

The Protest

ACT I. 1843 – Protest by Those Commissioners to the General Assembly Appointed to Meet on 18th May 1843, by Whom this Assembly Was Constituted

The Commissioners to the General Assembly of the Church of Scotland, appointed to have been holden this day, having met in St. Andrew's Church, the Ministers and Elders, Commissioners thereto, whose names are appended to the Protest then and there made, and hereinafter inserted, having withdrawn from that place, and having convened in a large Hall at Canonmills, in presence of a great concourse of Ministers, Elders, and People, and having duly constituted themselves in the name of the Head of the Church, and appointed the Rev. Dr. Chalmers to be their Moderator, the Protest above-mentioned was produced and read, and thereafter ordered to be recorded as follows:—

WE, the undersigned Ministers and Elders, chosen as Commissioners to the General Assembly of the Church of Scotland, indicted to meet this day, but precluded from holding the said Assembly by reason of the circumstances hereinafter set forth, in consequence of which a Free Assembly of the Church of Scotland, in accordance with the laws and constitution of the said Church, cannot at this time be holden,—

CONSIDERING that the Legislature, by their rejection of the Claim of Right adopted by the last General Assembly of the said Church, and their refusal to give redress and protection against the jurisdiction assumed, and the coercion of late repeatedly attempted to be exercised over the Courts of the Church in matters spiritual by the Civil Courts, have recognised and fixed the conditions of the Church Establishment, as henceforward to subsist in Scotland, to be such as these have been pronounced, and declared by the said Civil Courts in their several recent decisions, in regard to matters spiritual and ecclesiastical, whereby it has been held, *inter alia*,—

1st, That the Courts of the Church by law established, and members thereof, are liable to be coerced by the Civil Courts in the exercise of their spiritual functions; and in particular, in the admission to the office of the holy ministry, and the constitution of the pastoral relation, and that they are subject to be compelled to intrude ministers on reclaiming congregations in opposition to the fundamental principles of the Church, and their views of the Word of God, and to the liberties of Christ's people.

2nd, That the said Civil Courts have power to interfere with and interdict the preaching of the gospel and administration of ordinances as authorized and enjoyed by the Church Courts of the Establishment.

3rd, That the said Civil Courts have power to suspend spiritual censures pronounced by the Church Courts of the Establishment against ministers and probationers of the Church, and to interdict their execution as to spiritual effect, functions, and privileges.

4th, That the said Civil Courts have power to reduce and set aside the sentences of the Church Courts of the Establishment, deposing ministers from the office of the holy ministry, and depriving probationers of their license to preach the gospel, with reference to the spiritual status, functions, and privileges, of such ministers and probationers,—restoring them to the spiritual office and status of which the Church Courts had deprived them.

5th, That the said Civil Courts have power to determine on the right to sit as members of the supreme and other judicatories of the Church by law established, and to issue interdicts against sitting and voting therein, irrespective of the judgment and determination of the said judicatories.

6th, That the said Civil Courts have power to supersede the majority of a Church Court of the Establishment, in regard to the exercise of its spiritual functions as a Church Court, and to authorize the minority to exercise the said functions, in opposition to the Court itself, and to the superior judicatories of the Establishment.

7th, That the said Civil Courts have power to stay processes of discipline pending before Courts of the Church by law established, and to interdict such Courts from proceeding therein.

8th, That no pastor of a congregation can be admitted into the Church Courts of the Establishment, and allowed to rule, as well as to teach, agreeably to the institution of the office by the Head of the Church, nor to sit in any of the judicatories of the Church, inferior or supreme,—and that no additional provision can be made for the exercise of spiritual discipline among the members of the Church, though not affecting any patrimonial interests, and no alteration introduced in the state of pastoral superintendence and spiritual discipline in any parish, without the sanction of a Civil Court.

All which jurisdiction and power on the part of the said Civil Courts severally above specified, whatever proceeding may have given occasion to its exercise, is, in our opinion, in itself inconsistent with Christian liberty, and with the authority which the Head of the Church hath conferred on the Church alone.

AND FURTHER CONSIDERING, that a General Assembly, composed, in accordance with the laws and fundamental principles of the Church, in part of commissioners themselves admitted without the sanction or the Civil Court, or chosen by Presbyteries composed in part of members not having that sanction, cannot be constituted as an Assembly of the Establishment without disregarding the law and the legal conditions of the same as now fixed and declared;

AND FURTHER CONSIDERING, that such commissioners as aforesaid would, as members of an Assembly of the Establishment, be liable to be interdicted from exercising their functions, and to be subjected to civil coercion at the instance of any individual having interest who might apply to the Civil Courts for that purpose;

AND CONSIDERING FURTHER, that civil coercion has already been in divers instances applied for and used, whereby certain commissioners returned to the Assembly this day

appointed to have been holden, have been interdicted from claiming their seats, and from sitting and voting therein; and certain Presbyteries have been, by interdicts directed against their members, prevented from freely choosing commissioners to the said Assembly, whereby the freedom of such Assembly, and the liberty of election thereto has been forcibly obstructed and taken away;

AND FURTHER CONSIDERING, that, in these circumstances, a free Assembly of the Church of Scotland, by law established, cannot at this time be holden, and that an Assembly, in accordance with the fundamental principles of the Church, cannot be constituted in connexion with the State without violating the conditions which must now, since the rejection by the Legislature of the Church's claim of right, be held to be the conditions of the Establishment;

AND CONSIDERING that, while heretofore, as members of Church judicatories ratified by law and recognised by the constitution of the kingdom, we held ourselves entitled and bound to exercise and maintain the jurisdiction vested in these judicatories with the sanction of the constitution, notwithstanding the decrees as to matters spiritual and ecclesiastical of the Civil Courts, because we could not see that the State had required submission thereto as a condition of the Establishment, but, on the contrary, were satisfied that the State, by the acts of the Parliament of Scotland, for ever and unalterably secured to this nation by the Treaty of Union, had repudiated any power in the Civil Courts to pronounce such decrees, we are now constrained to acknowledge it to be the mind and will of the State, as recently declared, that such submission should and does form a condition of the Establishment, and of the possession of the benefits thereof; and that as we cannot, without committing what we believe to be sin—in opposition to God's law—in disregard of the honour and authority of Christ's crown, and in violation of our own solemn vows, comply with this condition, we cannot in conscience continue connected with, and retain the benefits of, an Establishment to which such condition is attached.

WE, THEREFORE, the Ministers and Elders foresaid, on this, the first occasion since the rejection by the Legislature of the Church's claim of right, when the commissioners chosen from throughout the bounds of the Church to the General Assembly appointed to have been this day holden, are convened together, **DO PROTEST**, that the conditions foresaid, while we deem them contrary to and subversive of the settlement of church government effected at the Revolution, and solemnly guaranteed by the Act of Security and Treaty of Union, are also at variance with God's word, in opposition to the doctrines and fundamental principles of the Church of Scotland, inconsistent with the freedom essential to the right constitution of a Church of Christ, and incompatible with the government which He, as the Head of his Church, hath therein appointed distinct from the civil magistrate.

And we further PROTEST, that any Assembly constituted in submission to the conditions now declared to be law, and under the civil coercion which has been brought to bear on the election of commissioners to the Assembly this day appointed to have been holden, and on the commissioners chosen thereto, is not and shall not be deemed a lawful and free Assembly of the Church of Scotland, according to the original and fundamental principles thereof; and that the Claim, Declaration, and Protest, of the General Assembly which convened at Edinburgh in May 1842, as the act of a free and lawful Assembly of the said

Church, shall be holden as setting forth the true constitution of the said Church, and that the said Claim, along with the laws of the Church now subsisting, shall in nowise be affected by whatsoever acts and proceedings of any Assembly constituted under the conditions now declared to be the law, and in submission to the coercion now imposed on the Establishment.

And, finally, while firmly asserting the right and duty of the civil magistrate to maintain and support an establishment of religion in accordance with God's word, and reserving to ourselves and our successors to strive by all lawful means, as opportunity shall in God's good providence be offered, to secure the performance of this duty agreeably to the Scriptures, and in implement of the statutes of the kingdom of Scotland, and the obligations of the Treaty of Union as understood by us and our ancestors, but acknowledging that we do not hold ourselves at liberty to retain the benefits of the Establishment, while we cannot comply with the conditions now to be deemed thereto attached—we PROTEST, that in the circumstances in which we are placed, it is and shall be lawful for us, and such other commissioners chosen to the Assembly appointed to have been this day holden, as may concur with us, to withdraw to a separate place of meeting, for the purpose of taking steps for ourselves and all who adhere to us—maintaining with us the Confession of Faith and standards of the Church of Scotland, as heretofore understood—for separating in an orderly way from the Establishment; and thereupon adopting such measures as may be competent to us, in humble dependence on God's grace and the aid of the Holy Spirit, for the advancement of His glory, the extension of the gospel of our Lord and Saviour, and the administration of the affairs of Christ's house, according to His holy word; and we do now, for the purpose foresaid, withdraw accordingly, humbly and solemnly acknowledging the hand of the Lord in the things which have come upon us, because of our manifold sins, and the sins of this Church and nation; but, at the same time, with an assured conviction, that we are not responsible for any consequences that may follow from this our enforced separation from an Establishment which we loved and prized—through interference with conscience, the dishonour done to Christ's crown and the rejection of his sole and supreme authority as King in His Church.