which is understood to be done when he submits himself to the Presbytery to undergo his Tryals in order to Ordination, he is by them to be tryed, as when he was Licens'd (for which see that Title) except the Homilies and previous Catechetick Tryals. When the Presbytery is satisfied of his Tryals, they send one of their Number to preach in that Congregation, and after Forenoons Sermon, to intimate to them, that the Probationer whom they have called to be their Minister, his Edict was now to be served. Which Edict, after Reading by him or the Precenter, is to be affixed by the Beddal upon the most patent Church-Door: The Tenor whereof is as followeth.

*Form of
an Edict.*

§ 18. This Presbytery having received a Call from the Parish of _____ to Mr. *A. B.* Preacher of the Gospel, to be their Minister, and finding the same orderly proceeded, and the said Mr. *A. B.* having undergone all the parts of his Tryal, in order to his Ordination; And the Presbytery upon the whole judging him Qualified to be a Minister of the Gospel, and fit to be Pastor of this Congregation, have resolved to proceed, unless something occur which may justly impede the same: And therefore do hereby give notice to all persons, especially the Members of this Congregation, that if any of them have any thing to object, why the said Mr. *A. B.* should not be admitted Pastor here, they may repair to the Presbytery, which is to meet at
the _____ day of _____ with Certification, that if

no person object any thing that Day, the Presbytery will proceed without further delay.

§ 19. The Presbytery meeting as it was appointed by the Preceding, for receiving the Execution of the Edict, which ought to be ten free Days after serving of the same, the Minister who was appointed to preach at serving of the Edict, is to give an Account of his Diligence, and return the Edict indorsed by himself or the Precenter and Beddal. Then the Presbytery is to order their Officer three several times, at the most patent Door of the Church, to give Notice, that if there be any there who has any thing to object against the person called his being their Minister, they may come and do it to the Presbytery, with Certification, as in the Edict.

*The Edict
Returned &
Executed.*

§ 20. If there be no material Impediment found, the Presbytery is to name a convenient Day within less than ten Days, if it can be, for their Meeting to ordain the Candidate at the Church of the Congregation to which he is to belong. The Day appointed for his Ordination, is to be intimated from the Pulpit on the Lord's Day preceding, inviting all to be present, and telling them that they are to set apart that Day as a Fast to be by them observed with more than ordinary Supplication, for the Assistance and Blessing of GOD upon the Ordinance of Christ, and Labours of his Servant. But the Ordination Day is more proper for Thanksgiving than Fasting, and Experience may confirm us herein: For we find, that on the Account of some things convenient to be done that Day, another before were fitter to be observed for the Fast.

*Ordination
Day set, and
intimated:
And what
Day most
convenient
for the Fast.*

§ 21. Our Church doth condemn any Doctrine that tends to support the Peoples power of ordaining their Ministers: For by the 5th Act of Assembly 1698, upon Information that a Divine of the Church of England, had in his Sermon charged them as Corrupters of the Word of God, who, to favour popular Ordinations, had caused that

*Popular Or-
dination
condemn'd,
from Acts
6. 3.*

passage of Scripture *Acts 6. 3. Whom WE may appoint over this business, to be printed, Whom YE may appoint, &c.* They did unanimously disclaim the above-mentioned Error of the Press, and did declare they did not own any other Reading of that Text to be according to the Original, but *Whom WE may appoint, &c.*

The Ordination Sermon, and Preface to the Action.

§ 22. The Ordination Day being come conform to the Presbyteries Appointment, one of their Number preacheth ; The Subject of whose Sermon should be concerning the Qualifications of Ministers, and the Reciprocal Duties betwixt them and their People. The Sermon, Prayer, and Praises after Sermon being ended, the Minister from the Pulpit is to shew the Occasion of the Days Meeting, and all the Steps of the Presbyteries Procedure hitherto, with respect to that Affair.

The Questions to be answered by the Intraunt before Imposition of Hands, Or, His Ordination Engagements.

§ 23. Then the Ministers call on the Intraunt, who in Face and Audience of the Congregation, is to answer to these following Questions, 1. If he doth believe the Scriptures of the Old and New Testaments, and the Truths therein contained to be the Word of God ? 2. If he doth own, and will adhere unto the Confession of Faith, and Catechisms of this Church, and Doctrine therein contained, as being founded on, and consonant to the Holy Scriptures ? 3. If he will be Faithful and Zealous in maintaining all the Truths of the Gospel, the Unity of the Church, and Peace thereof, against all Error and Schism whatsoever, notwithstanding of what Trouble or Persecution may happen ? 4. If he do likewise own and will adhere to the Worship, Discipline and Government of this Church, as being founded on and consonant to the Holy Scriptures ? 5. If he hath been led in his designing the Work of the Ministry, by a single and sincere Love to God, and Aim at His Glory in the Gospel of His Son, and not by filthy Lucre, and the Motives of Worldly Gain, as the great Inducement moving him to the Ministerial Work ? 6. If he hereby engage to be Diligent and

and Assiduous in Praying, Reading, Meditating, Preaching, Administring the Sacraments, Catechizing, and Exercising of Discipline, and in performing all other Ministerial Duties toward the People committed to his Charge? 7. If he resolves to own his Ordination to the Holy Function of the Ministry, and to continue in Duty, notwithstanding of any Trouble that may arise in the Church hereafter, *vide Quæ. 3*? 8. If he will humbly and willingly submitt himself unto the Admonitions of his Brethren, and Discipline of this Church? *Lastly*, If he will take care that he himself and his Family shall walk Unblameably, be Examples to the Flock, and Adorn the Profession of the Gospel by their Conversation?

§ 24. In the most Conspicuous Place of the Church, and near to the Pulpit, a Table and Seats being plac'd, where the Brethren of the Presbytery, the Heretors and Elders of the Congregation, with the Magistrates and Council, when in Burghs Royal, are to sit, together with the Intrans, so that all the Ministers may conveniently give him Imposition of Hands, and the Others may take him by the Hand, when thereunto called: The Minister is to come from the Pulpit to the foresaid place, where the Intrans kneeling, (for the more decent and convenient laying on of Hands) and the Brethren standing, He, as their Mouth, in their Master's Name and Authority, doth in and by Prayer set the Candidate apart (not only the Minister who Prays, but all the Brethren that conveniently can, laying their Hands upon his Head) to the Office of the Ministry, invoking God for His Blessing, to this Effect.

§ 25. Thankfully acknowledging the great Mercy of God in sending Jesus Christ for the Redemption of His People, and for His Ascension to the Right Hand of God the Father, and thence pouring out His Spirit, and giving Gifts to Men, Apostles, Evangelists, Prophets, Pastors and Teachers, for the gathering and building up of His Church, and

*The Place
where, and
the Manner
how Ordain-
ed.*

*Directory
for Ordina-
tion Prayer.*

for fitting and inclining this Man to this great Work, and to intreat Him to fit him with His Holy Spirit, to give him, who in His Name is set apart to His Holy Service, to fulfil the Work of the Ministry in all things, that he may both save himself and the People committed to his Charge.

The Right Hand of Fellowship; He is saluted as Minister: The Conclusion of the Work.

§ 26. The Prayer being ended, the Minister who Moderates in the Action, takes the Person ordained by the Right Hand, saying unto Him, We give unto you the Right Hand of Fellowship, to take part of the Ministry with us, and thereafter all the Ministers of the Presbytery. Then the Heretors, Elders, and Magistrates, when in Burghs, should salute him as their Minister, in taking him by the Right Hand, as a Testimony of their Acceptance of him. Then the Minister returning to the Pulpit, after having had a short and pertinent Exhortation, both to the Minister and People, he is by solemn Prayer to commend both Pastor and Flock to God's Grace. Then he is to sing a part of a Psalm, such as 132, from verse 13, and dismiss the Congregation, with pronouncing the Blessing.

Form of an Act of Ordination & Admission.

§ 27. The whilk Day the Presbytery of _____ met at the Kirk of _____ considering that there had been a Call presented upon the _____ Day of _____ unto them, from the Heretors, Elders, and Parishioners of the said Parish of _____ to _____ Preacher of the Gospel, to be their Minister. To which Call the said Presbytery of _____ their Concurrence was sought by the said Parish, within the Bounds of which Presbytery the said Parish lyes. And with which Call the said Presbytery did concur, as their Act thereanent, dated &c. bears: *Likeas*, Conform to the Acts and Constitutions of this Church, observed in the like Cafes, and at the Desire of the said Parish, the said Presbytery did put the said _____ then only a Probationer, to all the parts of his Tryal for the Ministry, as is usual, wherein he was Approved to the Satisfaction of the said Presbytery. After which, the Presbytery of _____ did cause serve his Edict at the _____ said

said Church of _____ in the due and orderly Form, on a
 Sabbath-Day, being the _____ Day of _____ Whereby it
 was publickly intimate to the said Congregation, that in
 case any person had any thing to object against the said
 Mr. _____ why he should not be Ordained and Admitted
 Minister to the said Charge of _____ They might apply
 themselves to the said Presbytery of _____ which was to sit
 at _____ the _____ Day of _____ where they should be fully
 heard; With Certification as Effects. And accordingly, the
 Brethren of the Presbytery met at _____ the Day foresaid,
 and the Edict being returned Indorsed, and all Parties con-
 cerned in the said Congregation being lawfully called, and
 none compearing to object against the said Ordination and
 Admission, Therefore, the said Presbytery did determine to
 meet at the Kirk of _____ upon the _____ Day of _____ in
 order to the Ordination and Admission of the said Mr.
 _____ to the said Parish, and appointed Mr. _____ Minister of the
 Gospel at _____ within their Bounds, to preach at the said
 Admission and Ordination. Which being accordingly per-
 formed, the Brethren met Presbyterially, taking the whole
 Matter to consideration, as said is, did then and there, in
 due Order and all requisite Formalities, Solemnly Ordain,
 Admitt, and Set apart, by Imposition of Hands and Prayer,
 the said Mr. _____ in Face of the whole Congregation there
 present, to the Sacred Order of the Ministry, in the said
 Congregation and Parish; And afterwards was received to
 Ministerial Communion by the Brethren of the Ministry,
 and by the Heretors and Elders as their Minister. This is
 Extracted, &c.

§ 28. While the Church doth enjoy Peace, and is at full *Ordination*
 Liberty, it is very reasonable that the above comely Order *Sub Cruce,*
 should be observed: But in troublesome Times, and in *and Quor-*
 Cases of great Necessity, Ministers must be ordained with- *um for Or-*
 out particular Relation to a Parochial Charge, otherwise *mination.*
 there shall be no Ordination in Times of Persecution. By
 Act

Act 4. Cap. 1. Of the French Church Discipline, It is declared, that in such extraordinary Cases, a Minister of the Gospel may be ordained by three Ministers: But in times of Peace, by no fewer than seven, and in case the Colloquy consist of fewer, it shall call in some of the Neighbouring to accomplish that Number.

The Manner of Election and Ordination at our Reformation.

§ 29. You'll find the old manner of electing and ordaining of Ministers at the beginning of our Reformation, in *Knox* his *Forms* prefixed to the old *Psalms*, that it was performed without Imposition of Hands, and without a Nursery of Expectants: Which notwithstanding was an Ordination both valid and Lawful, especially in that Infantile state of this Reformed Church.

Re-Ordination of Popish Clergie, and Episcopal Incumbents.

§ 30. By the 2d. and 3d. *Articles, Cap. 1. of the French Church Discipline,* The Bishops, Curats, Priests, and Friars, among the Popish Clergy, turning Protestants were to be Re-ordained by Imposition of Hands. And in the sixth Session of Assembly 1690. The Moderator is allowed and Authorized to declare in their Name, that they would Depose no Incumbents simply for their Judgment about the Government of the Church, nor urge Re-ordination upon them.

The Age and Literature of those to be ordained.

§ 31. None are Allowed to enter the Ministry, under the Age of Twenty five Years, except such as the Synod or Assembly judge fit for the same: *See Assen. 1638. 1647. and 1704. Session 10.* Other Churches have likewise very much regarded the Age of Intrants to the Ministry, for by the 14 *Canon Concilii Sexti in Trullo,* It is said, *Sanctorum Divinorumque patrum nostrorum Canon in his quoque valeat, ut Presbyter ante trigesimum annum non ordinetur, etiamsi sit homo valde dignus;* Which Canon agrees with the 11th *Concil. Neocasar.* This Church hath likewise a special Regard to the Literature of Intrants (of which more afterwards) And it is generally esteemed an Essential Accomplishment, that they should have the *Latine Tongue:* For you'll see in the Supplement to *Calderwood's History,* that

in the Assembly 1575. It was ordained, that none should be admitted Ministers, except such as can Interpret and speak Congruous *Latine*, unless the General Assembly for their singular Gifts and Graces, found cause to dispense therewith. Accordingly they have, both of old and of late, dispensed therewith ; Particularly the Assembly 1708. appointed the Presbytery of *Sky*, after Tryal of his other Qualifications, to ordain one to be Minister at *St. Kilda*, who wanted the *Latine Tongue*.

§ 32. By the 9th Act of Assembly 1699. Ministers and Probationers having the *Irish Language*, are not to be settled in the *Low-Country*, till the *High-Land* places be first provided : And by the 16th Session of the same Assembly, Presbyteries are to be censured, who settle any Probationer in the *South*, who was born on the *North* side of *Tay* (except it be in the case of a Call given to such Probationers by the City of *Edinburgh*) till they have been twelve Moneths in the *North*, without receiving a Call there ; In which case they are free to come *South*, and accept of a Call. And any *North-Country* Probationer, who shall be otherwise settled, is *ipso facto* Transportable. And no doubt the same Certification may be extended against Ministers and Probationers, having the *Irish Language*, that are settled in *Low-Land* Congregations, contrary to the foresaid Act, conform to the 11th Act of Assembly 1708.

§ 33. By the 16th Act of Assembly 1697. for the more expeditious planting of the *North*, the Agent of the Kirk, or any person deputed by him, is authorized to prosecute Calls from the north side of *Tay*, and other Presbyteries there mentioned, to any Minister belonging to any Parish on the south side of *Tay* : But as for Parishes in the *South* of *Scotland*, they prosecute Calls thus. After the Call hath been Signed and Attested, as in *Sect. 8.* the Moderator is to propose to the Meeting, that they appoint some of their Number, not only to present their Call to the Presbytery,

None having the Irish Language, to be fixed in the Low-Lands, or these born on the north side of Tay, to be settled in the South.

How Calls are prosecuted from the North, and how they differ from the ordinary Method.

for

for their Approbation and Concurrence, but to prosecute the same till it be brought to an Issue: Which Commission is to be signed by the Moderator and Session-Clerk, in respect that all the Deeds of that Meeting are recorded in the Session-Books.

The Army, by whom to be inspected, and how to be fix'd with Ministers. § 34. By the 13th Act of Assembly 1697, upon a Letter from the Commander in Chief of His Majesties Forces, it is recommended to the respective Kirk-Sessions where the Forces are quartered, to provide them with convenient Seats for hearing; and to inspect them as they do other Parishioners. And the Commission of the General Assembly, upon Application from the Chief Commanders, is to settle Ministers in Regiments belonging to this Kingdom: But when the Commission is not instructed to receive such Applications, then, no doubt, they are to be made to the Presbyteries. Thus we see that Ministers do not receive their Warrant to take Oversight of a Regiment, as Colonels and other Officers do their Commissions from the Sovereign.

Differences about Intrants, how composed. § 35. By the 13 Act of Assembly 1708. it is transmitted as an Overture to Presbyteries, that when the Sufficiency of Intrants to the Holy Ministry is contested in the Presbytery that ordains them, that in this case the Presbytery shall refer the whole Affair to the respective Synods, and that the Synod shall appoint some of their Number to Examine *Coram* such Intrants, and give Directions to the Presbyteries in such Cases.

TITLE II.

Of Transportation and Admission of Ministers.

§ 1. **T**Ransportation or Translation, is, An Authoritative loosening of a Ministers Relation to one Charge, and a making up of that same Relation betwixt him and another, done for the greater Good of the Church. This Act hath no Ressemblance to the dissolving of the Relation it self betwixt a Minister and the Church, as in the Censure of Deposition: But it only resembles a Master's taking one from labouring in such a part of his Vineyard, to continue the same Work in another part thereof.

§ 2. No Minister is to receive or entertain a Call from another Congregation, till it come to him by his own Presbytery. And any Man transporting himself to another Congregation, deserves both to be loosened from his own Charge, and debarred from entering into the other; The *Canonists* upon this Title do thus determine, *Qui enim sua propria autoritate ad aliam se transfert Ecclesiam, priore relicta, & suam amittit & ab aliena repellitur. Vide Petri Biarnoy Examen Juridicum.*

§ 3. The Presbytery having heard by Word or Petition these commissioned from the vacant Congregation to prosecute the Call, and after sustaining their Commissions, and finding the Call, as to what appeareth at present, to be Orderly, and the Reasons thereof not without some Ground and Weight, they are thereafter, at the same Diet, to deliver their Call by their Moderator, to the Minister desired to be transported, with the Reasons thereof, and to summon him, *Apud Acta*, to appear before the Presbytery, the

Time for Compearance being at least fifteen free Days thereafter.

The ordinary Method for citing in Transportations.

§ 4. If the Minister called be absent from the Presbytery, then the Call, with the Reasons thereof, or rather a Double of both attested under the Clerk's Hand, are to be delivered to him by the Presbytery Officer, either Personally, or at his Dwelling-House, together with a Citation for him and his Parish to appear, *ut supra*.

Form of a Summons of Transportation.

§ 5. *A. B. Moderator, &c.* Forasmuch as, the Heretors, Elders, &c. of the Parish of _____ have applied to us for our Warrant and Precept to cite Mr. *C. D.* Minister at _____ and the Parishioners thereof, to hear and see the said Mr. *C. D.* transported in manner, and to the effect underwritten, conform to a Call given him by the said Parish. Herefore, We require you, that upon sight hereof, ye pass and lawfully Summon the said Mr. *C. D.* Personally, or at his Dwelling-place: And sicklike, All and Sundry the Parishioners of the said Parish of _____ by open reading hereof, and affixing an just Copy of the same at and upon the Parish Kirk Door, upon a Sabbath Day before Noon, immediatley after Sermon and pronouncing the Blessing, all upon fifteen free Days warning, to compear before the said Presbytery, within the Kirk of _____ upon the _____ day of _____ next to come, in the Hour of Cause, with continuation of Days, to hear and see the said Mr. *C. D.* transported by Sentence of the said Presbytery, from the said Parish of _____ to the said Parish of _____ to serve in the Work of the Ministry thereat; Or else to alledge a reasonable Cause in the contrair. With Certification to them if they failzie, they shall be holden as consenting to the said Transportation: And the said Presbytery will proceed to do therein, according as they shall find Just. And this our Precept you are to Return duely Execute and Indorsate; Given at _____ by *A. B. Prbrii. Cls.*

§ 6. If the Presbytery have Ground to fear that their Officer may meet with Molestation or Opposition, in executing of their Summons, the General Assembly for preventing of Deforcement and Profanation of the Sabbath, by their Act 7th 1704. Ordains the Minister himself being cited *Apud Acta* by the Presbytery, or, if absent, by the Presbyterie's Letter, to be present at the Day appointed for hearing the Cause; Whereof the Minister is appointed to give Advertisment from the Pulpit, to his Elders, Heretors, &c. In short, to all that were concerned in calling him, that if any of them has a mind to defend their Right to him, they may be present at the Presbytery on such a Day. For which Cause the Minister is appointed to communicate unto them the Call and the Reasons thereof transmitted to him. But this he ought also to communicate in all ordinary Citations, if he intends the Parish should defend their Right and Possession. As for this extraordinary Way for citing a Parish, there was more need for it at the beginning of our happy Revolution, when there were few Ministers and Expectants; and many competing Vacancies. But now when the Churches are generally planted, and seing there is such a plentiful Nursery of hopeful Probationers for supplying the few remaining Vacancies, there is rather Ground to fear that there be competing different Calls from one Parish, than of Calls from distinct Parishes to one Man. But if it should happen that neither Minister nor Parish compear, then the Presbytery is to grant Certification against them, by holding them as consenting to the desired Transportation.

How, in extraordinary Cases, a Parish is to be cited.

Call and Reasons must be imparted to the Parish.

Extraordinary Citations rarely needed in a well planted Church.

What done in the Case of Non-Compearance.

§ 7. By the 6th Act of Assembly 1694. it is recommended to vacant Parishes, That they do not attempt a Transportation, till they first seriously essay and follow other Means of providing themselves: Which is indeed the speedy Way to increase the Number of Labourers in the Lord's Vineyard, and to continue others at the place appointed for their Work.

Vacancies must first essay to call Probationers.

How Debates in Transportations should be managed.

§ 8. By that same Act of Assembly, all Debates in Processes of Transportation, must be managed with that Meekness and Brotherly Kindness, as becometh Parts and Members of the same Body of Christ, and that they represent their Reasons and Answers with Perspicuity and Brevity.

Rasb Ap-pealers in Transportations, when to be Censured.

§ 9. And to prevent contentious Appeals in such Matters, it is ordained by that Act, That if both the competing Parishes be within the same Presbytery, in that Case the Presbyterie's Decision shall be obeyed, or if the Parishes be in different Presbyteries, and both Presbyteries in the same Synod, in that Case the Decision of the Synod shall take effect. But with Certification, that the respective Judicatories appealed from, shall be Censured, if they be found to have Malversed; And on the other Hand, if any be found unnecessarily to pursue Appeals and Complaints, they shall be severely Censured therefore.

Every Benefice should be Recorded.

§ 10. By the 5th Act of Assembly 1702. the Parish craving Transportation is to satisfie the Judicatory, if there be a legal Stipend, and a Decreet therefore: It were to be wished that the Church were truly and better informed of the Quantity & Circumstances of every Benefice within the Nation, that so they might be directed to apply accordingly: And for that end let Presbyteries be appointed to give in an exact Account of these within their Bounds, that the same may be Insert and Registrate in the Books of the General Assembly, conform to the Act August 31. 1647.

How the Suteableness of Men's Gifts is to be tryed; and what is meant by Eminent Congregations.

§ 11. Actual Ministers when transported are not to be tryed again as was done at their Entry to the Ministry. But only the Presbytery in which the Calling Parish lyes shall Judge of his Gifts, from what they have heard of him in the Exercise thereof, whether they be fit and answerable for the Condition and Disposition of that Congregation. There are Abilities requisite to make one a fit Minister for some considerable Parishes, which are not so necessary to
one

one in a small private Parish. Eminent Congregations are such, where are Universities, Towns and Burghs, Places of Noblemens Residence, or Frequency of Papists. *vide Assen.* 2. Aug. 1642. interpreting the Act 1596. concerning the Tryal of Ministers, ratified Decemb. 17. 1638. and § 16. Tit. 1.

§ 12. As there useth to be solemn Prayer at the fixing of a Ministerial Relation to a certain Charge, so when that is changed and carryed into another; It is very fit, as is used, that Light and Direction should be sought in such a weighty and concerning Matter to the Church, from the glorious God and blessed Head thereof, and that immediately before the Judicatory enter upon the Process.

Prayer is to be made before entering upon the Process of Transportation.

§ 13. The which Day anent the Summons touching and anent the Citations given to the said Mr. A. B. and his said Parishioners, to have compeared before the said Presbytery, at certain Days now by-past, with continuation of Days. The said Summons, and all Parties having Interest, being called in presence of the said Presbytery; and last of all, upon the Day and Date of thir presents, the said Pursuers compeared by their Commissioner. And the said Mr. A. B. and his Parish of being Lawfully Summoned, and they compearing. The said Presbytery having heard and considered the Call given to the said Mr. A. B. by the said Parish of and the Reasons produced by the Pursuers for Inforcing the said Transportation, and also having maturely considered the Good and Advantage of the Church in the said Transportation, and being well and ripely advised in the haill Premisses, the said Presbytery (after calling upon God for Light and Direction) by their Vote have transported, and hereby transports the said Mr. A. B. from the said Parish of to the said Parish of to serve in the Work of the Ministry, as their lawful Pastor thereat, and appoints Mr. C. D. Minister of to declare the said Kirk of vacant upon

Form of an Act of Transportation.

Sab-

Sabbath the _____ Day of _____ conform to the Acts, Practice, and Constitutions of this Church used in the like Cases.

When the two Parishes ly in different Judicatories, How? § 14. If the Congregation to which the Minister is called doth ly in the Bounds of another Presbytery, then the Presbytery to which he belongs does only transport him, declares his Kirk vacant, and appoints him to wait for, and obey the Orders of the Presbytery where the Charge lyes, to which he is transported, as to the time of his Admission thereto. But if both Parishes ly within the Bounds of the Judicatory which Transports, then they appoint the time of his Admission also.

Ministers without Flocks, how admitted. § 15. If the Minister called had not any Relation to a particular Charge in the Church, then the Presbytery hath nothing to do but admitt him after the former Steps of Call and Edict, &c.

The Manner of admitting Ministers. § 16. When a Minister formerly ordained, comes to be admitted Minister in such a Congregation, the same is performed by the Presbytery in face of the Congregation, with the same Solemnities of an Ordination: Only there is no Re-imposition of Hands, nor any thing that is peculiar or essential to Ordination. And the only Questions needful are these, 1. If he does adhere unto, and promise in the Lord's Strength, to perform his Ordination Engagements? 2. If he hath had any indirect Hand in his own Transportation or Admission to this Parish? 3. If he doth now accept of the Charge of this Parish, and promise in the Lord's Assistance to discharge all the parts of the Ministerial Function among them Faithfully?

The Form of an Act of Admission. § 17. The Presbytery of _____ being met at the Parish Kirk of _____ conform to an Appointment made by the said Presbytery, dated _____ to the Effect under-written. Taking to consideration that the present Magistrates, Town-Council, Heretors and Elders of the said Burgh, and Parish of _____ had given a Call to Mr. A. B. Minister of the _____ Gos-

Gospel, inviting him to be their Minister. And sicklike, That the said Call had been orderly presented to the said Presbytery, & by them sustained, and also that the said Call had been accepted by the said Mr. A. B. and that thereupon the said Presbytery had appointed the said Mr. A. B. his Edict to be served upon Sabbath the Day of

And also appointed a Meeting of the said Presbytery for his Admission, to be held this present Day and Place, The said Presbytery being now met conform to the said Appointment, and having seen and considered the said Edict duely and orderly Served and Indorsed, and Returned conform to the practice of this Church, did cause thrice publickly call all having, or pretending to have Interest, to compear and propone their Objections, if they any had, against the said Mr. A. B. his Life, Doctrine, or Qualifications, or against the foresaid Call, and the procedure thereon above-mentioned, why he should not be admitted lawful Minister of the said Burgh and Parish: But none compeared to object thereagainst. Likeas thereupon after Sermon preached conform to Appointment of the said Presbytery by M. C. D. Minister at

The said Presbytery did in presence of the haill Congregation there assembled for the time, Admitt, Receive and Appoint the said Mr. A. B. to be Minister of the foresaid Burgh and Parish, according to the Order and Practice of this Church. And sicklike, The Magistrates, Town-Council, Heretors and Elders of the said Burgh and Parish, did take the said Mr. A. B. by the Hand, in Testimony of their Receiving him to be their Minister. Extracted forth of the Records of the said Presbytery, by *Ec.*

§ 18. Acts of Ordination and Admission by the Presbytery, are in place of Presentation, Collation, and Institution, and serve for them all, as a sufficient and legal Title to the Benefice.

*The Effects
and Use of
Ordination
and Admis-
sion-Acts.*

*Impedi-
ments to Ad-
mission, not
always
Grounds for
Deposition.*

§ 19. Some Things there are which may debarr a Man's Entering into the Ministry, and may be Reason enough for the Church to shut the Door upon him, such as some Mistakes and Escapes offensive in the Life, that may proceed from Rashness, Weakness, Ignorance, or want of Prudence : Yet when once he is Admitted, and Entered, the like Escapes will not be found sufficient to depose and thrust him out: For, *Multa impediunt Matrimonium contrahendum, quæ non dirimunt contractum.*

T I T L E III.

*Of Acts of Transportability, of Dimissions, and Missions,
and Colleague Ministers.*

*The Ground
for and Me-
thod of pro-
secuting
this Act.*

§ 1. **W**HEN a Minister labours under insupportable Grievances in a Parish, whereby his Ministry is rendered Un-edifying to the people and uncomfortable to himself; In these Circumstances (all other Means having been essayed and prov'd ineffectual for Redressing his Grievances) the Pastor doth apply to the Presbytery for an Act of Transportability. Whereupon they appoint one of their Number to preach at that Kirk, and after Forenoons Sermon, to advertise the Parish, being the Defenders, to appear before the Presbytery, on such a Day, and there hear and see their Minister obtain that Act in his favours, or otherways to propone Reasons in the contrair. After hearing of both Parties, their Brother's Complaint being found Relevant and Verified, an Act of Transportability is granted.

§ 2. By

§ 2. By which Act the Presbytery looseth their Brother's Relation to that Parish as fixed Minister thereof, and declares that through their Direction and Inspection, he is capable to receive a Call to any other Charge, without their being called as having any Interest: Yet in the mean time, till such an Occasion of Removal be offered, they do appoint him to exerce his Ministry in that Parish; Whereby his Right to intromett with the Benefice continueth as formerly; the Act of Transportability being occasioned thro' the Peoples Fault. But this Act will be but rarely sought in a well planted Church; And, without granting it, the Presbytery may use innocent and prudent Methods for obtaining a Call to their grieved Brother from some vacant Parish, which will as effectually answer the End as such an Act can do. Upon the whole, this Practice hath been but rare, and its Expediencie, to say no more of it, is disputed by many.

*The Nature
and Import
of this Act.*

§ 3. It is in the Churches Power to accept of Dimissions or not, as they find the Grounds of them to be. They use to run in these Terms. I Mr. A. B. Minister at C. for such Causes dimit my Ministry at the said Parish of C. purely and simply in the Hands of the Presbytery of D. declaring that for my part, the said Parish shall be held vacant, and that it shall be free to the Parish and Presbytery after due Intimation hereof, by Warrant of the Presbytery, to call and plant another Minister therein, And consents that this be recorded in the Presbytery Books, *ad futuram rei memoriam*. In Witness whereof I have subscribed thir presents at *&c.*

*The Causes
and Style of
Dimissions.*

§ 4. Which Dimissions being received by the Presbytery, they are thereupon to appoint one of their Number to preach at that Kirk, and after Fore-noon Sermon to make Intimation of the Acceptation of the Dimission, and the Presbyteries Order thereon, to declare the Kirk vacant. The Execution whereof being reported to the Presbytery,

*The Effect
of a Dimis-
sion, upon In-
timation.*

and recorded by them, they are to proceed and plant that Parish, as they do other vacant Congregations.

*In what
Case the Na-
tional Af-
sembly sends
Ministers in
Mission.*

§ 5. When the Vacancies are many, and the Ministers in some part of the Church so few in Number, that it exceeds the Power of Clasical or Provincial Assemblies, in whose Bounds they ly to supply them. Then the General Assembly who is concerned in these Bounds, as Parts of the National Church, doth appoint Ministers by way of Mission to supply these Vacancies: for this See the Acts of several late Assemblies for supplying the North, and the Instructions given to their Commissions concerning that Affair. As also, by Appointment of this Church, Ministers have been Transported, Ordained, and sent in Mission, to the *Scots African* and *Indian* Companie's Colony in *Caledonia* in *America*.

*In what
Cases they
send to other
Churches.*

§ 6. Upon Petition from the most part of the *Scottish* Nation in the North of *Ireland*, in their own Name, and in Name of the rest of the Protestants there to the General Assembly in the years 1642, 1643, and 1644. Representing the Extreme Necessity they had of more Ministers, and how this Church had formerly Supplied other Churches in *Germany* and *France*. The Assembly being willing to Sympathize with every Member of Christs Body, although never so remote, much more with that Plantation which was a Branch of their own Church, They did for some Years send Ministers in Mission to Supply there, as may be seen by the printed Acts in the Years above-named. But in Assembly 1690 Sess. 8. They Decline to send any Ministers to *Northumberland* upon a Petition from some in that Countrey, in respect that these people do not belong to this National Church.

*Churches
should send
to the Hea-
thens.*

§ 7. As it is the constant prayer and Hope of the Reformed Churches that the Kingdom of Christ may and shall be Enlarged by sending the Gospel to the rest of the Heathen; So, in Testimony of the Sincerity of these Hopes and Prayers,

ers, they must be joined with futeable Endeavours for spreading the Gospel among them. This Church hath not that happy Opportunity, and Invitation of Concurring Providence to forward that Work that some other Churches have, through our want of Foreign Plantations, and by being Injuriouly Dispossessed of what we had, as the 38 Minute of the Proceedings in Parliament 1701 doth complain.

§ 8. When a Parish, though not of so great Extent as to require a new Erection, becometh so Numerous, that albeit a Minister's Voice may easily reach them all, the Seats being conveniently placed: Yet he is not able alone to discharge the other Ministerial Duties, with that Exactness and Ease which Pastors of ordinary Parishes may do, it is but reasonable in that Case to joyn a Yoke-fellow with him. By the Act of Assembly July 30. 1641. It is declared that old Ministers and Professors of Divinity, shall not, by their Cessation from their Charge, through Age and Inability, be put from enjoying their old Maintenance and Respect. This doth likeways agree with the 48 Act. Cap. 1. of the French Church Discipline. And by the Book of Policy Chap. 7. when Ministers through Age, Sickness, or other Accidents, become unmeet to do their Office, in that case, their Honour should remain to them, their Kirk should maintain them, and others ought to be provided to do their Office. Thus they still enjoy double Honour, *viz.* Reverence and Maintenance.

§ 9. When a Parish findeth Work for two Ministers, and they divide the same equally between them, nothing can be reasonably alledged against sharing of their Wages from the Parish accordingly; Except it be said, that he who gets the first Call to the greater Benefice, will from that take Advantage to keep possession thereof. Which Practice, however it may receive Protection from strict Law, yet Justice which is mixed with Equity and Kindness condemns it: Seing his Helper or Second is to be always as fit for

When a Colleague is needful Aged & Sick Ministers should have both Maintenance and a Colleague.

Colleagues must share both Office & Benefice.

the same Charge as he, as is appointed by Assembly 1646. in the first Remedy proposed against the Corruptions of the Ministry.

To which the Parish may oblige them, How? and When? § 10. When he who had the greater Stipend (it having been neglected at his Entry, to oblige him to divide the same equally with his Colleague) is now removed by Death, or otherways. Then the Parish is not obliged to allow the surviving Colleague to succeed to and uplift the first Stipend, except he be content and engage to amend his Predecessors Manners, which if he refuse to do, at the sight of his Callers and the Presbytery, then let him only enjoy the Stipend to which he was called. But the most effectual Way and proper Season for obliging Colleagues to share their Benefices, is thus to be done at their Calling and Admission; Insert in the Call, that as he is to be one of the Ministers of such a Parish, so he is to have the half of the Stipend: And let his Ordination and Admission Act carry that same Qualification. But Colleagues of consent may prevent this.

Publick Ministerial Work is to be perform'd by mutual Consent and private Diligence not to be hindered. § 11. By the Act of Assembly December 17, 18. Anno 1638. one of the Ministers without Advice of his Colleague, is not to appoint Dyets of Communion nor Examination, neither to hinder his Colleague from Catechizing (to wit, from House to House) and using other Religious Exercises as oft as he pleaseth. But now the Church-Session doth direct as to these Dyets, for Communion especially.

How they are to apply their Gifts. § 12. Colleagues are to apply themselves to Doctrine, according to the Gifts wherein they most excell, and as they shall agree betwixt themselves, *vid. Directory for preaching the Word.*

TITLE IV.

Of Expectants, as also of Students and Bursars.

§ 1. **T**HE Presbytery is not only to hinder those *Who they* whom they know to be unfit, from entering *are that the* upon their Tryals; But also they are to *Presbytery* look out for, and stir up such, whose Gifts are Promising, *should encourage* to submit themselves unto Tryal, and that albeit the one *rage to enter* were a professed Student of Theology, and the other were *upon Tryals.* not.

§ 2. Before any Presbytery invite Students to pass their *Wherein the* Tryals, they are to be satisfied as to the Soundness of their *Presbytery* Principles, and of their Sober, Grave, Prudent, and Pious Be- *is to be sa-* haviour. And it is appointed, that such Persons shall pro- *tified be-* duce, before the Presbyteries who admitt them to Tryals, *fore they in-* sufficient Testimonials from the Ministers of the Parishes *vide Stu-* where they lived, and from the legally established Presby- *ter upon* teries in whose Bounds they Resided, and also from the *Tryals.* Professors of Divinity; See the 10th Act of Assembly 1694. As also, by an Act of the Assembly thereafter, It is recom- mended to Presbyteries, before any be admitted to Tryals, that they see their Testimonials of their passing their Course in Philosophy, and their obtaining their Degrees of Masters of Arts in some University. And by the 13th Act of Assembly 1696. Probationers that apply to Presbyteries are not only to bring sufficient Testimonials, but also a Letter of Recommendation from a Person known to the Presbytery. And by the 5th Act of Assembly 1705. Testimonials from Profes-

Professors of Theology, in favours of such as are to enter upon their Tryals, are not to be regarded by Presbyteries, unless they bear their Knowledge of these they Recommend to Tryals, as to their Moral and Pious Carriage, as to their Progress in their Studies, and their promising Parts, and of their good Affection to the Government of Church and State, and Fitness to serve the Church.

*Expectants
Tryals.*

§ 3. The Tryals of a Student, in order to his being Licens'd to preach the Gospel, do consist in these Parts,

1. The *Homilie*, which is a Discourse upon some Text of Holy Scripture assigned unto him by the Presbytery, and delivered before them in private.
2. The *Exegesis*, which is a Discourse in *Latine* upon some common Head of Divinity appointed him by the Presbytery, and delivered before them, at which time also he gives in the Substance of his Discourse, Compriz'd in a short Thesis or Doctrinal Proposition in paper, which he is to defend, at the Presbyteries next Meeting, against two or three Ministers who are appointed to Impugn his Thesis.
3. The Presbyterial *Exercise* and *Addition*: The *Exercise* gives the Coherence of the Text and Context, the Logical Division, and Explanation of the Words, clearing hard and unusual Phrases, if any be, with their true and proper Meaning according to the Original Language, and other parallel places of Scripture, proposing and answering any Textual Questions that occur, and then a plain and short Paraphrase upon the Text: This is ordinarily the Work of one half Hour. The *Addition* gives the Doctrinal Propositions or Truths, which, without straining, may be deduced from the Text so Explain'd, with Reasons, Applications and pertinent Improvement and Application, as the other half Hour will allow.
4. A Lecture, or Exposition of a large portion of Scripture, ordinarily a whole Chapter.
5. A popular Sermon. These three pieces of Exercise, *viz.* Presbyterial Exercise, Lecture and popular Sermon, are to be in the Pulpit before the People.

People. 6. He is to be tryed in his Knowledge of the Original Languages, by interpreting a portion of the *Greek* New Testament, *ad aperturam Libri*, and reading and expounding a portion of some Psalm in *Hebrew*. Of his Knowledge of Sacred Chronology, Ecclesiastick History, especially of our own Church, answering Extemporary Questions, of the Meaning of hard places of Scripture, on Heads of Divinity Polemick or Practical, on Cases of Conscience, on Church Government and Discipline, and is likewise to be tryed as to his Piety, Prudence and former Godly Conversation, Act of Assembly *January 30. 1698.*

§ 4. By the *10th* Act of Assembly *1704.* Presbyteries are appointed to lay it on some of their Number to examine the Students in their own presence upon the several Heads of Divinity, and the Government of the Church, and to know what Reason they can give of their Faith, and if they can answer to some principal Objections of Adversaries against it, and that previously to all other parts of their Tryal. From all which it appears, that from the Beginning of Tryals, to the Time they are Licens'd to preach the Gospel as Probationers for the Ministry, they are a full half Year exercised in order thereto, allowing the ordinary Meetings for Presbyteries to be once a Month. Which Time for Tryals will yet be longer, if we consider the *13th* Act of Assembly *1708.* appointing private Tryals concerning his Sense, and Experience of Religion, yet previous to all these mentioned.

*Some Tryals
are previous
to these.*

§ 5. By the *3d* Act of Assembly *1697.* the Commissioners from the several Presbyteries within this Church, are to bring in an Account to the General Assembly Yearly, of all Expectants or Probationers for the Ministry. As also, of all Students who attend Lessons of Theology in Universities, and perform the Exercises enjoyned them there, that their Names may be read in open Assembly & Recorded in their Register. Which is a Mean to bind all Candidates

*Expectants
& Students
Names to be
Recorded in
the Assembly
Books.*

for the Ministry to a Circumspect Walk, that the Church may receive good Impressions of them.

Form of an Act Licencing one to preach the Gospel, and his Testimonial, and Recommendation.

§ 6. At the Day of The which Day the Presbytery of taking to their Consideration, that in Obedience to several Acts of General Assemblies made anent Tryals in order to Preaching, they had upon the Day of Received sufficient Testimonials in favours of Mr. *A. B.* Student in Divinity, and that thereupon they had appointed some of their Number to make Search and Enquiry into the Literature and Behaviour of him the said Mr. *A. B.* Which Brethren having upon the Day of Reported, that according to the Appointment foresaid, they had privately taken Tryal of his Knowledge in Divinity, and of what Sense and Impression he had of Religion upon his own Soul, and that they had Cause from what they found in the foresaid Tryal, to judge him fit to be Received and Entered upon publick Tryals in order to his being Licens'd. Whereupon they, the said Presbytery, had admitted the said Mr. *A. B.* upon Probationary Tryals, who having in all the usual parts thereof, at divers times thereafter, acquitted himself to their Satisfaction and Approbation; Therefore they did and hereby do LICENSE the said Mr. *A. B.* to preach the Gospel of Christ as a Probationer for the Ministry within their Bounds, he having in their presence undertaken the usual Engagements appointed by the Acts of this Church. Extracted, &c. *Nota*, These Engagements are here omitted, *brevitatis causa. vide § seq.* At his Removal out of the Bounds of the Presbytery where he was Licens'd, his Testimonial is in this Form: At the Day of The which Day, the Presbytery of do Testify and Declare, that Mr. *A. B.* Preacher of the Gospel, has, since his being Licens'd by them, preached several times both at their Appointment and the Desire of particular Brethren within the Bounds, to their Satisfaction, and that his Carriage,

so far as they know, hath since that time, been Pious, Exemplary and Edifying as became a Preacher of the Gospel, and that he hath been obsequious to all their Appointments, Therefore they do by these Presents Recommend the said Mr. A. B. accordingly to any Presbytery where GOD in his Providence shall cast his Lot, for all due and suitable Encouragement from them. *Extracted, &c.*

§ 7. By the 10th *Act of Assembly* 1694, It is Appointed; That when Persons are first Licensed to Preach, they shall oblige themselves to preach only within the Bounds, or by the Direction of that Presbytery which did License them, and they shall also Promise and Subscription Engage themselves that they shall be Subject to the said Presbytery, or to any other Church Judicatory, where in Providence they shall have their Abode, and that they shall follow no Divisive Course; which Engagement is to be Insert in the Body of their Licence, *Vid. §. 19. Tit. 25. Lib. 3.*

§ 8. By that same *Act* it is Appointed, That when they are Removing from that Presbytery which did License them, they shall carry with them an Extract of their Licence, and a Testimonial of their Carriage, which they are to produce to some Presbytery Constitute by the Legal Establishment, or at least to some Minister therein, before they preach within that Bounds; Which Minister is not to Employ them, except in his own Pulpit, till he give Notice thereof to the Presbytery at their next Meeting. And they are then to require the same Subjection and orderly Carriage from them, during their Abode in that Bounds, to which they were Engaged to the Presbytery by which they were Licensed.

§ 9. And in case any Probationers shall have their Licences Suspended or Recalled, for Errour in Doctrine or Mal-verse in Conversation, then Intimation shall be made thereof by the Judicatory which hath so Censured them, to the Neighbouring Judicatories, or where they shall understand

A Probationer's Engagements when Licensed.

What Presbyteries or Parishes a Probationer may preach in, and when to renew his Engagements

How Sentences against them should be Intimated.

the said Probationers are, that so none may Employ them to preach.

They have no Pastoral Office. § 10. And lastly, By the same Act it is Declared that Probationers are not to be esteemed by themselves, or others to preach by virtue of any pastoral Office, but only to make way for their being Called unto a pastoral Charge.

Before Licensing, or other Presbyteries acquainted. § 11. It is the laudable practice of some Presbyteries to License no Probationers till they acquaint their Neighbouring Presbyteries, that such Persons are passing their Tryals before them. And upon a Return that they know nothing that should Impede their being Licensed, then they proceed.

Each Presbytery must maintain a Bursar. § 12. Every Presbytery consisting of Twelve Ministers, is Appointed to Maintain a Bursar (that is, One out of the Common Purse) and where the Number is fewer than Twelve, they shall be joined to another Presbytery. *Vide* Act of Assembly, Aug. 7. 1641.

The Quantity, Fund, Collection & Continuance of a Bursar's Maintenance. § 13. Every Bursar must have Yearly payed him An Hundred Pounds *Scots* at least, the Fund whereof ought to be the Penalties exacted of Delinquents, and Scandalous Persons by the Civil Magistrate, and by him delivered to the Kirk-Sessions. But if that Fail, then the Kirk-Boxes in these Presbyteries are to be proportionally Stinted by them according to the Number of Communicants in each Parish, which Maintenance of an Hundred Pounds is to be Collected by the Moderator, of the which the several Synods are to take Account, and their Books are to bear the Report thereof to the General-Assembly. It is also Appointed that the Abode of Bursars at Schools of Divinity exceed not Four Years. *Vide* Act of Assembly, Feb. 7. 1645.

Qualifications of Bursars, and how they are to be Tried. § 14. By the same Act, Bursars of Theologie are Appointed to bring with them Yearly from the Universities, Testimonials of their Good Behaviour and Proficiency : And that none be chosen for Bursars by Presbyteries, but such

as are of Good Report, and have past their Course of Philosophy, and their Qualifications are to be Tryed likewise before they go to Universities, conform to *Acts of Assemblies* 1647, 48, & 49. And by the 5th *Act of Assembly* 1705. It is Ordained, That in no Parish the Minister Recommend Youth to be Taught in *Latine* upon Charity in any *Grammar-School*, but such as be Dexterous in Reading, and can Write, and such as he judges to be of Virtuous Inclinations, which Tryal is to be in presence of some Elders, and no *School-Masters* is to Teach any upon Charity, but upon such Recommendations. *Item*, It is Ordained that Presbyteries appoint a Committee of their Number Yearly to Examine Poor Schollars in *Grammar-Schools*, that so none of them be suffered to proceed to Colledges with an Eye to Bursaries, but such as are of Good Behaviour, and Proficients in the *Latine* : And Ministers are to Recommend none to Bursaries not so Qualified : And Masters of Colledges are to Lauriate no Bursars, but upon clear Evidence of sufficient Learning and Good Behaviour after Strict Examination.

§ 15. For the better Breeding of Young Men to the Ministry, who are not Able to Maintain themselves at Universities (nor perhapes find that Favour as to get Bursaries) Presbyteries where such reside are Appointed to Direct their Studies. *Act June 18. Assen. 1646.*

§ 16. In Order to the Advancement and Increase of the Knowledge of GOD in the *Highbands*, by the *Act of Assembly* 1701. It is Recommended to several Synods to Maintain a Bursar of Theology, having the *Irish Language*, out of their own Purfes. And by the 13th *Act of Assembly* 1704. In respect the *Low-land* Presbyteries by-south *Tay* are Competently Planted, and that the promoting of Knowledge in the *Highbands* is of Common Concern : Therefore it is Appointed that the one half of all Bursaries of the Presbyteries by-south *Tay* be bestowed on

Poor Students tho' not Bursars, are to be inspected by Presbyteries.

Bursars having the Irish Language Encouraged.

Students having the *Irisb*, at least the Half thereof; Which *Act* is to continue at least for Four Years, and longer, if there shall be found need: And by the 5th *Act* of *Assembly* 1707. Contributions, and Erecting of Societies for Maintaining poor Scholars, are to be Encouraged by Judicatories and the Commissions of Assemblies.

None must leap over the Greek Class, but finish the four Years Course before Degrees.

§ 17. By the *Act* of *Assembly* Feb. 7th 1645. It is Appointed, that notwithstanding of any Progress, any may pretend to have made privately in their Studies, Yet in the Colledge they shall not at first enter to any higher Class than that wherein the *Greek* Language is taught, and being entred, they shall proceed Orderly through the rest of the Classes, until they finish the Ordinary Course of Four Years; And otherways that none be admitted to the Degree of Master of Arts, unless the Faculty of Arts find him to be of Extraordinary Learning.

Nor doth any advance to an higher Class, till his profiting in the lower does appear.

§ 18. By that same *Act* it is Appointed, That none be allowed to enter the *Greek* Class, but such who are found can make Congruous *Themes* in *Latine*, and are not to be promoted to an higher Class, till it be found that they understand what was taught them in the Lower. The Annual Examination of Students at the first sitting down of Colleges, looketh as if something like this were intended: But the best Effects that such Examinations do ordinarily now produce, may be the doing of Justice upon some poor Ignorant Students in keeping them back from advancing to Higher Classes. And as for the Rest who pay the Masters their Ordinary Dues, they are only thereby Excited to be at More than Ordinary Pains for some few Days. It is a piece of Justice done to the World, that those who are to Gain and Live by their Learning, should not, under that pretence, be suffered to impose upon Men by Ignorance or Craft. For, what a great deal of Hurt are Immoral, Ignorant, Crafty and Idle Scholars capable to work in their Generations? Let them be Directed and
Obliged

Obliged to serve their Time in some Honest Vocation, wherere the want of so much Knowledge cannot do so great prejudice ; Otherways, it is highly Reasonable they should Study to have Accomplishments, and a Conversation suitable to the Profession and Character they bear in the World.

§ 19. By that same Act, none who have entered to one College should be admitted to any Class in another, than that wherein he was, or should have been in the College from whence he came ; Nor be admitted without Testimonials from the former Masters, both concerning his Literature and dutiful Behaviour ; that so these who have been Rejected or Removed as Unworthy or Ignorant by one College, may not be Admitted or Promoted in another. And in order to the better Education of Young Men for the Ministry, By the 22d Act of Assembly 1696. It is Recommended to Professors of Divinity that they Require of such Students, as they Employ in any Exercises, Testimonials from Universities where they have Studied, and the Places where they have Lived.

Such as remove to other Colleges, must carry Testimonials with them.

Who are to be employed by Professors in Theological Exercises.

§ 20. By the Act of Assembly August ult. 1647. It is Recommended to Universities to take an Account of all their Scholars on the Sabbath Day, of the Sermons, and of their Lessons on the Catechism.

Universities must Instruct on the Sabbath Day.

T I T L E V.

Of School-Masters, and Instructors of Youth.

§ 1. **B**Y the 17th Act of K. W. and Q. Ma. Parliament, It is Ordained, that no Professors, Principals, Regents, Masters or others, bearing Office in any Universitie, College

Qualifications of such as bear Office in Schools by Acts of Parliament, and

lege

ledge, or School, within this Kingdom, be either admitted or allowed to continue in the Exercife of their faid Functions, but fuch as do acknowledge and profefs, and fhall fubfcribe to the Confeflion of Faith, and fwear the Oath of Alledgeance (and now they muft fubfcribe the fame with the Affurance, *vide 6 Act Parl. 1693.*) and withal fhall be found of a Pious, Loyal, and Peaceable Converfation, and of good and fufficient Literature and Abilities for their refpective Employments, and fubmitting unto the Government of the Church now fettled by Law. And by the 10th Act of Affembly 1700. all Presbyteries are appointed to take fpecial, particular and exact Notice of all School-Mafters, Chaplains, Governours, and Pedagogues of Youth within their refpective Bounds, and oblige them to fubfcribe the Confeflion of Faith, and in cafe of continued Negligence (after Admonition) Errour or Immorality, or not being careful to Educate thefe under their Charge in the Proteftant Reformed Religion; The Presbytery with refpect to School-Mafters, is to apply to the Civil Magiftrates of Burghs, and Heretors in Land-ward: And with refpect to Governours, Chaplains and Pedagogues, to their Mafters, for removing fuch perfons from thefe Offices: And if this be not Remedyed by them, that the Presbytery with refpect to School-Mafters, apply to the Commiffion of Parliament for Vifitation of Schools and Colleges: And it is appointed, that an Account be given in every half Year to the Presbytery, by Minifters, what School-Mafters, Chaplains, Governours and Pedagogues are in their refpective Parifhes. And by the 13th Act of Affembly 1706. fuch as have power of fettling School-Mafters, are to preferre thereto Men who have paff their Courfe at Colleges, and have taken their Degrees, before others who have not, *Cateris Paribus.*

*The Work of
a Land-
ward School-
Mafter.*

§ 2. By the Act of Affembly December 17, 18. 1638, Presbyteries are to fee that Schools in Land-ward Parifhes be fettled with able Men, for the Charge of Teaching the Youth,

Youth, publick Reading and Presenting of the Psalm, and the Catechizing of the common People. Which Teaching of the Youth I understand to be, Teaching to Read, Write, and know the Principles of Religion, according to the Act of Assembly *August 3. 1642*, and by that same Act every Presbytery Seat and Burgh is to have a *Grammar School*.

T I T L E VI.

Of Doctors, and Professors of Theologie.

§ 1. **A**CCORDING to the fifth Chapter of the Policy of *The Sentiments of this* the Kirk in the General Assembly 1581. the *Church about the* Office of the Doctor or Catechizer, is one of *Doctor's Office. He is no* the two ordinary and perpetual Functions that *Pastor as such.* Travel in the Word. He is to open up the Mind of the Spirit of God simply, without such Applications as the Ministers use: They are such properly who teach in Schools, Colleges, or Universities. But to preach unto the People, to administer the Sacraments, and to celebrate Marriage, do not pertain to him, except he be Called and ordained thereto. If the Pastor be qualified for it, he may perform all the parts of the Doctor's Office, that being included in the Pastoral. By the *2d Article Cap. 11.* of the Discipline of the *French Church*, a Doctor in the Church cannot preach nor administer the Sacraments, unless he be both Doctor and Minister. And when the General Assembly *February 10. 1645.* ratifies the Propositions sent to them from the Assembly of Divines at *Westminster*; concerning Church Government, and Ordination of Ministers. They expressly provide, that the present Ratification shall be no-ways

ways prejudicial to the further Discussion and Examination of one of the Articles or Propositions, which holds forth, that the Doctor or Teacher hath power of the Administration of Sacraments, as well as the Pastor.

Catechists, or Doctors, should Teach in Colleges and in large Parishes. § 2. Though the Office of a *Deacon* is included in the Office of a Ruling Elder, yet it is fit that some be appointed Deacons, distinct from that of the Elder: So, albeit the Office of a Doctor be included in that of the Pastor, yet it were very fit that some not in the Sacred Order of the Ministry were ordained and set apart to Teach and Catechize the People, especially in large and incommodious Parishes, (See § 3. of the preceding Title) as well as in Schools and Colleges.

Synods are to report to the Assembly the Names of Scholars fit to be Professors. No Pastor can be compell'd to give himself to teach- ing & leave his Pastoral Charge. § 3. By the Act of Assembly *February 13. 1645.* for encouragement to Scholars for Professions in Schools, it is recommended to Synods, to try who within their Bounds, most probably may be for a Profession in the Schools, and report their Names to the General Assembly, that they may be stirred up, and encouraged by them to frame their Studies for such Places. This Cumulative Power doth noways prejudice or hinder the Faculty of an University (which hath Power and Right to Elect) from doing of the same. It were to be wished, that this Custom of Synods reporting to General Assemblies the Names of such as are fit to be Professors, were again Revived, and more exactly practised: For it would prevent the Transporting of Ministers to be only Teachers or Masters in Universities, which is an Appointing of him to exercise the Office of a Doctor, and dispensing with him from preaching of the Word and administering of the Sacraments: Which Dispensation, or the loosening of which Tye, if it be a Favour, it can never be imposed upon any Pastor without his own Consent; But if it be a Punishment, it can be inflicted upon none without their Fault. It is liker a Commutation of Offices than a Transportation: Or if he still continue to be a Pastor, his
Pastoral

Pastoral Talent is thereby but much hid in a Napkine; By the 3d Article 2d Chap. of the French Church Discipline, Doctors and Professors of Divinity shall be Elected and Tryed by the Synods of the Province where the Academies are.

§ 4. By the 5th Chap. of the Policy of the Kirk of Scotland, the Doctor being an Elder is to assist the Pastor in the Government of the Kirk. And by the Act of Assembly August 4. 1643. Professors of Theology cannot be elected Commissioners to General Assemblies, except they be Ministers: So that, as Doctors they are not Ruling Elders, and the Assembly consists of none but Pastors and Elders: Therefore as Doctors they cannot be Members of Church Judicatories for Government and Ruling, *vide* §. 1. *Huj. Tit.*

§. 5. By the Act of Assembly June 18. 1646. Professors of Divinity are desired to present their Dictates to the next General Assembly: But they declin'd at that time to make any Act about it for the future, till further Consideration.

T I T L E VII.

Of Ruling Elders.

§ 1. **H**E is called a Ruling Elder, because to Rule and Govern the Church is the chief part of his Charge and Imployment therein; And albeit he may act as a Deacon, yet his principal Business is to Rule well, and it belongs not to him to Preach or Teach.

*Election of
Elders.*

§ 2. If there be a total Vacancy of Ministers and Elders in a Parish, the Presbytery should intimate to the Heads of Families, to meet with some of their Number on an appointed Day, and then name Elders. But if the Masters of Families do not keep the Appointment, then the Presbytery are to nominate and choose the Persons to be Elders. In case the Vacancy be not Total, then the Minister and Elders do choose such as should be added to their own Number from among the Heads of Families, and the fittest and most experienced of them may be supposed to be among the Deacons, *vid. Assembly August 1. 1642.*

Their Tryal.

§ 3. The Tryal is to be by the Minister and Eldership of the Congregation; Or, in case of the want of these, by the Presbytery, and they are to be tryed both with respect to their Conversation, and also of their Knowledge in the Principles of Religion, and their Ability and Prudence for Government.

*Serving of
their Edict.*

§ 4. Before Ordination of Elders, the Names of the Persons Nominated and Tryed, in Order thereto, are to be publicly Intimate to the Congregation; Whereby all are Required, in case of their having any Objection, that is Relevant and True against their Ordination, to Represent the same to the Kirk-Session.

*Ordination
of Elders.*

§ 5. Their Ordination is to be by the Minister of the Congregation; Or, by one from the Presbytery in the Case above-supposed, in presence of the Congregation, upon a Lord's Day after Sermon is ended in the Fore-noon: At which time, the Minister calling upon the Persons chosen to be Elders, they are to be Interrogat concerning their Orthodoxy, and to be taken Solemnly Engaged, to Adhere to, and Maintain the Doctrine, Worship, Discipline and Government of the Church; And to lay themselves forth, by their Office and Example, to suppress Vice, cherish Piety, and exerce Discipline Faithfully and Diligently. Then the Elders chosen, still standing up, the Minister is next,
by

by solemn Prayer, to set them apart, *in verbis de presenti*. After Prayer the Minister is to exhort both Elders and People to their respective Duties.

§ 6. In case an Elder change his Residence by removing into another Congregation, if the Session, upon a favory *Their Ad-* Report concerning him, shall think fit to add him to their *mission.* Number; Then, if he be content to accept, his Edict is to be Served, and he is thereafter admitted into the Session, his Qualifications having been tryed already in the Congregation where he was Ordained.

§ 7. As the Pastors and Doctors should be diligent in Teaching, and sowing the Word of God, so the Elders should be careful, in seeking after the Fruit thereof among Peoples Lives. They are to assist the Pastor in the Examination of them that come to the Lord's Table, and in visiting the Sick. They should cause the Acts of Assemblies to be Obeyed. They should be diligent in admonishing all Men of their Duty, according to the Rules of the Evangel. And things that they cannot correct by private Admonition, they should bring to the Eldership. See *The Heads of the Policy of the Kirk.* *Duties of Elders more private.*

§ 8. By the Ecclesiastick Remedies against Profaneness, enacted in the Assembly *August 10. 1648.* it is appointed, that every Elder have a certain Bounds assigned him, that he may visit the same, every Month at least, and to report to the Session what Scandals and Abuses are therein, or what Persons have entered without Testimonials: And it were fit, that then some time were set apart for Prayer; And it were also fit that Elders should always keep an exact List of all examinable Persons within their *Quarters*, and thereunto put Marks to distinguish Communicants from the Ignorant and Scandalous, and the Poor and Indigent from such as need not. *They have particular Bounds of the Parishes (called Quarters in Scotland) assigned them to visit Monthly, and Report.*

*Their more
publick Du-
ties, yet re-
stricted.*

§ 9. The Duties of Elders which are more publick are these which ly upon them in the Assemblies of the Church; In which, Ruling Elders have Right to Reason and Vote in all Matters coming before them, even as Ministers have: For to General Assemblies, their Commissions bear them to the same power with Pastors. Howbeit by the Practice of our Church, the Execution of some Decrees of the Church doth belong to the Pastors only; Such as, the Imposition of Hands, the pronouncing the Sentences of Excommunication and Absolution, the receiving of Penitents, the Intimation of Sentences and Censures about Ministers, and such like. In short, the Elder is to speak nothing to the Church from the Pulpit.

*Number of
Elders, and
their Continu-
ance.*

§ 10. The Number of Elders in every Congregation is to be more or less according to the Number of People therein, and plenty of fit and qualified Persons for that Charge. And when they are once Lawfully called to the Office, they may not leave it again, while their Gifts and Abilities for discharging the same do continue. Albeit in some Congregations, such a Number of Elders may be chosen, so as one part of them may relieve another for a reasonable time, from the Burden and Exercise of their Office, as was done among the *Levites* under the Law. See the *Book of Policy, Chap. 6.*

T I T L E VIII.

Of Deacons.

*How the
Word is taken;
The Office de-
scribed. The
Session Censu-
rable that
wants them.*

§ 1. **T**HE word *Deacon* is sometimes largely taken for all that bear Office in the Ministry, and Spiritual Function in the Church: But commonly it is taken for that ordinary and perpetual Ecclesiastical Office in the Kirk of Christ, to whom the Collection and

and Distribution of the Alms of the Faithful, and Ecclesiastical Goods do belong. *Vid. Chap. 8. of the Policy of the Kirk.* Where it follows, that, seing this Office is of Divine Institution, it is an Unwarrantable Omission in some Congregations, that either they put no Difference betwixt Elders and Deacons, or else they Neglect to Appoint any to the Office of a Deacon. *Vide § 2. Tit. 6.* I do not think it Reasonable or very Consistent, for any to be Zealous against adding to the Kinds of Office-Bearers of CHRIST'S Appointment, while, they are Active in, or Connive at the Diminution of any of them. If it be said, the Elder is a Deacon : I Answer, Albeit the Pastor includes the Office of Doctor, Elder, and Deacon, Yet seing these are of Divine Institution, Reverence is in so far due unto it as to set up these distinct Offices : As nothing should be added to the Divine Institution, upon pretence of imagined *Decency* or *Order* in the Invention, so nothing ought to be Diminished therefrom, upon pretence that some Things in the Institution are needless or superfluous.

§ 2. As to what Respects the Election, Tryal, Ordination, Admission, Continuance, and Number of Deacons, the same Method may be used about them, as was done concerning Elders, *mutatis mutandis.* *Their Election, &c. the same with Elders.*

§ 3. The Duties of Deacons may be reduced to these Heads, Collected from Mr. *Guthrie's* Treatise of *Elders and Deacons*, and the Heads of the Policy of the Kirk. *Duties of Deacons.*
 1. That they take exact Notice of the Poor, and that they timeously make their Case known to the Session, to the End, their Straits may be Relieved, and so their breaking out into Begging may be prevented. 2. They are to Collect and Receive that Supply for the Poor, which the Members of that Congregation, or Strangers shall be inclined to Offer. 3. That the Money so Received be Faithfully Delivered to the Session, according to whose Judgement.

Judgement and Appointment, the Deacons are to Distribute the Church-Goods : In which Matters they have a Decisive Vote with the Elders : But in other Cases their Opinion is only Consultative, and they may be always present. 4. That they take Care of Orphans and Idiots, and such as want Knowledge and Ability to Dispose of, and order the Things that concern their Food and Raiment. 5. They are to take Care that what belongs to the Poor be not Dilapidated, or Misapplied. 6. They are to acquaint the Ministers and Elders of the Sick within their Quarters, that so they may be Visited, and, if Need be, Supplied. 7. By the 9th *Chap.* of the *Policy* of the *Kirk*, Deacons were not only to Collect and Distribute the Ordinar Alms, but all the Church-Goods, Tiends, &c. and uplift and pay to the Ministers their Stipends. This were indeed a Work proper for their Office, an Ease to the Minister, and would prevent much Noise and Offence that is raised when Charges to make Payment are given, either at their own Instance, or in Name of their Assignie's or Factors. 8. They may be Employed to provide the Elements, to carry them, and serve the Communicants at the LORDS Table.

T I T L E IX.

Of Moderators of Church-Judicatories.

It is Convenient the Moderator be a Minister, his Work and Power.

§ I. S Eeing the Moderator is frequently called to Exercise the Power of Order, as Solemn publick Ecclesiastick Prayer, at least Twice every Session, to wit, at its first Opening, and then at its Closing ; Authoritative Exhortation, Rebuke, Direction ; it is Convenient the

the Moderator be always a Minister. But if any affect this Office, he should be Opposed in his Ambitious Purposes. The Person chosen to be a Moderator would be of such Abilities that he can Discharge the following Work, *viz.* He is to look on himself as the Mouth of the Meeting; He is to take on him Authority, yet looking on it as theirs, not his; He is to see all the Rules for Decency and Order, prescribed by the Judicatorie, exactly kept and observed; He is to acquaint the Judicatorie of all the Affairs that ly before them, and may propose the most speedie Method how to Dispatch them; He is to keep the Members from Interrupting one another, and from speaking among themselves, or from directing their Discourse to any other than to himself; He would likewise keep Members, in their speaking, close to the present Business; Any thing that is spoken Impertinentlie, he is calmie to Resent it, according to its Demerit, that greater Heats may be prevented and diverted. Lastly, After the Matter hath been fully Reasoned on all hands, then he is Briefly to Resume the Substance of what hath been spoke, and thereupon state the Vote, and put the Question. If the Vote be Equally Carried, then the Moderator (who never Votes but in that Case) may cast it: And if he be *non liquet*, then the Question may be put again at some other time. The Moderator may likewise upon any extraordinary Emergent by his Circular Letters, Conveen Presbyteries and Synods before their ordinary time of Meeting. So may the Moderator of the last General Assembly, Only they would be sure to have sufficient Ground, and so Cautions, as to have a Multitude of Counsellors to Warrant and Support their Adventure.

§ 2. Our Judicatories choose no Assessors to their Moderators, only he ordinarily prevails with, or invites the most Experienced to sit near him, that he may have them ready to Direct and Advise him: And in Absence of the present

*No Asses-
sors to our
Moderators.*

present Moderator, his Predecessor in that Chair Moderates: And in case of his Absence, the Eldest Minister.

No constant Moderator, but in Kirk-Sessions, the manner of their Election.

§ 3. There is no constant Moderator but in Kirk-Sessions, where the Minister Moderates *ex officio*, and if there be Colleagues they Moderate by Turns. Every Presbyterie, Before they fall about Business, choose one of their Brethren to be Moderator, who continues for Six Moneths, from one provincial Synod to another: But the Moderators of Synods and Assemblies are changed at every new Synod and Assembly. The manner of choosing the Moderators of these Judicatories is this, A List is proposed by the former Moderator of Two or Three, which List is ordinarily Approved, with the Addition of One or Two more; Out of which List, the Candidates having first by Turns given their Voice and Removed, the Moderator is chosen by the Suffrages of the Ministers and Elders, and set in the place of the former Moderator.

The Privilege of Members.

§ 4. It is the Privilege of all the Members of any free Judicatory, to propose a Vote and have it put to the Question, provided it be Seconded by another Member, and that albeit both the Moderator and other Members should Oppose the Motion.

T I T L E X.

Of Clerks, Readers and Precentors.

A Clerk, his Election, Admission, & Continuance.

§ 1. **E**VERY Judicatorie of the Church is to have a Clerk of their own choosing, to Record their Acts. They are, I think, as free Courts, as any Councils of Royal Burghs, on whom the Imposing a Clerk, is declared to have been contrary to Law, by the Meeting of Estates

Estates 1689. At his Admission he is to give his Oath *de fidei*, and continues either during Pleasure or Life as they please to make. But in case neither of these be clearly express in his Act of Admission, then it is to be understood only during Pleasure, because all Judicatories are still supposed to retain their Liberty to Dismiss Servants when they will, unless a Surrender or Restriction of that Liberty be proven.

§ 2. Acts and Deeds under Clerks hands are probative Writs, and the Warrants thereof are presumed; Yet so as if they be Recently Quarrelled, the Warrants must be produced. No wise Clerk will give an Extract till the Minutes of that Diet have first been read. The Extracts prove what was done by the Judge, or what was said or alledged by Parties, but they do not prove that the Things alledged were True, except in so far as the Instructions thereof are Express. *Vide Stair's Institut. Pag. 688.*

*How far
Extracts are
probative.*

§ 3. Albeit Clerks be very near of Kin to Parties, Yet considering the Knowledge and Faithfulness, that in Charity is supposed to be in Church-Judicatories, it may be thought that they will rather Over-rule their Clerk, than he them: and therefore he cannot be Declined. In Inferiour Civil Courts, where frequently there is but one Judge, and it is known the Clerk doth commonly Excel him in Knowledge, in which case a Declinator should be sustained, and another Appointed to be Clerk to that Process in his Place, who is of near Kin to the Party.

*A Clerk is
not to be De-
clined.*

§ 4. At the Beginning of the *Reformation* when there was such a Scarcity of Ministers, and few of the People could either Read themselves, or had ever heard the Word of GOD publickly Read in their own Language; Our Reformers in the Year 1605, did appoint Men to Read the *Cominon Prayers* and *Scriptures* till these Churches should be Furnished with Ministers. But now, seing there is such an Increase of Knowledge, and Plenty of Teachers,

*The first
Rise of Rea-
ders; they are
now ceased.*

there is no publick Reading of the Word, except by such as are Licens'd, or Ordained to Preach it, and can help the Hearers to Understand the Meaning thereof.

*Precentors
their Office.*

§ 5. Precentors, or Chanters are they who Begin and Order the Tune of the *Psalms* that is to be Sung, and thereby direct the Churches Musick: By the Vulgar sort they are yet called Readers, tho' Improperly. They are in most Congregations Clerks to the Church-Sessions. *Vid. Lib. 2. Tit. of Singing of Psalms.*

*Beddals
their Office &
Qualificati-
ons.*

§ 6. Beddals, or Beadles, are by our Judicatories called Officers: They are to the Church what the *Apparitores* were to Civil Courts, *viz. Magistratum Ministri, qui eorum jussa exequantur*, so called, *quia præsto sunt, obsequunturq; Magistratibus*. At their Admission they give their Oath *de fidei*, because their Executions bear Faith. They should be Persons of a Blameless Life, and well Affected to the Church Establishment, who will not Discover the Secrets of the Judicatory, and they should also be such as can Read and Write.

T I T L E X I.

Of Church-Sessions.

*No Mini-
ster must U-
surp over the
Session.*

§ 1. **A**lbeit in a Session the Minister is Moderator *ex officio*, as hath been said, Yet he hath by Right, no more Power thereby than the Moderators of other Church Judicatories. See the Act of the General Assembly Decem. 17th 1638. *Avent Voicing in Kirk-Sessions*, Ministers Moderating therein, are not to Usurp a Negative Voice over the Members of his Session, and where there are two or more Ministers in one Congregation,

tion, that they have Equal Power in Voicing, that one of them hinder not the Reasoning or Voicing of any thing, being agreeable to the Acts and Practice of the Kirk. And even in that Case, Voicing and Reasoning upon any Subject can never be hindered, it being inconsistent with the Liberty of a Free Court to be Impeded or Compelled. But the Debate may perhaps furnish Ground for a Protestation or Appeal. *Vide § 6. Tit. 8.*

§ 2. The Kirk-Session consists of one or moe Ministers, and of the Elders of the Congregation, and it is most convenient they Meet weekly on a Week Day after Sermon: For on the Sabbath, Matters of Civil Right, such as Discharging of Eleemofyner's Intrusions, securing of Money, or ordering of Diligence for recovering the same, ought not to be Treated or Concerted by any Man, and far less by Church Guides, whose Office it is to check that Profanity in others. The Deacons are always present, not for Discipline, but for what relates to their own Office. Ignorant and Scandalous Persons are to be put off, and kept off from Kirk-Sessions. *See Act of Assembly, Aug. 10th 1648.*

*Constituent's
of a Session,
and Time of
their Meeting.*

§ 3. The Matters treated by them, are what concern Church Discipline, and the Worship of GOD in that Congregation, as, what Days of the Week are meetest for Assembling to publick Worship, and what Hour on the LORDS Day before and after Noon; When it is Seasonable for Parochial Fasts and Thank-givings, what Times are fittest for Catechising and Visiting of Families: How often, and when the LORD'S Supper is to be Celebrated; They are likeways to Enquire into the Knowledge and Spiritual State of the Members of the Congregation, whom they are to Admonish or Encourage as they see Cause, and to Exclude from the LORD'S Table all who are found Ignorant or Scandalous.

*Matters
treated by
them.*

According
to what Rule.

§ 4. In the Ordering of all which Matters, nothing is to be done by them, but what is according to the settled Order and Practice of this Church : And if there be any new or difficult Emergent that causeth Doubting or Hesitation, The Matter is to be Referred to the Presbytery, for their Direction and Authority.

Secret Con-
fessions not to
be propos'd,
except in what
Cases.

§ 5. By the 5th Chap. 28 and 30 Articles of the French Church Discipline, Consistories shall not give Certificates to Magistrates by Act or otherways, nor shall particular Members of Consistories Discover unto any the Confessions of Penitents, which voluntarily, or by Admonitions given them, shall have Confessed their Faults unto them, except it be in the Case of Treason. And as for Crimes which shall be Disclosed to Ministers by those who desire Counsel and Consolation, they are Enjoynd not to Reveal them to Magistrates, fearing lest Blame should be drawn on the Ministry, and Sinners for the future should be Discouraged to come to Repentance, and make Confession of their Faults, which shall stand Good in all Crimes Confessed, except it be Treason ; It would be considered that none of the Reformed Churches of France had the Happiness always to have those of their own Religion to be their constant Judges ; And the Reputation of the Protestant Religion was not Tenderly Treated, nor duely Regarded when Consistorial Delations against their Brethren were made to Popish Judges, 1 Cor. 6. 1. *Dare any of you having a Matter against another, go to Law before the Unjust, and not before the Saints ?* In these Times when the Churches Enemies have Power and Authority ; But now when the Civil Judges own the same Way of GOD with the Church, what should hinder them to Inform the Magistrate against Delinquents both to their and others Terror.

§ 6. In every Session there ought to be twice in the Year privy Censures of the Members, Clerk and Beddal. The Ministers undergoing their privy Censures in the Presbytery, are not to undergo them before the Session. In the managing of this Censure, the Members are one after another to be removed, and then the rest of the Members declare what they have Observed concerning the Conversation of him removed, and of his Diligence and Prudence in his Station. It is to Remembred by all Church Judicatories at their privy Censures, that no Member Judicially de-late another, unless secret Satisfaction hath been sought and refused. After Elders, Deacons, Clerk and Beddal have-past their Censure, each of them, as they are called in, is either to be Admonished before all, or others Impowered to do it privately, or else they are to be encouraged as need requireth.

*Privy Cen-
sures in Sessi-
ons, and how
to be managed.*

§ 7. By the Act of Assembly *August 19. 1639.* The Books of Kirk Sessions are to be presented once a Year to the Presbytery, that they may be tryed by them; Or when there is a Visitation of the Parish by the Presbyterie. Assembly *August. 10. 1648.*

*Session Books
to be tryed by
the Presbytery
yearly.*

§ 8. By the Act of Assembly *February 12. 1645.* It is Recommended to every Kirk-Session to buy the printed Acts of the Assembly, and Presbyteries are Ordained to crave account hereof, and Synods are to crave account from Presbyteries. And it is added to this Act, by the 18 of the Assembly 1705. That the Agent for the Kirk in all time coming, after every Assembly, so soon as the Acts thereof shall be printed, Transmitt as many Copies of the same to every Presbytery as there be Parishes therein, and both Presbyteries and Sessions are ordained at their first meeting after receiving the said Acts to cause read so many of them as are of publick Concern, in order to their Observing thereof. And all this to be upon the Charges of the several presbyteries and Sessions.

*Each Session
is to have
the Acts
of Assembly
read, and to
observe them.*

§ 9. By

The Church-Session is sufficient alone for Reformation of Manners in a Parish, having the Magistrates Concourse.

§ 9. By the 4th Article of the fifth Chap. of the French Church Discipline, it shall not be permitted to establish other Council for any Church Business whatsoever, and if in any other Church, there shall any other Council be established, different from the *Consistory*, it shall forth-with be suppressed; Nevertheless, the *Consistory* may sometimes call to its Aid such of the Church as shall be thought convenient, and that Ecclesiastical Matters be treated of only in the place where the *Consistory* doth assemble. They have lately erected in *England* Societies for Reformation of Manners, not without some seeming Success against Vice and Immorality, which is Commendable and Requisite there, until the Discipline and Government of their Church be more Pure, and better Reformed. But for the Church of *Scotland*, as now established, to imitate that Example, beside that it might become an Introduction to Innovations, it would resemble a vain Youth his bringing wide sleev'd Coats in fashion, because some Persons of Quality, who had a Distemper in their Arms, were necessitated to cause make them wide for their own Ease. The Author of *The Stage condemn'd*, page 45. proves Stage-plays to be condemn'd in Scripture by this Argument, That which God hath appointed sufficient Means to accomplish, it is unlawful for Men to appoint other Means to accomplish it. But God hath appointed sufficient Means for recommending Vertue and discountenancing Vice without the Stage: Ergo, It is unlawful for Men to appoint the Stage for recommending Vertue and discountenancing Vice. And the same Argument, *mutatis mutandis*, militates against these new *Lay-Societies* for Reformation of Manners in the Church.

T I T L E XII.

Of Presbyteries.

§ 1. **T**HIS Judicatory consists of all the Pastors within the Bounds, and one Ruling Elder from each Parish therein who receives a Commission from the Eldership to be a Member of the Presbytery, and represent them there till the next Synod be over; Thus twice a Year there are new Elections of the Ruling Elders. The Number of Parishes associated in Presbyteries for their mutual Help, is determined by Authority of the National Synod, *December 17, 18. 1638. Art. 8.* as the Adjacency of the Congregations, and the easiness of Travelling doth best allow. Where there are Collegiate Ministers, that Session may send as many Ruling Elders. The Directory for Government saith, That, to perform any Classial Act of Government or Ordination, there shall be present, at least, a Major part of the Ministers of the whole *Classis*. Presbyteries should meet every third Week, and oftner if Business require it; But of this see § 3. *b. t.*

The Constituents of a Presbytery, their Quorum, and time of Meeting.

§ 2. Every Meeting of a Presbytery is to begin with a Sermon by one of the Brethren appointed formerly for that Effect, upon a Text assigned him by them, except when Probationers or Intrants supply the Pulpit in their publick Tryals. The half of the Time allowed for this Presbyterial Exercise is to be taken up in the Explicatory and Analytick Part of the Text, and in answering Textual and Critical Questions and Difficulties; This part of the Work is called *Making*, & requires more especially the Gift of the Doctor. The other half of the time allowed is to be taken up

Presbyterial Exercises and Common Heads.

in raising of Doctrines and Observations from the Text, and applying them in their several Uses, which last part is called *Adding*, and it requires more especially the Gift and necessarily the Authority of the Pastor. After the Exercise is over, and the Presbytery constitute, the Censure of the Exercise they have heard useth always to be their first Work which may be done before them who had the Exercise. Beside this the Brethren of the Presbytery by the Act of Assembly *December 17, 18. 1638.* are to have some common Head of Doctrine publickly disputed in the Presbytery among the Brethren, every first Presbytery of the Month, according to the Act of Assembly holden at *Dundee 1598. Sess. 12.*

*Absents to
be Censured.*

§ 3. By the foresaid Act 1638. Presbyterial Meetings are to be Weekly, except in places far distant, who between the first of *October* and first of *April*, are dispensed with for Meeting once in the fourteen Days, *vide* § 1. *H.T.* Likeways that Act appoints all Absents to be censured, especially those that should Exercise and Add, according to the Act of Assembly 1582 *April 24.*

*Matters treated
of in Pres-
byteries.*

§ 4. The Presbytery treats of such Matters as concern the particular Churches within their Bounds, as, the Examination, Admission, Ordination, and Censuring of Ministers; The Licensing of Probationers, Rebuking of gross or contumacious Sinners; The directing of the Censure of Excommunication; The Cognoscing upon References and Appeals from Kirk Sessions; The Revising and Rectifying what hath been ill done or negligently omitted by them, at their approving of the Kirk-Session Books and Records; The answering of Questions, Cases of Conscience, and solving of Difficulties in Doctrine or Discipline, with Petitions from their own or those in other Presbyteries; The Examining and Censuring according to the Word of God, any erroneous Doctrine, which hath been publickly or more privately vented within their Bounds, and the endeavouring the

Re-

Reducing and Conversion of any that remain in Errour and Schism; The appointing of Visitation of Churches by themselves as Occasion offers, or the Perambulation of Parishes in Order to their Uniting or Disjoyning; All which are either concluded or continued to further Consideration, or refer'd to the Synod.

§ 5. By the *6th Chap. 11 Act of Assemb. 1707.* there are some Proseses which natively begin at the Kirk-Session, which for the Atrocity of the Scandal, or Difficulty in the Affair, or general Concern; The Session having frequent Meetings of the Presbytery to have Recourse unto, do not determine of themselves, such as Scandals of Incest, Adultery, Trilapse in Fornication, Murder, Atheism, Idolatry, Witch-craft, Charming, Heresy and Errour vented and made publick by any in the Congregation, Schism and Separation from the publick Ordinances, Proseses in Order to the highest Censure, and continued Contumacy. But Proseses for all such Crimes and Scandals, are to be refer'd to the Presbytery, by an Extract of their Procedure thereanent. And when there is no Confession of the Scandals above-mentioned, the Session is not so much as to proceed to lead Probation by Witnesses or Presumptions, till they be Authorized thereto by the Presbyteries Answer to their Reference foresaid.

Proseses which begin but cannot be determined by the Session, but refer'd to the Presbytery, as the Judges Competent.

§ 6. When the Process is so clear, as in the case of a Judicial Confession, then the Kirk-Session may summon the Delinquent when before them *Apud Acta*, to compare before the Presbytery: But where there is any Difficulty, they should first inform the Presbytery, and get their Allowance before the Party be summoned before them.

When the Session may cite a person to the Presbytery.

§ 7. When persons censured for these grosser Scandals do apply to the Kirk-Session for Relaxation, they may both be privately conferr'd with, and likewise their Acknowledgements heard before the Session, but they ought not to be brought before the Congregation, in Order to their Absolu-

Sessions cannot absolve from such Scandals without the Presbytery.

tion, nor Absolved but by Direction and Order of the Presbytery.

Correspondence of Presbyteries.

§ 8. Presbyteries in some Cases may send Commissioners to other Presbyteries, either to Advise them, or to seek Advice from them. By Act of Assembly *June* 18. 1646. It is Recommended, that a Correspondence be kept among Presbyteries constantly by Letters, whereby they may be mutually assisting to each other.

Privy Censures in Presbyteries, their Season upon Days of Prayer.

§ 9. In every Presbytery, at least twice a Year, on Days for Prayer, as should be done in Sessions likewise, before each Synod, there ought to be privy Censures, whereby each Minister is removed by Course, and then Enquiry is made at the Pastors and Elders, if there be any known Scandal, Fault, or Negligence in him, that it may be in a Brotherly Manner Censured; After the Ministers, the Presbytery Clerk is to pass these Censures likewise. By the 6th Article of the 7th Chapter of the *French Church Discipline*, at the end of the Colloquies, Amicable and Brotherly Censures shall be made, as well by the Pastors as by the Elders, which shall be there present, of all things which shall be thought fit to Represent unto them.

T I T L E XIII.

Of Parochial Visitations by the Presbytery.

Visitations Occasional or Ordinary.

§ 1. PARISHES are visited by Presbyteries, either Occasionally, *pro re nata*, according to the weight of the Emergent which doth require the Visitation, or Ordinarily and in Course, whereby every Congregational Church is visited once a Year *Assem.* 1638. *Sess.* 23, 24. *Art.* 3. At least this Ordinary Visitation should be going round all the Parishes in Order till they be Visited, before others be Revisited in Ordinary: For by the 16th *Act of Assm.* 1706. Presbyterial Visitations of Parishes are to be frequent.

§ 2. The

§ 2. The Presbytery is to cause Intimation to be made of their appointed Day for the Visitation of that Parish, by a Brother of another Congregation, from the Pulpit, immediately after the Fore-noons Sermon, on the Sabbath, ten Days preceeding the Day for the Visitation, requiring the Minister of the Parish to preach at that Time and Place on his ordinary Text, and summoning the Heretors, Elders, and whole Congregation, to be present that Day to hear Sermon; And thereafter, that the Minister, Heretors, Elders, and Heads of Families, do attend the Presbytery, to acquaint them with the State of that Kirk and Congregation in every Point, and if any of them have certain Knowledge of any thing amiss in their Minister, Elders, Deacons, Precenter, Session-Clerk, School-Master, or Beddal, that they do then acquaint the Presbytery therewith.

How the Day for the Visitation is to be Intimated.

§ 3. The Session Registers, together with a Catalogue of the Ministers Books, are to be produced to the Presbytery, before the Visitation, and given to two of the fittest Brethren, and best acquainted with that Minister and People, to be Seen and Revised, and they to Report at the Visitation.

The Minister's Library, and Session Register to be Seen and Revised.

§ 4. Sermon being ended, and the Presbytery constituted, the Minister's Doctrine he had in his Sermon, is first to be considered, as in the Presbyterial Exercise. Then the Church Bible, Confession of Faith, Acts of the General Assemblies, Acts and Proclamations against Profaneness, and other Acts and Papers relative to the Church, are all to be called for and produced before the Presbytery. The Visitors of the Sessions Registers, and Ministers Library are to make their Report. The Presbytery at the Entry on the Visitation, having removed the Minister, are to cause read over their Actings at the last Visitation, and see if what was then Recommended or Ordered hath been made Effectual, and take the Excuses of absent Elders and Deacons therefrom, and if need be, to call in any Party for Information: If

Preliminaries to the Visitation. And how the Elders are to be Interrogate.

nothing arise from that, to divert the Presbytery from the Orderly Method, all Parties being removed, the Presbytery is to call in the Session *vicissim*, and to enquire them concerning their Minister; Yea further, by the Act of Assembly *June* 13. 1646. at Visitation of Kirks, the Elders, one by one, the rest being removed, are to be called in, and Examined upon Oath concerning the Minister's Behaviour.

*Ministers
Families to be
Interrogate
concerning
their Lives.*

§ 5. By the Act of Assembly 1596. Ratified *December* 17, 18. 1638. at Visitation of Kirks, the Families of Ministers are to give an Account, and to be tryed concerning the good Order and Behaviour that they observe within their Families, and such as are found Neglectors of Family Worship, or Instructing of all in their Families, or such as remove not those who are Offensive therefrom, shall after due Admonition be judged unfit to Rule the House of God: For he ought to be one that Ruleth well his own House,
1 *Tim.* 3. 4.

*Church-Session
Interrogate
concerning
their Pastor.*

§ 6. The Questions to be enquired by a Presbytery at the Eldership concerning a Minister may be these and such like. 1. Hath your Minister a Gospel Walk and Conversation before the People? And doth he keep Family-Worship? And is he one who Rules well his own House? Is he a Haunter of Ale-houses and Taverns? Is he a Dancer, Carder or Dicer? Is he Proud or Vain-glorious? Is he Greedy, or Worldly, or an Usurer? Is he Contentious, a Brawler, Fighter, or Striker? Is he a Swearer of small or minced Oaths? Useth he to say, *Before God it is so*, or in his common Conference, *I protest*, or, *I protest before God*? Or, says he, *Lord what is that*, all which are more than *Yea* and *Nay*? Is he a filthy Speaker or Jester? Bears he familiar Companie with Disaffected Prophane or Scandalous Persons? Is he Dissolute, Prodigal, Light, or Loose in his Carriage, Apparel, or Words? How spends he the Sabbath after Sermon? Saw ye him ever drink Healths? Is he at
Variance

Variance with any? Is there any that Reproaches him? Or, is he well Beloved of all? And upon what Ground is it that the Variance or Good-liking of the People is? 2. Keeps he much at Home at his Ministerial Work? Or, doth he occasion to himself Distractions, and unnecessary Diversions therefrom? Is he constant at his Calling and Studies, or takes he but pains at Fitts and Starts, such as, at Fasts, Communion, Visitations, &c? Is *Saturday* only his Book-day, or is he constantly at his Calling? 3. Doth he discountenance or discourage any that is seeking Christ? Doth he preach sound Doctrine, so far as ye can understand? Doth he preach plainly, or is he hard to be understood for his Scholastick Terms, Matter or Manner of Preaching? Doth he faithfullie reprove Sin, especiallie such as most prevail in the Parish? What time of Day doth he ordinarlie begin Sermon on the Sabbath? And when doth he dismiss the People? Spends he too much time in his Sermon in Repetition of what he had before? Doth he Lecture and Preach in the Fore-noon, and Preach again in the After-noon on the Lord's Day, and that both Summer and Winter? Doth he read a large Portion of Scripture in publick, and Expound the same? Doth he preach Catecheticke Doctrine ordinarily in the After-noon? Hath he a Week days Sermon, and Collections on these Days? When the Lord in His Providence is speaking extraordinarie Things, doth he tye himself to his ordinarie Text, or makes he choice of one more apposite and futeable to the Dispensation? Seeks he to preach Christ His Beautie and Excellencie, and to open up the Power and Life of Godlines? Endeavours he to discuss Cases of Conscience, to let you know your Spiritual State, what it is? 4. Doth he according to the Act of Assemblie 1708 visit the People and Families, at least once a Year in a Ministerial Way, Teaching and Admonishing from House to House? And doth he visit the Sick when needful, and Pray over them?

Doth

Doth he Visite them who through Age or Sicknefs cannot come to the Publick Worſhip ? Doth he Labour to ſpeak to the Sick ſuitable to their various inward Conditions ? Doth he not eſpecially Viſite ſuch as be Exercifed in Conſcience ? Doth he Viſite ſuch as are Afflicted by Death of Children or other Relation ? Viſites he the Widows, Orphans and Poor ? If he be Miniſter of a Burgh, Viſits he the Priſoners ? Is he not Careful when he Viſits Families to confer with them in private, and Pray with them, thereby Learning the Caſe of their Souls, that ſo the Doctrin in publick may the better meet with their Condition ? *5to.* Doth he Adminiſter the Sacrament of Baptiſm in an orderly way, when the Congregation is convened, or doth he it at any time privately ? Doth he add any Word to, or alter the Words of Inſtitution ? *6to.* Doth he frequently Catechize his Pariſhoners, and Adminiſter the Sacrament of the LORD's Supper to them ? And is he careful in keeping from that Holy Ordinance, all who are known to be Scandalous, groſſly Ignorant or Erroneous ? How often have ye the Communion every Year ? Doth he not begin to Catechize Young Ones about Nine or Ten Years of Age, and how Cenſures he Contemners of Catechizing ? What Courſe is taken with Contemners of the LORD's Supper upon frivolous Pretences ? At the LORD's Supper, doth he not cauſe Cut the Bread in large & fair Shaves fit for mutual Fraction and Diſtribution, that as they give the Cup to the neareſt Aſſident, ſo having broken off a part of the Bread with their hand for themſelves, they give the Reſt to the Perſon ſitting neareſt them ? Do your People all ſit at the LORD's Table ? In the time of Diſtribution, Eating and Drinking, is there any Reading, or Singing of *Pſalms*, or is there Silence, and ſo time for Meditation, except it be a ſhort pertinent and awakening Word dropped by the Paſtor ? *7timo.* Hath he a Competent Number of Elders ? And hath he
 Deacons

Deacons in the Parish distinct from Elders? Doth he keep Sessional Meetings frequently? And is he Impartial in the Exercise of Discipline against all Offenders? Is there frequent Meetings of the Members of Session, for Fasting and Prayer according to the Act of Assembly 1699. Doth he travel with publick Penitents in private to make them sensible of their Sin, according to its Circumstances, and sensible of Mercy, that the Love of CHRIST may overcome the Love of Sin? And then doth he Absolve them, when brought up to some Ingenuous Confession and Resolution for the future? Doth he ever Censure Persons for Living Idle, breaking of Promise, or for Backbiting? Doth he Censure Keepers of Superstitious Days? How doth he Restrain Abuses at Penny-Bridals? Doth your Session meet Weekly? Doth your Minister coolzie any whom another Brother hath in Process? Or doth he carry any way Partially, that so he may become popular? Doth he in Session assume to himself a Negative Voice? When he is necessitated to leave his Flock, doth he not acquaint the Session with it? *8vo.* Is he careful to take away Variances that fall out among Families, and Compose Differences among particular Persons in the Congregation.

§ 7. After that the Elders have Answered to these or the like Questions: Then the Heads of Families are to be Interrogate in general concerning the Lives and Manners of the Members of the Session: And the Pastor is to Answer more particularly to these or the like Questions. *Pastor and Heads of Families Interrogate concerning the Church-Session.*

(1.) Is your Session rightly Constitute, and all the Elders and Deacons duely Admitted according to the Acts of Assembly? (2.) Do they all Attend Gospel-Ordinances and the Diets of the Session? (3.) Are they Grave, Pious, and Exemplary in their Lives and Conversations? Do they Worship GOD in their Families? Is any of your Elders an Ignorant Man, a Drinker of Healths, a Tipler, a Drinker Excessively to Drunkenness, a Swearer, an Ob-
server

server of Yule-Days, &c. ? Is he One that Observes not the Sabbath ? Is he Careful to keep his Oath of Admission taken before GOD in Face of the Congregation, not to Delate or Censure, but as Edification Requires ? Do any of them Work on Solemn Fast or Thanksgiving Days ? Is any of them a Mocker of Piety ? (4.) Are they Diligent, Careful and Impartial in the Exercise of their Offices ? Do the Elders Visit the Families within the Quarter and Bounds assigned to each of them ? Are they Careful to have the Worship of GOD set up in the Families of their Bounds ? Are they Careful in calling for Testimonials from Persons who come to Reside in the Parish ? Do the Elders take all Discipline upon themselves without the Minister ? Or do they Labour to carry Things Factiously, or by Plurality of Voices contrary to GOD's Word, and the laudable Acts of the Presbytery, Provincial, or General Assemblies ? (5.) Have the Elders Subscribed the *Confession of Faith* ? And are they well Affected to the Government, Worship and Discipline of this Church ? (6.) Have the Elders and Deacons their Distinct Bounds assigned them for their particular Inspection ? (7.) Does your Session always appoint a Ruling Elder to attend Presbyteries and Synods ? (8.) Are the Deacons Faithful in their Office, in Collecting and Distributing all the Kirk-Goods, and in having a Care of the Sick Poor ? After all these *Queries* are over, The Minister and Elders are to be severally Encouraged or Admonished as the Presbytery sees need.

The Precentor, Beadle, &c.

§ 8. Then the Precentor, School-Master, and Clerk of the Session, who in Countrey Congregations are ordinarily one and the same, and after them the Beadles, Bell-men, and Church Servants being removed, the Presbytery is to enquire at the Minister, Session and Heads of Families concerning their Conversation, Fidelity and Diligence in their Offices, and the Presbytery is thereupon to proceed as the Matter requires.

§ 9. After

§ 9. After all these Enquiries, the Presbytery removing the Heads of Families, the Minister and Elders are to be inquired concerning the Congregation, (1.) Doth the Body of the People attend Ordinances duely and timeously, and stay till the Blessing be pronounced? Are they Diligent in improving the Means of Knowledge, and are they Growing therein? (2.) Are they Submissive to publick and private Exhortations, and to the Discipline and Censure of the Church, by Admonitions and Reproofs as Need requires? And do they by their Words and Actions manifest a suitable Respect to their Minister and Respective Elders? (3.) Are they careful to Educate their Children and Servants in the Knowledge of GOD? What Success hath the Gospel and Labours of Ministers and Elders among them? What Scandals, Schisms, Heresies or Divisions are among them, and if on the Growing Hand? How do they Observe the LORD's Day?

§ 10. Then the Minister, Heretors, Session, and Heads of Families being present, the Presbytery is to Inquire after the State of the Church, as to its Fabrick, the Seats therein, and Division of the same, The Church-Yard Dykes, the Utenfils of the Church, Communion Cups, Cloaths, the Ministers Manse, if it be in Repair, The Glebe and Stipend, the Sallary of the School-Master, Precentor, Session Clerk, and Beadles, and how the Communion Elements are provided, whether they be payed for out of the Poor's Money, and that when the Communion is but Celebrated once a Year? *Vid. § 24. Tit. 2. Lib.*

2. Enquiry is to be made how much the Stipend is? of what Nature? How payed? and if there be a Decreet of Locality for it? As also, about the State of the Poor, whether there be any Mortifications and Legacies for them, or other Pious Uses? And how these are Secured, and their Interests payed and Applied, and how they have been Managed and Employed from time to time, *Seff. 18.*

Pastor and Elders Interrogate concerning the Congregation.

Pastor, Kirk-Session and Heads of Families Interrogate about Things of common Concern.

Assem. 1700. After the Visitation is over, all Parties are to be called in, and the Moderator is to Conclude all with Prayer.

T I T L E X I V.

Of Provincial Synods.

The Constitutions of a Synod, their Time of Meeting, &c.

§ I. **T**HE Synod or Provincial Assembly is immediately Superior to the Presbytery, and consists of several Presbyteries met together for their mutual Help and Comfort, and for Managing the Affairs of publick Concern within their Bounds. The Number of Presbyteries in each Synod is Determined by the National Assembly, and they meet ordinarily Twice every Year, and at such set Times as the Neighbouring Synods may conveniently Correspond one with another, which is done by sending a Minister and Ruling-Elder mutually from one to another, *viz.* The Provincials of *Lothian, Mers, &c.* The Provincials of *Drumfreis, Galloway, Glasgow, and Argyle,* The Provincials of *Perth, Fife and Angus, &c.* The Provincials of *Aberdeen and Murray;* The Provincials of *Ross, Caithness and Orkney;* See likewise the Order of the Provincial Assemblies in *Scotland,* according to the Presbyteries therein contained in the Act of Assembly, *Decem. 17, 18. 1638. Act 24.*

Synod opened, Rolls made up, Moderator chosen, and Correspondents Inrolled.

§ 2. The Moderator of the former Synod doth in the Morning before the Meeting, preach a Sermon suited to the Occasion, and after Sermon doth Intimate to the Members, that they immediately Repair to the Synod House; when they are met, He doth open the Meeting with Solemn Prayer; Then the Clerk having made up the Synod

nod Roll from the Rolls of each Presbytery presented to him by their Respective Moderators, He is to call the same over and to mark the Absents. In making up the Synod Roll it is usual to change the Order thereof every Synod, so that the Presbytery that was first called in the Roll of the former Synod is now called last. Then the Synod proceeds to the choise of a New Moderator, who first calls for the Correspondents from the Neighbouring Synods: and their Commissions being Read, they are Inrolled as Correspondents.

§ 3. Committees are to prepare Matters, and to lop off unnecessary Work for gaining of Time, and to hinder Heats by publick Debates, and to facilitate their Work, they may Sub-commit any part thereof to a few of their own Number; And they may likewise Advise one with another in weighty Affairs, even before Report to the Synod, thereby the more to prevent Debates. Any Affair Tabled before them, though by them Rejected, may be brought in, in full Synod, Yet so, as the Member or Party who bringeth in the Matter, be sure to have very much Reason or Necessity for so doing. All Synods may have the following Committees. 1. A Committee for Overtures; 2. Another for Bills, References and Appeals; And a 3d For Revising Presbyterie Books, who are to meet at such Times & Places as the Synod appoints: Each Committee and Sub-Committee is to consist of Ministers and Ruling-Elders: The Moderator and Clerk of the Synod is Moderator and Clerk to the Committee of Overtures. All other Committees choose their own Moderator and Clerk, who is to present their Report to the Synod in Writing: Any Member of a Judicatory may be present with the Committee though none of the Number, and may Advise but not Vote there: As also may one of a Committee be present in Sub-Committees of their

*Committees
of Synods their
Work, Use
and Power.*

own Appointment, all which Committees are chosen by the Synod only, as General Assemblies do theirs.

Masters
created by
Synods.

§ 4. The Presbyterie Books are called for and produced, and each Book is committed to some Members of other Presbyteries to be Revised and Examined by them, that it may appear how each Presbyterie hath kept Order, and performed what was Recommended to them by Synods or General Assemblies; And upon the Revisers their Report, they are Censured or Approved accordingly. What was Obscure or Difficult for the Presbyteries, or might concern them all in common, is Resolved and Ordered: What hath been done Amiss by Presbyteries is Redressed: And if any Difficulty arise which doth not fall under some Church Constitution, it is referred to the National Assembly.

Presbyteries
are to carry
home and read
Synod Acts.

§ 5. Every Presbytery is to get an Extract of the Acts of every Synod, and to Read such of them in the Presbytery as are of General Concern, or which particularly relate to any in their Bounds, that they may be the better Observed.

Privy Cen-
sures by Sy-
nods.

§ 6. At the privy Censures, none ought to be present but Members. Upon the Revisers their Report of the Presbytery Books, each Presbytery is removed *per vices*, in order to privy Censure in the same manner as was said of the Ministers in Presbyteries, and of Elders in Sessions, *Vid.* § 1. *Tit.* 15.

Centesima
to Ministers
Widows and
Children.

§ 7. By the 12th Article of Cap. 8. of the *French Church Discipline*, concerning Provincial Synods, The Pastors in each Province shall Represent the Widows and Children of Ministers which Dyed in the Service of the Church, to be Supported and Maintained at the common Charge of each Province; and where the Province shall be Ingrateful, the National Synod shall Redress it. Our Church proposeth the same Persons as proper Objects for the Pastors in the Synods their Charity, and the *Centesima*, or Hundreth part of each Benefice to be the Fund, and payed in to the Collector

Collector thereof Yearly, who is to be appointed by each Synod, and is to Distribute the same to the Relicks, and Children of Deceast Ministers within the Bounds of the Synod conform to their Order.

T I T L E X V.

Of Extraordinary Synods and General Assemblies.

§ 1. **E**Xtraordinary Synods, I call such, as that of the Assembly at *Westminster*, which consisted of Divines and Gentlemen, many of whom were not Elders, Called and Nominated by the Civil Power to Consult about the Doctrine, Worship and Government of the Church. Or, when Ministers without Delegation from the Church, do of themselves meet by virtue of their Office. Which Synods this Church doth not Approve of in a Settled and Constitute Condition, but only in such Churches as are not yet Constituted. It being always free to the Magistrate to Advise with Synods of Ministers and Ruling Elders, meeting upon Delegation from their Churches, either ordinarily, or being Indicted by his Authority occasionally. *See the Act of Assembly 1647, Approving the Confession of Faith. Yet by Act of Assembly, Decem. 19th 1638. Ministers are Obliged to give their Advice and Good Counsel in Matters concerning the Kirk, or the Conscience of any whatsoever, to His Majesty, to the Parliament, to the Council, or to any Members thereof for their Resolutions from the Word of GOD.*

*Extraordi-
nary Synods
only to be held
in a disturbed
State of the
Church.*

§ 2. By

Members of
a National
Assembly by
the Directory
should be as
many Mini-
sters, at least
as Ruling-El-
ders.

§ 2. By the Directory for Church-Government, as it was Printed in the Year 1647, to be Examined by Presbyteries, the Assembly was to consist of as many Ruling-Elders as Ministers, which doth agree with the 9th Chap. Art. 3d. of the French Church Discipline: But by the Directions of the English Parliament, Aug. 19. 1645. It is Provided, that there be in all Assemblies two Ruling-Elders to one Minister. It seems indeed but Reasonable, when Presbyteries the Constituents of General Assemblies do consist of Ministers and Ruling-Elders equally, that they should be equally Represented there likewise.

The Nature
of our first
Gen. Ass. af-
ter the Refor-
mation.

§ 3. At the Beginning of our Reformation, the Assembly did consist of these of the Reformed Religion, delegated from some Shires and Burghs where the Reformed dwelt. The Number of Pastors was then so small that it did not exceed the fourth part of the Meeting, as may be seen from their *Sederunts* in the Copy of the M. S. Acts of Assemblies: And until the Number of Ministers did Increase and Multiply, it was at first a General Meeting of them all: But thereafter they did Impower and Commis-sionate a few to Represent them, who are thereupon only Designed *the Commissioners of the General Assembly*.

What may
annull a Ge-
neral Assem-
bly.

§ 4. If an Assembly be Indicted by the Civil Magistrate on so short an Advertisement as Twenty Days, that Presbyteries (especially the more remote) are not timeously advertised to choose Commissioners, and so the Church not fully Represented, an Assembly so meeting is declared Null. All New Scots Parliaments were called on Fourty Days, and what prejudice can it do if Presbyteries receive as fair an Advertisement, unless it be to the Service of some present Design against the Church? *2do.* An Assembly is Null where the Members or a Great many of them are not Elected by Presbyteries, but Named by the Magistrate, in which Case, tho' they may Act as Advisers of the Magistrate, yet they cannot Act as these having Authority.

Authority from the Church. *3^{to}*. An Assembly is Null, when Presbyteries are Represented by more Ministers than the standing Acts of Assemblies, Regulating the Representation, doth allow, or where no Ruling Elders are commissioned. *4^{to}*. An Assembly is Null, when Members do Vote for these Matters, to which they are threatened to give their Vote, by the Civil Magistrate. *5^{to}*. An Assembly is Null, when a Moderator or Clerk is imposed upon them without their Suffrage: See at length Acts of Assembly, December 4th 1638.

§ 5. The General Assembly December 20. 1638. Declares that by Divine, Ecclesiastical and Civil Warrant, the Assembly of this National Church hath Power and Liberty to Assemble and Conven in her Yearly General Assemblies, and oftner, *pro re nata*, as Occasion and Necessity shall require: To this agrees the Act of Parliament 1690. Ratifying the Confession of Faith, and Settling Presbyterian Church Government, so that the Sovereign, till these Laws be altered, cannot by His meer Authority or Proclamation, render the Meetings of Assemblies Precarious and Uncertain, unless He run the Risque of Renewing the Dispensing Power.

Assemblies may meet yearly, and oftner, pro re nata.

§ 6. By the 5th Act of Assembly 1694. The Representation of the several Presbyteries in this National Church in its General Assemblies, shall hold proportion to the Number of Parishes whether vacant or planted within each Presbytery, in manner following: All Presbyteries consisting of twelve Parishes, or under that number, shall send two Ministers and one Ruling Elder. And all Presbyteries consisting of eighteen Parishes, or under that number, but above twelve, shall send three Ministers and one Ruling Elder. And all Presbyteries consisting of twenty four Parishes, or under that number, but above eighteen, shall send four Ministers and two Ruling Elders. And *Lastly*, All Presbyteries consisting of above twenty four Parishes, shall send five

The Representation in General Assemblies, and the Number of Members. All Ministers or Elders. And must attend.

Ministers

Ministers and two Ruling Elders. And every Collegiate Church where there use to be two or moe Ministers, are, so far as concerns the Design of this Act, understood to be as many distinct Parishes : So that Presbyteries delegate not less than a sixth part, nor more than a fifth part of the Ministry. Conform to the Representation proportioned by this Act, the Number of Ministers delegate from Presbyteries are one hundred and eighty, and of Ruling Elders sixty eight. But each Royal Burgh having the Privilege (if they please to use it) to be represented there by a Ruling Elder, and the City of *Edinburgh* by two, this would add sixty seven more Ruling Elders to that Order, making in all of Elders one hundred and thirty five. By that same Act, no persons shall be admitted Members of Assemblies, but such as are either Ministers or Ruling Elders. And by the 6th Act of Assembly 1698. it is Recommended to Presbyteries to choose only such Ruling Elders as may and will give Attendance.

*There should
be no Delega-
tions but from
Presbyteries
only.*

§ 7. Commissioners from Royal Burghs, till the Matter be further thought upon, by the Act of Assembly *July 15. 1648.* are to observe the ordinary Practice, *viz.* That each Burgh send one and *Edinburgh* send two Ruling Elders approved of and consented to by the Ministerie and Session of the Burgh. But yet each Universitie may be Represented, by a Minister or Ruling Elder ; Neither is that kind of Approbation of the Choise required, albeit there may be the same Reason for it : For the Members of a Faculty as such are not obliged to be either Ministers or Ruling Elders. But upon the whole, our Practice would be more easily accounted for, and a great deal more agreeable to that of foreign Churches, if Delegations were only from Presbyteries, and the Delegates equally both of Ministers and Elders.

§ 8. By

§ 8. By the 6 Act of Assemblies 1704. no Minister or Elder can be Commissionated to the General Assembly by any Presbytery, Burgh, or University, but such as usually reside in, or have a Relation to the Presbyterie, Burgh, or University they are Commissioned from. This is Enacted, that Pragmatick and Designing Men may be kept out from being Members of Assemblies. After their own Presbyteries, &c. (perhaps from some such Apprehension) had been pleased to neglect them in their Choice.

All Com^{rs}missioners must reside, or have Relations to the Bounds they Represent.

§ 9. The Assembly by their Act the 9. of August 1641. considering, that if the Scots Kirk at Campvere were joined as a Member of the Kirk of Scotland, it would be convenient for Correspondence from forreign Parts for the Well of this Kirk: Therefore they desired the said Kirk of Campvere to send their Minister with a Ruling Elder, with their Commission to the next General Assembly, at which time they should be Inrolled as Commissioners from that Kirk. When that Church is vacant, the Convention of Royal Burrows have been in use to present a Minister, and act as Patrons. And by the Act of Assembly 1704. some Propositions concerning the said Kirk approved by the Assembly 1642. are of new Enacted and Authorized, viz. (1.) That the said Kirk observe that Order in the outward Worship of God, and Exercise of Discipline, as is here received by Law and Practice. (2.) That, at least, every third Year their Commissioners be at the Assembly, whose Expences are to be payed by their own Kirk, till this Church be in a better Capacity to do it. (3.) That they advise with the Presbyterie of *Edinburgh*, or Commission of Assembly concerning Emergent Difficulties.

The Scots Kirk at Campvere Represented: Their Instructions, &c.

§ 10. By the Act of Assembly 1638. December 17, 18. It is referred to particular Presbyteries, and especially to the Ruling Elders therein, that Commissioners to Assemblies their Expences be born conform to former Acts of Assemblies, by the particular Parishes in every Presbyterie, and pro-

Commissioners to and from Assemblies: Their Expences.

portionallie by all sorts of Persons, able in Land or Money therein : Which Act is ratified by the Assembly 1639. *August 29.* and Extended to the Expences bearing of such as shall be sent in Commission by General Assemblies : But it's referr'd to the Parliament for making these who are stented to pay their Proportions : By which it's clear that Presbyteries may Stint the people within their own Bounds; for defraying the Charges of those therein, who attend General Assemblies : But then it must not be Exacted, but only Received from a willing condescending People, which will certainlie be very unserviceable if otherways received, unless the Expences be most inconsiderable. And the Practice might prove more serviceable in a disturbed State of the Church, when Ministers come to be deprived of their Stipends. Since the Year 1642. our Sovereigns have bestowed four or five hundred pound *Sterling* Yearlie, to be Employed by General Assemblies, which will do much to defray the Expences of Commissions from General Assemblies, sent to visit the Remoter parts of the Church, *vid. Ass. 1642. August 5.*

*The Stile of
Commissions to
General As-
semblies.*

§ II. The General Assembly, by their 8th Act 1695. gives the Form after insert for a Directory to Presbyteries in their giving Commissions to their Members for General Assemblies ; Which Form is likewise observed by Universities, each whereof sends one, as also Royal-Burghs, *mutatis mutandis.* At the day of Years, The which day the Presbyterie of Did, and Hereby does nominate and appoint Mr. A. B. Minister at C. Mr. D. E. Minister at F. and Ruling Elders their Commissioners to the next General Assembly of this Church, Indicted to meet at the day of next to come, or when or where it shall happen to sit, Willing them to Repair thereto, and attend at all the Diets of the same, and there to Consult, Vote and Determine in all Matters that come before them, to the Glorie of God and
Good

Good of His Church, according to the Word of God, the Confession of Faith, and agreeable to the Constitutions of this Church, as they will be Answerable, and that they Report their Diligence therein at their Return there-from, Extracted by me, &c. And by the 6th Act of Assembly 1704. this Clause must be insert and added to the said Form of all Commissions, *viz.* That they have subscribed the Confession of Faith of this Church, according to the 11th Act of the General Assembly Anno 1700.

§ 12. The Reason for Enacting this Uniform Method, was, That all Members might be alike free : For before this Time several Presbyteries did Insert in their Commissions particular Instructions and Limitations, which did not a little Muzzle and Confuse the Members, and might at some Occasions have proved an advantageous Handle for such as were not tender of the Churches peace.

The Reason for this Uniformity.

§ 13. By the 4th Act of Assembly 1694. Commissioners from Presbyteries and others are appointed to give in their respective Commissions to the Clerk of the General Assembly, the Night at least before the first Diet or Meeting thereof, to the Effect the Rolls may be timeously made up, and that the Commissions may be considered by the Assembly without any Interruption : And all Commissions not so given in, shall be delivered in the Intervals, betwixt and the After-diets.

When Commissions are to be given in.

§ 14. By the 6th Act of Assembly 1698. Presbyteries are appointed to choose their Commissioners to General Assemblies at least forty Days before the Sitting thereof : That which gave Rise to this Act was, that the Civil Authority, for some time before that, had been pleased, (though not agreeable to the Act of Parliament 1690. in favours of the Church) to Interpose a privative Power in adjourning General Assemblies to a longer time than the Appointment of the preceeding Assembly, whereby their Meetings were rendered both Infrequent and uncertain : And with

Commissioners are to be Elected forty Days before they meet : And Why ?

Some View to obviate this, I think, the Act hath been made, but yet especially that Members might be in case to attend, being so long chosen before the time.

The Sovereign or their Commissioner Honours the Assembly with their Presence, which, tho acceptable, yet is not Essential to an Assembly.

§ 15. The General Assembly useth to be Honoured with the Sovereign's Presence, either by Their Royal Person, or by Their High Commissioner: For which the Moderator in the Assemblies Name doth use to express their Thankfulness, and how great a Mercy they do esteem it to have the Countenance of Civil Authority. But there have been many General Assemblies begun, held and continued in *Scotland*, without either the King or His Commissioner's Presence: And that it was not, nor yet is contrary to Law, is Evident, if the first Act of Parliament One thousand five hundred ninety two, Ratified in Parliament One thousand six hundred and ninety, be duely considered.

The first Commission was the King's Mis-give.

§ 16. The first Commission that was granted, was by King *James* the VI. Anno 1580. as may be seen in an old M. S. of the Acts of Assemblies, and was nothing else but a Missive Letter under the King's own Hand, the Tenor whereof follows. *Trusty and well Beloved Friends, We Greet You well. We have directed towards You our Trusty Friends the Prior of Pitterweem, and the Laird of Lundie, Intrusted with Our Power for that Effect, for Assisting You with Their Presence and Counsel in all Things, that They may, tending to the Glory of GOD, and Preservation of Us and Our Estate, Desiring You heartily accept them, and Our Good Will committed to Them for the present in Good Part. Sua We Recommend You to GOD's Blessed Protection. From Our Palace at Falkland, the 22d Day of July 1580.*

JAMES R.

The Form now is more Solemn.

§ 17. But now these Commissions are more Pompous and Solemn, passing in *Latine* under the Great Seal. Sometimes they have been Complex, cloathing the Commissioners with somewhat of a Vice-Roy-ship in the State, as well as Commissioner

missioner to the Assembly : Thus it's said the Marquis of *Hamilton*, and Earl of *Traquair* their Commissions were in the Years 1638. and 1639. The Commissions granted since the Revolution, you may see in the printed Acts of Assemblies. Though these Commissioners be respected in the Assemblies, and about Assembly Affairs, as Representing the Sovereign's Person; Yet I doubt if they could claim any Place or Precedency in Meetings of State, meerly as Commissioners to the Assembly. But this is still kept undecided, as appears by their Disappearing at such Meetings while the General Assembly is sitting.

§ 18. The Presbytery of *Caledonia* in *Darien* is authorized to send Yearly two Representatives to the General Assembly : They being a part of this National Church, and subject to Her Assemblies, as appears from the Instructions given them by the Commission of the General Assembly 1699.

*Presbytery of
Darien Re-
presented.*

§ 19. The Moderator of the former Assembly opens it with a Sermon; But in case of his absence, his Predecessor in that Chair hath the Sermon: And in absence of them both, the eldest Minister of the Town where they meet preacheth, and openeth the Assembly by Prayer, and Moderates till a new Moderator be chosen. Thus it was done in the Assembly at *Glasgow* 1638. After Sermon the Members go into the Assembly-House, where, after Prayer by him who preached, a new Moderator is chosen in the manner before-mentioned, their Clerk continuing by Commission, sometimes during Life. It is to be remembered that before the new Moderator is chosen, the Rolls must first be made up, and at the calling of each Presbytery, Burgh and University, their Commission is Read. After the Assembly is thus constitute, the Person representing the Sovereign, produceth their Commission to Him for that Effect, and ordinarily a Letter also from the Sovereign to the Assembly, both which are publickly read with

*The Opening
of the Assem-
bly.*

with great Honour and Respect, the Members standing all the time that the Letter directed to them is a reading; And by their Appointment, both Commission and Letter are Recorded in their Books. And all the time of the Commissioner's Presence, the Members sit discovered. The Commissioner ordinarily has a Discourse to the Assembly, assuring them of their Majestie's Protection, and continued Favour, and he Intreats them to Unanimity and Dispatch in their Affairs; To which the new Moderator useth in Name of the Assembly to make a short and futeable Return, both which are likewise Recorded.

*The Order
observed a-
mong the
Members, and
in the Assem-
bly-House.*

§ 20. By the Act of the Assembly *July 29. 1640.* It is appointed that the Commissioners sit together unmixed, and the Places where they sit be divided from the Seats of others. As also, that four Persons of Respect have Warrant to enjoin that there be no Noife, no Standing, nor disorderly Behaviour: And if any shall disobey them, or direct his Speech to any, except to the Moderator, he is and that one at once with leave first asked and given, to be rebuked by the Moderator: And if he desist not, he is to be remov'd out of the Assembly for that Session. As also, that the Minutes of ilk Session be read before their Rising, and if the Matter concern the whole Kirk, let it be read in the beginning of the next Session. This Order is to be read the first Sesion of each Assembly, and the Act is Ratified *July 28. 1641. and August 6. 1642.*

*Committees of
Assemblies:
Their Num-
ber & Way of
being chosen.*

§ 21. The ordinary Committees used in General Assemblies are, 1. The Committee for Overtures. 2. The Committee for Bills, References and Appeals. 3. The Committee for Elections and Commissions. 4. Committees for Revising Synod-Books and Registers, and of Commissions of General Assemblies. 5. A Committee for Censuring of Absents, and nominating Ministers to preach before the Commissioner if present. 6. When the King or Queen Honours them with a Letter, there is in the first place appointed

ted a Committee for Drawing an Answer thereto. There are also other Committees for particular Matters, named as is found needful. All Committees of Assemblies are to consist of Ministers and Ruling-Elders, Members of several Synods, and in more numerous Committees, some out of every Synod: All which Committees are ordinarily named by the Moderator, in presence, and approved by *tacite* Consent, only sometimes Members propose the Adding of some others, whose Motion useth likewise to be Acquiesced in: So that there hath never yet been any Election of Committees, either by Synods giving in separate Lists, or by Members giving in Lists, as has been done in our late Parliaments. Only for preventing the perplexing of Assembly-Business; it is fit that no Member be put upon more Committees than one.

§ 22. Albeit no Business ought to come in to the Assembly directly, till it be proposed to, and prepared by some Committee to whom it properly belongs; Yet no Committee hath a Negative over the Assembly: And it was never their Intention to Confine and Restrict themselves only to Consider of these Matters which their Committees were pleased to allow and Transmit to their Consideration: For by Act of Assembly, July 29th 1640. An Overture (and from a Parity of Reason, a Petition or any other thing) may be proposed in full Assembly with the Reasons thereof, after that the Committee hath refused to Transmit the same.

§ 23. To avoid Altercations and Debates in open Assembly, which might prove Dangerous, and are always very Indecent, after Matters have been prepared by Committees, they are Transmitted to the Assembly. Now this Design and Order may be much struck at and inverted, when Members or particular Persons do print their Petitions or Overtures to the General Assembly and Nation, before they be orderly brought in. Therefore by the 17th

*Committee
of Overtures
and others
their Power
how restricted.*

*No Ecclesi-
astical Process
to be Printed
without Allow-
ance.*

Act of Assembly 1700. All Persons are Discharged to presume to print any Petition, Appeal, Reasons, or Answers, or any part of any Procefs to be brought in to the General Assembly, or any other Church Judicatory, without Leave given by them, with Certification that the same shall not be Read nor Considered.

A Diet for Prayer.

§ 24. It is the laudable Custom of Assemblies, before they begin clofs to their Work, to appoint betwixt Nine and Twelve in the Fore-noon, to be set apart by the Members for publick Prayer in the Assembly-House, to the Almighty GOD, for His Countenancing and Directing them in the Matters that shall come before them: Where the Commissioner is likewise pleased to attend and join in Prayer: As may be seen in the first Three printed *Acts of Assembly* since the *Revolution*, and among the *Indices of Unprinted Acts* thereafter.

Matters treated in Assemblies.

§ 25. Conform to Antient Custom, by the 3d. *Act of Assembly* 1702. All Synod Books are appointed to be punctually brought in and presented to the General Assembly Yearly, in the Beginning thereof: Which Books, after hearing a Report concerning them, from the Committee appointed to Revise them, the Assembly does Approve or Disfallow thereof as they find Ground. All References from Synods, Appeals, Grievances, Petitions and Complaints are here Examined and Answered: Acts and Constitutions for all the Churches are Agreed upon with common Consent, conform to the 9th *Act of Assembly* 1697, of which hereafter about preventing of Innovations. Here Course is taken for Planting of Churches with well Qualified Ministers: Rules are set down, by which Inferiour Judicatories shall be directed in all their Proceedings. It is their Business to see that the small part of the Patrimony of the Church yet remaining be preserved and rightly Applied. They join or disjoin Parishes from Presbyteries, and Presbyteries from Synods: They

They Indict National Fasts and Thank-givings : They are concerned to appoint fit Persons and Methods for drawing up the History of the Church : They also ought to take care that Works of Charity, for Sustentation of the Poor, be promoted. By the Wisdom and Authority of this Assembly, Gangrens of Errours and Divisions are prevented, that they spread not against Truth and Unity. But they Decline to Meddle in these Matters they judge Civil, as being Incompetent to them, as may be seen by the *Index* of Unprinted *Acts* of *Assembly* 1690. Church Judicatories ought not to meddle formally with Civil Matters, no more than the State ought to meddle formally with Matters Ecclesiastick ; but the Object materially Considered may be the same, and fall under Consideration, both of Church and State, in different Respects. By the 5th *Article* of the 31 *Chapter* of our *Confession*, Synods or Councils are to handle or Conclude nothing but what is Ecclesiastical, and are not to Intermeddle with Civil Affairs which concern the Common-Wealth, unless by way of Humble Petition in Cases Exteaordinary, or by way of Advice for Satisfaction of Conscience, if they be thereunto required by the Civil Magistrate.

§ 26. What Matters General Assemblies cannot overtake themselves, they do Refer to their Commissions ; In propriety of Speech they do Import the same thing with Committees ; Yet, *de praxi*, a Committee is appointed only to prepare Matters, whereas a Commission determines in Matters committed to them, and from whose Sentence therein there lieth no Appeal to the Ensuing General Assembly, though a Complaint may be Tabled before the next Assembly against the Commission their Proceedings. The Power of the General Assembly is never Lodged in them, as to making Acts in any Case : And it is both more Expedient and Decent that the Assembly Determine in Cases of Appeals from Synods, where they have been

*Commissions
of General As-
semblies, their
Power.*

unanimous in their Sentence, than to Refer the final Decision to a Commission, who may be of a smaller Number than the Synod, and whose *Quorum* is but about the Eighth Part of some Synods. Delegation, or Commission to Determine, seems inconsistent with the Principles of Presbyterian Government : For if the Assemblies of the Church can give Power to Delegates to determine in one Point, they may in more, and consequently in all, and thereby may introduce a Prelacy. General Assemblies should not give any other Delegations but Executive, except in Extraordinary Cases : For they being Delegates themselves, ought least of any Church Assembly to Delegate : And if they can commit their Power to Twenty one, certainly they may commit the same to Fourteen. Commissions may have Sub-Committees for Preparing and Reporting, but not to Determine, or so as to Roll the Commission upon them. The Commission and the Proceedings, and Register of their Actings are always subject to the Censure of a General Assembly ; If the Assembly do not appoint their Moderator and Clerk to attend them in those Stations, they may then Nominate their own Moderator and Clerk. Their *Quorum* is Twenty One, whereof Fifteen to be always Ministers, and they continue till a New General Assembly meet, as may be seen in the Printed Commissions in the Acts of Assemblies.

The Method of choosing Members of the Commission, their Charges to be payed, and Churches Supplied.

§ 27. The General Assembly by their 6th Act 1705. Does appoint that the whole Presbyteries of this National Church be Equally Represented in Commissions; and that their Representation be proportioned to the Number of Ministers that are in each Presbyterie; The Old Ministers which were Ordained before the Year 1662, being always supernumerary : and that two or three of the Members of the General Assemblies in each Synod, be appointed as a Committee to Name the Members of the Commission,

Commission, and that the whole Representatives of Presbyteries in the several Synods at Assemblies, do meet by themselves, and Name their Respective Members of the said Committee. And the General Assembly by the same Act, does appoint the Expenses of the saids Commissioners to be born and Defrayed by the several Presbyteries which they Represent, according to the Number of the Days of their Attendance; and that their Presbyteries take Care to Supplie their Charges with Preaching during their Absence, on the Account foresaid.

§ 28. The General Assembly by their 6th Act 1703, does Require the Members of the Commission to give all due Attendance thereon, as they will be Answerable, which Members are Condescended upon by the 15th Act of Assembly 1705, to be one at least of that Number of the several Presbyteries who are Members of the Commission, and they are to attend the Meetings thereof by Turns. And Presbyteries are Ordained to send in to the Commission, the Names of such as they have appointed to attend the several Diets thereof. And by the foresaid Act 1703, the Clerks of the Commission are Ordained to Record Lists of the Absents from each Quarterly Meeting, and from the Meetings in time of Parliament, or who shall go away therefrom without Leave first obtained, and send an Extract of their Names to the Respective Synods, who are Impartially to Censure them, and make Report thereof to the next General Assembly: And to this Effect, the Clerks of the Commission are Ordered to lay before that Assembly the Lists of these Absents. And in the Instructions to the Commission 1708, all Presbyteries within Twelve Miles of *Edinburgh* are Discharged to Meet during Sitting of the Commission.

§ 29. Some few Years ago, the Presbyteries of this Church, conform to what had been before practised, did Delegate One of their Number, being a Minister, to Re-

*Absents from
the Commission
how censured.*

*Delegates
from Presby-
teries to attend
Parliaments.*

No lawful
Church Court
without Elders.

pair to the City where the Parliament did sit, and during that time attend, and Watch *ne quid detrimenti caperet Ecclesia*. But the Commission consisting of both Ministers and Elders, without which no Ecclesiastical Judicatorie or Committee thereof can be Lawful (*vid. § 4. b. t.*) and also, that all the Presbyteries are therein Represented, and that the Commission now is Ordered to Attend in time of Parliament; the former Meeting of such Delegates is now Supplied more conveniently by the Meeting of the Commission; and I am sure, much more Legally both by Church and State Constitutions: For neither do Authorize any other Ecclesiastical Judicatorie but Assemblies, Synods, Presbyteries and Kirk-Sessions, or their Committees, consisting of Ministers and Ruling-Elders. And the Act of Parliament 1690, Ratifying the *Confession of Faith*, and Settling *Presbyterian Church Government*, doth Establish the Exercise of that Church Government in the Hands of Ministers and Ruling Elders. And it may be doubted if the State would Correspond with such Delegates, or Regard Addresses from them; their Meetings wanting the Stamp, both of Civil and Ecclesiastical Authority.

Members
of Assembly
should have
Tickets for
Access.

§ 30. In the Act of Assembly, 29th July 1640. Art. 2d. Concerning Ordering the Assembly House, The Commissioners to General Assemblies are to receive Tickets from the Magistrates of the Burgh where the Assembly sits at the Delivery of their Commissions, whereby they may have ready Access to the Assembly House: and this Act is renewed by the Assembly 1690, and is among the Unprinted Acts.

Absents
from Assem-
blies how Cen-
sured.

§ 31. By that same Act, Whatsoever Presbyterie, Burgh or Univerfitie shall not send Commissioners, is to be Summoned to the next General Assembly, to be Censured by them as they find reasonable. And by the 6th Act of Assembly 1699, Such Commissioners as do not attend

attend duely from the beginning and through the whole Diets of the General Assembly, and the Committees which they may be put upon, not having a Relevant Excuse, may be Censured as the Assembly shall think fit.

§ 32. The Stile of Acts of the General Assembly, runs thus; The General Assembly Appoints and Ordains, and sometimes Recommends. Thir Acts should rather be like Directions from the Chair, than Discourses from the pulpit. Though the Sovereign's Person be therein sometimes Represented, Yet his Name cannot be Joined with the General Assembly in making of Acts: Because the Civil Magistrate considered as such, is neither Head nor Member of the Church, nor of any of Her Judicatories, and it is the Authority of the General Assembly of this National Church that can alone bind her Members. Which Authority doth not so properly consist in making of Laws, as it doth in declaring what their Lord and Master hath already appointed. And though Ecclesiastical Constitutions should be Enacted in the Sovereign's Name and Authority, yet these could never bind the Subjects as such, because the Legislative Power is lodged in the Sovereign and Estates of Parliament, and in them only: Hence all Petitions to the General Assembly are only Addressed to the Moderator and Members thereof, and not to the Sovereign nor His Commissioner, though present: For Petitions can be presented to none, but to such as those in whose Name and Authority they are granted.

§ 33. By the Act of Assembly 20 December 1638, they Ordain Presbyteries, and provincial Assemblies to Conveen before them such as will not acknowledge that Assemblies (and from a Parity of Reason any other Assembly) nor acquiesce unto the Acts thereof, and to Censure them accordingly, and refractory Presbyteries are to be Summoned by the Commission to Compear before the next General Assembly to abide their Tryal; And by a Clause in the end of

*The Stile of
Acts of As-
sembly, and
Petitions
thereto; They
must not run
in the Magi-
strates Name.*

*The Autho-
rity of Assem-
blies and their
Acts. The
Pain of Diso-
beying & De-
clining the
same.*

the 5th Act Session 2d. K. W. and Q. M's Parliament, It is provided, that whatsoever Minister being convened before the General Assembly, or Representatives of this Church, or their Commissions, or the Visitors to be by them appointed, shall either prove Contumacious in not appearing, or be found Guilty, and therefore Censured, whether by Suspension or Deposition, they shall *ipso facto* be suspended from, or deprived of their Stipends and Benefices. And by the Book of Canons put in Form for the Government of the Church of Scotland, by English Bishops their Counsel and Influence and approved by King Charles I. His Proclamation dated at Greenwich the 23d day of May 1635, It is appointed, that National Synods called by His Majestie's Authority, for Matters concerning the State of the Church in general, shall bind all persons as well absent as present, to the Obedience of the Decrees thereof in Matters Ecclesiastical. And if any shall affirm or maintain that a National Synod so assembled ought not to be obeyed, he shall be Excommunicated till he publicly Repent and Revoke his Errour.

*Advocate or
Procurator,
Sollicitor or
Agent for the
Kirk.*

§ 34. Beside the Clerk of Assembly there useth to be an Advocate or Procurator for the Kirk chosen by them who was to advise them in Matters of Civil Right, and to plead what concerns the Right of the Church before Civil Courts, and in his Name Summonds are raised before the Commission of Parliament for Plantation of Kirks, or Lords of Session. The Agent or Sollicitor for the Kirk is likewise Elected by the Assembly, and he Acts and Agents their Business in such Order as they appoint him. Their Agent was priviledg'd to be present at all the Meetings of that Commission of Parliament, even when they acted with clos'd Doors. In the late Prelatick Times, the King's Sollicitor was by His Patent constitute Solicitor for the Church too: But whether in this Government Her Majestie's Advocate be also by his Patent constitute Advocate for the Church, is a Thing I cannot

cannot certainly assert. The Agent has the Care put upon him of sending Dispatches to the several Presbyteries.

§ 35. All Church Judicatories at every Rising appoint their next Sitting, so that their Meetings are not precarious and uncertain, but intirely and Intrinsically, as to their Time and Frequency, lodged in the Will and Discretion of the Plurality of the Members of Her Respective Judicatories. The Kirk-Session, being properly the only Radical Church Judicatory, not consisting of Delegate, but of perpetuat and fixed Members, cannot be at any time dissolved, but by themselves are adjourned from time to time: Albeit they use to begin and conclude the Number of their Sessions, at and after the Presbytery hath approved of their Proceedings. All Church Judicatories, but especially this, were called *Consistories*, where the Judges did stand in Administring Justice (*vide STAIR's Instit. pag. 524*) And even yet, their Moderators, Presidents, or Prolocutors do stand, as the Mouth of their Meetings: Presbyteries are Radical as to the Pastors, and Delegate as to the Ruling Elders, (*vide Tit. 12. § 11.*) For the first Presbytery after each ordinary Meeting of the Synod, when new Elections of Elders are returned, that Presbytery doth begin the first Session thereof, and so other Sessions of the same continue till the next Synod in ordinary be over. And Provincial Synods consisting of Presbyteries, they do in part dissolve twice a Year, and so the Synodical Sessions are counted from one ordinary Synod to the next ordinary Meeting of another Synod: But National Assemblies being Annual, and consisting all of Delegates, as hath been said, the Sessions thereof are counted from their first Meeting until they part and dissolve in the same place, at least by the Constitutions and Practice of this Church, until, and no longer than the ordinary time for a new Annual Assembly: For no doubt, an Assembly, if the Affairs of the Church so require, may Translate, and also continue their Meeting, as

*The Adjourn-
ing and Dis-
solving of As-
semblies and
other Church-
Judicatories.*

was done *Anno 1641.* but it necessarily dissolves before the Year. At the closing of every Session of the Assembly, the Moderator appoints the next Dyet, in Presence, and with Consent of the Members; Then He turns to the Commissioner and acquaints His Grace thereof, to which He ordinarily Answers, *Be it so, Or, I am satisfied*; Whereupon the Adjournment is Intimated publickly at the Door by the Beddal, afterwards the Moderator closes with Prayer.

*Committee for
Revising the
Minutes and
printing the
Acts.*

§ 36. At closing of the General Assembly, some few of their Number are Nominated to Assist the Moderator and Clerk, in Revising the Minutes and Proceedings of that Assembly, before the same be Recorded in their Registers, and to determine what of their Acts are fit to be printed: But it were as proper for the Assembly to give Orders therein, as the Acts are passed.

*The Ordinary way of
Dissolving
Assemblies.*

§ 37. All the Affairs which the Assembly could overtake, being brought to a Close, the Moderator causeth read the Minutes of the last *Sederunt*, these of former *Sederunts* being always read at the beginning of each Session; Which being done, he discourseth to the Assembly concerning the good Providence of God that brought them together, and in allowing them the Countenance and Protection of the Supreme Magistrate, and exhorteth the Members to Faithfulness, Loyalty and Diligence in their Stations. The Moderator having understood the Mind of the Assembly from previous Communings with the Members, as to the particular time and place of the next Assemblies Meeting, which Dyet being concerted before also with the Commissioner, he doth in their Name represent the same to the King or Queen, or Their Commissioner, if present, and upon their agreeing thereto, it is to be recorded and publickly Intimate at the Door of the Assembly-House by their Order. The Commissioner agrees ordinarily thereto in these or the like words (to many offensive enough) I do in my Master's Name (or Her Majesties Name) dissolve this Assembly,
and

and in the same Name and Authority I appoint the next General Assembly to meet at such a Time and Place, which ordinarily is the same with that which the Moderator in Name of the Assembly did represent. Then the Moderator closeth the Assembly with Prayer, singing of Psalms, and pronouncing of the Blessing.

§ 38. Indeed when it happens that a Commissioner doth rather Cross than Countenance the Assembly, either by an abrupt and interrupting Dissolution, or by not appointing the next Annual Assembly according to Law: In these Cases their Behaviour is different, as may appear in the two following Instances. The first was in the Assembly 1638. there the M. of H. His Majesties Commissioner, having dissolved them after some few days sitting, both in the Assembly-House and by publick Proclamation; They did notwithstanding (having protested against their Dissolution) continue their Sitting till they ended the Work they met for, and appointed the time for their next General Assembly, for which you will find their Apologetical Vindication in their printed Letter to the King. Another Instance is this, The E. of *Lothian* Their Majesties Commissioner to the General Assembly 1692, He upon *Saturday* the 13. of *February* (the Assembly being met and constitute by Prayer) did immediately thereafter deliver himself as follows. Moderator, what I said last had so little Success, that I intend to give you no more trouble of that Nature; Only this, You have now sate about a Moneth, which was a competent time both to have done what was the principal Design in calling this Assembly, (of Uniting with your Brethren) and to have done what else related unto the Church, but His Majesty perceiving no great Inclination among you to comply with His Demands, hath commanded me to dissolve this present General Assembly. So I in Their Majesties Name and Authority do dissolve this present General Assembly. Whereupon the Moderator asked his Grace,

How two Assemblies were dissolved in an extraordinary Manner, and their Behaviour in these Cases.

if this Assembly was dissolved, without naming a Diet for another? To this His Grace made Return in these Words, His Majesty will appoint another Assembly in due time, wherewith You will be timeously advertised. Upon this, the Moderator desiring of His Grace, that he might be heard a few Words, His Grace told him that he could not hear him as Moderator, but only as a private Person. The Moderator answered, In whatever Capacity Your Grace pleaseth, I begg to be heard a few Words. His Grace Replyed, That as a private Man he might speak; Whereupon the Moderator delivered Himself as follows. May it please Your Grace, This Assembly, and all the Members of this National Church, are under the greatest Obligations possible to His Majesty, and if His Majesties Commands to Us had been in any or all Our Concerns in the World, We would have laid Our Hands on Our Mouths and been silent: But they being for a Dissolution of this Assembly, without Indicting another to a certain Day: Therefore, (having been Moderator to this Assembly) in their Name; they adhering to me, I humbly crave leave to declare, that the Office-Bearers in the House of God, have a Spiritual Intrinsic Power from Jesus Christ the only Head of His Church to meet in Assemblies about the Affairs thereof, the Necessity of the same being first represented to the Magistrate. And further, I humbly crave, that the Dissolution of this Assembly, without Indicting a new one to a certain Day, may not be to the prejudice of Our Yearly General Assemblies granted to Us by the Laws of this Kingdom. Here the Members rose up, and with one Voice declared their Adherence to what the Moderator had said; Whereupon the Moderator turning himself to the Assembly, Cryed, Brethren, Let us Pray: But the Members by a general Cry pressed to name a Diet for the next General Assembly. Whereupon the Moderator said, If they pleased, the next General Assembly might meet here

*The Church-
as Intrinsic
Power asser-
ted.*

at *Edinburgh* upon the third *Wednesday* of *August* 1693. and the Members did again with one Voice declare their Approbation thereof. Then the Moderator having ordered Silence, concluded with Prayer, and singing the CXXXIII Psalm, and pronouncing of the Blessing.

§ 39. In the end of the Act of Assembly 1647. approving the Confession of Faith, It is asserted, that it is always free to the Magistrate to advise with Synods of Ministers and Ruling Elders meeting upon Delegation from their Churches, either Ordinarily, or being Indicted by His Authority occasionally, and *pro re nata*. It being also free to assemble together Synodically, as well *pro re nata*, as at the ordinary times upon Delegations from the Churches, by the Intrinsick Power received from Christ, as often as it is necessary for the Good of the Church to assemble, in case the Magistrate to the detriment of the Church withhold or deny his Consent, the Necessity of Occasional Assemblies being first Remonstrated unto him by humble Supplication, *vide* § 1. b. t.

The Church of Scotland's Judgement about the Churches Right to meet Synodically.

TIT L E XVI.

The Order of the Rolls of Church Judicatories, and Ranking of Church Office-Bearers. And of Her Registers.

§ 1. **R**uling Elders and Deacons in Church Sessions, Regularly, should be Inrolled, called and take Place, according to the Seniority of their Ordination: But the Poverty of the Church being such, that there is no Maintenance or Benefice annexed to these Offices, therefore they use to be Ranked according to their Secular Stations and Employments: Only, Seniority of Ordination may be a Rule whereby Disputes for Precedency among Equals are to be decided.

Rolls of Kirk-Sessions, and Ranking of Elders.

How Ministers take Place of one another.

§ 2. All Ministers are Inrolled in Presbyteries, and have Place only according to the Seniority of their Ordination; A Presbyter labouring in the Word and Doctrine being the Highest Office in the Church, to be sure no Office-bearer of an inferiour Order will ever compete with him: and therefore a Minister of a later Ordination, albeit he have the Character and Station of Almoner or Chaplain to the Royal Family, or of being Historiographer, Principal, or Professor of Theology, or Philosophy in any University, yet he will not presume thereupon to take place from one of a prior Ordination: Because all these Stations and Characters, Ecclesiastically considered, are of an Inferiour Order to that of the Pastor, unless he pretend unto it by virtue of Civil Place and Power, which is condemned in Pastors as incompatible with their Spiritual Function by *Assembly 1638, Decem. 19.* But the Order in which Ministers deliver the Presbyterial Exercises, is according to the Seniority of Erection of the Parish Churches where they Officiate.

Rolls of Synods, how Ordered. No Act to hinder Elders to Vote when they may be Supernumerary to Ministers.

§ 3. It is usual to Change the Order of the Roll every Synod, so that the Presbyterie that was first called in the Roll of the former Synod, is now called last (as was said above) and that which was in the second place is now called first: And the Members are called according to the Roll of each Presbyterie, presented to the Clerk by the Moderators thereof, with the Ruling Elders therein Insert. And though a Parish be Vacant, or the Minister thereof not present, yet the Ruling Elder for that Church-Session, is to be called for and Inrolled. But those who are against Ruling Elders their being Supernumerary, to Ministers in Judicatories may dislike this. Yet if once a Judicatorie fix on a *Quorum*, whereof always so many are to be Ministers, though double their Number of Elders should come and be present, there is nothing as yet to hinder them all from Voting.

§ 4. The

§ 4. The Rolls of General Assemblies do begin with the Synod, which in the former Assembly was called in the second place, leaving the Synod which was then first called, now last, by which Rotation the Equality is better preserved, Commissioners from Presbyteries are placed in their Commissions according to the Seniority of their Ordination. Next to them are Inrolled the Commissioners from the Universities within the Bounds; and next to them such as have Commissions from Royal Burghs therein. In General Assemblies, Ruling-Elders are called immediately after the Ministers their Colleague Commissioners.

Rolls of General Assemblies.

§ 5. The first thing to be done at every Diet, after calling the Rolls, is the hearing the Minutes of the last Sederunt or Session, Read, and till they be passed and allowed by the Judicatorie, and also Subscribed by the Moderator, there ought no Extracts thereof to be given, nor, till then, should it be Warrantable for the Clerk to enter them into the Register.

Minutes Revised and Signed before Extract, or Recording.

§ 6. In any thing wherein the Moderator or Clerk is particularly concerned, they ought in that Case both to Subscribe the Minutes, as the Privy Seal used to be appended to Charters, or the like passing the Great Seal in favours of the Keeper of the Great Seal. And at the Close of the Register of every General Assembly, and of each Inferiour Church Judicatorie, when they are given in to be Approved by their next immediately Superiour Judicatorie. They bear, *Here ends the Register of the Acts and Proceedings of from to Consisting of Pages.* And this Attestation is to be Subscribed by the Moderator and Clerk: And every Record at the beginning is to bear it's own proper Title, *viz. The Register of the Acts and Proceedings of such a Judicatorie, begun at the day of &c.*

Clerk and Moderator a Check to one another. The Attestation Title of the Registers.

§ 7. By

Form of ap-
proving
Church Regi-
sters runs in
a Negative
Stile.

§ 7. By the 9th *Act* of *Assembly* 1700, They appoint all Provincial Synods and Presbyteries, to be careful in Revising the Registers of the Judicatories under their immediate Inspection, and that they appoint a Competent Number of the most fit and Experienced among them for that Work; and when they find nothing to challenge in any Register, they are to give it the Attestation following. The Provincial Synod of _____ having heard the Report of those appointed to Revise the Presbyterie Book of _____

And having heard their Remarks thereupon, and the saids Presbyterie's Answer thereto: And it having been Inquired by the Moderator, if any other had any Complaints to make against the Actings of the said Presbyterie, and nothing appearing Censurable, Ordered the Clerk to Attest this in their Presbyterie Book. And so for the Registers of Provincial Synods and Kirk Sessions, *mutatis mutandis*: And also for the Registers of the Commissions of Assemblies, by the 8th *Act* of *Assembly* 1706. But if there be any thing truly Censurable in the said Books with respect to Discipline, that it be Recorded as Censured, both in the Synod Book and Attestation.

Order in
filling up
Blanks, De-
latings, Inter-
linings, and
Omissions in
Registers.

§ 8. All Sentences and *Acts* are to be filled up in the Records as all other things should be according to the Priority of their being Voted or Agreed unto, and that although no Extract hath been, or perhaps never may be called for. And when any thing is omitted in the Body of a Record, it may be written on the Margine, which the Moderator and Clerk must Subscribe again; When any thing is Delete, let it be marked *Delete* on the Margine, and Subscribed as the other, counting the Lines or Words blotted out. But *Interlinings* are most Improper, and Derogatory to that Credit which a Record should bear. Further, when any *Blank* is left in the Record, and yet there is nothing wanting, it may be Scored, or which is more proper, filled up with (*nihil hic deest*) which Words
may

may be lengthened or shortened according to the Bounds of the Blank. See the 9th Act of Assembly 1706.

§ 9. By the 11th Act of Assen. 1703, for the better *The Registers how to be preserved.* Preservation of their Registers, They Enact and Appoint that there be Two Authentick Copies thereof, both Subscribed by the Moderator and Clerk, One Copy whereof to ly in the Clerk's Custody, and the other Copy to be Sealed and laid in some Secure Place where the Assembly or Commission shall Appoint; As also, that a Subscribed Extract of the Proceedings of each General Assembly be sent a little after the raising thereof to the several Synods within this Church to be by them Recorded in a Book.

§ 10. As to the Stile of the Assemblies Addresses and Letters to their Sovereigns, or Foreign Churches, and as *Civilities payed by the Church.* to the Stile of their Letters to the Assembly both may be seen in their Printed Registers, as also these with the Records of their Commissions will Evidence what Civilities the Church pays in Congratulating and Attending on the Ministers of State and other Great Men, thus they court their Favour, and Return them their Thanks, all done for the Benefite and Advantage of the present Church Establishment.

T I T L E X V I I.

Of Visitation of Schools and Universities.

§ 1. **A**LL Schools and Colleges were to be Reformed, *Visitations of Schools and Colleges were appointed by Authority of the Assembly.* and none Admitted to Instruct the Youth privately or publickly, but such as should be Tried by the Visitors of the Kirk, *Ja. 6th, Par. 1. Cap. the Assembly.*

11. And even under the late Prelacy, none were admitted to Teach in any publick Schools, without Licence from the Ordinary, *Car. 2d. Par. 1. Sess. 2. Cap. 4. sub fin.* And also by the *Act of Assembly, Decem. 17, 18. 1638, Art. 4.* They Ratify the *Acts of Assembly 1565, 1567, and 1595.* Whereby Visitation of Colleges is to be by way of Commission from the General Assembly. And the principal Regents and Professors within Colleges; and Masters and Doctors of Schools, are to be Tryed by them concerning the Soundness of their Judgement in Matters of Religion, their Ability for Discharge of their Calling, and the Honesty of their Conversation. It is no Wonder the Church think her self much Concerned, that these Seminaries of Learning be duely Regulated, considering how much it Tends to the Increase of Christian-Knowledge and Learning, and the Advantage of true Piety and Religion. By the General Assembly 1638, they grant Commissions for Visitation of the Colleges of *Aberdeen* and *Glasgow*. And the Assembly 1639, Appoints Visitations of the Universities of *St. Andrews* and *Glasgow*. Again the Assembly 1640, Appoints Visitations of *Glasgow* and *Aberdeen* Colleges, as may be seen in the *Index* of the Unprinted Acts of these and Subsequent Assemblies.

Power of
Visitation
Claim'd by the
Sovereign.
Visitors Powers
and Work
distinguished.

§ 2. The Power of Visitations of Universities, Colleges and Schools is now Claimed by the Sovereigns to be Their Undoubted Right and Prerogative, as is Evident from the Narrative of the Act of Parliament 1690, for the Visitation of Universities. The Power granted to the Visitors by that Act, is only Executive or Judicative, and not Legislative, which neither can nor should be: For seeing the Trust wherewith the Legislators themselves are cloathed, is only Personal, it cannot be Delegated to others, unless they Receive Power from their Constituents for that Effect and Purpose. But though their Power could be Delegated, it should not be done: For some Designing and
Disaffected

Disaffected Members in such Commissions might so Manage the Plurality of a *Quorum* to Plant and Regulate these Nurseries of Church and State, as might path the Way, and Dispose the Nation more easily for some pernicious Revolution. The Visitors Appointed in that Commission are both Members of Parliament and Ministers: The one Sort I think, is Appointed to Remove Disloyal Teachers, and to consider the Foundations of these Seminaries with the Rents and Revenues thereof, and how the same have been Managed, and to set down Good Rules for the Good Management thereof. And Ministers, I think, are Named, to take Tryal if the Teachers be Erroneous, Scandalous, Negligent, or Insufficient, and for Ordering the Manner of Teaching; and thereupon present their Humble Advice to the States-Men: for Authoritatively they cannot Act without Delegation from the Church. See the *Title* about *Extraordinary Synods*, § 1.

§ 3. There is none will grudge the Church the Exercise of this Power of Visiting Colleges, so much as those Masters, who have Ground to Fear that their Insufficiency and Negligence may come to be Exposed and Discovered upon an Exact and Judicious Tryal. Again, there are some Factious Masters that desire only States-men to be Visitors, among whom they think some of their *quondam* Disciples may be found who will be Influenced to Favour their Ambitious or Revengeful Designs.

§ 4. As to *Grammar Schools*, the Power of Visiting them remains with Presbyteries: For by the 23 *Act, Parl.* 1693. It is Declared, that all School-Masters and Teachers of Youth in Schools, are, and shall be Liable to the Tryal, Judgement and Censure of the Presbyteries of the Bounds for their Sufficiency, Qualifications and Deportment in the said Office. By the *Act of Assembly*, 7 Feb. 1645. They appoint that every *Grammar School* be Visited twice in the Year, by Visitors to be appointed by Presbyteries

Who are Ordinarily the greatest Enemies to the Church Visitations.

Presbyteries may yet Visit Grammar Schools twice a Year.

byteries and Kirk-Sessions in Land-ward Parishes, and by the Town Council in Burghs with their Ministers: And where Universities are, by the Universities, with Consent always of the Patron of the Schools, that both the Fidelity and Diligence of the Masters, and Proficiency of the Scholars in Piety and Learning may appear. Inquiry is also to be made if Masters be Diverted from due Attendance by any other Employment. By the 13 *Act, Assembly 1706*, Somewhat of the same Nature is Enjoyed, *viz.* That Presbyteries Visit *Grammar Schools* twice a Year, by some of their own Number.

Who Examine School-Masters at their Admission.

§ 5. By the foresaid *Act 1645*. They appoint, that no School-Master be Admitted to Teach a *Grammar School* in Burghs or other Considerable Parishes, but such as, after Examination by the Ministers, Deputes of the Town and Kirk-Session, and Paroch (which is, I think, the Heritors) shall be found skillful in the *Latine Tongue*, not only for Prose, but also, for Verse, and shall be also Approved by the Presbytery therein.

Corresponding of Universities.

§ 6. By the foresaid *Act*, they Appoint that at the time of every *General Assembly*, the Commissioners directed thereto from Universities, Meet and Consult together for the Advancement of Piety and Learning, and keeping of an Uniformity in Doctrine and Good Orders among the Universities, what they do this way is not to Bind the Universities, till it be presented to the General Assembly, and receive their Authority, as may be gathered from the *Assemblies Act, 18 June 1646*. This of New is Enacted by the 6th *Act of Assembly, 1707*.

TITLE XVIII.

Of a General Council of Protestants.

§ 1. **A**S Provincial Assemblies may, and do Correspond with other Provincial Assemblies; so may General Assemblies with the Assemblies of other Churches. In a *Manuscript* of the Acts of Assemblies, *Edinburgh* October 25. 1577, You'l find that *Casimir* having written to the Queen of *England*, of a Council to be held at *Magdeburgh*, for Establishing the *Augustane Confession*: The Queen wrote thereof to the Regent in *Scotland*, who Communicated Her Letter to the Assembly, and desired they might send some of their Number to Assist thereat. Whereupon the Assembly Named Mr. *Andrew Melvill*, and some others. And some Ministers and Elders were sent from the General Assembly, to the Assembly of Divines at *Westminster*, in Order to carry on the Unity and Uniformity in Religion and Church-Government. It belongs in these Cases to the Civil Powers of these Nations from which they go to take care that their Charges be Honestly Defrayed. And the States in whose Dominions the Council is to be, use to grant a safe Conduct to the Foreign Correspondents. *Vide* in the *Title* of *Gen. Assem.* about the Church of *Campvere*.

Corresponding with Foreign Churches, such as Magdeburgh 1577. and Westminster 1643. the Expenses and safe Conduct of Correspondents.

§ 2. In the Book of *Policy* of the *Kirk* agreed unto Anno 1581. They say, Beside these Assemblies, there is another more General kind of Assembly, an Universal Assembly of the Church of CHRIST in the World, which was commonly called an OEcumenick Council, Represent-

General Council it's Authority.

ing the Universal Church, which is the Body of CHRIST: Their Warrant to Meet, and the Authority of their Meeting must be as Good and as Great, with respect to National and General Assemblies or Convocations, as the Authority of these are, with respect to Provincial Assemblies or Synods.

*The manner
of Convocating
and Proporti-
onating the Re-
presentation.*

§ 3. If the Protestant Princes and Common-Wealths would Condescend and Concert, that there should be a General Council at such a time and Place; Then the National or rather Provincial Assemblies, at the Appointment of their Respective Sovereigns, might meet and Delegate one Pastor and Elder for each Province consisting of an Hundred Parishes. Only from each Distinct Sovereignty, tho consisting of less than Fifty Parishes, there might be at least a Representation of the Church therein by one Pastor and Ruling Elder.

*Matters of
Faith almost
agreed to al-
ready.*

§ 4. Most of the Churches being already Bound & Obliged to Own and Maintain that *Confession of Faith*, which they have by their Canons Authorized and Approved; And there being an Universal Harmony in the Doctrine contain'd in all the Confessions of the Reformed Churches; The Work of a General Council as to Matters of Faith, would, in all probability be Sweet and Easy: And if in what Relateth to the Worship, Discipline, or Government of the Church there should be some Mis-understandings, GOD should even Reveal this unto them. Nevertheless, whereto we have already attained, let us walk by the same Rule, let us mind the same Things, *Phil. 3. 15, 16.*

*Time of
Meeting and
President of
this Council.*

§ 5. If this Council were once Met and Constitute, and Countenanced by the Authority of Their several Sovereigns, then they might appoint the Time and Place of their next Council, which might be every seventh Year; And let One from different Churches be chosen to the Chair at every New Council. To prepare the Way for such a
Catholick

Catholick Meeting, it were fit in the mean time to have a Correspondence kept among all the Churches. *Vid.* § 1. *b. t.*

§ 6. In the Subordination of these Assemblies, Parochial, Presbyterial, Provincial and National, the Lesser unto the Greater, doth consist the External Order, Strength and Stedfastness of the Church of *Scotland*. And when it shall please the LORD to make Ready and Dispose the Nations for a General Council, then shall that Beauty and Strength appear more Remarkably in the whole Catholick Church, which is the Body of CHRIST. Then should the Churches be Established in the Faith, Increased in Number Daily; And as they went through the Cities, delivering them the Decrees to keep, that were Ordained of the Apostles and Elders, which were at that General Council, *Acts* 16. 4, 5. They should give Occasion to many to Rejoyce for the Consolation. Such a Time is rather to be Wished than Hoped for. *Vid.* § 1. *Tit.* 1. *H. Lib.*

*The Benefit
of this Sub-
Ordination;*

The End of the First BOOK.

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THE END OF THE WORLD

B O O K I I.

T I T L E I.

Of Lecturing, Preaching, Catechising, Publick Prayers before and after Sermon, Singing of Psalms, and Ministerial Benediction.

§ 1. **B**Y the 15th Act of Assembly, 1707. They *Nothing to* Declare that there are some Innovations set *be admitted in* up of late by Prelatists in their publick *the Worship of* Assemblies, which are Dangerous to this *GOD, but what* Church, and manifestly contrary to the *is prescribed* *in Scripture.*

Constant Practice and known Principle thereof, which is, That nothing is to be Admitted in the Worship of GOD, but what is prescribed in the Holy Scriptures. Therefore they Discharge the Practice of all such Innovations in Divine Worship within this Church, and Ministers are Required to Inform their People of the Evil thereof.

§ 2. All are to enter the Assembly in a grave and seemly Manner, take their Seats or Places without Adoration, or Bowing themselves towards one place or other. *How the* If any through Necessity be hindered from being present *Congregation* at the Beginning, they ought not when they come into *doth Assemble.*

the

the Congregation, to betake themselves to their private Devotions, but Reverently Compose themselves to joyn with the Assembly in that Ordinance of GOD, which is then in hand. Most of what is said on this Title, may be found in the Directory.

Their Behaviour in the time of Warship.

§ 3. The Congregation being Assembled, the Minister, after Solemn Calling on them to the Worshipping of the Great Name of GOD is to begin with Prayer. The publick Worship being begun, the People are wholly to attend on it: forbearing to Read any thing, except what the Minister is then Reading or Citing: Much more are they to abstain from all private Whisperings, Conferences, Salutations, or doing Reverence to any Person present, or coming in, as also from all Gazing, Sleeping, or other Indecent Behaviour.

Why the Word is to be publickly read, and by whom?

§ 4. Reading of the Word in the Congregation, being a part of the publick Worship of GOD (wherein we acknowledge our Dependence upon him, and Subjection to him) And one Mean Sanctified by Him for the Edifying of His People, is to be performed by the Pastors and Teachers, and Preachers Licensed by the Presbytery thereunto, who should (as *Ezra* and his Companions did *Nebem.* 8. 8.) Read in the Book, in the Law of GOD distinctly, and give the Sense, and cause them to Understand the Reading.

How much is to be read at a time, and the Order of Reading and Expounding.

§ 5. How Large a Portion is to be Read at once, is left to the Wisdom and Discretion of the Minister: But it is Convenient that Ordinarily one Chapter of each Testament be Read at every Meeting, and sometimes more, where the Chapters be short, or the Coherence of the Matter requireth it. It is also Requisite that all the Canonical Books be Read over in Order, that the People may be the better acquainted with the whole Body of the Scriptures, and where the Reading in either Testament endeth on one LORD's Day, it is to begin the next: The

more

more frequent Reading of such Scriptures is also Com-
mended, as he that Readeth shall think best for Edification
of his Hearers, as the Book of *Psalms* and such like ; and
when he shall judge it necessary to Expound any part of
what is Read, that Work is not to begin, until the Read-
ing of the whole *Chapter* or *Psalms* be ended.

§ 6. Regard is always to be had to the Time, that nei-
ther Preaching nor other Ordinance be straitened or ren-
dered Tedious ; Which Rule is to be Observed in all o-
ther publick Performances, And therefore, by the *Act* of
Assembly, Feb. 7th, 1645, for Regulating of that Exercise
of Reading and Expounding the Scriptures upon the
LORD's Day, mentioned in the Directory, they Ordain
the Minister and People to Repair to the Church half an
Hour before that Time, at which ordinarily the Minister
now entereth to the publick Worship ; And that that
Exercise of Reading and Expounding, together with the
ordinary Exercise of Preaching be perfected and ended at
the time, which formerly closed the Exercise of publick
Worship. And for Recovering the Old Custom Established
by the Directory, the General Assembly 1694, *Sess. 9.*
Appoints Ministers to Read and Open to the People, some
Large and Considerable Portion of GOD's Word. And
the Diligence of Ministers in this is to be Enquired into
by Presbyteries at their privy Censures, *Assen. 1704, Sess.*
8, and also at Parochial Visitations, *Assen. 1706, Act 10.*

§ 7. Preaching of the Word being the Power of GOD
unto Salvation, and one of the Greatest and most Excellent
Works belonging to the Ministry of the Gospel, should
be so performed that the Workman need not be ashamed,
but may Save himself and those that hear him. Ordinari-
ly the Subject of his Sermon is to be some Text of the
Scripture holding forth some Principle or Head of Religi-
on, or suitable to the special Occasion emergent. Or he may
go on in some Chapter, Psalm or Book of the Scripture as

*When Lec-
turing begins
and how long
to continue,
according to
old and later
Acts.*

*Preaching,
it's Excellency
and Subject
Matter.*

he shall see fit. By the 8th Art. Cap. 3d. of our Confession of Faith, the Doctrine of the high Mystery of Predestination is to be handled with special Prudence and Care. And albeit Mr. *Turretine* in his *Instit. Theol. Loc. 4. Quæst. 6.* maintains very warrantably, that it should be publickly taught, yet he thinks it a Subject more proper for the Schools than the Pulpits.

*Introduction,
Sum, and
Division of
the Text.*

§ 8. The Introduction to the Text is to be Brief and Perspicuous, drawn from the Text it self or Context, or some parallel place of Scripture. If the Text be long (as in Histories and Parables sometimes it must be) he is to give a brief Sum of it, if short, a Paraphrase thereof, if need be ; In both looking diligently to the Scope of the Text, and pointing at the chief Heads and Grounds of Doctrines which he is to raise from it. In Analysing and dividing his Text, he is to regard more the Order of Matter than of Words, and neither to burden the Memory of the Hearers in the beginning with too many Members of Division, nor to trouble their Minds with obscure Terms of Art.

*How Doc-
trines are to
be Raised, Ex-
plained, Illus-
trated and
Confirmed.*

§ 9. In raising Doctrines from the Text, his Care ought to be ; 1st, That the Matter be the Truth of God, 2^{ly}, That it be a Truth grounded on or contained in that Text, that the Hearers may discern how God teacheth it from thence. 3^{ly}, That he chiefly insist upon these Doctrines which are principally intended, and make most for the Edification of the Hearers. The Doctrine is to be expressed in plain Terms, or if any thing in it need Explication, it is to be opened, and the Consequence also from the Text cleared. The parallel Places of Scripture confirming the Doctrine are rather to be plain and pertinent than many ; And, if need be, somewhat insisted upon, and applied to the Purpose in Hand. The Reasons or Arguments are to be solid, and, as much as may be, Convincing. The Illustrations, of what kind soever, ought to be full of Light, and such

such as may convey the Truth into the Hearers Hearts with Spiritual Delight.

§ 10. If any Doubt obvious from Scripture or Reason, or prejudice of the Hearers, seem to arise, it is very requisite to remove it, by reconciling the seeming Differences, answering the Reasons, and discovering and taking away the Causes of Prejudice and Mistakes. Otherwise it is not fit to detain the Hearers with propounding or answering vain or wicked Cavils, which as they are endless, so the propounding and answering of them, doth more hinder than promote Edification.

§ 11. The Doctrine is to be brought home to special Use by Application to the Hearers, that they may feel the Word of God to be quick and powerful, and a Discerner of the Thoughts and Intents of the Heart. In the Use of Instruction or Information in the Knowledge of some Truth, which is a Consequence from his Doctrine, he may, when convenient, confirm it by a few firm Arguments, from the Text in Hand, and other Places of Scripture, or from the Nature of that common Place of Divinity, whercof that Truth is a Branch. In Confutation of false Doctrines, he is neither to raise an old Heresy from the Grave, nor to mention a Blasphemous Opinion unnecessarily, but if the People be in danger of an Errour, he is to confute it soundly, and endeavour to satisfie their Judgments and Consciences against all Objection. In Exhortation to Duties, he is, as he seeth Cause to teach also the Means that help to the performance of them. In Dehortation, Reprehension, and Admonition, which requireth special Wisdom, He is, as need requires, not only to discover the nature and greatness of the sin, with the misery attending it, but also to shew the danger the Hearers are in to be overtaken and surprized by it, together with the Remedies and best way to avoid it. In applying Comfort, whether General against all Tentations, or Particular against some special Troubles

What kind of Doubts and Controversies are to be raised and solved.

Doctrines are to be Applied in Uses of Instruction, Confutation, Exhortation, Re-proof, Consolation and Tryal; And How?

and Terrours, He is carefully to answer such Objections as a troubled Heart and afflicted Spirit may suggest to the contrary. It is also sometimes requisite to give some Notes of Tryal, which is very profitable, especially when performed by able and experienced Ministers, with Circumspection and Prudence, and the Signs clearly grounded on the Holy Scripture, whereby the Hearers may be able to examine themselves, whether they have attained those Graces, and performed those Duties to which he exhorteth, or be guilty of the Sin reprehended, and in danger of the Judgment threatned, or are such to whom the Consolations propounded do belong.

*The Design
of this Method.*

§ 12. This Method is not prescribed in the Directory, as necessary for every Man, or upon every Text: Nor is it necessary to prosecute every Doctrine which lyes in the Text, and such Uses as are wisely to be made choise of, as by the Minister's Residence and Conversing with his Flock he findeth most needful and seasonable for them; But only it is recommended as a Method which hath in Experience, been found much blessed of God, and very helpful for the Peoples Understandings and Memories.

*Catechetical
Doctrine to be
preached, and
the Nature of
Catechizing.*

§ 13. Ministers are to preach Catechetical Doctrine, besides their ordinary Work of Catechizing, in such manner as they find most Conducive to the Edification of their Flocks, by Act of Assembly 1695. *Sess.* 17. This Work of Catechizing, is a familiar way of Instruction or Teaching, when the Schollar Answers the Question asked. It is in a plain way to instruct those of their Charge in the first Principles of the Christian Religion. This was the Apostolical way of Teaching the Churches at their first Plantation, *Heb.* 5. 12. and *6.* 1, 2. *1 Cor.* 3. 1, 2. This is the Periphrasis of Pastor and People, which the Holy Ghost useth, setting forth the Reciprocal Relation and Office betwixt them, *Gal.* 6. 6. *Let him that is taught, or Catechized, in the Word, communicate unto him that teacheth, or Catechizeth,*

zeth, in all good things. CATECHUMENI, was a word used by the Primitive Church, to signifie such as learned the Principles of Religion, and were not yet Baptized, and since, such as are Catechized, but who have not received the Lord's Supper. These *Catechumeni*, were of two Sorts: One Sort was, of those who had not access to Baptism till they made publick Profession of their Faith in Jesus Christ, because their Parents were Heathens, and themselves Strangers to the Christian Doctrine, such were Catechized before Baptism. The other Sort of *Catechumeni* was, the Children of professed Believers, who were Baptized when Infants, having a Right to that Seal by virtue of that Promise made to Believers and to their Children; These after their Infancy was over, and they had been privately instructed in the Principles of the Christian Religion, offered themselves to publick Catechizing. Both these Sorts, after they had made such Proficiency in the Knowledge of Religion, as thereupon they were admitted to the Lord's Table, they got the Name of PERFECTI.

§ 14. By the 25th Article Cap. 1. French Church Discipline, the Minister of one Parish cannot preach in another, without first obtaining leave of the Minister of that, unless in case of his absence. In which case it must be the *Consistory* that Invites him: And if the Flock be disperst by reason of Persecution or other trouble, the Stranger shall endeavour to assemble the Deacons and Elders, which if he cannot do, he shall nevertheless be permitted to preach to Re-unite the Flock. And by the 20th Canon *Concilii sexti, in Trullo, Ne liceat Episcopo in alia, quæ ad se non pertinet, civitate publice docere; si quis autem hoc facere deprehensus fuerit, ab Episcopatu desistat, Presbyteri autem munere fungatur.*

None to teach
publicly out of
their own
Bounds with-
out leave.

§ 15. Every

Parochial Catechizing is appointed to be Weekly, not so Week-days Sermons.

§ 15. Every Minister is ordained to have Weekly Catechizing of some part of the Parish, and Masters of Families are to Catechize their Children and servants at Home, whereof Account shall be taken by the Minister and Elders assisting him in the Visitation of every Family, *vide* Act of Assembly *August* 30. 1639. And by the Act of Assembly *July* 30. 1649. the foresaid Act is renewed. I know no Act for Weekly Sermons, yet Weekly Preaching there is; Ministers it's true are appointed to preach every Lord's Day, both Before and After-noon, *Assen.* 1648. *Sess.* 38. But there is none for Week-days Sermons, yet the one is observed, and the other too much in Desuetude. By that Act 1649. Ministers are so to order their Catechetick Questions, as thereby, the People present may at every Dyet have the chief Heads of Saving Knowledge presented unto them. And by the same Act, every Presbytery is ordained to take Tryal twice in the Year, whether all the Ministers be careful to keep Weekly Dyets for Catechizing: And if any be found Negligent therein, they shall be admonished for the first Fault; And if after such Admonition, they shall not amend, the Presbytery then shall rebuke them sharply: And if after such Rebuke, they shall not yet amend, they shall be Suspended. Ministers of Land-ward Congregations are certainly to be Exempted from this in Seed-time and Harvest, and the Act is to be so understood.

Who are to be Examined; How often, & from what Age? With the Use of Examination Rolls.

§ 16. All of every Quality are to be Examined of whose Knowledge Ministers are not certain (which clearly supposeth that a Minister being once satisfied with a Person's Knowledge is not obliged again to Examine him) and young Persons from the time they are capable of Instruction, which it seems, hath been thought to be about nine Years of Age, by the M. S. Acts of Assembly at *Edinburgh* 1570. But see *Assen.* 1648. *Sess.* 38. among Remedies Ecclesiastical, in particular against Ignorance. And *Assen.* 1646. *Sess.* 10.

Remed.

Remed. 9. Ministers are to have Rolls of their Parish, not only for Examination, but for considering the several Dispositions of the People, that accordingly they may be admonished and prayed for by them in secret.

§ 17. The Larger and Shorter Catechisms agreed upon by the Assembly of Divines at *Westminster*, with Assistance of Commissioners from this Church, are by the Assembly 1648. *July* 28. and *August* 20. approved and appointed Directories, the Larger for Catechizing Proficients in Religion, and the Shorter for Catechizing such as are of weaker Capacity. By the Act of Assembly 1649. *Sess.* 30. Sessions are to take Care that in every Family, there be at least one Copy of these Catechisms, Confession of Faith, and Directory for Worship.

*Catechisms
Larger and
Shorter; Their
Use in Cate-
chizing.*

§ 18. By the Act of Assembly *July* 28 1648. They having found in a little Catechism printed at *Edinburgh* 1647. Intituled, *The A, B, C. with the Catechism*, That is to say, *An Instruction to be taught and learned of young Children*, very gross Errours in the Point of Universal Redemption, and in the Number of the Sacraments, they do Discharge the Selling, Using, and Re-printing thereof.

*A, B, C. Ca-
chism con-
demn'd.*

§ 19. Some Persons may be Rebuked at the time of Catechizing, who deserve more than a private Rebuke, and yet need not be brought to publick Repentance, 1648. *Sess.* 38.

*When a Re-
buke is to be
given at Ca-
techizing.*

§ 20. The Intention of the Composers of our Directory for publick Prayer is Expressed towards the end of their Preface. Their own Words are, Our Meaning therein being only that the general Heads, the Sense and Scope of the Prayers and other parts of publick Worship being known to all, there may be a Consent of all the Churches in these things that contain the Substance of the Service and Worship of God, and the Ministers may be hereby directed in their Administrations, to keep like Soundness of Doctrine and Prayer, and may, if need be, have some Help and Furni-

*Of Publick
Prayers, and
the Mind of
the Directory
about them.*

Furniture ; Yet so as they become not hereby slothful and negligent in stirring up the Gifts of CHRIST in them : but that each one by Meditation, by taking heed to himself and the Flock of GOD committed to him, and by wise Observing the ways of Divine Providence, may be careful to furnish his Heart and Tongue, with further or other Materials for Prayer, as shall be needful on all Occasions.

*The present
Custom of
using the
L & R D's
Prayer.*

§ 21. The Directory for publick Prayer doth Recommend that Prayer which CHRIST taught his Disciples; to be also used in the Prayers of the Church : Because it is not only a Pattern of Prayer, but is it self a most Comprehensive Prayer. I do think there are no publick Prayers used in our Church, wherein the Petitions in *the LORD's Prayer*, are not expressed throughout their Prayers ; tho' perhaps neither at the Beginning, or Conclusion, or all at once by way of Form. But if any notwithstanding, think fit to say it likewise all at once, the most proper Time for that, some think, would be immediately before the other Form used for the Ministerial Benediction. *Vid.* § 29. H. T.

*Of publick
Prayers before
Sermon, taken
out of the Di-
rectory for pu-
blick Worship,
agreed unto by
the Gen. As-
sembly 1645.*

§ 22. After Reading of the Word, and Singing of the Psalm, the LORD is to be Called upon to this Effect, *viz.* To acknowledge our great Sinfulness, first, by reason of Original Sin, which, besides the Guilt that makes us liable to Everlasting Damnation, is the Seed of all other Sins, hath Depraved and Poisoned all the Faculties and Powers of Soul and Body, doth Defile our best Actions, and were it not Restrained, or our Hearts Renewed by Grace, would break forth into Innumerable Transgressions, and greatest Rebellions against the LORD, that ever were committed by the vilest of the Sons of Men. And next, by reason of actual Sins, our own sins, the sins of Magistrates, of Ministers, and of the whole Nation, unto which we are many ways Accessory. Which Sins of ours, receive

ceive many Fearful Aggravations, we having broken all the Commandments of the Holy, Just, and Good Law of GOD, doing that which is Forbidden, and leaving undone that which is Enjoyed, and that not only out of Ignorance and Infirmity, but also more presumptuously against the Light of our Minds, Checks of our Consciences, and Motions of His own Holy Spirit to the contrary. So that we have no Cloak for our Sin, yea, not only Despising the Riches of GOD's Goodness, Forbearance, and Long-suffering, but standing out against many Invitations and Offers of Grace in the Gospel. To Bewail our Blindness of Mind, Hardness of Heart, Unbelief, Impenitency, Security, Backwardness, Barrenness, our not endeavouring after Mortification, and Newness of Life, nor after the Exercise of Godliness in the Power thereof, and that the Best of us have not walked so steadfastly with GOD, kept our Garments so Unspotted, nor been so Zealous of His Glory, and the Good of others as we ought, and to Mourn over such other Sins as the Congregation is particularly Guilty of, notwithstanding the manifold and great Mercies of our GOD, the Love of CHRIST, the Light of the Gospel, and Reformation of Religion, our own Purposes, Promises, Vows, Solemn Covenants, and other Obligations to the contrary. To Acknowledge and Confess that as we are Convinced of our Guilt, so out of a deep Sense thereof, we judge our selves Unworthy of the smallest Benefits, most worthy of GOD's Fiercest Wrath inflicted upon the most Rebellious Sinners, and that he might justly take His Kingdom and Gospel from us, plague us with all sorts of Spiritual and Temporal Judgments in this Life; and after cast us into outer Darkness. Notwithstanding all which, to draw near to the Throne of Grace, Encouraging our selves with Hopes of a gracious Answer of our Prayers in the Riches and Alfsufficiency of that only one Oblation, The Satisfaction and Intercession

of the LORD JESUS CHRIST, at the Right Hand of His Father and our Father, and in Confidence of the Exceeding Great and Precious Promises of Mercy and Grace in the New Covenant, through the same Mediator thereof, to deprecate the Heavy Wrath and Curse of GOD, which we are not able to avoid or bear, and humbly and earnestly to supplicate for Mercy in the free and full Remission of our Sins, and that only for the bitter Sufferings and precious Merits of that our only Saviour JESUS CHRIST. That the LORD would vouchsafe to shed abroad His Love in our Hearts by the Holy Ghost ; Seal unto us by the same Spirit of Adoption, the full Assurance of our Pardon and Reconciliation ; Comfort all that Mourn in Zion, speak Peace to the Wounded and Troubled in Spirit, and bind up the Broken Hearted : And as for secure and presumptuous Sinners, that He would open their Eyes, convince their Consciences, and turn them from Darkness unto Light. To Pray for Sanctification by His Spirit, the Mortification of Sin dwelling in, and many times Tyrannizing over us, the Quickning of our dead Spirits, with the Life of GOD in CHRIST, Grace to enable us for all Duties of our Conversation, and Callings towards GOD and Men, Strength against Temptations, the sanctified Use of Blessings and Crosses, and Perseverance in Faith and Obedience unto the End. To Pray for the propagation of the Gospel and Kingdom of CHRIST to all Nations, for the Conversion of the *Jews*, and the Fullness of the *Gentiles*, the Fall of *Antichrist*, and the Hastening of the second Coming of Our LORD : for the Deliverance of the Distressed Churches abroad, from the Tyranny of the Antichristian Faction, and from the Cruel Oppressions and Blasphemies of the *Turk* ; For the Blessing of GOD upon all the Reformed Churches, especially upon the Churches and Kingdoms of *Scotland, England* and *Ireland*, more particularly for that Church and Kingdom
whereof

whereof we are Members, that therein GOD would Establish Peace and Truth, the Purity of all His Ordinances, and the Power of Godliness, prevent and Remove Heresy, Schism, Profaneness, Superstition, Security and Unfruitfulness under the Means of Grace, Heal all our Rents and Divisions, and Preserve us from Breach of our Solemn Covenant. Prayers are to be put up for all in Supreme Authority, and those in Subordinate Authority to them, *1 Tim. 2. 1, 2, 4.* Which Prayers are to be directed by their Circumstances. We are to Pray for all Pastors and Teachers, that GOD would fill them with His Spirit, and make them Powerful in their Ministry, and give unto all His People Pastors according to His own Heart ; For the Universities and Schools, and Religious Seminaries for Church and Common-Wealth, that they may flourish more in Learning and Piety, for the particular City or Congregation, that GOD would pour out a Blessing upon the Ministry of the Word, Sacraments and Discipline, upon the Civil Government, and all the Families and Persons therein ; For Mercy to the Afflicted in any inward or outward Distress ; For Seasonable Weather, and Fruitful Seasons, as Time may require ; For Averting Judgments that we either Feel or Fear, or are liable unto, as Famine, Sword, Pestilence, and such like. To pray earnestly for His Grace and Effectual Assistance to the Sanctification of His Holy Sabbath, the LORD's Day, in all the Duties thereof, that the LORD who teacheth to profite, would graciously please to pour out the Spirit of Grace, together with the outward Means thereof, causing us to attain such a Measure of the Excellency of the Knowledge of CHRIST JESUS our LORD that we may account all things but as Dross, in comparison of Him, and that we tasting the first-fruits of the Glory to come, may long for a more full and perfect Communion with Him. That GOD would in special manner furnish His Servant

now called to Dispense the Bread of Life unto His Household, with Wisdom, Fidelity, Zeal and Utterance, that he may divide the Word of GOD aright, to every one his Portion, in Evidence and Demonstration of the Spirit and Power, and that the LORD would Circumcise the Ears and Hearts of the Hearers to hear in Love, and receive with Meekness the Ingrafted Word, strengthen them against the Temptations of Satan, the Cares of the World; the Hardness of their own Hearts, and whatsoever else may hinder their profitable and saving Hearing.

*Publick
Prayer after
Sermon.*

§ 23. The Sermon being ended, the Minister is to give Thanks for the Great Love of GOD in sending of his Son JESUS CHRIST unto us, for the Communication of His Holy Spirit; for the Light and Liberty of the glorious Gospel, for the Admirable Goodness of GOD, in freeing the Land from Antichristian Darknes and Tyranny, for the Reformation of Religion, and many Temporal Blessings: And to Pray for the Continuance of the Gospel, and all Ordinances thereof in their Purity, Power and Liberty: and to turn some of the most useful Heads of the Sermon into some few Petitions, and to Pray that it may abide in the Heart, and bring forth Fruit in the Life and Conversation. To pray for Preparation for Death and Judgment, and a Watching for the Coming of our LORD JESUS CHRIST; To Intreat of GOD the Forgiveness of the Iniquity of our Holy Things, and the Acceptation of our Spiritual Sacrifice, through the Merit and Mediation of our Great High Priest and Saviour, the LORD JESUS CHRIST:

*The meaning
of the Di-
rectory.*

§ 24. Notwithstanding of the Above-Directory for publick Prayers, the Minister may (as in prudence he shall see meet) make use of some part of these Petitions after the Sermon, or he may offer up to GOD some of the Thanksgivings in his Prayer before Sermon.

§ 25. By

§ 25. By the *Act of Assembly, August 6. 1649,* Their Commission being Impowered to Emit the Paraphrase of the *Psalms,* and Establish the same for publick Use, they did accordingly Conclude and Establish the Paraphrase of the *Psalms* in Meeter, now used in this Church, after the Presbyteries had sent their Animadversions thereupon.

Of Singing of Psalms, and the Authority of the present Paraphrase.

§ 26. It was the Antient Practice of the Church, as it is yet of some Reformed Churches abroad, for the Minister or Precentor to Read over as much of the *Psalms* in Meeter together, as was intended to be Sung at once, and then the Harmony and Melody followed without Interruption, and People did either Learn to Read, or get most of the *Psalms* by Heart; But afterwards it being found, that when a New Paraphrase of the *Psalms* was Appointed, it could not at first be so Easy for the People to follow, then became it Customary, that each Line was Read by it self, and then Sung. But now having for so long time made use of this Paraphrase, and the Number of these who can Read being Increased, it is but Reasonable that the Antient Custom should be Revived, according to what is insinuated by the Directory on this Subject. And that such who cannot Read may know what *Psalms* to get by Heart, let such be Affixed on some conspicuous part of the Pulpit as are to be Sung in publick at next Meeting of the Congregation. It were to be wished that Masters of Families would path the way for the more Easy Introducing of our former Practice by Reviving and Observing the same in their Family Worship.

Singing is not to be interrupted by reading of the Line.

§ 27, In the 38 *Seff. of Assen. 1648.* There is an Act for Examining the *Labours* of Mr. *Zachary Boyd* upon the other *Scripture-Songs.* And by *Assen. 1706, Seff. 4.* The *Scripture-Songs* by Mr. *Patrick Sympson* Minister at *Renfrew,* are Recommended to be used in private Families: And in Order to prepare them for the publick Use of the Church, this was Renewed in *Assen. 1707.* And by the

Scripture Songs to be used in Families, and prepared for publick Use.

the 15 *Act* of *Assembly* 1708, Their Commission is Instructed and Appointed to Consider the Printed Version of the Scripture Songs, with the Remarks of Presbyteries thereupon, and after Examination thereof, they are Authorized and Impowered to Conclude and Emit the same, for the publick use of the Church : The present Version of the *Psalms* having been Ordered in the same manner in the Year 1649.

*The Design
and Intention
of the Soul in
Singing.*

§ 28. Though a Believer be Afflicted, yet he is to Sing since it is such a Duty as Prayer is, tendeth to Cheer the Souls Disposition, and to Sweeten and Mitigate the Cross unto it. Complaints of our Sin and Failings may be Mournful Songs. And because GOD hath Redeemed, Pardoned and Comforted others ; Therefore we are to Rejoice in the Hope and Desires of the same to our selves. Though the Subject of a Song doth not always quadrate with our Case, yet unto a judicious attentive Person there is always some Attribute of GOD, some Providence or Word of His, in that very Subject to be praised. In the *Imprecatory Psalms*, we sing to the Praise of Divine Justice, against the Malicious Enemies of His Church, like unto these that the *Psalmist* did aim against.

*Ministerial
Benediction.*

§ 29. The Minister useth to Dismiss the Congregation with a Solemn Blessing or Prayer to GOD for them, which ordinarily is in these or the like Words, 2 *Cor.* 13. 14. *The Grace of the Lord Jesus Christ, the Love of God the Father, and the Communion of the Holy Ghost be with you all, AMEN ;* But when Probationers for the Ministry are Preaching, they use to pronounce the Blessing with this Variation, In stead of *be with YOU*, they say, *be with US.* And the Moderators of General Assemblies Observe the same Stile in pronouncing of the Blessing at their Dissolution. Yet seing no Minister of a Congregation, doeth put up that publick Prayer alone, it would therefore seem, it should always run in the Ordinar Stile of other Congregational Petitions, *viz. Be with Us.*

§ 30.

§ 30. Ministers their Bowing in the Pulpit, though a Lawful Custom, is hereafter to be laid aside, for Satisfaction of the Desires of the Synod of England, February 7th 1645: Bowing in the Pulpit to be laid aside.

T I T L E II.

Of Family Worship.

§ 1. **B**Y Act of Assembly August 24. 1647. Revived Habitual Neglects of Family Worship Censurable by Suspension from the Lord's Table. Assembly 1694. They Approve of the following Rules and Directions, for private and secret Worship, and mutual Edification, for cherishing Piety, maintaining Unity, and avoiding Schism and Division. And Ministers and Ruling Elders are required to make diligent Search in the Congregation, whether there be among them any Family which neglects to perform Family Worship; And if any such be found, the Head of the Family is first to be admonished privately, to amend his Fault, and in case of his continuance therein, he is to be gravely Reproved by the Session: After which Reproof, if he be found still to neglect Family Worship, let him be suspended from the Lord's Supper.

§ 2. The Head of every Family is to have a Care, that both themselves and all within their Charge be daily diligent in performing of secret Worship, and be given to Prayer and Meditation. Secret Worship to be performed.

§ 3. The ordinary Duties of Families convened for the Exercise of Piety are these, *First*, Prayer and Praises; What Family Worship is. *Next*, Reading of the Scriptures, with Catechizing in a plain way together, with Godly Conferences, as also Admonitions and Rebukes upon just Reasons.

§ 4. The

*Reading of
the Scriptures
to be Improved
in Family-
Conference.*

§ 4. The Master of a Family though of the best Qualifications, is not to take on him to interpret the Scriptures; Yet, it is commendable, that, by way of Conference, they make some good Use of what hath been read and heard. As for Example, if any Sin be reprov'd in the Word read, Use may be made thereof, to make all the Family Circumspect and Watchful against the same; Or, if any Judgment be threatned, or mentioned to have been inflicted in that Portion of Scripture which is read, Use may be made, to make all the Family fear, lest the same or a worse Judgment befall them, unless they beware of the Sins that procured it. And finally, if any Duty be required, or Comfort held forth in a Promise, Use may be made to stir up themselves to implore Christ for Strength to enable them for doing commanded Duty, and to apply the offered Comfort: In all which the Master of the Family is to have the chief Hand, and any Member of the Family may propound a Question or Doubt for Resolution.

*Chaplains
their Use and
Abuse.*

§ 5. Persons of Quality are allowed to entertain One approved by the Presbytery for performing the Worship of God in their Families. And in other Families where the Head is unfit, One constantly residing in the Family, and approved by the Minister and Session may be employed in that Service. Yet it was never the Mind of the Church, that Persons of Quality should lay their Family Worship intirely upon their Chaplains, and never perform it in their own Persons, as appears from the solemn acknowledgement of Sins, where they confess, The Ignorance of GOD and of His Son prevails exceedingly in the Land; The greatest part of Masters of Families amongst Noblemen, Barons, Gentlemen, Burgessees and Commons, neglect to seek GOD in their Families, and to endeavour the Reformation thereof; And albeit it hath been much pressed, yet few of our Nobles and great Ones ever to this Day could be perswaded to perform Family-duties themselves, and in their own persons,

Persons, which makes so necessary and useful a Duty to be mis-regarded by others of Inferiour Rank; Nay, many of the Nobility, Gentry and Barons, who should have been Examples of Godliness and sober Walking unto others, have been Ring-leaders of Excess and Rioting.

§ 6. Considering that persons aiming at Division may be ready to creep into Houses, and lead Captive silly and unstable Souls: For preventing whereof, no Idler who hath no particular Calling, or Vagrant Person, under pretence of a Calling, is to be suffered to perform Worship in Families. The not observing of this Direction, hath been of sad Consequence to some Families in this Land in the late times. Neither are Persons from divers Families, to be Invited or admitted into Family-Worship, unless it be these who are lodged with them or at Meat, or otherwise with them upon some lawful Occasion.

*No meer
Stranger to
perform Family
Worship.*

§ 7. So many as can conceive Prayer, ought to make use of that Gift of GOD; albeit those who are rude and weaker may begin with a set Form of Prayer, but so as they be not sluggish in stirring up in themselves the Spirit of Prayer, which is given to all the Children of GOD in some measure.

*Set Forms
for Prayer in
cases of neces-
sity allowed.*

§ 8. Let them confess to GOD how unworthy they are to come in His Presence, and how unfit to Worship His Majesty, and therefore earnestly ask of GOD the Spirit of Prayer. They are to confess their Sins and the Sins of the Family, accusing, judging and condemning themselves for them, till they bring their Souls to some measure of true Humiliation; They are to pour out their Souls to GOD in the Name of Christ, by the Spirit, for Forgiveness of Sins, for Grace to Repent, to Believe, and to live Soberly, Righteously and Godly, and that they may serve GOD with Joy and Delight walking before him; They are to give Thanks to GOD for His many Mercies to His People and to themselves, and especially for His Love in Christ,

*Materials for
Family Prayer.*

and for the Light of the Gospel : They are to pray for such particular Benefits, Spiritual and Temporal as they stand in need of for the time : They ought to pray for the Church of Christ in General, for all the Reformed Churches, and for this Church in particular, and for all that suffer for the Name of Christ, for all Superiors, for the Queen's Majesty, and Inferiour Magistrates : For the Magistrates, Ministers, and whole Body of the Congregation : And for their Neighbours absent about their lawful Affairs, and for these that are at Home. The Prayer may be closed with an earnest Desire that GOD may be glorified in the coming of the Kingdom of His Son, and that what they have asked according to His Will may be done.

*Fasts and
Thanksgiving
Days in
Families.*

§ 9. Extraordinary Duties both of Humiliation and Thanksgiving are to be carefully performed in Families, when the LORD by extraordinary Occasions, private or publick, calleth for them.

*Travellers
are to Worship
together.*

§ 10. Persons of divers Families being Abroad upon their particular Vocations, or any necessary Occasions, are to take care that the Duties of Prayer and Thanksgiving be performed by such as the Company shall judge fittest.

*Church Of-
fice-Bearers to
be deposed who
neglect Family
Worship.*

§ 11. By an Act of Assembly 1697. *Seff.* 5. such Elders and Deacons as obstinately refuse or neglect Family-worship by themselves or others appointed for that End, are to be removed from their Office.

T I T L E III.

Of Baptism.

*What Bap-
tism is.*

§ 1. **B**aptism is a Sacrament of the New Testament, wherein Christ hath ordained the washing with Water in the Name of the Father, Son, and Holy Ghost, to be a Sign and Seal of Ingrafting into Him-
self,

self, and of partaking of the Benefits of the Covenant of Grace, and whereby the Parties Baptized are solemnly admitted into the visible Church, and enter into an open and professed Engagement to be Only and Wholly the LORDS.

§ 2. The visible Church which is Catholick or Universal under the Gospel, consists of all these throughout the World, that profess the true Religion, together with their Children: And Baptism is not to be administred to any that are out of the same, they being Strangers to the Covenant of Promise, till they profess their Faith in Christ, and Obedience to Him: But Infants descending from Parents, either both or but one of them, professing Faith in Christ and Obedience to Him, are in that respect within the Covenant, and to be Baptized. The Directory for Worship says, that Children of professing Parents are Christians and federally Holy before Baptism, and therefore are they Baptized: For their Baptism supposeth them to be Church Members, and doth not make or constitute them such. And therefore the practice of denying Burial among Christians unto Children unbaptized is unagreeable to this Doctrine, and is most unwarrantable: If we consider, that the Sacraments are Ordinances to be administred in the Church, and to the Church, they necessarily suppose the Pre-existence of a Church, and the Child's previous Right to that Seal.

§ 3. By that Covenant whereof Baptism is a Seal, the LORD promiseth to be our GOD, and we are in His promised Strength to engage to be His People, which Engagement, tho' Christian Infants be not capable to come under of themselves, formally; Yet by their Parents vowing in their name and stead, they do thereby become absolutely bound to the performance thereof, because their Obligation and Duty to be the LORD's, were supposed, and previous unto their being Baptized.

§ 4. When both Parents are dead, or necessarily absent, another Sponzor is to be taken; Or, when they are Scant-
And is whom to be administred
The Engagement of Parents in Baptism binds their Children.
When another Sponzor than the Parent is necessary.

alous and Erroneous, and thereby give ground to think they are none of Christs, and for which they may merit the highest Censures of the Church, if not prevented by Evidences of their sincere Repentance : In that case, to testify that it doth not appear that the Children have any Right unto the Privilege of that Sealing Ordinance through their immediate Parents ; And that they may notwithstanding have a Right thereto by their more remote Parents, it is necessary that a Sponsor present the Children, and engage for them. The Parent is to be required to provide some fit Person, and, if it can be, one related as a Parent to the Child should be Sponsor. Yet it seems Ignorant Parents are to be admitted to present their Children : For by Act of Assembly 1648. *Seff. 38. Article 3.* of Domestick Remedies of the Sins of the Land, this is one, That Persons to be married, and who have Children to be Baptized, who are very rude and ignorant, be stirred up and exhorted, as at all times, so especially at that time, to attain some measure of Chaistian Knowledge in the Grounds of Religion, that they may give to the Minister, before the Elder of the Bounds where they live, some account of their Knowledge, that so they may the better teach their Family and train up their Children.

*When the
Session should
be Sponsor.*

§ 5. In case of Children Exposed, whose Baptism, after Inquiry, cannot be known, the Session is to order the presenting of the Child to Baptism, and the Session it self is to see to the Christian Education of the Child : As also, when scandalous Parents cannot prevail with any fit Person, or rather Relation, to present the Child in their name, or when the Relations of deceased Parents refuse to become their Sponsors : The Session then is to order as is said. The Magistrate is to take care that Exposed Infants be maintained, by laying the Expences thereof upon the Parish proportionally. By the 84. *Canon. Con. 6. In Trullo, Canonicas patrum leges sequentes, de Infantibus quoque*

De-

Decernimus, Quoties non inveniuntur firmi testes qui eos absque ulla Dubitatione Baptizatos esse dicant, nec ipsi, propter atatem de sibi tradito Mystério aptè respondere possint, debere absque ulla offensione Baptizari.

§ 6. By the 4. Article, Cap. II. of the French Church Discipline, the Children of Fathers and Mothers of the Romish Church, and of Excommunicated Persons, cannot be Admitted in the Church, tho' they were presented by Believing Sponsors, unless their Fathers and Mothers Consent to it, and Desire it, in quitting and yeilding up to the Sponsors their Right as to Instructing them: For Baptism being a Privilege and Benefite, it is not to be Imposed, nor Children Baptized against their Parents will, into a Communion whereof they are not Members; Hence the Custom of the Church, at Administring of Baptism, is, to ask the Parent or Sponsor, if they present that Child to be Baptized, to which they Declare their Willingness by their Answering Affirmatively. By the 10th Act of the said 11. Chapter, These who present Children to be Baptized, must be, at least, Fourteen Years of Age, having received the Sacrament of the LORD's Supper, and if they have not, that they Promise Faithfully to use their Endeavours to prepare for it.

§ 7. When single Persons or Families Remove unto other Congregations, they cannot Regularly there be Admitted unto the Benefit of the Sacraments for themselves or Children, till they produce a Declaration of the Church from which they came, Testifying them to be free of any known Scandal, otherways these Holy Things may be profaned, contrary unto that Church Practice and Precept, *Sacra Sacris*, of which Testimonials there should a Register be kept, and they run in this Form, ‘ ‘ These are to ‘ Testify, that the Bearer hereof hath Lived in this ‘ Parish of _____ preceeding _____ last by past. During ‘ which Space he Behaved himself Civilly and Honestly, ‘ free

Baptism not to be Imposed. The Age and Qualifications of a Sponsor.

The Use, End, and Form of Testimonials.

‘ free of all Church Censure, or publick Scandal known
 ‘ to us. This given by Command of the Church Session
 ‘ of the said Parish. At the day of
 ‘ Years, By A. B. *Seff. Clerk.*

*Their Im-
 port, and how
 and why dif-
 ferent from
 Testimonials
 in order to the
 LORD's Sup-
 per.*

§ 8. This Testimonial Imports, that the Person Attest-
 ed is not *per famam clamoriam*, or notariy Scandalous,
 through Errour or Immorality; But it doth not suppose
 him to have a competent measure of Knowledge, for that
 is left to the Tryal and Enquiry of the Church, to which
 he seeks to be added as a Member: Therefore their
 Judgment is never Anticipate by any such Clause, unless
 in Testimonials for Persons desiring the Benefite of the
 LORD's Supper in another Parish, where the Pastor
 thereof cannot then get time to Examine all Strangers.
 'Tis true, when Mens Lives and Measure of Knowledge
 are generally believed to be Good and Competent, this
 Order as to such, may be Dispensed with, yet it were to be
 Wished that even those would Observe it, and not give
 Occasion to others, not so Good or Knowing, to be An-
 gry, when they are Restricted or Obliged unto it. *Vid.*
Part 3. Tit. 20. § 3.

*Form of
 Baptifmal
 Engagement.*

§ 9. In the Baptifmal Engagement the Parent or Spon-
 sor, is, in Name of the Child, to Renounce the Devil and
 all his Works, the vain Pomp and Glory of this wicked
 World, and all the sinful Lusts of the Flesh. He is to
 Promise to Bring up the Child in the Knowledge of the
 Grounds of the Christian Religion, as they are contained
 in the Holy Scriptures of the Old and New Testament:
 And lastly, He is to Bring up the Child in that Holy
 Life and Practice which GOD hath Commanded in His
 Word. The Engagements to be given in Name of Chil-
 dren at Baptifm, should be Exprest in these or the like
 general Terms, conform to the Directory for Worship,
 Approven by the General Assembly, *Feb. 7. 1645.* The
 Due Observation whereof is seriously Recommended by
 the 10th *Act of Affem. 1705.* § 10. The

§ 10. The Sacrament of Baptism is to be Administrate in the Face of the Congregation after Sermon, and before pronouncing of the Blessing, (See *Act. of Assen. Feb. 7. 1645.*) The Child to be Baptized, after Notice given to the Minister the Day before, is to be presented, the Pastor remaining in the same place where he hath Preached, and having Water provided in a Large Bason ; He is before Baptism to use some Words of Instruction, touching the Author, Institution, Nature, Use, and End of this Sacrament : He is also to Admonish all that are present to Repent of their Sins against their Covenant with GOD, and to Improve and make the Right Use of their Baptism : Next, the Parent, or Sponsor, is to be Exhorted to Order his Conversation aright, and walk Circumspectly, when he is to be Engaged in the Words of the Form above. This being done, Prayer is also to be joyned with the Word of Institution, for Sanctifying the Water to this Spiritual Use. The Prayer is to this or the like Effect, That the LORD, who hath not left us as Strangers without the Covenant of Promise, but called us to the Privileges of His Ordinances, would Graciously Vouchsafe to Sanctify & Bless His own Ordinance of Baptism at this time : That He would join the inward Baptism of His Spirit with the outward Baptism of Water ; Make this Baptism to this Infant a Seal of Adoption, Regeneration, and Eternal Life, and of all other Promises of the Covenant of Grace ; That the Child may be planted in the Likeness of the Death and Resurrection of CHRIST, and that the Body of Sin being Destroyed in him, he may Serve GOD in Newness of Life all his Days. Then the Minister is to Demand the Name of the Child, which being Told him, He is to say (calling the Child by his Name) *I BAPTIZE THEE In The NAME Of The FATHER, Of The SON, And Of The HOLY GHOST.* As he pronounceth these Words, he is to Baptize the Child with
Water,

*The Form
of Ministration
of Baptism and the
Prayer.*

Water, which for the manner of doing, it is not only Lawful but Sufficient, and most Expedient, to be by Pouring or Sprinkling of the Water on the Face of the Child, without adding any other Ceremony. This done, He is to give Thanks and Pray to this or the like purpose; Acknowledging with all Thankfulness, that the LORD is True and Faithful in keeping Covenant and Mercy, that He is Good and Gracious, not only that he Numbereth us among his Saints, but is pleased also to bestow upon our Children this singular Token and Badge of His Love in CHRIST; That in his Truth and special Providence, he daily bringeth some into the Bosom of his Church, to be Partakers of His Inestimable Benefites purchased by the Blood of His Dear Son for the Continuance and Increase of His Church; And praying that the LORD would still continue and daily confirm more and more this His unspeakable Favour: That He would Receive the Infant now Baptized, and Solemnly entered into the Household of Faith, into His Fatherly Tuition and Defence, and Remember him with the Favour He sheweth unto His People: That if he shall be taken out of this Life in his Infancy, the LORD, who is Rich in Mercy, would be pleased to Receive him up into Glory, and if he Live and attain the Years of Discretion, that the LORD would so Teach him by his Word and Spirit, and make his Baptism Effectual to him, and so Uphold him by His Divine Power and Grace, that by Faith he may prevail against the Devil, the World and the Flesh: till in the End he Obtain a full and final Victory, and so be kept by the Power of GOD through Faith unto Salvation, through JESUS CHRIST Our LORD.

*Ministers
are to Reject
Indecent
Names to
Children.*

§ 11. By the 14th Article, Chap. 11. of the French Church Discipline, Ministers shall Reject Names given to Children, that savour of antient Paganism, such as *Diana*, and the like; and the Names Attributed to GOD, such

as *Emmanuel*, and the like, but the Names of Holy Men and Women in Scripture are to be chosen.

§ 12. By the 10th *Act* of *Assen.* 1690. They Con-
 sidering, that the Parties Receiving the Sacraments, are
 Solemnly Devoted and Engaged to GOD before Angels
 and Men, and are Solemnly Received as Members of the
 Church, and do entertain Communion with Her: And
 that by former Acts, *viz.* December 10. 1638. and
 Feb. 7. 1645. The private Use of them hath been Con-
 demned: As also, that by allowing the private Use of
 the same in pretended Cases of Necessity, the Superstitious
 Opinion is Nourished, that they are necessary unto Salva-
 tion, not only as Commanded Duties, but as Means with-
 out which Salvation cannot be attained. Therefore they
 Discharge the Administration of the LORD's Supper to
 Sick Persons in their Houses, and all other Use of the
 same, except in the publick Assemblies of the Church.
 And also, they Discharge the Administration of Baptism
 in private, that is, in any place, or at any time, when the
 Congregation is not Orderly called together to wait on
 the Dispensing of the Word. Which is agreeable to the
 6th *Article*, *Chap.* 11. of the *French Church Discipline*,
 and not to be Dispensed with, except in Times of Perse-
 cution. And when a Child is Baptized in a private House,
 as is used in *England*; In that case the Minister is to
 Certify the Congregation to which the Child belongs, that
 the same was Baptized by him, at such a time, and in such
 a place before divers Witnesses. By the 31. *Can. Conc.*
 6. in *Trullo*: *Clericos qui in Oratoriis quæ sunt intra*
domos sacra faciunt vel Baptizant hoc illius loci Episcopi
sententia facere debere, decernimus. Quare si quis Clericus
hoc non sic servaverit, deponatur.

Private Use
of Sacraments
Condemned.

§ 13. There is a Register to be kept of the Names of
 all Baptized, and of their Parents Names and Designations,
 and of the time of their Baptism, and of the Names of the

Register of
Baptism.

R

†

Witnesses

Witnesses thereto. And of all Illegitimate Children their Names, and those of their Parents shall be likewise Insert: But of such it is only said, That they are not born in Lawful Marriage. When it is an Incestuous Child, it shall suffice to Name the Mother, with the Presenter of the Child, that the Remembrance of so Hainous a Sin may be Extinguished. This is conform to the 19th *Article* of the foresaid 11. *Chapter*.

*Baptism to
be but once
Administred.*

§ 14. Baptism is not to be Administred but once unto any Person. It is not the practice of the Reformed Churches to Re-baptize those who were Baptized by the Popish Clergy: For they Baptize with Water in the Name of the Father, Son, and Holy Ghost as we do. But *Quakers*, and others, who want this External Seal of the Covenant of Grace, though such should make Profession of the true Faith, that Sacrament of Baptism doth remain to be Administred unto them, before they or their Children can enjoy the Privileges of Church Members.

*He who
Baptizeth
must be Or-
dained and
Lawfully Cal-
led.*

§ 15. Neither of the Sacraments may be Dispensed by any, but by a Minister of the Word Lawfully Ordained, faith our *Confession of Faith, Cap. 27. Art. 4*. And Persons are to be Baptized by a Minister of the Gospel lawfully called thereunto, according to *Art. 2. Cap. 28*. Our Law makes Infelements Void and Null, where they are not given by such as it Appoints and Authorizeth to give them: Thus are all Infelements in Royal Burghs, not given by some of the Magistrates or Clerks thereof. Yet Baptism, when it is Administred by a Person, whose Ordination and Call is not agreeable to the Principles, Constitutions and Practice of this Church, the Essentials of the Sacrament being Observed, that Baptism is Esteemed as Valid, tho' not as Lawful. And although the Reformed Churches, (so far as I can learn) would Inflict the highest Censure upon Women or Laicks, as Profaners and Mockers of the Holy Sacraments, if they presumed to Dispense them:

them : and would not have the least Scruple to Baptize those on whom they had wickedly Usurped a Power to Impose a Mock of it ; Yet I find they have Declined to Determine so clearly in the case of Re-baptizing of these who were Baptized by Deposed Ministers : Which, I think, doth not proceed so much from the want of a parity of Reason, as it doth from the Offence, which may sometimes be taken by a great part of a Church, who do not understand, or are not satisfied with the Grounds of their Deposition, or perhaps may be altogether Ignorant of their being Deposed. But when a Deposed Minister hath so little Interest, and so few Followers, that he is Esteemed by most, yea by a vast Majority, to be Lawfully Deposed : In that Case it might give Offence, not to Re-baptize a Child who was so Unlawfully Baptized.

T I T L E I V.

Of the LORD's Supper.

§ I. **T**HE LORD's Supper, so called from the time What the of its Institution and first Celebration, is a LORD's Su- Sacrament of the New Testament, wherein per is. by giving and receiving Bread and Wine, according to the Appointment of JESUS CHRIST, His Death is shewed forth, and they that Worthily Communicate, not after a Corporal and Carnal manner, but by Faith, feed upon His Body and Blood, to their Spiritual Nourishment and Growth in Grace, have their Union and Communion with Him Confirmed, Testify and Renew their Thankfulness and Engagements to GOD, and their mutual Love and Fellowship

Fellowship each with other, as Members of the same Mystical Body.

Who may be
Admitted
thereto, and
who not?

§ 2. These who are to be Admitted to this Sacrament, must be found to have a Competent Knowledge of the Fundamentals of the Christian Religion, and to be of such an Inoffensive Walk and Conversation, both towards GOD and their Neighbours, that they are not known to be Guilty of any Scandal that Meriteth Church-Censure. By the 12. *Chap.* of the *French Church Discipline Art. 2.* Persons shall not be Admitted to the LORD's Supper, till they be above Twelve Years of Age. But I'm sure, if Children at Nine Years of Age can Express themselves Piously and Knowingly, shewing that they have the Grace Signified and Promised, The Seal of the Promise cannot Warrantably be Denied unto them. By the 6. *Art.* of that *Chapter*, a Man that is Deaf and Dumb, shewing his Piety and Religion what he can, by evident Signs, Tokens, and Gestures, may be Admitted to Partake, when by a long Experience of the Holiness of his Life, the Church shall perceive he has Faith. By the 7. *Art.* thereof, The Bread of the Sacrament is to be Administred to those who cannot drink Wine, they Protesting that it is not through Contempt, and they doing what they can towards it, by putting the Cup as near their Mouth as they may do to avoid giving any manner of Offence. And by the 10. *Art.* of the same 12. *Chapter*, they say: In as much as several Sick Persons come to receive this Sacrament, which gives Occasion that severals make. Scruple of drinking the Wine after them, the Pastors and Elders shall be Warned to take good Heed that Care and Prudence be used in this Matter. They may Communicate last.

The Ordinary Elements
to be used in
the LORD's
Supper.

§ 3. Ordinary Bread is to be used, and it is most decent it be Leaven'd Wheat Bread. Any kind of Wine may be used in the LORD's Supper, yet Wine of a Red Colour seemeth most suitable. In case a Society of Christians should

should want the Fruits of the Vine of all Sorts, I cannot think but it might be Supplied by some Compofure as like unto it as could be made: And if any Church laboured under that Invincible Necessity, were it not safer for them to Interpret that as a Call and Warrant to Communicate, though wanting the Fruit of the Vine, than to Construct it an Authorizing them in a perpetual Neglect of that Sacrament?

§ 4. When the Admission of these who are allowed to Partake of the LORD's Supper, is once Recorded by a Sentence of the Church Session, which is to proceed either upon the Ministers Examining of the Parties in their presence, or at least of two or three of the Elders, that so the Rest may pass their Sentence on their Testimony and Report. In that Case there will never be any Necessity of coming afterwards to Ministers and Elders for Re-admission, unless by after Scandal they be judicially Suspended from that Privilege. *See the Vindication of Presbyterial Government, Printed at London 1659, page 143. vide infra § 6, and 16.*

*Communi-
cants to be Re-
corded by the
Sessions Order,
and Admitted
by their Sen-
tence after
Tryal.*

§ 5. When the Sacrament of the LORD's Supper is to be Celebrated in a Neighbouring Congregation, who have not Leisure, and whose Work is not to Examine Strangers (as above) The Minister, or any Two Elders in his Absence, may give Testimonials, yea should give to any of their Parish, who Communicate ordinarily at their own Parish Church, and are without Scandal in their Life for the time, who are thereupon to be Admitted *ex debito*, and by reason of the Communion of Saints. But this is not to prejudge the Admission of any Honest Person, who occasionally is in the place where the Communion is Celebrate, or such as by Death or Absence of their own Minister or Elders, could not have a Testimonial. *Act of Assens. Feb. 7. 1645, Art. 12. about Uniformity of Worship.*

*How Stran-
gers are Ad-
mitted with,
& how without
Testimonials.*

§ 6. By

*Ministers
Behaviour,
especially with
Persons when
first Admitted.*

§ 6. By the 11. *Act* of the *Assembly* 1706, It is Recommended to all Ministers, to take as strict a Tryal as can be of such as they Admit to the LORD's Supper, especially before their first Admission thereto, and that they Diligently Instruct them, particularly as to the *Covenant of Grace*, and the Nature and End of that Ordinance as a Seal thereof, and Charge upon their Consciences the Obligations they ly under from their *Baptismal Covenant*, and seriously Exhort them to Renew the same. This fully Answers the End that any Protestant Bishop can have in Ministring of Confirmation, or laying on of Hands upon those that are Baptized and come to Years of Discretion: Neither doth it Savour of any Superstition, or any Scandalous like Approach to the *Papists* their Confirmation (by Chrism on Infants) for the receiving of the Holy Ghost, which is nothing else but an audacious and apish Imitation of Conveighing Miraculous Operations by the Apostles hands.

*Persons
Guilty of more
private Scandals,
how to be
Admitted.*

§ 7. It is Agreeable to the Law of Nature to seek and promote the Good of others, according to our Ability and Opportunity, by Admonishing them to Forbear Sin and Repent for it, *Lev. 19. 17. Thou shalt not hate thy Brother in thy Heart, thou shalt in any ways Rebuke thy Neighbour, and not suffer Sin upon him. See Matth. 18. 15.* I suppose that the Sovereigns on Earth did publish their Intentions of Pardoning all Traitors, who should expresse their Sorrow and Hatred at former Treasons, and as a Mean to Reduce them to that Happy Temper, had strictly Commanded and Required all their Good Subjects, to put them in Mind of the Ingratitude, Folly, and Danger of their Treason: Would not we conclude that a Neighbour seeing his Fellow commit Treason, and not Reproving him therefore, did neither Regard his Sovereign's Honour and Authority, nor yet Valued his Neighbour's Happiness? How much more justly may Our

LORD

LORD and SAVIOUR load and charge Church Rulers with this Sin, if they fail to perform that Duty, seeing he hath laid His special Commands upon them to do it? And therefore, if any Elder or Minister, shall suffer one whom they know to be guilty of some scandalous or hainous Sin, though not publick, to approach unto the LORD's Table, without satisfiying Acknowledgements made in private for it, they do thereby, for ought they know, suffer him to partake of that holy Supper with un-repentèd Sin upon him.

§ 8. As there are divers kinds of good Gifts, so there are divers Degrees of them, according to which we may and ought to love our Neighbour, more or less, because we are commanded to do good unto all Men, both with our Spiritual Advice, and with our Worldly Goods, Ministering to their Necessities, but especially unto them who are of the Household of Faith, *Gal. 6. 10.* We are bound to shew our Love to our Enemies, by overcoming Evil with Good. *Rom. 12. 21.* Which is the way, not only to be even with them that wrong us, but to be above them. Every Man is called to provide for his own, especially for those of his own House, *1 Tim. 5. 8.* We are to have a Natural Affection for such as be near to us in Blood, and the want thereof is discovered by their want of Converse. The Apostle *1 Cor. 5. 11.* forbids to keep company with some scandalous Persons, and admitting that Precept to be prohibitive of a Civil Intimacy, it holds as a stronger Argument against Religious Communion with, or at least Admission of them to such a distinguishing Ordinance. *Solomon, Prov. 22. 24.* forbids us to go into the company of a furious Man, and to converse frequently and familiarly with an angry Man, as Friends use to do. So that, though there are common Offices due to all Men, yet that distinguishing Practice of Friends in frequent conversing together, is free and optional, as the bestowing of Gifts is. Indeed, when

*Persons who
converse not
together; How
to be admitted.*

when nottour scandalous breaches and differences do happen, in that case, the Parties should be obliged to a formal Agreement, by conversing in presence of those, whose Work it is to Compose such Differences: But even then, they can be obliged to continue in no more Friendship than a common Converse imports, especially the lesed Party. They may be indeed both obliged to profess a sincere Reconciliation, tho not unto a familiar Conversation. But as to the usual converse with those of our Hóushold and Blood-Relations, as Husband with Wife, and Father with Children or the like, it is agreeable both to the Laws of Nature and Interest, firmly to preserve and persevere in that. Wherefore upon the whole, where such near Relations refuse usual converse with one another, or Neighbours at variance shall refuse to renew or continue a common converse, in that case, neither of the guilty Parties ought to be admitted to the LORD's Table.

Persons scandalous per famam clamorosa; How to be admitted, or attested. § 9. *Fama clamorosa, publica & frequens*, doth supply the part of an Accuser, so that any who ly under the lash of such Reports, must be so far from being admitted to the LORD's Table, or yet attested of, as free of Scandal, that they should be process'd thereupon, and have the Benefit of neither, till they justify themselves, *vide Tit. Of Visitation of Families.*

How to admit those who take some different Methods from the Church.

§ 10. When one Church Government is established, if the Church shall even then be so unhappy as to be afflicted with Schism from those who own the same. In that case, there ought to be Union and Communion sought and admitted, notwithstanding failings and defects of several kinds: Providing Union and Communion may be had without accession to the Guilt or Defects of others: That is, without being obliged to approve of them, or condemn in our own Practice what we judged Right, or that we be not by any Engagement restrained from a Duty. Indeed where there is no Union in Church Government, Mr. DURHAM or

Scandal, Chap. 13. says, He cannot nor dares not offer any Directions for making up an Union here. As for allowing these who in their Judgment differ about Church Government to Communicate with us: It is safer to allow them to Communicate with us, than for us to Communicate with them; For by this way, they may be brought unto us, and we out of hazard of being led away by them. But for all this, such Persons are not to be admitted, if they be in their Practice culpable of any thing which would justly keep back those of our own Communion; that would be truly a contracting of too much guilt, for gaining of any occasional Profelite or Communicant.

§ 11. When there hath been a great and general Defection by a Church and Kingdom, then the National Assembly useth to appoint a National Fast and Humiliation for these Causes. See the Act for a Fast *November 12th. 1690.* And whoever had been guilty or accessory to the Sins and Evils therein acknowledged: If they joined in the publick Fasting, they did thereby acknowledge the Causes thereof to be just and true, and professed their Sorrow and Humiliation therefore: Wherewith the Session ought to be satisfied, if they signifie their Meaning to have been so, or that they judge the Causes of the Fast True and Relevant.

§ 12. By the Act of Assembly, *August 3d. 1642.* every Presbytery is enjoined to proceed against Non-Communicants. And by the *11. Art. Cap. 12.* of the *French Church Discipline*, these who have been a long time in the Church, and will not Communicate of the LORD's Supper, if they do it through Contempt, or for fear of being obliged to forsake all manner of Idolatry, after several Admonitions, they shall be cut off from the Body of the Church: But if it be through Infirmary, they shall be born with for some time, until they can be established. And by the Act of Parliament *16. Jam. 6. Cap. 17.* which is never yet Rescinded,

How these who are guilty of National Sins should be admitted.

How Non-Communicants should be treated.

scinded, but rather Included in the Acts made and Ratified against Profaneness. By it all Men are to Communicate once a Year, without respect to the Excuse of deadly Feuds, under Pecunial Pains according to the Quality of the Transgressors. This Act is Ratified by the Parliament 1641. Tho' People ought not, nor cannot, be compelled to Communicate, yet Non-Communicating, not being a Matter Indifferent, but a palpable Disobedience to GOD's Voice in the Gospel, (*Luke* 22. 19.) they ought to account for that scandalous Neglect and Intermiſſion, e're they be of-new admitted:

*The Deſign
& Distribu-
on of Tickets.*

§ 13. None muſt preſume to ſit down at the LORD's Table, but ſuch as are admitted according to Order, except thoſe whoſe Fitneſs is unqueſtioned and notour. Each Perſon before Communicating doth deliver the Pariſh Lead Ticket, when ſought for, to one of the Elders or Deacons when ſitting at the Table: But it were ſafer to demand theſe Warrants or Tokens at their entry to the Tables: For a Perſon unwarrily or deſignedly approaching to the Table without a Token, may with leſs Obſervation or Offence, be thus kept from it, than raiſed from it. Theſe Tickets are diſtributed by the Seſſion, or Members thereof by their Allowance, to ſuch as they have admitted, or know to be lawfully atteſted from other Pariſhes.

*Fencing and
Opening of the
Tables; It's
Uſe and End.*

§ 14. The Miniſter and Seſſion having according to the Rules of Diſcipline, admitted unto, or debarr'd Perſons from the Lord's Table, the Paſtor doth now, immediately before he read the Words of Inſtitution, Doctrinally debarr from, and inviteth all unto the Lord's Table according to the State and Condition they *really are in*. If there has been an Un-exactneſs or Omiſſion in the Exerciſe of Diſcipline, through which ſome are admitted whom the Word of GOD forbids to approach on their Peril; This Doctrinal debarring may ſcarr ſuch from partaking. But if there hath been an imprudent and uncharitable Exerciſe of Diſcipline,

cipline, in debarring of some wrongously, then the Pastor's Doctrinal opening of the Tables, and inviting such from the Word of GOD to approach, albeit debarred by the Key of Discipline, may nevertheless comfort themselves in the Lord, who will be a little Sanctuary unto them who are thus roughly and indiscreetly treated by the Watch-men. From all which, we may gather, that it's safer to err on the right Hand of Charity, than on the left Hand of Strictness and Severity ; The Civil Law gives this Rule, *Semper in dubiis benigniora preferenda sunt.*

§ 15. It is so far from being a Warrant, and satisfying to a Man's Conscience, for approaching the Lord's Table, because the Discipline of the Church admitts him, that even a Man habitually Gracious and prepared, will not for ordinar adventure to approach it, except he hath made Conscience of getting himself actually prepared, and his Graces put in Exercise, and set apart some considerable time for that purpose.

*Secret Pre-
paration.*

§ 16. By the Act of Assembly 7 February 1545, about the Observation of the Directory in some Points of publick Worship, Congregations are still to be Tryed and Examined before the Communion. *Item*, That when the Communion is to be celebrate, one Minister may be employed for assisting the Minister of the Parish, or at the most two. *Item*, That there be one Sermon of Preparation delivered in the ordinary Place of publick Worship upon the Day immediately preceeding. *Item*, That the Minister who cometh to assist, have a special care to provide his own Parish. *Item*, That before serving of the Tables, there be only one Sermon delivered to these who are to Communicate, and that there be one Sermon of Thanksgiving after the Communion is ended. *Item*, When the Parishioners are so numerous, that many of them cannot conveniently have place ; In that case, the Brother who assists the Minister of the Parish, is to preach to them who are not to

*Publick Pre-
paration.*

Communicate that Day, which is not to begin, until the Sermon in the Kirk be ended, *To wit,* Sermon in the Fore-noon.

The present Practice.

§ 17. But by the present Practice, the *Thursday*, or some other Day of the Week, preceeding the Communion, is kept as a Fast-day, on which there are three Sermons, delivered by so many Neighbouring Ministers, which yet to some seems not very proper: For the Design of that Day being a Congregational Fast, on which, the Sins of that Parish are to be mourned over before the LORD, no other Minister can have such particular Knowledge thereof, as he who Labours and Travels among them. Upon *Saturday* there are two preparation Sermons; And upon the LORD's Day there are in some Churches two Action Sermons, beside the Thanksgiving in the After-noon; And on the *Monday* there are two Thanksgiving Sermons. There will be at these Occasions, three, five, or perhaps more Ministers assisting the Pastor of the Congregation, because of the great Confluence of People that resort thereto. Intimation of the Celebration of the Supper, is made two or three Sabbaths before: (the Directory speaks but of one) And on the Sabbath immediately preceeding publick Intimation is made of the Fast.

What intervenes 'twixt the Action Sermon and the Action it self.

§ 18. Upon the Day of the Communion, a large Table being so placed, as the Communicants may best sit, and the Congregation may both see and hear, the publick Worship is begun as on other Sabbaths. And immediately after Sermon, the Minister Prays and sings a part of some Psalm, then, having had an Exhortation, he desires the Elders and Deacons to bring forward the Elements, while he cometh from the Pulpit, and sitteth down at the Table, and the Congregation again Sing; Thereafter, he fenceth and openeth the Tables, as before was said. The Bread now standing before him in large Dishes, fitly prepared for Breaking and Distribution, and the Wine in large Cups; He Reads,
and

and may shortly expound the Words of Institution, 1 Cor. 11. 23.---27. Next, He useth a Prayer, wherein he both giveth Thanks for the Inestimable Benefit of Redemption, and prays to GOD to sanctifie the Elements, and accompany His own Ordinance with the effectual Working of His Spirit.

§ 19. The Elements being thus Sanctified by Word and Prayer, the Minister is to take the Bread, and say, According to the Holy Institution, Command, and Example of our Blessed LORD and SAVIOUR JESUS CHRIST, I take this Bread; and having given Thanks, I break it, and give it unto you, Take ye, Eat ye; this is the Body of CHRIST which is broken for you, do this in Remembrance of Him. In like manner, the Minister is to take the Cup, and say, According to the Institution, Command, and Example of our LORD JESUS CHRIST, I take this Cup, and give it unto you, This Cup is the New Testament, in the Blood of CHRIST, which is shed for the Remission of the Sins of many, Drink ye all of it: For as oft as ye eat this Bread, and drink this Cup, ye do shew the LORD's Death till He come. If the Minister have no other Brethren assisting him in the Administration, from whom he is rather to take the Communion at the next Table, he is to Communicate himself at the first breaking of the Bread, and distributing the Cup.

§ 20. All the while the Elders and Deacons in a competent Number, and in a grave and reverent Manner, do attend about the Table, to see that none be admitted without Tokens, as in § 13. *Huj. Tit.* and that all who are admitted, may have the Bread and Wine in their own Place and Order of Sitting, which is without Difference of Degrees, or Respect of Persons.

§ 21. By the last mentioned Act of Assembly, there is to be no Reading in the time of Communicating, but the Minister maketh a short Exhortation at every Table; That there

The Minister's Behaviour at the Action.

Service of Tables by Elders and Deacons.

The Behaviour of Ministers and Communicants during the Service.

there be Silence during the time of the Communicants receiving, only the Minister may drop a short and futeable Sentence. By that same Act, the distribution of the Elements among the Communicants is to be universally used, after the Minister hath broken and delivered it to the nearest. *Item*, That while the Tables are dissolving, and filling, there be always singing of some Portion of a Psalm. *Item*, That the Communicants both before their going to, and after their coming from the Table, shall only joyn themselves to the present publick Exercise then in Hand. *Item*, That none of those who are present in the Kirk, where the Communion is celebrate, be permitted to go forth, till the whole Tables be served, and the Blessing pronounced; unless it be for more Commodious Order, and in other Cases of Necessity.

*Exhortation
and Thanks-
giving after
all have Com-
municate; and
the Conclusi-
on.*

§ 22. The last Table, after they have Received, ordinarily sitteth still, to avoid any trouble by going to their own Places. Then the Minister goes to the Pulpit, where, in a few Words, he putteth them in mind of the Grace of GOD in JESUS CHRIST, held forth in this Sacrament, and Exhorts them to walk worthy of it. Then he gives solemn Thanks to GOD for His rich Mercy in JESUS CHRIST, Begg His Pardon for the Defects of the whole Service, and Intreats His Assistance to walk as becometh those who have received so great Pledges of Salvation, and then concludes with the usual Petitions in the publick Prayers of the Church. After Prayer, all joyn in singing a part of a Psalm, futeable to the Occasion, and are dismissed with the Blessing.

*The frequent
Celebration of
the LORD's
Supper Re-
commended.*

§ 23. In the Manuscript Acts of Assembly, there is an Act December 1562. appointing the Communion to be celebrate four times a Year in Towns, and twice a Year in Country Parishes; yea, it was Ministred then once a Mo-neth, as may be seen by the old Discipline bound in with the old Psalms, and Forms for Prayer in Mr. KNOX's time.

And

And by the 14th *Art. Cap.* 12. of the *French Discipline*, It is Recommended to their National Synod, to give Directions about the more frequent Celebration of the LORD's Supper, and their Custom then was four times a Year. But our *Acts of Assembly* 1638, *Sess.* 23. *Act* 12. *Act* 19. of *Assen.* 1701, and Directory for Worship, do only Recommend the Frequent Celebration of the LORD's Supper: But how often is to be Determined by the Kirk-Sessions, as they shall find most Convenient for the People, their Comfort and Edification. These Recommendations seem to be Treated with little or no Regard among us, for as yet, so far as I know, not one Parish hath Celebrate it once more than Ordinary upon their Account. I'm sure, if they will have it but once a Year, yet Parishes, in the Neighbourhood may so Correspond, as to have it in that Bounds all the Months of the Year, which will Supply the want of its Frequency in one Parish, at least unto such as may well Travel unto their Neighbour Churches.

§ 24. By the *Act Jam.* 6. *Parl.* 3. *Cap.* 54. *sub fin.* the Parsons of all Parish-Kirks are to furnish Bread and Wine to the Communion so oft as it shall be Administrate. And by the *Act of Assen.* 1638, *Sess.* 23. *Art.* 12. Where the Minister of a Parish has only Allowance for furnishing Communion Elements once a Year; It is Declared, that the Charges should rather be payed out of that Days Collection, than that the Congregation want the more frequent Use of the Sacrament. *Spanhemius*, in his *Introduction. to Sacred History*, tells us, that in the Second Century, the LORD's Supper was then Expressed by several Names, and among others it was called the *OBLATION*, from the Peoples Offering the Bread and Wine. And truly, if the People were desired to Contribute Money for that End, it were but Reasonable, and not to be Grudged, even though it were but once a Year Celebrated,

How Communion Elements are payed, and applied when the Communion is not Celebrate.

ed, where the Minister has no Allowance even for that once, and wants likewise a Legal Maintenance, Allocated and Secured unto him. But where the Communion is but once a Year, and the Minister hath a Legal Stipend secured to him, he ought to be Discharged to take or Defray the Expences of the Elements out of the Money given and Mortified for the Use of the Poor: And this Practicè is rendered yet the more Scandalous and Inexcusable, in Parishes where this Sacrament is but once a Year Celebrate, and where there be Colleagues who have both Legal Stipends. The Sum ordinarily Modified for Communion Elements doth not Exceed Fifty Merks *Scots*, which the Heretors are lyable yearly to pay, albeit the Communion be not Administrate in the Parish, providing the Minister offer to Apply it for the Use of the Poor.

T I T L E V.

Of the Solemnization of Marriage.

Marriage described. § I. **M**ATRIMONIUM Is Defined by *Modestinus* to be *Maris & Fœminæ conjunctio, & omnis vitæ Consortium, Divini & Humani juris communicatio, .i. e.* The Conjunction of Man and Woman to be Consorts for all their Life, with a Communication of Rights Divine and Humane. By the Laws of the Church of *England*, as they are Reformed by *Henry the 8th*, and *Edward the 6th*, in the Latter Edition Printed at *London 1641*, Marriage is Defin'd, *Legitimus contractus mutuam & perpetuam viri cum fœmina conjunctionem, Dei jussu inducens & perficiens; in quo tradit uterque*

uterque alteri potestatem sui corporis, vel ad prolem suscipiendam, vel ad scortationem evitandam. NUPTIÆ are sometimes taken *pro ritu nuptiali*, for Wedding Ceremonies.

§ 2. The *Sponsalia*, or Espousals, *sunt mentio & repositio futurarum nuptiarum*, or, *de futuro Matrimonio*, It is only a Consent *de presenti* that makes Marriage: But the Consent *de futuro*; which is given at the Contract of Marriage or Proclamation of Banns, is only the Espousals, which are premised to Marriage, it being so Solemn an Act, should be performed with due Deliberation. By the Civil Law and Custom of this Nation, there is place, *rebus integris* for either Party to Repent, and Renounce the Espousals. Vide *Stairs Instit.* page 25. And by the 9th Art. Cap. 13. of the *French Church Discipline*, tho' it be Prohibited to Marry the Sister of the Deceased, yet it doth not condemn Marrying the Sister of one Contracted, that is Dead, because it supposes that an Alliance is not Consummated but by Commixtion of Blood or Sex. See the *Commentary* on that *Article*.

§ 3. Marriage ought not to be within the Degrees of Consanguinity or Affinity, forbidden by the Eighteenth Chapter of *Leviticus*; The Man may not Marry any of his Wives Kindred nearer in Blood than he may of his own, nor the Woman of the Husbands Kindred nearer in Blood than of her own. (See the *Confession of Faith*) Otherwise the Marriage may be Declared to have been Null. A Man may Marry any of his Wives Allies, or a Woman any of her Husbands Allies; *nam non datur Affinitas Affinitatis*.

§ 4. Marriage being Ordained for the Increase of Mankind, and for Preventing of Uncleanness, Persons Naturally Impotent are therefore Incapable to Marry. Yet by the Laws of the Church of England, as Reformed by K. Hen. 8th, and King Edward the 6th, *De Matrimonio*,

Sponsalia
on *Espousals*
what?

Forbidden
Degrees

Marriage
may be declared
Null upon Im-
potency, and
when not?

Cap. 7. their Canon runs thus, *Verum si nota sit utriusque perversitas, & tamen mutus perducet de Matrimonio consensus, nuptiæ procedant; quoniam volentibus nulla injuria potest fieri.*

Who cannot Consent, cannot Marry. § 5. These who cannot Consent cannot Marry, such as Idiots and Furious Persons *durante furore*, neither they who have not the Use of their Reason, as Infants and those under Age who are not come to the Use of Discretion, that is when the Person is within the Years of Pupillarity, commonly Established in Law to be Fourteen in Males, and Twelve in Females, *nisi malitia suppleat ætatem*, which without further Probation Declares them to be Arrived at that Discretion which fits them for Marriage.

Consent of Parents, and of Promises of Marriage made by Minors. § 6. If it be asked, whether the Consent of Parents, Curators or nearest Friends in their place be Essential to Marriage? The Common Sentence will Resolve it, *Multa Impediunt Matrimonium contrahendum, quæ non dirimunt contractum.* So that their Consent becomes necessary, as it were, *necessitate præcepti, sed non necessitate mediæ.* And by an Overture of Assembly, June 4. 1644, It is proposed to be Considered on, and Reported by the Presbyteries, that Promises of Marriage made by Minors, to Women with whom they have Committed Fornication, be Declared Null and of no Effect; Especially when the Youth is not willing to Observe the same, because his Parents Threaten him with the Loss of their Blessing and of his Birth-right. This is proposed as being agreeable to the Word of GOD.

Errors that Annul the Consent in Marriage. § 7. Errors in the Substantials make void the Consent, unless future Consent Superven, as it did in *Jacob*, who supposed that he had Married and received *Rachel*, but by mistake got *Leah*, yet was content to Retain her, and to Serve for the other also: But Errors in Qualities or Circumstantials vitiate not, as if One supposing he had Married

Married a Maid or Chast Woman, had Married a Whore according to *Stairs Inst. pag. 26.* Yet by *Deut. 22. 21.* That Error seemeth to be accounted Substantial: For by that Text a Woman so Deceiving a Man was to be put to Death. And by the *38 Art. Cap. 13. French Church Discipline,* If it should happen, that after Contracts and Promises made, and before the Accomplishment of Marriage, the Bride is found to have Committed Fornication, before or after the said Promises, and that it was unknown to him who had promised her Marriage, the Consistory may proceed to a New Marriage: And the Bride shall have the same Liberty, if it be found that the Bridegroom has been guilty of Fornication before the said Promise. By the *5th Art. Cap. 24. of our Confession of Faith,* that Case is only Determined thus far, *viz.* Adultery or Fornication committed after a Contract, being detected before Marriage, giveth just Occasion to the Innocent Party to Dissolve that Contract, and they Support this from that Scripture, *Matth, 1. 18, 19, 20.*

§ 8. Parties cannot be Married without they be known to be single Persons, either by the Ministers own proper Knowledge; or by a Testimonial from some Minister, Elders, or Session, bearing the same. But albeit they cannot procure a Testimonial in common Form, through their being Scandalous, yet the Benefit of Marriage cannot be Denied them after the Proclamation of Banns. But by the *21 Art. Cap. 23. of the French Church Discipline,* if one of the Parties who desire to be Married, is Excommunicated, the Marriage shall not be Admitted in the Church, unless the Excommunicate Person make Confession of his Faults, but those that are Suspended from the LORD's Supper they allow to be Married. *Testimonials for Marriage*

§ 9. By the *3d Article, Chap. 24. of our Confession of Faith,* such as profess the true Reformed Religion, should not Marry with Infidels, Papists, or with other Idolaters, or with such as maintain Damnable Heresies. And in *Marriage with Papists*

purfuance of that by an Overture of the *Assembly 1701*, The Transgressors were to be Excommunicated. But our States-men Disliking the same, this Overture in the *Assembly 1704, Act 22*. Issued only in a Recommendation. By the *72 Canon Concilii Sexti in Trullo*, It is Determined thus, *Non licere virum Orthodoxum cum muliere hæretica conjugii, neque verò Orthodoxam cum viro hæretico copulari, sed & si quid ejusmodi ab ullo ex omnibus factum apparuerit, irritas nuptias existimare & nefarium conjugium Dissolvi*. But if two Infidels Marry, and one of them becometh Christian, the Person Converted is not thereupon Warranted to Desert or put away the other Party who continues Blind, *1 Cor. 7. 13, 14*. And by *Can. 31. Concilii Laodicensi, Quod non oportet cum omni Hæretico Matrimonium contrahere, vel dare filios aut filias, sed potius accipere si se Christianos futuros profiteantur*. And by the *20 Article, Cap. 13. of the French Church Discipline*, when one of the Parties is of a Contrary Religion, the purposes of Marriage shall not be published in the Church, until the Party doth publickly profess in the Church, that with full Resolution he Renounceth all Idolatry and Superstition, particularly the *Mafs*: And if any Pastor or Consistory do otherwise, they may be Suspended or Turned out of their Office: Thus Difference in Religion justly Impedes but doth not Annull Marriage.

Marriage
delayed 40.
Days after
Proclamation
and Scorning
the Kirk.

§ 10. If Parties Delay their Marriage Fourty Days after Proclamation, they are to be put to the Renewing of the same before they be Married: And the *French Discipline, Cap. 13. Art. 26*. doth Recommend, not to Delay the Celebration after Proclamation of Banns, above Six Weeks, to prevent Inconveniencies and ill Consequences. The Refiling of Parties after Proclamation, is commonly called among us, a Scorning of the Kirk, tho the Injury or Affront redounds mostly against themselves, and not so much upon the Congregation. Indeed, if it could be known

known that Parties never had a serious Purpose for Marriage, but only from a profane, mocking and vain Temper, had desired themselves to be proclaimed; In this case, they deserve to be treated as Mockers of GOD and His People. There are other ways whereby GOD and His Church may be mocked, when Persons, who be found in Body and Mind, are given up to be minded in the publick Prayers of the Church, when they are truly distressed in neither, the Authors of which Mocking and Forgery deserve to be proceeded against with the Censures of the Church.

§ 11. Adultery and wilful Desertion do not annul the Marriage on any absolute Necessity, but they are just Occasions upon which the Persons Injured may annul it, and be free; Otherways, if they please to continue, the Marriage remains Valid, excepting when the Adultery is Committed or Accompanied with Incest, as if a Man should ly with his Wife's Sister, in which case the Wife cannot free her self from the Scandal of Incest, if she, after Knowledge thereof, continue to Co-habite with him as her Husband. And by the *Parl. 1573. Cap. 55.* it is Ordered, that the Deserter, after four years Wilful Desertion without a Reasonable Cause, must be first pursued, and Decern'd to Adhere, and being there upon Denounced, and also after Private and publick Admonitions, by the Church Excommunicate, the Commissars are warranted to proceed to Divorce. But simple absence will not be accounted wilful Desertion, if he be following any Lawful Employment Abroad. In Case then, A party be out of the Countrey, I see not how this Order can be Used and Proceeded in, unless it were Sufficiently Verified and made appear, that he knew of his being Cited before these Consistorial Courts, and that his Absence was Wilful and not Necessary.

When Adultery and wilful Desertion annul Marriage.

§ 12. A Party divorced for Adultery may marry again, so it be not to those with whom the Adultery, upon which the Divorce proceeded, was committed: For Marriage between

Re-marrying in Case of Divorce or proceven Adultery.

tween such is declared null, and the Issue inhabile to succeed to their Parents as Heirs, *Parl. 1600. Cap. 20.* Yea, it seems agreeable to Equity and Reason, that where Adultery was proven, albeit no Divorce ensued, in that case the Adulterers cannot marry together. Which agrees with the *Civilians*, That, *Dolus malus facit cessare quodcumque privilegium, fraus enim nemini debet patrocinari imò puniendi.*

Force annuls
Marriage.

§ 13. Marriage contracted with a Woman Ravished or violently taken away and still Reclaiming, is annulled from the beginning; See *Mackenzie & Matthæus de Raptu.* And to this agrees that forecited Book of the Ecclesiastical Laws of *England, Cap. 12. de Matrimonio.* But I'm sure 'tis unjust to treat their Children as Sons of Whores; See *Lib. 3. Tit. Ravishers of Women.*

[Time and
Place of Mar-
riage.

§ 14. After Banns have been lawfully proclaimed, and none found objecting against the Marriage, the same may thereafter be Celebrate in private Houses, before Witnesses, as the Custom is now become, upon any Week-day, not being a Fast-day. Albeit by the Directory for Worship, it is publickly to be Solemnized in the Place appointed by Authority for publick Worship, before a competent Number of credible Witnesses, and they advise that it be not on the LORD's Day. I'm sure, Seamen who are to loose and go to Sea on *Monday*, may marry on the *Saturday* as well as on the *Sabbath* before.

No Marri-
age without
Proclamation
of Banns, un-
less the Pres-
bytery Dis-
pense there-
with.

§ 15. Marriage without Proclamation is discharged, as having dangerous Effects, excepting where the Presbytery, in some necessary Exigences, dispense therewith, *Assemb. 1638. Sess. 23. Art. 21. Assemb. 1690. Sess. 12.* Before any Proclamation of Banns be made, the Names of Parties, and their Parents, Tutors, or Curators, are to be given up to the Minister, that the Consent of Friends may be known, and the Proclamation is to be made before Divine Service begin, for three several *Sabbaths*; The Parties named be-

ing

ing designed as fully as they use to be in Writs or Contracts of Marriage, and in Collegiate Churches, the Proclamation is to be in every Church of the Town, *Assem. 1699. Sess. 5.* By the 18. *Ar. 13. Cap.* of the *French Church Discipline*, these who live in Places where the usual Exercises of Religion is not established, may cause their Banns to be published in *Romish Churches*, inasmuch as the Matter is partly of a Political Nature. And by the 22. Article of that Chapter, the Banns of Widows who Re-marry shall not be published in the Church, till seven Months and two Weeks, at least, after the Decease of their former Husbands, to avoid the Scandals and Inconveniencies that may happen by it, unless it so happen, that the Magistrates Order may Interpose to the contrary.

§ 16. One may be Clandestinely Married, either when Banns are not proclaimed, or when the Marriage is Celebrated by one not Ordained and Admitted by the Church, nor Authorized by the State. By our Acts of Parliament *W. Par. Sess. 5. Cap. 12.* The Persons Clandestinely Married, may now be prosecuted by every Procurator Fiscal. And by *Cap. 6. Sess. 7. Parl. K. W.* Persons Clandestinely Married, are obliged, when required, to declare the Name of the Celebrator, and Witnesses, under the Pains following, *viz.* Each Nobleman 2000 *lib.* the Landed Gentleman 2000 *Merks*, any other Gentleman or Burgefs 1000 *lib.* and any other Person 200 *Merks*, and to be Imprisoned till they Declare and Pay. The Celebrator is punishable by the Council, not only with Banishment, but in such Pecunial or Corporal Pains as they shall think fit; The Witnesses are made lyable in the Sum of 100 *lib.* None of the Parties (if both be Residing in *Scotland*.) shall get themselves Married in *England*, or *Ireland*, without Proclamation of Banns in *Scotland*, and against the Order of the Kirk, under the Pains as aforesaid, which are always without prejudice of Kirk-Censure. And there is no doubt they

*Clandestine
Marriage,
What? It's
Punishment,
and Censure.*

they should be Rebuked as unnecessary Transgressors of a very Comely and Rational Church Order.

Objectors against the Marriage on that Day ought to find Caution.

§ 17. By the Form of Solemnization of Matrimony, prescribed by the Church of *England*, in the Book of Common Prayer: If any Man upon the Day of Marriage, do Alledge and Declare any Impediment, why the Parties may not be coupled together in Matrimony, by GOD's Laws, and the Laws of the Realm, and will be bound, and sufficient Sureties with him, to the Parties, or else put in a Caution (to the full Value of such Charges as the Persons to be Married do thereby sustain) to prove his Allegation; Then the Solemnization must be deferr'd until such time as the Truth be tried.

Form of Solemnization of the Marriage Covenant.

§ 18. After the Purpose of Marriage hath been Orderly Published. The Minister is first to pray for a Blessing upon the Parties appearing to be Married: Which being ended, he is briefly to Declare unto them out of the Scripture, the Institution, Use and Ends of Marriage, with the Conjugal Duties. Then he is solemnly to charge the Persons to be Married, that they would Answer as in the Sight of GOD, to whom they must give a strict Account at the last Day, that if either of them know any Cause, by Pre-contract or otherways, why they may not Lawfully proceed to Marriage, that they now discover it. The Minister, if no Impediment be acknowledged, shall cause first the Man take the Woman by the Right Hand, saying these Words. *I, N. do take thee N. to be my Married Wife, and do in the Presence of GOD, and before these Witnesses, Promise and Covenant to be a Loving and Faithful Husband unto thee, until GOD shall separate us by Death.* Then the Woman shall take the Man by the Right Hand, and say these Words. *I, N. do take thee N. to be my Married Husband, and I do in the Presence of GOD, and before these Witnesses, Promise and Covenant, to be a Loving, Faithful and Obedient Wife unto thee, until GOD shall separate us by Death.*

Death. Then without further Ceremony, the Minister shall pronounce them to be Husband and Wife according to GOD's Ordinance, and so conclude the Action with Prayer.

§ 19. By the Directory for Worship on this Head, a Register is to be carefully kept, wherein the Names of the Parties so Married, with the time of their Marriage, are forthwith to be fairly Recorded, for the Perusal of all whom it may concern. And that the Registers of Baptisms and Marriages may bear the greater Faith, it's fit they be subscribed on each page by the Minister; Or, in a Vacancy, by two Elders, and the Clerk of the Session.

Register of Marriage & Baptisms; How to bear Faith.

T I T L E VI.

Of Visitation of the Sick.

§ 1. **W**E are admonished by the Apostle Paul 1 Cor. 10. 32. to give no Offence neither to the Jews nor to the Gentiles, nor to the Church of GOD. By the 41 Canon Concil. Carthagin. Clerici ad Viduas vel Virgines non ingrediantur, sed cum Con-clericis, vel ubi adsunt Clerici, vel aliqui bonæ existimationis Christiani. And by the Act of Assembly August 24th 1647. Sess. 19. Art. 13. sometimes the Person troubled may be of that Condition, or that Sex, that Discretion, Modesty, or fear of Scandal, requireth a Godly grave Friend to be present, when the Pastor is visiting the troubled Person.

Ministers, Elders, or Deacons, should be Cautious in being alone with unmarried Women when sick or in trouble.

§ 2. It is the Minister's Duty to Admonish, Exhort, Reprove and Comfort these committed to his Charge, upon all seasonable Occasions, so far as his Time, Strength and Personal Safety will permit. The People are often to confer with their Minister about the Estate of their Souls, and in times of Sicknes to desire his Advice and Help, before their Strength and Understanding fail them: For this and what follows of this Title see the Directory.

Ministers and People are frequently to converse about their Souls Matters.

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§ 3. The

*The Matter
of his Confe-
rence when
sent for to the
Sick.*

§ 3. The Minister being sent for, is to repair to the Sick, and to apply himself with all Tenderneſs and Love to his Soul, instructing him out of the Scripture, that Diſeaſes come not by Chance, or by Diſtempers of Body only, but by the Wiſe Hand of GOD; And whether it be laid upon one out of Diſpleaſure for Sin, for his Correction or Amendment, or for Tryal and Exerciſe of his Graces, or for other ſpecial and excellent Ends, all his Sufferings ſhall turn to his Profit, if he ſincerely Labour to make a ſancti-ſyed Uſe of GOD's Viſitation, neither deſpiſing His Chaiſtning, nor waxing weary of His Correction.

*How to deal
with the Igno-
rant, Doubt-
ing and Se-
cure.*

§ 4. If the Miniſter ſuſpect him of Ignorance, he ſhall Examine and Inſtruct him in the Principles of Religion, and in the Nature, Uſe, Excellency and Neceſſity of the Graces of the Spirit of GOD. He ſhall ſtir up the Sick Perſon to Examine himſelf, to ſearch and try his former Ways, and his Eſtate towards GOD. If the ſick Perſon ſhall declare any Scruple, Doubt, or Temptation, that is upon him, Inſtructions and Reſolutions ſhall be given to ſettle him. But if it appear that he hath not a due Senſe of his Sins, Endeavours ought to be uſed to convince him, of the Guilt, Pollution and Deſert of them; And withal, to make known the Danger of delaying Repentance, and to rouse him out of a ſtupid ſecure Condition, to apprehend the Juſtice and Wrath of GOD, before whom none who are out of CHRIST can ſtand: Care muſt be taken that the ſick Perſon be not caſt down into deſpair, by ſuch a ſevere Representation of the Wrath of GOD due to him for his Sins, as is not mollified by a reaſonable propounding of CHRIST and His Merits, for a Door of Hope to every penitent Believer.

*How to deal
with theſe of
whoſe Well-
being there
is ground of
Hope.*

§ 5. If the ſick Perſon have endeavoured to walk in the Ways of Holineſs, and to ſerve GOD in Uprightneſs, altho' not without many Failings and Infirmities; Or, if his Spirit be broken with the Senſe of Sin, or caſt down through

through the Sense of the want of GOD's Favour : Then it will be fit to raise him up, by setting before him the Freeness and Fulness of GOD's Grace, the Sufficiency of CHRIST's Righteousness, and the gracious Offers in the Gospel : It may be also useful to shew him, that Death hath no Spiritual Evil to be feared by those who are in CHRIST, because Sin, the Sting of Death is taken away by Him, who hath delivered all that are His from the Bondage of the Fear of Death. Let Advice also be given, as to beware of an ill-grounded Perswasion on Mercy, or on the goodness of his Condition for Heaven, so to disclaim all Merit in himself, and to cast himself wholly upon GOD for Mercy, in the sole Merits and Mediation of JESUS CHRIST.

§ 6. When the sick Person is best compos'd, may be least disturb'd, and other necessary Offices about him least hindered ; The Minister, if desired, shall pray with and for him, confessing and bewailing Original and Actual Sin, acknowledging it to be the Cause of all Misery ; Imploring GOD's Mercy for the sick Person through the Blood of CHRIST, beseeching that GOD would open his Eyes, cause him to see himself lost in Himself, make known to him the Cause why GOD smiteth him, Reveal JESUS CHRIST to his Soul for Righteousness and Life, give unto him His Holy Spirit to create and strengthen Faith, to work in him comfortable Evidences of His Love, to Arm him against Temptations, to take off his Heart from the World, to furnish him with Patience and Strength, to bear his present Visitation, and to give him Perseverance in Faith to the end : That if GOD shall please to add to his Days, he would vouchsafe to bless all Means of his Recovery, renew his Strength, and enable him to walk worthy of GOD by a faithful Remembrance and diligent Observing of his Vows and Promises of Holiness and Obedience : And if GOD hath determin'd to finish his Days, by the present

The Minister is to pray, if desired, And for what ?

Visitation, he may find such Evidence of his Interest in CHRIST, as may cause his Inward Man to be Renewed, while his Outward Man Decayeth.

Peculiar Admonitions to the Sick, and Exhortations to such as are present.

§ 7. The Minister shall Admonish him also, as there shall be Cause, to set his House in Order, thereby to prevent Inconveniencies, to take Care for the Payment of his Debts, and to make Restitution or Satisfaction where he hath done any Wrong; to be Reconciled to those with whom he hath been at Variance, and fully to Forgive as he Expects Forgiveness. He may also Improve the present Occasion to Exhort these about the Sick Person, to consider their own Mortality; And in Health so to prepare for Sickness, Death and Judgment, that when CHRIST who is our Life shall appear, they may appear with him in Glory. When Sick Persons desire the Prayers of the Congregation, it is like an Intimation and Suit to these who have any Moyes with GOD to Pray for them in Secret, and continue so to do, as well as in Publick.

Why the Sick-Roll is Read in publick.

T I T L E V I I.

Of Burial of the Dead, Lyke-wakes, and Dirges.

The manner of Burial.

§ 1. **B**Y the Directory for Worship, Upon the Day of Burial, the Dead Body is to be attended decently, futeable to the Rank of the Deceased Party to the Burial-place, and there immediately Interr'd without any Ceremony. 'Tis most convenient that at such Occasions, we have Meditations and Confernces suited thereto, and that the Minister as upon other Occasions, so at this time if he be present, may put them in Remembrance of their Duty.

§ 2. By

§ 2. By the Old Book of Discipline in Mr. *Knox's* Time, annexed to the Old Paraphrase of the *Psalms*; after Burial, the Minister, if present and desired, goeth to the Church, if it be not far off, and maketh some Comfortable Exhortation to the People, touching Death and the Resurrection. But by the *Act of Assembly* 1638, *Sess.* 23, 24. *Art.* 22. all Funeral Sermons are Discharged. *No Funeral Sermons.*

§ 3. By the *Act of Assembly* 1643, *Sess.* 9. They Discharge Burials, and hanging of Honours, Broads and Arms of Persons of whatsoever Quality, within the Kirk where the People meet for publick Worship: For perhaps at some times the People would be Incommoded with open Graves. Bishop *HALL* of *Norwich* was of Opinion that GOD's House was not a meer Repository for the Bodies of the Greatest Saints. *Nor Burial in the Body of the Church.*

§ 4. By the *Acts of Assembly* 1645, *Sess.* 8. *Assembly* 1701, *Sess.* ult. All Lyke-wakes are Discharged, as Fostering Superstition and Profanity through the Land. No doubt, *Dirges* have likeways had as bad Effects, and from the same Reason may be also understood to be Discharged. *Like-wakes and Dirges Discharged.*

TITLE VIII.

Of Ministerial Visitation of Families.

§ 1. **I**T hath been the laudable Practice of this Church, at least once a Year, (if the Largeness of the Parish, or bodily inability, or other such like do not hinder) for Ministers to Visite all the Families in their Parish, and oftner if the Bounds be small, and they able to perform it. Among other Reasons for these Annual *Annual Visitations of Families, the Custom of this Church.*

nual Visitations of Families, this may be one, That because by the Order prescribed by our LORD, *Matth. 18.* there may be several Offences known to Ministers, Elders or Neighbours, which may justly keep back Offenders from partaking of the LORD's Supper, and yet it were Disorderly and Unedifying to remove these Offences in a publick way; these Visitations may serve to Purge a Congregation of such private Scandals.

*The Design
of the following
Overtures.*

§ 2. Although in regard of the different Circumstances of some Parishes, Families and Persons, much of the Management of the Work must be left to the Prudence and Discretion of Ministers, in their Respective Oversight; Yet these following Directions are offered by *Assembly 1708, April 27,* as helps for the more Uniform and Successful Management thereof, that it be not done in a slight and overly Manner, which supposeth the universal Practice thereof through this Church, and that the total Neglecters may be Censured therefore as supinely Negligent.

*Time of Vi-
sitation, it's In-
timation, &c.*

§ 3. Such a time of Year is to be chosen for Ministerial Visitation, as the Families which he visits may be best at Leisure to meet with him, and if that time should happen immediately after the Communion, then it is seasonable, as it were, to beat the Iron while it is hot. Timeous Intimation is to be made to them of the Visitation: And the Elder of that Bounds of the Parish which is to be visited, is to accompany the Minister, and they should previously Censure together concerning the Condition and State of the Persons and Families of those Bounds.

*First work to
Salute the Fa-
mily, Inquire
for their
Names, Testi-
monials, &c.*

§ 4. When they enter a House, they are to Express their Wishes and Desires for the Blessing of GOD upon it, and that above all, their Souls may prosper: Then let them take an Account of the Names of the Family, Inquire for Testimonials from them who are lately come to the Parish, and Mark them in the Roll for Catechising,

and

and let them take notice who can Read, and of the Age of Children capable to be Catechiz'd; Then the Minister is to speak to them all in General, of the Necessity and Advantage of Godliness, of Justice and Charity towards Man.

§ 5. He is next more particularly to speak to Servants of their Duty, to Serve and Fear GOD, to be Dutiful, Faithful and Obedient Servants, and of the Promises made to such, Commending to them the Reading of the Scriptures, and Secret Worship, and Love and Concord among themselves, and in particular, a Holy Care of Sanctifying the LORD's Day. *Servants spoken to in particular.*

§ 6. The Minister is to show the Children and young Servants the Advantage of Knowing, Seeking and Loving GOD, and Remembering their Creator and Redeemer in the Days of their Youth, and to mind them how they are Dedicated to GOD in Baptism; and when of Age, and after due Instruction in the Nature of the Covenant of Grace; to Excite them to Engage themselves Personally to the LORD, and to Design and prepare for the first Opportunity they can have of partaking of the LORD's Supper, to be especially careful how they at first Communicate. *Children to be spoken to.*

§ 7. Then he is to speak privately to the Heads of the Family about their personal Duties towards GOD, and the Care of their own Souls; and their Obligation to promote Religion and the Worship of GOD in their Family, and to Refrain and get Vice Punished, and Piety Encouraged, and to be careful that they and all in their House Serve the LORD; and Sanctify His Day. He is more particularly to Inquire (1.) Whether GOD be Worshipped in the Family, by Prayers, Praises, and Reading of the Scripture? (2.) Concerning the Behaviour of Servants towards GOD and towards Man, if they attend Family and publick Worship? How they Sanctify the LORD's

LORD's Day? and if they be given to Secret Prayer and Reading the Scriptures? (3.) If there be Catechizing in the Family? If their Children be Train'd up in Reading, according to the *Act of Assembly, Aug. 10. 1648.* In all which the Minister may Internix suitable Directions, Encouragements and Admonitions as may be most Edifying.

*General
Questions and
Exhortations.*

§ 8. The Minister is to Inquire who want Bibles? And if they be not able to buy them, let the Poor's Box be at the Expenses: And Recommend to the Heads of the Family to get the *Confession of Faith, Catechisms*, and other Good Books, for Instructing in Life and Faith, according to their Ability: (2do.) Those who are tainted with Errour or Vice are to be Admonished secretly, or in the Family as may most Edify: and all are to be Exhorted to carry toward such as walk Orderly according to the Rule, *Matth. 18. 15.* (3tio.) The Minister is to endeavour to Remove Divisions in the Family, or with their Neighbours, and Exhort them to follow Peace with all Men as far as is possible. (4to.) Let it be Inquired who have Communicated, that they may be called to an Account privately how they have Profited, and put in mind to pay their Vows to the LORD. Confer also with others about the Causes of their not Communicating.

*How to Visit
such as keep
not Communion
with us.*

§ 9. As for those who pretend Conscience for not keeping Communion with us, or whatever their Motives be, Ministers ought to deal with GOD for them, and with themselves in such a way as may be most proper to gain them, and Exoner their Consciences, waiting if peradventure GOD will prevail with him. Who can tell if their making them sensible of their Tender Love and Affection to their Persons, especially to their Souls, giving them all due Respect, and doing them all the Good they can, yet still Discountenancing their Sin, may in the End be Blessed of GOD for their Good, *Jud. v. 22, 23. 2 Tim. 2. 24, 25.*

§ 10. Seing in the whole of this Work, there is great need of much Prudence, Zeal for GOD, and Love to Souls: *Visitation a Difficult work.* Visitation of Families should be carryed on with Dependance on GOD, and Fervent Prayer to Him both before a Minister set forth to such a Work, and with the Visited, as there can be Access to, and Opportunity for it.

T I T L E IX.

Of Sanctification of the LORD's Day; and Observing Fast and Thanksgiving Days.

§ 1. **T**He Sabbath is to be Sanctified by an Holy Resting all that Day, even from such Worldly Employments and Recreations, as are Lawful on other Days, and Spending the whole Time in the publick and private Exercises of GOD's Worship, except so much as is to be taken up in the Works of Necessity and Mercy, as our *Shorter Catechism* beareth, Authorized by *Assembly, Aug. 28. 1648.* From which we may gather what the Church understands by Sanctifying or Profaning of the LORD's Day, and so will either Approve or Censure. *How the Sabbath is to be Sanctified.*

§ 2. By the *Act of Assembly 1647, Concerning Family Worship, Dir. 8.* The Master of the Family ought to take Care, that all within his Charge repair to the Publick Worship, which being finished, he is to see the rest of that Day spent in the private and secret Exercises of Piety. Care is also to be taken that the Diet on that Day be so Ordered, that neither Servants be unnecessarily detained from the publick Worship of GOD, nor any other Persons hindered. *How to be Sanctified in private Families.*

hindered from Sanctifying that Day. Private Preparation is likewise to be made for the Sabbath, by Prayer and such Holy Exercises, as may dispose to a more Comfortable Communion with GOD in his publick Ordinances. See the *Directory*.

Times for Fasting, and how Observed.

§ 3. When some Great and Notable Judgments are either Inflicted or Imminent, or by some Extraordinary Provocation notoriously deserved; As also when some special Blessing is to be sought or obtained, when Great Duties are Called for, or when Sins are Extraordinary for their Number or Nature, then it is that a Church may Injoin Fasting: Which is Observed by a Total Abstinence, not only from all Food, (unless Bodily weakness do manifestly Disable from holding out till the Fast be ended, in which case somewhat may be taken, yet very sparingly, to Support Nature when ready to Faint) but also from all Worldly Labour, Discourses and Thoughts, and from all Bodily Delights tho' at other times Lawful, Rich Apparel, Ornaments and such like, during the Fast: And much more from whatever is in it's Nature or Use, Scandalous or Offensive, as Gadish Attire, Lascivious Habits and Gestures, and other Vanities of either Sex: Which the Composers of the *Directory* Recommend to all Ministers in their Places diligently and Zealously to Reprove, as at other times, so especially at a Fast.

Intimation of the Fast. Materials for publick Prayer.

§ 4. The Sabbath before the Fast, the Causes thereof are publickly Read from the Pulpit, and the Day of the Week Intimated upon which it is to be kept. The People are then to be earnestly Exhorted to prepare themselves for Afflicting their Souls upon that Day of Extraordinary Humiliation. So Large a Portion of that Day, as conveniently may be, is to be Spent in publick Reading and Preaching of the Word, with Singing of *Psalms*, fit to quicken Affections futeable to such a Duty, but especially

in Prayer to this or the like Effect. Giving Glory to the Great Majesty of GOD the Creator, Preserver and Supreme Ruler of all the World, acknowledging his manifold great and tender Mercies, especially to the Church and Nation, humbly Confessing Sins of all sorts, with their several Aggravations, justifying GOD's Righteous Judgements, as being far less than our Sins do deserve, yet humbly and earnestly Imploring His Mercy and Grace for our selves, the Church and Nation, the Queen and all in Authority, and for all others for whom we are bound to Pray (according as the present Exigent requireth) with more special Importunity and Enlargement than at other times : Applying by Faith the Promises and Goodness of GOD for Pardon, Help, and Deliverance from the Evils felt, feared, or deserved : and for obtaining the Blessings which we need and expect, together with a giving up of our selves wholly, and for ever unto the LORD.

§ 5. Beside Solemn and General Fasts appointed by the Assemblies or their Commissions, or by Civil Authority, upon Application from some Church-Judicatory unto them : Provincial Synods, Presbyteries, and Church-Sessions may appoint Fast-days to be kept within their Respective Bounds, as Divine Providence shall Administer unto them special Occasions. Likeways Families and particular Persons may do the same, providing their Fasts be not on those Days on which the Congregation is to Meet for publick Worship.

§ 6. Our Fasting Days must be Indicted for such Causes as are both clear and just, and when it will be most for Edification : For that, as other positive Duties, doth not always Bind : Therefore the Church is to take heed of Appointing Fasts through Insinuations or Solicitations from States-men, lest they be Branded as Tools, to some who would Fast for Strife and Debate, that others who Differ

*Several Fasts,
General and
particular.*

*When the
Church should
be most Cau-
tious in ap-
pointing Fasts.*

from them about State-matters may be exposed to the *odium* of the people, as ill Countrey-men.

*Causes of a
Fast in this
National
Church.*

§ 7. The Causes of the Fast enumerate in the Act of Assembly 1690. November 12. were these and the like.

1. *Perjury*, Dealing treacherously with the LORD, and being unstedfast in His Covenant.
2. *Unfruitfulness* under the Purity of Doctrine, Worship and Government, having a Form of Godliness, but denying the Power thereof.
3. *Abuse of GOD's great Goodness and Deliverance*, Evidenced by a Course of manifest Wickedness, and shameful Debauchery, such as Drunkenness, Cursing, Swearing, Adultery, and Uncleanness of all sorts.
4. *The Supremacy*, Which was advanced in such a way, and to such a height, as never any Christian Church acknowledged, and whereby the Interest of our LORD JESUS CHRIST was intirely sacrificed to the lawless Lusts and Wills of Men.
5. *Abjured Prelacy* was Introduced, and the Government of the Church was Overturned, without the Church's Consent, and contrary to the standing Acts of our National Assemblies.
6. *Compliance* with that Defection, both in Ministers and others, some from a Principle of Pride and Covetousness, or Man-pleasing, and others through Infirmity and Weakness, or fear of Man and want of Courage and Zeal for GOD.
7. *Persecution* of the Godly for Non-compliance with that sinful Course : Many faithful Ministers were cast out, and many Insufficient and Scandalous Men thrust in on their Charges, and many Families ruined because they would not own them as their Pastors.
8. *Decay of Piety* under the late Prelacy, so that it was enough to make a Man be Nick-nam'd a *Phanatick*, if he did not run to the same Excess of Ryot with others.
9. *Atheism*, Which discovered it self in some by their dreadful Boldness against GOD, in disputing His Beeing, and Providence, the Divine Authority of the Scriptures, the Life to come, and Immortality of the Soul ; Yea, and scoffed at those things.

10. *Imposing*

10. *Imposing and Taking Unlawful Oaths and Bonds*: Lawful Oaths have been broken, and ungodly and Conscience-polluting Oaths have been Imposed and Taken, whereby the Consciences of many through the Land are become so debauch'd that they scruple at no Oath, tho' many have been Oppress'd and Ruin'd for Refusing them. 11. *Neglect of the Worship of GOD*, both in Publick, in private Families, and in Secret. 12. *Profanation of the LORD's Day*, succeeded in place of that wonted Care of Strict and Religious Sanctifying of it. 13. *The shedding of Innocent Blood*. 14. *Pride and Vanity*, yea Sodom's Sins have abounded among us, Idleness, Fulness of Bread, Vanity of Apparel, and shameful Sensuality fill'd the Land. 15. As also, *Great perverting of Justice*, by making and executing unrighteous Statutes. 16. *Silence of Ministers* in the time of such a great Defection, as well as too general a Fainting among Professors: And as some shewed no Zeal in giving seasonable and necessary Testimony against the Defections and Evils of the Time, nor kepted a due distance from them; So, on the other Hand, some managed their Zeal with too little Discretion and Meekness. 17. *The abominable Idolatry of the Mass* was set up in many places, and Popish Schools erected, whereby shameful Advances were made towards Popery. 18. *Great Ignorance of the way of Salvation through the Lord Jesus Christ*. Though we profess to acknowledge there can be no Pardon of Sins, no Peace and Reconciliation with God but by His Blood, yet few know Him, or see the Necessity and Excellency of Him, and few esteem, desire, or receive Him as He is offered in the Gospel: And as few are acquainted with Faith in Him, and living by Faith on Him, so few walk as becometh the Gospel, and Imitate our Holy Lord in Humility, Meekness, Self-denial, Heavenly Mindedness, Zeal for God and Charity towards Men. 19. *Great Contempt of the Gospel*, Barrenness under it, and a deep Security under our Sin and Danger

Danger. 20. Tho' the Lord, by casting us into the Furnace of Affliction, hath been giving us a sight of the Vanity of all things beside Himself; Yet, to this day, there is a *woeful selfishness* among us, every one seeking his own Things, few or none the Things of Jesus Christ, the publick Good, or one anothers Welfare. 21. *A bitter Spirit of Censoriousness*, whereby the most part are more ready to Carp at the Sins and Defections of others, than to Repent and Mourn for their own. These and the like were the Causes of the Fast in the Year 1690, and to them the Fast appointed since, do Ordinarily Referr. See also how the Land expressed the Sense it had of the Guilt of all Ranks in the Solemn Acknowledgment of publick Sins, and Breaches of the Covenant; and a Solemn Engagment to all the Duties contained therein; Namely those which did in a more especial way relate unto the Dangers of that time. Act of the Commission of Assembly *October 6. 1648.* For Renewing of the Solemn League and Covenant Ratified by Assembly thereafter.

*No Fast to
be on the
Lord's Day.*

§ 8. Albeit by the Treatise of Fasting Emitted by the Assembly *25 December 1565.* The Sundays were Appointed for some Fast, as being for the greater ease of the people: And since, by the Last Act of Assembly *1646.* A Fast is Appointed on the Sabbath next except one, preceeding the then following General Assembly: Yet seing the Work to be performed on the first day of the Week is by Divine Institution already Determined, we ought to set about it Exactly, which we all acknowledge to be a Thanksgiving and not a Fast. Extraordinary Duties are not to Interfere with the Ordinary, nor is one Duty to shuffle out another. If either should be allowed, it would look somewhat like the Reverse of Redeeming the time, for thereby diligence is rather diminished, than doubled in the Service of God.

*Thanksgiving Days how
observed.*

§ 9. Days of Thanksgiving being Intimate on the preceeding Sabbath, for some Deliverance obtained, or Mercy received,

received, are wholly to be spent in the publick and private Exercises of Divine Worship and Praises : The people are to Rejoice with Trembling, and to beware of all Excess in Eating or Drinking. And Demonstrations of Civil Mirth, such as Ringing of Bells, Fireing of Guns, Bonfires, and Illuminating of Windows should not be Intermixed with the Religious Duties of that Day : But as upon Fasts, so upon those Days, there should be Liberal Collections for the poor, that their Bowels may bless us, and Rejoice the more with us. In the 6 §. the Church was cautioned against appointing Fasts for Strife and Debate, so I hope they shall be directed to avoid injoining of thanksgiving days from any false or unjust ends.

T I T L E X.

Of Collections and Recommendations for the poor.

§ 1. **B**Y the Act of Assembly 11 August 1648. Collections for the poor in time of Divine Service (which is practised in some Churches abroad) are Discharged, as being a very great and unseemly Disturbance thereof. And Church Sessions are Ordained to Appoint some other Way for receiving these Collections. The Method now ordinarily taken is this; The Elders or Deacons do Collect at the Church-door from the people as they enter in, or else from them when within the Church, immediately before pronouncing the Blessing and after Divine service is ended.

When Collections for the poor are made.

§ 2. Beside these Ordinary Collections for the poor, there are frequently Extraordinary Collections made for Charitable and Pious Uses, particularly by Session 10. Assembly

Extraordinary Collections.

sembly 1704. There is an Act for a Voluntar Contribution by way of Subscription in each Presbytery, for gathering from Noblemen, Gentlemen, and other charitably disposed people, for Erecting English Schools, and Educating Youth in the High-lands and Isles.

*Recom-
mendations
are for a De-
finite time.*

§ 3. For preventing Unnecessary Begging, or Imposing upon Charitable people, No Church Judicatory is to give Recommendations for Charity to any without their own Bounds, and these Recommendations are to be only for a Definite time. Assembly 1695. *Seff.* 17.

T I T L E X I.

Of Provision for Schools and Universities.

*How Sal-
aries for
School-masters
are establish-
ed.*

§ 1. **B**Y K. Will. Par. *Seff.* 6. Cap. 26. It is Appointed that there be a School-master and School in every Parish, His Fee not under One Hundreth Merks, nor above Two to be payed by the Heretors and Life-Renters of the Parish, who are to have Relief for the half of it, off their Tennents; And that Letters of Horning be therefore Directed at the Instance of the School-Master, Conform to the Proportions Due by the Heretors, laid on by the Major part of them, (I suppose, Conveened by publick Intimation from the Minister in the Pulpit, by Order or Advice of the Session) or failing of whom by any Five Commissioners of Supply, within the Shire upon the Presbyteries Application to them: and the Heretors for the Sallary are to be Stinted Conform to their Valued Rent. *Item,* Provision for Schools and School-Masters are declared to be a Pious Use, to which Patrons may Employ vacant Stipends, at the sight of the Sheriff of
the

the Bounds. Excepting from this Act the Stipends vacant in the Synod of *Argyle*, because of the *Act, Par. W. and M. Sess. 2. Cap. 24.* in their Favours. And by the 10th *Act, Assembly 1699*, It is Recommended to the several Presbyteries, to use their Endeavours, that Schools be Erected in every Parish conform to the Acts of Parliament, and Acts of Assembly, and it is Recommended to Synods to see this Observed.

§ 2. By the foresaid 26. *Act*, and likewise by the 14. *Act* of the same *Session of Parliament*, the Privileges granted to Ministers for their Stipends, *viz.* That there be no Suspension, except on Consignation, are Extended to Universities, Schools and Hospitals, for the Ingathering of their Rents and Debts. See more of this on the *Title of Mortifications and Ministers Stipends.* *School Revenues Privileged.*

§ 3. When the Directory was Established, by which publick Reading of the Scriptures was committed to the Preachers: and fearing lest the Maintenance on that pretence might be withdrawn from the Readers. The *Assembly* did *Aug. 6. 1649*, Require the Presbyteries, to see, that none of the Maintenance given to such Readers, Precentors and School-Masters be taken from them, notwithstanding that Recommended Alteration in the Directory. *The Maintenance for School-Masters and Precentors to continue, tho' they Read not.*

§ 4. A Tack or Lease of Teinds set by an University for a definite time, with an Obligation to Renew the same in all Time thereafter, was found not Effectual after the definite Time was expired; though the same Rent was Received for some Years after, that was not sustain'd as an Homologation, but as a tacite Relocation. *Vid. Stair's Instit. pag. 301.* So that after the definite Time is expired, they might Increase the Tack-Duty. *How far Universities may set Tacks of their Teinds.*

§ 5. So Careful have our Sovereigns and Parliaments been for the Flourishing of these Seminaries of Church and State, that for their Provision and Bettering of their *Extraordinary Supply for Universities and Schools.*

Stocks, they have sometimes upon the Offer made by the Clergy, Ordained Fourty Pounds, or Six *per Cent.* out of every Thousand *Merks* of Ministers Rents, to be payed Yearly for Five Years, *Car. 2. Par. 1. Sess. 3. Cap. 24.* and at other times Vacant Stipends are Assigned for their better Provision for a time, *Car. 2. Par. 2. Sess. 3. Cap. 20. Ja. 7. Par. 1. Cap. 18.* They have likewise Imposed a *Cess* upon the Kingdom for Preserving of some Universities, *Car. 2. Par. 3. Cap. 23.* Now the Universities by Gift under the Great Seal, do share Liberally of the Bishops Rents, and some of them have Lucrative and easy Tacks of Certain Bishopricks, and Large Allowances too, even out of these Tack-Duties sometimes, for Sallaries to New Professions.

T I T L E X I I.

Of the Immunitie and Union of Churches.

Local Privileges within Church-Walls and Yards § I. **BY** the Canon Law, there are certain Immunities or Privileges granted within Church-Walls and Church-Yards, called *Local*, so as that secular Judges within that Bounds can cognosce upon no Civil or Criminal Action : Also that no Incorporations, Councils, or Fairs meet or hold there : that there be no University Discourses there : that secular Affairs be not the Subject of any Conversation there ; Moreover that there be no Feastings there, and that these Bounds be Sanctuaries to the Guilty flying there for Refuge, and they are not to be pull'd thence to Punishment, unless the Atrocity of the Crime be such, as may Induce the Church to Surrender them.

them. This Privilege is also Extended to the Houses and Palaces of Bishops. The Temple of *Jerusalem* was Built by GOD's Direction, it was Dedicated by Man, and GOD's Acceptation of it was Testified. It appears by *John* 2. 19. That it was an Illustrious Type of CHRIST's Body, and by the 16 *ver.* we find that our LORD Repented the Profanation of that Holy Place. Yet, notwithstanding of all that, GOD doth so Abhor Proud and Malicious Sinners, that He Commands them to be taken from His Altar that they may Die, *Exod.* 21. 14. and *Joab* was slain in the Tabernacle of the LORD, 1 *Kings* 2. 31. But that special kind of Respect which was due to that Hallowed and Typical Temple, is not Communicate, Extended or Confined to the Places of Worship under the New Testament, *John* 4. 21.

§ 2. Likeways by the Canon Law, there is another *Personal Immunity*, granted to the Clergy, such as, that they are Excused from Accepting to be Tutors or Curators, and that none in Sacred Orders shall be liable to the Payment of publick Burdens. I acknowledge, Ministers ought not to be so Imposed upon as to be perplex'd with secular Affairs, and far less should they ever do it of Choice: And albeit the Vocation of a Pastor, his Commission and Instructions relating thereto, be all of a Spiritual Nature, and of Divine Original, yet their Persons, Estates and Behaviour, considered in a Civil Capacity, are, according to Scripture and Reason, Subject to the Civil Government. Their Persons are accounted so Sacred among our People, and they judge themselves so Secure from that Venerable Impression, they very well know, is generally received of their Character, that they rarely make Ordinary Journeys with Arms, as Gentlemen and other Travellers do. They are by Law still Exeem'd from attending the King's Host, except the Nation become so Miserable, that Necessity or their own Security

Oblige them : And even in that Extraordinary Case, they may, if they please, only Act in the Army as Ministers or Chaplains. Since the Year 1689, Both Poll and Hearth-Money have been Imposed upon Ministers by Authority of Parliament.

*When Church-
is & Stipends
er to be Unit-
ed.*

§ 3. By the Canon Law on this Title, Two Churches may be made One, when the Maintenance is so Inconsiderable, that Two Pastors can have no Comfortable Living upon them, or when One of them is become Desolate by the Sword of an Enemy, or the Number of Parishioners Small or very much Diminished. In which Case it would be for the Greater Good of the Church, if Two such small Charges were Reduced into One, providing the Benefice of the small Charge, now United, be not Condemn'd to any Secular or other Use, but only Applied to Maintain a Pastor in a new Erection, or else a Colleague in some Numerous Congregation : for two Competent Stipends are not to be United, till there be no need for any New Erection or Augmentation in the Church.

*When Pres-
byteries may
Authorize
Partial Uni-
on, or Trans-
plantation of
Churches.*

§ 4. If the Heretors and Elders of Two Church Sessions shall agree to the Uniting of some Parts or Skirts of one of the Parishes to another, or to Transplant the Church from one part of the same Parish to another part therein, for the Peoples greater Ease and Convenience. In that Case, the Presbytery upon Application of the Parties Concerned, may, for any of these Ends, Interpose their Authority to their Agreement, providing they find it may tend to the greater Ease and Edification of the People : And providing there be still two distinct Parishes, and the Quantity and Quality of both Stipends preserved Un-diminished and Unaltered. What I here propose, is conform to the 5th. Art. Cap. 7th of the French Church Discipline, in these Words, ' The Colloquies and Synods shall Deliberate of Limiting the Extent of Places where-
' in each Minister shall Exercise his Ministry.

TITLE XIII

Of Churches, Church-Dikes, Manses, Yards, Glebes, Bells, Utensils, Ornaments, Books, and High-Roads to Churches.

§ 1. Churches are Publick Houses Erected for Publick Divine Worship, and for hearing the Preaching of the Word of GOD ; They are to be Repaired out of the Vacant Stipend : For that 18 *Act, Jam. 7. Par. 1.* is never yet in so far Rescinded. And when the Vacant Stipends fail, the Burden of Building and Repairing the Church doth ly upon the Heretors, whether Residing in the Parish or not ; The Majority of these that meet, must Stint themselves for that Effect, according to their Rents. But if the Heretors Refuse, being Required thereto by the Minister from the Kirk-Session ; The Lords of Session upon a Bill given in by the Minister will grant Warrant to him and his Session to Conveen at a certain Day, for trying what Sum will Repair the Church, and to Stent the Heretors in that Sum conform to their valued Rents, and to appoint a Collector to Uplift the same. But before the making up of that Stent-Roll, the Heretors ought again to be publickly Advertised to meet, and then to make the same. If after this Order is used, they Fail, the Session then concludes the Stent, and Letters will be Direct at their Collectors Instance against the Heretors for paying the Proportions they are Stented in, *Stair's Instit. page 192, and Act ult. Par. 3. Jam. 6.*

What a Church's. And by whom to be Repaired.

§ 2. Church-Yards are Dormitories for Humane Bodies, and ordinarily that Spot of Ground within which the Church stands. Our Law allows to Church-Yards equal Privileges

Church-Yards, and Yard-Dikes.

Privileges with Churches in many things ; particularly, that the raising of Tumults or Frayes in time of Divine Service in Churches, or Church-Yards, is Punished with Loss of Moveables, *Act* 27. *Par.* 11. *Jam.* 6. The Church-Yard is Fenced with Dikes, partly for Ornament, and partly as a Preservative to the Dead Bodies from being Digg'd up or Violented by Beasts. The only Right that Ministers have to the Grass growing in the Church-Yards, is, that they may cause their Servants Cut it, and hinder others from doing so : The Heretors are Obliged to Repair the Church-Yard-Dikes with Stone and Morter, two Ells high, with sufficient Stiles and Entries. And the Lords of Session are Obliged to Direct Letters of Horning against them for that Effect, *Cap.* 232. *Par.* 15. *Fac.* 6.

Who are
liable to Build
and Repair
Manfes.

§ 3. The Minister at the sight of the Presbytery, or such of their Number as they shall Appoint, with two or three Discreet Men of the Parish, may Build or Repair his own Manse upon the Expenses of the Heretors and Life-Renters, who are Respectively liable to Re-imburse him, of what he Truly and Profitably hath bestowed that way, unless they offered to Contribute their own Materials, and he Refused them : See *Mackenzie's Observations* on the 48 *Act*, *Par.* 3. *Fac.* 6. Where there is a Competent Manse already, the Heretots must Repair it once sufficiently at the Ministers Entry, who is thereafter to Uphold the same during his Incumbency, and they out of the Vacant Stipend, in time of the Vacancy. *Act* 21. *Par.* 1. *Sess.* 3. *Car.* 2. As the Minister is Obliged to Leave the Manse in as Good Condition as he Entred to it, so before he can be made Liable so to do, the Heretors ought to move the Presbytery to pass an *Act* in their Favours, to Declare it a Free Manse ; But before they can pass any such Act, a Committee of their Number must Visite it, after it is Built or Repaired, and find upon the Depositions of Four Discreet Work-men who

who understand that Work, but have not been employed therein, two whereof to be chosen by the Heretors, and other two by the Minister, that the Building or Reparation is sufficiently finished. And if there be any Materials left, or Money remaining not expended, after that is declared, the *Superplus* belongs to the Heretors. If the Minister be not able or willing to advance that Money which has been declared to be Necessary for Materials and Workman-ship, or if Heretors refuse to meet and Stent themselves for that effect, then what should hinder the Minister to take the same Course; and obtain the same Redress that is granted against Refusers to Build or Repair Churches, as in § 1. & 2.

§ 4. It is Usual to allow half an Acre of Ground for Manse and Yard. The Manse is not to Exceed 1000 pounds nor to be under 500 Merks of Value. Ministers hold their Manses & Glebes of none but the King. Glebes are to Consist of Four Acres of Arable Ground, failing of which Sixteen Soumes Grass of the best and most Commodious pasturage of any Kirk-Lands within the Parish. *Fac. 6. Par. 18. Cap. 7.* And by the *21 Act Par. 1. Sess. 3. Car. 2.* Ministers (excepting Ministers of Burghs Royal where there is no Land-ward Parish, and who have no right to Glebes) are to have Grass for One Horse and two Kine, or else that the Heretors pay to the Minister Twenty pounds Yearly.

*How much
Expense and
Ground for
Manse, Yard,
and Glebe.*

§ 5. Manses and Glebes where they have not been Design'd, or not the full Quantity, are now Design'd by the Presbytery, or their Committee with two or three discreet Men of the Parish. The Minister or a Procurator in his name, receives Infeoffment therein from the Moderator, upon which he takes Instruments in the hands of a Notar, or of the Clerk of the Presbytery. And upon a Petition given in by the Minister to the Lords of Session, with the Act of Designation and Instrument, they will Interpose their Authority for Removing the Heretors and Possessors of the Lands Design-

*Designation
of Ground for
Manses and
Glebes.*

ed in the terms of the 48 *Act Par. 3. Fac. 6.* by granting Letters of Horning to Charge them to Remove within Ten days. And Glebes are designed with freedom of Foggage, Fewel, Feal, Divat, Loaning, free Iſh and Entry, and other Privileges according to uſe and wont. *Fac. 6. Par. 13. Cap. 161.*

How the Heretor of the Lands deſign- ed obtains Relief.

§ 6. The Proprietors of the Lands deſigned muſt get Relief *pro rata*, off the reſt of the Heretors of Kirk-Lands within the Pariſh, if the deſignation was out of Kirk-Lands, and they not being the Glebes and Manſes of old pertaining to *Parſons* or *Vicars*: for there is no Relief Competent to the Feuers or Tackſmen of ſuch Lands, except only againſt ſuch as have Feus of other parts of the ſaid old Glebe or Manſe *Act 199. Par. 18. Fac. 6.* When the deſignation is out of Temporal Lands, the reſt of the Heretors of the like Lands are to Contribute Proportionally for Relief thereof.

Seats common and particular, how acquired, and how burdened.

§ 7. It would look more Impartial like, and reſemble more that Humility, Love, and Simplicity recommended to Chriſtians by the Apoſtle (*Jam. 2. 1.*) and would look liker the Subjects of Chriſt's Kingdom which is not of this world, if Church Members would take their Seats in the Church without reſpect to their Civil Character, as they do at the Lords Table. Some Seats are Built and Repaired at the general Charge of the Pariſh in which all have a Common Intereſt; And there are others which particular Heretors have built for their own uſe with Conſent of the Kirk-ſeſſion, or which they have preſcribed a Right unto by fourty Years Poſſeſſion. In ſeveral Burghs Royal within this Kingdom, the Diſpoſal of all the Church Seats, at leaſt upon the Bounds at firſt allotted to them for their inhabitants by the Kirk-ſeſſion, is thereafter Order'd and parcel'd out by the Town-Council, and Burden'd with certain yearly Sums for a Miniſters Stipend, and where the Seats are Diſpoſed upon to Burgeſſes without that Burden, and

and it be found that without it there cannot be a Competent Stipend to the Ministers. The Dispositions and Rights so made, may, no doubt, be Reduced on that Head; for it was never the Intention of the Church Session, who gave these Rights, to Authorize an Absolute Alienation of Seats to the obstructing and preventing Funds, for Maintaining the publick preaching of Gods Word.

§ 8. The Keyes of Seats are to be kept by Beddals, that when the proprietors are absent, such as want Seats, or throng the Seats of others, may be Accommodated for the time; But in Case the Owners be so little Concerned with Religion as not to Countenance the publick Worship of God, or Averss to serve such as Attend upon it with their empty Seats, the People that want Accommodation cannot be blamed to possess and occupy that void in their absence. And if the Owners, or others by their Order shall offer to dispossess them Violently, especially in time of Divine Service, they should be prosecuted as Disturbers of publick Worship, both before the Civil Magistrate and Church Judicatories.

*Beddals
should keep the
Keyes of Seats;
And why?*

§ 9. The Heretors are bound to pay for, and are Stated in the property of the Bells, Books, Utensils, and Ornaments of the Church: But the Minister and Kirk-Session, to whose Custody they are Committed, may pursue for any of them that are Abstracted. A Charge for a Stent Imposed for buying of Bells to a Church within a Burgh Royal hath been sustained against the Land-ward Heretors, albeit the Burgeses and Indwellers would have more Advantage by them, *vide* The new Treatise, *On Church Lands*, Page 212.

*Who are the
Proprietors of
Bells, Books,
&c.*

§ 10. Every one must have some way to the Church, but cannot pretend to any special way, as the nearest, through another man's Land, without proving Immemorial Possession, which is reckoned Fourty Years, of such a Gate or Passage. And to make up this Immemorial Possession, a

Kirk-Roads.

person will be Allowed to Conjoin his predeceffors Possession of that Road with his own. *Vide* the forcited Book *Ibid.*

T I T L E XIV.

Of Tithes, Stipends, and Mortifications.

What is meant by Stipend, Benefice, and the Churches Patrimony.

§ 1. **T**HE Maintenance belonging to Ministers for their Labours we call Stipends, but more commonly and by the Canon Law they are named Benefices. *Calvin*, in his *Lexicon Juridicum* tells us, that the Rewards and Privileges given and granted of old to Souldiers for their Service, were called *Benefices* and *Stipends*. The Canonists define a Stipend or Benefice thus, *Est jus perpetuum percipiendi fructus ex bonis Ecclesiasticis, propter aliquod officium spirituale, auctoritate Ecclesie constitutum*. Whatever belongs to Church-men is likewise called the Patrimony of the Church, the word signifying an Inheritance left by a Father; Because when Legislators or private persons do Authorize or Destinate futeable Encouragement for the Comfortable Life of Church-Guides and Pastors, they do, in so far, act the part of Nursing Fathers unto the Church, in the 9 *Chap.* of the Policy of the Kirk, they Comprehend under the Churches Patrimony, all things given, or to be given to the Kirk, and Service of God, as Lands, Buildings, Possessions, Annualrents, and all such like wherewith the Kirk is Doted, either by Donations, Mortifications, or any other Lawfull Titles, together with the continual Oblations of the Faithful; As also Teinds, Manfes, Glebes and such like, which by Common and Municipal Laws, and Universal Customs are possessed by the Kirk.

Kirk. And to take any of this Patrimony and convert it to the particular and private Use of any Person, is reputed a detestable Sacrilege before God, by our Church.

§ 2. The Work of the Ministry is a Warfare, and it is not ordinary for Souldiers to maintain themselves without Pay, 1 Cor. 9. 7. and the Light of Nature teacheth that the Labourer is worthy of his Hire. By the 42 Article of Cap. 1. French Church Discipline, It is found, that Ministers who are Rich, and have of their own, should nevertheless take Wages of their Flocks, lest their Example do prejudice to other Pastors and Churches. And *McKenzie* and *Stairs* in their *Institutions* do maintain that some part of our Goods is due, by Divine Right, towards the Maintenance of the Clergy, but that the Proportion may be determined by Humane Laws, according to Circumstances. By the 19 Act of Parliament 1633. all Ministers are appointed to be provided with sufficient Stipends, being eight Chalders of Victual, or eight hundred Merks at least, beside Manse and Glebe, except in singular Cases referr'd to the Commission for Plantation of Kirks. In some Places of Scotland, Ministers may maintain their Families for less than the half, which must be allowed to maintain the same Families in other Parts of the Kingdom. Seeing Ministers do deny themselves to the Gain of Civil Employments, whereby they might have a more unlimited Prospect, not only of maintaining their Families, but of purchasing Stocks for their Posterity, therefore the Dutch Custom is not Unreasonable, which alloweth to Ministers so much for every Son, in Order to his better Education and Breeding.

§ 3. The Canon Law defines Tithes thus, *Est quota bonorum mobilium, licite questorum, pro sacerdotibus Dei, Ipsius locum in terris tenentibus, tam Divina quam humana constitutione debita.* Ministers Stipends and Augmentations thereof are Legal Burdens, and the main one to which Teinds are lyable, against which no Title or Right what-

That Stipends are due, and how much is Competent.

Tithes the Fund for Stipends.

soever can secure. And the Truth is, till once the Parish Minister is sufficiently provided, no Person can safely buy his own Teinds: For they are alwayes subject to be E- victed for that end, by the Common Law and our Custom, even after the Heretor has bought them, *vide* that new Treatise on Tithes, pag. 340, By *W. and M. Parl. Sess.* 4. *Cap.* 24. It is appointed that Tiends belonging to Their Majesties by the Abolishing of Prelacy, so long as they remain Undisponed: As likewise Tiends belonging to Col- leges and Hospitals, or Destinate to Pious Uses, are not to be Sold, but may only be Valued, and made lyable there- after for payment of the valued Duties.

Some Tithes cannot be sold but only used.

Plantations of Kirks Remitted to the Lords of Session.

§ 4. Former Parliaments Referr'd to their Commissions the Plantation of Kirks and Valuation of Teinds: But now, the last Session of the last Parliament, have in place of all further Commissions for such Matters, Impowered and Appointed the Lords of Session to Judge in all Affairs and Causes, which by former Laws did pertain to the Cognizance and Jurisdiction of Commissions of Parliament: Only they are Restricted from Transporting of a Kirk with- out Consent of most of the Heretors of the Parish. Every *Wednesday* Afternoon in time of Session, the Lords meet to call and discuss such Church Causes.

How long Church-Men may set Tacks.

§ 5. By the *4th Act. Parl. 22. Jac. 6th.* Bishops are dis- charged to set in Tack longer than nineteen Years, and Inferiour Beneficed Persons for longer Space than their own Lifetime, and five Years thereafter (except the Commissi- on Authorize it) under the pain of Deprivation; And fur- ther, the Contraveeners declared Infamous and Incapable of any Church Office. Longer Tacks were ordained to be Registrate within forty Days, in a particular Book to be kept by the Clerk-Register for that Effect, otherwise to be null. And where it is said, that the Inferiour Clergy can set Tacks to run five Years after their Decease, that is al- ways to be understood with Consent of the Patron, obtained either

either before or after the Setting of the Tacks : For without that they can set but Three Years Tacks, *Act 15. Par. 23. Fac. 6.* And that the Ecclesiastical Rents may suffice to their Uses, all Alienations, setting of Feus, or Tacks of the Rents of the Kirk, as well Lands as Teinds, in Hurt and Diminution of the Old Rentals, ought to be Reduced and Annull'd. And likewise that in all times coming, the Teinds be set to none but to the Labourers of the Ground, or else not set at all. Vide *Cap. 12.* of the Policy of the Kirk, *sub fin.*

§ 6. The Legal Terms of Paying or Vaiking of Benefices and Stipends, are, *Whitsunday*, at which time the Fruits are held to be fully Sown, and *Michaelmas*, when they are presumed to be fully separated : If the Incumbents Entry be after *Michaelmas*, and before *Whitsunday*, he hath that whole Year, if after *Whitsunday* the half of that Year : Or if he Die, be Deposed, or Transported before *Whitsunday* he hath no part of that Year, if after *Whitsunday* and before *Michaelmas*, he hath the Half of that Year.

The Terms of Payment, and Vaiking of Stipends.

§ 7. Albeit a Benefice Vaik when a Minister is Deposed, yet till the same be Intimate, the Parishioners may pay their Stipends in to him, and his Discharges will Defend them. But after Intimation is made, no Payment will be sustained. *Vid. Stair's Inst. pag. 151.*

Benefices vaik upon Intimation of the Sentences.

§ 8. The *Annat* due to the Executors of Deceased Ministers, is Declared to be Half a Years Rent, over what is due to the Defunct for his Incumbency, to wit, if he survive *Whitsunday*, the Half of that Year is due for his Incumbency, and the other Half for the *Ann* : And if he survive *Michaelmas*, the whole Year is due for his Incumbency, and the Half of the next Year for the *Ann*. And the Executors need not to Confirm it, *Par. 2. Sess. 3. Cap. 13. Car. 2.* neither can it be Disponed to Strangers by the Defunct, nor Affected by his Creditors, for it did

Annat, what it is, and to whom it falls.

did never belong unto him, it being only a Gratuity which the Law Indulgeth, upon the Account that Ministers are supposed not to die Rich. The *Annat* Divides betwixt the Relict and the nearest of Kin, if there be no Children, and is Extended to the Profite of the Glebe, if there be no new Intrans: But where there is an Intrans, the Glebe belongs to him, and is no part of the *Ann*, nor did belong to the former Minister, unless it was sown by him, and the Crop upon it at the Entry of the Intrans, *Vid. Stair's Inst. pag. 306.*

The Privileges of Processes for Stipends.

§ 9. General Letters of Horning (so called, because they do not Express *Nominatim* the Persons to be Charged) are Allowed upon Decrets of Locality. *Act 13. Sess. 2. Par. W. and M.* And these Letters are Effectual, not only against the Persons Decerned in the Decrets, but also against their Heirs and singular Successors possessing the Lands Affected with the Locality. But Summar Horning was not sustained at the Instancce of a Minister's Executor for his Stipend. Ministers Pointing for their Stipends need not to carry the Goods to the Market-Cross of the Head-Burgh of the proper Jurisdiction, but may Comprize them on the Ground where they are, by Honest sworn Men. *Act 21. Sess. 3. Par. 1. Car. 2.* No Suspensions of special Decrets for Ministers Stipends can pass, Except upon production of Discharges, or upon Consignation of the Sums Charged for; and if Victual be the Subject of the Charge, One Hundred *Merks* must be Consigned for each Chalder, and proportionally where less than a Chalder is Charged, without Prejudice to the Lords of Session to Modify more or less at the Discussing, *Act 6. Sess. 1. Par. 2. Car. 2.* Actions for Ministers Stipends Commenced in Inferiour Courts cannot be Advocated. Suspensions of and Actions for them before the Session are Discuss'd Summarily, without abiding the Course of the Roll; And Suspenders, against whom Letters are found Orderly Proceeded, should

should be Decerned in a Fifth part more at least, than the Sums Charged for to pay the Ministers Expences and Dammage, *Act 27. Sess. 5. of K. W. Par.*

§ 10. Albeit the Power of presenting Ministers by Patrons to Vacant Churches be Discharged, yet that is but prejudice to them of their Right to Imploy the Vacant Stipends on Pious Uses within the Respective Parishes, except where the Patron is Popish, in which Case he is to Imploy the same on Pious Uses, by the Advice, and at Appointment of the Presbytery; And in case the Patron shall Fail in Applying the Vacant Stipends for the Uses foresaid, that he shall lose his Right of Administration of the Vacant Stipend for that and the next Vacancy, and the same shall be Disposed upon by the Presbytery to the Uses foresaid. Excepting always the Vacant Stipends within the Bounds of the Synod of *Argyle*, which Synod is Impowered to Dispose thereof for Training up of Youth at Schools and Colleges, and for other Pious Uses with Consent of the Heretors, *W. and M. Par. Sess. 2. Acts 23. 24.*

Who Dispose on Vacant Local Stipends; and for what Uses.

§ 11. Ministers Stipends prescribe, *quoad modum probandi*, if not pursued within Five Years after the same are due: so that after that time they cannot be resting unpaid. Except by the Defenders their Oaths, or by a special Writ under their Hands Acknowledging what is Resting.

Stipends, quoad modum probandi, prescribe in five Years.

§ 12. A Minister having Charged for the payment of the Bolls contained in his Decreet of Locality, the Debitor was Ordained by the Lords to Depone upon the Prices he got; albeit he had offered the Fiars by way of Instrument within seven Days after the Charge, and produced Receipts of the Charger and his Predecessors, for Instrumenting that they were not in Use to Uplift the Rolls *in ipsis corporibus*. It seems as Unreasonable to Oblige a Minister to Accept the Fiars from the Heretors, as it were to Oblige.

How bygone Virtual Bolls are liquidate.

blige the Heretors to Accept the Fiars from their Tennents. Yet I think the liquid Price of Vacant Stipends according to Custom, is the Fiar of the Respective Shires, *vid.* that forecited *Treatise on Titbes*, pag. 427.

According
to what Mea-
sure, Stipends
are to be payed.

§ 13. The Bolls contained in a Minister's Decreet, if no Measure be therein specified, should be payed according to *Linlithgow's* Measure: Unless the Minister hath been Thirteen Years in Possession of Uplifting according to another Measure, or the Modified Stipend would fall short of the Quantity in the Act of Parliament by *Linlithgow* Measure: For in that case the Minister ought to be payed conform to the Measure of the Shire within which the Parish lyes, *Vide* that *Treatise on Church-Lands*, page 428.

Ecclesiastical
Pensions, what.

§ 14. An Ecclesiastical Pension is a certain Portion of Yearly Rent payable for a Time out of another's Benefice. Ecclesiastical Pensions seem to have been Introduced at first, as a mean of Subsistence to Incumbents, who through Sicknefs or Infirmitie of Old Age were turned Unable to Officiate: For such were allowed to Resign their Benefices, reserving to themselves Pensions out of them, as they might Live upon sutablely to their former Character. As Church-men turned afterwards more Degenerate, and Benefices became Merchandize, Resignations and Pensions upon Trivial Reasons were sustained, *Vide* Book forecited, Page 160.

Plurality of
Benefices not
to be tolerated
in a Constitute
Church, and
why.

§ 15. The Pastoral Charge, or the Office of Professor of Theology in Schools, is of that Weight and Consequence, that to Discharge any one of them satisfiyingly, will be Exercise enough to any Honest Man, however sufficient, all the Days of his Life. By the Canons of the Synod of *London*, October 25. 1597. In Bp. *Sparrow's* Collections, The Extraordinary Parts and Merits of some is pretended for a Ground to dispense with a Plurality. This were Relevant to be practised for some time in Ec-

clesia constituenda, where gifted Men are Rare: But to continue that Custom in *Ecclesia constituta*, where Gifts do abound, it were to neglect both the Maintenance, and likewise the Gifts of God that He hath bestowed on some, and to Over-value the Gifts He hath given to others, and hinder them from discharging of the Duties belonging to one Office eminently. There were in Christ's Time abundance of idle Pharisees, Scribes and Priests, that spent their time in teaching the People their Rites, Ceremonies and Traditions: But there were always but a few Labourers in God's Harvest; Hence *Chrysostome* thought that but few Ministers will be saved. What Man or Angel is sufficient for the Ministerial Work! But their Sufficiency is of God.

§ 16. By the 22^d Act Assembly 1700. Presbyteries are to take notice, how Sums of Money mortified, or otherwise belonging to the Poor of the Parish have been managed and applyed from time to time, and if they shall find Dilapidations of any such Sums, that those guilty thereof be pursued according to Law, and the Synods are to see to the Presbyteries Diligence herein.

Mortifications under the Presbyteries Inspection.

§ 17. By *Cap. 6. Par. 1. Car. 1.* Gifts, Legacies, or Donations for Pious Uses, must not be Inverted from the specifick Use destinate by the Disponer, and the Persons Intrusted are made countable for the same, and ordinary Profits thereof to the Kirks, Colleges, and others to whom they are disposed, and this is Extended to all such Dispositions as have been made since the Majority of K. *James the 6th*, and that Letters be thereon Direct.

Pious Donations must be applyed as they were destinate by the Disponer.

§ 18. That forecited Book *On Church Lands*, pag. 107. tells us, That *Charles the Great* discharged Ecclesiasticks to accept of Mortifications whereby Children would in effect be Dis-inherited. So good *Augustine* refused Universal Legacies in favours of his Church, when the Testator left Children or Parents who might be prejudged and suf-

Mortifications ought not to be accepted in prejudice of Blood Relations.

fer thereby. Nor was this Generosity of his Singular, for a certain Man having no Children, nor Hopes of any, having gifted his Estate to the Church of *Carthage*, only with the Reservation of his own Liferent, *Aurelius* the Bishop Reponed him to his former Right, upon the unexpected Birth of a Son.

The Rectifying of Popish Mortifications commendable, but not their Misapplication, or Extinction.

§ 19. By the 29th Act Parl. 11. Jac. 6th, Popish Benefices are annexed to the Crown or converted into Civil Uses. Consider that these Mortifications were fraudulently elicited from Persons imposed upon by Ways and Means of Priest-craft; And that they had been Originally Destinate to maintain an Idolatrous and Superstitious Worship. Now, it being the publick Interest that none make a wrong, far less a sinful Use of their Property: It is Incumbent on the Orthodox Magistrate, to Convert what was Mortified and fraudulently Obtained for Maintenance of Idolatry, to the Maintenance of the true Worship of God: And in case there shall happen any Excescence, over and above what may support the same, and the Ministers thereof Comfortably, then may not that be applyed for some honest and necessary Use in the Republick, until the Affairs of the Church require the same again? This is confirmed by the Policy of the Kirk, *Cap. 12. Art. 14.*

Visitors of Hospitals and Mortifications to be named by the Sovereign.

§ 20. The Visitors of Hospitals are to be appointed by the Sovereigns, Act 101. Parl. 7. Jac. 5. and accordingly by *W. Par. Sess. 6. Cap. 29.* there is a Recommendation to His Majesty to cause Visit Hospitals, and Inquire after Mortifications. This is renewed *Sess. 9. Cap. 21.* It would seem by the 27 Act Parl. 2. Jac. 1. That Actions for bringing Patrons and others to count for their Intrusions with the Rents of Hospitals, may be Intented at the Chancellor's Instance, especially in case no Royal Visitation be appointed.

A fourfold Distribution of the Patrimony of the Kirk.

§ 21. In the 9th and 12th Chapters of the Heads of Policy of the Kirk, they allow of a fourfold Distribution of the Churches Patrimony; One Portion thereof to be assigned.

signed to the Pastor for his Intertainment and Hospitality : Another to the Deacons, Elders, and other Officers of the Kirk and Kirk Servants, such as Clerks of Assemblies, Takers up of Psalms, Beddals, and Kepeers of the Kirk, joyn- ing with them also the Doctors, and Schools, to help their old Rents where Need requires. The third Portion to be bestowed on the poor Members of the Faithful, and on Hospitals. The fourth for Reparation of Kirks, and other extraordinary Charges as are profitable for the Kirk, and also for the Common-wealth if Need require.

§ 22. In the 12th Chap. of that Book of Discipline, the Collection and Distribution of all Ecclesiastical Goods or *Patrimony of the Church collected by Deacons, and why. They are to find Caution.* Patrimony, properly belongs to the Office of the Deacons, (see the Title of *Deacons*) that the Poor may be answered of their Portion thereof, and they of the Ministry live without Care and Sollicitude, as also the rest of the Treasure of the Kirk may be reserved and bestowed to their right Uses. If these Deacons be elected with such Qualifications as God's Word requires, there is no fear that they will abuse their Office. Yet because the giving so great Trust to them, appeareth to many to be Dangerous, let them be obliged to find Caution for their Fidelity, that the Kirk Rents be no way Dilapidated.

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BOOK III.

T I T L E I.

Of Apostacy, and Atheistical Opinions of Deists.

§ 1. **A** Postates are these who altogether Desert the Christian Faith, Yet sometimes they are taken for such as Desert that Holy Faith to which they are Engaged at Baptism, and become Professors of a False Religion.

What an Apostate is.

All Hereticks are not Apostates.

§ 2. By the 21 *Act* of Assembly 1696, all Ministers are Injoyned, where there is any apparent Hazard of Contagion from such Persons as are of Atheistical Opinions, to detect the Abominableness of their Tenets, such as, The Denying of all Revealed Religion, and the Grand Mysteries of the Gospel, *viz.* The Doctrine of the Trinity, the Incarnation of the Son of GOD, His Satisfaction to Divine Justice, Justification by his Imputed Righteousness to them who Believe in His Name, The Resurrection of the Dead, and in a Word, the Certainty and Authority of all Scripture Revelation; As also their Asserting, that there must be a Mathematical Demonstration for each Purpose

The Atheistical Opinions of Deists, what.

Purpose before we can be obliged to Assent thereunto, and that Natural Light is sufficient to Salvation.

The Punishment of such Deists.

§ 3. By the 11th Act of K. W. Par. 1695, It is Ordained, that whoever shall in their Writing or Discourse Deny, Impugn or Quarrel, Argue or Reason against the the Being of GOD, or any of the Persons of the Blessed TRINITY, or the Authority of the Holy Scriptures, or the Providence of GOD in the Government of the World, shall for the first Fault be Punished with Imprisonment, ay and while they find Bail to give publick Satisfaction in Sackcloth to the Congregation within which the Scandal was Committed; And for the second Fault, the Delinquent shall be Fined in a Years valued Rent, and the Twentieth Part of his Free Personal Estate, besides his being Imprisoned, ay and while he give Satisfaction again *ut supra*; And for the Third Fault, he shall be Punished with Death as an Obstinate Blasphemer. *Vid. Tit. of Blasphemy.* Accordingly one *Aikenhead* was Hanged for that Crime betwixt *Leith* and *Edinburgh* about Twelve Years ago. All Judges and Ministers of the Law are Injoined to Execute this Act for the first Fault, and all Inferiour Magistrates of Shires, Regalities, Stewartries, and their Deputes, and Magistrates of Burghs are to Execute this Act as to the second Fault, and as to the third Fault, the Execution thereof is Remitted to the Lords of Justiciary.

T I T L E II.

Of Papists, Quakers, and Bourignianists.

Hereticks who they are.

§ 1. **A** According to the Canon Law, *Heretici sunt illi qui vanæ gloriæ principatusque sui causâ, falsas Opiniones gignunt vel sequuntur.* Anciently the

the Word *Hæresis* was taken for a firm Opinion, whether the same was Good or Bad. It is Committed by Christians when they pertinaciously propogate or follow Opinions contrary to the Received Fundamental Doctrine of the Church.

§ 2. That no Man should be Compelled by Temporal Punishments to profess the true Faith, is a Doctrine Universally Received among the Reformed Churches. It is *Crimen mere Ecclesiasticum*, at least as to it's Cognition *primâ instantiâ*. The Reformed Churches never Deliver any they find Hereticks to the Civil Judge, or rather, according to the Employment given the Judges by Papists, the Civil Executioners. One continuing a Heretick ought to be Rejected and Excommunicated, Compare *Tit. 3. 10.* with *1 Tim. 1. 20.* Our Sovereigns by their Coronation Oath, are to Root out all Hereticks, that shall be Convict by the true Kirk of GOD, from their Empire of *Scotland*, which doth not Oblige them to Persecution, nor to pay blind Obedience to the Church, but only it binds them, at least chiefly, to Execute the Laws against Papists, who are declared common Enemies to all Protestant States, *Jac. 6. Par. 16. Cap. 18.*

§ 3. The severity of our Laws against Papists will be further justified, if we consider, that by the Law of GOD Idolaters were to be put to Death, *Deut. 17.* and agreeable thereto, Popish Idolaters are to be punished with Death, by the *104 Act Parl. 7. Ja. 6.* by *Ja. 6. Parl. 6. Cap. 71.* Persons going out of the Countrey for further knowledge of Letters, are to have the Kings Licence, which shall contain this Provision, That they shall adhere to the true Religion, and do nothing against it, under the pain of Barratry (which with us is Committed by those who go to *Rome* to buy Benefices, and is punishable by Infamy and Banishment, *Ja. 6. Parl. 1. Cap. 2.*) And that within Twenty Days after their Return, they make and give before their Ordinary,

Punishment
of Heresy.

Act of Par-
liament a-
gainst Papists.

nary, the Confession of their Faith as now Established, or otherways Devoid the Kingdom within Fourty Days thereafter, or be pursued as Adversaries to the Religion. By *Jac. 6. Par. 7. Cap. 104.* None are to go on Pilgrimage to Kirks, Chappels, Crosses, or the like, keep Saints Days, Sing *Carols* within and about Kirks, or observe other Superstitious Papistical Rites, under the *Pecunial* Pains therein contained, for the first Fault, and under the pain of Death to the Continuers therein. By *K. W. Par. Sess. 5. Cap. 26.* No Papist can make any Gratuitous Disposition or Deed in prejudice of their appearand Heirs; Declaring such Disposition or Deed to be Null: And that it be judged Gratuitous, unless the Granter, Writer, and Witneses, Declare upon Oath before the Judge of the Bounds, That it was Granted for an Onerous Adequate Cause, by *K. W. Par. Sess. 9. Cap. 3.* These above mentioned Acts are Ratified, with all other Laws made against Popery and Papists, especially these against Jesuites, Priests, or Trafficking Papists, and all Sayers and Hearers of Mass, and Concealers of the same. *Item,* Whoever seizes any Priest, Jesuit, or Trafficking Papist, or their Resettlers, upon Certificate of the Conviction of the Person seized by the Judge, shall have 500 Merks for his Reward from the *Treasury*; For which the Receiver General may be pursued before the Lords of Session. *Item,* If it be proven that the said Priest, Jesuit, or Trafficking Papist was held in Repute such, or that he changed his Name, and shall refuse the *Formula* of Purgation subjoynd to this Act, it shall be sufficient Ground for the Council to Banish him, never to return a Papist under pain of Death, to be Inflicted by the Lords of Justiciary. *Item,* If any person be found in any Meeting where there is any Altar, Mass-Book, or other Instruments of Popish Superstition, and shall refuse to purge, as above, it shall be sufficient Ground to the Council to Banish, under any Certification they shall think

think fit, even to that of Death ; And whosoever discovers and seizes the said banished person, after his Return, shall have the foresaid Reward of 500 Merks. *Item*, The 8. *Act Par. 1. Car. 2.* is Ratified, and any Protestant Relation, or His Majesties Advocat or Sollicitor, may pursue for the Exhibition and Education of Children in the Keeping of Papists : And the Lords of Session are Impowered to Modifie an Aliment out of the Childrens or their Parents Means : And it is Recommended to Presbyteries to Inform in this Matter. *Item*, No Papist profess, or not purging, can receive any voluntar Deed or Disposition made to him of any Lands, or real Rights, or Tacks of Lands, or Teinds, but the same are declared Null, and to remain with the Granter, and no Action for Warrandice or Repetition of the Price. *Item*, No Papist past the Age of Fifteen Years, can succeed either as Heir, or by other Conveyance from the person to whom he may be Heir, until he purge himself of Popery, as above ; And if being Educate in the Popish Religion, he succeed as above, before the said Age, then he shall be obliged to purge before he attain the same ; And the person so succeeding, failzieing in either of these Cases, Devolves to the next Protestant Heir, who is to be Served as such to the Defunct, and to have Right to the Estate and Rents, from the said Irritancy, ay and while the person Excluded, or his Heir purge himself, as above : In which case he is to be Reponed as before the Exclusion ; The interveeing Rents, with the Burden of the current Annualrents of Debts, remaining with the Protestant Successor, but this Exclusion to be without prejudice of Creditors before the Exclusion. *Item*, No Papist may grant any gratuitous Deed in prejudice of his Heir, but the same is declared Null, save as to the affecting the Granters Person and Moveables : See the forecited 26. *Act. Sess. 5. K. W. Par.* *Item*, The Protestant on whom the Succession Devolves by the said Exclusion, must prosecute his

Right within two years, else it falls to the next, and so on. *Item*, The Papist and his Heir must Renounce Popery within ten years, after the said Irritancy (Minority not reckoned) or is to be Excluded for ever; And the Estate thus Devolving, Devolves with all its lawful Conditions and Burdens. *Item*, No voluntar Right by a Papist in favours of his appearand Heir also a Papist, shall be of Force, tho' prior to this Act, unless Cled with Infeftment or Possession, or proceeded in Judgment prior thereto. *Item*, All Dispositions or Deeds in Favours of Cloysters, or other Popish Societies, are declared Void, and to accresce to the next Protestant Heir to the Granter. *Item*, No Adjudication is to expire in the person of a Papist, but coming in the person of a Protestant, the Legal being run, it Expires within Year and Day thereafter, and no Adjudication or real Diligence is competent to a Papist, upon any gratuitous Bond or Deed. *Item*, That the *Formula* of purgation be taken before the Council, or before the Presbytery, and Reported within Fourty Days to the Council. *Item*, A Protestant Apostatizing to Popery, Forfaults his Estate immediately to his next Heir, being Protestant, as if he were Dead; And this next Heir, if in Pupillarity, is to be reckoned Protestant, if his Education be such, or if it be Popish, he is Excluded until he purge, as above. *Item*, That no suspected Papist be capable of any Trust of the Person or Affairs of Minors, and that none employ them in such Trusts, until they purge as above, under the pain of a years valued Rent, or a Thousand Merks, if the valued Rent be less. *Item*, No suspect Papist may Teach any Science, Art, or Exercise in Families, or out with, nor may a Protestant have a Popish Domestick Servant, under the pain of Five Hundred Merks, which may be pursued by any Protestant, and upon Conviction, to have the same for Reward. By the 28. *Act Sess.* 6. of *K. Williams Parl.* Whoever perverts a Protestant Subject to Popery, shall be pro-

proceeded against as a Trafficking Papist : That a Protestant Servant turning Papist in a Popish Family, be punished as an Apostate, and the Master when required is obliged to Dismiss that Servant, never more to be received by him, or any other Popish Master, under pain of an Hundred Pounds; and that Popish Masters allow their Servants due Liberty to attend Worship and Catechising, under the said pain, and that these Servants use that Liberty, under the pain of being banished the Parish: By the 5th Act 1. Par. Jac. 6. The Sayers and Hearers of Mass, or such as are present thereat, are punished by Confiscation of all their Goods, Moveable and Immoveable, and an Arbitrary punishment of their persons for the first Fault, Banishment for the second, and Death for the third Fault. By the 122. Act Jac. 6. Parl. 12. The Sayers of Mass, Resettlers of Jesuits, Seminary Priests, and Trafficking Papists, against the Kings Majesty, and Religion presently professed within this Realm, is, and shall be a just Cause to infer the Crime and pain of Treason, providing how soon they satisfy the Prince and the Kirk, the penalty foresaid shall not strike against the Resetter. By the Declaration of the Estates, containing the *Claim of Right*, April 11. 1689. It is Declared, That by the Law of this Kingdom, no Papist can be King or Queen of this Realm, nor bear any Office whatsoever therein.

§ 4. The latest and most comprehensive Acts of Assembly against Popery, are these, By Act July 29. 1640. All Idolatrous Monuments are appointed to be taken down and destroyed; and Presbyteries and Synods are to see this Work with all diligence performed. This is conform to the 64 and 90 CANONS, *Concil. Carthag. Ut Reliquiæ Idolorum radicitus extirpentur, similiter placuit peti a gloriosissimis Imperatoribus, ut reliquiæ Idololatriæ non solum quæ sunt in statuis; sed quæ sunt in quibusvis locis vel lucis vel arboribus, omni modo deleantur.* By Assembly 1642, *Sess.*

Acts of
Assembly
against
Popery.

7. and 1648, *Sess.* 38. Presbyteries are appointed to Con-
 veeen known Papists in their Bounds, and oblige them
 within a Month, to put from their company Popish
 Friends and Servants, and give their Children above seven
 years of Age, to be Educated at their Charges, by such
 Protestant Friends as the Presbytery shall Approve, and find
 Caution within three Months, to bring Home such of
 their Children as are Abroad, to be Educated at the sight
 of the Presbytery: The Obstinate are to be *Proceſſed in-
 ſtanter*, and those who comply are to confer with Profes-
 sors in the next University, in order to their Conversion.
Item, The Government is to be Supplicate for an Act, that
 in no Regiment that goes out of the Kingdom, any Papist
 bear Office, and the Collonel to find Caution for this effect.
 But the substance of this desired Act, is already declared
 in the *Claim of Right*, and Enacted by 9. *Act Parl.* 1. *Jac.*
 6. and the 5 *Act Parl.* 2. *Jac.* 6. By the 8: Act of As-
 sembly 1699, They appoint all Ministers to Study Popish
 Controversies more. *Item*, That all due Endeavours be
 used to Unite Protestants among themselves. *Item*, That
 Ministers faithfully Watch the Flock committed to them,
 that so by publick Preaching, private Instruction and Con-
 ference, Apostacy may be prevented. *Item*, Ministers are
 to deal wisely and convincingly with those who have fal-
 len to Popery, and other corrupt Practices, for their Re-
 covery: *Item*, When other Means are ineffectual, Pres-
 byteries are appointed to proceed to Church Censure. *Item*,
 That according to the former Acts of Assemblies, and Acts
 of Parliament, the Names of Popish Priests and Jesuits,
 and Trafficking Papists, and of those who have sent their
 Children to Popish Colledges and Countries, be given in
 to each Provincial Synod, and by them Transmitted to the
 respective Magistrates, to the effect, they be proceeded
 against according to Law, *Car.* 2: *Par.* 3: *Act* 6: *Item*,
 The General Assembly resolves, that Application be made to
 the

the Civil Magistrate, as often as need Requires, for the vigorous Execution of the Laws against Papists, Popish School-Masters, Mistresses, Governours and Pedagogues, and Popish Meetings, And for seeing to the Training up of Popish Youth in the Protestant Religion. By the Assembly 1704. Scandalous persons turning Popish, or pretending to do so, to evite Censure, shall after due pains to Reclaim them, be Excommunicated. By the 17 *Sess.* of *Assemb.* 1700. And 9 *Sess.* *Assem.* 1703. No private Acknowledgment of a Papist's Renouncing that Religion verbally, is to be held Sufficient to Admit them unto Church Privileges; But their Reception thereunto, must be the Deed of a Church Judicatory not below a Presbytery. By the 8 Act of Assembly 1707. It is appointed that the Synod in which these Presbyteries are, where Popery increaseth, do sometimes send Ministers that are well Acquainted with these Controversies to Assist the Ministers of the Bounds in Conferring with the Seduced, and for Establishing others. *Item*, Probationers, well seen in such Controversies, are to be sent to Assist the Ministers in these parts, in preaching, that they may have the more Time to Instruct the People, and watch over them against Popery. All which Acts and Recommendations, as to Ministers Diligence against Popery, are Revived by the 4th Act of Assembly 1708. *Calderwood* in his History Pag. 594. Tells us of an Act against Papists made in that pretended Assembly holden at *Linlithgow* 1608. wherein they Appoint that at every Service of any person as Heir to his Father, or any of his Predecessors, he be not served by any Judge without the Testimonial of the Bishop, and Moderator of the Presbytery, where he dwells, bearing the Confession of his Faith and Integrity in the Religion presently professed.

§ 5. By the 23^d Article Cap. 14. of the *French Church Discipline*, all Violence and unbecoming Language against *Papists* not *to be mocked.*
these

these of the Romish Church, and even against Priests and Friars, shall not only be hindred, but also wholly suppressed, as much as possibly may be.

*Apostate &
Ring-leading
Quakers to be
Excommunicated.*

§ 6. By the 10th Act of Assembly 1695. For preventing of the Growth of these abominable Heresies of the *Quakers*, It is Recommended to all Church Judicatories, to use all proper Means for Reclaiming of them, and in case of their Obstinacy, to proceed against them with the Censure of the Church, but especially against the Ring-leaders or these who have Apostatized from our holy Faith.

*Errours of
Antonia Bourignon con-
demned.*

§ 7. The Assembly 1701. by their 11th Act, Finds that the Writtings of M. *Antonia Bourignon*, are fraught with Impious and Damnable Doctrines, as they are Represented in the *Apologie* for her, condemned by the immediately preceding Act, which Exhibites to the World an *Epitome* of her Errours in the fairest Dress; Such as,
1. The denying the permission of Sin, and the inflicting of Vengeance and Damnation for it. 2. The attributing to Christ a twofold Humane Nature, one of which was produced of *Adam*, before the Woman was formed, the other born of the Virgin *Mary*. 3. The denying the Decrees of Election and Reprobation, and the loading these Acts of Grace and Sovereignty, with a multitude of odious and blasphemous Aspersions, particularly, Wickedness, Cruelty, and Respect of Persons. 4. That there is a good Spirit and an evil Spirit in the Souls of all Men before they are born. 5. That the Will of Man is unlimited, and that there must be in Man some Infinite Quality, whereby he may unite himself to God. 6. The denying of the Doctrine of Divine Prescience. 7. The asserting of the sinful Corruption of Christ's humane Nature, and Rebellion in Christ's Natural Will to the Will of God. And 8. The asserting a State of Perfection in this Life, and a State of Purification in the Life to come, that Generation takes place in Heaven, that there are no true Christians in the World.

TITLE III.

Of Schism and Prelacy, and of the Laws and Acts for preventing Innovations and Errours.

§ 1. **A**CCORDING to the Canon Law, *Schismaticus est* Schism, What? *qui ab Unitate Ecclesie se separat*, Schism is to the Church what a Cutt is to the Natural Body, it may be where no Heresy in Doctrine is; It is a breaking of that Church Union and Communion which ought to be among her Members.

§ 2. Schism in Church Government is either about the Government it self, or about the Persons in whom it is lodged, which Difference may occasion the Erecting of *Altare contra Altare*. Schism about Church Government. Schism may be in Worship, when both the same Doctrine and Government is acknowledged, but Communion is not kept in the Lord's Supper, according to Christ's Appointment: This seems in part to have been the Schism among the *Corinthians*, occasioned perhaps through the Corruption of some Members with whom others have scrupled to Communicate.

§ 3. The Understanding having such Influence upon the Will and Affections, and Union having so much Interest in both, the same will be more easily attained by perswasive Reasonings than Authoritative Injunctions. When Schism is to be proceeded against. Though the Authority of a Church may be Interposed to condemn Heretical and Scandalous Members, yet it is rarely found to be the way of Uniting a Rent Church, but rather the way to Govern an United Church: For it often happens, where such Divisions arise, that Parties do reciprocally decline each others Authority: Indeed where Schism is only a spreading,

spreading, or but among few, who cannot be otherways gained ; In that case, the Censures of the Church may be more succesfully applied against them.

Prelacy declared to have been abjured, to have been the Cause of many Evils. Prelatists own that it is but of Men. One of the Causes of National Fafts ; It never received the Churches consent.

§ 4. The General Assembly by their Act *December 8. 1638.* having considered the Proceedings of this Kirk, and Acts of General Assemblies in former Years, the Vote was stated, Whether according to the Confession of Faith, (*i. e.* the National Covenant) as it was professed in the Years 1580, 1581, and 1590. there be any other Bishop, but a Pastor of a particular Flock, having no Pre-eminence nor Power over his Brethren ? And, Whether by that Confession, as it was then professed, all other Episcopacy is abjured, and ought to be removed out of this Kirk ? The haill Assembly most unanimously (one only Hesitating) did Voice, That all Episcopacy, different from that of a Pastor over a particular Flock, was abjured in this Kirk, and therefore prohibites, under the pain of Ecclesiastical Censure, any to Usurp, Accept, Defend, or Obey the pretended Authority of Bishops in time coming. By the Act of Assembly *August 17. 1639.* It is Declared, That the changing of the Government of the Kirk from the Assemblies thereof to the Persons of some Kirk-men, under the name of Episcopal Government, was against the Confession of Faith 1580. against the Order set down in the Book of Policy, and against the Intention, and Constitution of this Kirk, and which from the beginning hath been one of the Chief Causes of the bygone Evils therein. The Assembly in their Answer *August 9. 1641.* to the English Ministers, Declare, they are perswaded Presbyterial Kirk Government to be of God, and Episcopal Government to be only of Men : and they Resolve to hold the same Constantly. Again, by their Answer *August 3. 1642.* to the Declaration of the Parliament of *England*, they say, The Reformed Kirks do hold without doubting their Kirk Officers and Kirk Government by Assemblies Higher and Lower in their

strong

strong and beautiful Subordination, to be *Jure Divino*, yet Prelacy, as it differeth from the Office of a Pastor, is almost universally acknowledged by the Prelats themselves, to be but an Humane Ordinance settled by Humane Law for supposed Conveniency: Wherefore, by Humane Authority, without wronging any Man's Conscience, the same may be abolished upon so great a Necessity as is a hearty Conjunction with all the Reformed Kirks. Among the Causes of that Fast appointed by Assembly 1690, this is one, That the Government of the Church was altered, and Prelacy Re-introduced without the Churches consent, and contrary to the standing Acts of our National Assemblies. From all which it appears, that the Re-introducing of Prelacy, was always *Lay*, and *Parliamentary* only, and the Government of the Church by Presbyters was Orderly and Synodically Established by the Guides and Governours of the Church, her Preaching and Ruling Elders.

§ 5. The Meeting of Estates in their *Claim of Right*, April 11. 1689. Declare, That Prelacy and the Superiority of any Office in the Church above Presbyters, is, and hath been a great and insupportable Grievance and Trouble to this Nation, and contrary to the Inclinations of the Generality of the People ever since the Reformation (they having Reformed from Popery by Presbyters) and therefore ought to be Abolished. In pursuance whereof, It is abolished by the 3^d Act of Parliament 1689. and by the 3^d Act of the 1st *Seff.* of *Q. A. Parl.* It is Statute and Declared High Treason to Quarrel, Impugn, or Endeavour by Writing, Malicious and Advised Speaking, or other open Act or Deed, to Alter or Innovate the *Claim of Right*, or any Article thereof: Which Act is as a Hedge about the Revolution Establishment: For after the same was Voted and Enacted, never durst any presume to offer any Act or Overture for a Toleration to Prelacy; Whereas before that, some offered in Parliament Draughts of Acts, for a Toleration

Prelacy abolished by the Claim of Right; Its Toleration Treasonable.

ration to Prelacy, and moved that the Commission of the late *Assembly* 1703, should be called to the Bar for Asserting in their Address, that the Parliaments granting a Toleration to Prelacy, would be to Establish Iniquity by Law.

The Licentiousness of the Press, how Restrained and Censured.

§ 6. The *Assembly* 1638, Decem. 20. Inhibiteth all Printers within this Church to Print any Act of this or preceeding *Assemblies*, any *Confession of Faith*, any Debates about present Divisions, or any Treatise whatsoever, which may concern the Church of *Scotland*, without Warrant from the Clerk of the *Assembly*, or to Re-print the same by any other not Appointed by him: and that under pain of Ecclesiastical Censure. By the 14 *Chap. Art.* 19. of the *French* Discipline, All Printers and Stationers are Warned, not to Print or Sell Books that shall concern Religion or Ecclesiastical Discipline, without the Consistories Allowance, and no Book is to be sold that tends to Advance Idolatry, and Corrupt good Manners. And by the 16 *Art.* of the foresaid 14 *Chapter*, Ministers nor any else in the Church, cannot Print Books made by themselves or others, touching Religion, nor any way publish them without Allowance from the Presbytery or Synod, or from those Authorized by the Synod to License Books. By the 7 *Act* of *Assembly* 1707, Presbyteries are Appointed to take special Notice, of any Book or Pamphlet which has for it's Author or Publisher any Minister of this Church, and Examine if there be any thing therein contrair to Her Doctrine, Worship, Discipline or Government, and that they Censure such as shall Transgress herein, according to the Demerit of the Cause. The Sellers also and Dispersers of Erroneous and Popish Books, are to be Punished Arbitrarily by the Rubrick of the 25 *Act, Par.* 11. *Fac.* 6. But the Statutory Words run only against the Home-bringers of such Books: The Books also are to be Destroyed, and Warrantice given to Magistrates of Burghs, with a Minister

fter Intromet with them, without Hazard of Spuilzie :
De praxi, Sheriffs and other Magistrates Intromet with
 such Books without a Ministers Presence or Concurrence.
Vide Mackenzie on Title Heresy.

§ 7. For preventing Innovations, sudden Alterations, How Overtures are turned into Acts of General Assemblies.
 by passing of Acts which may Threaten the Peace of the
 Church, It is Enacted, That before any *Assembly* make Acts
 which are to be New standing Rules and Constitutions to
 the Church, the same be first past as Overtures to be
 Transmitted to the several Presbyteries, and their Consent
 Reported to the next *Assembly* who may pass the same into
 Acts, if the more General Opinion of the Church agree
 thereto, See *Assembly 1639, Aug. 30. Assen. 1641, Sess.*
14. Assen. 1695, Sess. 7. Assen. 1697, Sess. 6. and by the
Act of Assembly 1700, Sess. 17. any Overtures of General
 Concern, proposed to the Assembly; after the first Read-
 ing, are to ly on the Table to be seen by all the Members
 till the next Day of the Assembly's sitting, and when
 Transmitted, Presbyteries are to Consider of them, before
 the Meeting of the Synod, next after the Assembly, and
 their Opinion is to be sent to the next Assembly in Writ.
 When Presbyteries Observe this Order, then the Assembly
 gathers the Opinion of the Church from the Plurality of
 the written Opinions Returned; But in case a great
 Number of Presbyteries, should either be so well Satisfyed,
 or so Indifferent about the Overture Transmitted, or give
 such Absolute Trust and Credit to their Commissioners
 that they give no Opinion in the Matter, in that case
 the Opinion of the Commissioners is to be looked upon as
 the Opinion of their Constituents.

§ 8. The same Authority and Method that was neces- When Acts of Assembly may be Repealed.
 sary unto the Framing of an Ecclesiastick Constitution,
 must be Interposed and used at it's Repealing, *Nam nihil*
est tam naturale, quam eo genere quidque Dissolvi, quo
colligatum est. By the 8 *Act of Assembly 1706*, Commis-

sion Books are only to be attested in a Negative Stile, even as those of Synods; Yet, by the 9 *Act of Assembly* 1707, The Actings and Proceedings of the preceeding Commission are Ratified, and Approven positively and Solemnly, as former Commissions had been; Because of their Extraordinary Faithfulness, Zeal, and Diligence in Addressing and Petitioning the Parliament, against the Dangers and Evils Feared from the then designed Incorporating Union with *England*.

Errors and Separation, how Censurable.

§ 9. By the 21 *Act of Assembly* 1696, And by the 12 and 18 *Acts of Assembly* 1704, All Ministers and Members of this Church, are Discharged to Publish or Vent either by Speaking, Writing or Printing, by Teaching or Preaching, any Doctrine, Tenet or Opinion, contrary unto any Head, Article, Part or Proposition of the *Confession of Faith* of this Church, and particularly, the Venting any *Arminian* or *Socinian* Errors: And Church Judicatories are Ordained to Advert to any who shall Teach or Vent such Errors, and proceed to Censure them for the same. And also all Presbyteries are Injoynd to Censure such Persons within their Bounds, who do carry on Divisive Courses, and withdraw from Communion with this Church, under a Pretext of Zeal to her Doctrine, Worship, Discipline and Government: and that all Means be used for Reclaiming such Misled People.

Ministers are to Observe the publick Orders of this Church.

§ 10. By the 6 *Act of Assembly* 1690, It is Recommended to Presbyteries, to take Notice of all Ministers, whether the late Conforming Incumbents or others, who shall not Observe Fast and Thanksgiving Days, Indicted by the Church, or who shall be found Guilty of Administring the Sacraments in private, or Celebrating Clandestine Marriages without Proclamation of Banns, and to Censure them accordingly.

§ 11. For retaining Unity and Soundness of Doctrine, All Probationers Licensed to Preach, all Intrants into the Ministry, and all other Ministers and Elders, all School-Masters, Chaplains, Governours and Pedagogues of Youth are Appointed to Subscribe, at the sight of Presbyteries, their Approbation of the *Confession of Faith*, as the Confession of their Faith, *Assem. 1690, Act 7. Assem. 1700, 10 and 11 Acts.* And by the 11 *Act of Assembly 1694*, any of the late Conform Ministers may be received by the Commission of the Assembly into Ministerial Communion who shall Acknowledge, Engage and Subscribe, upon the End of the *Confession of Faith*, the following *Formula*. And by the 16 *Act of Assembly 1705*, All Students of Theologie Licensed to Preach, and all Ministers and Elders are in like manner to Subscribe the same; The Tenor whereof follows, “ I * * Do sincerely Owne and Declare, the above *Confession of Faith*, Approven by former General Assemblies, and Ratified by Law in the Year 1690, to be the *Confession of my Faith*, and that I Owne the Doctrine therein-contained, to be the True Doctrine, which I will constantly Adhere unto: As likewise, that I Owne and Acknowledge the Presbyterian Government of this Church now Settled by Law, by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies, to be the only Government of this Church, and that I will Submitt thereto, Concurr therewith, and never endeavour directly nor indirectly the Prejudice or Subversion thereof, and that I shall Observe Uniformity of Worship, and of the Administration of all publick Ordinances as the same are at present Performed and Allowed. Vid. *Sec. 7. Tit. 4. Lib. 1.*

The Confession of Faith to be Subscribed with a Formula, and by whom.

§ 12. The Synods of this National Church in the Year 1702, Considering the great Affair of the Union of the two Kingdoms, then under Deliberation, did for mutual Edification, and strengthening one anothers Hands in the

Synodical Associations for Securing the Church Government.

LORD's Work, appoint each Minister and Probationer, judicially, in their Respective Presbyteries to profess and declare their Resolutions and Ingadgments to Maintain, by GOD's Grace, the True Doctrine of this Church, according to our *Confession of Faith*, and the Purity of Worship, Discipline and Presbyterian Government of this Church, founded on the Word of GOD, and that they Promise to Disown all Principles contrary thereto.

How the 4th Article of the 23 Chapter of the Confession of Faith is generally understood.

§ 13. The Fourth Article of *Cap. 23. of the Confession of Faith*, has these Words, *Infidelity, or Difference in Religion, doth not make Void the Magistrates Just and Legal Authority, nor free the People from their due Obedience to him.* Which are generally understood thus, *viz.* That the Principles of our Holy and Peaceable Religion, do not deny but Infidels and Papists may be Lawful Magistrates in such Countries or Kingdoms where these False Religions are Established. And if any of our Religion happen to Sojourn in these Territories, they ought notwithstanding to owne their Just and Legal Authority, and Obey their Lawful Commands. But in other Kingdoms or Countries, such as this of *Scotland* is, where Professing and Defending of the Protestant Religion is made a Condition of Government, betwixt the Magistrate and People, in that case, if he shall either be of, or fall away to a False Religion, and Violate the said Condition and Agreement, then there is Ground and Reason for the Peoples Representatives, to *Claim* their *Right*, and Declare him on that Account to have Forefaulted his Right to the Crown, and Declare the Throne vacant, as did our Meeting of Estates, *April 11. 1689.*

Separatists not to be Familiarly Conversed with.

§ 14. The Act of Assembly, *Aug. 31. 1647*, Considering how the Errors of Independency and Separation have spread in *England* so much, that Exceeding Great Errors and Blasphemies have Issued therefrom, and are Sheltered thereby: Therefore, all Persons are Discharged from frequent

frequent and familiar Converse with Persons Tainted with such Errours, or to Import, Sell, or Disperse such Erroneous Books or Papers, and it is Recommended to the Magistrate, to be Assisting to Ministers, in the Execution of this Act. There is a former *Act of Assembly, August 9. 1643* to the same purpose, and by the *10 Act of Assen. 1701*, the foresaid *Act 1647*, is Ratified. *Vid. § 6. buj. Tit.*

§ 15. By the Act of Assembly, *Aug. 24. 1647*, for preserving Order, Peace, and Unity in the Kirk, preventing of Schism, and for Maintaining that Respect which is due to the Ministers of JESUS CHRIST, Every Member of a Congregation is Ordained to keep his own Parish Kirk, to Communicate there in Word and Sacraments, and if any Person, shall usually Absent themselves from their own Congregation, except in urgent cases, made known to, and approved by the Presbytery, the Ministers of those Congregations whereto they Resort, shall both in publick by Preaching, and in private Admonition, shew their Dislike of their Withdrawing from their own Minister: Likeas, the Minister of that Congregation from which they do Withdraw, shall Labour first by private Admonition to Reclaim them, and if that fail, they are to be Cited to the Session, and Censured as Contemnners of the Order of the Kirk, and if the Matter be not taken Order with there, it is to be brought to the Presbytery.

§ 16. By the *6 Act of Assembly 1708*, All Presbyteries and Synods are strictly and peremptorily Appointed to take particular Notice of Ministers, Preachers, or others, who fall into Irregularities or Schismatical Courses, that they duely Censure them, according to the Merit of their Fault, even to Deposition of Ministers and Elders.

§ 17. The Assembly, *Aug. 4. 1641*, doth Charge all Ministers and Members of this Kirk, to Suppress all Impiety and Mocking of Religious Exercises, and that they

eschew all Meetings under the Name and Pretext of Religious Exercises, which are apt to breed Error, Scandal, Schism, Neglect of Duties in particular Callings, and such other Evils.

The Churches Name is not to be used without her Consent.

§ 18. For preventing of Abuse to the Kirk in General, and Ministers in particular, The Assembly by their Act, Aug. 5. 1642, doth Prohibite and Discharge all and every one, to pretend or use the Name of Ministers to any Petition, Declaration, or such like, without their Knowledge, Consent, and Assistance; And the Transgressors hereof are to be proceeded against, with the highest Censures of the Church.

No new Oath in the Cause of Religion, to be taken without Advice of the Church.

§ 19. The General Assembly Injoyns all the Members of this Kirk to forbear the Swearing, Subscribing, or Presiding of any new Oaths or Bonds, in the Cause of Reformation without Advice and Concurrence of the Kirk. See *Act and Declaration*, July 28. 1648.

Some Customs of the Church were acknowledged to be Indifferent.

§ 20. In the General Assemblies Answer, February 13. 1645, to the Assembly of Divines in England, they seem to acknowledge, that they have some Practices in this Church which are in themselves Indifferent: for they Express themselves thus: Nevertheless in other Particulars we are Resolved, and do agree to do as ye have desired us in your Letter, that is, not to be Tenacious of old Customs, tho' Lawful in themselves. But to lay them aside for the nearer Uniformity with the Kirk of England, that rather than it fail on our Part, we do most willingly part with such Practices and Customs of our own, and without the Violation of any of CHRIST's Ordinances.

None but Protestants capable of any place of Trust.

§ 21. It is no small Security to the Protestant Religion, & tends much to the preventing of Innovations and Errors, that none are capable of Civil Trust, but true Protestants: for they who profess not the true Religion, contained in the *Confession of Faith*, Established by K. Jac. 6. his first Parliament, may not be a Judge, Procurator, nor Member

of any Court, *Cap. 9. Par. 1. Jac. 6.* And by *Cap. 5. Par. 2. Jac. 6.* This Act is Extended to all and whatsoever Offices, without any Exception, or Restriction, in all time coming. And such Church-men, as will not Subscribe the above-mentioned *Confession*, are Deprived: And all such as Refuse to Subscribe the same, are to be Repute Rebels and Enemies to the King and his Government, *Cap. 46. 47. Par. 3. Jac. -6.*

T I T L E IV.

Of Witches and Charmers.

§ 1. **O**ur General Assembly, *July 29, 1640:* Ordains all Ministers carefully to take notice of Charmers, Witches, and all such abusers of the people, and to urge the Acts of Parliament to be Executed against them. By another Act *August 19, 1643:* Ministers must be careful to Instruct the people, press Holiness of Life upon them, and use the Censure of the Kirk against profane persons; Moreover, let the people seek Knowledge, Study to Believe, walk in Holiness, and be instant in Prayer; all which is proposed as Means to prevent the growth of Witchcraft; And further, Presbyteries are Ordained, to take under Consideration by what other Ways or Means these Sins may be Tryed, Restrain'd, and condignly censured and punished, Ecclesiastically and Civilly. In pursuance whereof, the Assembly *August 6, 1649,* for Advising anent the tryal and punishment of Witchcraft, Charming, and Consulting, there is a Commission granted to One and Twenty Ministers, for a Conference in the said Matter, with Nine Lawyers and Three Physicians.

*Acts of
Assembly for
preventing of
Witchcraft;
Grounds for
apprehending
of, and how to
deal with
them.*

And in the Assembly 1700, among the Unprinted Acts, you'll find a Committee of Ministers appointed to Attend the Lords of Council and Justiciary concerning Witchcraft, when called thereto by their Lordships. By the Assembly *August 5, 1642*, Presbyteries are Ordained to give up to the Lords of Justiciary, the Names of Witches, Sorcerers and Charmers, and because such Sins proceed many times from Ignorance, therefore all Ministers are Ordained (especially in the North where these Sins are more frequent) to be diligent in Preaching, Catechising, and Conferring, to Inform their people therein. By the fore-cited Act Assembly *1643*, they Declare the Occasions of Witchcraft to be these especially, *viz.* Extremity of Grief, Malice, Passion, and desire of Revenge, pinching Poverty, and Solicitation of other Witches. They say the Reasons of Satans prevailing, are, gross Ignorance, Infidelity, want of Love to the Truth, and profaneness of Life. The means they propose, for bringing them to a just punishment, are, That a Commission be Granted to some Gentlemen and Magistrates, within the Bounds of such Presbyteries, as shall crave it, giving them power to cause Apprehend, Try, and Execute Justice upon persons guilty of such Crimes: They Declare the Grounds for Apprehending Witches, to be these, *viz.* A reigning Bruit of Witchcraft, backed with Delations of confessing Witches, being Confronted with them : for it is found, that the Delations of Two or Three Confessing Witches, hath ordinarily proved true : As also, Depositions of honest persons concerning Malefices committed, or Cures used by them, may be a ground for Apprehending them. *Mackenzie* on this Title, says, That none should be Apprehended for Witches except it appear by the Event of the Inquisition, that they ly under many and pregnant presumptions, such as, That they are Defamed by other Witches, That they have been themselves of an ill Fame, That they have been found

Charming,

Charming, or that the ordinary Instruments of Charming be found in their Houses; And it is to be remembred, that *Ad assumendas Informationes, sufficiunt levia Judicia, sed gravia requiruntur ad hoc ut citetur reus & ut Judex specialiter inquireat.* By the foresaid Act of Assembly, after they are Apprehended, honest and discreet persons should be appointed to Watch them, to prevent their being suborned, and hardned by others, or destroying themselves, and Ministers would be careful at all times, especially Morning and Evening, to deal with them by Prayer and Conference, while they are in prison or restraint.

§ 2. Witchcraft was *Crimen utriusque fori*, by the Canon Law, and with us, the Kirk Session did use to Inquire into it in order to the Scandal, and take the Confession of Parties, or receive Witnesses against them: But since so much weight is laid upon the Depositions there Emitted, they should be very Cautious in their procedure. By the 73, *Act Parl. 9. Qu. Mary*, Altho' Inferior Judges may concur to the punishment of this Crime, by Apprehending and Imprisoning the Parties suspect; Yet seing the Relevancy is oftimes so intricate, & the procedure requires necessarily so much Arbitrariness, and the punishment is so severe, upon these Considerations, the Cognition of that Crime should be solely appropriate to the Justice Court.

§ 3. Paction to serve the Devil is certainly *per se* Relevant, without any Addition, providing they acknowledge they knew him to be the Devil. This paction is either express, performed by a formal promise given to him, then present, to serve him; Or by presenting a Supplication to him, or by giving the promise, to a Proxie, Impowered by the Devil for that Effect, which he Indulgeth to some who dare not see himself. There is likewise a *tacite* Paction with the Devil, when a person useth the Words or Signs which Sorcerers use, knowing them to be such, and this is Condemned as Sorcery, and is relevant

Who are Judges competent thereon.

What is Relevant to infer the Crime of Witchcraft.

to infer the Crime of Witchcraft. But to use these Words or Signs, when the User knows them not to be such, if the Ignorance be probable, and the User be content to abstain, it is no such Crime. Renouncing of Baptism is most relevant *per se* to infer the Crime of Witchcraft. Witches use to Confess, that in so doing they use this Solemnity, by putting one of their Hands on the Crown of their Head, and the other beneath the Sole of their Foot, at which time he gives them new Names.

The Devils
Mark not
per se rele-
vant.

§ 4. To Libel the Devils Mark is not *per se* relevant, unless it be Confest by them, that they got that Mark by their own Consent, *quo casu*, it is equivalent to a Paction. The PRICKERS say, If the place Bleed not, or if the person be not sensible, then He or She hath the *Mark*; which is given by a Nip in any part of the Body, and is Blue, as is alledged: But it is hard to distinguish any such Marks, *a nevo, clavo, vel impertigine naturali*. Where Threatnings are specifick, bearing a promise to do a particular ill, and when Charms are used to obtain its Execution, and when its known that the Threatner had a preceeding Enmity against the person Threatned; under these Circumstances, *Malum minatum & damnum secutum* Libelled, would seem to be Relevant: Yet it is safer to punish these Threatnings with some milder punishment than Death, as *Crimen in suo genere*, and not as Witchcraft. Indeed if the person who used the Charms, knew them to be such, as Witches and Sorcerers do make use of, for procuring such Mischief, it is Relevant to infer Witchcraft, as hath been said. The using of Magick Arts or Charms, though for good Ends, as for the Curing of Diseases in Men or Cattel, has no place to make a relevant Defence. Since the Law cannot know exactly, what Efficacy there is in natural Causes, it may very well Discharge all such Acts. wherein there is no necessary Connexion, *inter causam & effectum*, as it pleases, under the pain of Witchcraft: Nor can these who are Ac-

Threatnings
to do Mischief
how relevant.

Using of
Charms tho'
for good Ends
punishable.

cused,

cused, complain of Severity, since *sibi imputent*, that use these forbidden Things: And therefore, since the Law and Practique hath forbidden all Charms, it is most just, that these who use the same, should be severely punished, whatever the pretext be upon which they are used, or after whatever Way and Manner, or to whatever End, whether good or bad. Consulting with Witches, when done Knowingly, Intentionally and in Earnest, or a professing of Necromancy, which was a prophesying by departed Spirits, as also Predictions and Responses by the Sieve, and the Shear, and by the Book, and all such Cheats and species of Sorcery. See the 73: *Act Parl: 9: of Q. Mary*, when persons are delated by other Witches, or *per defamationem*, which we call *Common Bruit*, and *Open Fame*, and thereupon Libelled, that Article is never sustained as Relevant *per se* to infer Witchcraft; Yet sometimes Articles that are of themselves Irrelevant, are sustained Relevant, being joyned with that of *Fame* and *Delation*: But it is hard, and seems unjust to compose a Relevant Libel, out of Articles that are *per se* Irrelevant.

Consulting
with Witches
punishable.

What De-
famation by
Witches im-
ports.

§ 5. The Relevancy of this Crime being discussed, the ordinary probation of it is, by Confession or Witnesses: It should be evident, that the person Confessing is not weary of Life, or oppressed with Melancholy. Albeit *Hic non semper requiritur ut constet de Corpore delicti*, this being a Crime which consists *in animo*, yet the Confession ought to be such, as contains nothing in it that is impossible: It is Condescended by Lawyers, that *succubi & incubi sunt possibiles*; That the Devil may ly in the shape of a Man with a Woman, or in the shape of a Woman with a Man, having first formed to himself a Body of Condensed Air; Or that he may Transport Witches to their publick Conventions, and upon such Confessions some have been punished as Witches. The Probation of this Crime by Witnesses is very difficult, and therefore *Socii Criminis*, or other

When pu-
nishment fol-
lowson Witches
Confession, or
by probation of
Witnesses.

other confessing Witches are adduced : But yet, these do not prove Witchcraft solely, though dying and penitent : Whereas it may be doubted if the Consulting of Witches may not be proved by Two of them who were Consulted : For if this be not a sufficient Probation, it may sometimes be impossible to prove Consulting any other way ; But if such be substained, why may not *Socii Criminis* be allowed as *habile* Witnesses. The persons injured by Witches, are admitted Witnesses against them, but *cum nota*, Women are received Witnesses in this Crime : Witches do rarely Weep, because they are ordinarily Hardned.

If Witches
may be desired
to take off
Diseases.

§ 6. It is thought lawful, by some, for all who are Bewitched, to desire the Bewitchers to take off the Disease, providing the same can be removed by taking away the old Charm, without any new Application to the Devil ; which Practice seems yet to be forbidden, *Isai. 8. 19. And when they shall say unto you, seek unto them that have familiar Spirits, and unto Wizards that peep and mutter : should not a people seek unto their God ? for the living to the dead.* Yet it is not unlawful for any to remove the Charm, or Sign of it, if it be in their power to do it, without any Application to the Devil or his Instruments.

How they
Torment by
Images, and of
the punish-
ment of
Witches.

§ 7. Witches do likewise Torment Mankind, by making Images of Clay or Wax, and when they prick them, the Persons do find extreme Torment, which doth not proceed from any Influence these Images have upon the Body Tormented, but the Devil doth by natural means raise these Torments in the Person, at the very same time that the Witches do prick, or pounce, or hold to the Fire these Images : Witches confessing this manner of Torment, may very judicially be found Guilty, since *constat de Corpore delicti, de modo delinquendi, & inimicitiiis præviis.* The punishment of this Crime is with us Death, and the Doom ordinarily bears, To be worried at the Stake and Burnt.

§ 8. Fortune-Tellers are those who do profess to Reveal and Discover Secrets, by Means altogether Inept or Unlawful, and they are punished with us Arbitrarily, not Capirally, and by the Law of *England*, Cited by *Mackenzie* on this Title, such persons are to be Imprisoned for the space of a whole Year, during which time they are to be Pilloriz'd Quarterly.

Fortune-Tellers, who, and how punished.

T I T L E V.

Of Blasphemy, Cursing, profane Swearing, and Lottery.

§ 1. **B**lasphe^{Blasphemy,}my is a Divine Lese-Majesty or Treason, and is Committed either by denying that of ^{what.} GOD which belongs to Him, or by Attributing to Him that which is absurd. These who Swear by the Head or Feet of GOD, are guilty of this Crime by the Canon Law, *Videntur enim amplecti Anthromorphitarum bæresin, quæ membra Deo tribuebat.* They are also, according to them, punishable, who delate not Blasphemers.

§ 2. By the 21. *Cap. Parl. 1. Car. 2.* It is appointed, that whoever, not being Distracted in his Wits, shall Rail upon or Curse GOD, or any of the Persons of the Blessed Trinity, be Proccessed before the Chief Justice, and being found guilty, punished with Death. From which Act it is clear, that this Crime can only be Tryed before the Justices, and that Distraction is only a relevãnt Defence against ^{Its punishment, and Defences against it.} it.

It seems to me a good Defence against the Punishment of Blasphemy, when one is compelled to Blaspheme through Torture, as the Saints did through the Torments and Mad-ness of *Sauls* Persecution, *Acts* 26. 11. And *Solomon*, *Ecc.* 7. 7. says, *Surely Oppression maketh a wise Man mad, That is, it maketh him speak, or Act, like a mad Man.*

*How Cur-
sing and pro-
fane Swearing
is punished &
censured, and
the Defences
against its
punishment.*

§ 3. By the 103 *Cap. Jac.* 6. *Parl.* 7. Magistrates to Burgh and Landward, are ordained to appoint Censors in publick Markets and Fairs, with Power to exact the Pains of Swearing, and that Houholders delate Offenders within their Houses, under the pain of being esteemed as Offenders themselves. By *Cap.* 16. *Parl.* 5. *Q. Mary*, particular Pains are ordained against profane Swearers, with gradual Augmentations, and ending in Banishment: Which Acts are Ratified by *Charles* 2. *Parl.* 1. *Sess.* 1. *Cap.* 19. And farther it is Enacted, That who shall Swear or Curse shall pay, the Nobleman 20 *Pounds*, the Baron 20 *Merks*, the Gentleman, Heretor, or Burges 10 *Merks*, the Yeoman 40 *Shilling*, the Servant 20 *Shilling*, *Toties Quoties*; and the Minister the fifth part of his Stipend to be applied to Pious Uses, the one half in the Parish where the Offence was committed, and the other half to be betwixt the Informer and Profecuter, and other Uses, at the sight of the Judges, as in the Act about Justices of the Peace, and the Insolvent to be punished in their persons. By the *French Church Discipline*, *Cap.* 14. *Art.* 24. profane Swearers, who through Custom or Anger, take the Name of God in vain, after one or two Admonitions, if they desist not, shall be suspended the Lord's Table: So that Custom and Passion do not defend against Punishment. But whether Passion will Excuse, at least in part, from being punished as a Swearer and Curser, when provoked thereto while Employed about lawful honest Business, I think needs be no difficult Question; Yet no Lawyer will say, that Anger doth lessen this Vice, committed by him who is unlawfully Employed, as
in

in playing at Cards, or in excessive and unseasonable Drinking : See *Mack. Crim. pag. 26.*

§ 4. There is a *Lottery* which is Necessary, and Useful in some Cases, for ending of Debates and Controversies among Men ; As for Example, where there is one Adjudication in favours of divers Creditors, they must have their Preference by Lot, in choice of the Rooms of Lands adjudged, *vide Stairs Instit. pag. 75, 626. and 648.* So the Land of *Canaan* was divided among the *Israelites* by Lot. But there is a *Lusory Lottery*, such as playing at Cards, &c. which is condemned by the Practice of most who have the Commendation of good Christians in this Church, and by the Assembly 1638. *Sess. 23, 24. Art. 9.* Carding and Diceing are noted as unlawful Games ; And by the 50 Canon, *Concil. sexti in Trullo, Nullum omnium, sive Clericum, sive Laicum ab hoc deinceps tempore alea ludere permittimus, si quis autem hoc deinceps facere ab hoc tempore aggressus fuerit, si sit quidem Clericus deponatur, si Laicus, segregetur.* To discourage this kind of Lottery, it is Enacted by *James 6. Parl. 23. Cap. 14.* That none play at Cards or Dice in any common House, Town, Hostelry, or Cooks House, under the pain of forty Pounds, the Keeper of the said House for the first, and loss of Liberty for the second Fault ; And that there be no playing in any private House, except where the Master playes, and if more be won in twenty four Hours than one hundred Merks, it shall be consigned in the Kirk Treasurers Hands in *Edinburgh*, or in the Collector for the Poor his Hands in the Country. And Magistrates of Burghs and Sheriffs and Justices of Peace in the Country, are Impowered to pursue for the Superplus Winning, or otherways are declared lyable to the Informers for the Double, whereof the half to himself, the other to the Poor.

Lottery sometimes Lawful, and sometimes no.

T I T L E VI.

Of the Profanation of the Sabbath; Of not Observing Fast and Thanksgiving Days; Of Withdrawers from, and Disturbers of the Publick Worship, and Observers of Superstitious Days.

How Profanation of the Sabbath is censured and punished.

§ I. **T**HE Assembly dischargeth the Breach of the Sabbath by Labouring either in Seed-time or Harvest, or by going of Mills, Salt-pans, Fishing Salmond, or White Fish, under pain of Incurring the Censures of the Kirk: And for preventing its Profanation, they appoint both Dyets, Fore-noon and After-noon, to be kept even in Landward for publick Divine Service, *December 17th 1638.* and *Sess. 21st 1639.* The Assembly likewise Declares, That these Acts made against Breach of the Sabbath, shall not only reach the Servants, who actually Work, but also the same shall be Extended against their Masters and Hirers, *August 14th 1643.* By Act of Assembly *June 18th 1646.* all such Skippers and Sailers, who begin any Voyage, or loose any Ships, Barks, or Boats, out of Road or Harbour on the Lord's Day, are to be censured. By *Sess. 38. 1648.* Elders are to take notice, how such as are within their Bounds keep the Kirk, and how the time is spent before and after publick Worship. By the *25th Act Assembly 1690.* all unnecessary Sailing and Travelling is prohibited on the Lord's Day. *Item,* By Act Assembly, *1705. Sess. 12.* Ministers are to contribute their Endeavours for suppressing gross profaning of the Lord's Day, especially idle vaiguing on the Streets of *Edinburgh,* Peer, and Shoar of *Leith,* Queen's Park, &c. and that by an Impartial

partial and prudent Exercise of Discipline. By the 12th Act of Assembly 1708. for the better Observation of the Lord's Day, they appoint some to be sent from each Presbytery within this Church to attend the Lords of Justiciary at their Circuit within their Bounds, and then to represent the Profanation of the Lord's Day by Travelling thereupon, carrying Goods, driving of Cattel, and other Abuses: And they seriously recommend it to the saids Lords, to restrain and punish the foresaid Abuses, which the Assembly will acknowledge as a singular Service done to God and this Church. And all Ministers are Injoined, to advertise their People, among whom such Practices are, of the great hazard their Immortal Souls are thereby in; And that if they continue therein, there will be a necessity to represent them as such Transgressours to the foresaid Lords. So much Respect doth our Law pay to the Sabbath or Lord's Day, that it cannot be taken for Redemption of Lands, and a Wood-setter cannot be obliged to attend and perform the Requisites of Consignation, by Numeration of Money, perusal of Writs, and subscribing a Renunciation on the Sabbath Day. It is Relevant to alledge, that an Arrestment or Horning is Null, as being execute upon a Sabbath Day: And poinding on the Lord's Day, or on Solemn Days appointed by Church or State for Humiliation or Thanksgiving, are void and punishable, *vide* STAIR'S *Instit.* pag. 336, 375, 411, and 728. And if the Law did not thus order it, the Conscientious Observers of the Lord's Day would certainly be molested, and advantage taken of them by Worldly Wretches and Contemners of Holy Things. By *Cap. 7c. Parl. 6. Fac. 6.* Gaming, Playing, passing to Taverns, or Ale-houses, selling of Meat and Drink, and willful remaining from Kirk in time of Sermon or Prayers, is discharged under the pain of twenty Shillings, and if the Offenders be unable to pay, they are to be put in the Stocks or Joggs. *Item, By Cap. 18. Sess. 1. Parl. 1.*

Car. 2. all Salmond Fishing, going of Salt-pans, Mills or Kills, Hireing of Shearers, Carrying of Loads, Keeping of Markets, and Using of Merchandise on that Day, and all other Profanations thereof are discharged, under the pain of twenty pounds for Salt-pan, Mill, or Kill, and ten pounds for each other Profanation, to be applied as in § 3. *Tit. Prac.* and that the Insolvent be punished in their persons. By the 14th Act of *Parl.* 1695. it is declared Lawful to all Burghs, not only of Royalty, but of Regality, Barrony, and Villages, and Kirk Towns, whose Weekly Markets are kept on *Mundays* and *Saturdays*, to change and alter the same. And the saids Burghs and Villages are to make timeous Intimation of the Change to the next adjacent Burghs, and providing they pitch not upon the Market Days of any Burgh Royal, or of any other Market Town within four Miles.

How some Proclamations allowing the profaning of the Lord's day, agree with the Civil Law.

§ 2. King CHARLES the First was prevailed on by *Laud* and his Faction (little to his Credit) to publish His Declaration concerning Recreations on the Lord's Day after Evening Prayer, dated *October 18th*, in the 9th Year of his Reign, which he founds upon another of his Fathers to the same Purpose in the Year 1618. He Declares his Pleasure was, That his good People should not be hindered after the end of Divine Service on *Sundays* from their Lawful Recreations, such as Dancing, either Men or Women, Archery, Leaping, Vaulting, nor from having of May-games, Whitson-Ales, Morice-Dances, and setting up of May-Poles, or other Sports therewith used, but he debarrs from the Privilege of these Sports all Recusants that abstain from coming to Church and Divine Service. How this agrees with the Civil Law, you may see in the end of the Title *De Feriis*, in JUSTINIAN's Codex. *Dominicum Diem ita semper honorabilem decernimus & venerandum, ut a cunctis Executionibus excusetur, nulla quenquam urgeat Admonitio, nulla Fidejussionis flagitetur exactio, taceat Apparitio, Advocatio*

vocatio delitescat. Sit ille dies a Cognitionibus alienus, praecognis horrida vox silescat, respirent a Controversiis Litigantes. Et postea, nec hujus tamen religiosi diei otia Relaxantes, obscenis quenuquam patimur Voluptatibus detineri, nihil eodem die sibi vendicet scana Theatralis, aut Circense certamen, aut Ferarum lacrymosa spectacula; Et si in nostrum Natalem celebranda solemnitas inciderit differatur.

§ 3. The Non-observers of Fast and Thanksgiving Days, may be punished as Profaners of the SABBATH, I mean, at least, with the like Punishment; For by the Acts of Parliament One Thousand Six Hundred and Ninety Three, and One Thousand Six Hundred and Ninety Five, appointing Fasts, the Not-observers are punished more severely; And I know nothing to hinder the Church from Censuring such, as they do Profaners of the SABBATH.

Non-observers of Fast and Thanksgiving Days punishable.

§ 4. By *Cap. 27. Parl. 11. Jac. 6.* It is Enacted, That Troublers of the Kirk, or who raise any Fray therein, or in the Kirk-yard, in time of Divine Service, be punished by Tinsel of all their Moveables. If the Magistrate be present, no doubt, he may ordain the Disturbers to be Removed, and Secured, till they find Baill to Answer therefore.

Disturbers of Publick Worship; How punished.

§ 5. By the Act of Assembly the thirteenth of February One Thousand Six Hundred and Fourty Five, It is unanimously Ordained, That the Observer of YULE-Day, or other Superstitious Days, shall be proceeded against by Kirk Censures, and shall make their publick Repentance therefore in the Face of the offended Congregation. And if Masters of Schools or Colleges grant Vacancie on that Day, they are to be Cited to Answer to the next Assembly by the Ministers of the Place; And no Vacance is to be granted at that or any time thereafter in Compensation thereof. And Scholars guilty herein, are to be Corrected

Observers of Superstitious Days Censurable.

ed by their Masters ; But if they refuse to subject themselves to Correction, or be Fugitives from Discipline, they are not to be received into any other School or College within the Kingdom. By the 22^d Cap. Sess. 2^d Parl. K. William and Q. Mary. The keeping of YULE Vacance, and all Observation thereof, is Discharged.

The Church
of Scotland
hath no Anni-
versary Fast
or Feast Days.

§ 6. This Church hath no Anniversary Feast or Festival Days, but doth only set apart a Day or Days for Thanksgiving or Humiliation, as emergent Providences do call for. By the 1st Act Parl. 15th. Jac. 6th. The 5th Day of August is appointed to be a Day of Thanksgiving to GOD, for King James his Preservation from the Treasonable Attempt of the Earl of Gowrie and his Brother : But the Truth of this Matter being much questioned by many, it never received Universal Obedience, and at length turned wholly into Desuetude. By Parl. 1. Sess. 1. Cap. 17. and Parl. 2. Sess. 3. Cap. 12. of Car. 2. The 29th Day of May is appointed for the solemn Commemoration of his Birth and Restoration : And for that end, that it be set apart as a Holy Day unto the LORD. But one of the Reasons why the Presbyterians did not keep this Day is, because in the Act of Parliament appointing it, there is a long Preface full of black Aspersions upon the whole Church and Nation, and such Reflections upon Religion and the Work of GOD, as cannot be read without Horror. And they were followed with Acts that destroyed the Church Government, contrary to National solemn Engagements, and gave a deep Wound to true Religion : So that however the King's Restoration might otherways have been Matter of Joy, yet in this Respect it could not be so to any in this Land, that had a true Regard for the Interest of Religion. Our Prelatists did use to observe the 30th Day of January, as an Humiliation Day, because upon it King Charles the First was Beheaded in England, by the Authority and Power of the Usurpers and Sectaries there ; But tho' that horrid Fact was

still

still detested and abhorred, both by this Church and Kingdom, yet we never would observe it, because of our notour Innocence in that Matter. It is true, it is our Duty to Mourn for the Sins of others, but not as our own Sins, except we have had some sinful active Accession thereto.

§ 7. It is not to be reputed an observing of Superstitious Days, when People in Obedience to Civil Authority, do refrain from Work thereupon, according to the 21 *Act*, ^{What is now a superstitious observing of Days,} Cap. 14. of the *French Church Discipline*.

T I T L E VII.

Of Slandering and Assaulting of Ministers, Beating and Cursing of Parents, and Injuries Personal and Real.

§ 1. **R**Aising of Scandals and Prejudices against Ministers, being so obstructive to the Success of the Gospel, the Assembly by their *Act August 6. 1642*, Doth Ordain Presbyteries and Synods to proceed diligently against all Persons that shall Reproach Ministers, with the Censure of the Kirk, even to the highest, according to the Degree and Quality of the Scandal. ^{Slandering of Ministers to be Censured.}

§ 2. By the 27 *Act Parl. 11. Jac. 6.* and *Act 7. Parl. 1. Car. 1.* and *Act 5. Sess. 1. Parl. 2. Car. 2.* It is appointed, That who Invades or puts violent Hands, or offers Violence to Ministers, by themselves, their Men, Tennents, or Servants, or any others of their Hounding out or Allowance, for whatever Cause, shall be punished by Tinsel of Moveables, the one half to the King, the other half to the Party offended for the Violence allannerly: But prejudice of greater Punishment, if any higher Crime concur, such as Mutilation or Slaughter: And that Landlords, Heretors, and Chiefs of Clans, where the Invaders Dwell or Haunt, be holden upon Complaint of the Party, ^{Violence offered to Ministers; How punished.}

to Exhibit them : And if after legal Intimation, made to the said Land-lords, &c. The said Delinquents be found within their Bounds Haunting openly for Ten Days ; that they be holden as Connivers, and be obliged to Exhibit them under the like Punishment. But by the 37 Act of Parl. 1685, It is Ordained, That whosoever shall be found guilty of Assaulting the Lives of Ministers, or of Invading or Robbing their Houses, or actually attempting the same, shall be punished with Death.

Beating and
Cursing of Pa-
rents ; How
punishable.

§ 3. By the 20 Act Sess. 1. Parl. 1. Car. 2. Beating or Cursing of Parents, is declared to be punishable by the Law of GOD with Death, and therefore Ordains, That whatsoever Son or Daughter above the Age of Sixteen Years, and not Distracted, shall Beat or Curse his Father or Mother, he shall Die without Mercy : But if they be within the Age of Sixteen, and past Pupillarity, they are to be punished Arbitrarily.

Verbal Inju-
ries ; What.

§ 4. Verbal Injuries are committed by unwarrantable Expressions, as to call a Man a Cheat. Calvin in his *Lexicon Juridicum*, says, That *Diffamare est per diversas partes famam divulgare, facta vitiorum commemoratione*. In Libelling of such Injuries, there is requisite, *First*, That the particular Expressions be distinctly condescended on, that the Injury may be accordingly Estimate. *Next*, That the *Calumniandi*, or *Injuriandi animus*, the design of Injuring, as well as the Injuring Words, must be Libelled and Proven, except the Words infer so clearly the Injury, that there is no necessity to Libel the Design. In the last Place, That the Pursuer did presently Repent the Injury, and thereupon did signifie, either expressly, or by some other Acts, his Dissatisfaction therewith : For, if he was of such a Temper as not to signifie any Resentment thereof at first, the Law will not allow him to Repent of that good Humour. Bockelman, in his *Compend of the Institutions of the Civil Law*, says, That *Injuria est delictum, quo quid ad con-*
sameliam

tumeliam vel dolorem alterius admittitur. And by the Canon Law it is, *Dictum vel factum alterius famam vel dignitatem minuens.* Sometimes Injuries are inferred, not only from exprefs Words, but even from the presumptive Meaning of the Speakers, as to look in a Man's Face and say, *I am not such a Lyeer as others are;* Or, to say flangingly to a Clergy-Man, *You are a fine Church-Man indeed.*

§ 5. Since Injuries are Estimate, according to the Design of the Offender, it follows that Men who are Fools, Idiots, very Young, or very Drunk, are not punishable for Verbal Injuries, except the Offender did become Drunk upon Design to Offend: And great Passion, which breaks off all Designing, *Iusta & non affectata ira,* excuseth also in this Case. The relating also what we have heard from good Authors, who design no Prejudice, is sufficient also to defend against the Punishment due to Injurers.

What defends against the punishment due to Injurers.

§ 6. Real Injuries, according to that forecited Civilian, are, *Cum quis pugno pulsatur, fistibus caditur, verberatur, cumque bona ejus qui nihil debet ut debitoris possidentur, cum quis vexandi causa, in jus vocatur, aliudve quid ad invidiam alterius fit vel geritur,* M'KENZIE on this Title tells us, Real Injuries are committed by hindering a Man to use what is his own, by removing his Seat out of its Place in the Church, by giving a Man Medicaments which may affront him, by arresting his Goods unjustly, by wearing, in contempt, what belongs to another Man as a Mark of Honour, by Razing shamefully a Man's Hair, or Beard, or by offering to strike him in Publick.

Real Injuries: What.

§ 7. *Libelli Famosi,* That is, Infamous Libels are the most Permanent of all Injuries: For the Offender in them shews more Design, and therefore are more severely punished, which with us is Arbitrary, except where the Prince is maliciously and designedly abused. He who Writes, Dic-

Infamous Libels called by Civilians Libelli Famosi, How punished, and its Decretes.

tates, or Affixes Infamous Libels, or causes Write, Dictate, or Affix them is punishable. If the Offender was a Minor, or was provoked; or if he did tear it before it was fully Written, or after it was Affixed, confessed his Fault, and said he only did it out of Passion; Or, if what was said was true, these things will lessen the Punishment.

Who are Judges competent.

§ 8. According to our Law, *Verbal Injuries* are punished by the *Commissars*, except they were committed against a Magistrate: In which Case, the Council or Criminal Court uses to Amerciate them, especially when he is spoken against in the Exercise of his Office. But *Real Injuries* may be pursued before the Council or Criminal Court. By the Civil Law *Verbal Injuries* are extinguished, if they be not pursued within a Year, or by posterioir express Friendship.

How Church Judicatories are to behave in Processes for Calumny.

§ 9. When the Complaint consists of some Injurie done to the Complainer, it is fit that the Church should endeavour to compose and remove such Differences privately; but if the bringing of it before them cannot be got avoided, let it rather be Tabled by Order of the Eldership, than pursued at the Instance of the Complainer, because thus the thing as Scandalous may be more Abstractly Considered, the Person more easily Convinced, and the Heat of Parties prevented. But if Parties will enter their own Complaint, let them be acquainted, that they are not to expect that the Church can *Civilly* punish the Injury, but they are to be Exhorted to pardon it as to any Vindictive Humour, and told, that it is only their Business to remove the Scandal, and gain and please Parties, to their Edification. And I suppose the Calumniator complained of should prove what he alledged against the Pursuer, yet even that cannot vindicate him altogether, except the End of his divulging it appeareth really to be his Brother's Edification: See *Durb.* on Scandal, Part Cap. Upon the whole, where there

is no probable Ground to expect Edification in giving way to such Processes, according to that Author, it were expedient for the Church altogether to wave them.

T I T L E VIII.

Of Bribery, Partiality, and Negligence of Judges.

§ 1. **I**T is to no purpose to make good Canons and Constitutions, if the Execution of them be not committed to just and diligent Persons; As it is to no purpose to have an exact Ballance, if that Ballance be not put in a good Hand. *Bribing!*
What. Bribing is the taking of Money or other good Deeds, either for doing of Justice, or committing of Injustice. And if they be taken upon that Account, whether by the Judges, their Wives, Children, or Servants; The Judge is thereby guilty as if done by himself: Providing the same be done by his Command or Rati-
 fication.

§ 2. Judges are Partial, when they are moved to Act, or Forbear, either from fear of angring and disobliging Parties; Or from a design and love to gain their Favour. *Partial Jud-
ges, Who.*
 By Act of Assembly 10th August 1648, Impartial Church Procedure is proposed as a general Remedy against the growing of Sins in the Land. And the Assembly 11th June 1697, appoints Ministers and Members of Kirk-Sessions Impartially to exercise Church Discipline; And excites them thereunto, by putting them in mind, that in these Matters, they have to do with the Great and Terrible GOD, whose Honour and Favour is to be prefer'd, and whose Wrath and Anger is to be feared before all other Considerations whatsoever. By the 104 Act, 7 Parl. Ja. 5.

Consulting, or giving partial Judgment, or taking of Bribes, is declared Infamous in any Judge. By the 93 *Act*, 6 *Parl.* Ja. 6. the taking of Bribes is discharged to the Lords of Session, their Wives and Servants, under the pain of Infamy and Deprivation.

*Negligence
of Ecclesiasti-
cal Judges,
Censurable.*

§ 3. By the Laws of this and other well govern'd Nations, Judges negligent in putting Laws to Execution, are punishable for their Remissness and Negligence. And by Act of Assembly *January* 30. 1699. It is Enacted, That whatever Minister or Member of Session, be found Faulty in neglecting to pursue the Scandals therein mentioned, in their Stations, the said Minister or Member of Session be complained of, and censured by the Presbytery for the first Fault, and that the Censure be Recorded, and that the second Negligence be delated to, and censured by the Synod; And for the third Neglect, they be censured by the Synod with Suspension from their Office, which is to be Recorded in the Synod Register, *vide Tit.* 5. *Lib.* 4.

T I T L E IX.

Of Deforcement of Officers.

Deforcement, § 1. *What.* **H**OW Citations are sometimes appointed to be Execute, for preventing of Deforcement, *vide Lib.* 1. *Tit.* 2. §. 6. Deforcement is that Force or Violence which opposeth Church Officers while they are in the Execution of the Orders & Appointments of Church Judicatories. But if any Officer want his Orders in writ along with him, the Violence offered to him in that Case cannot be espoused by Church-Courts, as an Indignity offered to them, otherways Strangers might be Emboldened to affront

affront others by assuming and pretending their Authority. Therefore, when any Injurie is offered or committed against so unexact and negligent Church Officer, it is only to be Resented as if it had been done him when going about his own Affairs.

§ 2. Whoever may be admitted Witnesses for proving of other Offences may be sustained as Witnesses to prove the Deforcement, otherways it may never be proven; But then the Witnesses must not be Pursuers or Complainers, even though they were abused; And if they do deponé of any Wrong done to themselves, they may be Rejected as prejudicate Witnesses.

*Who are ha-
bile Witnesses
of Deforce-
ment.*

T I T L E X.

Of Murder, Parricide, Duels, and Self-Murder.

§ 1. **A**Mong the Ecclesiastical Remedies Enacted against Profaneness, *August 10th 1648, Art. 5.* *That these Crimes come under Church Cognizance.* It is proposed to the Consideration of Presbyteries how Murder should be censured, in case the Magistrate do not his Duty in punishing it Capitally. And in that *Form of Process*, Enacted by Assembly 1707, *Cap 6. Art. 1.* Murder, among divers horrible Crimes, is there Enumerated as the Object of the Churches Cognizance; It is not Improper that Church-men understand somewhat of the Laws and Customs relating to Criminal Matters, the Relevancy and Punishment of many Crimes being either founded upon or expressed in the Word of God, whereof they are the Authorized Ministerial Interpreters. It is true, it may be feared, that Church Discipline shall have but small Success upon obdured or monstrous Criminals; Yet, it being

being a Mean appointed by Jesus Christ for Reclaiming of Sinners, it should on that account be Tryed, and no more Neglected than His Word and Sacraments, which very often have no better Effects. This Church hath very clearly Expressed her Opinion about the Extent of the Object of Church Discipline, *Assem. 1638. Sess. 23, 24. Art. 13.* Where they ordain, That Discipline in Kirk-Sessions (for there all Processs against Church Members do first begin) strike, not only upon gross Sins, as Blood-shed, &c. but against all Sins repugnant to the Word of GOD.

*Murder,
what, and of
Casual Homicide.*

§ 2. Civilians define Murder to be the Killing Man by Man, unlawfully; And they divide it into that which is committed Casually, in Defence, Culpably, or Wilfully: Casual Homicide is, when a Man is killed without either the fault or design of the Killer, as if an Ax-head should fall off and kill a By-stander, or, a Rider should kill with his Horses hinder Feet. Casual Slaughter or Homicide then, is that, which is occasioned by Mistake and just Ignorance: for if it proceed from affected Ignorance, as for instance, if a Man will not know what he may know, his Ignorance in that case will not make the Murder following upon it to be constructed casual Homicide; But if it proceed from gross and *supina Ignorantia*, it may be punished by an Extraordinary or Arbitrary punishment, but not by Death. It is then necessary, that the Committer used all exact diligence to evite the Crime, else, he is not in the case of casual Homicide. Further instances whereof are, if a Mason before he throw down Stones, advertise all below, tho' in the Throwing he Kill, he is to be cleared from Murder. Or if a Hunter shoot at a Beast, but a Man come in the way and be killed: and yet if either the Mason Cry not, or if the Hunter did shoot in a place where people use to be, he is judged by some Lawyers to be guilty of Faulty Murder. If the Committer do what is against the Law of Nature, or what is Criminal: Or if

what

what he doth may produce ill Consequences and Murder, tho' he designed not the same: In all which Cases, he ought to be lyable. And it seems reasonable, that he who Killed, when he was doing what was unlawful, may be Arbitrarily punished, tho' he did exact diligence to shun Killing.

§ 3. *Homicidium necessarium*, or Homicide committed in Self-defence, is, when a Man being pursued, or reduced to inevitable Necessity, has no way left him to evite his own Death, but by killing the Aggressor: This is in Law called *Inculcata Tutela*, or, *Moderamen inculcatae tutelæ*; within which Moderation, if the Defender contain himself, he is noway punishable; And so favourable is Self-defence, that the Exceeder is not lyable to the ordinary punishment, but is punishable according to the Excess, at the discretion of the Judge. This Moderation is said to be Exceeded in these Three, *First*, In *Arms*, as if the Aggressor have only a Staff, and the Defender Wound him with a Sword or Pistol, the Defender is in that case punishable. And yet this Conclusion is not infallible, for if the Defender was much weaker than the Aggressor, he might be excused to use such unequal Weapons, according to *Mackenzie* on this *Title*. *Secondly*, The Defender is said to Exceed in *Time*, if he strike the Aggressor, *antequam sit in actû proximo occidendi*, for else it should be lawful to every Man, upon the first apprehension of Fear to kill the Aggressor. If he Threaten to Kill, and be one who is known to have any design to Murder, or be a person who useth to Execute what he Threatens, and if he have a Sword, tho' not drawn, or a Pistol, tho' not cock'd, if he hath either of these, according to the forecited Author, he may be lawfully Killed, because he is *in actû proximo offendendi*, and yet he thinks the Defender may be Arbitrarily punished. *Thirdly*, The Defender is said to Exceed in the *Measure*, as if he Killed him for Wounding, whom he might have

Homicide committed in Self-defence, and how lawful Bounds are Exceeded.

How Self-
defence is to
proponed and
proven,

have shunn'd, or if he followed the Aggressor. Albeit much be left to the Arbitration of the Judge, as to all the Three; Yet the general Rule is, That if the Defender Exceed only in either of the Three, as *v. g.* in the *Arms* or *Time*, the Excess is said to be *culpa levissima*: if in Two of these, as in *Time* and *Arms*, then it is accounted *culpa levis*, and is punishable: But if the Defender Exceed all the Three, as in *Time*, *Arms* and *Way* of prosecution, then it is *culpa lata*, but yet he is not punishable as if he had *dolose* murdered, for tho' it be a Rule in *Civilibus*, that *culpa lata equiparatur dolo*, yet it is a Rule in *Criminalibus*, that *culpa lata nunquam equiparatur dolo, ubi agitur de pena corporis afflictiva*. This Exception of Self-defence must be proponed against the Relevancy, and must be condescended upon, thus, the Defender, or Pannel nowise acknowledging the Killing, yet if he Kill'd, it was done in his own Defence, in so far as the Defunct drew a Sword, and Thrust, or offered a Pistol. And though he prove not his Exception of Self-defence, he will not therefore be Condemned, except the Pursuer prove the Libel. The way of proving this Exception of Self-defence is so favourable, that it may be proved by Presumptions, and by Witnesses, otherways Declinable, as Cousins, Servants, and Witnesses who depone only upon Credulity.

What is
Homicidium
Culposum,
or Faulty Ho-
micide.

§ 4. *Homicidium Culposum*, or Faulty Slaughter, is where the Murder was not designed, and yet it was committed meerly by Accident, as if one should Hound a Dog at another, who should Bite him at whom he was Hounded, so that he should Die thereby, in that and the like case, the Offender is not to be punished with Death, but Arbitrarily, because *aberat animus occidendi*. The difference betwixt this and Casual Homicide, is in this, The Committer *versatur in illicito*, but not so in the other, yet they both agree in this, That they wanted all design of Killing.

§ 5. Wilful Murder is committed by fore-thought Felony, and if he who intended to Kill one, did not by a mistake Kill him, but Killed another, yet he is to Die, because he Killed a Man designedly. Since the design of Killing depends much upon the Nature of the Wound given, then where the Wound was not deadly, the Inflictor thereof cannot be punished as a Murderer, tho' the Person Wounded, thereafter Die: And tho' some be of Opinion, That if the Party live three Days after receiving of the Wound, the same is thereby presumed not to be Mortal: Yet generally this is referred to the Arbitriment of the Judge, who is in this to follow the Opinion of Physicians, or of one Physician, if more were not present: But if they Vary, then the Judge shall not incline to punish by Death, but by an Extraordinary punishment: For Murder is not to be inferred but from a concluding probation: and if the Wound be but small, and a Feaver follow, then it is presumed that the Partie Died rather of a Feaver, especially if the person Wounded walked a Foot for forty Days: And seing ordinarily, Wounds that are Mortal do kill the Receiver in that Time, it were therefore not hard to conclude, that he who dies thereafter, dies not of his Wounds if he has walked a Foot all that Time.

§ 6. Night Thieves, Robbers, and Murderers, may be Killed without any punishment, when private persons are warranted to pursue them by Sheriffs, Justices of the Peace, or Privy Counsellors, and the Robber or Murderer Resists to be Apprehended. And by the Civil Law, it was lawful for a Father to Kill his own Daughter, if he found her committing Adultery, and to Kill also her Adulterer: And if the Husband Kill the Adulterer of his Wife, he was only to be punished by some Arbitrary punishment, but not by Death. See the *Title* of the *Pandects de Adulter.* But there is no such Decision yet happened in this Countrey: In the *Memoirs* of the Marquiss of *Langallerie* Printed

Wilful Murder what and what Wound is to be judged mortal.

Killing of Robbers, Murderers and Adulterers, how warranted absq.

ted at *London* this year 1708, Page 85, the following Passage is related, *viz.* A Citizen of *Madrid*, finding a *Frenchman* and his Wife on the Bed, Stobbed them both. After the Execution, he goes out with his *Dagger* in his hand, stain'd with the Blood of these two persons, and presents himself before the Judges, who were then upon the Bench. The Court of Justice, without any other Formality upon the recital of the Action, declared him Innocent; This he says happned in the year 1700, and the *Frenchman* was a Gentleman of the Retinue of the *French* Ambassador.

Fighters of
Duels, how
punished and
Censured.

§ 7. *Monomachus*, or, the Fighter of a single Combat, is, *singulus qui pugnat cum singulo*. By the 12. Act of the 16. Par. Jac. 6. All such Fighters are punishable with Death, albeit none of them be Killed, and the Provoker is to be punished with a more Ignominious Death than the Defender. The giving or accepting Challenges to Fight, and those who carry them, and the Seconds of such, may be punished by the Council *Arbitrarié*, although Combat follow not, because they tend to disturb the Peace: The *Gen. Assemb.* by their Act 1648, discharges Duels, and ordains all who shall Fight them, or Make, Write, or Receive, or with their Knowledge carry Challenges, or go to the Fields, either as Principals or Seconds to Fight, the Contraveeners are to be brought into publick twice, once in order to their being Rebuked, and again, in order to the professing their Repentance. (but the Method of Censuring such now, is to be Regulate according to the *Form of Proccess* Enacted by Assembly 1707, of which more hereafter *Lib. 4.*) If the person guilty be Elder or Deacon, he is to be Deposed, and whosoever shall refuse to submit to the Censure appointed by the Church, shall be Proccessed to Excommunication. And by *Cap. 14. Art. 32.* of the *French* Church Discipline, the same upon the matter is Enacted.

§ 8. Self murder is punished with Confiscation of Moveables, and Christian Burial is denied them. Curiosity and Madness ought to defend against this punishment, even tho' he hath Lucid Intervals, being its more Humane to presume he killed himself in his Madness, except it can be proved, that he used even in his Lucid Intervals to wish he were dead, or to commend Self-murder. An endeavour to kill ones self, is punishable by Confiscation, as Self-murder. But it may be reasonably feared, that the inflicting that Punishment upon it, will tempt the poor Creature to renew its Endeavour with better Success. Self-murder may likewise be committed by Omission, as if a Man should designedly Starve himself.

§ 9. Parricide is a Crime which is committed by Killing our Parents, or, by the Civil Law, Ascendents or Descendents in any Degree, By the 220 Act Parl. 14. Jac. 6. Parricide is punished only in him who Kills his Father, or Mother, Good-fire, or Good-dame, and they are ordained to be Disinherited *in linea recta*.

§ 10. By the 21 Act of K. W. & M. Par. For preventing the Murder of Children, It is Enacted, That if any Woman shall conceal her being with Child, during the whole space, and shall not call for and make use of Assistance in the Birth, the Child being found Dead or a Mising, the Mother shall be holden and repute the Murderer of her own Child, tho' there be no appearance of Bruise or Wound upon the Body of the Child.

§ 11. The taking of Potions to cause Abortion, after the Child was Quick, should be Capitally punished, tho' the using such means before the *fetus fuit animatus*, or to hinder Conception, is to be punished Arbitrarily. By the 91 Canon Concilii sexti in Trullo, it is thus determined, *Has quæ dant Abortionem facientia Medicamenta, & quæ fetus necantia venena accipiunt, Homicidæ penis subjiciuntur.*

The Ex-
posers of In-
fants, how
punished, and
if they be
Bastards.

§ 12. If the Exposed Infants do thereby die, the Ex-
posers are as guilty as the Takers of Abortive Potions, e-
specially if the place was solitary and remote from Society,
and where Beasts might devour them: But if they were
Exposed where people resort, and might easily be seen,
these who laid them down are only to be punished Arbi-
trarily. Since in this Land most rarely are Children law-
fully begotten ever Exposed, therefore we are not obliged
to repute them otherways than unlawfully begotten, see
Matthæus de Crim. Expos. Infant. The Parish where such
Children are found, is certainly at first, to bear the burden
of their Maintenance and Education.

T I T L E X I.

Of Incest, Adultery, Bigamy, Rapes, Fornication, Et de
Venere Monstrosa.

Incest what,
its kinds, and
how punished.

§ 1. I Ncest is Defined by Civilians, to be, *feda & ne-
faria maris & femina Commixtio, contra reverenti-
am sanguini debitam*; and they divide it into two
kinds, viz. That which is against the Law of Nature, of
this sort is all Copulation between Ascendants and De-
scendants; The other Branch, is that, which is against the
Municipal Law of the Countrey, but our Law does not
observe this distinction, for it is Enacted by *Parl. 1. Jac.
6. Act. 14.* That whosoever pollutes his Body with such
persons in degree, as GOD's Word doth contain, *Levit.
18.* shall be punished with Death. By the Act of Assembly
1648. Sess. 38. Incestuous persons, in case the Magistrate
doth not punish them Capittally, are to make publick pro-
fession of Repentance for the space of 52 Sabbaths; But
this

this Act is Innovate and Amended by the 4th Act of *Assemb.* 1705, and the 11. Act of *Assem.* 1707.

§ 2. Adultery is the violation of anothers Bed; Hence some give its Derivation *ad alterius thorum*, and is committed by Married person's lying with an Unmarried, or an Unmarried persons lying with one who is Married. If the Woman with whom the Adultery is committed was at that Time living as a common Whore, and the Committer was a single Man, and knew nothing of her being Married, his Punishment should be moderated on that account, but if the Man was Married, the Crime is the same, whether the Woman was a Whore or not, it being still a Violation on his part. And that the lying with a Man's Betrothed or Affidat Spouse, may be constructed Adultery, see *Pag.* 146, 147. For he who lyes with one who is to be shortly Married, renders the Succession as doubtful as he who lyes with a Married Wife.

§ 3. Notour Adultery is by the 74 Act *Parl.* 9. Qu. M. Declared to be punishable by Death, after Premonition is made to abstain from the same manifest and notour Crime. Yet by the Explication of this Act given by 105 Act *Par.* 7. *Jac.* 6. That is only declared to be notour Adultery, where, *First*, There are Bairns ane or mae procreated betwixt Adulterers. *Secondly*, When they keep Company or Bed together notoriously known. *Thirdly*, When they are suspected of Adultery, and thereby give Slander to the Kirk, whereupon being Admonished to satisfie the Kirk, they contemptuously refuse, and for their Refusal are Excommunicate. If either of which three Degrees be proved before the Justices the Committers are punishable by Death.

§ 4. Albeit there be no exprefs Law for inflicting Death upon ordinary Adulterers, yet *Mackenzie* on this Title thinks, that Judges are not hindred to inflict the punishment of Death upon ordinary Adulterers, by any thing expressed in that forecited Act of *Jac.* 6. Otherwise, it should be an Act

Adultery,
what.

The difference betwixt single and notour Adultery.

Adultery, how punishable.

Act in prejudice of the Law of GOD, which expressly ordains Adulterers to be put to Death, *Deut. 22.* by *Justinian's 134. N. Cap. 11.* The Civil Law is altered, appointing Death to be inflicted upon Adulterers. And by the Law of most Nations, Adultery is only punished by pecuniary Muiſts. With us notour Adultery has been punished with Death, and single Adultery *Arbitraré.*

How the Church Censures Adulterers.

§ 5. By the Act of Assemb. Aug. 5. 1642. All Presbyteris are ordained to give up to the Lords of Justiciary, the Names of the Adulterers and Incestuous persons, Witches and Sorcerers within their Bounds, that they may be Processed and punished according to Law. By Assembly 1648. *Sess. 38.* A person being once guilty of Adultery, is to make publick profession of Repentance twenty six Sabbaths in Sackcloth; and a Relapse in Adultery three Quarters of a Year: But this Act is Innovate and Amended by the fore-cited *fourth* Act of Assembly 1705. And by that same Act 1648, persons guilty of Relapse in Adultery are to be more summarly Excommunicated.

The Marriage ought to be proved, and what Probation is requisite in Adultery.

§ 6. Since Adultery is only committed by married Persons, it is therefore requisite that the Libel in Adultery bear, that such persons were Married, and except it be proven or be notour to the Assize, they should not File the Pannel, tho' Copulation be proved. Adultery may be proven by strong and violent Presumptions, as the being in Bed together alone, and being Naked, and the being frequently alone together: Likewise Gifts, Love-Letters, Close Doors, the Wife's being Abroad all Night, the Entertaining persons that are known to be Pimps, and Co-habitation, are all Presumptions, upon which it is ordinary for Assizes to File Pannels, with the assistance of any other Probation.

How she is to be Censured, who lyes with an unknown Man.

§ 7. By the 11. Act of Assemb. 1707. Cap. 4. If the Woman who hath brought forth the Child, doth declare she knoweth not the Father, & that she was not Forced, whether Married

Married or Unmarried, the same Censure is to be inflicted upon her as in the case of Adultery. But if she alledge she was Forced in the Fields by a person unknown, in that case the former Behaviour of the Woman should be inquired into, and she seriously dealt with to be ingenuous; And if she hath been of *intire Fame*, she may be put to it to declare the Truth, as if she were upon Oath, but not without the Advice of the Presbytery, and no formal Oath should be taken.

§ 8. In our Law a Man marrying two Wives, or a Woman marrying two Husbands, commits Bigamy: And this is accounted by the 19 Act *Parl. 5. Q. M.* a Breach of the Oath made at Marriage, and therefore is punishable as Perjury, by Confiscation of all their Moveables, Warding of their Persons for Year and Day, and longer during the Queens Will, and as infamous persons never to bruike Office, Honour, Dignity, or Benfice in time coming. It may be doubted if Quakers can be punished as Perjurers, seing they give no Oath at Marriage, and certainly they should, seing Marriage implyes a Vow, tho' no Explicite Oath be given. It may be doubted also if the two persons marrying be guilty of Bigamy *eo ipso* that they Marry, though because of some interveening Accident they Bed not, but seing by the second Marriage they give contrary Oaths, certainly they are guilty of Perjury: for Perjury being the *Medium peccati* in this Crime, and not *copulatio* or *cuitus* as in Adultery. *Reatus contrahitur per contraria vota*

*Bigamy
what, and its
punishment.*

§ 9. Rape, or Ravishment, is that Crime which is committed in the violent carrying away a Woman from one place to another, for satisfying the Ravishers Lust, and is in the Civil Law punishable by Death. *L. Un. C. de Rap. Virg. &c.* The Canon Law describes it thus, *Est rapina & violentia quedam, qua mulier de cujus nuptiis nihil actum est antea, abducitur, invitis parentibus.* By the 4. Act

*A Rape,
what, and its
punishment.*

Act Parl. 21. Jac. 6. It is declared, That albeit the Consent and Declaration of the Woman Ravished, declaring that she went away of her own free Will: may free the Committer from Capital Punishment, yet shall it not free him from Arbitrary Punishment; Which Act insinuates that the Crime with us is otherwise Capital.

Minors,
and such as
force common
Whores, how
punishable.

§ 10. Since Minors are punishable for Adultery, much more ought they for a Rape: for Men in these Years, are more prone and liable to perpetrate such Extravagancies, than when at a greater Age. Though it may seem that Whores are *infra legum observantiam*, and ought not to have Protection from Law, who offend against it; Yet if the Whore be now become a Penitent, and Reconciled to the Church, and for a long Tract of Time hath had a Chaste and Laudable Conversation: It may be doubted, if the Ravisher of such a person, may not be punished *pena ordinaria*.

Fornication,
what, and how
punished and
Censured.

§ 11. Fornication is committed by the carnal knowledge of unmarried Persons, the Canon Law distinguisheth thus, *stuprum* (say they) *est Virginis destoratio, & illicitus cum vidua concubitus*. That Law commands such Abusers of Virgins to Marry them, the Parents consenting thereto, and if they refuse to do so, his Body is to be Chastised, and himself Excommunicated. But if the Father of the Corrupted Virgin will not bestow her upon him in Marriage, then the Man is obliged to give her such a Dowry as Virgins of her Degree and Quality use to get. That same Law says, simple Fornication is *Concubitus soluti cum soluta & impudica*, The punishment whereof is left unto the Judges discretion. That there should be a distinction of punishment inflicted upon the Desflowerers of Virgins, and Abusers of honest Widows, from these who abuse themselves with such Women who have sinned so already is very reasonable. By the Act of Assemb. Aug. 10, 1648. Fornicators are to make profession of their Repentance
three

three several Sabbaths; Who is guilty of a Relapse therein, six Sabbaths; Who is guilty of a Trilapse, twenty six Sabbaths; And of a Quadrilapse, three Quarters of a Year, all in Sack-cloth, and are first to appear before the Presbytery, confessing their Sin there, e're they be admitted to publick profession of Repentance for it: But this Act is Reformed and Amended by the *Form of Process* Enacted Assembly 1707, of which hereafter. By *Cap. 38. Sess. 1. Parl. 1. Car. 2.* Fornication is Fineable in 400 *libs.* to Noblemen, 200 *libs.* the Baron, 100 *lib.* the Gentleman and Burgess, and ten pounds every Inferiour Person; And that the Pain be doubled *Toties Quoties*, and to be Levied off the Man as well as the Woman, to be applied to Pious Uses. But if Fornicators be Insolvent, they are to be punished Corporally, according to the *13th Act, Parl. 1st, Jac. 6th.*

§ 12. Albeit the subsequent Marriage of Fornicators may Defend them from Civil punishment, and likewise Legitimizes the Children begotten before Marriage, according to the present practice, Yet the Church doth not Judge the Scandal given to be thereby Removed; and therefore by their Act *June 11. 1646.* they Appoint all Married persons, under publick Scandal of Fornication before Marriage, although the Scandal thereof hath not appeared before Marriage, to Satisfy publickly therefore, their being in the state of Marriage notwithstanding, and in the same manner they should have done if they were not Married.

*What defends
against the
Punishment.*

§ 13. According to *Mattheus de Criminibus, Mon-* *Venus Mon-*
frosa Venus est quacunque vel virum vel fœminam menti- *frosa, hom*
tur. With us the Confession of Sodomy it self, without *punished.*
any other Adminicles is sufficient to Inferred the punishment of Death, except the Confessor be known, or at least suspected to be Distempered. Bestiality is likewise punishable with Death, and the Endeavour is as highly punish-

able, if the Delinquent was only hindered by others ; In both these Crimes Witness'es who are lyable to Exceptions will be received, because of the Atrocity of the Crime, as some Authors think ; See *M'kenzie* on this Title. We have Reason to bless God that these Crimes are rarely committed, and some of them not so much as known in this Land, and therefore never any particular Statute against them hath yet been made. But our Libels against them, Bear, That albeit by the Law of the Omnipotent God, as it is declared *Levit. 20.* As well the Man who lyeth with Man-kind, as the Man who lyeth with a Beast be punishable with Death, &c. The ordinar Punishment in both these is Burning, and the Beast is also Burnt or Drowned, with which the Bestiality was committed ; Partly for the prevention of Monstrous Births, and partly to blot out the Memory of so loathsome a Crime.

T I T L E XII.

Of Penny Bridals, Promiscuous Dancing, Stage Playes, Immodesty of Apparel, Drunkenness, Tipling, and Acts in General against Profaneness.

*Penny-Weddings, how Re-
frained.*

§ I. **P**enny-Weddings are neither by our Civil nor Ecclesiastical Constitutions absolutely Discharged, for that were to deprive the poorer sort of the Satisfaction of meeting with their Friends on that Occasion. But our Assembly considering that many persons do invite to these Penny-Weddings excessive Numbers, among whom there frequently falls out Drunkenness and Unclean-ness, for preventing whereof, by their Act *February 13th 1645.* They ordain Presbyteries to take special Care for

Re-

Restraining the Abuses ordinarily committed at these Occasions, as they shall think fit, and to take a strict Account of the Obedience of every Session to their Orders thereanent: And that at their Visitation of Parishes within their Bounds; Which Act is Ratified *March 8th 1701*. And by the *12th Sess. Assem. 1706*. Presbyteries are to apply to Magistrates for executing the Laws relating to Penny Bridals, and the Commission upon Application from them are to apply to the Government for obliging the Judges, who refuse, to execute their Office in that Matter. By the *14th Act, Parl. 3d, Car. 2d*, It is ordained, That at Marriages, besides the married Persons, their Parents, Brothers and Sisters, and the Family wherein they live, there shall not be present above four Friends on either side. And if there shall be any greater Number of Persons at Penny-Weddings, within a Town or two Miles thereof, that the Master of the House shall be fined in the Sum of five hundred Merks.

§ 2. The General Assembly by their Act *July 19th. Promiscuous Dancing censurable.* 1649, Finding that Scandal and Abuse arises through Promiscuous Dancing, do therefore discharge the same; The Censure thereof is refer'd to the several Presbyteries: Which is Ratified *March 8th 1701*. By the Church Discipline of *France, Cap. 14. Art. 27*. these who make account to Dance, or are present at Dancing, after having been several times Admonished, shall be Excommunicated upon their growing Obstinate and Rebellious, and all Church Judicatories are to see this Act put to Execution. By the *53 Canon Concilii Laodicensi, Non oportet Christianos ad nuptias venientes ballare vel saltare, sed modeste Cenare vel prandere, ut decet Christianos.*

§ 3. By the *28 Art.* of the forecited *Chap.* of the French Church Discipline, Christian Magistrates are exhorted not to Tolerate *Hocus Pocus*, and *Slight of Hand Plays*, nor *Puppet and Stage Players*, neither shall it be Lawful for

Stage-Players, &c. condemn'd.

Believers to assist at *Comedies* or *Tragedies*, and such other Plays, acted in publick or private, seing that in all Ages they have been prohibited among Christians, as tending to the corrupting of good Manners. Nevertheless, when in Colleges it shall be thought fit that Youth may Represent some History, it may be Tolerated, providing it be not contained in the Holy Scriptures, and done very seldome, and even then by Advice of the *Colloquy*, which shall first be satisfied with the Composition. In the third Book of the *Digests*, *Tit. 2. De his qui notantur Infamia. L. 2. § 5. sub Fin. Eos enim qui quæstus causa in certamina descendunt, & omnes propter præmium in scenam prodeuntes, famosos esse.*

*Immodesty of
Apparel con-
demned.*

§ 4. By the 25th Art. of the above-cited *Cap.* of the *French Church Discipline*, The Churches shall advertise Believers to use great Modesty in Apparel, and shall give order to abate the Superfluity therein Committed. Nevertheless the Churches shall make no Law thereabout, the making of such appertaining to the Magistrate. And by the 26 Art. All persons who wear Habits that have open Marks of Dissoluteness, Shame, and too much Newness, as, Painting, Naked Breasts and the like, the Consistory shall use all possible Means to suppress such Badges of Immodesty by Censures. All Obscene pictures, which are apt to dispose and incite to unclean Thoughts and Desires, are most Improper Furniture for the Houses of Christians, and therefore the Users of them may fall under Church Censure if they be not removed.

*Means and
Considerations
for prevent-
ing Drunken-
ness.*

§ 5. Temperance is the Golden Mids between Abstinence and Intemperance; for attaining whereof, when we are sufficiently strengthened and Refreshed with our Ordinary Diets, we should abstain betwixt them, and if we will not suffer our selves to be thus Rationally bounded I cannot see how we can otherways eschew the evil of being tempted to Excess in Drinking, both from the speci-

ous pretences and Solicitations of our own Voluptuous Tempers, and the Inticement and Example of others : And if we Transgress the Bound above-propofed, we cannot but fall into Tentation ; For as *Card. Bona, de vitæ Christianæ principiis* faith, *sæpe nescimus utrum subsidium petat inevitabilis corporis cura, an fallacia concupiscentiæ nos decipiat, & in hac incertitudine bilarescit infelix anima, ut salutis obtentu intemperantiam excuset.* Our Law seems to Approve and appoint this manner of Bounding, for the 20 *Act, Par. 22. Jac. 6.* Dischargeth all haunting of Taverns and Ale-houses after Ten hours at night, or any time of the Day, excepting time of Travel, or for Ordinary Refreshments, under the pain of being punished as Drunkards. And therefore, if one Accused for Drunkenness, deny the same, or Impute the Signs and Effects thereof proven against him, to other Causes, as Sickness of the Stomack, Giddiness of the head or the like ; these Defences, though they may be true, Yet are not Relevant to defend the Accused against the punishment of Drunkenness, providing his Tipling be proven by the unseasonable haunting of Taverns ; And it needs not be thought hard that no Distinction is made betwixt Drunkenness and Tipling, seing it is a common Observation, that Tiplers are harder to be Reclaimed than Drunkards themselves.

Tipling punishable, as Drunkenness.

§ 6. Among the Remedies propofed against the Corruption of the Ministry, by Assembly June 13. 1646. *Act II.* Ministers are not only to forbear Drinking of Healths, called Satans Snare, leading to Excess, but likewise to Reprove it in others ; And the following Act of Parliament punishing the Sin of Drunkenness, doth Appoint Excessive Drinking, especially under the Name of Healths to be punished. The Act I mean is 19. *Seff. 1. Par. 1. Car. 2.* Which Enacts that who drinks to Excess, or haunts Taverns as above, shall pay, the Nobleman 20 *lib.* The Baron 20 *Merks*, The Gentleman, Heretor, or Burgefs 10 *Merks.*

Drinking of Healths a Snare: Drunkenness, how punished.

10 Merks, the Yeoman 40 *shill.* and the Servant 20 *shill.* *toties quoties*, and the Minister the fifth part of his Stipend : Which Fines are to be Applied as the Fines for other Immoralities, and the Insolvent are to be punished in their persons.

If such as are drunk be punishable for Crimes, and can Contract.

§ 7. Such as Committ Crimes in their Drink, are sometimes for want of Design and Malice, more meekly punished than others, especially if they were Cheated, upon Design, into that Condition by others. And in this Case, the Law Distinguisheth *inter Ebrios*, who are rarely Drunk, and *Ebriosos*, who are habitually such ; For these last should be most severely punished, both for their Drunkenness, and the Crimes occasioned by it. And such as make themselves drunk, upon design to excuse or lessen thereby the Sin they are to committ, merit no favour ; And such as know they were subject to Extravagancies in their Drink, merit as little. Persons that are Incapable and Stupid through Drink, the Law not only forbids People to Contract with them, but makes all Contracts then made Reducible on that Head : The Law is so far from countenancing Fraud, that it Repairs the Injured against it ; See *Stair's Instit. pag. 98. and 602.*

Presbyteries may appoint Informers against Vice. And how Judges refusing to punish the same are liable.

§ 8. By the 40 *Act, Sess. 4. Parl. K. W. and Q. M.* Presbyteries are ordained to appoint Informers against, and Profecuters of profane Persons, within their Bounds before the Civil Magistrate. And by the 13th *Act* of the following Session of that Parliament, all Magistrates are strictly required to execute the Laws against Profanenefs at all times, and against all persons, whether Officers, Souldiers, or others without Exception. And if any of these Judges shall refuse or delay to put the saids Laws to execution upon Application from Minister, Kirk-Session, or any in their Name, giving Information, and offering sufficient Probation against the Offender, that every one of the Judges so refusing or neglecting, shall, *Toties Quoties*, be subject

ject and lyable to a Fine of an hundred pounds, to be applied for the use of the Poor of the Parish where the Scandal was committed. Declaring hereby, that any for the Kirk Session or Minister, having their Warrant, may pursue any of these negligent Judges before the Lords of Session, who are ordained to proceed Summarly, and that it shall be a sufficient Probation of the Judges Refusal, if the Pursuer Instruct by an Instrument under a Nottar's Hand, and Witnesses thereto Subscribing, and Deponing thereupon, that he made Application to the said Judge, unless the Judge so pursued, condescend and instruct, that within the space of ten Days after the said Application, he gave Order to cite the Party complained on, within the space of ten Days, and at the Day of Compearance, he was ready to have taken Cognition of the Scandal complained on, and instruct and condescend on a Relevant Reason why the Laws were not put to Execution. By the 31 Act of the 6 Sess. of K. W. Parl. It is Ordained, that in every Parish, where any of the ordinary Inferiour Judges happen to Reside, they shall execute the Laws against Profanenefs, and Mocking Religion and the Exercise thereof, at the Instance of any Person whatsoever who shall pursue the same; Certifying them if they failzie therein, either by themselves, or their Deputs, the Lords of Session will appoint Judges in that part. And in other Parishes where no such Magistrates do Reside, It is Ordained, That the foresaid Persons shall appoint Deputs for the said Parishes, with the Power and for the End foresaid, such as shall be named to them by the Heretors and Kirk-Session thereof. But, really, it is Forreign to Members of a Church-Session, considered as such, too chose or present a Civil Magistrate, even as it is to a Civil Court, as such, to choose or present the Members of a Kirk-Session. And farther, they Discharge Advocation, *Simpliciter*, of Proceses, against Immorality from these Parish Judges; And likewise, all Suspensions of their

Parish Magistrates for punishing Vice. Their Sentences not to be Advocat or Suspended.

their Sentences without Consignation or Liquidate Discharges. It is also Ordained, that in Case of Calumnious Suspending, the Lords of Session, decern a third part more than is Decerned, for Expences; And Likeways, they Appoint the Fines to be Instantly payed in to the Parish Collector for the poor, or the party Imprisoned till sufficient Caution be found for payment of the same, or otherways to be Exemplarly punished in his person in case of Inability. It is also Enacted, that no pretence of Different persuasion in Matters of Religion, shall Exceem the Delinquent from being Censured and punished for such Immoralities, as by the Laws of this Kingdom are Declared to be punishable by Fineing. And it is Recommended to the Privy Council, to take further Effectual Course against profaneness, and for Encouraging of such as shall Execute the Laws against it.

Difference in Religion ex- ceems not from Church Cen- sure.

Discipline to be faithfully Exercised, & how the Quali- ty is to be Admonished.

Who grant and use Testi- monials, Their Contents.

§ 9. By the Acts of Assembly for suppressing profane- ness, they Appoint as follows. That Church Judicatories execute Discipline faithfully against all Scandalous Conver- sation, and in Particular, against Drunkenness and Swear- ing, but with that Gravity, Prudence, and Meekness of Wisdom, as may prove most Effectual for Reclaiming them. And Ministers are to be free with persons of Quality for amending of their Faults, and if it be found needful, Pres- byteries are to Appoint some of their Number to concur with the Minister in admonishing such. Masters of Fa- milies are to receive no Servants, but such as have Testi- monials of their honest Behaviour, and none ought to get Testimonials, but such as are free of Scolding, Swearing, and such like more Common Sins, as well as Fornication, Adultery, Drunkenness, and other heinous gross Evils. And the Ordinary time of giving Testimonials is to be in face of Session; But if an Extraordinary Exigent happen, let it be given by the Minister with Consent of the El- der of the Quarter. If they have fallen, or Relapsed into Scandalous

Scandalous Sins, let their Testimonials bear both their Fall and Repentance; But it were more Charitable that the Scandal were suppressed, and remembered no more. And Persons of Quality removing to *Edinburgh*, or else where, with their Families and Followers, if they carry not Testimonials along with them, the Minister from whom they Remove, shall Advertise the Minister to whom they come, if to his knowledge they be lying under any Scandal. It is Recommended to Ministers, Presbyteries, and Sessions, to meet together for private Fasting and Prayer, and Conference about the State of the Church, with respect to the Growth and Decay of Godliness, and Success of the Gospel; and in these Days the Presbyteries ought to pass their privy Censures, and both Synods and they are Exhorted to perform them with more Accuracy, Diligence and Zeal. It is Appointed, that Ministers be frequent in private personal Conference, with those of their Charge, about the state of their Souls. And Presbyteries are to take special Notice of Ministers, who do Converse frequently and ordinarily with Malignants, and with scandalous and profane Persons, especially such as belong to their Parishes. Whereas Men of Business for their too late sitting in Taverns, especially on *Saturdays* Night, do pretend Relaxation of their Minds; Therefore it is Recommended to Ministers, where such sinful Customs are, to Represent the Evil thereof both publickly and privately, and call such to Redeem that Time, which they have from Business, and employ the same in Conversing with GOD. It is Appointed likewise, that Carriers and Travellers bring Testimonials from the Places where they Rested on these LORD's Days wherin they were from Home, to their own Ministers. An Abstract of all Acts of Assemblies against Profaneness, is to be got and Printed, and also it is Overlaid, That an Abstract of all Acts of Parliament against the same be gotten. And each Presbyterie is to hear the

Sessions and Presbyteries are to keep Days for Prayer, and pass privy Censures duely, and Ministers to be frequent in Converse.

Men of Business nor to be excused for tarrying late in Taverns, and Carriers must have Testimonials.

Abstracts of Acts of Parliament and Assembly against Vice to be got.

Gross Ignorance how to be Censured.

same Read twice a Year, at two Dyets to be appointed for that effect. And it is likewise Recommended to Presbyteries, to prepare Overtures to General Assemblies, that they being found proper Means for Curbing of Vice, may by them be Enacted. It is Appointed, that persons grossly Ignorant be debarred from the Communion, for the first and second Time, suppressing their Names, for the third Time expressing their Names, & for the fourth Time let them be brought to publick Repentance: This is to be understood of those that profit nothing, nor labour for Knowledge; for if they be labouring to profit, they ought by the Act of Assembly to be Treated with more Forbearance. All which Means for suppressing of Profanity, are Enacted by Assemblies Aug. 10, 1648. April 14. 1694. Jan. 24. 1698. Jan. 30. 1699.

T I T L E XIII.

Of Theft, Sacrilege, Usury, Falshood, Beggars and Vagabonds.

Theft what
how punished,
and when Excusable.

§ I. **T**Heft is described by Lawyers to be *Fraudulosa contrectatio, lucri faciendi gratiâ, vel ipsius rei, vel etiam usus ejus possessionisve, quod lege naturali prohibitum est.* By the word *Contrectatio* they understand, not only the away-taking of a Thing, for Theft is committed not only by concealing what was taken from another, but likewise the using a Thing Depositate or Impignorate to other Ends and Uses than was agreed upon. When one is urged by Necessity, not from a desire to Gain, to take Food or Raiment from the Owners thereof, without their Consent, he is not to be Despised, but rather Pitied

Pitied and Pardoned, *Prov.* 6. 30. By the 83: *Act Par:* 11. *Jac.* 6. It is Statute, That whosoever destroys Pleugh, or Pleugh-graith in time of Tilling, or wilfully destroys the Corns, shall be punished therefore by the Justices to the Death as Thieves. But our Practique in this is a little Arbitrary and uncertain. By the 26 *Act Sess.* 1. *Par.* 1. *Car.* 2. It is appointed, That the persons from whom Goods are Stollen, pursuing the Thief, *usque ad sententiam*, shall have his own Goods again, where ever they can be had, or the Value, and he is to have his Expences of prosecuting the Thief, out of the readiest of the Thief his Goods.

How stollen Goods are to be recovered.

§ 2. *Sacrilegus dicitur qui sacra legit.* By the Canon Law, Sacriledge is committed, either properly, when a Thing Sacred is taken out of a Sacred place: or less properly, when a Sacred Thing is taken out of a profane place, or when a profane Thing is taken out of a Sacred place: This Crime is likewise committed when Sacred Things are Imbezeled. Though with us, there be no formal Consecrations of Churches, Vestments, Cups, &c. Yet to steal any Thing destinate to GOD's Service, or even to steal any Thing out of a Church, ought to be looked on as an Aggravation of the Crime of Theft.

Sacriledge what, and how punished.

§ 3. The taking of more Annualrent, than the Quota stated by Law, is the first Branch of Usury; The Second is, To take Annualrents before the Term of payment; The Third is, To take Wadssets in defraud of the Law; By doing this, they do not take more Annualrent directly than what is prescribed by the Law, but they take Wadssets of Land from the Debitor, for more than their Annualrents can Extend to, and then they set Back-tacks to him, for payment of what is agreed upon. The Fourth Branch of Usury with us, is, To take Bud or Bribe for the Loan of Money, or for continuing it. But it were against Reason, that by Lending Money to my Friend, I should become

Usury what, its several Branches, how it is proven, and punished.

Incapable of a Donation from him. By the *Seventh Act Parl. 16. Jac. 6.* It is appointed, That Usury shall be proved by the Oath of the Party Receiver, of the unlawful Annualrent, and Witnesse insert, without receiving the Oath of the Giver of the Usury, for eviting Perjury. The pain of Usury with us, is, That the Debitor shall be free from his Obligation, or have back his Pledge, or if the Debitor conceal, then the Revealer shall have Right to the Sums. *Act 222. Parl. 14. Jac. 6.* And by *248. Act Parl. 15. Jac. 6.* It is appointed, That the Usurary Bond or Contract shall be Reduced, and being Reduced, the Sum shall belong to His Majesty or his Donators; And the Party to have Repetition of the unlawful Annualrent payed by him, in case only he concur with the Donator in the Reduction. Usury is called *Crimen utriusque fori*, and how Ministers are to be Censured for it, see *Lib. 4. Tit. 5.*

Falshood
what.

Falshood in
Write.

§ 4. Falshood is a fraudulent Suppression, or Imitation of Truth in prejudice of another. This Description of *Crimen falsi*, or *Falsitas*, doth agree with that given by the Canonists, viz. *Est fraudelenta sive dolosa veritatis imitatio, vel occultatio.* This Crime is committed in Write, either by producing a false Write, if they knew it to be false, and abide by it, or by fabricating a false Write. Again, it is committed by Omission, in a Nottars not setting down what he was required to insert in his Instrument, or the omitting to express the Day and Place, when the omitting thereof might have been Disadvantageous. By the *22 Act Par. 23. Jac. 6.* The Makers or Users of false Writes, or Accessory to the making thereof, are to punished with the pains of Falshood; and the Counterfeiter, Falsifyer, or Accessory cannot by passing from the Write quarrelled, free himself from the punishment. The punishment of Forgery is declared by *Act 22 Parl. 5. Q. M.* to be Proscription, Dismembering of the Hand or Tongue, and other pains of the Canon or Civil Law. The

Second Species of Falshood is, That which is committed by *Falshood*
 Witnesfes in their Depositions, by taking Money to Depone *committed by*
 or not Depone; by concealing the Truth, or Exprefling more *Witnesfes.*
 than the Truth, though they received no Money. And
Thirdly, by Deponing Things exprefly contradictory, but
 in this Cafe, the Contradiction muft be palpable, and not
 confequential, *Nam omnis Interpretatio præferenda eft ut*
dicta testium reconcilientur. By Cap. 46. Parl. 6. Qu. M.
 Falfe Witnesfes, and their Inducers, are to be punished by
 piercing their Tongues, Efcheat of Moveables, and Infamy;
 and farder at the Judges difcretion. Perjury differs not *Perjury*
 much herefrom, for it is Defined by Lawyers to be a Lie *what, and how*
 affirmed judicially upon Oath, and it is punishable by *punifhed.*
 Confifcation of all their moveable Goods, Warding of their
 Perfons for Year and Day, and longer during the Queens
 Will, & that as Infamous perfons they fhall never be able to
 bruik Office, Honour, Dignity, nor Benefice in Time com-
 ming. For this fee the 19 *Act Parl. 5. Qu. M.* There is
 a *Third Species of Falshood committed by Forging true*
 Money without Authority, by Coining falfe Money, or *Forging of*
 by Mixing and Allaying Worfer with Nobler Mettals in *Money, how*
 current Coins, or by Venting and Paffing the Adulterate *punifhed.*
 Money Coined by others, or Entertaining the Forgers,
 or being Art and Part with thefe Coiners. This Crime is
 commonly punished by Death. The *Fourth Species of Falshood*
 is committed by using of falfe Weights and Measures. By *Falfe Weights,*
 the 19 *Parl. 2. Act Jac. 6.* The Users of falfe Weights *their punifh-*
 and Measures, are to Tine their hail Goods and Gear. *ment.*
 Having of falfe Weights in the Shop, prefumes Using,
 except this Prefumption be taken off, by alledging that
 the Weights were prefently Bought or Borrowed, or laid
 afide as Light. Falshood is alfo committed by Assuming *Assuming*
 a falfe Name, and by prefenting one. Perfon for another *of a falfe*
 at the fubfcribing of Papers: for fuch Impoftors the Pu- *Name, how*
 nifhment *punifhed.*

nishment of Death hath been inflicted. *Decemb. 12, 1611*, mentioned by *Mackenzie* on this *Title*.

*Beggars
& Vagabonds,
how suppressed
and punished.*

§ 5. By the 22 *Act Parl.* 4. *Jac.* 5. No Beggar Born in one Parish, is to be allowed to beg in another, and Badges are to be made by the Headsmen of each Parish for that effect; which Law agrees with those of other Nations, see *Matth. de Crim. de improba Mendicitate*. And by the 25. *Title Lib.* 11. of the *Codex de validis Mendicantibus*, they are distinguished from the Poor, and punished as we do sturdy Beggars and Vagabonds, *Car.* 2. *Parl.* 1. *Sess.* 3. *Cap.* 16. It is ordained, That all Masters of Manufactories, may, with Advice of the Magistrates of the place, seize Vagabonds, and idle poor persons, and employ them in their Work, and Exact off the Parishes where they were Born, or if not known, the Parishes where they have Haunted for three Years before, two *shilling per diem*, in manner prescribed in the Act. And thereafter may Retain them in their Service for seven Years for Meat and Cloaths. Sturdy Beggars and Vagabonds should be proceeded against by the Sheriffs, and other Judges, and they may Exact Caution of them, but if they find none, they should be denounced Fugitives, and they may be sent to publick Work-Houses, or Correction-Houses, or put in the Stocks, and if they be Refet after they are Denounced Fugitives, their Refetters are liable for the prejudice sustained, and the Parties Damnified will have Action against the Magistrates, within whose Bounds these Vagabonds are willingly Refet. *Vid. Jac.* 6. *Parl.* 1. *Cap.* 97. and *Parl.* 11. *Cap.* 97. *Parl.* 12. *Cap.* 124. 144. 147. and *Parl.* 15. *Cap.* 268. and *Car.* 2. *Parl.* 2. *Sess.* 3. *Cap.* 18. By the Act of the General Assemb. *September 1. 1647*. It is Recommended to Presbyteries, to consider of the best Remedies, for preventing Abuses committed by Beggars living in great Vileness, and many of their Children wanting Baptism.

T I T L E X I V.

Of Art and Part.

§ 1. **T**Hese who are Assisters by Counsel or otherwise, are in our Law said to be *Art and Part* of the Crime, by *Art* is meant, That the Crime was contrived by their Art and Skill, *eorum arte*; By *Part*, is meant, That they were sharers in the Crime committed, when it was committed, *Et quorum pars magna*. The Civilians used, in place of Art and Part, *ope & Consilio*: by our Law such Assisters are called *Complices*.

§ 2. By the 15th Act *Parl. II. Jac. 6.* It is ordained, That nothing can be objected against the Relevancy of that part of the Summons, which bears, that the persons complained upon are Art and Part of the Crimes Libelled. But the Judge here is to consider, whether the Adviser gave the Counsel upon the account of former Malice, conceived by himself: Or if it was only given in Resentment of any Wrong done to the Committer, and is to be more severely punished in the first Case than in the last. *Secondly*, In the case of Advice, the Advisers Age is much to be considered: for tho' Minors, and those who are Drunk may be punished for Murder, yet it were hard to punish them for Advice. *Thirdly*, The Words in which the Advice were conceived, should still be Interpreted most favourably for the Adviser, for Words are capable of several and distinct senses, as they are understood by the respective Speakers, and they Vary by the very Accent or Punctuation. *Fourthly*, If the Adviser retracted his Opinion, he ought not to be punished with

Art and part Explained.

How far Advice imports Accession.

with the ordinary punishment, if he thereafter and instantly intimated to the person against whom the Advice was given, what danger he was in; and also dissuaded the Committer from following the Advice given.

Who are punishable as Accessaries in Adultery.

What is Lenocinium.

§ 3. He who allowed his House to the Adulterers, for perpetrating that Crime, or for Consulting about the Committing thereof, is certainly punishable, tho' it was not Committed. He who retains his Wife, after he found her Committing Adultery, and lets go the Adulterer, is punishable as a *Leno*, Pimp, or Baud, providing he take Money to conceal the Adultery, *Nam Lenocinium est, ubi Maritus questum facit de Corpore Uxoris*. He who gives Warrant and Order, or Hires others to commit Adultery, deserves the same punishment with the Adulterer, and in effect he is most guilty, seing he wants the natural Tentation of the Adulterer, and commits the Crime in contempt of the Law.

Panders, &c. and Inn-keepers, how punishable for Whoredom and Drunkenness.

§ 4. Panders, Pimps and Bauds, making Gain of the Whoredom of others by their Help and Advice, deserve severe punishment as Accessaries to their Wickedness. As likeways the Keepers of Taverns and Ale-houses, who furnish their Guests with Liquors unto Drunkenness, or Sell those Liquors at unlawful Times, or to Drunkards, are to be punished themselves, as Drunkards, according to the Instructions given to the Justices of the Peace in the 19 Act Parl. 1. *Seff. 1. Car. 2.* And there seems to be good reason for it, seing the best of Druggs given to Excess, either as to Quantity or Quality, and whatever overpowers our Nature, is poisonable.

The End of the Third BOOK.

BOOK IV.

TITLE I.

Of Scandals and Church Discipline in General. Of the Method of Proceeding with the Scandalous, and how Scandals are to be Tabled before Church Judicatories.

§ 1. **W**E are not here to understand by Scandal, ^{Scandal} a Thing actually displeasing the Party ^{What.} offended; Nor is it always to be judged by the Matter, feing Offence in Lawful Matter may be taken, where it is not given, as in that Eating and Drinking mentioned *Rom. 14.* Or, in taking Wages for preaching the Gospel, *1 Cor. 9.* Neither is it the Pleasing of Men that doth always Edify them, nor the Displeasing of them that doth Stumble or Scandalize them; But Scandal is something accompanying Word or Deed, with such Circumstances as maketh that Word or Deed Inductive to Sin, or Impeditive of the Spiritual Life or Comfort of others.

§ 2. Church Discipline serves chiefly to curb and restrain the more Peccant Humors of Professors, and therefore Sins of Infirmity, strictly so called, which are not in themselves so Scandalous to others, should not be any part of the Object thereof, otherwise its Exercise might prove more

When Offences are to be brought to Publick, and when not.

Molesting and Offensive than Edifying and Sanative. Again, Offences from disputable Practices, or Things indifferent, are not properly the Object of Church Censure, because there is not a solid Ground therefrom for thorough Conviction to the Party. Further, Offences which the Church may find cannot be proven, ought not to be prosecuted, for thus her Authority is much weakned, and neither is the Offender Edified. In the last place, Though some gross Scandals (which are not publick or flagrant) may be proven by two or three Witnesses (especially if it be against a person otherwise Orderly) yet he is not therefore to be cited to appear in publick, except upon Supposition of his Obstinacy to acknowledge the Offence to those who knew and were offended therewith: Which Method is agreeable to that of Christ's prescribing *Matth. 18.* for the Removal of private Offence. But on the other Hand, Scandal should be taken publick notice of, when they are of their own Nature Gross and Infectious, Next, When the Offence becometh publick, tho' at first it was not so, and when it is accompanied with Contempt of private Admonition, or with frequent Relapses therein.

*The Ends
and Use of
Church Disci-
pline.*

§ 3. Church Discipline and Censures are for vindicating the Honour of Christ, that suffers in the Miscarriage of any Member: Again, they are Inflicted on the Churches Account, for preserving of her Authority, Discipline being as the Ecclesiastical Whip for that End, and for preserving her from Corruption by the spreading of the Leaven of Profanity. Another End of Church Discipline is for the Offenders good, that they may be ashamed to the destruction of the Flesh, and saving of the Spirit in the Day of the Lord Jesus, *1 Cor. 5. 5. Act 11. Assen. 1707. Cap. 1. Sect. 3.*

*Offences of the
Same kind, not
to be always
managed after
the same man-
ner.*

§ 4. The same Offences upon the Matter are not to be prosecuted at all times, nor against all persons, and in all places, in the same manner: Thus we see the Apostle *Paul* in some Cases censuring corrupt Men, as *Hymeneus* and *Philetus*

Philetus, 1 *Tim.* 1. 20. Sometimes he threatneth, and yet spareth, albeit the Scandal did merit Censure, *Gal.* 5. 12. He saith, *I wish they were cut off that trouble you*; Yet he cuts them not then off, because he found not the present Circumstances of the Church to require it. See also 2 *Cor.* 10. 6. where he saith, *Having in a Readiness to Revenge all Disobedience, when your Obedience is fulfilled*: Therefore it ought not always to be accounted Partiality, when such Differences in Church Procedure are observed: Providing nothing be done with Respect of Persons, on Civil or Natural Accounts: And also, providing the Difference, be rather in the manner and Circumstances of proceeding against some Offences (especially if they be such where no Rule how to proceed against them is fixed) than in dispensing with what seemeth to be Material.

§ 5. The Order prescribed by our Lord Jesus Christ, *Matth.* 18. for repairing and prosecuting of private Offences, Implies, *First*, That whether they be in lesser Particulars, or in greater, yet if known to but a few, they are not instantly to be brought to publick (except some Circumstance necessitate the same for greater Edification) which Order ought to be observed by Ministers, Elders, and private Persons, *Act* 11. *Assem.* 1707. *Cap.* 2. *Sect.* 1. It implies further, That when the Person offending doth accept of a private Admonition, there is then no more mention to be made thereof. Again, if that private Admonition prevail not, then the Person offended is purposely and seriously to take two or three with him, for the further Reclaiming and Admonition of the Offender, before it come to the Church, which may be fitly done at Ministerial Visitation of Families. Moreover, it Implies, if this hath not the desired Effect, then is the Offence to be delated unto the Church-Session: And when it is brought there, it were fit, that some who had been Witnesses to the private Admonition, were brought with the Parties, to Inform the Ju-

The Order,
prescribed,
Matth. 18.
to be observed,
and what it
Implies.

dicatory, and Instruct that the Offender hath been seriously admonished in private, but without Success: Therefore it is convenient that the Witnesses to the private Admonition be Members of the Session. In the last Place, We may draw from this Order, that if the Sessional Admonition have Weight with the Offender, so as to Reclaim him, and Satisfy those he had Scandalized, there is no need for Rebuking him before the Congregation; Except the forbearing a Congregational Rebuke may Hazard the Infection of others, and Encourage them to follow the Offenders Practice.

*When a Person is to be accounted Ob-
stinate.*

§ 6. One is Obstinate when he doth refuse either to hear private Admonition, or doth decline to appear and answer before Church Judicatories, after a third Citation, either personally apprehended, or a Copy thereof left at his Dwelling House: But one Citation given *apud acta*, is Peremptory, and Disobedience thereunto may infer Contumacy likewise, Act II. *Assemb.* 1707. *Cap.* 2. *Sect.* 4, 5. In the next Place, it is Contempt in one, when appearing, to Justify his Offence, or deny it when evidently proven. It is also Contempt, when one acknowledges his Offence, but with a proud and insolent Behaviour; Or, who useth haughty, reflecting, or irreverent Expressions; Such as an Offender doth thereby vilify the Ordinance of Christ more than if he had made no Compearance at all. Lastly, It may be constructed a not hearing of the Church, when one continues to committ the same Sins, notwithstanding of his Serious-like Penitence for the same.

*What Satisfy-
ing, and
what not for
Removing of
Scandal.*

§ 7. Every verbal Acknowledgement and Promise of Amendment, ought not always to be so Satisfying as to Sift Procels; for notwithstanding of 'all that, the Offenders Gesture when Compearing, his Expressions else-where, and his common Walk and Conversation, may convince the Judicatory that he is but a Mocker; On the other Hand, Church Officers ought not to delay the removing of an Offence.

Offence, till they be satisfied that the Offender is sincerely and graciously Penitent, for that would engage Church Judicatories to Decide as to the state of some Souls, which is bold for them judicially to Dive into, and when all is done, impossible to arrive at any certainty about it. It is to be noticed, that in Church Discipline, a difference is to be made between what is satisfactory unto a Church Judicatory, so as to admit the Offender unto all Church Privileges, as if the Offence had never been; and what may be satisfying, so as to sist Procedure for the time. Upon *Simon Magus* his Confession *Acts* 8. 24. It is probable, that as he then did thereby prevent Excommunication; So upon it, it is not probable that he was thereupon immediately admitted into Church Communion. There is requisite then in the Offender, who intendeth to have Access to Church Privileges, a sober, serious acknowledgment of the Offence, with the Expression of an Unfeigned like purpose to walk Inoffensively, and especially to watch against Relapses; And if there appear no ground for hindering the Judicatory to esteem the Offender one, who purposeth as he expresseth, they should accept of his Expressions as satisfactory.

§ 8. By the Act of Assembly 1596, Ratified 1638. It is appointed, That none falling into publick Slanders be received into the Fellowship of the Kirk, except the Minister have some Appearance and Warrant in Conscience, that he hath both a feeling of Sin & apprehension of Mercy, and for this effect, that the Minister travel with him in Doctrine, and in private Instruction, to bring him hereto, and especially in the Doctrine of Repentance, which being neglected, the publick place of Repentance is turned into a Mock. By the 4. Act of *Assen.* 1705. They do Appoint and Ordain (with respect to Scandals, the grossness whereof makes it necessary to bring the persons guilty oftner than once before the Congregation) that after such persons

Who are to be admitted to publick Repentance, and when to be Absolved.

fons.

sons are Convict before the Session, it be judicially declared unto them, That they have rendred themselves Incapable of Communion with the people of GOD in Sealing Ordinances, and that they be appointed to appear in publick to be Rebuked for their Sin, whether they appear Penitent or not, conform to the Divine Institution, 1 *Tim.* 5. 20. And it is referred to the respective Church Judicatories concerned, to Determine how often such Delinquents shall appear in publick: And they Ordain, that after a publick Rebuke, the Minister and Elders be at further pains in Instructing the Minds of the Scandalous, and that the Session upon Satisfaction with their Knowledge, and Sense of their Sin, do admit them to publick profession of their Repentance, in order to Absolution. But, if after taking pains on them for some competent Time, they still remain grossly Ignorant, Insensible and Unreformed, the Session is to advise with the Presbytery, and if the Presbytery shall see Cause, that then the Sentence of the lesser Excommunication be pronounced against them in Face of the Congregation, from which they are not to be Relaxed, nor admitted to make publick profession of their Repentance, in order thereto, till the Session be satisfied with their Knowledge, Seriousness and Reformation.

Drunkenness, Swearing, &c. how to be proceeded against.

§ 9. By the 11th Act *Assemb.* 1707. *Cap.* 3. In Offences, such as Swearing, Cursing, Profaning of the LORD's Day, Drunkenness, and other Scandals of that nature, ordinarily the guilt for the first Fault would be spoken to in private by the Minister or an Elder, and on promise (from a sense of Guilt) to amend after Admonition, they may sit there; But if the Person Relapse, he should be called before the Session, and if found guilty, may be there judicially Rebuked, where the Session on promise, from a due sense, to amend, may again sit; But if the person amend not after that, the Session should orderly proceed, unless Repentance appear, and due Satisfaction be offered,

till

till they inflict the Censure of the lesser Excommunication:

§ 10. Perhaps an Offender may make such satisfying Acknowledgments for his Scandal, that the Judicature cannot but judge them sufficient to remove the same, but only he refuses to appear in the accustomed Place, where Scandalous Persons do publicly profess their Repentance, in which case, I am sure that Formality and Circumstance of a fixed Place is not of such moment, as to bear the Strefs and Weight of one satisfying the Church. For the Apostolical order, *1 Tim.* 5: 20. Joyning all who have offended, publickly to be Rebuked before all, is sufficiently Answered by their receiving a publick Rebuke for their Scandal, in the usual Place and Seat where they hear the Word Preached, and that without putting of their person under Arrest in some certain place, for some time.

§ 11. The Key of Doctrine differs from the Key of Discipline, thus; The first doth only Absolve a Sinner upon the condition of saving Grace, but the other doth Absolve upon an outward serious Profession of Repentance; By the one Mens Faults are only Reproved, but by the other, particular persons are by Name Reprehended. Tho' a person be guilty of some alledged scandalous Sin, yet a Minister cannot, in publick, give him an Ecclesiastick Rebuke for it, without the previous Trial, and thereafter the Sentence of a Church Judicatorie, otherwise he usurpeth their Authority, and sheweth more of himself than of respect to Church Order and Edification. Indeed I confess a Minister may sometimes very consequentially from his Text reprove such Sins and their Aggravations, as may make Impression upon all the Hearers, that the Application does agree with such circumstantiate Sins, whereof they know such persons to be guilty. In which case, the Reproof is to be regarded as coming from the Word of GOD: But if there must be a plain Deviation from the Text, ere the Preacher

*Publick place
of Repentance,
how a Civil
Punishment.*

*Keys of
Doctrine and
Discipline,
how they differ.*

Preacher can get that Sin then Reproved, in that case it looks somewhat like a Design, and cannot but be feared it may want its due Authority. Now a Minister may easily prevent this, if he shall but choose those Texts which point, without any violence, against such Sins.

When necessary that Offenders should speak in publick, & how a publick Rebuke is to be given.

§ 12. At the Offenders first appearance, he is to acknowledge himself guilty of the Sin for which he is to be Rebuked. Again, he should Edifyingly declare his Sorrow for it before Absolution, that the Congregation may the more cordially Re-admit him into their Communion. But much or oft speaking is to be demanded or allowed, as it may be found most Edifying: Yet all Recantations of Errors are always to be made Explicitly. A publick Rebuke ought to be so managed, that there be no ground given for Constructing it a Penance, Punishment, or Mark of Reproach, but the Minister is to carry therein, as one much affected and afflicted with the Sin, he is to behave Authoritatively, having Words fitted for Edifying the Congregation, and humbling of the Offender. And that the Authority and Solemnity of the Rebuke may have the deeper Impression on all, it were fit that GOD were Addressed in reference thereto, either before or after the Rebuke:

Inscribere in Crimen, what, who is a Calumnious Accuser: and who cannot Accuse, how Informers are to be Censured.

§ 13. Matters may fall under the Cognition of Church Judicatories several ways, as *First*, By Accusation, when a Party formally appeareth, as an Accuser, and is content *Inscribere in crimen*, That is, to bind himself to underly the same Censure, (he not proving the Accusation) which the Defender would have Merited had the Libel been proven. If, upon Tryal, there be found any presumptions of Guilt, or, if it appear that there was a *fama clamosa* for what is Libelled, the Pursuer in that case ought not to be repute a calumnious Accuser, even though he succumb in his probation. No Infamous Person can be admitted an Accuser. Infamy, by *Matthæus de Criminibus*,

is defined, *Ignominia, seu Existimationis lesio, qua quis virorum honestorum numero eximitur.* Neither are such as are Contemners of Church Authority, or who have been in former Pursuits Rash and Calumnious, to be admitted Accusers. A formal Accuser is not necessary when the Offence is publick. If a Party cited either upon Accusation, or Order of the Judicatory, be found Innocent and Acquitted, these who Inform them thereof, whether the Party require it or not, ought to be noticed, either for their Calumny or Impudence, as they shall find cause, Act 11. *Assemb.* 1707, *Cap. 2. Sect. 8.*

§ 14. An Accusation, though unduely given, should have this Effect, as to prompt the Judicatory to Enquire and Search into the Truth of the Things Represented; This gives no Allowance to search and pry into Faults *ex levibus conjecturis*, but the Warrant for it should be founded upon *Fama publica, clamosa, & frequens.* A Delation is a verbal Information or Intimation made against some persons, for Faults and Offences, unto the Members of a Church Judicatory. By the Canon Law, an Informer or Delator doth differ from an Accuser in this, That he is not obliged *Inscribere in Crimen*, neither incurs he any penalty albeit the Information be not proven; And by the 11. Act *Assemb.* 1707, *Cap. 2. Sect. 10.* The Informer may be a Witness, except in the case of pregnant Presumptions of Malice against the Person Accused, or where he formerly Complained for his own Interest. Many times Offences & Scandals are discovered to Church Judicatories, by the Exceptions or Objections proponed by Parties against each other; I confess, there useth to be too much Liberty taken for Recriminations in Procceses, which at any other time were more Inexcuseable.

§ 15. When persons guilty of Uncleanness Live in different Parishes, the Procces and Censures against them are to be before that Session where the Woman liveth, or

Scandals Tabled by Inquisition, Delation, & Exception.

An Informer may be a Witness.

Where scandalous Persons are to satisfy, & what warrants a Church Session to admit Procces for where Uncleanness.

where the Scandal is most nottour. If the Uncleannesse be committed where neither Party Resides, as perhaps in the Fields, or in time of Fairs or Markets, in these Cases, they are to be Proceſſed and Censured where their ordinary Abode is, except the place of their Abode be at a considerable distance from the place where the Sin was committed, and the Scandal be most flagrant where it was committed. The Session where the Sin is to be Tryed and Censured, is to acquaint the other Session where any of the Parties Reside, who are, *ex debito*, to cause Summond them to compear before that Session where the Scandal is to be Tryed: Church Sessions are not to enter upon Proceſſes for Uncleannesse, where there is not a Child in the case, unless the Scandal be very Flagrant: For, upon the one hand, many of these Actions, which give occasion to the raising the Scandal of Uncleannesse, are such as are not themselves alone publickly Censurable, but are to be past by with a private Rebuke: Yet on the other hand, some of these Actions, which come under the Name of Scandalous Behaviour, may be so Lascivious and Obscene, and clothed with such Circumstances, as may be as Offensive and Censurable, as the Act of Uneleannesse it self, Act II. *Assemb.* 1707. Cap. 4.

T I T L E II.

Of the Transaction, and Prescription of Scandals.

Transactions betwixt Parties doth not stop Proceſſes. § I. **T**Hough a Party who commenc'd a Proceſſ of Scandal, doth Disclaim or Renounce the same, yet the Church may proceed; for Transactions between Parties, cannot take away the Churches Interest in removing

removing Offences ; Yea even tho' a Party hath been Dismissed for a time through want of Probation, if it shall afterwards Emerge, the Process may thereupon be Wakened.

§ 2. By the 11. Act Assemb. 1707. Cap. 1. § 4. The several Judicatories of this Church ought to take timeous Notice of all Scandals : But it is judged, that if a Scandal shall happen not to be noticed in order to Censure, for the space of *Five Years*, it should not be again Revived, so as to enter in a Process thereanent (unless it be of a very heinous Nature, or become again Flagrant) but the Consciences of such persons ought to be seriously dealt with in private, to bring them to a sense of their Sin and Duty. And for the same Reason, persons who have Resided in Parishes, for the space foresaid, should not ordinarily be challenged for want of Testimonials. When nothing hath been objected by the Members of Presbyteries or Sessions, against any of the Ministers or Elders, at the privy Censures of these respective Judicatories, the Members thereafter ought not to be heard, in their Accusations against one another, for any thing that was committed before the last privy Censure. And neither should the People be heard in their Accusations against any of their Ministers or Elders, or any of the Ministers or Elders against one another, for any thing that was committed prior to the last Presbyterial Visitation of the Parish ; Because then it was the Season, and *Hour of Cause*, to have propal'd it, if private Methods had not succeeded for removing the same : And the insisting, after such an Omission, is rendered most suspect, unless satisfying Reasons be given for it. See § 9. Cap. 7. of the forecited Act of Assembly,

The time for prescription of Scandals, and requiring of Testimonials.

T I T L E III.

Of Libels Probatign, and Citations.

A Libel,
what,

§ 1. **A** Libel is a Law Syllogism, consisting of the Proposition or Relevancy, which is founded upon the Laws of GOD, or some Ecclesiastical Constitution agreeable thereto, as, whosoever is absent from publick Divine Service on the LORD's Day, ought to be Censured. The second Part consists of the subsumption or probation, which condescends on matter of Fact, *viz.* But such a person did, upon such or such a LORD's Day, absent unnecessarily from the publick Worship of GOD. The third Part consists of the Conclusion or Sentence, which contains a Desire, that the Profaner of the LORD's Day, according to the Laws and Customs mentioned in the first Part, may be Censured.

A Copy of
the Libel with
a List of Wit-
nesses to be de-
livered, it
must conde-
scend on Time
and Place,

§ 2. By *Cap. 2. Sect. 7. Act II. Assen. 1707.* The Moderator is to Inform the Offender appearing, of the Occasion of his being Called, and to give him, if desired, a short Note thereof in Writing, with the Names of the Witnesses that are to be made use of against him, that so he may be prepared to Defend himself, which is agreeable to the common principles of Justice and Equity. The Libel must condescend on *Time* and *Place*, when and where the Facts and Offences libelled were committed, that so the Offender may not be precluded from proving himself to have been *Alibi*, and so impossible for him to have done such a Deed, or so Offended at the Time and Place Libelled.

§ 3. The Relevancy of the Libel is the Justness of the Proposition, whether the Matter of Fact subsumed be proven or not; And therefore, if the Thing offered to Probation be obviously Irrelevant and Frivolous, it ought to be Rejected and not admitted to Proof. For nothing is to be admitted by any Church Judicatory as the Ground of a Process for Censure, but what hath been declared censurable by the Word of God, or some Act or Universal Custom of this Church agreeable thereto, as said is, *vide Sect. 4. Cap. 1.* forecited Act. Albeit one Article of the Libel, *per se*, be not Relevant, Yet if three or four Articles *conjunctim* be Relevant, the same may be admitted to Probation. The Relevancy of a Libel is so much to be regarded, that, I think, it's Unlawful for any to be either Witnesses or Members of Inquest upon irrelevant Libels. What? Is not this to be a *Witness against thy Neighbour without Cause*, Prov. 24. 28. It was a Truth that *Abimelech* the Priest gave Hallowed Bread, and the Sword of *Goliath* to *David*; Yet it was a Bloody Sin for *Doeg* the *Edomite*, to Inform the wicked King against the Lord's Priest, 1 *Sam.* 21 and 22 *Chap.* It was a Presbyterian Minister's Duty to preach the Gospel under the late Persecution, secretly and cautiously, to honest Hearers at their Desire; Yet it would have been a *Doeg-like* Sin, to have witnessed the Truth in that Matter before our then Judges, feign by the 8th Act of *Parl.* 1685. It was Death for such, even to preach in Houses. What is here said against such Witness-bearing, strikes with as much Force against the Members of Inquests finding such Irrelevant Libels proven, for tho' it was both true, what the one Witnessed, and the other found, yet I would be affraid, if I were in their Case, that before God I should be condemn'd as accessory to the shedding of Innocent Blood. Before the Witnesses be Judicially Examined, the accused Party is to be called, and the Relevancy of the Libel discussed, *Sect. 10. Cap. 2. Act foresaid.* But in Causes

What is a Relevant Libel: It is unlawful to be Witnesses or on the Affize of Irrelevant Libels.

When the Relevancy is to be discussed.

Causes Intricate and Difficult, the Discussing of the Relevancy may be delayed till Probation be taken: And then, greater Light being thereby given, both Relevancy and Probation may be advised joyn'tly, as the Lords of Session and Privy Council have often-times done.

*Exculpation
Described, &
when to be
granted.*

§ 4. When the Libel is Read, the Defender sometimes proposeth a Defence, which if admitted and proven, Exculpates and Clears him from the Fault libelled, either in whole or in part; As, if the Libel be Murder, and the Defence *inculcata tutela*; Or if the Libel be Adultery, at such a time and place, and the Defence be *Alibi*. But the Party accused must before Probation offer the Grounds of Exculpation to be proven by Witnesses; In which Case the Moderator and Clerk, if required, are to give Warrant to cite Witnesses upon the Parties Charges, the Relevancy of the offered Exculpation being first sustained by the Judicatory: And if the Exculpation be fully proven, all further Proof of the Libel must there sist. But if the Substance of the Scandal be once proven, there can be no place for Exculpation, unless it be as to some extenuating Circumstances, not contrary to, but consisting with the Depositions already taken.

*Probation,
What, and by
Confession.*

§ 5. Probation is that, whereby the Judge is convinced, that what is asserted is true, and he must be convinced either by Confession or Oath of Party, or Writ, Witnesses, or Presumptions as follows. Probation by Confession, if Judicial, is the strongest of all Probation; But if Men confess a Crime, rather from Weariness of, or Aversion to Life, than from Conscience of Guilt; Or, if there appear any Signs of Distraction or Madness, then such Confessions ought not to be rested upon, except they be Adminiculate with other Probation. Confessions before a Church Judicatory, are not rested upon before civil Courts, except they be Renewed before themselves; And so it is *e contra*, for Men may incline to confess Things before Church

Judi-

Judicatories, knowing that Church Discipline is *Medicina*, *non Pœna*, or *Ob Levamen Conscientiæ*, which ought not to be discouraged; Whereas they may deny the same Fault, and Refile before the civil Judge, for fear of Corporal Punishment.

§ 6. An Oath of *Calumny* may be exacted of either Party, whereby they Swear that they believe or judge, that the Points they insist on, are both just and true, and they will be holden as Confessed, if they refuse to Depone when required. By an Oath of *Verity*, or for Confirmation, the Swearer positively affirmeth by his Oath, that what he asserteth is true; And it is the only Oath sworn by a Party which can Terminate the Plea and Strife. But by an Oath of *Credulity*, the Swearer doth not assert the Verity of the Matter, but the Verity of his Belief of the Matter, which only terminates the Plea in so far as to Exclude him who Swareth, from Insisting on these Points contrary to his own Belief or Perswasion, *vide Stair's Instit. pag. 698. 701.*

§ 7. If the delated Father of a Child, after private Conferences, do still deny, then the Session is to cause cite him to appear before them: If he persist in his Denyal, when comparing, he is to be Confronted with the Woman, and the Presumptions held forth as particularly as possible: And if after all this he deny, tho' the Woman's Testimony can be no sufficient Evidence against him, yet pregnant Presumptions, such as, suspicious frequenting her Company, or being *solus cum sola*, *in loco suspecto*, or in suspect Postures, and such like, which he cannot disprove, may so lay the Guilt upon him, as to shew him, that there appears no other way of Removing the Scandal, but his appearance to be publicly Rebuked therefore: If he will not submit himself to be Rebuked, it is easier that a true Narrative of the Case be laid before the Congregation, and Intimation given, that there can be no further Procedure in the Matter, till
God

Oath of Calumny, Verity, and Credulity, What.

Probation by Oath of Party Instanced; It is not to be pressed.

God in His Providence give further Light ; than that an Oath be pressed, and upon Refusal proceed to the higher Excommunication. But if the person accused do offer his Oath of Purgation, and crave the privilege thereof, the Presbytery may allow the same, the Form whereof may be as follows.

Stile of the Oath of Purgation.

§ 8. I *A. B.* now under Procefs before the Presbytery of _____ for the Sin of _____ alledged to be committed by me with *C. D.* and lying under that heavy Slander, being repute as one guilty of that Sin : I, for ending the said Procefs, and giving Satisfaction to all good People, Do declare before God, and this _____ that I am Innocent and Free of the said Sin of _____ or having Carnal Knowledge of the said *C. D.* And hereby I call the Great God, the Judge and Avenger of all Falshood, to be Witnefs and Judge against me in this Matter if I be guilty, and this I do by taking His blessed Name in my Mouth, and in Swearing by Him who is the great Judge, Punisher and Avenger as said is, and that in the Sincerity of my Heart, according to the Truth of the Matter, and my own Innocence, as I shall answer to God in the last and great Day, when I shall stand before Him, to answer for all that I have done in the Flesh, and as I would partake of His Glory in Heaven, after this Life is at an end.

When and where this Oath is to be allowed and taken ; And its Effects.

§ 9. But this Oath is not allowed to be taken in any Case but this, when the Presumptions are so great, that they create such Jealousie in that Congregation and Session, that nothing will Remove the Suspicion but the Man's Oath of Purgation ; And when his Oath will indeed Remove the Scandal and Suspicion ; In all other Cases this Oath is in vain, and so should not be admitted, and never but by Advice of the Presbytery. It is to be taken, either before the Session, Presbytery, or Congregation, as the Presbytery shall determine. And if it be taken before the Session

Session or Presbytery, it is to be Intimate to the Congregation, that such a person hath taken such an Oath, and the Party may be obliged to be present in the Congregation, and may be put publickly to own his Purgings himself by Oath, and thereupon be declared free from the alledged Scandal. All what concerns this Oath, is Recommended by *Cap. 4. Sect. 6, &c.* of the forecited Act of Assembly.

§ 10. After an end is made, as above, with the person delated as Father, the Woman is to be dealt with to give the true Father; And if after all serious Dealing and due Diligence, she give no other, she is to be censured according to the Quality of the Offence confessed by her, without naming the person delated; The Judicatory reserving place for further Censure, upon further Discovery.

How the Woman is to be Censured when the Fact is not proven against the Man.

§ 11. If a person do voluntarily confess Uncleanness where there is no Child, and the case be brought to the Kirk-Session, they are to Inquire whether it floweth from Disquietness of Mind, or from Sinistrôus Design; As when a Man suing to a Woman for Marriage, is denyed, but spreads the Report that he hath been Guilty with her. If it be found that there is no Ground for the Confession, the person confessing is to be Censured as defaming himself, and likewise as a Slanderer of the other Party: And withal, Application is to be made by the Session to the Civil Magistrate, that he may be punished according to Law: See that forecited fourth Chapter of the Act of Assembly.

How a voluntary and malicious Confessor of Uncleanness is to be Censured.

§ 12. It is rare to prove a Scandal by Writ, but yet it may happen so to be proven, and the want of the Writer's Name and Witnesses, ought to be no Objection in Church Courts against Writs, more than in Bills of Exchange. If one denyeth that to be his Subscription, it is hard to sustain its being proven to be his *per-comparationem Literarum*, which is but a Presumption, and Men's Hands may be sometimes so Artificially Imitated, that it shall be hard

Probation by Writ.

to discern which is which ; Beside, one Man's Writ may differ from it self at several Occasions.

Probation by Presumptions. § 13. Probable Presumptions, and many Concurring, may do much to prove, especially in such things which rarely can be proven with ordinary Clearness. The Presumption of Cohabitation, after the Parties are discharged, is sufficient, as may be seen on that Title, to Inferred Adultery : Also, Cohabitation, and behaving as Man and Wife, for some considerable time, presumeth Marriage : And the Depositions of Witnesses, are sometimes founded upon Presumptions, as when they depone upon Things which depend upon Acts of the Mind, as, Ebriety, & *dolus malus*. But when a Libel is only proven by Presumptions, it is not so safe to pass the ordinary Censure thereupon, as if it had been proven by Unexceptionable Witnesses and full Probation.

Form of a Diligence against Witnesses, their Non-compearance to be Censured. § 14. Witnesses may be cited on fewer days than Parties. The Diligence against them may run in this Form, *viz.* Mr. A. B. Moderator, &c. Forasmuch as Pursuer, &c. having applyed to us for a Diligence to cite Witnesses in the said Matter, in Manner and to the Effect underwritten. Therefore we require you, that upon sight hereof, ye pass and Lawfully Summond personally, or at their Dwelling Places, to compear before us within the Kirk of _____ upon the _____ day of _____ In the Hour of Cause with continuation of Days, to bear Leal and Soothfast Witnessing, upon the Points and Articles of the said Process, in sua far as they know, or shall be speared at them, with Certification as Effairs ; And this our Precept you are to Return duely Execute and Indorsate. Given, &c. by Warrant, &c. If Witnesses refuse after three Citations to compear, then they may be proceeded against as Contumacious : Or, if judged needful, after the first or second Citation is disobeyed, Application should be made to the civil Magistrate, that he may oblige them

them to appear. See that 9th Sect. Cap. 2d. of that frequently above cited Act of Assembly.

§ 15. In Church Judicatories, Women and Minors past fourteen Years of Age, are received Witnesses. If the Defender appear, he may Object against any of them, and if the Objection be Relevant, and made Evident to the Judicatory, the Witnesses are to be cast: For which see that same Act. The Objections of Infamy, or Enmity, are Relevant to cast any Witness: But the Design of Church Courts being *ad tollendum scandalum, & ad eruendam veritatem*, they will sometimes receive Witnesses *cum nota*, against whom some common and general Objections have been made, Reserving to themselves to consider how far they will make use of their Testimony at advising the Sufficiency of the Probation.

Objections against Witnesses.

§ 16. Witnesses are to be sworn thus, Lifting and holding up the Right Hand; They swear by God, and as they shall answer to Him, they shall tell the Truth, and nothing but the Truth, concerning the Articles and Points of the present Process, in so far as they know, or shall be asked. Which Oath the Moderator is Judicially to Administer, and tho' there be no Relevant Objection against the Witnesses, yet they are to be solemnly purged of Malice, Bribe, or Good Deed, done or to be done, and of partial Counsel, by which some understand Prompting or Consulting for making of the Process. The Witnesses are to be Sworn and Examined in presence of the accused Party, if comparing, and he may desire the Moderator to propose such Questions, or cross Questions, to the Witnesses, as may tend to his Exculpation, which if the Judicatory think pertinent, are to be proposed. The *Initialia Testimoniorum*, such as, their Age, Married, or Un-married, or *Soluti*, that is, Widows, and the like, are proposed, that the Deponents Veracity may by these be traced. If Witnesses cannot subscribe their Names to their Deposition, the Clerk

How Witnesses are to be Sworn, Examined and Subscribe. And the Initialia Testimonii.

is to Mark, that they declare, they cannot Write, and the Moderator is always to subscribe the same, whether they can Write or not. If they can but subscribe the Initial Letters of their Names, they should do it, and the Clerk is to write about their Mark thus (*Adam A. B. Bruce* his Mark.)

*Singularity
of Witnesses,
What.*

§ 17. A singular Witness is one that hath no concurring Witness. This Singularity is either, *Obstativa*, which is, in a Crime, not Reiterable; As if one should depone, that a Man was Murdered at one place, and another depone he was Murdered at another place. Again, there is a *Singularitas Adminiculativa*, which is, where the Witnesses do not concur in their Depositions; Yet they are not Contrary, but the one assists the other, as in the proving that an Horse was stolen, one should depone that he saw the Thief go in without a Horse, and another saw him take the Horse. In the third place, there is a *Singularitas Diversificativa*, when Witnesses depone different Acts in a Crime, which is Reiterable; As if one Witness depone upon an Adultery, committed at one time, and another of an Adultery committed at another time. Is that person's being guilty of Adultery sufficiently proven?

*Probation by
Notoriety, and
if Judges may
be Witnesses.*

§ 18. Of Things Nottour, there are some which cannot be proven, and yet are true, as such a Man is another's Son: Other Things can be proven which are *facti permanentis*, Such as, that there is a Palace or Fountain in such a Town, *sed notorium non indiget probatione*. Again, there are Things nottour, which need no Probation, which are *facti transientis*, as that such a person did publicly commit Murder. Albeit Judges cannot be both Judges and Witnesses, yet, he is a Witness & a Judge too of what he sees and hears in Judgment, for these are counted as Nottour, *vide Stair's Instit. pag. 704.*

§ 19. It is Repugnant to the Laws of GOD and Man, to Condemn any that is Absent or Unheard, unless his Absence proceed from his own Fraud or Stubbornness: Therefore in order to a due Hearing, Citations must be given to Parties concerned, in Writing, especially if they be called before Presbyteries, and other Superiour Judicatories of the Church. See the 2. Cap. of the forecited Act of Assembly. The Citation must bear, 1. The Judicatory before which the person cited is to appear. 2. The Name of the Pursuer, (if the Party be not cited by order of the Judicatory) 3. The Name of the Defender. 4. The Cause for which the person is cited. 5. The Place where Compearance must be made. And lastly, the Time when they must compear. And this is to be observed, That all Parties and Witnesses cited before Church Courts, are to be designed in these Citations, as they are or may be commonly in all other Writes. If they be Residing within the Parish, they may be cited upon Fourty Eighth Hours Advertisement.

How Parties are duly cited before a Church Judicatory, and the Requisita Citations.

§ 20. It hath sometimes been practised, to Cite Parties even when out of the Countrey, a particular instance whereof is, the Commission of Assembly 1644, caused Cite some Scots, then about Oxford in England, (for Emitting a Malignant Declaration) at the Market-Cross of Edinburgh, Peer and Shoar of Leith, to appear before the; then next ensuing General Assembly, upon sixty Days warning, counting from the day of the Citation.

Parties out of the Countrey how cited.

§ 21. If the persons be charged with Scandal, who live within the Bounds of another Parish, the Kirk Session of that Parish where that person Resides, should be desired to cause Cite them to answer before the Session in whose Bounds the Scandal happened, and the same course is to be followed in such cases by the other Judicatories of the Church.

Parties in another Parish how Cited.

*Citations
Dilatory and
peremptory,
how to proceed
with those who
disobey or
abscond.*

§ 22. Citations are called Dilatory for the First and Second, that the Party may appear; and the Third, or one given *Apud acta*, is called Peremptory, wherein the Judicatory certifies the person cited, that they will proceed to the Cognition of the Cause, though he appear not, or that they will proceed against him as Contumacious. If the person do not compear upon this peremptory Citation and no relevant Excuse therefore be proposed and sustained, the Judicatory is to proceed to take Cognition, either by Examining of Witnesses, or by other Documents, for the Verity of the Scandal, and that before they censure him for Contumacy: See *Cap. 2. Sect. 6.* of the forecited Act. If any under Process for Scandal, Abscond, they should be Cited first from the Pulpit of the Parish where the Process depends, and where they Reside, and if they do not thereupon appear, they are next, by order of the Presbytery to be Cited from the Pulpits of all the Kirks within their Bounds, to compear before them, and if they do not then appear, they are to be declared Fugitives from Church Discipline in all the Kirks within that Bounds, desiring that if any know of the said Fugitives, they may give Notice thereof, and the Presbytery is to sift the e, until they get some further account of these persons. See § 18. of the forecited *Chap. and Act.* This Citation is commonly called *Edictal*, and likewise takes place when the person to be Cited takes Methods to hinder a Copy to be given in the usual way, or, when it is dangerous for the Officer to Travel to that place.

*Stile of
Summons
and of the
Copy and Ex-
ecution there-
of, and of
Caution to
appear.*

§ 23. Sometimes the Warrant for Citing bears the Libel, and then a full Copy thereof is given, but sometimes it bears not the Libel, and then the Defender is cited to hear and see the Informations against him, and must, when appearing, be Treated as in § 2. *Huj. Tit.* The Form of which Summons may run thus, Mr. A. B. Minister and
remanent

'rification hereof, we have subscribed thir Presents at
' , the Day of, &c. The Execution must
bear, that either Citation was given to the Party personal-
ly, as above, or left at his Dwelling-house, with his Wife,
Bairns, or Servants, if the Officer get Entry, or by Affixing
a Copy on the Door, after knocking several Times if he
get not Entry: If any Man bind as Cautioner for another
that he shall underly the Discipline of the Church, under
a pecunial pain for the use of the Poor, he should bind to
the Magistrate, and not to the Church.

All Defen-
ders must ap-
pear personal-
ly, even tho'
Minors, and
how Societies
appear.

§ 24. When Minors are conveyen before Church Judi-
catories, their Curators are not to be cited as before Civil
Courts, tho' they may be acquainted therewith, that their
Pupils may receive suitable Advice & Instruction from them.
A Minor that is a Male past Fourteen, and a Female past
Twelve Years of Age, may be called before Church Judi-
catories, when guilty, as for Pupils under that Age, it will
be rare if ever they be concerned as Delinquents, except
ubi malitia supplet etatem, That is, where strength of Na-
ture is as far advanced in them as it useth to be in others
of riper years. The conclusion of all Church Process, be-
ing against the Defenders themselves, none can appear for
them: Nay, Advocates are not so much as allowed to
plead for compearing Parties, otherwise Pleas would pro-
bably be more frequent and tedious too; and the Truth
hath been many times Expiscate by the Countenance, Be-
haviour, or Expressions of Parties themselves, which would
have been concealed by Advocates. In the M. S. Acts of
Assembly at *Edinburgh* 1575, they refuse to allow Ad-
vocates to plead before them in a Process of Dilapidation,
against the Bishop of *Dunkelden*, but ordains him to An-
swer himself, and if he think fit may choose any Minister
to Reason for him. When Incorporations are Cited, it is
necessary they be allowed to Answer by some Commissioned
from their Body, who must be Members of that Society,

or Reside therein: If a Burgh Royal were Cited, they would not be allowed to appear by him who Resides not among them, but only is one of their Honorary Burgeffes: and no Party sustains great loss hereby, seing they may Advise with whom they please in Drawing of Answers, and the like.

T I T L E IV.

Of the vocational and personal Faults of Ministers and Probationers, how they are Censured, and of the Method of proceeding to Censure, and of Reponing them against these Censures.

§ 1. **B**Y the 132 Cap. Parli 8. Jac. 6. Non-residence is declared to be, when a Minister Resides not within the Parish, but is absent therefrom, and from his Kirk, and using of his Office, for the space of four Sabbath Days in the Year, without a lawful Cause allowed by the Presbytery; which Nonresidence is Deprivation. By parity of Reason the same pain may be applied against Principals & Masters of Universities, who attend not upon their Charges. The Ministry is said to be *Militia spiritualis*, they are Watch-men fixed by their Superiours as Sentinels at such Posts, which if they Desert without Warrant, all the Order of the Spiritual Discipline is overturned. Agreeable hereunto is the Act of Assembly 1596, Ratified by Assembly 1638, whereby it is Appointed. That Ministers not Resident with their Flocks be Deposed, according to the Acts of the General Assembly, and Laws of this Realm, otherwise the Burden is to ly on the Presbytery, and they to be Censured for the same.

*Non-resi-
dence what,
and how
Censured. who
are Deserters,
and how
Censured, and
Defences
against the
same.*

And by the 5. *Art.* of the same Act, It is appointed conform to the old Acts of Assemblies therein mentioned, that Ministers Reside in their own Parishes or at their ordinary Manfes. By the 4. *Cap.* of the Policy of the Kirk, they who are once called of GOD, and duly Elected by Man, and have once accepted the Charge of the Ministry, may not leave their Functions, otherwise the Deserters are to be Admonished, and in case of Obstinacy Excommunicated. And by the M. S. Acts of Assembly at *Edinburgh*, 1570. It is appointed that Ministers at their publick Instalment, shall promise solemnly never to leave their Ministry at any time thereafter, under the pain of Infamy and Perjury. Conform hereunto, in the 1. *Cap. Art 14.* of the *French Church Discipline*, Ministers with their Families, must actually Reside in their Parishes, under pain of Deposition; and by the 23. *Art.* Deserters of the Ministry shall be Excommunicated, if they do not repent, and reassume the Office GOD hath committed unto them, By the Assembly 1690, *Sess. 15.* Albeit Ministers have received their Ordination from Foreign Churches, yet if they have a standing Relation to any Charge in this Church, they are not to remove out of the Kingdom, without consent of the respective Judicatories of this Church, otherwise they may be Treated as Deserters, *vid.* Ordination Engagements, *Lib. 1.* If persecution be particular against one Minister, in that case, it is generally thought, he may warrantably Flee, without being esteemed a Deserter: But it will scarcely defend against Desertion, when the Persecution becomes general. A Minister seems to be particularly Tied to wait upon his Charge in the Time of a publick Calamity: And therefore the Commission 16 *May* 1645, found that Mr. *Mungo Law* Minister at *Edinburgh*, could not be spared from his Charge, to attend the General's Regiment, in respect of the fear of the Infection in the City.

§ 2. *Supine Negligence* is, an habitual or customary Neglect of some one or other of the Pastoral Duties, but every Escape cannot infer it, the Pastoral Office being in some sense a Burden too heavy for the shoulders of Angels. *Supine Negligence what and how Censured.*
 By our Law, *Supine Negligence* is Relevant to infer Deposition, even as Error, Scandal, Ignorance and Contumacy are, see the Act of *Parl. 1690*, settling the Church Government: And by the forecited Act of *Assemb. 1596*. It is appointed, That such Ministers as be sloathful in the Ministration of the Sacrament of the LORD's Supper, be sharply Rebuked, and if they continue therein: that they be Deposed. And by the Act of *Assembly June 13, 1646*. Among the Enormities and Corruptions of the Ministerial Calling, the following is mentioned, *viz.* Idleness, That is, seldom Preaching, as once on the LORD's Day, or in preparation for publick Duties, not being given to Reading and Meditation, but only now and then, not like other Tradesmen, continually at their Work.

§ 3. *Dilapidation of Benefices* is, the Deed of any Church-man, whereby his Rents are Wasted, Diminished, or Altered to the worse from what they were. And the punishment is, Disannulling of the Deed, and Deprivation to the Granter, *Jac. 6. Parl. 7. Cap. 101*. By that forecited Act of *Assembly 1596*. It is declared that Delapidation of Benefices, demitting of them for Favour or Money, without Advice of the Kirk; Interchanging of Benefices, by Transaction, or Transporting of themselves by that occasion, without Advice of the Kirk, are precisely to be punished. Suchlike, setting of Tacks without consent of the Assembly, is to be punished as Dilapidation. *Dilapidation on what, and how Censurable*

§ 4. *Simony* is, the Buying or Selling of any Spiritual Thing, or of what is Annexed thereto, The Canonists describe it to be, *Studiosa voluntas, seu cupiditas emendi vel vendendi spiritualia, vel spiritualibus annexa*. Thus *Simony* may be committed by making advantage of Administration. *Simony what, and how proven and punished.*

ing the Sacraments: By *Jac. 6. Parl. 21. Act 1.* Any Condition made by the Ingrant with the Patron, relaying to himself a sufficient Maintenance answerable to the Rate of the Benefice, is declared not to be Simony. In this Crime, Witnesses who are not very *habile*, or *omni exceptione majores*, such as Whores and Infamous persons, may be admitted, and it may be proven by presumption or Oath of Party, according to the Opinion of some Lawyers, and all because it is ordinarily carried on with much privacy and clandestine dealing. *Ambitus* is *Crimen mere Ecclesiasticum*, and not usually punished by Laicks. By the forecited Act of Assembly 1596. It is provided, that none seek Presentations to Benefices, without Advice of the Presbytery, and if any do in the contrary, they are to be Repelled as *rei ambitus*. They further appoint that it be Enquired, if any by Sollicitation or Moyen, directly or indirectly, pres to enter into the Ministry; And if it be found, the person so Solliciting, is to be Repelled; These three Crimes, *Dilapidation*, *Simony*, and *Ambitus*, do often meet in one and the same person, and the Crime is Denominate from that which most predomines in it.

Ambitus
what, and
how Censured.

Intruders
and Vagrant
Ministers
who, and how
Censured.

§ 5. By the 23^d Act of Assembly 1696, It is Recommended to all Synods and Presbyteries, that they advert to the many Irregularities committed by vagrant unfixed Ministers: and Presbyteries, where any Difficulties occur, are to consult their Synods before they proceed to Censure. By the 27th Act of that Assembly, they suspend one from the Exercise of his Ministry, because he exercised it in a vagrant disorderly way. And By the 18th Act of Assembly 1701. Presbyteries are appointed to send in to the Commission an Account of such Ministers, or Preachers, as Intrude into Parishes, that Application may be made to the Government for Removing them, that the Kirks Intruded into may be orderly planted. *Assemb. 1694. Sess. 14.* The Queen by Her Proclamation dated at *Windsor, September*

20. 1708 In pursuance of several Acts of Parliament made in favour of the present Church Establishment, particularly the Act 1695. against Intruders, doth Require and Command, all such as have Intruded upon Churches or Manfes, to remove therefrom, and all Magistrates and Judges within their respective Jurifdictions, are to see the same executed, by decerning accordingly, and procuring Letters of Horning and Caption thereupon to be direct *in communi forma*. By the Discipline of the *French Church*, *Cap. 1. Art. 26*. The Minister that shall Intrude himself, although he were Approved by the People, is not to be Approved by the Neighbouring Ministers or others, but notice must be given to the Colloquy thereof, or Provincial Synod. And by the 55 *Article* of that *Chapter*, the Names of vagrant Ministers are to be proclaimed through all the Churches.

§ 6. By the foresaid Act of Assembly 1596. Ratified 1638. It is Enacted, that such Ministers as shall be found not given to their Books and Study of the Scripture, not given to Sanctification and Prayer, that Studies not to be Powerful and Spiritual, not applying the Doctrines against Corruptions, which is the Pastoral Work, Obscure and too Scholastick before the People, Cold and Wanting in Spiritual Zeal, Negligent in visiting the Sick, or Caring for the Poor, or Indiscreet in choosing Parts of the Word not meetest for the Flock, Flatterers and Dissembling of publick Sins, and specially of great Personages in their Congregations; All such Ministers are to be Censured according to the Degree of their Fault, and continuing therein are to be Deprived. *Item*, Such as be sloathful in the Ministration of the Sacraments, and Irreverent, or Profaners thereof, by admitting the Ignorant or Profane thereto, and omitting the due Tryal of such as are to be admitted, or using but light Tryal, or having Respect in their Tryal to persons. All such Ministers are to be sharply Rebuked, and if they con-

tinuo

*Vocational
Faults of Mi-
nisters; How
Censured.*

tinue therein, are to be Deposed. *Item*, But if any Minister be found a Seller of the Sacraments, he is to be Deposed *Simpliciter*: And such as Collude with Scandalous Persons, by Overlooking them for Money, do Incur the like Punishment. *Item*, All Ministers, who neglect the due Exercise of Discipline, and continue therein after Admonition, are to be Deposed.

Personal
Faults of Mi-
nisters; How
Censured.

§ 7. By the forecited Act 1596, It is Appointed, that such Ministers as are Light and Wanton in their Behaviour, as in Gorgeous and Light Apparrel, or in Speech, or in using light and profane Company, or that are guilty of Dancing, Carding, Diceing, and the like, if they continue therein after due Admonition, shall be deposed as Scandalous to the Gospel; And agreeable hereto is the 54 Canon Concilii Laodiceni, *Quod non oportet sacratos, vel Clericos in nuptiis vel Conviviis aliqua spectacula contemplari, sed priusquam Ingrediantur Thymelici, surgere & secedere debeant.* *Item*, Ministers found to be Swearers or Banners, Profaners of the Sabbath, Drunkards or Fighters, are to be deposed *simpliciter*. By the 27 and 42 of these Canons, called Apostolical, *Episcopum, vel Presbyterum, vel Diaconum verberantem fideles peccantes, aut Infideles injuriam facientes, ac per hoc timeri volentem, ab officio Depo- ni Mandamus.* And by the other Canon, *Episcopus, Presbyter, aut Diaconus, alea vacans, aut Ebrietatibus, vel Desistat, vel Gradu suo dejiciatur.* *Item*, Ministers that are Detractors, Flatterers, Breakers of Promise, Lyars, Brawlers, and Quarrelers, after Admonition, if they continue therein, they are to be Deposed. By the 53 Canon, called Apostolical, *Si quis Clericus in Caupona comedens deprehensus fuerit, a Communionis sodalitate secernatur, prater eum qui vitæ necessitate divertit in hospitium.* And by the 55 Canon Concilii Laodiceni, *Quod non oportet Sacratos vel Clericos, ex collatione, convivia peragere, sed neque Laicos.* And by the 43 Canon, Concil. Carthagi-
nen.

nen. *Ne in Caupona versentur Clerici, nisi hospitio accepti. Ut Clerici comedendi, vel bibendi gratia, non ingrediantur, nisi hospitii necessitate compulsi.* By our Law, (*vid. Tit. 13. Lib. 3.*) the haunting of Taverns at unseasonable Hours therein condescended upon, is equally punishable with Drunkenness. So that a Minister's drinking Temperately in Change-houses, tho with good Company (but at forbidden Hours) will not defend him against the punishment of Drunkenness. *Item*, Ministers are not to take Usury, and if they continue therein, they are to be deprived. By the 44 of these *Canons* called *Apostolical, Episcopus, aut Presbyter, aut Diaconus, Usuras exigens a Debitoribus, vel desistat, vel ordine mulctator.* *Item*, Ministers given to unlawful Trades and Occupations, for filthy Gain, such as, keeping of Inns, bearing of Worldly Offices in Noblemen and Gentlemen's Houses, Merchandise, and such like, buying of Victual, and keeping it to the Dearth, and all such Worldly Occupations, as may distract them from their Charge: All such are to be admonished, and if they continue therein, are to be deposed. By the 6th of these *Apostolical Canons, Episcopus, aut Presbyter, aut Diaconus, seculares curas non adsumat, alioqui deponatur.* And by the 20th Canon, *Clericus se fidei iuramentis implicans gradu suo deiciatur.* Calderwood, in his History pag. 438. acquaints us, That by Acts of Assembly Ministers are prohibite to joyn with their Ministry, the Office of a Notary, Husbandry, or Hostilary, &c. under the pain of Deposition. In the M. S. Acts of Assembly 1572. The Regent desiring some Learned Ministers to be planted Senators of the Colledge of Justice, the Assembly finds that none were able to bear both the said Charges. The Assembly 1643. (in the Index of their unprinted Acts you may find some of it) considering that Mr. *William Bennet* Minister at *Ancrum* did vote in the Election of a Commissioner to the Convention of Estates from the Shire of *Roxburgh*, as
one

one of the Barons and Free-holders there, they do Recommend it to him to abstain from Civil Courts and Meetings. As also, they understanding, that Mr. *Andrew Murray* Minister at *Ebde*, had come to succeed to be Lord *Balvaird*, they appoint him to exercise his Calling of the Ministry, and to Reject such Temporal Honours during his own Life, as being Incompatible with that Calling, and very good Reason that the Lesser and least Useful should cede to the Greater and Better Work. *Item*, By that forecited Assembly Act 1596. Ratified by the Assembly 1638. All their Members are discharged from attending the Court, and Affairs thereof, without the Advice and Allowance of their Presbytery: And that they intent no Civil Action without the said Advice, except in small Matters. *Calderwood* in his History of Assembly 1600. saith to this Purpose, *Qui ambulat in solè coloratur, qui tangit picem inquinatur, qui frequentat Aulam & Curiam profanatur; Forum pontificis Petrum ad abnegationem Christi adegit quæ est corporum constitutio, ea est & morum, Circumposito aere calido calestimus, & rursus frigido frigesчимus. Cum sanctis sanctus eris, cum perversis perverteris.* *Item*, Ministers are to use Godly Exercises in their Families, such as, Teaching of their Wives, Children and Servants, in ordering Prayers, Reading of the Scriptures, and such like other Points of Godly Conversation: Whoever be found negligent therein, after due Admonition, are to be deposed. *Item*, Ministers that are not Spiritual, and Profitable in their ordinary converse; are, upon due Tryal, to be sharply Rebuked. *Item*, No Minister is to countenance or assist a publick Offender, challenged by his own Minister for his publick Offence, or to bear with him, as if his own Minister were too severe upon him, under pain of Admonition and Rebukè.

§ 8. The General Assembly by their Act 13 June 1646, provide the following Remedies, against the Evils both in the Calling and Lives of Ministers, and appoints them to be observed. *Imprimis*, None are to be taken in to be a Helper or second Minister, but such as are able for the same Charge. *Item*, That Presbyteries be Faithful in the Tryal of Intrants, and in loving Admonitions one of another secretly, and that Absents from Synods and Presbyteries be censured. *Item*, The Moderators of Presbyteries, are to see that Godly Conference be entertained at Presbyterial Meetings, even in time of their Refreshments. *Item*, Ministers are to have more frequent Converse among themselves, for Strengthening one anothers Hands, and Begetting and Cherishing of Friendship, and Removing of Misconstructions. *Item*, Ministers are to cherish weak Beginnings in the Ways of God, and Courageously oppose all Revilers and Mockers of the Godly. *Item*, Silence or ambiguous Speaking in the publick Cause, and not Speaking against the Corruptions of the Time, are to be seasonably censured; And such as Mock, Upbraid, or Threaten, Stop or Disturb Ministers for Freedom in Preaching, and the Faithful Discharge of their Conscience, are to be prosecuted, *vide Assemb. 1648. Sess. 26.*

Remedies against Vocational and Personal Faults of Ministers.

§ 9. A Presbytery is not to proceed to the Citation of a Minister, or any way begin the Process, until there be first some Person, who under his Hand gives in the Complaint, with some account of its Probability, and undertakes to make out the Libel, at least under pain of being Censured as a Slanderer. This Informer or Accuser ought to be of good Report; for it were of dangerous Consequence to admit every Body to accuse. By the 21. Canon, *Concilii Chalced. Clericos vel Laicos, Episcopos aut Laicos Accusantes, non indiscriminatim, nec citra Inquisitionem, admittere ad Accusationem, nisi eorum existimatio primo examinata fuerit.* Yet Presbyteries may proceed against Ministers, when a *Fama Clamosa*

What warrants a Presbytery to enter in Process against a Minister: And how Accusers are to be admitted.

Clamosa of the Scandal is so great, that for their own Vindication, they find themselves obliged to begin the Process without any particular Accuser, after they have Inquired into the Rise, Occasion, Broachers and Grounds of the said common Fame.

The Manner of citing Ministers.

§ 10. After the Presbytery has considered the Libel raised against the Minister, then they order him to be cited to get a full Copy, with a List of the Witnesses Names to be led for proving thereof, and a formal Citation is to be made in Writ, either Personally or at his Dwelling House, bearing a competent time allowed to give in Answers unto the Libel, and his just Defences and Objections against Witnesses, at least ten free Days before the Day of Compearance, and the Citation should bear the Date when given, and the Names of the Witnesses to the giving thereof, and the Execution bearing its Date, with the Names and Designations of the Witnesses, should be made in Writ and signed by the Officer and Witnesses: Which being accordingly Returned, he is to be called. As to the Form and Manner of Citations, it is not to be understood as a Privilege restricted to Ministers only, but it is to be Extended to all who are convened before Church Judicatories, with little Difference, as has been observed on *Tit. Citations*.

How to behave towards a Minister Compearing and Confessing.

§ 11. If the Minister compear, the Libel is to be read unto him, and his Answers thereunto are to be read, in order to the discussing of the Relevancy. If the Libel be found Relevant, then the Presbytery is to endeavour to bring him to a Confession: If the Matter confessed be of a Scandalous Nature, such as Uncleanness, or the like, the Presbytery, whatever be the Nature of his Penitence, are *Instantly* to depose him *ab officio*, and to appoint him in due time to appear before the Congregation where the Scandal was given, and in his own Parish, for removing the Offence, by the publick Profession of his Repentance.

§ 12. If a Minister absent himself by leaving the Place, and be Contumacious, without making any relevant Excuse, after a new publick Citation, and Intimation made at his own Church, when the Congregation is met, he is to be holden as Confest, and to be Deposed and Censured *Instantly* with the lesser Excommunication; But if after some time he do not subject himself to the Censures of the Church, he may be proceeded against till he be Censured with the Greater Excommunication.

*How towards
one Absent-
ing or Contu-
macious.*

§ 13. If the Minister accused do appear, and deny the Fact, after the Relevancy is found, the Accused is to be heard Object against the Witnesses, and allowed to be present at the Examination, and modestly to Cross-Interrogate. If after consideration of the Reputation, Hability, and Propositions of the Witnesses, the Judicatory shall find the Scandal sufficiently proven, they are to proceed to Censure, as in the Case of Confession.

*How towards
him who com-
pares, and de-
nys, but a-
gainst whom
the Libel is
proven.*

§ 14. If the Errors be not Gross, and striking at the Vitals of Religion, or if they be not pertinaciously stuck unto, or industriously spread, with a visible Design to Corrupt, or that the Errors are not spreading among the People, then Lenitives, Admonitions, Instructions, and frequent Conferences are to be tryed in order to Reclaim. And unless the thing be doing much hurt, so as it admitts of no Delay, the Synod or General Assembly are to be advised with, and the Reference Intimated to the Minister concerned, which is agreeable to the 12th Act of Assembly 1694. And by that Act all the Judicatories of the Church are forbidden to Censure any Minister whatsoever for not Qualifying themselves in the Terms of the Act of Parliament, by taking the Oaths to the Civil Government. 'Tis true, that Appointment continues only till the next Assembly; But the same Reason for making that Temporary, may make it a perpetual Act.

*How to carry
towards a Mi-
nister charged
with Errors.*

*How to carry
towards a Mi-
nister char-
ged with a
multitude of
smaller things
laid together.*

§ 15. If the Libel against a Minister be for a multitude of smaller things laid together, the Presbytery in proceeding therein are to make a Presbyterial Visitation of that Ministers Parish. And if they find these things, laid to his Charge, to have been committed since the last Visitation, or find a satisfying Reason wherefore they were not then Tabled, they are to Inquire how far the Minister hath been guilty of giving Offence, after he was acquainted that Offence had been taken at these things he is charged with: It would be likewise Inquired, If any of the Complainers did first in a private Way Inform any of the Neighbouring Ministers of these things now publickly complained of? And the Presbytery is to Judge accordingly. If they find upon Tryal, the Complaint to Resolve on the Minister's having committed such Acts of Infirmity or Passion; As, considering all the Circumstances, may be either amended, and the People satisfied, and that the Offence was taken by the Ministers own People, only or mainly, then the Presbytery is to take all prudent Ways to satisfy and reclaim both Minister and People.

*Absence from
Synods Censu-
red by Suspen-
sion, and why
so called.*

§ 16. By the 4th Act, Sess. 2d. Par. 17. Car. 2d. Ministers are to be Suspended that absent from the *Diocesan* Synod for the first Fault, and that such a Censure may be Inflicted where no Excuse is offered is not to be doubted. Yet our Church-Judicatories are rather Inclinable to Threaten, and be in a Readiness to Revenge every Disobedience, than actually to Inflict the Censures they may, upon every just Provocation. Ministers are said to be Suspended, because their Restoring or Deposing is yet doubtful, and doth much depend upon their future Behaviour, or upon further Discoveries and clearer Probation.

*Grounds of
Deposition;
What.*

§ 17. By the General Assembly April 1582, as related in *Calderwood's* History, the Causes of Deposition were judged to be these, viz. Heresy, Popery, Blasphemy, Perjury, Adultery, Incest, Fornication, Slaughter, Theft, Com-

mon Oppression, Common Drunkenness, Usury against the Laws of the Realm, Non-Residence, Absence from his Kirk, and Neglect of his Office for Fourty Days together in a Year, without a lawful Impediment allowed by the next General Assembly; Plurality of Benefices (but the Act of Parliament says, Plurality of Benefices having Cure) Dilapidation thereof, and Simony. Which Crimes are likewise declared Causes of Deprivation, by *Cap. 132. of Parl. 1584.* It is to be observed that the Church doth not except in some most horrid Crimes, Depose and Excommunicate both at once. By the *25th.* of the *Canons*, called *Apostolical*, *Episcopus, aut Presbyter aut Diaconus in seortatione, vel perjurio, vel furto deprehensus, ordine suo summoventur; ab Ecclesia tamen non excludatur.* Ministers are not to employ Deposed Ministers in any Exercise of the Pastoral Calling, or entertain Ministerial Communion with them, under pain of Deposition. By the *11th.* of these forecited Canons, *Si quis Clericus cum deposito, ut cum Clerico, simul oraverit, deponatur & ipse.* If any Deposed Minister shall Apply to the Civil Magistrate for Redress against that Sentence, in so doing he acknowledgeth in the Civil Magistrate a privative Power, to hinder the Church from Exercising that Jurisdiction he hath received from CHRIST, and therefore he puts himself out of all hopes of almost ever being restored. By the *12th.* Canon *Concil. Antiocheni, si quis a proprio Episcopo depositus, Presbyter vel Diaconus, vel Episcopus a Synodo, ausus fuit, Imperatoris auribus molestiam exhibere, cum oporteat ad majorem synodum converti, & jus quod se habere putat ad plures Episcopos referre, eorumque Examinationem & judicium suscipere: qui itaque his contemptis Imperatori molestus fuerit, is nulla venia dignus, neque sui defendendi locum habeat, nec Restitutionis futurae spem expectet.*

§ 18. By Deprivation a Minister is removed only from his particular Charge, and loseth the Benefice, as was done against

Excommunication and Deposition rarely in one Sentence.

No Ministerial Communion with Deposed Ministers.

A Deposed Minister applying to the Civil Magistrate for Redress, not to be Restored.

Difference between Deprivation, Deposition, and Degradation.

well and ripely Advised therewith, they found the same relevant by the Acts and Practice of this Church to infer Deposition; As also, they found the Articles of the said Complaint sufficiently proven, by the Depositions of several famous Witnesses, lawfully Summoned, solemnly Sworn, purged and Interrogate thereupon. That &c. (here Narrate the particular things found proven) as the Depositions of the saids Witnesses Extant in Process, bear. And therefore the said Presbytery did by their Vote, Depose the said _____ Likeas they hereby do, in the Name of the LORD JESUS CHRIST, the alone King and Head of his Church, and by virtue of the Power and Authority committed by Him to them, actually Depose the said _____ from the Office of the Holy Ministry, Prohibiting and Discharging him to Exercise the same, or any part thereof in all time coming, under the pain of the highest Censures of the Church. Extracted &c. The Sentence of Suspension runs in this Form, " They do Suspend the said _____ from the Exercise of his Ministry till a definite Time, prohibiting him to Exercise the same during the said space, till he be orderly Reposed thereto, under the pain of Deposition. The Assembly August 5. 1648. considering that according to the Antient Order and Practice of this Kirk, the Censures of Suspension and Deposition are both *ab Officio & Beneficio*, therefore they discharge Deposed or Suspended Ministers, to Exerce any part of the Ministerial Calling, or intromet with the Stipend, under pain of Excommunication to the Deposed Minister, and of Deposition to the Suspended. See also Act of Assemb. Dec. 18. 1638. Sess. 14.

*No Deposed
or Suspended
Minister is
to intromet
with the Benefice.*

§ 20. By the 3d. Article of the 10th. Act of Assemb. 1694. If Probationers Malverse in Doctrine or Conversation, they shall be Accountable to and Censurable by Presbyteries. And if they refuse Subjection or prove Contumacious to such Censures, whether of Suspending or Recalling.

*For what
Probationers
are to be Censured.*

calling their Licence, Intimation thereof shall be made to the Church Judicatories where they Reside or Haunt, that so none may imploy them to Preach.

When the Assembly only can Repone, and what Judicatories can Repone.

§ 21. By the Act of Assembly *August 2d. 1641.* Ministers Deposed for the publick Cause of Reformation, and Transgressing the Order of this Kirk, shall not be suddenly received again to the Ministry, till they first evidence their Repentance both before their Presbytery and Synod, and thereafter the samen be reported to the General Assembly. The Assembly *August 12th 1643.* Considering that Sentences of Superior Judicatories should stand effectual, till they be taken away by themselves, therefore Synods are discharged to Repone Ministers Deposed by Assemblies, and Presbyteries from Reponing any Minister Deposed by

He cannot be Restored to his former Parish, nor yet to that of another Deposed for the same Fault.

either. By Act of Assembly *February 13. 1645.* It is Ordained, that no Minister Deposed shall be Restored again unto that place where formerly he served, as being a thing prejudicial to the Congregation, and derogatory to the weight of that Sentence of Deposition, and it being almost impossible that ever he can prove useful in that Parish again. See *the Form of Process* on this Head, *Assemb. 1707.*

Ministers Deposed for horrid Crimes not to be Reponed.

By Act of Assembly *August 12. 1648.* It is Enacted, That no Minister Deposed for being an Enemy to the Government of this Church, when it shall fall out, that he be put in a capacity of Re-admission to the Ministry, shall enter into the Congregation of any other Minister, who also hath been Deposed for that same Fault. By the 53. Article of *the French Church Discipline*, Ministers who have been Deposed for Crimes which deserve signal Punishment, or that bear marks of Infamy, cannot be restored to their Office, what Acknowledgement soever they make. And as for other less Faults, after due Acknowledgment made, they may be Restored by the National Synod, to serve in another Church, and not otherways, which agrees with these Acts of our Assemblies just now cited.

§ 22. By

§ 22. By the 13. Act of Assemb: 1690. All Sentences past against any Minister, *hinc inde*, by any Church Judicatory, upon the Account of the late Differences among Presbyterians from the Year 1650, till the Re-introduction of Prelacy, are declared to be of themselves Void and Null, to all Effects and Intents.

How a great many Ministers were Reasoned against Sentences past during the late Divisions.

T I T L E V.

Of Sentences and their Reviews, of Declinatures, References, and Appeals.

§ 1. **J**udicial Sentences are either Interlocutors, that is a Sentence intermediate between the Dependence and Termination of Processes; Or they are Definitive, that is, they Terminate Processes. And these are either Absolutives, whereby the Defender is freed and Affoizied from the Conclusion of the Libel or Process, or they are Condemnatory, whereby the Conclusion of the Process is found just and true against the Defender. Or they are mixed, whereby the Defender is Absolved from some part of the Conclusion of the Process, and is Condemned in other parts thereof.

Several kinds of Sentences

§ 2. The Moderator of no Judicatory ought to give forth their Sentence, till the same be first put in Writing, and then he is to order the Clerk to read it in presence of all Parties. Thus no Judicatory can be in the least wronged by any Clerks Unfaithfulness or Omission.

Sentences must be written before they be pronounced

§ 3. When it is doubtful what Sentence should be past, it is the Safest-side and the least Error, either to drop the Process for the time, or else to Absolve the Defender, conform to that Maxim in Law, *Satius est impunitum relinquitur*

In doubtful Cases 'tis safest to Absolve.

facinus nocentis, quam innocentem damnare, L. 5. D. de pen.
for in Absolving the Guilty there is but an Omission,
whereas in Condemning the Innocent there is committing
of Iniquity and Injustice.

Conclusion of the Causes. § 4. Before a Judicatory can think to pass a Sentence, Parties being first fully heard must close what they have to say, and after they have concluded their Defences and Answers, then the Judicatory begins to Advise what Sentence to pronounce; And seing the Pursuer speaks first by his Libel, the Defender is allowed to be the last Speaker.

Some Sins not to be Tried publickly. § 5. When Faults are Singular and Monstruous, it is the Laudable Practice of Judges, to order the Punishment and Trial of such Crimes in private; I am sure, to acquaint the People of some Unnatural Sins, whereof they had never heard, were but a Scandalous and Pernicious Instruction. See the 51. *Art. 1. Cap.* and 10. and 11. *Art.* of the 5. *Cap.* of the *French Church Discipline.*

Nullity of Sentences. § 6. Sentences are in themselves Null, when pronounced against the General Acts of the Church, or by an incompetent Judge, such as the Sentences of Kirk-Sessions against Ministers, or even by Presbyteries and Synods, when the Process is carried and admitted before their Superiour Judicatories.

The Nature, Use and End of Reviews, and who can Review. § 7. When the Party neglects to use the ordinary Remedy of Appeal, he is allowed (where the Sentence is palpably gravaminous) to pursue a Review thereof before a Superiour Judicatory. They are like Reductions, and ought to be so Libelled, calling the Parties and Judge to produce what is craved, to be reviewed. They are not much in use with us, and if they were, some Self-will'd and Litigious persons would take too much Encouragement from it. Assemblies, from which there lies no Appeal, may Review or Recal their own Sentences, on some new or extraordinary discovery. But Inferiour Judicatories from which Parties may Appeal, are not to Determine

termine, but to refer the desired Review or Reduction to their Superiour Judicatory. If a Party shall omit to propose a competent and proper Defence, with a fraudulent and vexatious Intention to protract and resume Debates; in that case he ought not to be heard in his making thereof out of due Time and Order. But to hear emergent and new discovered Defences since the conclusion of the Cause, is but just.

§ 8. In the latter part of the 23d Act Parl. 1693. It is Statute, That the Lords of Their Majesties Privy Council, and all other Magistrates, Judges and Officers of Justice, give all due Assistance, for making the Sentences and Censures of the Church, and Judicatories thereof to be obeyed, or otherways effectual as accords.

The Magistrate is to Interpose his Authority for getting Obedience to Church Censures.

§ 9. Declinatures are *ante latam sententiam definitivam*: But Appeals are made from and after that Sentence. These Declinatures are of two sorts, the first Unwarrantable, when a Judicatory is Declined, as having no Authority, as if a Minister should Decline his own Presbytery, or the other Superiour Judicatories of the Church to be his Lawful Judges, which is a higher Degree of Contumacy, than that which follows upon Non-compearance, and may be warrantably censured with Deposition by the 5th Act of Parliament 1690. There is a warrantable Declinature, when a Judicatory is Declined as having committed Injustice in some Interlocutor-Sentence. There is likewise a warrantable Declinature, which may be made against particular Members, who are related to the Party by Consanguinity or Affinity, nearer than a Cousin-german, or who have behaved themselves as Parties in the Cause. It is just now said, that Appeals are properly made from Definitive-Sentences, but they are likewise made from Interlocutory-Sentences, when they contain such Damage to the Party, whereof no Reparation can be expected, from the Definitive Sentence that is to ensue. Thus *Paul's* Appeal was

Difference between References and Appeals: When warrantably made, and when not.

Just, *Acts* 25. 9. for albeit his Accusers could not prove their Libel against him, yet his Judge did not absolve him, but partially and unjustly Remitted him to the Judgment of his false and malicious Accusers.

What an Appeal is; its End.

§ 10. *Appellatio* is by Lawyers said to be *Iniquitatis sententiae querela, a minore Judice ad superiorem provocans*; The Design of Appeals is to Redress wrongs done by the Iniquity, Unskilfulness, or Precipitancy of Judges.

The Effect of an Appeal, and how it sists Execution.

§ 11. As to the Effect of Appeals, *non sortiuntur Effectum suspensivum sed devolutivum tantum*, and consequently resolve only in the Nature of Protefts for Remeed of Law against a Sentence pronounced by the Lords of Session, and not in the Nature of Suspensions. By the last Article *Cap. 5. Act 11. Assen. 1707.* an Appeal being made by Parties;

should sist the Execution of the Sentence appealed from, only while the Appeal is duely and diligently profecute, and may thereby be determined, otherwise not; unless the Judicatory appealed to, receive the Appeal, and take the Affair before them: And in that Case the Judicatory appealed from is to Sift till the Appeal be discussed.

The Manner of making Appeals, and to whom made.

§ 12. By the Act of Assembly *August 30. 1639.* Appellations are discharged to be made by leaping over either Presbytery or Synod, except it be after the Synod is past, and immediately before or in the time of the sitting of the General Assembly. The Assembly *1648. Sess. 30.* Orders thus, That where the Appeal after Sentence is not ready to be given in, the Party shall protest for Liberty to Appeal, and accordingly, within ten Days, give in his written Appeal to the Judicatory or Moderator thereof, otherwise it falls; Which Order and Method is further cleared by the *8th Act of Assembly 1694.* whereby it is appointed, That Verbal Appellants give in their subscribed Appeals, within ten Days to the Clerk of the Judicatory appealed from, (notwithstanding the Judicatory may be up before the time) and also Intimate the same to the Moderator, by leaving

leaving with him an Authentick Copy thereof, with the Reasons of the same, to be Registrated by the Clerk, and Summonds direct thereupon against Parties Defenders, and Extracts thereof, with the Citation foresaid, are to be produced by the Appellants at the discussing thereof, Declaring that any Appeals or Insistings thereupon, otherways made, shall be rejected.

§ 13. When the Judicatory *ad quem* meets, the Party Appealed, and oftentimes the Judge *a quo*, craves that the Appealant may be called, and if he appear not, the Appeal is holden as deserted; In which Case *firmatur sententia*. If the Appellant fail, then to Insist; it *ipso facto* falls, becomes Void, and the Sentence of the Judicatory appealed from is to be put in Execution. See *The Form of Process* on this Head, Enacted 1707. Unless the Appellants send full Instructions and Documents for the Necessity of their Absence.. See *Cap. 9 Art. 9. French Church Discipline.*

When an Appeal is to be judged Deserted.

§ 14. By the Act of Assembly August 3. 1643. It is appointed that all Bills whatsoever of particular Concernment, whereunto all Parties having Interest are not cited, should be Rejected. As also, that they be first presented to the Inferiour Judicatories of the Kirk; who may competently consider of them, and from them, be orderly & *gradatim* brought to the Assembly, and References are to be made by the Inferiour to the Immediate Superiour Judicatories in the same manner. Likewise, Upon a Reference made and intimate, all Parties present are thereby cited, *apud acta*, to the Judicatory Referred unto: But if absent, the Clerk must be ordered to direct Summonds against them, which if omitted, the Reference cannot be Received.

How Parties are sisted by Bills and References.

§ 15. When an Appeal is brought from a Kirk-Session to the Presbytery, they are to consider, whether the Cause is of that Nature, as it behoved at length to come to the Presbytery, by the Course of Discipline, before the final Determination thereof: As, if it be in a Process of alledged Adultery or such like; In which Case, they may, to save them-

When the Bene or Male Appellatum is to be Discussed.

When the
Appeal is not
to be sustain-
ed.

themselves time, fall upon consideration of the Affair, without insisting upon the *Bene* or *Male Appellatum*, even tho' it seem to be preposterously appealed. But if the Cause be such, as the Kirk-Session are the competent and proper Judges of, to its ultimate Decision, and if there hath no Cause been given by the Session, through transgressing the Rules of an orderly Process, or by the incompetency of the Censure, the Presbytery is not to sustain the Appeal; And if they do not sustain it, but find the Appellants to have been Malicious, Litigious, or Precipitant, then they are to Inflict some Censure, such as Reproof before the Presbytery, or appoint them to acknowledge their Precipitancy before their own Session, and that beside Remitting the Process to them. If the Appeal be sustained, and yet upon proceeding in the Cause, the Presbytery find the Appellant Censurable, they are to order him to be censured accordingly: But if they find, that the Kirk-Session hath unwarrantably proceeded, either to the Contributing to the raising of a Scandal, or Inflicting a Censure without a sufficient Cause, they are then not only to absolve the Appellant, but to take proper Ways for vindicating his Innocence; Yet so as not to weaken the Kirk-Sessions Authority, for which end, they may give that Session futeable Instructions and Rules to walk by, or private Admonition, or to call for a Visitation of their Session Register. See that forecited *Form of Process*, Assembly 1707.

When the
Appeal is to
be sustained.

TITLE

T I T L E VI.

Of the Order of Proceeding to Excommunication.

§ 1. **I**F a guilty Person continue in that Condition mentioned *Tit. 1. H. L.* or ly under the Censure of the *Lesser* Excommunication for a considerable time, after Intimation thereof hath been made, both in the Congregation where it was Inflicted, and also in that to which he belongeth; And yet be found frequently Relapsing in these Vices, he was censured for, it may be constructed such a Degree of Contumacy, and so aggravate the Crime as to found a Proceſs for the Censure of the *Higher* Excommunication, which is to be Inflicted or not, as may most tend to the Reclaiming of the guilty Person, and Edification of the Church. Where there is no obdurate Contumacy, the *Lesser* Excommunication needs only have Place. Again, where no Scandalous Practice hath been proven, only there is a simple Contumacy following by not appearing; In that Case, the *Lesser* Excommunication is length enough. But if the Scandal be of an hainous Nature, and that it is Spreading and Infectious, as in Heresies or Schism in the Church; In which Cases, Contumacy is to be proceeded against.

§ 2. Yet every Error or Difference in Judgment about Points wherein Learned and Godly Men may differ, and which subverts not the Faith, nor is destructive to Godliness, or when Persons out of Conscience, do not come up to the Observation of all these Rules, which are or shall be established by Authority for Regulating the outward

When to proceed from the Lesser to the Higher Excommunication, and Grounds for both.

Every Error or Difference in Judgment not sufficient Ground for Excommunication.

Worship

Worship of God, and Government of His Church, the Censure of Excommunication should not be Inflicted for such Causes. See *Durb.* on Scandal. The Letter from the Assembly of Divines at *Westminster*, with the Answer of our General Assembly 1645.

*How the Pres-
bytery pro-
ceeds with
Persons pre-
sent or absent
in order to
this Censure.*

§ 3. The Kirk-Session having brought the Procefs to the *Lesser* Excommunication, before they proceed further, they are by a Reference to lay their whole Proceeding in Writ before the Presbytery, who finding them to have orderly proceeded, and that the *Lesser* Excommunication is not sufficient, they are to cause cite the Scandalous Person. If he appear, and deny the Scandal alledged and libelled, then they are to lead Probation as in other Cases. If he appear not, then the Citation is to be renewed till he hath got three.

*After three
ordinar Cita-
tions, three
publick Ad-
monitions.*

§ 4. If he contemn these three Citations, then he is to be admonished out of the Pulpit, to appear and submit three several Sabbaths, and a Presbytery Diet should Intervene betwixt every one of these Admonitions. By these Admonitions Intimation is to be made, that the Presbytery will proceed to Inquire into the Guilt, although the Delinquent be absent, and threatning him with the highest Censure of the Church, if he continue Impenitent; And therefore the Minister is gravely to admonish the Party present or absent to Repent and Submit himself to the Discipline of the Church.

*After three
Admonitions,
follow three
publick Pray-
ers.*

§ 5. If after all, the Person continue Impenitent or Contumacious, the Presbytery appoints the Minister to Pray for him publickly in the Congregation, and he is to Exhort them to joyn with him in Prayer, That God would deal with the Soul of the Impenitent, and convince him of the Evil of his Ways. Which Prayers of the Church, are to be put up three several Sabbath Days, a Presbytery Interveneing betwixt each Prayer.

*Edict for Ex-
communicati-
on.*

§ 6. The Scandalous Person still continuing Impenitent, and making

making no Application or Submission, the Presbytery is then to appoint the Minister to Intimate their Resolution to proceed upon such a Sabbath as they shall name for pronouncing that dreadful Sentence, unless either the Party or some for him, signify some Relevant Ground to stop the Procedure, that so upon the Congregations tacite Consent and Acquiescence, the Sentence may have its due Weight and intended Effect.

§ 7. All these slow and several Steps of the Churches Proceedings to this high Censure, do shew their Tenderness towards their Lapsed Brother, their Earnestness to have him Reclaimed, and also to create a greater Regard and Terrour of that dreadful Censure, both in the Party and all the People. Let not those who deserve it, or upon whom it hath been orderly and justly Inflicted, mock and say, *parturiunt montes*, &c. For whatsoever the Church shall so bind on Earth, our Lord hath said it shall be bound in Heaven, *Matth. 18. 18.* And this Censure is like a Seal to all the Threatnings of God in His Word, which shall verily be execute against Impenitent Sinners.

The Reason of this slow procedure.

§ 8. The day being come, the Minister is to preach a Sermon suited to that solemn Occasion, concerning the Nature, Use, and Ends of Church Censures; Then, after the ordinary Prayers and Praises of the Congregation are performed, the Minister is to narrate all the Steps of the Process, shew the obstinate Impenitency of the Scandalous Person, and that now there remained only that Mean of cutting him off from the Society of the Faithful. Then he is to desire the Congregation to joyn with him in Prayer, That God would grant Repentance to the obstinate Person, would graciously bless His own Ordinance, to be a Mean for Reclaiming him, and that others may fear.

The Minister's Behaviour before he pronounce the Sentence.

§ 9. Then immediately after Prayer that terrible Sentence is to be pronounced, in these or the like Words, speaking to him, in the *Second Person*, if present, and of him, in the

The Form of the Sentence of Excommunication.

()

Q q

Third

Third Person, if absent. Whereas thou *N.* hast been by sufficient Proof convicted of (*here mention the Sin*) and after due Admonition and Prayer, remainest Obstinate, without any Evidence or Sign of true Repentance. Therefore, in the Name of the LORD JESUS CHRIST, and before this Congregation, I pronounce and declare thee *N.* Excommunicated, shut out from the Communion of the Faithful, debarrs thee from their Privileges, and delivers thee unto Sathan for the destruction of thy Flesh, that thy Spirit may be saved in the Day of the LORD JESUS.

What is meant by delivering to Sathan.

§ 10. Why the Apostle *1 Cor. 5. 5.* expresses Excommunication by delivering to Sathan may be for this, among other Reasons, That Sathan is called the God of this World, as *World* is taken in Opposition to the Church of GOD, so that delivering to him Implies no more than that *Matth. 18. 17.* If he neglect to hear the Church, let him be to thee as an Heathen Man and Publican, thereby letting us know how dreadful a thing it is to be shut out from the ordinary Means of Grace and Salvation, and exposed to the Temptations of our grand Adversary the Devil.

When pronouncing the Sentence may be stopped.

§ 11. If after Prayer, or before pronouncing of that Sentence, the Scandalous Person make any publick Signification of his Penitency, and of his desire to have the Censure stopt, the Minister may upon any apparent Seriousness in him, delay pronouncing him Excommunicated, upon his publick Engagement and Promise to appear before the Presbytery at their next Meeting, of which the Minister is to make Report, and the Presbytery is thereupon to deal with the Scandalous Person as they shall see cause.

The Effects of this Sentence.

§ 12. After the pronouncing of this Sentence, the Minister is to warn the People of the Effects thereof, such as, That they hold that Person to be cast out of the Communion of the Church, and therefore they are to shun all unnecessary Converse with him: Nevertheless Excommunication

cation dissolveth not the Bonds of Civil or Natural Relations. By the Act of Assembly 1596. Revived Assembly 1638. *Sess.* 23. *Art.* 16. Such are appointed to be Excommunicated as will not forbear the Company of Excommunicated Persons. By the 10th of these *Canons* called *Apostolical*, *Si quis etiam domi cum excommunicato simul oraverit, is pariter excommunicetur.* By Assembly 1643. *Sess.* ult. and Assembly 1648. *Sess.* 38. *Art.* 13. If a Minister haunt the Company of Excommunicated Persons, he shall be Suspended for the first Fault, and Deprived for the second, unless he have Licence from the Presbytery, or else the Excommunicated Person be *in extremis*. No civil Penalty, such as Escheat of Moveables or Caption, doth now follow upon this Sentence, so that the Liberty and Estates of Church Members are not endangered by it, nor do they depend upon Church-men. But upon a Presbyteries Representation to the Privy Council, against persons that are Contumacious, such may not expect to enjoy their Places, or be Intrusted with any, as the last Act made against Profaneness in King *William's* Reign doth Insinuate. By *Jam.* 6. *Parl.* 11. *Cap.* 27. Excommunicate Persons are to be charged by the Minister to depart from the Church in time of Ministration of Sacraments and Prayer, and not to disobey, under the Penalties therein mentioned.

§ 13. The Minister is to conclude this Censure with Prayer to this Purpose, That GOD who hath appointed this terrible Sentence for removing of Offences, and reducing of obstinate Sinners, would ratify in Heaven, what

*Conclusion by
Prayer, Praise
and pronouncing
the Blessing.*

in His Name, and by His Warrant hath now been done on Earth, and that the shutting him out of the Church may fill him with Fear and Shame, break his obstinate Heart, and be a Mean to destroy the Flesh, and recover from the power of the Devil, that his Spirit may yet be saved, and also that others may be stricken with Fear, and not dare to sin so presumptuously, or contemn the Authority

and Voice of His Church. See *Knox's Forms* prefixed to the old Psalms. Then the Congregation is to be dismissed with the Blessing, after singing the last part of the 101 Psalm.

The Difference betwixt the Greater and Lesser Excommunication.

§ 14. The 4 Art. Cap. 30 of our Confession of Faith saith, That for the better attaining the Ends of Church Censures, the Officers of the Church are to proceed by Admonition and Suspension from the Sacrament of the Lord's Supper for a time, and by Excommunication from the Church. The Difference then betwixt these two Censures is: Suspension from the Lord's Supper, Imports that the person so Censured is in Imminent Danger of being Excommunicated and cut off from the Church, but before that heavy and finishing Stroke be Inflicted, there are further Means to be used, such as Prayers and Admonitions, in order to his Reclaiming, 2 *Theff.* 3. 6, 14, 15. *Now we command you Brethren, in the name of our Lord Jesus Christ, that ye withdraw your selves from every Brother that walketh disorderlie: And if any Man obey not our word by this Epistle, note that Man, and have no companie with him, that he may be ashamed, yet count him not as an Enemy, but admonish him as a Brother.* Whereas when a person is cut off by that high Censure, he is to be looked on as a Heathen Man, *Matth.* 18. 17. Upon which the Church ceaseth to be his Reprover, they give him over for dead or desperate, and will administer no more of the Medicine of Church Discipline unto him, 1 *Cor.* 12. 13. *For what hath the Church to do to judge them that are without? do not they judge them that are within? but them that are without, God judgeth.*

Summar Excommunication, what, and when to be Inflicted.

§ 15. Persons guilty of Relapse in Adultery, or who are often guilty of other gross Scandals, are to be more summarily Excommunicate than in ordinary Proceses, both for the Heinousness of the Sin, and for Terrour to others. See *Sess.* 38. *Assemb.* 1648. There is no Excommunication absolutely Summar, that is, without previous Citations,

ons, Admonitions and Prayers, but it is Comparatively Summar, because they are not first suspended, as in ordinary Church Procedures against scandalous persons. I am sure, where there is no obdurate Contumacy, but on the contrair, Edifying Signs of true Repentence, to such *scelus Ecclesie semper patet*: For the Repentance of the greatest Sinners is more Edifying and Grateful than their Excommunication, And if the Holy One of *Israel*, who is Absolute and Sovereign in bestowing of His Mercy & Grace to whom and when He will, shall think fit, by giving unfained Repentance to that nottour atrocious Sinner, to signify His forgiving of him, and receiving him into His Favour; How dare any Church upon Earth presume to deliver such a person unto Sathan?

§ 16. In case the Excommunicate Person continue Obstinate, after the Sentence of the Presbytery is Intimated in all the Kirks within their Bounds, they are to give an Account thereof to the Synod, who are to appoint Intimation thereof to be made in all the Kirks of their Bounds; and if need be, the Synod is to bring the Case to the Assembly, that the Sentence may be Intimate through all the Churches of the Kingdom. *Assemb. 1704. Sess. 10. Assemb. 1648. August 10.* Only let this be remembred, that if he come to be absolved, Justice be done him, in causing the Absolution be Intimate, where-ever the Excommunication had been, so the Plaister will be proportioned to the Sore.

*Intimation
of the Sentence
of Excommu-
nication and
Absolution.*

§ 17. There is in the Canon Law a Church Censure which they call *Interdictum*, by which they Excommunicate whole Kingdoms and Provinces for the Fault of some, whereby they make the Innocent suffer with the Guilty, through the torbidding the publick Exercise of God's Worship in that Kingdom, Place, or Province. They have a particular *Interdictum* by which they Excommunicate a number of Persons specially designed. By the first of these the

*Interdictum
Local and
Particular.*

the Inhabitants are only affected and reached with its Censure during their Abode or Residence in the Place Interdicted. But the particular *Interdict* doth reach and follow the particular Persons thereby Censured, where-ever they Sojourn.

Anathematization, Excommunication and Accursing are Synonymous.

§ 18. *Calderwood* in his History pag. 205. tells us, That *Anathematization* is a Censure of an higher Degree than *Excommunication*, but the Reformed Churches generally esteem *Excommunication* to be *Severissima Disciplina*, & *ultimum fulmen Ecclesie*, and in the 16 Sect. 1 Art. of the Directory for Church Government, as it was printed Anno 1647. to be Examined by the Assembly, it is said, *Excommunication* is a shutting out of a Person from the Communion of the Church, and it is the greatest and last Censure. And, pray, what can a Church do more? Or, what have they to do more with a person shut out of their Communion? The *Anathematization* among the *Canonists* hath no other Effects, but is the same upon the Matter with their greater *Excommunication*; Only, when the same is Inflicted with a number of more Solemnities and Formalities, because of that Parade it is then called *Anathematization*. And we find by *KNOX's* Forms, that he useth the Words *Excommunicated* and *Accursed*, as Synonymous or Equipollent: See the Form of Process both on this and the Subsequent Title *Assemb.* 1707.

T I T L E VII.

Of the Order of proceeding to Absolution.

§ I. **B**Y the Manuscript Acts of Assembly at *Edin-* *The old and present Method of proceeding to Absolution.*
burgh March 1569, Persons Excommunicated for their Offences, in order to their Absolution, shall stand Bare-headed at the Kirk-door till Prayers and Singing be ended, and then enter the Kirk, and sit at the publick place of Repentance Bare-headed all the time of the Sermon, and again depart before the last Prayer, which is agreeable to *KNOX's Forms*, concluded *Anno 1567.* and ordered to be printed by Assembly 1571. and is not disagreeable to the Primitive Practice of the Church. But now, if after Excommunication the Signs of Repentance appear in the Person Excommunicated, such as Godly Sorrow for Sin, as having thereby Incurred God's heavy Displeasure, occasioned Grief to his Brethren, and justly provoked them to cast him out of their Communion, together with a full Purpose of Heart to turn from his Sin unto God, with a humble Desire of recovering Peace with God and His People. All which the Presbytery being satisfied with, they give Warrant for his Absolution: But in order thereto, he is to be brought before the Congregation, and there also make free Confession and express Sorrow for his Sin, call upon God for Mercy in Christ, seek to be restored to the Communion of the Church, and he must promise, through the Lord's Strength, new Obedience and more holy and circumspect Walking: Which

Ap-

Appearance before the Congregation, shall be as often as Church Judicatories shall find may be for Edification and Tryal of the professing Penitent's Sincerity.

Absolution in Extremis. § 2. A Minister may warrantably without Licence from the Presbytery, haunt the Company of Excommunicate Persons *in extremis*, as is said, *Tit. Præc.* And if he shall then find in the dying Person true Signs of Repentance, what is there to forbid his administering the comfortable Sentence of Absolution to him, seeing it is due to the Signs of his Repentance, and his dying Condition cannot admitt of longer delay. But that Ministers might have better Warrant, & the Fears of dying Penitents be more easily removed, I wish there were some Church Act expressly Authorizing Ministers to absolve Persons in such Circumstances.

Edict of Absolution. § 3. In the preceeding *Title* there is an Edict of Excommunication mentioned, so in like manner, and on the same Ground, there should be published an Edict of Absolution, at least a Sabbath before the same, that so the Penitent may be restored to the Apparent and Tacite Satisfaction of that Congregation who had so consented to his Seclusion.

The Minister's Behaviour and Prayer before Absolution. § 4. The Day being come, the Minister is to preach a Sermon suited to that Occasion; Then, after the ordinary Prayers and Praises of the Congregation are ended, he is to call upon the professed Penitent, and make him Declare, Promise, and Call upon GOD as above: Thereafter he is to desire the Congregation to joyn with him in Prayer to this purpose, That the Lord Jesus Christ who hath pronounced, that whosoever by His Ministers is bound on Earth, shall be bound in Heaven; And also, that whosoever is loosed by the same, shall be loosed and absolved with Him in Heaven, would mercifully accept his Creature this professing Penitent *N.* whom Sathan of a long time hath held in bondage, so that he not only drew him to Iniquity,
but

but also so hardened his Heart, that he despised all Admonitions, for the which his Sin and Contempt, they were compelled to Excommunicate him from the Society of the Faithful. But now seeing the Holy Spirit hath so far prevailed, that he professeth Repentance for his Sin, that it may please God by His Spirit and Grace, to make him a sincere and unfeigned Penitent : And for the Obedience of our Lord Jesus Christ unto Death, so to accept of this poor returning Sinner, that his former disobedience be never laid to his charge, and that he may increase in all Godliness, so that Sathan in the end may be trodden under foot by the Power of our Lord Jesus, and GOD may be Glorified, the Church Edified, and the Penitent saved in the Day of the LORD.

§ 5. After Prayer, the Sentence of Absolution is to be pronounced in these or the like Words. Whereas thou *N.* hast been shut out, for thy Sin, from the Congregation of the Faithful, and hast now manifested thy Repentance, wherein the Church resteth satisfied ; In the Name of the Lord Jesus Christ, before this Congregation, I pronounce and declare thee absolved from the Sentence of Excommunication formerly denounced against thee, and do receive thee into the Communion of the Church, and the free Use of all the Ordinances of Christ, that thou mayest be Partaker of all His Benefits to thy Eternal Salvation. After this is pronounced, the Minister speaketh to him as a Brother, Exhorting him to Watch and Pray, or Comforting him, if there be need, the Elders Imbrace him, and the whole Congregation holdeth Communion with him as one of their own.

§ 6. When the Presbytery hath given Warrant for absolving the Excommunicate Person, he is thereupon materially absolved, and therefore may be admitted to Church Worship, before he be actually and formally pronounced and declared such. The Church may Pray for Excommu-

*Sentence of
Absolution &
Exhortation
to the Absol-
ved.*

*How the Ex-
communicated
are Prayed for
before Absol-
ution.*

nicate Persons, unless they had certain Knowledge, I mean very well Grounded, that any of them had committed the Unpardonable Sin, and that unto Death, 1 *John* 5. 16. *Matth.* 12. 31, 32. And when we do Pray for these Excommunicated, whom we hope not to be so guilty, yet we do not Pray for them as Christians, or of our Communion, but as if they were Heathens, for their Conversion and Repentance.

*Conclusion of
the Absolu-
tion.*

§ 7. The Minister is to conclude the Absolution with Prayer, thanking GOD who delighteth not in the Death of a Sinner, but rather that he should Repent and Live; and Magnifying the Mercy of GOD through Jesus Christ, in pardoning and receiving into His Favour the most grievous Offenders, whenever by his Grace they unfeignedly Repent and forsake their Sins. Thereafter the Congregation is Dismissed with the Blessing, after singing a part of some Penitential Psalm.

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The Reverant Mr
Alexander Geddes

Book this 29 of
march - 1757

William Noble his hand

