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ECCLESIASTICAL DISCIPLINE
IN THE
CHURCH OF SCOTLAND
1690 - 1730

A SUMMARY

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April, 1964
ECCLESIASTICAL DISCIPLINE

IN THE

CHURCH OF SCOTLAND

1690 - 1730

A Thesis Presented to the faculty
of Divinity for the degree of Ph.D.
in the University of Glasgow.
April, 1964

by

Ralph M. Graham, B.A., D.D.
To my WIFE
who thought it was all worthwhile,
and to the ministers and members of
WOODLANDS-TROGALIEBANK PARISH CHURCH
KILMORICH PARISH CHURCH
DRUMCHAPEL OLD PARISH CHURCH
who have made my stay in Scotland
such a pleasure.
The subject of church discipline is very much to the fore today. In this age where one is constantly reading of discussions regarding church unity, and where the stewardship movement is re-investigating the responsibilities of the individual church member, the study of discipline has much to offer the student of church history.

The following paper seeks to investigate the state of discipline in the church in Scotland in the years from 1690 to 1730. This period offers a unique opportunity to study the churches in Scotland as a whole. The struggle over episcopacy was ended and the movement toward separation had not as yet begun. We are particularly interested in the common type of disciplinary problem which was the concern of the local judicatory as well as of the General Assembly.

It was in 1707 that a *Form of Process* was adopted that was to guide the course of discipline in the Church of Scotland for over two hundred years. We have chosen it as our guide and outline for a study of the period. In order to limit the subject to reasonable proportions we have omitted any discussions of the problems of heresy and schism. These very vexing problems require individual analyses.
The principal resources for this study have been a se-
lection of manuscripts made available in the National Reg-
ister Office. A number of judicatory minutes including all
the General Assembly and Commission records and in addi-
tion ten synods, twenty-five presbyteries, and fifty kirk-
sessions were used. In all this represents over 7000 dis-
ciplinary cases.

In the appendices in the rear of the paper is a complete
copy of the Form of Process so that all references to it
can easily be checked. There is also a chart of statistics
and it is on this that all the figures given in the paper
are based.

My personal interest in Scottish History was nurtured
on my Grandfather's knee. An "exile" in America, he loved
to talk about the "old country" and his library of Scottish
books was always open to me. I was taught at an early age
to be proud of my Scots heritage and have welcomed this
opportunity to experience its roots.

I would be remiss if I did not take this opportunity to
thank all those who have been of help to me. I owe a
special word of thanks to Dr. Stewart Macleod. His scholar-
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R.S.G.

Glasgow
April 1964
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INTRODUCTION

The years from 1690 to 1730 were a time of comparative stability for the Church of Scotland. The long struggle over episcopacy was at an end. In 1690 the Act of Supremacy was repealed and Presbyterianism was established. That is, the government of the church, as confirmed in 1592, by kirk-sessions, presbyteries, provincial synods, and general assemblies was readopted. The Westminster Confession of Faith was stated to be the public confession of the church. The body of the Kirk was to sail along on a fairly even keel until the early 1730's when the unity of the Church in Scotland was broken by the first secession.

If one is to understand the discipline of the church during this "quiet time" of its history, other aspects of the time must be considered. The civil law of the day, for instance, contained little to recommend it to us. "One should remember the place played in civil treatment of crime by the rack and the wheel, the boot, and the red-hot pincers, the bilboes and miniwinkis, 'Little Ease' and 'the scavenger's daughter'."1

It was a time of crude manners and rough men. There was

nothing genteel in their way of life. Ecclesiastical and civil discipline and punishment reflected the state of society. It was this condition of the people that shaped the forms of satisfaction used.¹

A strict discipline was kept in all the churches of the Kingdom. In Ireland all who led immoral lives were excluded from sealing ordinances until they professed their repentance in due form. And in that country the contention between presbyterian and episcopalian continued.

Presbyterian marriages were admitted to be valid by the Civil Courts, yet Presbyterians who were married by their own ministers had often to confess themselves guilty of fornication in their respective parish churches, or else to pay a heavy fine to escape penance for entering into a contract which the Civil Courts admitted to be perfectly valid.²

Apart from such special cases, the ordinary disciplinary items in the kirk records prove that church practice was similar in Ireland and Scotland. Templepatrick: "Agnes known appeareth confessing her fall into fornication with William Henderson several years ago. She is appointed to stand in public the next Lord's Day."³ Carroncroy: "Appeared James C. after citation and confessed his scandalous and erring (life) in having robbed goods from Tho Ran

John M'Colagh appears before the Session according to the Session appointment he confesseth his guilt in being over taken with drunkenness he is rebuked for his sin and is exorted to repentance. The Session declare they are not yet come to a full resolution to take off his suspension until they are fully consider his case.

Drumh: "The same day composed Helen Moore and confessed her wrong in scandalizing Helen Eggars name and they shook hands and were reconciled together." Aghadessy:

Robert Fulton appears at this session confessing his disorderly carriage in occasioning as much disturbance about his seat and in evidence of the same he resigns his title to the seat and he is content to take the half of Andrew Hunter's seat upon which the scandal is removed.

The life of the whole church was diligently scrutinized by the use of "fraternal censures," from that of the individual family up through the judicatories to

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2Ibid, page 105.
3Ibid, page 135.
4Ibid, page 139.
5Ibid, pages 70-71.

The whole life of the community came under the scrutiny of the Session, as may be seen in the variety of cases dealt with, and the questions used by elders when visiting their quarters in Cahans. The questions were:

'1. Had you family worship in all its parts here last night and this morning?'

'2. Do all members of the family decently attend worship without sleeping or trifling behaviour?'

'3. Do you every Saturday night cause Turf,
the synod.  

Nor were conditions greatly different in England if one can judge from the visitation of York. The questions to

were:

'4. Is your house swept every Saturday night and the ashes removed so that the family goes to rest before it be too late?'

'5. Did you Catechise your family here last Sabbath night?'

'6. Do you daily cause each of your family observe secret prayer?'

'7. Do you take the children aside and cause them to pray in your hearing secretly?'

'8. Do you carefully restrain your family from idle jesting, Tampering and giving bye-names or quarrelling with one another?'

'9. Do you restrain them from gross or minced oaths, and telling any sort of lies in their common discourse?'

'10. Do you watch that the children play no games on the Sabbath day?'

'11. Do any of your family use tossing and engaging men and women themselves or with any other diversion?'

'12. Do they use any Charms or certain days as New Year's, or encourage sprite-men and the like by consulting, and giving heed to them?'

'13. Do they go to any Cock-fights, horse-races, or dancing?'

'14. Do they attend bonfires on Mid-Summer Eve?'

'15. What share of the Larger and Shorter Catechisms or of the holy Scriptures have they got by heart?'

'16. Do they attend the public Ordinances duly and decently?'


3Both every Parishioner within your Church or Chappelry, during Divine Service, and Sermon, behave himself orderly and soberly.

Both any of them create any disturbance by Talking or Walking or depart out of the Church without urgent cause, before Divine-Service be
be asked by the Dean covered everything from conduct during the service to drinking and cursing. The cases before the
ended, and the Blessing given, do they kneel at the Prayers, and stand up when the Creed or Gospel are read, and do the men and youths keep their hats off?
9. Both any of your Parishioners exercise or perform the work of any ordinary calling, or any worldly Labour, upon the Lord's-day, do they open their shops, or sell any wares, or doth any Tavern or Alehouse-keeper suffer any Persons to Timic on that day, especially in time of Divine-service, do any of them profane the Lord's-day by publick sports and pastimes, or unlawful Games?
10. Have any of them been Married without Bannes Thrice published, or lawful License obtained, have any of them been Married in private houses, or not between the hours of Eight and Twelve, in the Forenoon? Have any of them been Married within the Degrees of Consanguinity or Affinity prohibited by the Table set forth in the Year, 1577?
11. Are any of your Parishioners guilty of the Crime of Fornication, Adultery, Incest, or other incontinency, are there any women within your Parish, that have borne any bastard Children before they were lawfully Married, who are the Fathers or reputed Fathers thereof? Are there any Men or Women within your Parish, that are un-Married and Live Scandalously and suspiciously together or that Live together as Man and Wife, and pretend to be Man and Wife and it is not certainly known whether they be lawfully Married together or no? Are there any Persons that have been guilty of the Crime of Fornication before their Marriage, or that have had any Children born soon after Marriage, and before the time that Children conceived in lawful Wedlock are ordinarily born and brought forth; or are there any Persons commonly famed and suspected to be guilty of such Crimes within your Parish?
12. Are there any of your Parishioners addicted to excessive and immoderate Drinking & that have been frequently drunk, or that have profaned God's Holy Name, by frequent Swearing or Blaspheming or are frequently addicted to Cursing? Are there any that profess the Art of Sorcery or Conjuration, or that go and consult with such Persons, either upon the account of
ecclesiastical courts of Northern England bore close re-
semblance to those of their Celtic brethren.

1708, mich. Contra Thomas Sunley for neg-

pretence of stolen goods, telling of fortunes or such like unlawful occasions?
13. Do any of the Persons within your Parish, which have been denounced Excommunicate, in your Parish Church or Chappel, presume to come to, and be present at Divine-Service, before their Absolutions have been publickly denounced in the said Parish Church or Chappel, by the Min-
ister there, and have the Church or Chappel-Wardens there done their duty, in hindering such Excommunicated Persons from being present at or continuing there during Divine-Service, to the just Scandal and Offence of the rest of the Parishioners.
14. Is there any Strife or Contention in your Church or Chappel amongst the Parishioners about the Pews or Seats? Have any new Pews been erected in your Chancel or body of your Church or Chappel, or any loft built, or any other alterations there made without leave of the Ordinary? Are any of them irregularly built, so as to deface the Church or Chancel?
15. Have any of your Parishioners (by Words only) Quarrelled, Sclouded, Chided or Brawled, or hath any of them Smitt, Struck, or laid Violent Hands upon any Person in your Church or Church-
yard or in your Chappel or Chappel-yard? Hath any Person Maliciously Struck another with a Weapon there, or drawn any Weapon there with any intent to strike any person with the same?
16. Have your Parishioners behaved themselves with that Reverence and Respect to your Minister that is due to his Place and Calling? Hath any of them abused him with any scurrilous, Unhonest or Obscene Language, or hath any of them Struck, or laid Violent Hands, upon him?
17. Both any of your Parishioners refuse to pay their offerings and other Ecclesiastical Duties accustomed to be paid to the Minister, or his Deputy, for or in respect of Themselves, their Wives, Children or Servants; Both any of them refuse to pay their accustomed Dues or Oblations, for Marriage, Burials, and Christenings. And have any woman that have come to give Thanks after Child Birth refused to pay their accustomed Offerings? And what are the particular Sums that are unpay'd?
lecting to come to all publick worship and for not receiving the Holy Communion, he has informed the minister that he denies his faith and defies the court to compell him to come to church.¹

1690. Cumberworth. We Samuel Charlesworth minister and Richard Smith Chapelwarden certify that Sara Shoard now standing excommunicate for fornication is too poor to pay for her absolution. She now expresses a desire to come to church having been kept from public assembly for almost four years. We ask that you will remit her penance without charge.²

"1706. Gargrave. Contra John Smith for calling the minister rogue rascal saying he would buy a colt halter to bring him and that there has been many an honestest man hanged."³ He was given a public penance.

1704. Silkstone. James Beardsell churchwarden for embezzling part of the Communion money, for baptising and belying the vicar, for being drunk on two Sundays together and for having served the office of church warden for two years without taking the oath.⁴

He was ordered to perform a public penance. "1707. Kirkholme. Contra Anna Uxor Antony Naylor a habitual swearer and a roller to that degree she is a publick offence."⁵ she was excommunicated.

Evasion of, rather than submission to, strict discipline

¹Addy, Ecclesiastical Discipline in the County of York, page 133.
²Addy, ibid., page 134.
³Addy, ibid., Appendix B, page 35.
⁵Addy, ibid., Appendix B, page 28.
was practised by the payment of commutation money. However this in itself is proof that discipline was still a byword.

Bishop Frampton of Gloucester enjoined his clergy "if any were so obstinate as to refuse to hear the church, to let them know he had authority to deliver such a one to Satan that he might learn not to blaspheme", and was not afraid to act up to his determination in the case of a powerful peer, Lord Barton, whom he compelled to pay the commutation money.

Ecclesiastical punishments in England included excommunication, exclusion from the Lord's Supper, Public Penance, and denial of Christian burial. The public censure required the delinquent to appear bare-headed and bare-footed, wearing a white sheet, and to prostrate himself on the ground. Then the offender's shame was exposed to the public by the minister.

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1 Overton, Life in the English Church, 1660-1714. Pages 326-327.

Besides the general Censure of the Church, which respects Church-Communion, there is another which touches the Body of the Delinquent, called Public Penance; when any one is compelled to confess in public his fault, and to bewail it before the whole Congregation in the Church, which is done in this manner: The Delinquent is to stand in the Church-norch upon some Sunday, bare-headed and bare-foot, in a white Sheet, and a white Robe in his Hand; there bewailing himself, and begging every one that passes by to pray for him; then to enter the Church, falling down, and kissing the Ground; then in the Middle of the Church is he, or she, eminently placed in the sight of all the People, and over against the Minister, who declares the Foulness of his Crime, odious to God, and scandalous to the Congregation, &c.
It was not the church alone that prosecuted moral discipline in England and Ireland. The Societies for the Reformation of Manners were first formed in 1692 with the laudable aim of checking the prevalent immorality by bringing offenders under the arm of the civil power. To aid them in their work blank warrants were lodged for the case of informers. Even a cursory reading of their records, allowing for exaggeration, proves that the societies were very diligent in seeking out delinquents.\(^1\) From Dublin to

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For they were instrumental in putting down several Open Markets that had been kept on the Lord's Day; and in suppressing some hundreds of houses of ill fame, bringing the frequenters of them to due Shame and Punishment. And by the means of this Society alone, above 2,000 Persons have been legally Prosecuted and Convicted, either as keepers of Houses of Prostitution and Disorder, or as Whores, Night walkers and the like; and the Names of these Delinquents are set down in three black Lists which they have Printed: All which have been sentenced by the Magistrates as the Law directs, and have accordingly been punished; (many of them divers times) either by Carting, Whipping, Fining, Imprisonment, or suppressing their Licences.

T\(\text{HE}\)Y have also been instrumental to put down several Musick-houses which had degenerated into notorious Nurseries of Lewdness and Debauchery: As it appeared by a Paper printed on this occasion, wherein it was proved, that many Persons had been ensnared by the rude Company which usually resorted to those Houses, to the ruin of their Honour; and some to such an utter extirpation of Modesty, that some of both Sexes had shamelessly danced naked in the licentious Brothels; which disorder had abounded to that degree, that above Twenty Murders had been committed in them within a very little time. All which must render them odious in the Eyes of all sober people.

BESIDES this, the Members of the society have legally convicted multitudes of notorious
London the reformation went on vigorously. Thousands of warrants were put into execution. Swearers, drunkards, prostitutes, and Sabbath breakers felt the fire of their zeal.

The eagerness of most of the Church of Scotland to follow the forms of discipline is easily documented. The retiring Moderator, at the 1704 Assembly, made the fol-

sweaters, Sabbath-breakers and Drunkards! And their Proceedings in all these Cases have been so strictly legal and unblamable, that they have for many Years past, received great Countenance in the several Courts of Judicature; and have found very considerable Encouragement from the Lord Mayor and Court of Aldermen, who have honourably contributed towards the necessary Expense of so great and useful an Undertaking. But yet these endeavours of so general a Good, did not proceed without many kuh; if it had, it would have been the first time that Virtue had been advanced with Ease and Smoothness. We must have concluded, that either Virtue or Vice had lost its Nature, if the one could supplant and dethrone the other without passionate Opposition: You we might have thought that the Devil had lost his Envy to the Good of Mankind, or that all the Legions of the Infernal Pit had been cast into a deep Sleep, should they have suffer'd such a brave Onset to be made upon the Territories of Darkness, without taking all the Interest they had. It was therefore no wonder at all, that the Undertakers of this Divine Work met with many Difficulties to struggle with in the Prosecution of it.

In truth, they experienced not only the rude Assaults of licentious Lebadees, which they expected; but too often the brow-beatings and Discouragements of such as were bound by the awful Bond of an Oath, and the Divine Trust of Authority to do otherwise, which was more difficult to bear.

I have known the day in which several Persons have with extreme sorrow complained, that they had spent above half of it in going from the House of one Justice of Peace to another, before they could get a Warrant signed. Such Complaints were too frequent, and alas! too true.
lowing observation on discipline.

Seeing vice and prophenseness and immorality doth so much abound, it deserveth consideration what more can be done for the restraint of vice, and more vigorous exercise of discipline for purifying the Church of scandals.

Labouring under the certainty that they were but instruments of God's Will, the ministers of the Kirk were exhorted to administer justice with tenderness and impartiality.

He should act therin as answerable to God, with whom there is no respect of persons. Nathan reproves David for his Adultery and Murder, 2 Sam. 12:7. Elijah roundly reproved Ahab, 1 Kings 16:18. so did Isaiah the Rulers, Isa. 1,10. and Jeremiah, the King and Queen, Jer. 13,18. John told Herod it was not lawful for him to have his Brother's wife, Mark 6,18, and Luke 3,19.

We see how the Lord threatens the Prophet if he neglect to reprove sin, Ezek. 3, 18.2

At times the clergy felt that the diligence that was required of them was being hampered. In 1708 they complained about the "want of the sanction of the Civil Power to enforce ecclesiastic discipline and censure."3 They said that this encouraged offenders, especially the nobility and gentry, to refuse to submit to church process and to flaunt "crimes" from swearing to adultery.

The enthusiasm of the ministers was not always looked upon with favour. There were those who felt that the local pastor was little more than a tyrant who used his church

1Zarrick, The Moderators of the Church of Scotland. Page 104.
3Scotia, Memoirs of the Church of Scotland. Page 324.
as a court from which to issue personal edicts. In the circumstance that someone should disobey the decree, it was said that his property was confiscated and his person ostracized. Those opposed to the discipline of the Kirk implied that all this was done to suit the whim of the minister. ¹

Certainly the system was open to extremes, absurdities, and various types of misuse. Men were suspended for horseback riding on Sunday, even though they were going to the kirk. City guards would watch a house all night looking for offenders. Couples taking a walk were trailed by men hoping to catch them in some impropriety so they could blackmail the strollers. ² But when condemning the clergy it is best to remember that the common people of the country warmly supported a rigid inquisition, the lack of it being one of the causes of grievance which was later to cause dissent.

That very system of discipline, severe it may be, and too inquisitorial, he was disposed to be thankful for as a staff on which he could lean, as he tried to climb on those heights of holy attainment towards whose summits he aspired. ³

That strict discipline was kept, in some places at least, was a fact of great interest to, and made a deep impression on foreign travelers. "They never Swear, or Steal, neither do they take God's Name in vain at any time,

²Befoe, A Tour through Great Britain, Vol. IV. Pages 244-245.
³Walker, The Theology and Theologians of Scotland. Page 166.
they are free from Moresca and Adultery, and of those other immoralities that abound so much everywhere else. 1
And again, "No Christian society in the world excels them for their exact observation of the Sabbath day, and few can equal them for their singular strictness and impartiality in punishing scandals." 2 The English observers saw in Presbyterianism an Inquisition whose chief purpose was to disgrace the Episcopal Clergy. They could not agree with a discipline that held to such a strict observance of the Sabbath, for instance, that "to bring in hail" or to have "whistled" or to have been "playing at bowls" was an offence. 3

However, the system was not without its defenders. And one is forced to admit on reading the records that there was little perceptible difference in the exercise of discipline in Scotland between Episcopacy and Presbyterianism. The Reformed Church said its rigidity did not even compare with the former "Persecutions" of the Episcopalians. They said that their strictness of discipline was enjoined on them by Scripture, and pointed out that before excommunication the fallen were dealt with in tenderness, admo-

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1Martin, A Description of the Western Islands of Scotland. Page 297.
3An Historical Relation of the Late General Assembly Held At Edinburgh, in a Letter from a Person in Edinburgh to His Friend in London. Pages 9-10.
ished, and prayed for in order to bring about repentance. And "if ... he show any sign of repentance, how readily he is received into the Church again, and we cheerfully confirm our love to him". Indeed one must acknowledge that because of its democratic form and its parity and its zeal; the Church of Scotland's discipline could have served as an example to those who neglected and made fun of the ecclesiastical rule of conduct.  

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1 Rule, A True Representation of Presbyterian Government. Pages 7-10.
2 BaFac, Memoirs of the Church of Scotland. Pages 525-526. It might be proper here to say a few words by way of Observation, concerning the present State of Discipline of the Church of Scotland, which was confirmed also at the Time of the Union, and indeed I cannot refrain it for Two Reasons. 1. That I think it is a Debt due to the Church herself, who I find suffer innumerable unjust reproaches, and is contemptibly thought of, not among her Enemies only, but even among those in England, whose Interest as well as Principles ought to move them to inform themselves better concerning her, and who being better inform'd, ought to do more justice to those who do so well deserve it at their Hands.

2. That she may be a Pattern to all the several Sorts of Protestants in Britain, and may shew them by her Example, not only what the Blessing would be of an establish'd well executed Discipline in a National Church, and of a laborious well regulated Clergy, but also how easy it is to attain to it.

I shall not examine into the Discipline of the Two National Churches in this Island, in order to compare them, to recommend one of them as better than the other: But for their due Emulation, this I may say, that supposing the Rules of their Discipline equally good, yet no one will deny Two Things. 1. That the Church of England Discipline is the most neglected, the Execution of it the most incurable, and the Prosecution made the most difficult and tedious, as well as expensive and chargeable to the Prosecutor of any Protestant
We have seen that church discipline did not differ much in principle in other countries, and that much was said in its favour as well as against it. In estimating its severity,

Church in the World.

2. That the Church of Scotland's Discipline is the most exact in form, the most easy and cheap to the Prosecutor, and the most punctually and strictly executed, without Partiality, Bribery, or any sort of Corrupting, as also without a tiresome, tedious and dilatory Proceeding, of any Church Discipline in the World.

Some of the Consequences of this, are these:

1. The Ministers (for they are as much subjected to the Discipline of the Church as the People, and perhaps more) are daily and duly enquired into as to their Conduct, and fail not to be Censur'd, if they give occasion of Scandal in the severest manner; and in this Censuring of the Ministers in Scotland, it is to be particulariy observed, That Ministers have there a severity used with them, if they offend, which the common people have not, and which perhaps no Ministers in the World but those, are subject to.

(viz.) That if a Minister falls into any scandalous Crime, for which he is Suspected, he is Suspected for ever; a private Man is receiv'd again, after Scandal given, if he repent and give satisfaction, but a Minister never.

NOTE, Upon Repentance and making public Acknowledgment to the satisfaction of the Church, he shall be received again to Communion as a Fellow Christian, but as a Minister he is perfectly useless, and never can be remov'd.

NOTE also, That this severity is not by the Law of Discipline, but the Practice and Usage of the Church, the People will never hear or receive such a man as a Minister.

NOTE Thirdly, That the happy Consequences of this severity, and which must be mention'd to the Honour of the Church of Scotland; is, That there is not a minister now preaching and Exercising the Office of a Pastor in the whole Church of Scotland, who can be charg'd with any ismoralties or scandalous behaviour, except such as are under Prosecution for the same.
one must remember the times and the nature of civil penalties.

We propose in succeeding chapters to examine the disciplinary activities of the Church in Scotland, and how its courts fulfilled the duties expected of them.

Could this be said of the Church of England, or could it be said that all due care, as far as her own laws would allow was taken to bring it to this, what a new face there would be of religion in this part of the Island! 2. The people are restrained in the ordinary practice of common immoralities, such as swearing, drunkenness, slander, fornication, adultery, and the like: As to theft, murder, and other capital crimes, they come under the cognizance of the civil magistrate, as in other countries: But in these things the Church has power to punish, the people being constantly and impartially prosecuted, they are thereby more restrained, kept sober and under government, and you may pass through twenty towns in Scotland, without seeing any broil, or hearing an oath sworn in the streets; whereas if a blind man was to come from thence into England, he shall know the first town he sets his foot in within the English border, by hearing the Name of God blasphemed and profanely used, even by the very little children in the street.
CHAPTER ONE

The Formative Years, 1690-1707

The re-establishment of presbyterian church government in Scotland in 1690 resulted in a flurry of activity in the courts of the church. Commissions were appointed "to purge out all insufficient scandalous and erroneous negligent ministers." Generally speaking this was an attempt to remove all the episcopalian clergymen and to establish authority in the hands of the presbyterians. Universities also were to be purged, and ecclesiastical discipline became a prime concern. By exercising discipline down through the judicatories to the kirk-session and thus to the people of the parishes, the presbyterians were able to make re-establishment a reality. To facilitate that process and bring the Books of Discipline up to date in a short and concise form, a committee was formed including W. Crawford and the Lords of Session. They drew up two papers which served as the basis of the Form of Process of 1707 and for the discussions about ecclesiastical processes which were to take place in the ensuing years.

1Harleigh, A Church History of Scotland. Page 267.
2For the work of Matthew Crawford and other members of the committee see the Miscellaneous Church Correspondence in Appendix B, which gives the manuscript records of their "thoughts upon that subject of ye form of processes."
Another part of this disciplinary activity involved Acts "against Profaneness" which were introduced with regularity. The Act 1/94, XIII can be cited as an example. After noting the "impiety and Profaneness that aboundeth in this Nation," it exhorted the ministers of the church to pray and preach "against these vices." Church judicatories were to be zealous in exercising discipline. And in a more personal realm, servants were to be checked to make sure they possessed a "Testimonial," and heads of families to make certain that they engaged in family worship. Lastly,

the General Assembly recommends to all ministers and Kirk-sessions, that they carefully apply to the several Magistrates of their bounds, that the Acts of Parliament against Profaneness, may be put in Execution, and particularly the Act of Parliament June 15, 1693 intituled, Act against Profaneness.

On the 11th of January 1697 a similar act was passed which referred to previous acts of Assembly and Parliament and closed with the injunction "that these presents be read in all the churches within this kingdom twice a year from the pulpit, to wit, upon the first Sabbaths after Whitsunday and Martinmas yearly."2

The Assembly of 1694 had the processes for discipline called to its attention when the question of the procedure of appeals was brought to their notice.3 And in December of

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1 Acts of Assembly, 16 April 1694.
2 Ibid., 11 January 1697.
3 Ibid., 6 April 1694.
1695 it was recommended

to Mr. John Law and Mr. David Williamson Ministers,
with the Assistance of the Lords Croaring and Hal-
craig, Sir James Ogilvy and the Agent for the
Kirk, to Excerpt the Acts of Parliament that
concern the Church and that are against Profan-
ity that the same may be printed, and Recommen-
dation be made to all Kirk Sessions to have
them.

In 1696 there were printed Overtures concerning the
Discipline and method of Proceeding in Ecclesiastical Judi-
cators in the Church of Scotland. The General Assembly
of 1697, appointed "the same to be sent as overtures from
private hands, to the several presbyteries, within this
National Church." The note to the reader at the beginning
of the Overtures gives a summary of the work of the church
which resulted in the Confessions of Faith and the Books
of Discipline, and then goes on to state that the Over-
tures are the result of a desire to carry on the same work
of Reformation. This long form was a very complete book on
policy of an explicit nature, and if adopted would have
given the church a Third Book of Discipline. The
comments of the presbyteries were to be given in to the
Commission by August the 1st, who was then to prepare the
Overtures for the ensuing Assembly.

The Assembly of 1698, having heard a report from the
Commission which had met earlier in the month, and in addi-

1 Acts of Assembly, 24 December 1695.
2 Ibid., 6 January 1697.
3 Clark, A History of Church Discipline in Scotland. Page 140.
tion a report of a committee of its own number, appointed

Mr. Gilbert Hule Principal of the College of Edinburgh, Mr. William Daniell Principal of the College of Glasgow, Mr. Robert Wylie minister at Hamilton, Mr. George Meldrum, and Mr. William Crichton at Edinburgh, Mr. John Vetch, Mr. Andrew Cameron, and Mr. George Barclay ministers; Sir James Stewart His Majesty's Advocate, Adam Cockburn of Ormestown Lord Justice Clerk, and Sir Colin Campbell of Aberuchil, one of the Senators of the College of Justice ruling elders, to be a committee for considering the saids overtures, and the animadversions made thereupon, and compare them with the Word of God, Books of Discipline, and the Acts of the General Assemblies of this Church, and to consider what is wanting, or to be added thereto, or altered therein, and to set out a new edition of the said Overtures, that the several presbyteries may have opportunity to animadvert thereon.

After that same Assembly, in accordance with the 15th Act which contained "Overtures against Profaneness," the Commission agreed to transmit to the presbyteries a short overture "concerning the method and form of procedure of the judicatories of the church against scandalous persons." It dealt with "scandals whose grossness make it necessary to bring persons guilty of them once before the congregation." It pointed out to the offender that he could no longer be a sponsor for the baptism of his child, and that he would have to suffer a public rebuke whether penitent or not. After this had taken place the minister and elders were to be at further pains to bring them "to a due sense of their sin" and then

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1 Acts of Assembly, 31 January 1698.
2 Ibid., 2 February 1698.
to admit them to a public repentance. If there was no
sign of reformation, then the offender was to undergo the
lesser excommunication until that state was reached.

Beginning with 1697 and continuing for several years,
the larger Overtures concerning Discipline were the cause
of some consideration throughout the presbyteries of the
church. The first four sections of chapter one dealt with
the constituting of the judicatories and were passed with
little comment; but the fifth section entitled, "Of Pro-
ceedings, in all Judicatories, and the Members Behaviour
therein," received a number of comments from the church.

William Dunlop, a member of the committee, apparently
felt that it was unnecessary that a court be informed of a
cause beforehand, and that it should welcome all matters in
the spirit that they were there to be of help to their err-
ing brothers. This seems to be the logical conclusion from
the fact that he scored out this provision in his personal
copy of the Overtures.¹

The use of the witness seemed to attract much comment.
Dunlop, himself, noted that defence witnesses should be
heard before the evidence. The Presbytery of Dumbar felt
that a specific length of time should elapse between the
citation and the appearance of a witness.² Middlebie thought

¹Overtures Concerning the Discipline in the Church of Scot-
land, I.7, 8. (Marginal notes by William Dunlop).
²Overtures Concerning Discipline, Dumbar,
25 August 1697. Ms.
it fit to indicate who would be an acceptable witness.

Able witnesses are men and women come to the years of discretion in a ryt mind, not to near in kindred or affinity to the informer, or known enemies to the person under process: And all infamous persons utraneous witnesses are to be rejected.¹

They also answered in the affirmative the question of Haddington Presbytery as to whether the same person may be admitted to be both informer and witness.² Dalkeith urged that "witnesses should always be purged whether the party desire or not."³

The oath of purgation in cases of scandal was another point on which a number of presbyteries sought to express their views. The Presbytery of Lochmaben felt that as presumptions could not be looked upon as legal proof, the oath of purgation should be offered,⁴ but that it should be used with caution and limitations. Middlebie was inclined to be even more cautious suggesting that "it is not in the Churches power to presse yt oath" and that it was best avoided. The view was put forth that if there were pregnant presumptions of guilt then the judicatory should proceed with censure. If the party was thought to be innocent, they stated, there was no need for the oath; and if he was thought by all to be guilty then the oath would not estab-

¹Overtures Concerning Discipline, Middlebie, 7 September 1697. MS.
²Overtures Concerning Discipline, Haddington, 1697-1704. MS.
³Overtures Concerning Discipline, Dalkeith, 13 September 1697. MS.
⁴Overtures Concerning Discipline, Lochmaben, 1697-1704. MS.
lish innocence but will only serve to increase the scandal. The Presbyteries of Dalkeith and Linlithgow were more concerned with the conditions under which the oath was to be administered, both asking that it be administered publicly. The latter suggesting that "the oath of purgation should be as public as the scandal."

Other comments from various presbyteries on the Overtures concerning Discipline, 1696, dealt with such diverse subjects as the St. Andrews' suggestion for "rules concerning marriage" to a request from Lochmaben and Middlebie for other and more specific rules for ensuring all scandals (including those not mentioned in the 1696 Overtures) so as to effect a unity of discipline in the church.

The General Assembly appointed further committees, for "revising the printed overtures for discipline and forms of procedure," each following year until 1702. The minutes of the said committee's meeting on the 6th of March 1703 will indicate why the much needed reform was taking such a long time being accomplished.

The committee finds that a committee appointed by ye General Assembly in an, 1701 had received remarks from several presbies upon the sd overtures & having compared ye same wt ye sd overtures, amending therto & some times adding. This prt committie of ye prt G.A. have read pt of ye sd printed overtures wt ye observations and alterations of ye committee of ye G.A. an, 1701. & judge ye remarks pertinent & judicious, but doe not so well understand ye as the members of ye sd former committie would. Wherefore

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1 Overtures Concerning Discipline, Linlithgow, 1697. Ms.
2 Overtures Concerning Discipline, St. Andrews, 1697-1701. Ms.
It was a continuing problem to get the presbyteries to hand in their opinions even though they received constant reminders from synod, Commission, and Assembly. The General Assembly asked for remarks on the twelfth of March 1703 and appointed a committee the next day to review the remarks for consideration later at that same gathering. The said group made its report nine days later.

They stated that they had "made their own observe, delating many superfluous overtures, ascending others and some times adding;" but they were of the opinion that yet another "committee should be chosen out of the bounds of the Synods of Lothian, Glasgow & Fife, or any others the General Assembly shall please, yet to revise the said printed overture."2 The revised work was to be forwarded to the Commission and then to the presbyteries.

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1 Overtures Concerning Discipline, Committee Meeting, 6 March 1703, MS.
2 Registers of Acts of the General Assembly, 22 March 1703, MS.
This largely new committee began to meet in May. By the 26th they had revised through the first chapter noting that there "ought to be added something about ye relevance of ye libel and giving a list of ye witnesses to the party accused before they be examined."¹ The committee continued to meet regularly throughout June and July; with John Law, George Meldrum, George Hamilton and John Sterling being most consistent in their attendance. The meeting of the committee on the 22nd of July 1703 suggested that

having now revised the printed overtures wt ye observes upon yt its ye humble opinion that ... a short forms of process were ... more usefull & yt this large printed book togethr wt ye chapters anent synods & assemblies might be revised & set forth by some judicious privat person as an historicall account of ye order of this Church but not by publick authority."²

It having been decided that a form of process was in order, it was reported to the Commission in September that that work had been turned over to Mr. Law. Three months later nothing had been accomplished, John Law's wife having died in the meantime and his own health being poor. However the Commission apparently felt that he was the best man for the job and

recommended to Mr. George Barclay and Mr. David Blair to speak again to Mr. John Law and endeavour to prevail with him, if he have so much health yet to undertake what was recommended to

¹Overtures Concerning Discipline, Committee Meeting, 26 May 1703, MS.  
²Ibid., 22 July 1703.
him, assist drawing up a short form of process with relation to Scandal.1

He indicated that be preferred not to do this work, but the Commission asked their members to speak to him yet again and

entreat him to undertake that work and to tell him that his brethren in this city are willing to revise what he shall do thereon and give their advice in that matter, if he shall desire it, but that it lies on him to draw the first draught thereof.2

On the 30th of March, 1704 the General Assembly asked the presbyteries to send in written opinions on the Overture concerning Licensing, 1696. And "taking to their consideration that all the former endeavours about bringing the printed overtures for discipline to a period, have not had the desired effect," a new committee was appointed.3 They were to agree upon a form of process against the next Assembly. The Commission was to revise the Overture, have them reprinted and transmitted to the presbyteries that their comments could be brought to the next General Assembly.

The committee for the form of process met in the Lord Advocate's lodging at the close of the Assembly. After discussing their task, "it was recommended to my Lord Advocate to draw up the same, and when he is ready to acquaint the Moderator, that the committee may again be called, to con-

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1 Records of Commission of the General Assembly, 1 December 1703, MS.
2 Ibid., 2 December 1703.
3 Registers of Acts of the General Assembly, 30 March 1704, MS.
sider yef". In December, 1704 it was reported that "by reason of the Lord Advocate indisposition ... it is not yet ready". The Commission urged the committee to act "going on with that work".

Those appointed to revise the Overtures Concerning Discipline had been meeting both in St. Andrews and Edinburgh in the meantime and had completed their work. Of interest are the following proposals with the committee's recommendations.

1. If the names of the witnesses ought to be given to the party before they be cited. (allowed)
2. When an unmarried woman brings forth a child, (it was suggested that they should) add, or married and her husband notously absent. (allowed)
2. The oath of purgation in the universal practice of this church, having been before the congregation, a change here restricting it to kirk sessions, would be duly advised. (advised)
2. That the use of sackcloth & ye repentance stool being an ancient practice it be not hastily discharged by an Act but rather yt it be let fall into discourse as judicatories shall see meet. (to be considered)

When the Overtures were reported in to the Commission they were turned over to a committee for final revision. They brought in a memorandum that the Overtures would be best published by some private person noting the "several defects which are observed by presbys". The larger Overture.

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1 Papers Concerning the Form of Process, Committee meeting, 17 April 1704. MS.
2 Records of Commission of the General Assembly, 8 December 1704. MS.
3 Overtures Concerning Discipline, Committee meeting, December 1704. MS.
4 Ibid., Committee memorandum, 9 December 1704. MS.

The following defects were noted in the memorandum: The committee leaves it to the Commission to consider if there might not be some directions
tures of 1706 were finally printed. They were largely the
1696 overtures to which had been added chapters on the
synod and General Assembly, and thus were virtually a
Third Book of Discipline. But they were never officially
approved as the discipline of the church. The first chap-
ter deals with the constituting of judicatures, the duties
of the Moderator and Clerk, and the method of proceeding
in meetings. The work of Kirk-sessions is given in the
second chapter. The third is on proceedings and methods
in presbyteries, ordination and censuring of ministers,
visitacion of parishes, appeals and references of Kirk-
sessions, excommunication, etc. The last two chapters are
on synods and the General Assembly.

given for censuring liars, thieves, cheaters,
fighters, scolding, absenting from Gospel ord-
ances, charming and consulting with charmers, &c.,
Middlebie desiderate a chapter or section, con-
cerning scandals in general.
Secondly anent the stated and particular cen-
sures of scandals, which ought to be here, if
this be designed to be made a book of discipline.
Lochmaben proposes that some rules may be
thought of, for censuring the several sorts of
scandals of private persons which are not men-
tioned in the printed acts of Assembly.
Secondly that some direction be given about
witchcraft and charming.
Glasgow proposes, that there be a section added,
directing how to deal with factions and
schismatic persons.
Secondly anent censuring theft and fighting.
Thirdly they propose, that in case there be
ground to suspect the ignorance or decay of
knowledge of ruling Elders, they may be exam-
ined by the minister in presence of the session,
Fourthly, that the tenor of the oath of purg'n
from scandal be insert.
Fifthly, that there be rules concerning the
presbyterial visitation of Grammar Schools.
Sixthly that presbyteries be exhorted to continue
in adding and amending the overtures for discipline.
In April of 1705 the Assembly appointed a committee, including among it William Carestares who was the Moderator,

to prepare a short form of process for regulating the procedure of church judicators, and appoints them to have the same in readiness against the next quarterly meeting of the Commission in June, that they may revise and transmit the same to the several presbyteries, who may send in their opinions thereof to the next General Assembly. 1

The Commission took to its task with vigour and with the advice of Her Majesty's Advocate and the Lord President of Session, who were members of the committee, they were able to present the first four chapters for discussion at their meeting in the Spring of the following year. On this occasion it was noted that some difficulties had arisen "concerning the oath of purgation mentioned in the fourth chapter", 2 which was revised in due time to the satisfaction of the Commission.

The Form of Process was publicly read to the General Assembly on the 9th of April, 1706. 3 It was ordered to be printed and transmitted as overtures to the several presbyteries within this National Church, and the saids presbyteries are ordained to consider the same and send in their opinions thereon, and such amendments as they shall judge fit to make upon the same. 4

The next year found the presbyteries busy making the observations required. The remarks are quite similar in

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2 Records of Commission of the General Assembly.
3 For a complete copy of the Form of Process see Appendix A.
nature to those made in reference to the Larger Overtures. At least ten of them commented on section four of chapter one. The three year dormancy period for scandals was not thought to be suitable. Kirkcaldy, and other presbyteries, felt that the question of whether or not a scandal should be revived should be left to the judgment of the individual presbyteries, and in any case should be longer than three years. As a result of this protest the length of dormancy was changed to five years in the final draft of the Form. They were less fortunate in their protest against the mandatory use of written citations.

The phrase, "after which no more witnesses should be allowed to be added" in the ninth section of the second chapter met with opposition in a great number of presbyteries. They were all agreed that the limiting of witnesses to those listed before a case began would prevent the hearing of additional information which might come to light after a process had been initiated. This comment from Perth is typical of fifteen or more presbyteries.

Its thought hard to bind up ye hands of judicatures from improving ye discoveryes providence shall make after ye examinations of ye witnesses summoned att first although we readily grant ye opening too wide a door on ye our hand might occasions one inquisitions rather ye a formal & legall process.

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1 [Papers Concerning the Form of Process, Kirkcaldy, 7 March 1707. MS.]
2 [Ibid., Dundee & Forfar, 1707. MS.]
3 [Ibid., Perth, 25 March 1707. MS.]
Their collective wisdom on the matter was recognized and the words were omitted in the overture finally adopted.

"Concerning the Sin of Fornication, Adultery, and scandalous carriage tending thereto," is the title of the fourth chapter; and in sections seven, eight, and nine the oath of purgation again drew much comment including that of the Auchterarder Presbytery that "ye form of the oath to be taken by scandalous persons seems to be too mild". Some felt that the session should be free to press for an oath, but most reaction centered on the place where the oath was to be taken. Haddington wanted it taken before the presbytery, but the others agreed with the following opinion of the Presbytery of Aberdeen:

Considering 1. that oaths of purgation follow upon scandals that are very clement and notour to the whole congregation,
2ly That it being tendered publickly in face of the congregation not only tends to impress the conscience of the partie swearing with more awe and reverence of God angels and men, but also proclaimeth to the people the impartiality of the judicatory, and so lendeth much to edification: it is humbly that all such oaths are designed for one end of controversy, and to reconcile the partie swearing to the whole congregation, which opinion is the more confirmed, that private purgation before a church session hath temptation in it to perjury, and that persons who have confessed guilt, have often made such an offer.

A compromise was written into the final edition with the presbytery determining if the oath was to be taken

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1Notes Concerning the Form of Process, Auchterarder, 1707. MS.
2Notes Concerning the Form of Process, Aberdeen, 1707. MS.
before kirk-session or presbytery, with the oath being
intimated to and if necessary acknowledged in face of the
congregation. This was not to be binding but only a
recommendation.

There were few other comments except on the order to ex-
communication which is contained in the eighth chapter.
Several opinions were given, but of particular interest
are the words of Dumfries,

§.9 there should be a particular directorie for
admonitions, & prayers in order to excommunicate.
§.14 the directorie for prayer before pro-
nouncing the sentence of excommunication be as
large as the one before absolution.

Dumbar Presbytery concurred with these ideas.

In 1707 the Assembly considered the Form of Process for
five days. And after changes and amendments had been
made, on April the 15th,

the General Assembly did by their votes nominate
contradictants and hereby do ratify and approve
the foresaid form of process as now amended in the
whole heads and articles thereof, and appoint
and ordain the same to be observed and
practised by the respective judicatories of this
church as an act and ordinance of Assembly, and
as fixed binding rules and directions in the
whole matters therein contained except the
seventh, eight and ninth paragraphs of the fourth
chapter and what concerns the pressing of the
oath of purgation, as to which the General Assem-
bly supersedes at this time to enjoyne the ob-
servation thereof as positive standing rules,
but they did and hereby do unanimously
recommend to the several presbyteries and
other judicatories of the church, that they
regulate themselves according to the advice

1Papers Concerning the Form of Process, Dumfries,
1707, MS.
therein insinuated, as they shall find to
tend most to edifications. 1

Three days later it was suggested to the presbyteries to
compare the Larger Overtures, 1703, with the Form of
Process and to report

from time to time their judgment, as to what is
yet wanting and necessary to be added to both
these overtures, that the same might be supplied,
by adding to either of them, until this church
arrive at a compleat system of rules in their
proceedings in matters of discipline. 2

The Form of Process covered a large range of disciplinary
problems. The following are the chapter titles

1. Concerning the Church Government, Discipline,
Scandals, and Censures in general.
2. Concerning the entering Processes, Citation
of Parties and Witnesses, and taking Impositions,
and absent Fugitives from Discipline.
3. Concerning Swearers, Cursers, Profaners of
the Lord's Day, Drunkards, and other Scandals
of that Nature.
4. Concerning the Sin of Fornication, Adultery,
and scandalous carriage tending thereto.
5. Concerning Appeals from a Kirk-session to
a Presbytery, &c.
6. Concerning Processes which natively begin
at the Kirk-session, but are not to be brought
to a final determination by them.
7. Concerning Processes against Ministers.
8. Concerning Processes in order to the Censure
of the greater Excommunication.
9. Concerning the order of proceeding to
Absolution. 3

During the seventeen years leading up to the adoption of
the Form of Process, the church had to consider various
other aspects of the problem of discipline. The question

1 Registers of Acts of the General Assembly,
   18 April 1707, MS.
2 Ibid., 21 April 1707.
3 For a complete copy of the Form of Process see Appendix A.
of process and procedure was not only before the Assembly and its Commission; but before the synods and presbyteries also. An example is this minute from the records of the Synod of Lothian and Tweedale,

Upon report from the said committee for overtures &c., acquaint the said reference from the said presbytery of Obir to this synod for advyce, what should be done with scandalsome persons in whom the minister & eldership find no satisfying signs of repentance. The synod gave it as their advice, that the thor appear no signs of repentance, that yet the parties may be brought to a publick reproof before the congregation, and if thereafter no signs of repentance appear, they are to be absolved from church censure till such pains be taken on them and some fruit yuf appear yron.

The Assembly, 1704, "considering that some persons when challenged for scandal, do turn popish, or pretend to do so", in order to evade censure; enacted that the judicatory should "proceed to the censure of the higher excommunication, against such, after all the due pains taken to reclaim them proves ineffectual". On that same day the General Assembly noted "that persons do continue to converse unnecessarily and familiarly with such as by under that sentence as if they were not excommunicated." And to counteract this breach of behaviour, they appointed that the sentence was to be intimated in all the churches of the presbytery. If the trouble continued it was to be announced throughout the synod; and if the problem still

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1Synod of Lothian & Tweedale, 21 October 1691. MS.
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persisted, the sentence was to be intimated in all the churches of the kingdom. The Assembly went on to take other steps to make sure that the people of Scotland were well aware of the seriousness of discipline.¹

In 1706 the General Assembly was again exhorting "all magistrates, ministers and others in their respective capacities to hold hand to the execution of the laws against prophaneness" just as it had done twelve years previously.²

From the establishment in 1696 until the adoption of the Form of Process in 1707 the judicatories of the church showed great interest in all matters concerning discipline.

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² Registers of Acts of the General Assembly, 13 April 1706. MS.
CHAPTER TWO

The Reflective Years, 1706-1730

The adoption of the Form of Process, 1707, did not put an end to the church's activity concerning discipline. The work continued toward finding a more comprehensive system of rules. The Assembly of 1705 renewed the request to presbyteries to turn in "their opinions about the large overtures concerning the method of procedure in ecclesiastical judicatures which were transmitted to them by former Assemblies". On the 26th of April the following year the same request was made, enjoining that opinions on

the second chapter sections first, second third fourth fifth and ninth thereof and chapter third sections first, second third fourth fifth sixth twelfth and thirteenth of that chapter

be sent to the Commission before August. The Assembly recommended either diets "in issue effectu" or the appointment of a committee, and asked "Presbyteries to choose the wisest and most grave and experienced of their number to represent them in the next Assembly". By 1710 a few presbyteries had sent replies and the Commission tried once more to extract them from the others.

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1 Registers of Acts of the General Assembly,
2 27 April 1708, Ms.
3 Ibid., 26 April 1709.
4 Records of Commission of the General Assembly, 4 August 1710, Ms.
In 1711 Assembly's attention was turned toward the act concerning "Probationers and Questions to be put to Ministers at Ordination", but the Commission was still at work on the discipline question as the following record indicates.

The Commission nominat the Reverend Mr. William Carstairs, Mr. Thomas Milkie in Edinbaurgh, Mr. William Wishart, Mr. John Flint, Mr. William Hamilton, Mr. John Steachman, and the Moderator ministers, as also the Lord President of the Session, the Lord Advocate, Lord Ormiston, and Sir James Stewart junior ruling elders, as a committee for revising the printed overtures ancient church discipline and government, with the remarks thereupon sent from Presbyteries, and they are to have their first meeting in this place upon Thursday the eighteenth day of January instant, at three of the clock in the afternoon, and report to the Commission at their next meeting. 1

The Assembly of 1711 heard a first reading of the larger overtures for discipline, proposing some rules to be observed in this church, in the celebration of marriage, and also of the sacraments of baptism and the Lord's supper, and in the planting of vacant churches. 2

1712 saw the passing of the Toleration Act. 3 It also saw the first question brought to the Assembly concerning an interpretation of the Form of Process. The query was made by the Synod of Aberdeen, and had to do with the meaning of the first paragraph of the seventh chapter which states that "all processes against any minister are to begin before the presbytery to which he belongeth". Mr. James Mailland was the leader of a group of dissenters who maintained that the above clause should be applied in the

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1 Records of Commission of the General Assembly,
2 Register of Acts of the General Assembly,
3 See chapter three on "The Civil Authorities", page 56.
case of Mr. William Hunter. Hunter had been neglecting the ordinances and keeping company with intruders while taking the waters at Peterhead. The presbytery at Peterhead wrote to his presbytery who sent back a very angry letter on his behalf. The Synod of Aberdeen appointed Mr. Hunter to be cited by his own presbytery and to appear before the other. It was by this action that Mr. Waite and three others objected in very militant terms. As a result they were informed of the "displeasure and dissatisfaction" of the members of Assembly for their "litigious humour". It was judged

that ministers offending within the bounds of their own Presbytery shall be judged by their own Presbytery and in no case by their Kirk Sessions; but in case ministers happen to offend within the bounds of another Presbytery, it is most congruous that they be judged by that Presbytery within whose bounds the offence was committed.

Other events then occupied the mind of the church, and it was 1715 before thoughts were again guided toward a system of rules for judicatories. The General Assembly revived the seventeenth Act of Assembly, 1710, and again appointed the presbyteries to transmit their remarks upon the larger questions to the Commission, which appointed a committee forclassifying the remarks.

The Commission meeting in March and May were unable to complete the work, so Principal Stirling was appointed at

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1McCrie, The Necrology Correspondence, Volume I. Page 290.
2Registers of Acts of the General Assembly, 10 May 1712. p. 3.
3Records of Commission of the General Assembly, 29 May 1712. p. 3.
the August meeting to be the convener of a committee to finish the task. They were to meet in Glasgow and bring in a report to the November gathering. Other members of the group were Professor Simson, John Scott, John Gray, John Hamilton, William Love, and Robert Hodrow, Ministers; the Lairds of Aikend and Heartfield, Provost John Aird, and Mr. Colin Drummond, and Mr. Robert Stewart, Professor of Philosophy. It is interesting to note Professor Simson's presence on the committee as his case of suspected heresy had been before the Assembly just previously.

On November 11, 1719, Principal Stirling was able to report that they had completed their work. These overtures, concerning Kirk-sessions and Presbyteries only, were printed and sent out to the Presbyteries for their consid-

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1 Records of Commission of the General Assembly.
2 Ibid., 11 November 1719.

The following report was minuted:
The committee appointed by the Commission to revise and prepare the Larger Overtures, &c., having met at several diets, did, in obedience to their instructions, consider with all care and diligence, the two chapters of the Larger Overtures, which relate to Kirk sessions and presbyteries, together with the remarks upon the said overtures transmitted from the several presbyteries of this church; and also the book of discipline, propositions concerning church government, and acts of Assembly relative thereto. And having examined all these and compared them together, they did collect from them, and put in order the two following chapters, which are now humbly presented to the Reverend Commission; in all parts whereof they studied a perfect conformity to the principles and rules established by the Acts of the Assembly, Second Book of Discipline, &c., and did as near as they could, keep the very words used by them.
oration. There are four main sections as follows:

1. Of the Constitution of Kirk Sessions.
2. Of the Power and Duty of Kirk Sessions and of the several members thereof.
3. Of the Election and Ordination of Elders and Deacons.
4. Of Privy Censures in Kirk Sessions.

A subsequent controversy arose over several sub-sections of Sections 1. and 2. The debate concerned the balance between clergy and laity in the kirk-session, and the basic question of who was in charge and in control. The 1720 Assembly found it necessary to make the following explanation.

The Kirk Sessions are to meet at such times as are most convenient for the well ordering the affairs of their congregations, the ministers and elders ought always to study harmony and unanimity; but if any questions fall out in a session in matters of discipline to be executed by the minister, nothing should be concluded, unless it be agreed to by the minister and plurality of elders, till the Presbytery give their advice and direction thereon. And in a collegiate session, where there are two ministers, one of them agreeing with the majority of elders, or both with half of the elders, shall decide a cause, if more than two ministers, then a majority of both ministers and elders, or an equal half of one agreeing with the majority of the other, is necessary for a decisive sentence in matters of discipline to be executed as above.

Men like Anderson of Dumbarton considered "that the OVERTURES are evidently calculated for demolishing the ruling elders". Those who favoured the provision said

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2 Register of Acts of the General Assembly, 23 May 1720, Ms.
3 Anderson, Mr. Anderson's Letters Upon the Overtures concerning Kirk-Sessions and Presbyteries.
that it protected the clergymen in respect that it freed
him from the possibility of having to act against his own
convictions in the event that he was overruled by the
session. The Overtures were never adopted.

There were no further deliberations on methods of dis-
cipline in the following ten years. The regular attempt to
supress immorality and vice had continued after the
adoption of the *Form of Process*. On the advice of the Com-
misison the General Assembly on the 8th of May 1714 drew up
an Act against Profaneness. It was to be printed in a small
volume, and contain such previous statements against pro-
faneness as the Queen's proclamation of August 18, 1708,
the 13th Act of Assembly 1694, and the 7th and 11th Acts
of Assembly 1699, and it was to be read from all the pul-
pits of the land on the 3rd Sunday of August 1714 and be
preceded by an appropriate sermon.1

The following reference to immoralities in 1700 gives
evidence showing why the church had worked so diligently
towards an exact and comprehensive form of discipline.

1They must observe with the greatest horror,
that a spirit of atheism and infidelity has broken
loose amongst them, especially in some persons
of more distinguished characters,
and pretending to more than common attainments
in learning, to which they chiefly imputed the
lamentable examples there are amongst them of
persons deserting their former profession of
religion and zeal for it, and breaking the solemn
vows and engagements, wherewith they bound them-
seves to adhere to it, as also the licentious

1Register of Acts of the General Assembly,
5 May 1714. 158.
latitude which is too commonly taken to contravert, deny, and ridicule the fundamental principles of our holy religion, and to vent, propagate and disseminate in common conversation malicious exceptions and prejudices against them, concerning which a process was lately intended by them and carried from them by an appeal to the said Synod, and from them by an appeal to the ensuing General Assembly.  

There is amongst them, an avowed contempt of ordinances by absenting and withdrawing from them, wherein some persons of interest and influence in the country do give too much of an example to others; and to fortify themselves and others in this profane course, they take the liberty to impugn the mission and functions of ministers, and that not by such topics as are commonly urged by the presidial party, but by these topics & common places, which delists and libertines use against the business of priestcraft as they profanely call it in all religious persuasions of whatever denomination.  

As profane swearing and blasphemous oaths are too common amongst several of all ranks, so the frequent perjuries, which "as is credibly reported and believed" are committed in managing trade, are no small matter of grief and offence to all that fear the Lord.  

The Lord's Day is so grossly profaned, and in the most presumptuous and daring manner, especially by many persons of distinction, that if an effectual step be not put to these disorders, it is to be feared that all regard to the Christian Sabbath will be extinguished. It is too frequent a practice for gentlemen in bodies with their servants and baggage to cross ferries on the Lord's Day, to traverse the country, to drink and rasble thorow several parishes, and to call out of churches innkeepers and ferriers, by which means they neither attend on ordinances themselves nor allow others to attend, who would attend, were it not the diversions & amuses by which they inveigle them.  

There was such a elegant representation concerning a late instance of this kind laid before them the last meeting of the Synod of Ross and Sutherland, that the Synod found it duty "because of the extensive nature of the scandal" to appoint them the said Presbytery with correspondents from the neighbouring presbyteries to enquire into and prosecute the same according to the Form of Process. It is likewise too common a practice for boats and ships to loose out of harbours on
the Lord's day without any apparent necessity. They must likewise regret that many other abominations are growing fast and multiplying amongst them, such as drunkenness and tippling, and that sometimes in the most scandalous and unseasonable times, as late on Saturday's night and too frequently on the Lord's day and in time of publick worship, uncleannesses in all its kinds, oppression, violence & fraudulent dealing. They must look upon it as a great judgment upon us from the Lord for these our abominations and for our contempt and misimprovement of our Gospel, light and liberty, that the country is broke into factions, parties, and unnatural & unchristian divisions, whereby there is almost an universal estrangement and alienation of affections among the people; and this, alas! has got too much the ascendant over those who sometimes join'd in opposing the common enemies of our civil & religious interests. Notwithstanding that they in their stations and capacities do use their utmost endeavours in the exercise of church discipline to curb and put a stop to these abominations, yet they find that all their endeavours in this kind prove ineffectually, as being too weak to stem the tide, in regard they have no concurrence or assistance given them from executors of the laws against profaneness, nor do they in their capacity take such notice thereof as is necessary; but in the contrary as too many in publick stations are manifest examples of profaneness in their own persons and practices, and therefore the more ready to indulge and connive at it, in others; so they must particularly remark and testify that sundry of the officers employ'd about his Majesties' revenue of customs and excise are deeply and avowedly guilty of many gross disorders.  

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1 Registers of Acts of the General Assembly, 22 May 1722. MS.
CHAPTER THREE

The Civil Authorities

In order to better understand the workings of church discipline in the period from 1690 to 1730 it is necessary to examine the relationship between the civil and ecclesiastical powers.

On the 26th of May, 1690 the Confession of Faith was read into the "books of Parliament". And twelve days later the Scottish Parliament passed an act " Ratifying the Confession of Faith & settling Presbyterian Church Government". The chapter of the Confession, "Of the Civil Magistrate", defines the relationship between church and state. The following sections are relevant to our purposes.

1. God hath ordained Civil Magistrates to be under him, over the people, for his own glory and the public good; and to this end hath armed them with the power of the sword, for the defence and encouragement of them that are good, and for the punishment of evil doers.

3. He hath authority, and it is his duty to take order, that unity and peace be preserved in the Church, that the truth of God be kept pure and entire, that all blasphemies and heresies be suppressed, all corruptions and abuses in worship and discipline prevented or reformed, and all the ordinances of God duly settled, administered, and observed; for the better

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1 Acts of the Parliaments of Scotland, Volume IX., Page 117.
2 Ibid., page 137.
affecting whereof, he hath power to call synods, to be present at them, and to provide that whatsoever is transacted in them be according to the mind of God.\footnotemark

For a period of years following the re-establishment of presbyterianism, the parliaments cooperated with, and supported the work of the National Church. On 19 July 1690,\footnotemark[2] 26 June 1695,\footnotemark[3] 9 October 1696,\footnotemark[4] and on 31 January 1701 the parliaments passed acts "against Profaneness".\footnotemark[5] On 12 August 1696\footnotemark[6] and 12 June 1702 acts "for a National Fast" were passed.\footnotemark[7] These acts were proposed by groups of clergymen, and as acts of Parliament carried fines of one hundred pounds Scots for breaking the fast. One half of the penalty was to go to the judge and the other half to the poor of the parish.

Other laws passed by Parliament that were meant to strengthen the hand of the church were the "Act against Blasphemy", the "Act against Irregular Baptisms and Marriages", and the "Act for Restraining of the Profanation of the Lord's-Day by keeping Weekly Mercats on Monday and Saturday"; all passed on the 26th of June 1695.\footnotemark[8] In 1690 an "Act against Clandestine and Irregular Marriages" was passed.\footnotemark[9] This law stated that celebrators of such illegal

\footnotetext[num]{1} Acts of the Parliaments of Scotland, Volume IX. Pages 137-128.
\footnotetext[num]{2} Ibid., page 195.
\footnotetext[num]{3} Ibid., page 357.
\footnotetext[num]{4} Ibid., Volume X., page 65.
\footnotetext[num]{5} Ibid., page 379.
\footnotetext[num]{6} Ibid., page 142.
\footnotetext[num]{7} Ibid., Volume XI, pages 16-17.
\footnotetext[num]{8} Ibid., Volume IX, pages 386-388.
\footnotetext[num]{9} Ibid., Volume X., page 149.
marriages were liable to imprisonment, banishment and cor-
poral punishment. Those who stood as witnesses at those
banned ceremonies were to be fined one hundred pounds Scots,
or if they were poor, to be punished corporally. The fines
for the persons married were as follows: Roblerson — two
thousand pounds, Barons and Landed Gentleman — two thou-
sand marks, Gentleman and Burgesses — one thousand pounds,
and all others — two hundred marks and imprisonment until
payment was made.

Other civil authorities also passed acts which strength-
ened the arm of church discipline. For example in 1702 the
Grathie Kirk-session was informed that "Mr. Arthur Forbes
of Breda, one of the Justices of Peace in this province" had
passed an order "against carrying of timber or other carriages
on the Lord's day under pain of losing their loads".¹ In
Grange Parish in 1721 the Bailie of Regality passed an "Act
against dropping stones or throwing down dust from the
common loth on the people below".² The fine for contending
with this act was one shilling.³ And in the highland Parish of
Killichuntly the minister read an Act of the Court from
the pulpit in 1728 to the effect that fiddlers playing at
"Leikwakes" were subject to pay a fine of five pounds
Scots to "James Gordon, Procurator-Fiscal of Court". Their
employers were to be fined twenty pounds.⁴

¹Stirton, Grathie and Skenea. Page 206.
³Macpherson, Glimpses of Church and Social Life in the High-
lands in Olden Times. Page 34.
The church's practice was to call upon the civil authorities to initiate new laws, to give legal advice, and to enforce the existing laws. In this spirit of cooperation it was quite normal for the Assembly to ask Parliament in 1690 to prohibit the holding of markets on Saturdays and Mondays which led very often to breach of the Sabbath. ¹ When "the great profanation of the Lord's day by multitudes of people varying idly upon the streets of the city" got out of hand, the Assembly appointed their Commission
to address the Right Honourable the Lords of Her Majesties Privy Council, that their Lordships may be pleased to give such orders and take such courses, for restraining those abuses, as they in their wisdom shall judge most effectually.²

The Lord Advocate was called upon to decide whether a man was legally free to marry again after his wife had deserted him for four years;³ to carry on a process against a blasphemer;⁴ to advise whether legal action could be taken against John Woodhart for incest, a woman dying in childbirth having accused him of fornication with her after she had told him of previous guilt with his brother;⁵ to present the Presbytery of St. Andrews' case, against some persons suspected of witchcraft in Pitteawoom, to the Privy Council;⁶ to decide whether a woman's second mar-

¹Register of Assembly, 29 October 1690, MS.
²Registers of Acts of the General Assembly, 10 April 1703, MS.
³Synod of Lothian and Tweedale, 7 November 1695, MS.
⁴Presbytery of Edinburgh, 1 April 1702, MS.
⁵Records of Commission of the General Assembly, 29 June 1703, MS.
⁶Ibid., 7 June 1704.
riage was legal, there being some doubt about the death of her first husband; to remove a Justice of the Peace who was under the sentence of greater excommunication; and to prosecute a man alleged guilty of

prophaneing of the Lord's day, interrupting the publick worship of God, trampling upon the authority of & threatening the minister of Eskdalemuir & abusing the said presbytery by several scurrilous & unchristian expressions to the said minister in the face of the congregation.

The Lord Justice Clerk was asked to intervene in the case of a laird who was subverting the work of a clergyman.

The Marquess of Annandale was applied to, "to cause punish the said John Stewart for his former contumacy and oblige him to satisfy the judicatories of the church for the scandaless wherwith he is charged". Sir James Agnew, sheriff, was asked by the Presbytery of Stranraer to imprison a sabbath breaker until he satisfied church discipline. John Schirzle was reported to the Sheriff of Invernesshire for his contumacy.

The local magistrates were also called upon to do their part, to give advice, and to enforce the laws. The type of legal advice required is illustrated in these three cases.

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1 Synod of Lothian and Tweedale, 7 November 1706. Ms.
3 Synod of Dumfries, 11 October 1711. Ms.
5 ibid., 4 November 1702.
6 Presbytery of Stranraer, 4 May 1720. Ms.
which occurred in 1696. What was the Presbytery of Kilwin to do in the case of a woman who refused to give the name of the father of her illegitimate child? Whether a woman ("whose first husband is not proven dead") and a man married by an English preacher were in fact legally married? What was the Presbytery of Balkeith to do in the case of a woman who denied adultery before both session and presbytery while a man confessed the scandal?

The magistrates were asked to enforce such laws as the following: "the laws against witchcraft charming and superstitious customs, & going in pilgrimage to chapels and wells;" the laws against burning upon the sabbath; the law forbidding a deposed preacher to speak; the law against "the profanation of the Lord's day by the traveling of the stage coach," and the law against "idle loyterers."

Of course the most common task of the civil authorities was to apply penalties to the scandalous persons bound over to them by the church. In 1697 the Synod of Fife minuted

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1 Synod of Galloway, 21 October 1696, MS.
2 Synod of Lothian and Tweeddale, 8 May 1696, MS.
3 Ibid., 5 November 1696.
4 Records of Commission of the General Assembly, 4 December 1706, MS.
6 Records of Commission of the General Assembly, 13 November 1713, MS.
7 Synod of Lothian and Tweeddale, 2 November 1720, MS.
8 Synod of Galloway, 20 October 1696, MS.
these words.

Ancient scandalous persons within the congregations of the bounds of the synod. It was proposed by one brother whether kirk sessions might give up the names of such scandalous persons to the justices of peace. The synod recommends to every presbytery in their bounds to do yr in as shall be most expedient end edifying.¹

Slightly less than one out of every hundred cases in the manuscripts examined were handed over to the civil authorities. Every kind of disciplinary case was handled. Kinloch kirk-session handed Eleanoth Angus over to the "session baillie for civil punishment" for swearing.² Janet Logie of Kirkcaldy's offence was in saying "she would go to the civil for asends".³ Jean Reid of Aberdeen's was in saying "the blood of my soul will be required at your hand."⁴ They were both cited to the magistrate for civil punishment. Both the Presbytery of St. Andrews⁵ and the Presbytery of Michtown were directed by their respective synods to turn blasphemers over to the "civil magistrate to punish him as law will".⁶ Barbara McVoy of Carriden who called a neighbour a witch.⁷ and Christian Harrow of Canisboy who accused a man who had cursed himself of fornication with her; both were "delivered over to the civil magistrate to be punished as a willful slanderer."⁸

¹Synod of Life, 8 April 1697. MS.
²Kinloch, 23 October 1698. MS.
³Presbytery of Kirkcaldy, 21 August 1701. MS.
⁴Presbytery of Aberdeen, 2 September 1697. MS.
⁵Synod of Life, 6 April 1697. MS.
⁶Synod of Galloway, 13 October 1720. MS.
⁷Carriden, 5 April 1698. MS.
⁸Presbytery of Caithness, 3 October 1716. MS.
Breach of the Sabbath was punished by the civil authorities.

1697, the millers on the water of Leith, for keeping their mills going on Sabbath, are referred to the civil magistrate to be punished; 1699, Henry Nisbet, and John Paterson for drinking in a public house on Sabbath, rebuked and fined by the magistrate.

In the case of John Reid, John Malcolm, William Fertier, James Young and James Black who were guilty of drunkenness on the Sabbath; the Presbytery of Paisley applied "to the civil magistrate for yr corporall punishment". John Bruce of Duneet and three men and two women from Craemond were also given to the civil authorities for their drunkenness on the Sabbath.

Of course the more serious scandals were also referred to the magistrates. Jean Crow, "chief acter" among some charmers in Kirkinner Parish, was to be publicly rebuked and if she failed to show signs of penitence she was "to be delated to the civil magistrat to be punished according to her demarit." Jean Clunie of Carriden and Agnes

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2 Presbytery of Paisley, 4 August 1702. MS.
3 Presbytery of Edinburgh, 14 July 1703. MS.
4 Presbytery of Edinburgh, 24 November 1703. MS.
5 Presbytery of Wigtown, 19 July 1698. MS.
6 Carriden, 5 December 1693. MS.
Wilson of Auchterdorran both guilty of scandalous carriage,¹ Janet Cameron of Semyes² and James McColland of Kirkcudbright both guilty of fornication,³ Margaret Skene of Caithness guilty of incest,⁴ and John McMillan of Kirkinner guilty of bestiality;⁵ were all given over to the civil authorities.

There were others who found themselves in the magistrates' hands for failing to cooperate with the church. Elizabeth Myre of Arbuthnott was given to the civil judge for her contumacy,⁶ John Woodrow and his wife of Cummock were bound over for their "insolences" against the session,⁷ William Lyonsie was turned over to the civil magistrate for cursing before the Session of Carriden who were investigating his relationship with his servant.⁸ The cooperation between the civil and ecclesiastical authorities well might be illustrated by the case of George Moncrieff.

This day one George Moncrieff son to the deceased Walter Moncrieff writher in Perth did in a rude manner thrust himself into the presbytery after they were engaged in business, offering without liberty asked and given, a paper which he called a proxy from one Mr. Patrick Walker innovator in the worship of God, in the Paroch of Scone who is processed by the presbytery for his innovations in worship, and for scandalous practices he is alleged guilty of, imposing him to answer for him. The presbyterie

¹Auchterdorran, 13 November 1692. MS.
²Semyes, 29 July 1697. MS.
³Synod of Galloway, 19 April 1692. MS.
⁴Synod of Sutherland and Caithness, 5 August 1706. MS.
⁵Kirkiner, 7 April 1713. MS.
⁶Arbuthnott, 20 December 1696. MS.
⁷Cummock, Old, 16 March 1707. MS.
⁸Carriden, 26 November 1699. MS.
being surprized by so insolent and disorderly an attack made by the said Moncrief, the moderator in the presbyteries name discreetly desired him to remove a little untill he should give him the presbyteries mind anent any papers he had to offer, which he refusing, the moderator in the name of the presbytery ordered him to remove, and not disturb them in their business. Yet notwithstanding he arrogantly refused, and threw down his paper taking instruments against the presbytery in the hands of one Chapman a notar in Perth. Whereupon the moderator in name of the presbytery took instruments against him in the hands of the presbytery clerk, protesting that he should be liable for this intrusion upon the presbytery while about their business, and for his insolent and illegal carriage, as affairs in law: And then the foresaid Moncrief removing, the presbytery judged that they could not let such ill-treatment pass, done to a judicature of Jesus Christ established by law, without taking notice thereof for the tenor of others. And therefore they appoint some of their brethren to go to the Magistrates humbly to desire of them the said Moncrief's ill-treatment of the presbytery may be redressed.\footnote{Presbytery of Perth, 17 February 1710. MS.}

One of the effective ways in which magistrates and session worked together was in the appointment of "session bailies". In 1696 the Ayr Presbytery minuted that "each minister in the Presbytery is to use his endeavours to have a magistrate in their Parish elected by the Session, having deputation from the sheriff according to law." At about the same time the Synod of Glasgow and Ayr had passed an act to the same effect.\footnote{Agar, Old Church Life in Scotland. Page 305.} Now this might work is illustrated by this process initiated by Inch Kirk-session.

This day Mr. Wilson produced a reference from ye Session of Inch bearing yt David Caven tenant in Ochheocher in ye ad paroch being accused before yt ad session of drunkenness and fighting...
upon ye Sabbath day yt ye sacrament of ye Lords supper was last administered in ye sd parson, and he confessing his sinn and being rebuked for the sd vices and profanation of the Lords day and being apted to compear before ye congregation for ye sd scandalis, he did abuse the whole session, threatening them, and frequently saying yt he did not value the sd session more than the dirt of his feet, and absolutely refusing to comply wt the aptment saying yt he had a master yt would not suffer us to get hirwill of his tenants, and yt had given us a sufficient check for meddling wt them already and would also take his part and defend him, whereupon ye sd session did referre ye whole to ye Presby of Stranraer and summoned him to compear before ye presby this day, qch reference being read and quitted was sustained and the sd david being called compeared and confessed the whole accusations contained in ye reference and declared his sorrow for ye bad language he had given the Session of Inch but withall refused to obey yr aptment, whereupon ye presby did recommend him to the sheriff to secure him till he gave bond and caution to satisfy ye Session of Inch for ye abuses he had done, and the sheriff being present did presently order him to prison and engaged he would cause him give full satisfaction to ye session of Inch, whereupon the presby did advise the session of Inch to cause his compear two dayes before the Congregation of Inch for his drunkenness and so: both breaking, and two for his contumacy and abusive language to ye sd session.

Thomas More in 1702, made the comment that the magistrate was present "to give 'em Countenance, infirce their Acts, and awe saucy offenders". He further stated the opinion that this arrangement took some of the "Odium" off the church and made its "Censures more terrible".

Not only were the civil authorities called upon to provide session bailies, but in 1699 the Presbytery of Ayr encouraged their sessions to apply to the appropriate

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1 Presbytery of Stranraer, 2 August 1704. MS.
In 1695 the Inverness Kirk-session appointed that four of the "uplifters of the Collections", two in the morning and the other two in the afternoon, to go through the town "with two of the borrow officers" in search of scandalous persons. In 1695 the Inverness Kirk-session appointed that four of the "uplifters of the Collections", two in the morning and the other two in the afternoon, to go through the town "with two of the borrow officers" in search of scandalous persons.

There were areas where the work of the civil and ecclesiastical courts was not expected to overlap and in 1691 the Synod of Lothian and Tweedale "found it convenient to recommend to all presbyteries not to meddle in civil penalties but to refer the same to the justices of peace or other judges competent". On the other hand in 1709 the Presbytery of Garioch received a letter from the justices of peace "that they promise all concurrence for suppressing vice & inmorality & yt they will not meddle wt yt of delinquents penalties qch ye kirk session" might require.

Relations were not always so cordial. When the Commissioner of Bigtown ordered a slanderer "to stand at the
church door upon a Lord's Day with a paper upon her breast bearing her crime", the parish minister at the direction of the session protested that "the censure is purely ecclesiastical and because the Commissioner being a judge nearly civil hath no power to inflict the same upon the sabbath day in such a place".\(^1\) The Assembly's Commission sought the advice of the Lord Advocate as to what could be done in the case of the Commissioner Depute of Zetland his admitting a woman who ultramontane offered herself, to give her oath of purgation before him as to her sin of adultery, and reckoning it a dangerous encroachment upon the discipline of this church.\(^2\)

In 1708 the Lords of Justiciary summoned some of the session clerks within the Synod of Glasgow to appear before them with their session records. The synod expressed the view that although ministers could be called upon as witnesses, "they ought not to declare confessions made unto ye, nor ought they to give up yr records to ye".\(^3\)

In 1712 Parliament passed a toleration act which was to change the face of church discipline in Scotland. It was entitled

An act to prevent the disturbing those of the Episcopal Communion in that Part of Great Britain called Scotland in the Exercise of their Religious Worship and in the use of the Liturgy of the Church of England and for repealing the Act passed in the Parliament of Scotland intituled Act against irregular Baptisms and Marriages.

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\(^1\)Synod of Galloway, 29 May 1706, MS.
\(^2\)Records of Commission of the General Assembly, 29 May 1724, MS.
\(^3\)Brand, "Memoire", MS.
This act of toleration stated that the Episcopalians could worship under regularly ordained pastors provided the doors of their chapels were not locked. There were to be no penalties imposed for their so doing. All baptisms were to be registered with the parish church; marriage banns were to be proclaimed in both Episcopal and parish churches and the parish ministers were obliged to proclaim them. All acts relating to the Sabbath and prevention of profaneness were to be considered as still in force. While the act was not to protect papists or atheists, a penalty of one hundred pounds Sterling was to be imposed on those who disturbed Episcopal meetings. As far as the magistrates were concerned, they were not to hinder such meetings, there was to be no civil penalty for excommunication, and they were prohibited from compelling attendance at church judicatories. The act ends by stating that all ministers who fail to pray for the Royal House will be fined.¹

The kirk had sent her best men to London to fight against the bill. They presented a petition against it and declared it was against the Articles of Union and would weaken church censures. All of this was to no avail as the act was passed by an overwhelming majority in both Houses of Parliament. By providing that no civil pain should follow excommunication it limited censures to

¹The Public General Statutes Affecting Scotland. Volume I. Page 35.
its effect on a man's soul. "The power of the sword was forever separated from the power of the keys." In examining the records of twenty-eight kirk-sessions for which minutes are available for an equal number of years before and after the passing of the Act, one finds that sixteen kirk-sessions had fewer cases after the Act of Toleration was passed. Out of seventeen similarly selected presbyteries eleven had fewer cases.

It would be incorrect to imagine that the problem of enforcement began with the passing of this act in 1712. As early as 1696, it was intimated to the Synod of Dumfries that Patrick Johnston was to be excommunicated. He had refused to purge himself of a suspected adultery, claiming to be of another communion, and had fled to Edinburgh. In Perthshire in 1709, Alexander Lindsay refused to give satisfaction for fornication in the parish church. He claimed to have already done so in an Episcopal Church. Five years previously "the General Assembly considering that some persons when challenged for scandal, do turn punish, or pretend to do so, to evade censure" ordered that the greater excommunication be passed against them after attempts to reclaim them had failed.

It is also true that all through the period there had been some problems in getting cooperation from some civil

1Cunningham, The Church History of Scotland, Volume II. Pages 229-231.
2Synod of Dumfries, 16 December 1696. MS.
3Presbytery of Perth, 23 November 1709. MS.
authorities, South Leith Kirk-session complained that the guard refused to give assistance to the constables or session members "upon occasion of peopled cursing or swearing or profanating of the Lord's day". 1 The Presbytery of Stranzer's problem was that the sheriff was hindering the parish judge from enforcing the acts against profaneness. 2 The 1706 Assembly noted that some judges refused to put "the laws relating to money-deyards in execution". 3 The Synod of Galloway was dissatisfied with the justices of the peace for failing to stop the Edinburg to Bigtown post from traveling on Sunday. 4 The magistrates of Elgin caused quite a stir by their "unparalleled contempt of the fast." They themselves had been absent from the ordinances on the day of the fast, and had fined others who had observed it. 5 Daniel Defoe writing in 1706 said that the Nobility and Gentry very often live in defiance of Ecclesiastic Judicatures and Process-, even in the professed and avowed commission of flagrant Crimes, such as blasphemous Swearing, open Brinkenness, Fornication, and even Adultery itself; 6 because the civil authorities were not enforcing ecclesiastical discipline. The church was well aware of the fact that the passage of an act of toleration would mean a

1 Presbytery of Edinburgh, 29 April 1702, MS.
2 Records of Commission of the General Assembly, 20 July 1704, MS.
3 Registers of Acts of the General Assembly, 13 April 1706, MS.
4 Synod of Galloway, 19 October 1706, MS.
5 Synod of Morey, 27 October 1709, MS.
wide-spread adoptions of such an attitude as the above. As
early as 1703 the Commission of Assembly formed a committee
to list the arguments against such an act in case the par-
liament should introduce one.¹

After the act was passed in 1712, scandalous persons made
good use of its provisions. There was the case of

John Wright of Kersie under discipline for for-
nication, who is not only contumacious to dis-
cipline, but also has written, a very contumacious
and insolent letter to the minister and Session
of Airth, before whose the scandal depends, wher-
in he disclaims and disowns communion with this
church, and villicends and contemnes the sentence
thereof.²

William Balegan of Forteviot, a slanderer, deserted the
communion of the Church of Scotland.³ In 1730 a Bellie
woman escaped discipline by joining "the illegal English
service meting in Gordon Castle".⁴ At Cleish James
Pearson, a fornicator,

protested that he not being of the Communion of
the established church of Scotland was not lyable
to the censure of any of the judicatories of this
Church upon the account of the Toleration Bill,
that the scandal was judged, and he had satisfied
discipline already amongst those of his own com-
menion, and thereupon took instruments.⁵

John Robson of Morbattle who broke a fast day declared he
"had no scrupul for his part to work because he ow'd no

¹Records of Commission of the General Assembly,
  12 May 1703 - 19 May 1703. MS.
²Ibid., 11 March 1713.
³Presbytery of Perth, 19 May 1713. MS.
⁵Cleish, 21 June 1724. MS.
pastoral relation to Mr. Chrystie". The Presbytery of Shetland complained to the Commission that not only were witnesses refusing to appear, but for delating offenders "members of sessions are prosecuted before the justices of the peace as calumniators, for carrying on such prosecutions". The synod of Dumfries noted that scandalous persons were "declining to appear before our judicatories upon pretence that they are not of our communion." In 1717 the General Assembly sent a deputation to the court to seek the restoration of the laws by which ecclesiastical judgments were enforced by civil powers. This attempt was, of course, a failure.

Other attempts were made to re-establish the old system of cooperation between church and state. In 1723 the Ayr Presbytery asked the sheriff if he would appoint session-bailies in those parishes which did not have them. In reply the Earl of Loudoun "advanced some difficulties he had". The Commission of Assembly had more success with Sir Robert Monro Sheriff Principal of Rossshire. He consented to appoint bailies "for encouraging of ministers and suppressing of vice and immorality".

In some other ways a cooperation between the civil and church courts continued. For example the magistrates con-
continued to enforce such laws as those against Penny-Weddings which were acts both of the Parliament and the General Assembly. And when John Blaw, a suspected fornicator, refused to appear before the Kirk-session of Culross, and the Presbytery of Dunfermline; he was, with the help of the Duke of Atholl, summoned before the Sheriff Court of Perth "for contumacy to the judicatories of the church, and by which he exacted himself to appear before the presbytery ... under the penalty of fifty pound scots".

All through the period from 1600 to 1730 there was a certain amount of cooperation between the civil and ecclesiastical authorities. Although the passage of the Act of Toleration lessened this cooperation, it did not eliminate it. Both powers worked side by side to discipline the lives of the people, and expected the help and cooperation of the other.

Having taken a look at the role of the civil powers, we will consider the legal aspects of church discipline in the following chapter.

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1 Register of Acts of the General Assembly, 32 May 1719, Ms.
2 Ibid., 22 May 1722.
CHAPTER FOUR

The General Procedures

The first chapter of the Form of Process outlines the general approach to, and the philosophy of ecclesiastical discipline. It is pointed out that Christ instituted a government for His Church and called some to be its governors; that it is agreeable to the word of God that laymen join in the labours of the judicatories; that discipline is both necessary and good for the church in preserving its purity; that only those things declared censurable by the word of God or by an act of the church can be grounds for a process, and then only within five years of the scandal; that the judicatories have the power to convene all persons necessary for the examination of an affair; that scandals should be examined by the judicatory in whose province they are committed; and that ministers are only liable to the superior judicatories of the church.

The second chapter of the Form gives sixteen points as guides to be used in carrying on processcs. 1. Kirk sessions are to consider any information they receive, and if possible remove the scandal by a private admonition. 2. When information is brought in to a judicatory, they are to consider whether or not it is proper for them to enter upon or if it should be prepared for a higher authority
3. All persons cited before a judiciary are to receive a summons, made before two or three witnesses and outlining the process, forty-eight hours before hand. If sometimes it is more fit that a person be spoken to privately before the process is begun. If the party cited does not appear then a second and then a third citation are to be given. If they still do not appear, the person is declared contumacious. 5. All citations and acts are peremptory, and if instructed, infer contumacy if not obeyed. 6. In the case of a contumacious person, the judiciary may think fit to examine the scandal before they censure him for contumacy. 7. If the party appears, he is to be informed of the cause and given a list of the witnesses. 8. If the party cited is found to be innocent, then the informers are to be "noticed, for either their calumny or impudence". 9. Witnesses are also to be given up to three citations and then declared contumacious; or if so desired after two citations, application may be made to the civil magistrate to cause their appearance. 10. The defendant may object against witnesses, and if the objections are relevant then the witness is to be disallowed. 11. In all events, witnesses are to be purged of ulterior motives. 12. Witnesses are to be examined before the accused who may have questions directed to them. 13. The accused can call witnesses in defence who may acquit him by providing an alibi, for example. Once the scandal has been proven however, acquittal can only come from defence witnesses who give evidence of extenuating circumstances consistent with
the statements already taken. 14. The clerk is to mark, and the moderator subscribe the depositions of those who cannot write. 15. After the examination is completed, and all outsiders removed, the judicatory is to consider the case. 16. If a scandalous person absconds, he is to be cited first from the pulpit of his parish church and then from the pulpits of all the kirk's of the presbytery. If he still does not appear he is to be declared fugitive from church discipline. 1

In order to ensure that the word of God and the acts of the church were being kept, the elders were very diligent in the oversight of the people. The parish was divided into districts, each one to be supervised by a particular elder who was to report on any scandals within his area. 2 Both the Synod of Glasgow and Ayr and the Presbytery of Irvine directed their elders to enquire into the habits of family worship within their districts and to deal privately with the scandalous. 3 The elders of Inverness in 1720 and again in 1724 were directed to visit the markets on Friday "in order to observe those who curse or swear". 4 And in 1707, 1712, and 1721 the elders of Inverness were appointed to go through the streets on the Sabbath to "observe and reprove abuses". 5 The members of Crathie Kirk session were "to take notice of the people that scandalously stay out in the Kirkyard in time of sermon discoursing

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1 For the exact words of the Form see Appendix A.
2 Edgar, Old Church Life in Scotland. Page 234.
5 Ibid., pages 36, 143-144.
about their worldly affairs; and the members of the south Leith Session were to "observe who are on the streets, otherwise profaning the sabbath by drinking".

"At Oldhamstocks in 1706 an elder searching for unnecessary withdrawals from ye ordinances" surprised a man with his arms about a woman’s neck." The south Leith "searchers" appropriated the plaids or shawls of women found breaking the Sabbath. The elders of St. Cuthbert’s, Edinburgh, warned that all who kept behind locked doors "shall be holden as guiltie".

The following excerpts, one from the Inverness Kirk-session minutes and the other from Berwick’s charge to ruling elders gives us an idea of the duties and responsibilities placed upon them. The minute from Inverness deals with the subject of "elder’s rounds".

The session unanimously agreed on the following distribution of their respective Bounds of the Town to the several Elders aftermess, in reference to which the Session recommended to them these Articles, viz.:—

1. That Elders strictly inspect the Christian behaviour of persons and families in their said Bounds use their utmost interest with Heads of Families, to perform the worship of God daily in their houses, and take pains to instruct their Dossists in the first principalis of Religion, exhort them to the sanctification and attendance on publick Ordinances.

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1-3: Various sources cited.
That they Diligently Enquire after the Testimonials of all persons or any house or family within yr respective Bounds, and present to the Session a List of such as want Testi-
monials, and of such as are idle, and have no employment. That they may use the methods most proper in that case.

3. That they take notice of the Circumstances of the poor in their Bounds, and acquaint the Session who are the most Necessitous and proper objects of Charity therein, and see that no Counterance or Support be given to such as are Idle, tho' able to work, or Such as are Vicious or profane.

4. That such in their Bounds as refuse to hearken to their admonition for preserving peace and good order in their families and Neighbour-
hood, they Inform the Minister of their Quarter for the time therewith, that if their Conjunction Admonition prevail not for the ends above said, Such disorderly persons may be related to the Session and Censor', as the Cause shall deserve.

5. Over and above what may afterwards be concerted by the Magistrates and Session for per-
ambulating the Town in General to prevent the profaning of the Lord's Day. It's hereby re-
commended to the Elders to take Notice of their own Bounds on that day that there be no open abuses of Idle Crowds or Wandering of People on their parts of the Streets.

The quotation from howick's Charge deals more generally
with the relationship of the elder to ecclesiastical discipline.

But because the Government, and more frequent Duties of ruling-Elders, 11th (for the most Part) in the exercise of their Share of the Power of Censuring Scandal and scandalous Persons, and trying and admitting of Penitents; Therefore, I shew you somewhat of the right Way of following your Duty in these Things. As, 1st.
Ye must exercise your power over all Persons within your charge Indifferently and impartially; over the rich as well as the poor, the High as well as the Low, your Kindred as well as others, Jam 11.1,

20. Ye must exercise your power towards all

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sorts of scandals and Offences. These III.6. The Acts of our Church do appoint, that, who-
soever it be, that might spot a Christian
Congregation, ought not to escape either
Admonition or Censure. Therefore, ye must
take Notice of all Scandalous Omissions
and Commissions.
3d. Ye must not bring in civil Questions and
Debates before the Assemblies of the Church,
John xviii.36.
4th. Ye must observe this Order in taking No-
tice of Offences: If the Offence be private,
and known but to a few, then follow the order
prescribed unto you by Christ, Matt. xviii.
15,16,17. If the offence be publick and
open, then in the Offender, without previous
Admonition, to be related to the Session,
1 Tim. V.20.
5th. In these Debates, you must not, upon
every humour, or Jealousie, or Suspicion, bring
Men to be questioned publickly, as scandalous
Takers; but ye are first to make diligent and
prudent Enquiry about the Truth of the Matter,
and to see if it can be proven by Witnesses; Or,
if the Scandal thereof be common and flagrant,
or attended with pregnant Likelihoods, and Presum-
tions of Truth, before ye bring it to publick.
6th. In the matter of Debates and Censure,
ye must, in the Fear of God, and Sincerity of
your heart, take heed, that Fear, or Favour,
or Solicitations, or Threatnings, or Gifts, or
Bribes, make you not wink at the Faults of any;
and that Passion, or Malice, or private Curiosities
and Particulars, make you rip up,扯 apart, or cens-
sure the Miscarriage of any; And also, that ye
carry your selves with Tenderness, Compassion and
Reformation towards the Offender, Gal.vi.1,
that ye may command your selves to every Man's
Conscience, 2 Cor. iv.2.
7th. Ye must not use, nor inflict any civil
Punishment upon Persons convicted of Scandal:
The Kingdom of Jesus Christ and the Censures
thereof are spiritual, and not of this World,
John xviii.36.
8th. Ye must not use the Censures of the
Church as a bodily Punishment, or Penance
to satisfy for Sin; but, as a spiritual Med-
icine, for humbling and gaining of the Soul:
All Church-Censures, even Excommunication it
self, are ordained of God for this End, 1 Cor.
v.5. The word Satisfaction, may admit of a tolerable
Construction in Church-Censures, in order to
the removing of scandal; but this being so much
abused in the Popish Church, and the Hearts of
Men being so prone to turn Gospel-repentance into a more legal Penance, and to conceive, that by a more outward Penance, and to Obedience to the Censures of the Church, the Guilt of their Sin is done away before God; Therefore ye should carefully shun every Thing that may give occasion to the fostering of this pernicious Opinion, and take due pains to instruct the Offenders, in the true Nature and Ends of the Censures of the Church.

9th. Ye must take pains upon Persons convicted of Scandals, to bring them to Repentance, and to have them fitted to evidence and declare the same in publick, before the Congregation, that so the scandal may be removed.

10th. Ye must not desire, or appoint, any to profess Repentance before the Congregation, until the Signs thereof appear in them: For, it is but a mocking, to put such to publick repentance, who neither understand what Sin is, what Repentance is, what Grace is, nor by whom God’s Favours and Mercies are purchased: For this, see what is set down in the Form and Order of publick repentance, appointed by the Assembly 1567.

Lastly, when the Signs and Evidences of unfeigned repentance do appear in these who have offended, ye must shew yourselves ready and willing to receive them, with all Tenderness and Compassion, and to forgive and comfort them, and confirm your Love towards them, 2 Cor. xi.7,8.

Some have seen this system as being both inquisitorial and tyrannical."

The session inquired into all migrations into and out of the parish ... Elders did not wait for scandals to be reported to them, they searched them out ... Nothing was too great and no offence too petty for consideration ... They called to answer before them heads of families, lairds, and even elders, for entertaining company too late at night in their houses; but especially were they ever on the lookout for Sabbath desecration.

On the other hand in 1706 the Synod of Sutherland and Caithness minted "that the discipline and censures of Christ’s house be impartially executed upon all without

respect of persons”,¹ and in 1716 the Alvie Kirk-session warned its members “to be very cautious aboutMalting persons and not bringing in every trifling tale that is told to the country, founded very oft on ill-will”.²

It should be said that not all the cases of discipline were initiated by the members of the kirk-sessions. In 1702 the searchers of Alyth Parish Church reported that they "saw no irregularities, nor abuse committed when they were walking search through the town".³ In the case of women becoming pregnant through fornication, for example, their condition was a self-evident confirmation of their scandal and there was no need for the sisters to "spy" upon them. Christine More of Kilconquhar, who was guilty of scandalous carriage, was delated by her father who seemingly wanted assistance in disciplining an unruly daughter.⁴

The case of John Murray of Gladsmuir, who was censured for drinking, swearing, fighting, and abusing his wife, was brought in by Mrs. Murray. She also obtained an order prohibiting him from seeing Isobel Cornward.⁵ Indeed there were some who volunteered to undergo discipline. In 1703 Margaret Wilkie volunteered to satisfy for adultery before the Presbytery of Cupar.⁶ The following was minuted in the Marchline records in 1705. "Quo

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¹Synod of Sutherland and Caithness, 7 August 1706. MS.
⁴Kilconquhar, 27 May 1706. MS.
⁵Gladsmuir, 22 October 1704. MS.
⁶Presbytery of Cupar, 20 July 1705. MS.
die the session met, J.F., and A.A. from the Parish of Ochiltree supplicate the session to receive ye to the seat. At Inverness in 1707

it was represented that William Martine was come a long journey from the isle of Sky on purpose to satisfy the discipline in this place and that without any citation he was voluntarily attending.

Another way in which delinquents were brought to justice involved the use of the "testificate". When a resident leaving the parish came seeking a certificate, he was first made to satisfy discipline if he were a delinquent. All kinds of cases were disciplined in this way. Barbara Law in Barry had to satisfy for slander before she left for Dundee. Isobell Law of Kessley gave satisfaction for cursing the laird before she was granted "a negative testificate. When the barber of Sallie wished to leave the parish, his request for a testificate was refused until he was rebuked for "profaning the sabbath by taking off beards.

John Sherritt satisfied for a breach of the Sabbath in "carrying home shoes" before he received his testificate. When James Bitches of Manor came for his testificate he was censured for his unnatural fornication.

All who moved from one parish to another, either to

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3 Barry, 17 February 1717. MS.
4 Presbytery of Garish, 2 March 1704. MS.
5 Turnbull, A South Ayrshire Parish. Pages 90-91.
6 Carboethnot, 4 July 1698. MS.
7 Manor, 13 June 1714. MS.
reside or for a temporary stay, had to have testimonials detailing their former good behaviour. In 1691, 1718 and 1723 the Kirk-session of Inverness ordered that in all the burgh testimonials should be produced. All residents, both new and old, had to meet with a committee of the session which placed their names in a book kept for that purpose. In October 1702 the Beerness Kirk-session appointed their members to give in a list of all servants without testimonials who were not born in the parish.

Two months later a more general intimation was made "appointing all persons living in the parish, not being natives of the parish, to procure testimonials from the places where they were born, or where they came from last". Here are two examples of such testificates from the Alyth Parish records. "The Session appointed a certificate to be given to Margarit Pittiloch bearing that during her abode here she behaved herself free of publick scandal." Also a testificate was given to Andrew Volus "bearing that he was some years a soldier before he came hither, and that during his abode here he was not under any publick scandal made known to the session".

It was very essential to be able to produce a certificate. A man in Balmerino Parish found he could not get

1 Mitchell, Inverness Kirk Session records. Pages 36, 146-147.
2 Proceedings of the Orkney Antiquarian Society, Volume IX.
3 Keilie, The History of Alyth Parish Church. Page 156.
married without a testimonial, 1 William Baxter of Carriden was sent to the justice of the peace for not producing a testificate. 2 Isoball McLeod, guilty of "indecent posture", was sent to the civil authorities "for such corporal chastisement" as the law might inflict when she failed to produce a certificate. 3 Others were banished.

On October 27, 1724, two women who had returned to Inverkeithing without any record of their behaviour during the period of their absence, were "peremptorily enjoined to get testimonials for the time they have been out of this parish, against this day fortnight, with certifications if they be not sufficiently provided with them against that time that the Sessions will apply to the Magistrates to get them removed out of the parish." 4

Banishment was also used to rid the parish of undesirable characters. 5 Even to be associated with those who lacked testimonials was to court censure. Margaret Waddell of Northwick received a sessional rebuke for taking in a pregnant woman who was without a certificate. 6 Gillies Watt of Bankery-Ternan received a sessional rebuke as "he had in his house a person wanting a testimonial." 7

It is not surprising that the churches were able to use the refusal of testimonials as a threat to keep the parish-

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1 Campbell, Balmerino and Its Abbey. Page 443.
2 Carriden, 20 December 1696. MS.
5 Carriden, 5 December 1697. MS.
6 Walston, 2 November 1718. MS.
7 Auchterderran, 13 November 1695. MS.
8 Northwick, 7 November 1697. MS.
9 Bankery-Ternan, 26 February 1704. MS.
ioners in line, Galston Kirk-session declared that all who
neglected "the catechising" should be refused testi-
cates. When John Watson broke his oath to the incarc-
ration of girdlesmiths by working in other towns, his testi-
monial was "torn." Fear of such action undoubtedly
encouraged many to keep the discipline of the church.

Others tried to circumvent the problem. Alexander Aber-
crembie of Kilconquhar, 3 Patrick Bonnie of Dorn, 4 Andrew
Russell of Edinburgh, 5 and Charles Linlithgow were all
convicted of counterfeiting certificates. 6 Few were so
held as Marie Walsh.

Being asked if she would yet apply to the kirk
session of Timmerie for a testimonial she an-
swered that she would not seek for a testificate
from that session or any other and with a great
deal of impudence she declared that she was too
much troubled by the session of Stranraer and
the presby and that she would answer no more of
their appointments. 7

It was not only by way of testificates that delinquents
were brought voluntarily before the judicatories. They
were often apprehended when presenting a child for
baptism. After this fashion Robert Templeton of Kilmaurs
satisfied for theft. 8 John Ritchie of Mearns for
 deserting the ordinances. 9 Robert Corbie of Seayes for

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1 Story, The Church of Scotland, Page 481.
2 Beveridge, Guisea and Tullianan, Page 116.
3 Kilconquhar, 25 January 1706, MS.
4 Dorn, 17 July 1723, MS.
5 Presbytery of Edinburgh, 11 August 1703, MS.
7 Presbytery of Stranraer, 4 July 1715, MS.
8 Kilmaurs, 30 December 1702, MS.
9 Mearns, 11 May 1722, MS.
breach of sabbath,\(^1\) Charles Stuart of Newtyle for drunkenness and swearing,\(^2\) and Andrew Lousone of Kinglassie for antenuptial fornication.\(^3\) Breach of Sabbath by Helen Murray and Margaret Nather, and fighting with her neighbour by Helen Low, all of Menmuir, were disciplined for their respective scandals when they applied for communion tokens.\(^4\)

Perhaps it was to escape discipline for some offence that Elizabeth Liddel of Walston stole a communion token.\(^5\)

The following excerpt from Boston's diary shows how this method worked.

On the 7th of June (1724) the sacrament was celebrated. I had had much weary work from the family of J. A., he having repeated his abominations, and another of that family having fallen into fornication. Mrs. A., spouse to the said J., had much ado to bear my proceedings in those odious cases; but her husband being a peaceable man, things were kept tolerable between them and me. But he dying in February this year, she of a long time came not to church. Having come at length, some time before the sacrament, she on the fast-day I think, desired of me a token to partake. Now a woman had gone out of the family, and absconded, being feared to be with child; and another had depoened that she told to Mrs. A., that she thought the party aforesaid was with child, the deponent and she being fellow-servants, and lying in one bed together. This relating to the time before the absconding; I did, upon the occasion of demanding the token aforesaid, lay this matter before her; whereupon she, taking it heinously, came not to the sacrament, and all along to this day hath turned her back on the public ordinances of the church.\(^6\)

\(^1\)Scrayes, 4 May 1701. ~S~.
\(^2\)Newtyle, 23 April 1721. ~S~.
\(^3\)Rayod of Fife, 29 September 1697. ~S~.
\(^4\)Menmuir, 17 August 1721 - 25 July 1723. ~S~.
\(^5\)Walston, 33 December 1722. ~S~.
\(^6\)Morrison, Memoirs of Thomas Boston. Page 373.
When thorough investigations were needed to substantiate suspected scandals, methods were used which would hardly be approved today. Those who were suspected of being witches were searched by the "prickers" who through the use of pins hunted for an insensible mark upon the unfortunate's body which would confirm their suspicions. It was however in cases involving sexual scandals where the investigations were the most thorough. Midwives were required to report the births of illegitimate children and were rebuked if they refused to do so. They also helped to establish the identity of the child's father.

In the records of Mauchline Kirk session the following minutes occur; - 1692, March 25 . . .

1The midwife Margaret Nat, being with her in her greatest pains, did challenge her if ever she had ado with any other man, and threatened that she would leave her to die in her pains if she would not tell the truth, and she cried out and wished that she might never be better if any man was the father of that child but J. . . . .

When a child was abandoned, the midwives helped in the search for the mother. In Eastwood in 1729 an older and two women in each district were directed to check the breasts of all the single women. Apparently everyone did not agree with this method for in 1721 the Fintry Kirk session minuted:

That the common and ususal way of going through the parish and drawing the several women's breasts does very seldom take effect, and that

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1Murray, Kilmaukim, Pages 110-116.
2Presbytery of Edinburgh, 25 June 1701, MS.
3Story: The Church of Scotland, Volume V, Page 477.
4Eastwood, 13 July 1729, MS.
it is attended at several inconveniences such as the giving offence to some otherwise religiously disposed.

Boston tried the more personal method of confrontation which was often used.

Dealing with his conscience, I took one of the twins she had brought forth, and holding it before his face, posed him with his being the father of it. Nevertheless he persisted in the denial, though evidently under consternation, his moisture being visibly dried up in the struggle with his conscience. He being removed, I went out and dealt with him privately; and having observed that two of his children he had by his wife, had been removed by death, soon after, or about the time in which, as was alleged, he begot those two adulterous ones, I told him that it seemed to me, God had written his sin in that his punishment. To which he answered that indeed he himself thought so; and so confessed. Being called in again, he judicially confessed his guilt of adultery with that woman, and that he was father on her twins.

Before the passing of the Form of Process in 1707 the judicatories of the church tried scandals that were committed many years before-hand. Ninian Cassils received the greater excommunication from the Presbytery of Hamilton and was turned over to the civil magistrate for an act of bestiality committed forty-five years earlier. Kilmours Kirk-session fined Robert Harper six pounds for an adultery committed thirty years previously. Another case of adultery twenty-one years old was disciplined by

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1Vintrey, 31 May 1781. MS.
2Harrison, Memoirs of Thomas Boston. Page 221.
3Presbytery of Hamilton, 2 May 1693. MS.
4Kilmours, 2 August 1699. MS.
the Presbytery of Cuper, 1 Janet met grass of Currie, 2
Agnes Richardson of Glensmuir, 3 a certain Crabston of
Aberdeen, 4 and Alexander Brown of Kilsmaurs all were dis-
ciplined for breaches of discipline more than five years
old. 5 Most of these offences occurred during the period of
episcopacy.

With the passing of the Form all scandals over five years
old were allowed to "sleep". The case of William Cumming
which was heard by the Inverness Kirk-session is a good
example. Cumming was guilty of an undisciplined scandal
seven years old and needed a testimonial in order to travel
to England on business.

The Session did reason at length upon this
case, and afterwards case to this conclusion,
that he should get liberty to go into England
about his affairs, and in regard that he gave
very much satisfaction to them by his humble
acknowledgement, and that he is now married and
bath a family, and these six years past hath be-
heaved very soberly, without offense, and that in
regard it is more than five years since this
scandal was noticed in this place, and that it
might break the young man's credit if it should
be brought to publick there, and that a late Act
of Assembly imports yt after five years it ought
not to be revived again, and considering that
the thing is dead here in a great measure, and
that the great end of discipline is gained in
reclaiming the young man, who appears to be in
depth concern about it. 6

After 1707 there were some instances when old cases were

1 Presbytery of Cuper, 20 July 1703. Ms.
2 Currie, 3 March 1698. Ms.
3 Glensmuir, 26 February 1696. Ms.
4 Presbytery of Aberdeen, 26 May 1696. Ms.
5 Kilsmaurs, 9 October 1702. Ms.
disciplined. The Presbytery of Inverary disciplined an adulterous thirteen years old,¹ Cupar Presbytery disciplined a twelve year old fornication case,² and a border line case (five years old) of theft was handled by Carstairs Kirk-session.³ The Form allows for cases that were again "flagrant" to be dealt with by the judicatories. Janet McNaiss, fominatrix, was held liable to discipline for an old case by the Synod of Galloway. They reasoned as follows, "The woman was still under process until she left the country and was declared fugitive and now she having returned and made confession of her own accord the scandal is new although the fact be old."⁴

Once a judicatory made the decision to deliberate on a particular case, summons were sent out to all involved parties requiring their attendance upon the court of the church. This necessitated, at times, bringing people over long distances, and in this the judicatories cooperated with one another. When Mary McIasco fled from the bounds of the Presbytery of Gairloch, they sent enquiries out to the various presbyteries. She was apprehended in the Parish of Calder and an officer of Inverness, who was to receive eight pence for his labour, was appointed to take her to the minister of Kirkhill "that she may from Paroch to Paroch be returned to the Bounds of Gairloch".⁵

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¹ Inverary, 13 February 1717. MS.
² Presbytery of Cupar, 11 January 1709. MS.
³ Carstairs, 13 May 1718. MS.
⁴ Synod of Galloway, 19 May 1708. MS.
Two or more witnesses were needed to prove a case. In 1709 the Synod of Galloway acknowledged the "defect" of the Session of Dalry in calling but one witness in the case of Alexander Walsh. When only one witness testified against Margaret Low and John Gordon of Strichen, the charge was changed from fornication to one of scandalous carriage. When Robert Cunningham of Haddington, William Henderson of Paisley, and George Jamieson of Perthshire denied their adulteries, it was all to no avail as several witnesses had testified against them. The witnesses were examined as to any personal bias. Robert Keriot who was accused of adultery with Marion Grievs objected to her relatives being witnesses at his examination. His objections were over-ruled and the presbytery was ordered to proceed with the case and depose Keriot from the eldership. The Commission arrived at a different decision in the case of John McCormock, minister at St. Andrews. "The question proposed was, whether Mary Craig, the party with whom Mr. McCormock is said to be guilty of uncleanness, her father, mother and sisters should be admitted witnesses in that cause." The witnesses were disallowed because of the proximity of blood between them and Mary

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1 Synod of Galloway, 16 May 1709. MS.
2 Strichen, 18 December 1702. MS.
3 Presbytery of Haddington, 26 October 1707. MS.
4 Presbytery of Paisley, 17 September 1712. MS.
5 Presbytery of Perth, 23 October 1710. MS.
6 Synod of Angus and Mearns, 22 April 1719. MS.
Craig. Cantyre Presbytery brought a case of adultery to the Commission in 1706. The question was whether or not a known Catholic servant could be "admitted to bear witness against a Protestant, or if she can be received being the gentlemen's servant". The Commission advised "that in cases of domestick crimes and scandals such as this, witnesses otherwise inapabile may be admitted". 2

The examining of the approved witnesses did not always run smoothly. And the accused did not, at times, take kindly to the witnesses. When James Ogilvie of Alyth was charged with adultery, he "did furiously pursue the officer and witnesses, and with a great tree did knock Thomas Bonat, one of the witnesses to the ground, who through his wounds is in very great danger of death". 3 And at the hearing of the process itself, some difficulties were encountered. The following minute of the Synod of Fife gives us an example.

The synod understanding that in some parishes within the bounds of this province, where delinquents have been under process for scandals and public immoralities, the Kirk-Sessions have met with very much trouble and contradiction, from persons who had no manner or call to be present or concern that process by comparing with delinquents and judicially owning that they came to assist, the said delinquents objecting against the witness proposing interrogatories to them when upon oath, and urging them to

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1 Records of Commission of the General Assembly, 11-12 November 1744. MS.
2 Ibid., 17 December 1706.
3 Neilie, The History of Alyth Parish Church. Pages 155-156.
give answers thereto, expressly contrary to the
synods mynd, and the twentieth paragraph of the
second chapter of the form of process intimate
to them and using other methods to weaken the
hands of the judicatories and to hinder the
bringing of offenders to condigne censure.
Therefor the synod after due deliberation thought
fitt to condemn and discharge and hereby doe
condemn and discharge upon pain of censure, the
forsaid practices as being in themselves sinful,
contrarie to the liberty of church judicatorys
and having a tendency to encourage sin, and to
harden offenders in their wickedness.1

And the Synod of Angus and Mearns heard from its presby-
tories about contumacious witnesses who when cited "either
do not appear or refuse to depone".2

Ofte the accused cleared himself by taking an oath of
purgation as is set forth in chapter four of the Form.
Out of the 1,517 cases of sexual immorality decided upon
by the presbyteries whose records were examined, the oath
was referred to in one hundred thirty-two instances.
The Form of Process gives an outline of the oath to be
used, but it was usually modified to suit the requirements
of the judicatory concerned. Thus Stobo Church used the
following oath upon one occasion,

John N. being called, compared: to whom the
Oath was read, and a copy thereof given to him to
consider against the next bytt according to his
own desire, the tenor whereof follows:- Whereas
I, J. N. hath been challenged of sin, and carnal
dealing with M.S. who affirms the same; Wherefor
to satisfy God's people, and to remove the
scandal, (an Oath being the end of all controversy),
I am willing to declare, seeing my Conscience
bears me witness, that I am in the matter innocent,
and free of offence towards God and men. And

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1Synod of Angus 290321177921141729. MS.
knowing somewhat the terror of the Lord, and how
dreadful a thing it is to fall into the hands
of an angry God, and that whoremongers and adulter-
ers shall never enter into the Kingdom of Heaven,
and that the Almighty God searcheth the heart
and tryeth the reins and knoweth well the hidden
things of dishonesty, and will manifest in the
light what is done in the dark, and judgeth
himself on all such as swear falsely by His name,
or calls Him to bear witness to a lie, and is
able now as under the Law to execute vengeance
upon the unclean person, that was to drink of the
Water of Jealousy, and if guilty made their body
swell, and thigh rott, (Numbers v. 22,) and can
suddenly kill the liar as Ananias and Saphira,
(Acts v.) and knowing well that this God will
not be mocked, and such as would mock have the
hands made stronger and stronger (Isa. 35. 22.)
and knowing that all liars shall have their part
in the lake that burneth with fire and brimstone,
which is the second death (Rev. 21. 8.) and that
done such as make a lie can enter into the New
City above (Rev. 21. 27) and that the Lord Jesus
Christ shall be revealed from Heaven, with His
mighty Angels in flaming fire, taking vengeance
on them that know not God, and obey not the
Gospel, and shall punish such with everlasting
Destruction from the presence of the Lord
(2 Thess. 1. 5, 9.) And withall being persuaded in
my heart that he who sweareth hath to swear the
Lord liveth in truth, judgment and righteousness
(Jer. 4. 2.) I do therefore hereby declare before
God, Angels and men, Heaven and Earth, under the
pain of all the Curses of the Law, and as I would
not be set up as a sign and a Wonder, and be made
with Cain a vagabond in the earth, and as I would
not have my name written in the dust, and blotted
out of the Book of Life, and so separate from
Christ for evermore, I do solemnly swear with
uplifted hands by the dreadful Name of the Omni-
potent All seeing God that I am free of any carnal
sin with M.S. first or last, and know not
whether she is man or woman but by seeing of her
face which to be of truth I subscribe with my
hand that it may be kept in record as a stand-
ing witness against me if it be not the truth."
The judicatories had such a high opinion of the value of the oath that the Presbytery of Kirkcudbright hesitated to proceed with the case of Alexander Gordon who had on his own given an oath in the Kirk of Selkirk. The synod advised "that the said presbytery should not stop in their procedure upon the account of that nitroeous oath, but rather proceed to the sentence of higher excommunication".

Often the judicatories required the oath of a suspect in order to settle a process. This was true in the formation cases of John Wilkie, writer, in Edinburgh,\(^2\) the Rev. Melzies suspected with Isobell Currie and Janet Johnston, his servants,\(^3\) Robert Strachen accused by a woman in childbirth,\(^4\) and Alexander Mill, Episcopal minister at Benholme;\(^5\) also in the adultery cases of Hugh Donaldson,\(^6\) Gabriell Alison,\(^7\) Sir Robert Grierson,\(^8\) and John Kisko;\(^9\) and in the case of William Stevenson, saltman in Aberbrothock, who was accused of incest with "his wife's niece".\(^10\)

And then on the other hand, there were times when the suspected delinquents requested the privilege of the oath. When William Bell was accused of adultery with Lady Rolmain the synod directed the Presbytery of Lochmaben

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\(^1\)Synod of Galloway, 17 April 1711. MS.
\(^2\)Synod of Lothian and Tweedale, 7 May 1696. MS.
\(^3\)Synod of Dumfries, 15 October 1696. MS.
\(^4\)Presbytery of Edinburgh, 27 August 1701. MS.
\(^5\)Synod of Angus and Mearns, 22 April 1703. MS.
\(^6\)Synod of Galloway, 20 March 1694. MS.
\(^7\)Ibid., 16 April 1701.
\(^8\)Synod of Dumfries, 4 July 1704. MS.
\(^9\)Synod of Galloway, 20 October 1714. MS.
\(^10\)Synod of Angus and Mearns, 22 April 1703. MS.
to tender the oath of purgation to him as he had re-
quested. The Synod of Lothian and Tweedale agreed
that William Buchanan should be allowed to give his oath
as he had offered. "The woman accusing him for uncleanness
stout out any proven presumptions thereof and the woman
also not being Bond face," The Fife Presbytery were
advised to deal further with Alexander Jack's conscience
as to his suspected fornication and not to hastily admit
him to his oath as he desired.

The judicatories did not always approve the tendering of
the oath to an offender. This was the case when it was
believed that the oath would not effectively remove the
scandal. James Neilson of Colmonell was denied the oath of
purgation, by the Assembly's Commission.

The said James in his youth, was under the
scandal of fornication, and admitted to purge
himself thereof by his oath, and that likewise
he took into his house after he was in a married
state a woman with whom he was convicted of
guilt formerly, and moreover that she was kept
in his house, after his being discharged by the
session to do so, and that the Session of Inch
had declared, that his oath of purgation would
not remove the scandal of adultery with the
said Janet McBrude, she having fallen with child
when in his house, and after he was prohibite
to entertain her there.

James Cockburn of Linlithgow alleged to be guilty of
adultery, offered to purge himself by oath from the scandal
after one of the witnesses, who had declared that he saw

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1 Synod of Dumfries, 9 October 1695. MS.
2 Synod of Lothian and Tweedale, 9 May 1706. MS.
3 Synod of Angus and Kincardine, 16 April 1718. MS.
4 Records of Commission of the General Assembly,
   17 May 1716. MS.
Cockburn, in the act of adultery, had died. "The synod taking yis affair into considerations judged it not safe for ye presbytery to take yt mens oath," 1 A good example of the seriousness with which congregations took oaths and of the refusal to administer an oath when the scandal would not be removed, is found in the records of Kelton Parish.

The minister reporting that when he called William Black and Robert Black composed before the congregation this day and professed their readiness to purge themselves by their oath of the alleged scandal of theft, and that after he had spoken to them with relation to the nature of an oath and the danger of false swearing and showed how the Lord in a particular manner hath in all ages manifested his displeasure against this sin of false swearing and read the oath to the parties very many of the congregation went out and when he came to desire them to lift up their hands to take the oath which they did many more rushed out of the kirk and many of those who remained did with bitterly whereas they desired and did not administrate the oath to them. The session taking this report to their serious consideration did approve of the minister and are of the opinion that their purging of themselves would have been so far from removing the scandal that they can do more in this affair therefore they resolved to proceed no farther but to leave the same to the determinate of providence. 2

Wodrow in writing to his wife in 1711 states the opinion of the "late Advocate" that the oath of purgation as a part of the process is in the judicatories' hands and can not be claimed by the party. 3 We have already seen, however, that suspected parties were allowed to claim the benefits

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1 Synod of Lothian and Tweedale, 4 November 1703. MS.
2 Kelton, 8 October 1721, MS.
3 McCrie, The Wodrow Correspondence, Volume I. Page 237.
of the oath. On the other hand there were those who refused to take the oath. John Barclay told the Synod of Fife that his reason for refusal was "the repeated impreca-
cations and curses which are found in it over and over again". George Wright had offered to take his oath, purging himself of adultery, before the presbytery. After reading it he changed his mind, once he started to take it in the congregation but quit halfway through it. He told the synod of Herse and Teviotdale that he still refused to take it, and they passed the sentence of lesser excommunication against him. Of course there were oc-
casions when the higher judicatures decided that an oath was not necessary to establish innocence. When Michael Anderson was able to present a properly attested affidavit from Agnes Leishman "declaring upon oath that she never had any child ... nor any carnal dealing with him", the General Assembly discharged the presbytery from pressing for his "oath upon the saids alleged presumptions of guilt or to compound him for refusing the same". The synod of Lumfrics decided in favour of a committee of physicians and skilled women to decide the guilt or innocence of Samuel Clerk. His wife had given birth to a child a month and three days before her time, which was not surprising as she had been "trampled on by the

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1Synod of Fife, 2 October 1781, MS.
2Synod of Herse and Teviotdale, 22 October 1729, MS.
3Registers of Acts of the General Assembly, 12 April 1708, MS.
boasts in the fold two days before".\textsuperscript{1}

The most common form of censure employed by the judicators of the church was the rebuke. It was used in almost all cases, but could be administered in different ways. It could be done privately by an elder or minister at the home of the delinquent.\textsuperscript{2} A rebuke administered in the presence of the Kirk-session was also considered to be private. If the scandals were of a serious nature or if they had been aggravated by circumstances, the rebukes were delivered in face of the congregation.

The sentence of lesser excommunication meant suspension from the sacrament of the Lord's Supper. The lesser excommunication followed a rebuke and was done with the presbytery's approval.\textsuperscript{3} It was used to indicate that the offence was particularly scandalous and that the offender could not be accepted as a worthy communicant until proof was given of penitence and a reformed life.

The rules governing the censure of the greater excommunication are detailed in chapter eight of the Form of Process. It was to be used only where there had been a manifest contumacy, an obstinate continuance in scandal, or a particularly atrocious scandal. It was not to be used

\textsuperscript{1}Synod of Dumfries, 15 May 1707, MS.
\textsuperscript{2}Corridon, 29 June 1692, MS.
\textsuperscript{3}Kirkinner, 16 October 1709, MS.
\textsuperscript{4}Cumnock, Old, 13 February 1715, MS.
\textsuperscript{5}Storrs, The Church of Scotland, Volume V, Pages 501-502.
In contentious cases if the scandal were imputed, or if the scandal were of a minor nature, all notorious processes were to go to the presbytery, who was to investigate the case, whether or not the delinquent answered its citations. After which, the minister of the local congregation was to inform his people of the state of the process and of the presbytery's intention to proceed to the higher censure. After three such admonitions, with the presbytery having met between each, the pastor was to proceed to public prayers on three occasions for the offender, the presbytery again meeting between each occasion, if the scandalous person remained impenitent the presbytery was to proceed to the sentencing. On the day of the sentencing the minister was to preach on the nature, use and end of church censures; to read the whole state of the process, and to pray for the offender's repentance; then to pronounce the excommunication, shutting the person out from the communion of the church, barring him from its privileges and delivering him over to Satan. Then the people were to be warned to shun all unnecessary converse with the excommunicated person. If at sometime during the service the offender should declare his penitence, then the minister could delay the censure at his own discretion. It was also noted that it might be necessary to obtain the assistance of the civil power.

In 1696 the Presbytery of Inverary took such a course,
Having found the accused

legallic guilty of the horrid sin of blasphemy
by the deposition of four habilc witnesses,
and that they gave him respite to this presby-
terie to see if he would repent and submit to
discipline and finding that he seems to be hadned
in his sin they have thence nomine contra-
dicote of all prt and haveing Mr. Gordons and Mr.
Pat Campbell's consent by writ after inviteing
the name of God, in the name of the Lord Jesus
Christ delivered the same Charles M'Ewen to
Satan and excommunicate him ...

When James Pollock continued in his drinking and swearing
after having been placed under the sentence of lesser ex-
communication for those scandals, the presbytery author-
ized the Kirk-session of Blantyre to initiate a process of
the greater excommunication against him. The Presbytery
of Stranraer

being moved with zeal for the glory of God and
the edification of soules & considering that the
Lord Jesus Christ the onely head & lawgiver of
his church hath commanded and appointed such
scandalous & contumacious persons to be cast
out of the church & communion of Christians and
to be reputed as heathens and publicans,

took the same action against a similar offender in
1720 the Commission considered the possibility of in-
timating "every sentence of greater excommunication in all
the churches of Scotland". Sixteen years earlier the
Assembly had suggested that if "persons do continue to
converse unnecessarily and familiarly with such as ly
under" excommunication, then the sentence should be inti-

1Presbytery of Inverary, 5 May 1696. MS.
2Presbytery of Hamilton, 27 December 1697. MS.
3Presbytery of Stranraer, 6 April 1709. MS.
4Records of Commission of the General Assembly,
7 August 1720. MS.
mated throughout the presbytery. If the people persisted in speaking with the scandalous person the sentence was to be announced in all the churches within the bounds of the synod. If they still persisted in the habit, then, intimation was to be made from all the pulpits of the kingdom. At these intimations the Assembly appointed ministers "to hold forth the sad state & condition of excommunicat persons and inform the people how to carry towards them". 1

In other circumstances the intimating of private rebukes for the edification of the congregation was a normal practice. The Kelton Kirk-session intimated their rebuke of Elspet Pawlin and her son for lying together. 2 The Kirk-session of Cumnock, Old Church intimated to the congregation that they had given a rebuke for an irregular marriage. 3 Public announcement of private admonitions for breach of the Sabbath were made by Currie Session for the use of the words "where" and "witches get"; 4 by Carstairs Session for bringing in barley; 5 and by Inverarity Session for building a coffin. 6 When the Presbytery of Brechin found an estate factor guilty of conducting business on the Sabbath, they first voted as to

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1 Register of Acts of the General Assembly, 27 March 1704. MS.
2 Kelton, 7 January 1715. MS.
3 Cumnock, Old, 11 March 1711. MS.
4 Currie, 31 May 1694. MS.
5 Carstairs, 16 November 1699. MS.
6 Inverarity, 27 November 1706. MS.
whether he should be rebuked before the congregation or 
the presbytery. It was carried that he should be rebuked by 
the presbytery, but a second vote ruled that the rebuke 
was to be intimated to the congregation of Savor. 1

There was another instance when an announcement of a 
judicatory's action was made to the congregation. When 
guilt for a scandal was neither admitted nor proven, but 
still thought to be likely, the court of the church could 
sist the process and have a "true narrative" of the case inti-
tated to the congregation. This narrative would contain 
all the information as to the state of the process. Follow-
ing are some examples from the higher judicatories of the 
church. When a scandal involving Thomas Grant in a case 
of suspected fornication was found not proven, the 
General Assembly approved the reading of a narrative to the 
congregation at the Congregate. 2 The Synod of Lothian 
and Tweeddale recorded that

the committee appointed to meet at the Presbytery 
of Dunbar anent the affair of Agnes Burnside 
reported they had done so according to appoint-
ment and that considering the depositions of 
witnesses they find pregnant presumptions of 
guilt and give it as their opinion that the 
synod advise the presbytery in this case to 
follow the method laid down in the form of Process 
that is, that they read the whole process before 
the congregations where the sd Agnes does reside 
and proceed no further in that matter till God 
in his providence give further light thereon. 3

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1 Presbytery of Breslin, 19 November 1718. MS.
2 Registers of Acts of the General Assembly, 
16 May 1727. MS.
3 Synod of Lothian and Tweeddale, 5 November 1707. MS.
When the Edinburgh Presbytery was unable to decide in the case of alleged adultery involving James Napier, they instructed that a narrative was to be read.  

When an offender was sentenced under the discipline to a public appearance, he was commonly required to stand at the repentance stool, or the "pillar" as it was sometimes called. The place of repentance is not often mentioned in the records and we find a reference to the stool in only four of the kirk-session manuscripts studied. In 1704 the Kirk-session of Logie authorized the use of "four deals to be a repentance stool", and the expense incurred for "an spar thereto", nails and painting. The stool seems to have been marked in some way, for in the minutes of Logie Church in 1707 is a charge "for lettering of the black stool". Inverness session "finding the town to be pastored with so many lous and debaucht persons" ordered a stool to be built "near the bigland church".

In some churches, such as Kilmarrock, 1700-4, there seems to have been both a 'pillory' and a 'forme before the pulpit'; and penitents had either to stand 'naich' on the former, or were allowed to stand 'laich' at the latter, according to the measure of their transgressions.

The stool was of a good size in some parishes, for at Banff

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1 Presbytery of Edinburgh, 22 September 1703. MS.
2 At private rebukes the offenders were often required to repent on their knees.
3 Currie, 17 April 1696. MS.
4 Menor, 23 November 1701. MS.
7 Story, The Church of Scotland, Volume V. Page 525.
in 1692, four persons were on the pillory at one time. And Kilmarrock "enacted that persons guilty of fornication should both, the man and woman, appear in the pillory together in time coming". This was in order to clear up a backlog of unpurgable scandalous persons.

Public disciplining was carried out at other places also. Ceres Session appointed Thomas Bell to appear for six months at both the door and on the stool for his quadruple in fornication. Alexander Herquess of Aberlady stood in both places for his scandalous behaviour. The same Kirk session sentenced three men, who broke the Sabbath by drunkenness, to stand at the door from the second bell and then to stand at the end of the elder's table during the service. A couple guilty of an irregular marriage were sentenced by the Session of Galston to stand "in a place before the pulpit: not a public place, but a place just a little less public". In 1698 the Presbytery of Ayr rejected a request from a schoolmaster to be permitted to stand at his own seat when undergoing admonition. A well-to-do young man in a West of Scotland town was granted that privilege, his father declaring that he would give "five bolls of meal for the use of the poor

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3Ceres, 20 September 1696. Ms.
4Aberlady, 20 May 1705. Ms.
5Ibid., 10 October 1701. Ms.
7Ibid., page 289.
on condition the session would allow his son to stand in
his own seat, and absolve his with one day's appearance. 1
Two men of Lochcal-Cushnie were told that they would
have to satisfy, for their fighting on the Sabbath, on "the
pillars" or if they paid in twenty shillings they could
stand at their "own desks". 2 A laird in Mauchline Parish
"refused to goe to the pillar, pretenting that he
had made a promise against it". After several months of
contumacy the session handed his case over to the civil
magistrate. 3

Delinquents commonly had to appear in sackcloth for the
more heinous scandals. 4 Apparently the cost, in some
instances, was to be met by the offender. The West Church
of Edinburgh ordered a cobbler to "buy one sack gown, to
stand at the door of the kirk, and to appear before the
congregation". 5 In most cases the "gown" was the property
of the judiciary. "In 1693 Kirkmichael, Ayrshire,
ordered one of a special fashion 'like unto that which
they have in Straitown,' to be made." 6 Inverary Kirk-
session in 1703 did "cause make a sack-cloth for delin-
quents" to be used in a very aggravated scandal of immor-
ality on the part of the schoolmaster. 7 The Stranger

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1 Story, The Church of Scotland, Volume V. Page 542.
2 Lochcal-Cushnie, 14 June 1717. MS.
4 However, sackcloth is specifically mentioned in only
fifteen instances in the Kirk-session and presbytery
minutes examined.
Presbytery ordered the congregation of Ballantrae to provide "saccloth" so an offender could "conspair wt the ordinary habit of adultery". ¹

There is not much mention of corporal punishment in the registers of the church courts except in general terms of reference as when a delinquent was given to the civil magistrate to "punish corporally". Two means of physical punishment are recorded.

The Lesmahagow Kirk Session recommends (in 1697) the Baillie 'to Cause fix a pair of jougs at the kirk door that he may punish corporally those who are not able to pay fines', the offence under consideration at the moment being Sunday sheep-clipping.²

The "jougs" were also used against cursers by South Leith Kirk-session,³ and by Canisbay against Sabbath breakers.⁴ Kilconquhar Kirk-session had Helen Millar a fornicatrix "put in ye belt" for obstinancy.⁵ Whipping or scourging were also employed. They were very commonly used by the Inverness Kirk-session: 15 April 1690, "bring her after session to the hangman to be banished from the town and parishen with certifict'n iff she shall be seen here that she shall be scourged:" 29 July 1690, "ordain them to be delievered in the hands of the hangman, and to be brought through the streets, and then scourged and banished from this, never to be seen here under pain of being

¹Presbytery of Stranraer, 1 September 1703. MS.
³Robertson and Swan, South Leith Records. Page 8.
⁴Canisbay, 19 November 1710. MS.
⁵Kilconquhar, 5 May 1706. MS.
were severely used;" 5 April 1692, "ordained her to be carried to prison, and immediately the session dissolved to be brought to the cross and whypt by the hands of the hangman, and banished;" 10 February 1769, "if she payed not the sd fyne imposed against the next session day, the sd baillie ordered her to be whypt and banished;" and in 1719, "did apply to the magistrates that there might be a cockstool erected at the cross for the punishing of those who had "nothing wherewith to pay their penalty". 1 Edin-

burgh Presbytery ordered the whipping of Janet Traile for adultery. 2 Canisbay Kirk-session threatened a scourging in the case of John Grott a Sabbath breaker. 3 Carriden Session had a lad publicly scourged for calling a woman a "collies pad", 4 and a boy from Culross "was dealt with and sharply rebuked for sundry faults, which he could not deny, and was referred to the civil magistrates for causing whip him". 5

The delinquents were expected to be on their best be-

haviour during their public appearances. The Kirk-
session of Elgin

enacted that the delinquents upon the Lord's day should enter the public place of repentance immediately after the ringing of the third bell and continue there untill the blessing be said and the women to have no plaids about them at the time the minister speaks to them. 6

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2 Presbytery of Edinburgh, 29 November 1764. MS.
3 Canisbay, 13 April 1707. MS.
4 Carriden, 12 April 1698. MS.
5 Beveridge, Culross and Tulliallan, Volume II. Page 31.
When William Reid's wife refused to "remove the plaid from her face so as that she might be known", the Presbytery of Dunfermline rebuked her for her contumacy.¹

There were occasions when the instituting of a process did not end in an appearance for sentencing. For example, there were those cases in which delinquents were considered incapable of satisfying discipline. In 1700 an Oldhamstocks woman was found to be "stupidly ignorant and scarce able to learn", and her public appearances were stopped until "some pains might be taken to instruct her".² We find the following words in the records of Kilmaurnock Kirk-session: "A list of persons unpurged of scandal was read, after which, those of whom the elders reports as being anyway capable of discipline were appointed to be cited against the next session".³ The Presbytery of Aberdeen ordered that Margaret Black, a fornicatrix, was to remain under scandal as long as she was "ignorant".⁴

Another occasion when there was not any sentencing by the lesser judicatures was when an appeal was made. The rules for such a procedure are to be found in chapter five of the Form of Process of 1707.⁵ Anyone who felt

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¹Presbytery of Dunfermline, 13 February 1706. MS.
³Lister, The Church of Scotland, Volume V. Page 521.
⁴Presbytery of Aberdeen, 31 December 1707. MS.
⁵Acts of Assembly, 1694.

Previous to the Form of 1707, the Assembly passed the following act. (Continued on next page)
="lesed" by the court could appeal to a higher judicatory

The General Assembly of this National Church, for preventing some mistakes, that have happened about Appeals; Doth hereby Appoint, that any Appeals made in writing under the Appellants Hand with the Reasons thereof, in presence of the Judicatory Appeal'd from, shall be Extracted by the Appellant, in due Forme, from the Records of the said Judicatory, and produced to the Judicatory appeal'd to at the discussing thereof. With a Citation of the Parties Defenders therein, either upon note if they be present when the Appeal is made, or separate Citation if they be absent. And because by the former practice, parties not instantly giving in their subscribed Appeals at the time of the Sentence, were allowed verbally to Appeal, and protest for Liberty to give in their subscribed Appeals with the Reasons thereof, within the space of Ten Days thereafter, And because that before the said space the said Judicatory may happen to be up; Therefore it is hereby appointed and Ordained, That all parties, who have Protested as aforesaid, shall within the said space of Ten Days, give in their said subscribed Appeals with the Reasons thereof to the Clerk of the Judicatory Appeal'd from, Notwithstanding it may be up before that time: And likewise that they shall within the same Ten Days, Intimat their said Appeal with the Reasons of the same, to the Moderator of the said Judicatory, and leave an Authentick Copy thereof with him. Which Appeals and Reasons are hereby allowed to be registrat by the Clerk, and Summons be directed by him, for Citing the Parties Defenders thereupon. And extracts thereof with the Citation aforesaid, and appointed to be produced by the Appellants at discussing, to the Judicatory Appeal'd to. And the General Assembly hereby Appoints the Clerk, to Intimate to the said Judicatory, at their first Meeting thereafter, that such Appeals were given to him in the Intervals of their Meetings. And likewise the General Assembly hereby Appoints, that all Defenders in Appeals, who insist for discussing thereof, shall produce Extracts of the said Appeals and Reasons to the Judicatory Appeal'd to. And lastly, the General Assembly hereby Declares, that any Appeals or insistings thereupon otherways made shall be Rejected.
if they made such a declaration at the sentencing. The suspect then had ten days to hand in a written appeal. If the cause were one that required final determination by the presbytery in any case, then they were to proceed immediately. If it were a cause belonging to the jurisdiction of the kirk-session and there seemed to be no incompetency on their part, the presbytery was to refuse the appeal. If the appellant seemed to have been malicious or litigious, then, he was to be censured, even if the appeal were heard, a guilty appellant was to receive a rebuke before the parish. On the other hand if the appeal were accepted, the presbytery was then to take steps to vindicate the appellant's innocence and at the same time not weaken the hand of the lesser court. It was acknowledged that in some instances it might be necessary to admonish the minister and elders. Execution of a sentence was to be "sisted" until an appeal was decided.

In this fashion some such cases finally came under the jurisdiction of the Assembly and its Commission. During the year 1703, the Commission considered the appeal of Andrew Carlyle on twelve different occasions. He was granted permission to have old sickly witnesses questioned away from Edinburgh and to hand in a list of supposed malicious witnesses. A committee heard evidence that one such witness, Janet Barzart, said "she would be

\[\text{Records of Commission of the General Assembly, 10 June 1703, MS.}\]
Mr. Marlane's enemie, but at the same time she declared she had a love for his soule and made no malice against him". The committee found that this statement could not be substantiated by more than one witness and, as it was "testis singularis", Haggart's original statements were allowed to stand.¹ On 7 September the Commission voted to approve the previous sentence against Marlane.²

Henry Robins, a deposed minister, was so insistent in his appeals that in 1720 the General Assembly did "discharge his furder application on that head".³ In 1722 he asked the Assembly "to remove the prohibition or bar
... which seem'd to deprive him of a common right and privilege". The Assembly rejected the appeal and a similar one the following year as having no warrant.⁴ Another deposed minister also applied to the 1722 Assembly. Alexander Leask of Glott complained that when he appealed to the Synod of Aberdeen from the sentence of the Presbytery of Alford, "they found very little proven of what the presbytery had laid to his charge, and yet confirmed the presbyterie's sentence". His appeal was denied by the Assembly, but they noted his penitent spirit and thought fit to empower "the foresaid Synod of Aberdeen to repone him to the

¹Records of Commission of the General Assembly,
  3 September 1703. MS.
²Ibid., 7 September 1703.
³Registers of Acts of the General Assembly,
  16 May 1720. MS.
⁴Ibid., 22 May 1722 & 26 May 1723.
Office and exercise of the holy ministry", 1 still another minister made an appeal to the Assembly in 1724, concerning a process which was about to commence. John McCormack was concerned by the Presbytery of St. Andrews' decision to meet at Easter Anstruther to hear his case. The Assembly allowed the said presbytery to have their first meeting about this matter at Easter Anstruther but appointed them to keep all their after meetings about the same at St. Andrews their ordinary presbytery seat.2

Sometimes the process was interrupted by a lack of cooperation on the part of the delinquent. In an attempt to escape the discipline of the kirk many men fled from the parish. Alexander Adam, a fornicator, fled from the Parish of Auchterderran;3 Elspeth Ingraham, a suspected adulteress, fled from the bounds of Haddington Presbytery;4 and Jeannet Lindsay, a convicted incestuous person, fled from the discipline of the Presbytery of Paisley.5

Such "fugitives" were usually caught when they failed to produce a "testificate" as required. When the ministers of South Leith and Cannongate carried out the search for "one Alexr Allan soildier in the Foot guards who was fugitive from the discipline of the Parish of Carriden", this was probably the method employed.6

1 Registers of Acts of the General Assembly, 17 May 1722. MS.
2 Ibid., 20 May 1724.
3 Auchterderran, 2 January 1704. MS.
4 Presbytery of Haddington, 10 October 1706. MS.
5 Presbytery of Paisley, 27 August 1701. MS.
6 Synod of Lothian and Tweedside, 11 April 1710. MS.
On other occasions processes were said because of the offenders lack of repentance. Maria McGowill of Inverness was said "not to be weighted enough for her sin",¹ and a young married couple of Machlin were ordered to "ly under the rebuke until their walk appear more suitable after sin".² The Presbytery of Edinburgh asked the synod what was to be done with scandalous persons who were impenitent. The synod gave it as their advice, that if the appear no signs of repentance, that yet the parties may be brought to a public reproof before the congregation, and if thereafter no signs of repentance appear, they are not to be absolved from church censure till such pains be taken on them and some fruit yre appear yron.³

There were those delinquents, of course, who interrupted the smooth working of discipline simply by ignoring the citation of the judicatory. Forty-nine such cases of continuacy appear in the presbytery manuscripts examined. Further evidence that this was a problem for the courts of the church appears in the records of the Synod of Lothian and Tweedale as early as 1699. In that year they considered what should be done with those who ignored the first two summons, appeared at the third to avoid continuacy, and then began to "intermitt their appearances" to every third time. The question, referred to the Assembly, was whether three summons were necessary in such a case.⁴ The Synod of Angus

²Sagar, Old Church Life in Scotland. Page 294.
³Synod of Lothian and Tweedale, 9 November 1699. MS.
⁴ibid., 21 October 1691. MS.
and Mearns ruled that contumacious persons were to be prayed for in all the churches of each presbytery twice a year on the Sunday before synod; and in the parish where they resided and adjacent parishes on the Sunday prior to Communion. And as late as 1730 Inverness Kirk-session minuted "that a great number of Delinquents had been Again and Again Often summon'd, Who Notwithstanding had not hitherto Compeared". All of the judicatories had to deal with cases of contumacy. Auchterouskalty Session tried to discipline James Kantoule who not only refused to come to the session but hindered his wife from so doing. Sessnuir passed the lesser excommunication against James Carneg for contumacy in failing to appear for his fornication. After hearing a long history of the contumacy of the fornicatrix, Mary Rae, the Paisley Presbytery excommunicated her. James McCoal submitted to the Presbytery of Pencont after being contumacious to a kirk-session's sentence for breach of the National Fast, fornication was the scandal for which John Couper refused to be discipline. The Synod of Fife advised the presbytery to "proceed to the sentence of lesser excommunication if he continued in his contumacy; and to apply the civil magistrat for corporal punishment". And when the Lord of

1Synod of Angus and Mearns, 19 April 1721. MS.
3Auchtousky, 6 November 1700. MS.
4Sessnuir, 19 November 1707. MS.
5Presbytery of Paisley, 6 December 1709. MS.
6Presbytery of Pencont, 29 December 1703. MS.
7Synod of Fife, 25 September 1700. MS.
Globe was contumacious to the discipline of the church, the case reached the Assembly's Commission. 1

In concluding this general discussion on the process before the judicatures, we note the final stage of a process which was absolution. This procedure is explained in the ninth chapter of the Form of Process, 1707. If signs of repentance appeared in an excommunicated person along with a desire to live a reformed life, he could be absolved if he applied to the presbytery. He was to appear before the congregation and confess his sin and his intention to live a Christian life. He was to appear, as often as was necessary, for edification and the congregation were to praise God for his repentance. The minister was then to pray according to the outline given in the Form, wherein it was stated that the church was satisfied and that the delinquent was re-admitted into the communion and ordinances of the church. Afterwards the minister, elders and members, welcomed the penitent whose absolution was intimated in all the churches where his excommunication had been intimated.

The term "absolved" was also used to indicate anyone who had satisfied discipline, whether they had been under a sentence of excommunication or not. It was also used to indicate whether or not a person was innocent. The following cases illustrate the various ways in which the term was used. James Carnecorse of Northwick was found guilty

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of incest on 22 July 1694 and after appearing before the congregation for a number of Sundays, he was absolved on 1 March 1696. 1 James Doan was absolved from the scandal of adultery six weeks after he had been cited to the Crook, Old Kirk-session when it was found that he was being slandered. 2 John Mein and Marjory Mitchel were absolved from fornication by the Monmain session on their promise to marry. 3 The Synod of Moray and Teviotdale absolved George Shiel of adultery with Isabel Fiddess when she failed to appear against him, there being no other proof. 4 On the 16th of May 1709 the Presbytery of Stranraer reported to the Synod that Alexander McTougall of Garthland had appeared for sentencing with the lesser excommunication but had not worn sackcloth. The Synod appointed a committee "to confer with him and to deal with his conscience in order to bring him to an sense of the evil of his sin".

At the Synod the following year it was reported that he seemed to be touched with sorrow for his sin, as the brethren that rebuked him reported to them, and more over that as an evidence of his repentance and reformation he had set up the worship of God in his family, and that the whole of his conversation is now regular.

A committee conferred with him and ordered the presbytery to release him from the sentence of the lesser excommunication and absolve him. 5 It is interesting to note that

1Borthwick, 22 July 1694 & 1 March 1696. Ms.
2Cummock, Old, 13 February 1715 & 1 May 1715. Ms.
3Monmain, 1 May 1698. Ms.
4Synod of Moray and Teviotdale, 17 April 1728. Ms.
5Synod of Galloway, 16 May 1709 & 19 April 1710. Ms.
Kilmarnock Session ruled "that before any person should be absolved from scandal, intimation thereof should be made to the congregation, that if anything to object", they could inform the session.¹

Due to the diligence of elders, and through the use of summons, witnesses, written libels, etc., the ecclesiastical authorities carried on their process in an orderly manner in the best legal tradition. Through the use of the testificate, the communion token, and baptism; the kirk easily kept track of its members. The sternness of the oath of purgation and the severity of the penalties for scandal resulted in the majority of the population's acquiescence to the authority and discipline of the church.

In the next chapter we will discuss how the church used the above methods to deal with some of the lesser scandals.

¹Story, The Church of Scotland, Volume V, Page 52.
CHAPTER FIVE

The Lesser Scandals

Chapter three of the *Form of Process* concerns itself with the discipline to be used against swearers and cursers, it also deals with "profaners of the Lord's Day, drunkards, and other scandals of that nature" which were to be proceeded against in the same manner.

The initial section makes provision for the first offence to be handled completely within the framework of the local congregation. If the circumstances of the scandal were evident to all; then the lesser excommunication, suspension from the benefit of the sealing ordinances, and a congregational rebuke could be administered by the kirk-session without any further recourse to a higher judicatory.

This represents a marked improvement on the pre-1707 practice of the church. Due to a lack of elementary rules governing processes, many simple cases traveled the ecclesiastical ladder through presbytery and synod to the General Assembly.

The presbytery in particular was burdened with actions which could easily have been dealt with in the parish courts. For example:
There was a reference from the Kirksession of Kirkcaldy to the presbytery against Janet Hegle in the parish of Kirkcaldy, for saying in presence of the magistrates, if she got not amends of those persons, who, she pretended had wronged her, that she would go to the civil for amends as the said reference at length bears, which being read and the said Janet being cited to come up before the presbytery this day, was called, appeared. The said held out to her, her guilt, she acknowledged that she had the foresaid expression, she removed. The presbytery considering this affair do recite to the said Kirksession that she be rebuked publicly in face of the congregation of Kirkcaldy & in the meantime recommend her to the civil magistrat for further punishment.

Lucas Philip being summoned agt this day called, appeared, the said held out to her the heinousness of yt scandal she was lying under viz. swearing & scolding at her neighbours (the same being sufficiently proven) was asked if she was willing to repair to the Kirksession of Abotshall & yr undergo the censure they would inflict upon her? she seemingly penitent declared her willingness as above required.

The Presbytery of Garioch ordered the sessional rebuke of one Isobell Low for cursing the laird's brother who had evicted her from her house. They noted at the same time that he had done much to provoke her rash words.

There were however, occasions when the discipline was best noted out by the presbytery as in the case of Anne Laurie. since her offence was in "cursing and abusing her minister", it was evidently thought wise ("might not be to edification") not to give Mr. Pollock an opportunity to even the score.

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1 Presbytery of Kirkcaldy, 21 August 1701. Ms.
2 Ibid., 27 October 1696.
3 Presbytery of Garioch, 2 March 1704. Ms.
4 Presbytery of Penpont, 11 December 1705. Ms.
The civil power also expressed its opposition to cursing.

The Magistrate having fined two persons for cursing twenty shill., Scott, it was ordered to be given to Hume Campbell, a poor, blind supplicant.¹

And the Presbytery of Aberdeen appealed for civil help in dealing with Jean Reid who had given vent to her opinion of them.²

The form did not completely remove the practice of passing the case to a higher judiciary. In 1722 John W'lig in Nether Balfedder was rebuked by Fermtoun Presbytery for having "spoke unsuitably by rash swearing" in a straightforward case that could presumably have been dealt with by the kirk-session.³ But in most instances the local judiciary began to administer the discipline of the lesser scandals after 1707.

For example, in 1705 John Anderson, tailor in Alyth, and his wife were rebuked for cursing and swearing on Wednesday last. And in September 1710 Patrick Anderson and James Henderson, members of session, had been guilty of 'contentious and unsuitable speeches upon the harvest field', and were sharply rebuked.⁴

The Session of Penninghore acted more rigidly in a case of cursing involving one of their number, suspending him

²Presbytery of Aberdeen, 2 September 1697. MS.
³"... she said, she cared not for what they did; and that she should go are she would be received, & would draw fyrve hundred with her. And, as she was Sociology, said, my face shall never be seen within your church door; & added, as she went out of door, the blood of my soul will be required at your hand, when you will be in a worse place than now you are in.
⁴Presbytery of Penninghore, 6 June 1722. MS.
If an offender failed to respond to the entreaty of the kirk-session and if the scandal continued, then the case was to be legally brought to the presbytery. This higher body seemed to be somewhat more successful in handing the delinquent. Although there were a few souls brave or fool hardy enough to defy the local kirk-session, it seems the dignity and authority of the higher judicatories awed even those with the most independent spirits. Norjory Young repented before the Presbytery of Forres. Robert Korison had thrice disregarded the citation of the Session of Glencarne but immediately appeared before the presbytery and weekly acknowledged his "sin of swearing".

If an offence continued, steps were taken to ensure that discipline was kept. In spite of the repeated assurances of repentence (from swearing, drunkenness, etc.) that the Presbytery of Inverary had received from "not Ross late Provost", they decided to set up a "safeguard". All methods to bring about the desired amendment of his way of life having failed, the sessions of Inverary were given permission to "pronounce sentence of excommunication the next Lords day immediately ensuing" his next fall in sin. This

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... confessed he wished as many curses on them that eat his grass as they eat of it, as also that he said the herd boy look'd like a brood from hell ...  
2. Presbytery of Forres, 7 April 1720. MS.  
3. Presbytery of Peppont, 3 October 1705. MS.
act was "to be intimat in ye churches of Inverary" so that all
the citizens would do their part in strengthening koss's
resolve.  

In some cases such as that of Isobell Sheinlay before the
Presbytery of Paisley, no repentence or confession was
forthcoming. Her guilty behaviour in swearing at her father
had been proven by witnesses, and so after prayer for direc-
tion "in so important and weightie an affair; They there-
after came to the state of the vote, excommunicat solemnly,
or not?" It carried in the affirmative by a unanimous vote.  
James Pollock, a blacksmith in Blantyre, had been placed
under the lesser excommunication in 1697 for his cursing.
A repeat of the offence in 1700 brought article six of the
third chapter into operation. His frequent relapse while
under the censure was deemed to be "a degree of contumacy"
and to "aggravate the crime". And in accord with the form
of Process the presbytery appointed "the kirk session of
Blantyre to raise a process against him for obstinate con-
tinuance in these sins; in order to his being laid under
the sentence" of the greater excommunication.  

The church's concern over swearing is indicated in one
of Cockburn's letters to his wife. He wrote that the com-
mittee on Overtures was considering a bill to relieve
persons of trust from having to take an oath five or
six times in one day. The idea was that they would
take it once and thereafter "one instrument ... eight suffice". 1

Imprecations were freely used and one continually met up with scandals involving them. Grisel Deeck received a public rebuke at Kelton for saying, "God forget me". 2 A Carnock woman who said, "the weckle devil be on you", also was rebuked before the congregation. 3 Others were rebuked at Auchterderran for claiming that the "curse of God would come on him", 4 and at Canisbay for saying "God would not let him thrive". 5 In addition to a public rebuke, the Kirk- session of Fintry fined imprecators forty shillings Scots. 6 it is interesting to note that in a very large majority of the cases those accused of the scandal of imprecating were women.

Actions against blasphemy were among the most notorious of the period. On the 8th of January 1697, John Turnbull wrote the following in his diary.

Thomas Aikenhead execut at gallow lee, betwixt Leith and Udvari, being convict of horrid blasphemy denying God, the Trinity, the scriptures, etc.; but recanted his errors, and seemed to dye content, as a speech left behind him bears.
This was in the time of the Assemblys sitting. 7

The execution was ordered by the Court of Justiciary in accordance with a law passed in the reign of Charles II.

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1 McCrie, The Modern Correspondence, Volume I. Page 139.
2 Kelton, 21 October 1713. MS.
3 Carnock, 22 July 1709. MS.
4 Auchterderran, 29 October 1704. MS.
5 Canisbay, 2 May 1714. MS.
6 Fintry, 15 April 1692. MS.
It is significant to note that the Assembly gathered in Edinburgh did nothing to hinder this procedure. The Presbytery of Dumfermline was satisfied with the excommunication of a blasphemer, one Adam Burt, who "uttered these execrable words if God Almighty who is above would say such a thing I would call him a dam'd lyar".  

All other abuses which fell within the confines of the third chapter of the Form (and which are described in the following pages) were judicially administered in accordance with the steps which have been outlined above.

Sabath breaking was one of the chief scandals to be dealt with according to the procedures of discipline demonstrated in chapter three of the Form. Although one is told how to discipline Sabath breakers and other offenders, at no time is the term "breach of the Lord's day" or any other term defined. As a result there were a large variety of offences which were considered as "profaning the Sabath". Due to this one again finds numerous un-involved actions being passed on from the parish to the presbytery and from there to the synod. The introduction of the Form in 1707 did not in any way impede this flow. In fact there seems to have been an increase in traffic up the ecclesiastical ladder.

As early as 1690 the Assembly had considered the problem of Sabath observance and had applied to Parliament for

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1 Presbytery of Dumfermline, 13 August 1702. SS.
2 The synods considered two cases before the passage of the Form of Process, 1707, and eleven afterwards (1690-1730).
changing any market days that happened to fall on Saturday or Sunday. ¹ This became a recurrent theme of the General Assembly and its Commission. In 1729 they were still occupied with the problem "with regard to the reference of the Synod of Horese and Teviotdale concerning the changing of the fairs" from Saturday and Sunday to other days of the week, "because of the great profanation of the Lord's day occasion'd thereby". ² The only complaint of a particular nature which presented itself to the Assembly was "the great profanation of the Lord's day by multitudes of people vaging idly upon the streets of the citie of Edinburgh, peer and shore of Leith", also "in St. Anne's yard and the Queenspark, and in diverse places of the East Kirk parish, and on the links of Leith and other places about Edinburgh, and that by persons of all ranks". ³

Slightly over half of the cases of Sabbath breach involved working. All kinds of work were prohibited. Because of the nature of the environment, many of the offences dealt with farming. "sowing his seed and by plowing and harrowing his ground"; ⁴ "drive a cow"; ⁵ "killed a sheep"; "yoke his horses"; ⁶ "reaping corn"; ⁷ "carrying loads of corn"; ⁸

¹Register of Assembly, 29 October 1690. MS.
²Records of Commission of the General Assembly, 17 March 1729. MS.
³Registers of Acts of the General Assembly, 10 April 1705. MS.
⁴Synod of Horese and Teviotdale, 27 October 1728. MS.
⁵Presbytery of Penpont, 11 October 1695. MS.
⁶Presbytery of Middelbie, 27 October 1725. MS.
⁷Presbytery of Channory, 1 August 1721. MS.
⁸Presbytery of Dams, 4 January 1704. MS.
⁹Presbytery of Penpont, 17 March 1697. MS.
"wool drying;"¹ "set up a trap;"² "causing a dog to catch a sheep;"³ "covering of his pipe stalk with a winnowing sieve;"⁴ and "carrying in silk,"⁵ were among the many scandals committed.

Fishing was also a popular way in which to break the sabbath. Many were cited because they "fished the water;"⁶ "leaving from the harbour;"⁷ and did "oblige the fishing boats to goe to sea".⁸ In Kilconquhar a penalty of forty shillings Scots was set for each person who so broke the sabbath "by assault and consent of the session and fishers".⁹

In addition to these two predominant scandals of work there were a large variety of tasks which were found to be offensive. For example at Penninghame there was "the digging of the grave".¹⁰ Aberdour Kirk-session ruled that none were to bury the dead during worship or at any time on sabbath except for emergencies. For contravening this act there was a penalty of three pounds Scots, and a public rebuke.¹¹ Strichen Session passed a similar motion.¹² Other descriptions of work that appear as blameworthy in

⁶Presbytery of Forres, 2 May 1703. MS.
⁷Presbytery of Stranraer, 8 March 1720. MS.
⁸Presbytery of Caithness, 14 June 1710. MS.
⁹Kilconquhar, 13 June 1714. MS.
¹¹Aberdour, 21 August 1698. MS.
¹²Strichen, 23 December 1709. MS.
the records are: "scoshed some clothes;"¹ "browning;"² "water that she was carrying;"³ "boiling vegetables;"⁴ "taking off boards;"⁵ "grinding too soon;"⁶ "packing up clothes;"⁷ "bake bread;"⁸ "put in the rings of a car;"⁹ "going to the mass (peats);"¹⁰ "carrying a barrel of ale;"¹¹ and "going of salt pans".¹² Those who let blood were to refrain from doing so on the sabbath except by necessity.¹³

There were also numerous breaches of the sabbath by those who indulged in drinking. To counteract this type of scandal, tavern keepers who sold liquor were to receive the same censure as the drinkers.¹⁴

The Synod of Angus and Mearns felt obliged to take action against the "vile custom and wicked practice" in the town of Montrose, of prominent persons "meeting in clubs and cavails upon the Lord's day after sermons ... and staying for a considerable time together drinking to excess".¹⁵ sitting "in the changhouse ... in the time of sermon", was a charge often brought forth.¹⁶

¹Barry, 10 June 1726. MS.
⁴McCall, History of the Parish of Mid-Gelder. Page 235.
⁵Turnbull, A South Arbroath Parish. Pages 90-91.
⁷Presbytery of Dunfermline, 26 October 1714. MS.
⁸Presbytery of Perth, 7 May 1707. MS.
⁹Presbytery of Peaple, 9 January 1706. MS.
¹⁰Presbytery of Brechin, 26 November 1704. MS.
¹¹Presbytery of Aberdeen, 19 June 1700. MS.
¹²Synod of Fife, 26 September 1704. MS.
¹³Kirkmaur, 3 February 1712. MS.
¹⁴Glasgow, 26 February 1703. MS.
¹⁵Synod of Angus and Mearns, 18 October 1711. MS.
¹⁶Presbytery of Arbroath, 2 April 1718. MS.
In some instances an even greater breach of the sabbath was to occur when the intoxicated gentlemen left the tavern. One such case happened in Edinburgh: "... some of them drew their swords, and one of them had an shearing hook in his hand, and another of them did break a glass window, and having taken a playd from a woman, throw it into the water". ¹ For that exhibition the four men underwent a rebuke from both presbytery and session. A woman had died from a similar excursion just a year previously when a drunkenly driven coach ran her down.²

Under the influence of drink men profaned the Sabbath by "vomiting in time of divine service;"³ "offering to exchange their wives with each other;"⁴ and of course, by "quarreling and fighting".⁵ Wemyss Kirk-session set a fine of forty shillings for drinking on the Sabbath.⁶

In order to keep the sabbath a day of rest in a literal sense, traveling was forbidden. The "unnecessary crossing of ferries" was a problem to kirk-session, presbytery, and synod.⁷ Of equal offence was "traveling of the stage coach".⁸ In addition to these breaches by commercial concerns there were quite naturally the offences of the

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¹ Presbytery of Edinburgh, 27 January 1706. MS.
³ Presbytery of Garioch, 31 December 1701. MS.
⁴ Presbytery of Caithness, 3 December 1701. MS.
⁶ Wemyss, 14 June 1692. MS.
⁷ Synod of Ross, 13 April 1721. MS.
⁸ Synod of Sutherland and Caithness, 17 June 1714. MS.
⁹ Synod of Lothian and Tweeddale, 2 November 1720. MS.
10 Synod of Galloway, 19 October 1708. MS.
private individual: "he had travelled from Ballantrae to Minnigaff upon the Sabbath day;"¹ "walking upon the Lord's day in time of worship;"² "he rode from Kirkwood to Eckleckachan on the sd sabbath which is three miles;"³ and "going to Atherglen fair."⁴

Fighting was thought to be particularly scandalous if it occurred on the Lord's Day. Many complaints were brought forward such as the charge against John McKenzie of Inverness that "he did beat his wife on the Sabbath day."⁵ "Two youths who had quarrelled were publicly reproved, not for quarrelling, but for profaning the Sabbath."⁶ When John Tayleur was beaten for inadvertently walking on a newly planted field, his assailant was rebuked before the presbytery and "he acknowledged judicially, that he was in the wrong, to the poor man, for beating him so on the sabbath day, and declared he was sorry for his sin in breaking the sabbath."⁷

Altogether, working, traveling, drinking, and fighting made up four-fifths of the sabbath breeches. The remaining cases were concerned with various odd occurrences that had offended the sensibilities. Absolute idleness on the Lord's Day was not condoned. The people were expected to be busy

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¹Presbytery of Struanair, 4 May 1720. MS.
²Presbytery of Ross, 18 December 1717. MS.
³Presbytery of Middlebie, 29 July 1701. MS.
⁷Presbytery of Brochin, 14 August 1716. MS.
with the things of God. In 1696 the Synod of Galloway passed an act against "beggars" on the Sabbath. Two sisters appeared before the South Leith Session for "vagabond on yo Sabbath day in yo type of sermon". This type of scandal was frequent.

But worse than idleness was lewdness. Fintry Kirk-session directed that "no marriage contracts shall be held either on Sabbath day or Saturday".

In 1705, the parents of children who had been playing Sunday knottie (shinty) appeared before the Session. They pleaded that the children were not above six years of age, and "that it was altogether against their knowledge that they were so exercised that day". They were dismissed on promising to exercise proper restraint on their offspring.

Gladsmuir Kirk-session rebuked William Begg for the "making of snowballs & throwing them". A young lady charged with dancing confessed, "but with extenuating saying it was the night before her marriage day and that she danced but to one spring". Robert Low was discharged as preacher for his "profanation of the Sabbath by playing on a corn pip".

Many breaches of the Sabbath actually occurred at the time and place of worship. Sessions such as Gladsmuir and

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1 Auchtarmucht, 13 June 1709. MS.
2 Synod of Galloway, 20 October 1696. MS.
3 Robertson, South Leith Records, Page 1.
4 Fintry, 29 March 1713. MS.
5 Macinnes, The Evangelical Movement in the Highlands of Scotland, Page 46.
6 Gladsmuir, 16 March 1701. MS.
7 Cramond, The Church of the Parish of Alves, Page 63.
8 Presbytery of Kirkcaldy, 7 April 1696. MS.
9 Gladsmuir, 25 September 1698. MS.
Corse\(^1\) had their elders search the parish during the time of worship to ascertain whether or not the parishioners were properly engaged.

The gallery in many churches was an invitation to fun as far as the children were concerned.\(^2\) The Session of Grange "had to appeal to the Baillie of Regality to pass an Act against dropping stones or throwing down dust from the common loft on the people below. The Baillie appointed that each offender be fined to one shilling Scots."\(^3\) More drastic measures were taken by the Session of Cardross who appointed their treasurer "to cause make a lash with a long handle, having several rungs" for use in keeping discipline in the loft.\(^4\)

Another great commotion was caused by fighting over the stools in the sanctuary. For this scandal, offenders were publicly rebuked by most kirk-sessions such as: Mearns,\(^5\) Fintry,\(^6\) Auchtermuchty,\(^7\) and Arbuthnott;\(^8\) while Newtyle,\(^9\) Newmachar,\(^10\) and Leochel-Cushnie\(^11\) were satisfied with a sessional rebuke.

In the church yard, too, there were disturbances.\(^12\) The Sessions of Ettrick and Crathie appointed their members to

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1 Corse, 17 July 1692, MS.
2Monifieth, 26 December 1703, MS.
5Mearns, 22 October 1695, MS.
6Fintry, 21 March 1725, MS.
7Auchtermuchty, 15 May 1709, MS.
8Arbuthnott, 14 December 1692, MS.
9Newtyle, 15 January 1719, MS.
10Newmachar, 16 April 1726, MS.
11Leochel-Cushnie, 30 January 1726, MS.
12Canisbay, 6 April 1707, MS.
take notice of all that went on in the kirk-yard during the long worship service. Members of the congregation were asked to "forbear their irregular and unnecessary going out of the church in time of divine worship".  

Sometimes the disturbance was caused by an unhappy parishioner who made use of the occasion to upbraid his minister. For this scandal John Brock of Inlackack was given a presbyterian rebuke "in sacco," while Lord Seay, the sherriff, was written to concerning Murdoch Mackenzie who "insolently interrupted ... divine worship".

Scandalous persons, who treated their discipline as a joke, also offended the sensibilities of the worshiping congregation. The mocking and contempt of Samuel Leicivier of Aberdeen, who was being punished for fornication, resulted in the presbytery asking the magistrates to give him an "exemplary punishment". While in Edinburgh, John Steenson, Alexander Inglis and George Hearvie received the lesser excommunication for their disturbance and offence. They had climbed up and down from the place of public repentence and walked to the door. They had passed a snuff box between them. It was reported of Steenson that "he took up the said James Hearvie's hatt, and did hitt a dog that was with him in the seat".

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1 Auchtermuchty, 12 June 1709. MS.  
2 Presbytery of Caithness, 4 September 1700. MS.  
3 Synod of Sutherland and Caithness, 22 June 1730. MS.  
4 Presbytery of Aberdeen, 24 February 1703. MS.  
5 Presbytery of Edinburgh, 24 March 1705. MS.
As has been demonstrated, breach of the Sabbath covered a multitude of scandals of varying offensiveness. This being the case it is not surprising that more than fourteen percent of the cases brought before the kirk-sessions whose records for this period have been examined in detail, dealt with the breaking of the Lord's day. Of course circumstances varied. For instance in Gladesmuir parish a total of eighty-seven cases were settled between the years of 1692 and 1704. Of this number thirty-five had to do with breach of the Sabbath. On the other hand, from 1699 to 1710 Kilmaurs handled fifty-nine cases only one of which was concerned with this problem.

It should be noted that breaches of Fast Days followed the same patterns as Sabbath breaking, and were disciplined in the same manner. For the purposes of convenience they have been included in the above study.

A Kilmacolm man used the fourth commandment as an excuse for breaking the Fast Day. He denied that to work on that day was a sin "and asserted that no authority could enjoin the keeping of a Fast, in regard it was commanded, Six days shalt thou labour". ¹

Scandals of drunkenness were acted on according to the disciplinary measures set forth in the third chapter of the Form of Process and accounted for eight percent of the

¹Murray, Kilmacolm. Page 109.
cases brought before the Kirk-session. Drinking, as we have previously hinted, was quite often only the introduction to a multiple offence. To prevent this, tavern keepers who sold to those who were already drunk would "be equally punished". The hours of drinking were also controlled. In 1693 Parliament declared that any persons convicted of drinking after ten o'clock at night or at anytime of day "except time of travel or refreshment" would be fined three pounds Scots or put in jail for six hours. The penalty for a second fault was five pounds or twelve hours, for the third fault - ten pounds or twenty-four hours. Any further transgression meant a jail sentence.

Here are some examples of multiple offences incurred by persons while drunk. Thomas Wilson of Penpont was to be rebuked. While drunk, he swore and used "irreverent language" to his minister. Alexander Keath, a merchant, combined "swearing and fighting" with his drinking. A more involved case came before the Session of Cramond concerning John Harvie, James Nimmo, William Temple, Janet Ker and Dorathie M'wath guilty of drinking to excess on the Lord's day, and scandalous behaviour in John Harvie's lying down in the bed with Dorathie M'wath and her mother, and anent the said Janet Ker, who was guilty, of cursing and lying.

Under the influence of drink tongues were loosed and many things were said that would have remained unspoken.

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1 Carstairs, July 1694. MS.
2 Siby, The Book of Stobo Church. Page 74.
3 Presbytery of Penpont, 11 November 1696. MS.
4 Presbytery of Wigtown, 16 April 1701. MS.
5 Presbytery of Edinburgh, 24 November 1703. MS.
if the speaker had been sober. Quite often the words spoken were to cause greater scandal than the drunkenness. Thomas Lyell had to appear before the congregation in the Tolbooth Kirk for mocking religious exercises and cursing the minister. A companion had confessed that "being in drink he doubts not but their carriage was very unbecoming and that many words were uttered by them". John Taylor was accused of being so rash as to "drink Satan's health"; while James Ross had to appear in sackcloth because he did "swear by Christ's name & by God to damn his yt he could shape Alexr Brugh better than his maker had shaper him for he is very ill favoured". The case of Bessie Glendining was in a far lighter vein, being an affair of the heart. In her drunkenness she had claimed that the village blacksmith had wrong'd her. "The presbytery gave it as their opinion she should be rebuked sessionally for her drunkenness and foolish talking." It was temperance, not abstinence which was the rule of the church. If one did not drink to excess or get involved in a public scandal by committing another offence after drinking, then it was quite permissible and indeed the custom of the day for churchmen as well as for others.

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1 Presbytery of Edinburgh, 7 December 1709. MS.
2 Presbytery of Aberdeen, 4 April 1705. MS.
3 Presbytery of Dunkeld, 31 May 1715. MS.
4 Presbytery of Edinburgh, 26 May 1708. MS.
Slander was also one of the offences disciplined according to the process set forth in chapter three of the Form of Process. It comes under the heading "other scandals of that nature". And it accounted for slightly less than one out of every twenty cases to come before the kirk-session. In parishes, such as Carriden, it actually accounted for over ten percent of the scandals.

The most common form of slander was that of simple name calling. The words, hurled in anger, were usually the result of a neighbourhood quarrel. As such, they were quickly repeated. The same is true of those spoken in drunkenness. The records of slander cases abound with the use of such words as "whore", "witch", "sandsawn", "bitch", "whoremonger", and "thief". In addition there were the more personal and original epithets, such as: "she's a mare and would take a...horse", "adulterous dog", "Cameronian pate", "extortioner", "Judas heart", "too big", and "soul-murderer".

Many slander cases had to do with the false accusation

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1 Carriden, 27 May 1691. MS.
2 Ibid., 5 November 1695.
3 Skirling, 6 May 1705. MS.
4 Manor, 30 August 1701. MS.
5 Gladsmuir, 13 October 1693. MS.
6 Kelton, 8 September 1717. MS.
7 West Calder, 11 September 1709. MS.
8 Carriden, 15 October 1693. MS.
9 Ibid., 23 December 1697.
10 Aberlady, 9 July 1693. MS.
11 Ibid., 4 December 1706. MS.
12 Kilmuns, 7 June 1704. MS.
13 Presbytery of Penpont, 27 March 1706. MS.
of guilt for a particular scandal. Richard White was rebuked
before the Manor Kirk-session for being unable to prove his
case against a woman whom he had accused of stealing his
wool. Kelton Session dealt with James Fair for accusing
a woman of wearing a "stolen napkin ... around her neck". John Galt received a sessional rebuke for falsely stating
that a neighbour "beat his wife". The Synod of Dumfries
considered the case of a woman accused of "slandering Bossie
Ferguson ... at witchcraft" in 1699. James "elsh received
a presbyterial rebuke, which was to be intimated in his
parish, for slandering a neighbour. "He said that Godfry
had played with one sister, and if he carried the other it
would be incestuous." James Leigat was laid under the
lesser excommunication for spreading a "rythme" which made
detrimental references to the Waddell family, and for con-
tinuing to act contumaciously towards the presbytery.

Many of the processes dealt with allegations of sexual
immorality. It is interesting to note the libel given in
the Session of Morton by Janet Lorimer against William
Brown and Agnes Parker. They had accused her of adultery
with Thomas Corsan, her servant. Before the Presbytery of
Penpont, William Brown admitted that his story was hearsay,
scossip which he had heard from Agnes Parker. She in turn
failed to stick to an accusation of adultery but would only

1 Manor, 15 November 1699. MS.
2 Kelton, 4 January 1719. MS.
3 Kilmaurs, 2 December 1705. MS.
4 Synod of Dumfries, 11 October 1699. MS.
5 Presbytery of Penpont, 10 September 1703. MS.
6 Presbytery of Hamilton, 29 September 1714. MS.
affirm that "she did see Thomas CORSAN above Janet Lorimer in the barn, where they were alone; but she declares that she did not see them commit wickedness", since adultery was not proven, the allegation was judged a slander and Brown and Parker were rebuked. Janet Lorimer was publicly vindicated. Apparently she was not cited for scandalous carriage because of the absence of the necessary second witness.

Mary a fornicatrix found herself to be cited for slander, in addition to fornication. This occurred when the man she had alleged to be guilty with her, absolved himself by using the oath of purgation.

When reading over the processes for slander, one immediately becomes aware that the minister and/or his elders were the subjects of vilification in a significant proportion of the cases. Some of the accusations had to do with the funds of the church. Thomas Forrest of West Calder claimed that a "cow & plaid" had been bought with session funds. A Banif man who made a similar charge received a very practical sentence. He was made to help mend "the cheeks of the door of the new church and harl the back wall of the church". Weysse heard the case of a man who said "some of the elders had drunken of the poor's money". James Mokton and Andrew Wood were found "guilty of slandering the reverend Mr. John Thurlburn minister and

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1 Presbytery of Peebpeity, 20 July 1715, MS.
2 Presbytery of Caithness, 3 October 1716, MS.
3 West Calder, 15 April 1722, MS.
the Session of Kirknewton with relation to the management of the poors money. ¹ And in 1697 the following process was heard:

Which day complaint being given in against William Law, in Udston, that he used vilifying expressions against the session for their partiality in distributing the poor's money; this he had refused to accept of what the session had sent to the relict of his half-sister (not compos mentis) because not enough as he alleged. The session desired the minister to admonish him with his first convenience.²

George Walker had to appear two Sundays in the place of repentance in the church of Cumberlrees and had the sentence of lesser excommunication passed against him for having slandered Mr. Ramsey as materialistic. He had wrongly charged his minister with:

his never speaking to any of his people seriously about their souls case, and that his business in visiting was to serve his horse at every home where it was possible for him to eat! And that he went to marry people in brydell houses, whether in the paroch or out of the paroch, and is sure to get a share of the brydal.³

However, Ramsey also was rebuked for some miscarriages.

Ministers and elders did not escape from charges of sexual misconduct. In Paisley, John Nickell swore "by God that Mr. Killar min of the gospell got all the whoores in the town with child".⁴ And the Synod of Dumfries heard the case of Mr. Taylor who was charged with being "in bed with his sister".⁵

¹Presbytery of Edinburgh, 15 May 1706, MS.
³Synod of Dumfries, 15 May 1706. MS.
⁴Presbytery of Paisley, 20 January 1714. MS.
⁵Synod of Dumfries, 10 October 1711. MS.
Then as might be expected there were the charges of injustice from those disciplined. The minister of Inverary was accused of hiring a witness to prove an adultery case, of the Session of Kenmow it was said by their bundle that they "meant to affairs ye did not belong to ye especially in ye matter of a riot betwixt him & Elizabeth Norrie." The wife of a deposed schoolmaster of Inchiman made the following observation,

It was a wonder, if the judgment of God did not pursue the session *** for what they had done to her ed husband *** that her husbands blood would be upon them *** that the session *** wer a scandal to the gospell.

Of course, there was simple name calling. Ministers and elders were labeled as: "Judge Iscariot", "perjurer", "liar", "scandalous person", "slave, hypocrite", "the minister did swear by the Eternal Jehovah", and "murder of his father".

Those who reported cases of slander were obliged to do so in writing. A deposit was also required which was returned if the slander were proven. In Northwick a pledge of half a crown was required, Inverarity settled for a shilling.

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1. Presbytery of Inverary, 23 July 1695. MS.
2. Presbytery of Kirkcauldy, 22 June 1699. MS.
3. Presbytery of Paisley, 15 August 1705. MS.
6. Presbytery of Gifford, 27 November 1720. MS.
7. Presbytery of Edinburgh, 2 August 1705. MS.
8. Carriden, 3 September 1693. MS.
9. Kilmaurs, 15 October 1699. MS.
10. Comyn, 27 April 1692. MS.
11. Northwick, 3 June 1729. MS.
12. Inverarity, 11 October 1719. MS.
When it came to fighting and the use of physical violence, the minister and/or his elders were once again a prime target for abuse. Discipline in these cases was to be noted out according to the third chapter of the Book.

The Synod of Angus and Mearns ordered a Mr. Losly to be rebuked before the congregation of Maryhill for having slapped Mr. Kerr, his minister. In 1713 the Synod of Galloway had before it the more violent case of Andrew McGready and Archibald Marshall. McGready was the Provost of Stranraer and Marshall the minister at Kirkwall. At the cross of Stranraer, the minister had been knocked down by McGready who then proceeded to beat him with his own staff until he was badly bleeding. For this assault the Provost was suspended as an elder and the case referred to the civil authorities for the appropriate punishment. Ten months later he was rebuked before the congregation at Stranraer.

Much of the fighting was of a domestic nature. Wife beating was rather common, such as in the case of William Brew who was obliged to do penance in sackcloth for abusing his spouse. John Fairney, John Campbell, John

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1 Synod of Angus and Mearns, 20 October 1705, MS.
2 Synod of Galloway, 20 October 1713, MS.
3 Presbytery of Stranraer, 11 August 1714, MS.
4 Presbytery of Nistown, 10 August 1705, MS.
5 Carriden, 16 September 1694, MS.
6 Ibid., 18 January 1698.
Thosom; 1 and James Kid, 2 all of Carriden were rebuked for striking their wives. At Kingarigh Robert Smith's fight with his wife was occasioned by his pinching his daughter's ear for telling a lie. His wife coming upon them took him by his collar and hair. They were both rebuked. 3

Discipline of children was not allowed to be indiscriminate, and a woman of Aberdour found herself being publicly rebuked for "cursing and abusing her children." 4 However, sons and daughters were seldom successful in asserting their own rights against their parents, or even of defending themselves as this case in Penninghame Parish well illustrates.

Coospeared Marjory McMurter and absolutely denies that she did anything to her father but hold his hands and the stick when he was furiously beating her. Coospeared Margaret Herron and declares that all she knows in this is that she hearing Janet McTeer cry bitterly quherupon she coming to the house she heard John McMurter say his daughter gripped to his craig. She saw him also take up a staff and lifting it to strike his daughter gripped it and held it. She declares she saw no more. Janet McTeer wife to John McMurter, coospearing denies that her daughter did put hand to her father at all. John McMurter being sick declared to the minister that his daughter Marjory put no hand to him at all but held his hand only when he in passion was going to beat her. The session considering that only Margaret Herron is a competent witness and Janet McTeer, mother to the said Marjory being the other, in regard the fact is capital if proven and it not being judged safe to take her womers oath least affection should make her wret conscience they rejoice.

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1 Carriden, 15 June 1700. MS.
2 Ibid., 4 July 1699. MS.
3 Peton, Penninghame Parish Records, Volume I, Pages 53-54.
4 Aberdour, 14 January 1700. MS.
John Napier, and George Tilloch of Carriden, and Helen Smith of Gladsmuir earned a public rebuke for their disrespectful attacks on their parents. And in at least two cases of violence within family circles, the mother-in-law was the unhappy recipient of the blows.

And then there were the usual neighbourhood brawls, quarrels, and fights. The spectacle of women fighting among themselves was common to the parishes, as was that of a man striking a girl. Isobel Forsyth of Norton was so angry with William Smith that she threw a lamb at him.

A case in Inverness gives us a good example of the crude manners of the day.

Catherine Ross, Servant to Hugh Robertson, Comares before the Session, and told that upon the third day of August last she had been basely maltreated upon the high ways betwixt the Town and the King's Mile by William Mackintosh, youngest of Girlessich, in Company with Eneas Collums & Cadie Jackson in Collinal Kirk's regiment, who had tossed and tumbled her in a most
Indecent and Barbarous manner, and declared
that the said William Machobert was the Chief
instrument and instigator of the others in the
Rude Assault made upon her, having himself
wrestled with her, and then taken the plaid and
Bonnet from Belzin Collins, when the said William
provoked to drag her into the Corn, where they
Shuffled her Cloaths, and the said William Beat
her naked body with a Drawn Sword, All which
being considered, The Session did Appoint
the said William to be Summoned to the next
Session. 1

Men, who settled their differences of opinion with each
other by the use of fists, were disciplined according to
the FORM OF Process. Two men in Fintry fought because of
"one man's beast being on ye other man's grass", 2 Chris
Thom was barred from coming to the Lord's Table for
fighting with his neighbour and refusing to be reconciled, 3
and for his fighting, John Laird of Canisbay was "threatn'd
with jog's or public whipping" if he did not reform. 4

It is interesting to note that over three-fourths of the
scandals of fighting which have been studied were further
complicated by being also a breach of the Sabbath. One is
forced to conclude that minor acts of physical immorality,
that occurred on week days, were overlooked.

One out of every fifty cases to come before the kirk-
sessions involved a miscellaneous selection of offences
from "promiscuous dancing" to theft. This odd assortment
was to be dealt with through the use of the third chapter

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2 Fintry, 26 July 1716. MS.
3 Newtyle, 9 April 1704. MS.
4 Canisbay, 19 November 1716. MS.
of the form which served as a "catch-all" for minor offences.

Henry Grey Graham says of the eighteenth century: "All
gaiety was looked on with grim condescence. Kirk-sessions
uttered anathemas against all worldly pleasures".¹ Without
painting such a black picture, it is true to say that
discipline was voted out for offences that would perhaps
be looked upon as mere jests today. When William Barnerman
offered "in droll" to sell his wife, and Peter Morison took
his seriously; the end result was a public rebuke before
the congregation and the reference of the case to the mag-
istrates.² It was wise to watch one's tongue and the
Presbytery of Dumfermline cautioned one of its members
"to guard against using scripture expressions in his
jests".³ Even the use of nick-names was an offence.⁴

Unseemly acts often offended the sessions and presbyteries.
Jean Ogilvie of Dysart "who ran in the woman race at Kirk-
cauld"⁵ and five Inverness men who "went in disguise"
received a congregational rebuke;⁶ while John Flesing and
Robert Nilson were admonished before the session for
playing cards, "and ... Nilson engaged himself to burn the
cards when he went home".⁷ Performing a mock wedding
caused John Atkine to come before the presbytery.⁸ And

³Presbytery of Dumfermline, 26 October 1709, MS.
⁴Selton, 12 June 1715, MS.
⁵Presbytery of Kirkcaldy, 26 July 1703, MS.
⁸Presbytery of Biggar, 16 January 1710, MS.
for his "ill tricks" a Wemyss man was referred to the civil magistrate. 1

In 1701 the General Assembly revived the Act of the Assembly of 1645 against "lykewakes, also the said Assembly's Act against 'Penny-Brydalls', and the Act of 1649 discharging 'promiscuous dancing'. 2 The Presbytery of Fornach put its finger on "music-plying" as the heart of the objectionable practices at lykewakes, 3 and some sessions found it necessary to apply to the civil judge to help them "to root out so prevailing a custom". The result of their application was as follows:

This day the minister read from the pulpit an Act of the Court enacting and ordaining that all fiddlers playing at any Leichwakes in time coming shall pay to James Gordon, procurator-fiscal of court, five pounds Scots for each contravention, and each person who call or entertains them in their families shall pay to the said James Gordon twenty pounds Scots for each contravention, and the said James Gordon is hereby empowered to seize any fiddler so playing at Leichwakes, and to secure ye untill they pay their fines and find caution they shall not play at Leichwakes in time coming. 4

The piper, not the fiddler, was the main music maker at the penny-weddings. They were said to "occasion that lascivious and unchristian carriage which is common only at marriage feasts". 5 Their playing was forbidden and all who contravened the act had to "forfeit their pensa". 6 The

1 Wemyss, 9 April 1693. MS.
2 Acts 21 Assembly, 1701.
4 Macpherson, Glimpses of Church and Social Life in the Highlands in Old and New Church of Scotland. Page 142.
5 Boyd, 23 March 1701. MS.
6 Crasond, The Church
wedding pledge was usually one dollar, but sessions such as that at Inverkeithing forbade penny-weddings "under the paine of eight ponds Scotts payable to the more box by parties married". Stanton Kirk-session required the engaged couple to "consigne two dollars". This was kept for the nine months from the time of the proclamation of the banns; and if they did not marry, or if they held a penny-wedding, or if promarital fornication were proven, then the money was forfeited. One presbytery tried to control the "gross abominations" of the penny-weddings by limiting the number in attendance. They ordained that

in addition to the married people, their parents, children, brothers, and sisters, and the family wherein they live, there shall not be present above four friends on either side, with their ordinary domestic servants.

All such attempts to prevent penny-weddings seem to have failed. At the January 1721 meeting of the Presbytery of Duna nine such offences were recorded. The presbytery was disciplining approximately fifty cases per year.

not overlooking the excessive drinking and the fighting that occurs at weddings; dancing was the chief scandal.

When a man died while dancing at his wedding, Henry Paton, the groom, was told that the death was a mark of "the signal displeasure of God against the form of his marriage".

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1Wemyss, J July 1695. MS.
3Stanton, 26 August 1695. MS.
4Stephen, op. cit., page 55.
5Presbytery of Duna, 3 January 1721. MS.
6Presbytery of Kirkcaldy, 26 July 1702. MS.
The Kirk-session of Weeys had six cases of "promiscuous dancing" before them in a like number of years. 1

Theft was also a concern of the judicators. Whether a man was guilty of house breaking2 or sheep stealing,3 whether he had taken the "ministers wig"4 or "bonnet from a merchant",5 whether he had run off with two sheaves of wheat,6 "one handful of meal",7 or a cheese,8 he was the concern of the Kirk-session. As also were they who passed on stolen goods,9 and he who was guilty of "purloining & embealing of his masters goods".10 The Kirk-session of Ceres not only admonished children for "stealing pise", but also their father for not having corrected them.11

Thieves were a disgrace to the parish and were often stigmatized or burnt upon the cheek as a brand of their infancy, and then banished.12 James Gillespie who had "stolen part of the money gathered ... for the use of the poor" was expelled from the College of Glasgow.13

One last scandal that was infrequently disciplined
according to the method described in chapter three of the 
*Form of Process*, was provarication. A habituall case of 
lying usually resulted in a rebuke before the session.¹

Cursing, Sabbath breaking, fighting, drunkenness, slander, 
and a variety of other scandals were all disciplined in the 
same manner. The range of cases on which the judicatories 
acted was remarkable. There seems to have been no room 
for the frivolous person in such a rigidly disciplined 
society. In the next chapter we will see how the kirk 
dealt with the sexual offences.

¹Kilmaurs, 19 November 1710, *Ms.*
CHAPTER SIX

The Sexual Scandals

Chapter four of the 

Eodem of Process \n
is entitled, "Concerning the Sin of Fornication, Adultery, and Scandalous Carriage tending thereto". The first three sections deal with scandalous actions, "lascivious and obscene", which tend toward uncleanness or which are in themselves thought to be offensive. The kirk-session is instructed to use with caution if presumptions cannot be proven and to limit the rebuke of minor offences to private admonition.

"Scandalous carriage" was the term under which four per- cent of the cases in the manuscript records studied were ministered by the kirk-sessions. For example, Alexander Bishop of Currie and a vagrant woman were rebuked and discharged from living together. Both were single persons and were warned by the kirk-session of Currie that they were courting temptation. In Glasserton William McRuff received a congregational rebuke for having conveyed a known adulteress to the port. Vispot Paulin and her son received a sessional rebuke for lying together, but it was to be publicly intimated to the congregation of Kelton, for "showing her nakedness", Agnes Wilson was not only the recipi-
ient of a sessional rebuke, but was advised to remove her-
self from the parish of Auchterarder. She was warned that
if she committed another offence the session would apply
to the magistrate to enforce her punishment.¹ For
sessional rebuke was received by Alexander Bires and Mary Hill of
Arbuthnott for "wrestling together upon a bed".² For
"scandalous carriage" a couple were rebuked on the stool at
Carriden³ and a man made to repent on his knees at Manor.⁴
At Ordiquihill the fine for this offence was but a half-
crown,⁵ while at Neumuir it was four pounds.⁶

"Scandalous carriage" was of more concern to the presby-
teries and accounted for one hundred eleven out of the
1,517 cases of sexual immorality in the manuscripts studied.
The Presbytery of Edinburg considered sixteen such cases
in a ten year period.⁷

Paisley Presbytery found it necessary to sentence Alex-
ander Eggle with the lesser excommunication. Eggle was a
married man but was writing to another as his wife.⁸
Four women within the bounds of the Presbytery of Cupar
were found guilty of scandalous carriage having danced in
a barn until past midnight with some "Highland men".⁹ And
when a group of men and women were found to be snooping

¹Auchterarder, 13 November 1699. MS.
²Arbuthnott, 29 July 1705. MS.
³Carriden, 19 March 1695. MS.
⁴Manor, 16 April 1714. MS.
⁵Ordiquihill, 28 February 1705. MS.
⁶Neumuir, 24 September 1695. MS.
⁷Presbytery of Edinburg, 1 December 1701 - 13 December 1710. MS.
⁸Presbytery of Paisley, 2 June 1703. MS.
⁹Presbytery of Cupar, 22 May 1710. MS.
together in a barn they were rebuked by Garioch Presbytery. The Presbytery of Bankhead ordered a congregational rebuke for Thomas Aiton a married man who was found drunk and "solo nudo" with Isobel Watson. Although the common penalty was a straight forward rebuke before the presbytery, at least one couple had to appear in a sackcloth before Caithness Presbytery for their scandalous carriage.

Some cases went as far as the synod. Here again, we find examples of incidents where the circumstantial evidence of sexual misconduct was sufficient but where the facts could not be proved. Before the Synod of Galloway, Andrew Blain and Caterine Blain were reported to have been seen by a young woman upon the Communion Sabbath at Ballenstree in "a very unseemly posture". The young lady's mother only saw "Andrew Blain come out of the place and the sd Caterine Blain who was still in the place sitting upon the ground and that she saw the hole which they had covered with their feet". And in a like manner Grissel Watson confessed that David Ogilvy of Peel younger had taken her from Randie under promise of marriage and that she lay in bed with him in a house about six miles from Randie in their way to the said gentleman's house, but that she knew not the name of the place and peremptorily denied that she had any carnal dealing with him, he having promised not to wrong her but to wait until her friend's consent may be had and that they never afterwaards lay together.

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1Presbytery of Garioch, 3 March 1702. MS.
2Presbytery of Bankhead, 13 February 1717. MS.
3Presbytery of Caithness, 2 April 1712. MS.
4Synod of Galloway, 22 October 1712. MS.
5Synod of Angus and Berries, 17 October 1705. MS.
soldiers were often convicted of scandalous carriage and other sexual offences. On several occasions the Inverness Kirk-session "ordained yt a pairt of yr number should goe and speake to Colonel Lasslie amst the several abuses comet by his soldiery. 1 Because of the nature of the military, these men often avoided censure and the church frequently attempted to remedy this situation. In 1711 the Commission recommended that discipline against soldiers should be carried out immediately, and if they are moved it should be carried out in the parish where they are quartered and that the outcome should be reported to the parish where the scandal was committed that it may be intimated. 2

Both the Assembly in 1715 3 and its Commission in 1724 4 applied "to the Commander in Chief of his Majestie's forces in Scotland" to oblige soldiers "to answer to church judicatures" and to suppress abuses and restrain immoralities among them.

Beyond "scandalous carriage" was the offence of fornication. Section five of the fourth chapter of the Form deals with unmarried women known to bear with child. Instructions are given to the kirk-sessions to begin

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processes against them, and to interrogate them as to who is
the father of the child. At Inverness for example:

Christian Ross, being called, compared, and
adhered to her former Confession, and that Mr.
John Polson, younger of Simmlyes, was father of
the last child she brought forth, and it was
reported that the said Mr. John Polson owned
the same. 1

To the Synod of Narse and Teviotdale, Margaret Hentie de-
clared that Mr. John Drummond, a papist, was father of her
child. 2

As could be expected, the alleged fathers did not always
cooporate. Jean Omestoun on her bed of childbirth and
afterwards before the Synod of Narse and Teviotdale accused
Lord Bread SDS of being the father of her child, which
he repeatedly denied. 3 And at Crathie

Anne Lawrence, being called compared and af-

firmed what she formerly said regarding the
father of her child. Nathaniel Ross having com-
pared denied all carnal dealing with her, but
she brought in again avowed in his face that
she had last been with him about the time of
the bringing of the ewes. 4

Often the alleged father was out of the district and the
case was suspended for the time being. That is what hap-
pened in the case of Isobell Ross daughter of the Inverness
Kirk officer. The accused was "a seaman in the King's
fleet". 5 Nineteen years previously an Isobell Ross of
the same parish had named a man in London as the father
of her child. 6

2 Synod of Narse and Teviotdale, 22 April 1719. Ms.
3 Ibid., 13 October 1729.
4 Stirtton, Crathie and Burness. Page 212.
5 Mitchell, op. cit., note 40.
6 Ibid., page 36.
There were times where the mother wouldn't cooperate. Jane McCandlish of the Parish of Whitecraigh was one of many "who refused to declare go is the father of her child". For her contumacy she was referred to the magistrate.¹

Where there was no child to give self-evident proof to a confession or allegation of uncleanness, the session was to carefully weigh the motives of the informer as well as the facts of the case. For example, there were at least two cases of rejected suitors and one breach of promise which reached the presbyteries. Two of the processes were considered in December 1705. Janet Robertson appeared at Perth to assert "that Charles Anderson did promise to marry her and that he was guilty of fornication with her", as there was no proof of her charge and Anderson denied it, the recommendation was that "she should be rebuked before the congregation of Perth as a slanderer".² John Forbes of Chapelp was so determined to prevent the marriage of Mary Blake that he not only alleged uncleanness with her to the minister, but went into the parish of the bridegroom spreading the same story.³ And in 1716 a similar

¹ Synod of Galloway, 21 October 1696, Ms.
² Presbytery of Perth, 1 December 1705, Ms.
³ Presbytery of Garioch, 30 December 1706, Ms.

A reference also from ye Session of Chapelp about John Forbes was given in hearing yt ye week immediately before ye marriage of Mary Blake in Invernessay & after all her proclamations were passed ye sa John had come to ye minister & alleged yt he was guilty of uncleanness wt ye sa Mary condescending upon time, place, & oy
case was to be considered in Inverary when John Campbell accused Ann Campbell of fornication with him because she refused to become his wife. 1

Generally speaking, offenders were to satisfy discipline

presumptions of yr guilt as also yt he had promises of her to marry his & yt yrfor her marriage wt her bridegroom should not be proceed ed in tellig else yt he had gone of purpose to yr Parish of Main where ye bridegroom lived & told him & his friends ye same things. Whereupon ye minister having called a session pro re nata, cited ye woman and sent for ye bridegroom. They were all confronted together. The sd John alleg ed as above & ye sd Mary denied ye whole & offered to exculpate herself as to all he alleg ed at respect to ye guilt of uncleanness & ye bridegroom declared the he did not believe what John Forgs alleg ed, yet he could wish ye things were put to tryall. Whereupon warrants were allowed to both parties for citing witnesses to prove yr scall allegates. Thereafter all parties being sist ye sd John adduced no witness for proving what he had alleg ed & had nothing to offer but his own strong assertion. Scall witnesses were adduced by ye sd Mary who by yr deposits did fully exculpate her of all yt ye sd John had alleg ed & proved her allibes to all yt times & places he condescended on upon qch ye session had allowed her marriage & found him a notorious perverter & defamer of himself and ye woman but in respect of ye singularity of ye case they had refrorfe ye determinate of his censure to ye phy and had cited him to this dyrt. The phy approved ye sessions conduct in this matter & ye sd John being called, compared but notwithstanding ye witnesses depos its ye sessions sentence & his own former prevarications, he still alleg ed yt he was guilty wt ye sd Mary Blanks. The phy considering the whole and having read ye act of ye Assembly 1707 relative to this case did, according to ye sd act, appoynt him to compare ye congregatin and be rebuked as a defamer of himself & ye woman & to be laid under ye lesser sentence till he be found sensible & appoynts the Justices of Peace to be applied to for punishing him according to law.

1 Presbytery of Inverary, 16 April 1716. MS.
in the parish in which they resided unless the scandal was committed elsewhere and was more flagrant there. For example, John Taylor and Helen Uaglish committed fornication in Saltproston. When it was found that there is no flagrant scandal in the Parish of Saltproston, and Mr. Horsburgh declaring that the Kirk-session of Saltproston had never heard of any such thing till detated to them by Laddy Yeaster's Kirk-session; the synod advised that satisfaction be given in Laddy Yeaster's Parish Kirk where they resided. If the colinquent lived in different parishes and the scandal was known in both places, then they were often required to satisfy in both churches, as in the case of John Galbraith and Margaret Graham which was heard by the Presbytery of Edinburgh. When George Erns of Glasgow was found guilty of adultery with Nicolas Strand of Edinburgh, the Commission advised that the process, admonition, prayers, and sentencing should be done in Edinburgh and all intimated in Glasgow.

As recorded in the manuscript minutes of the judicatures, there were at least six different classifications of fornication. In the first place there was "extramural fornication" - what is today called premarital sex relations. This offence was a common one. Two hundred twenty-eight cases of this nature were decided in the Kirk-sessions whose manuscripts were studied. This represents approx-

1 Synod of Lothian and Tweeddale, 8 May 1707. MS., unagainst
2 Presbytery of Edinburgh, 24 April 1706. MS.
3 Records of Commission of the General Assembly.
4 Synod of Lothian and Tweeddale, 8 May 1707. MS.
5 Presbytery of Edinburgh, 24 April 1706. MS.
6 Records of Commission of the General Assembly, 11 March 1701. MS.
William MacRobert of Girnechan is typical. He

Committed, and Confessed a fall in fornication
with his lady before marriage; he was seriously
Exhorted to Repentance, and Ordered to Confess
before the Congregation, and be Rebuked and
Absolved.  

Thirty years earlier the same kirk-session ordered that
Alexander Munro, who had falsely declared "yt he was free
of his said wife before the death of marriage", should

stand three several Lord's days at the Church
Door yt open to the West, being the most con-
spicuous place, and yt to stand whyll the people
goe to Church with a paper on his breast
wrytten Capital Letters Declair his guilt,
and till this be performed he is ordained
to prison whyll he find heal.

Only forty-two such cases reached the twenty-five presby-
terics whose manuscripts were examined; others went to
the synod. At least one such case, that of George White,
reached the Commission of the General Assembly.

It seems to have been the custom of some kirk-sessions
to require only one appearance of antempiual fornicaters.
John Brand records the fact that Bo'ness Session had gone
from the practice of one appearance to three. He was of
the opinion that they should go back to one. His
thoughts were occasioned by the case of a man who wanted
his twins baptized, but who would not seek a sponsor. The
children were thought likely to die before the man and his
wife could appear three times. Brand goes on to note that

2Ibid., Page 65.
3Records of Commission of the General Assembly,
11 March 1719. Ms.
some of the Edinburgh churches required only one appearance, and that in the baptismal room.\(^1\) On the 6th of July 1707 Northwick Kirk-session stated that only one appearance need be made by James Blake and Margaret Melrose as the scandal was not detected before their marriage.\(^2\) Fintry,\(^3\) Cleish,\(^4\) and Barry\(^5\) followed the same practice. Later Barry declared that they should appear three times,\(^6\) and in 1727 when the St.Vigeans Kirk-session ordained a single appearance and half a fine as discipline, they were overruled by the presbytery.\(^7\) Nemyss required three appearances by offenders,\(^8\) and when a relapse in antemural formation occurred in Carstairs, six appearances were required.\(^9\) John Stuart protested in vain to the Presbytery of Aberdeen about having to appear more than once.\(^10\)

To stand in sackcloth in all the churches in the province of Caithness was Adam Sutherland's penalty for committing antemural formation while under the sentence of the greater excommunication.\(^11\) The financial penalty seems to have been approximately four pounds,\(^12\) but could vary from parish to parish, and even within the same parish. At

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\(^1\) Brand, "Memoirs", pages 274 – 275. MS.
\(^2\) Northwick, 6 July 1707. MS.
\(^3\) Fintry, 19 August 1716. MS.
\(^4\) Cleish, 27 October 1723. MS.
\(^5\) Barry, 25 February 1705. MS.
\(^6\) Ibid., 15 January 1724.
\(^7\) St.Vigeans, 30 July 1727. MS.
\(^8\) Nemyss, 13 October 1700. MS.
\(^9\) Carstairs, 22 April 1722. MS.
\(^10\) Presbytery of Aberdeen, 31 December 1707. MS.
\(^11\) Presbytery of Caithness, 30 July 1701. MS.
\(^12\) Carstairs, 22 April 1722. MS.

Auchtendarren, 3 September 1704. MS.
Barry, 25 February 1705. MS.
Abordour the fine was once seven pounds and eight shillings,\(^1\) at Fintray a one-pound fine was levied in 1716, and a ten-pound fine for the same offence in 1723.\(^2\) In 1704 the Presbytery of Hamilton overture the synod that "the severity of discipline ought to be remitted" if "the knowledge of the fact and the conviction thereof be not till after marriage".\(^3\)

Of all the scandals that are recorded in the judicatory manuscript to which special attention was given, single fornication is by far the most numerous. Nine hundred one cases were settled by the fifty kirk-sessions. In other words more than one out of every three cases. Out of the 1,371 cases of sexual immorality settled by the twenty-five presbyteries whose records were examined, three hundred sixty-one were cases of single fornication. In Ferven, where ninety-nine cases of discipline were to come before the kirk-session between 1690 and 1712, fifty-seven instances of single fornication were settled. The Barony of Glasgow kirk-session decided on fifty-four cases of fornication out of one hundred processes settled by it in a twenty-eight-year period. Of all the session records examined, the one to have the lowest percentage of fornication processes was Skirling. This kirk-session gave judgement on only two cases of simple fornication out of twenty cases of discipline heard and acted on from 1701 to 1730.

\(^1\) Abordour, 15 January 1703. MS.
\(^2\) Fintray, 19 August 1711 & 27 October 1723. MS.
\(^3\) Presbytery of Hamilton, 25 December 1704. MS.
Boston recorded on 22 August 1728 was the experience of many parish ministers.

Since the latter end of June three fornications have broken out: the first, the man about fifty, who till that time had lived unmarried, with an unspotted reputation; and a young woman of seemingly singular modesty: the second, a stripling of seventeen, and a woman of thirty at least: the third, the woman a communicant, the man one of the catechumens that waited on the examination kept at the kirk for the younger sort, from January to about Whitsunday.¹

As was the case with antemortem fornication, so too with simple fornication the penalty was variable. Skirling required three public appearances which was about the general standard.² George Wilson of Gladsmuir was made to appear every Sunday for six months, perhaps for some reason not noted.³ The Presbytery of Edinburgh warned George Crookshank, who had already appeared twice for fornication, that he would have to appear four more times or receive the lesser excommunication.⁴ At his request James Smith of Ordiquhild was permitted to pay twice the normal fine and appear but once.⁵

The monetary penalty was two pounds in Kilmaurs,⁶ three pounds in Kelton,⁷ four pounds in Monimuir,⁸ eight pounds in Gladsmuir,⁹ and ten pounds in Kilconquhar.¹⁰ Within the

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¹ Morrison, Memoirs of Thomas Boston, Page 408.
² Skirling, 15 June 1710, MS.
³ Gladsmuir, 1 April 1694, MS.
⁴ Presbytery of Edinburgh, 18 February 1702, MS.
⁵ Ordiquhild, 2 July 1727, MS.
⁶ Kilmaurs, 3 September 1699, MS.
⁷ Kelton, 24 November 1703, MS.
⁸ Monimuir, 19 August 1711, MS.
⁹ Gladsmuir, 31 March 1695, MS.
¹⁰ Kilconquhar, 12 December 1703, MS.
Parish of Glasserton it was successively two pounds, eight pounds, and five pounds and eleven shillings.¹

The following classifications of fornication have to do with repeated offenders. Relapse, trilapse, quadrelapse and even pentalapse are to be found in the judicatory records. More than ten percent of the people who appeared before the kirk-sessions, whose minutes have been examined, on charges of fornication were previous offenders, as were over a third of those who appeared before the presbyteries selected for study.

Cases of relapse were usually settled by the kirk-sessions, and such cases accounted for approximately ten percent of the fornication processes to come before the fifty sessions whose records have been studied. Cases involving more than a single relapse passed on to the presbytery. More than one out of every four cases involving fornication in the twenty-five presbyteries selected were cases of trilapse, quadrelapse, or pentalapse. This case before the Presbytery of Biggar is typical.

James Kennedy being called compared before the presbytery and did judicially acknowledge that he had fallen in fornication with three several women whereupon being seriously exhorted by the moderator to lay his sin to heart it being equivalent to adultery & that in the bitterness of his soul he should mourn over his own vilness. He was referred back to the Session of Suingston to satisfy as an adulterer.²

Here again it is true to say that penalties differed.

¹Glasserton, 27 November 1700 & 28 February 1703 & 1 March 1713. MS.
²Presbytery of Biggar, 10 April 1695. MS.
West Calder required six appearances for a relapse,\(^1\) as did the Presbytery of Edinburgh.\(^2\) The general practice was three appearances for each offence. The fine varied from four pounds at Fintry,\(^3\) to twenty pounds at Arbuthnott.\(^4\) Presbyteries such as Penpont required the delinquent to wear sackcloth.\(^5\)

Those guilty of a trilapse in fornication also had to wear sackcloth.\(^6\) Nine appearances, as in Newtyle, was the general standard;\(^7\) but Eastwood once allowed six appearances,\(^8\) since the cases generally went to the presbytery, no financial penalty was recorded in the minutes. For this offence the sentence of the lesser excommunication was often imposed.\(^9\) The Presbytery of Paisley described one such delinquent as a "very naughty person".\(^10\)

Quadrelapse and penatalapse were infrequent. While Fintry only required nine appearances of a four time offender,\(^11\) Ceres instructed Thomas Bell to appear for six months in sackcloth at the door and pillar.\(^12\) Newtyle once gave out a penalty of fifteen pounds for a quadrelapse,\(^13\) and the

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\(^1\) West Calder, 3 May 1725. MS.
\(^2\) Presbytery of Edinburgh, 18 June 1707. MS.
\(^3\) Fintry, 5 July 1719. MS.
\(^4\) Arbuthnott, 3 June 1705. MS.
\(^5\) Presbytery of Penpont, 2 February 1716. MS.
\(^6\) Gyme, 2 June 1717. MS.
\(^7\) Wilton, 13 February 1698. MS.
\(^8\) Newtyle, 16 July 1717. MS.
\(^9\) Eastwood, 10 November 1692. MS.
\(^10\) Presbytery of Edinburgh, 6 March 1706. MS.
\(^11\) Presbytery of Stansrae, 6 March 1717. MS.
\(^12\) Presbytery of Paisley, 27 July 1709. MS.
\(^13\) Presbytery of Paisley, 17 February 1714. MS.
Presbytery of Caithness turned its quadruplease over to the civil magistrate. Isobel Robertson, sixty-five years of age, appeared before the Presbytery of Kirkcaldy in sack-cloth for falling five times into fornication. She was sentenced with the lesser excommunication and given over to the secular authorities.

The problem of fornication was one of great concern to the judicatories and perhaps more than one agreed with the Kirk-session of Inverarity who minuted the following:

And the session considering that it is to be suspected that some persons take the more liberty to commit the sin of fornication because the full penalties appointed by law are not enacted; therefore the session do resolve that in time coming the persons who shall be found guilty of the said sin in the parish shall pay according to the Act of Parliament King Char. 2d Pari: 1st Chapt. 35. The pecuniary sums following, viz., for the first fault each baron 200 lib Scots, each gentleman 100 lib Scots and every other person of inferior quality 10 lib Scots for the use of the poor of the parish, and that these penalties be double totius quoties and that these be paid not only by the man but also by the woman according to their quality and the degree of her offence, the one without the prejudice of the other. And the session appoints this to be intimated to the congregation on sabbath next that none in this parish may pretend ignorance.

In the Parish of Kelso, as one example, there were so many cases to be dealt with that special procedures had to be approved by the Commission of the General Assembly.

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1 Presbytery of Caithness, 7 March 1705. MS.
2 Presbytery of Kirkcaldy, 21 November 1706. MS.
3 Inverarity, 20 August 1730. MS.
4 Records of Commission of the General Assembly, 29 April 1706. MS.

The committee appointed to consider the reference from the Presbytery of Kelso reported that having
This is but another indication of the scope of the problem.

considered the said and had a representation of
the whole affair laid before them. They found
that through long vacancy of the paroch of Nisco
scandales are increased to such a number that
they cannot be purged away in the ordinary course
of discipline. Especially considering that
some of them are sixteen years ago or there
about and most if not all of them above eight
years, and finding also that the persons lying
under scandal are of different circumstances
and consequently must have a different consid-
eration in the exercise of discipline upon them.
Some who were guilty of fornication have carried
since, and have walked orderly in a married state,
some of them are under the censure of the lesser
excommunication, and that for diverse reasons,
Viz: for contumacy when cited to appear
before the session or for refusing to submit
to the appointments of the session in satisfying
the discipline of the church, for their uncleanness
and others for breach of Sabbath, some for
other irregularities in their department.
Therefore the said committee gave it as their
opinion that such, as guilty of forni-
cation, and have married since and have
lived orderly in that state be convened before
the session and upon profession of their repen-
tance be rebuked and if edification require it
that they appear before the congregation. Yet
they are not to be constrained to appear other-
wise than once, nor at any particular place in the
church, and as those that are guilty of forni-
cation and still continue in an unmarried state
considering the multitude of such in that place
the committee give it as their opinion that
they should not only be convened before the
session above said, but that they should also
be obliged to appear before the congregation.
And as for such as are lying under the censure of
the lesser excommunication the committee were of
opinion that they should be convened before the ses-
ion and upon giving evidence of their repent-
ance that the session should take off the sen-
tence judicially and make intimation thereof
publicly in the congregation, and further the
committee offered it as their opinion that it
might be expedient for the more effectual
removal of these scandal, that there should
be a day set apart for solemn fasting and
humiliation in that congregation and the mult-

It also illustrates the concern of the church. Even more astonishing is the "public brothel house ... kept at taunton" which was reported to Ayr Presbytery.

Children born out of fornication were sometimes aban-
doned by mothers who did not want them and/or wanted to evade church discipline. The monstrousness of this deed is ably documented by the following two cases from the Presby-
teries of Middlebie and Carloch.

She took the child to a waste in the ground of the bogg and she had drawn the nock of the blanket, qch was about the childs head, over its face pinning it to its belt, she laid it down on a peat pitt brow and having cried to heaven for mercy to it; she tumbled it over with her foot unto the peat pitt and so left it.

The corpse of an dead child was found by two women drawn out of an heap of stones by dogs in a place near to where she dwells, and that after all enquiry has been made by drawing womans breasts & other ways, yet none but she is or can be suspected as the mother & wurther of that child.

Both of these women received public rebukes and were turned over to the civil authorities. Mercifully there were very few of these cases recorded in the manuscripts studied.

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implied scandalis narrated as the cause thereof, and lastly that the Commission ordaine that this extraordinary method be no precedent to the ordinary course of discipline, and that intimation thereof be made from the pulpite.

2Presbytery of Middlebie, 10 May 1699. MS.
3Presbytery of Carloch, 2 July 1711. MS.
Adultery was also a vexing problem for the church. In 1706 the General Assembly ordained "their Commission to apply to the government for the more effectual suppressing and punishing adulteries." Since discipline was usually reserved for the higher judicatures, adultery accounted for only slightly less than three and one half percent of the cases settled by the kirk-sessions whose records were examined. With the presbyteries another picture is presented. In the records examined the presbyteries delivered judgment in 1,692 cases of which seven hundred twenty-six involved adultery.

The great majority of the cases were those involving first time offenders such as Katherine McFrer. Two witnesses testified to the Synod of Ross that they saw George Munro "lying and moving upon the said Katherine McFrer with her clothes up and his breeches down and that when the deponents came to them the said George rose all in a sweat drawing up his breeches and she putting down her clothes." Munro denied the charge.

There were a few releases of various types. The Synod of Galloway tried Thomas McNeillie for a triilapse and the Synod of Dumfries had a case of alleged quadriilapse. In addition there were those adulterers who were formerly convicted on various charges of fornication.

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1 Registers of Acts of the General Assembly, 13 April 1706. MS.
2 Synod of Ross, 9 April 1712. MS.
3 Synod of Galloway, 11 April 1727. MS.
4 Synod of Dumfries, 21 November 1704. MS.
As was true with fornication, the penalties often were greatly varied. The penitent was usually required to wear sackcloth.\(^1\) Appearances before the kirk-sessions differed from twenty-three before the congregation of Fintray\(^2\) to only eight appearances for Alexander Paton before the people of Fren, as the session were anxious to absolve him from a little known scandal.\(^3\) Ten appearances seemed to be the average sentence required.\(^4\) The Presbytery of Edinburgh only required two appearances of Janet Gray, noting that she was deeply penitent.\(^5\) Janet Pearson was absolved by Kirkcaldy Presbytery seventeen months after the offence was committed and after twenty-seven appearances.\(^6\) Presbyteries never imposed fines, but kirk-sessions did so quite often. A six pound fine was levied by Glasserton,\(^7\) while Ceres went as high as twelve pounds.\(^8\) At Foveran a case involving Am: Byce and Alexander Gray was disciplined in this manner: she was required to make fifteen appearances but pay no fine as she was poor; he was required to make but ten appearances while his fine was

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\(^1\) Fowmosbar, 5 March 1702, MS.
\(^2\) Fintray, 18 May 1696, MS.
\(^3\) Glasgow, 10 February 1730, MS.
\(^4\) Kirkcaldy, 21 April 1706, MS.
\(^5\) Fintray, 5 December 1714, MS.
\(^6\) Barry, 23 November 1705, MS.
\(^7\) Foveran, 27 May 1795, MS.
\(^8\) Presbytery of Edinburgh, 20 March 1706, MS.
set at twenty pounds. 1 Sometimes the lesser excommunica-
tion was passed against the delinquent 2 and for those
who were contumacious there was the greater excommun-
ication. 3

Adulterers, too, were to satisfy discipline in the parish
in which they resided unless the scandal was more flagrant
elsewhere. Richard Dirk who confessed adultery before the
Presbytery of Edinburgh was to be convened in his own
parish and in two others where the act occurred. 4 The Synod
of Fife in 1719 took the following action.

The synod taking into their consideration a
reference from the Presbytery of St. Andrews against
Mr. Thomas Muir, accused by Janet Thomson as
guilty of adultery with her as the said refer-
ence at more length bears. The synod agreed
that the scandal being most flagrant in the
bounds of the Presbytery of St. Andrews they be
proceeded against by the said presbytery and that
when he shall be found guilty their appearance
be in the Parish of Leuchars where they reside, and
that they be appointed to appear also in publick a
day or two in the Parish of Logie in the Presby-
tery of Cupar where the scandal is said to have
been committed to be rebuked and make publick pro-
estion of repentance before they be absolved. 5

Many cases of adultery, which were to be handled for the
most part by the synods, were preceded by intentional or
unintentional desertions. When William Baird, an alleged
bigamist, desired baptism for his child, he declared in his
defence to the Synod of Lothian and Tweedale that his

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1 Feverean, 27 May 1705. MS.
2 Presbytery of Paisley, 18 November 1719. MS.
3 Presbytery of Penpont, 6 January 1725. MS.
4 Presbytery of Cupar, 24 May 1715. MS.
5 Presbytery of Forfar, 17 February 1722. MS.
6 Presbytery of Aberdeen, 4 September 1701. MS.
7 Presbytery of Edinburgh, 17 August 1701. MS.
8 Synod of Fife, 10 April 1719. MS.
first wife had deserted him about four years before his second marriage. The synod referred the case to the Lord Advocate and His Majesty's Solicitor who declared that although the time lapse was great enough to claim desertion; Baird had failed to take the proper legal steps nor was he "married regularly" and "deserves to be censured".

In the case of Christian Young of Linlithgow the Commission of Assembly took a more lenient approach. Her husband, Edward Mugard, had been abroad for twenty years and after returning but for a short time abandoned her again. She then declared her intention to cohabit with James Purdie. The Commission thought

fit to delay giving any particular advice in that matter at this time, but if it shall be found that the said Edward returns and claims his wife, the presbytery are to proceed in the affair according to the rules of the church as they shall judge most for edification.

Things could become very complicated, if documentation of marriages was not forthcoming, as this case from the Synod of Angus and Mearns demonstrates.

Anent a reference from the Presbytric of Forfar concerning Janet Mathers bearing that her having been formerly given in to the said presbytric by Mr. Hugh Maxwell minister of Forfar a representation anent Janet Mathers as guilty of uncleanness with Francis Petrie taylor in Forfar, which was looked upon to be adultery she producing some letters as from one James Fottis sometime gardner in Pitscandie as her husband, owning himself to be her husband, to whom she had born one or two children formerly, but as

1 Synod of Lothian and Tweedale, 7 November 1695. MS.
2 Records of Commission of the General Assembly, 11 August 1715. MS.
she always alleged in marriage with him; And she still owning herself to have been married to the said Fettis, but alleges he left her about seven years since, and went to Ireland and has not heard from him since and knows not whether he be alive or not; and consequently knows not whether her present sin be adultery or single fornication. And the presbytery being desirous to find out the truth of the matter ordered enquiries to be made about the man; and Mr. Maxwell wrote a letter to Glasgow to one of the ministers there to write to any correspondent in Ireland about the supposed place where Fettis is said to be and having waited a long time has got no return, and expects no account about him. And further is thought she was never married with that man, but only said so and procured false letters to cover her former double fornication and to get her children baptized and that she now she says she is married that she may get revenge on Francis Petrie who would not marry her, by getting him to suffer as an adulterer with herself; she, if not married having fallen into a trilapse of fornication, and that the said Francis has satisfied as a fornicator and given obligation before his child was baptized to satisfy the discipline of the church further, if his being alive at the time he had to doe with her; which proof the presbytery cannot find, finding no more than what's been above narrated and she lies under scandal, without satisfying the presbytery being straitened how to proceed in this affair with her they thought fit to refer this complex case to the reverend synod for advice; as the said reference at length bears. The synod having considered the affair do hereby according to the opinion of the committee of bills there-in, refer the same back to the Presbytery of Forfar. And advise them to cause the said woman satisfy as an adulteress and enquire further about the man she speaks of to have been her husband, and if he be alive or dead.1

More often the documentation required was to certify the death of the deserter, thereby granting the freedom of the remaining spouse. This was true in the case of Elizabeth

1Synod of Angus and Mearns, 21 October 1719. Ms.
Law and Jannet said which were heard by the Commission and in the case of John Mitchell heard by the Synod of Lothian and Tweedale. Since Isabella Grieve was unable to prove to the satisfaction of that same synod that her husband who had gone abroad several years earlier was dead, her new marriage was declared "null and their cohability as man and wife is adultery".

Of course there were those who used the pretended death of their mates as a defence for their adultery. When Margaret Fraser of Aberdeen went to visit her sister in Edinburgh in 1700 it took her husband of eighteen years less than five months to marry again. When Thomas Watson, the husband, was called before the session, he claimed that his wife died at Edinburgh. His proof was that "severalis of good credit told him so". In order to refute Watson's continued claim of his wife's death, the session paid her expenses to journey north from Edinburgh. The result was the excommunication of Watson, who stood at the church door in sackcloth, and the banishment of his pretended second wife.

Cases of adultery often involved the judiciary in other domestic problems. For example as a result of Bessy Crichton, wife of William Graham, being found guilty of adultery with James Riddleston; the Synod of Dumfries were

1 Records of Commission of the General Assembly, 20 March 1707. MS.
2 Synod of Lothian and Tweedale, 25 April 1728. MS.
3 Synod of Moray and Teviotdale, 22 May 1711. MS.
4 Stirton, Crathie and Arbroath. Pages 220 - 224.
asked

for advice anent what is to be done with the
said James Hiddleston the adulterer and William
Graham husband to the said Mary Crichton the
adulteress for removing them from one another
they being near neighbours who keep very ill
neighbourhood of late.1

The synod advised the application that was made to the
laird to dispossess Hiddleston.

Not only domestic problems arising from adultery, but the
whole area of married life and its problems often fell to
the church courts for arbitration.

As a preventive measure the General Assembly of 1704
made the following recommendation to its ministers.

The General Assembly recommends to ministers to
be at pains to dehort their people from marrying
with papists, and hold forth the dangerous effects
thereof, and the General Assembly hereby instruct
their Commission to apply to the Parliament for
an act discharging such unequall marriages,
and recommends to the several presbyteries to
think upon some overture that may tend to
prevent such marriages.2

The kirk-session sought to discipline transgressors of this
act on the ground that marriage by a priest was irregular.
On this charge Donald Gordon and Alexander Shaw were sum-
moned to the Crathie Kirk-session.3

That the service of marriage itself was under the careful

1Synod of Dumfries, 11 October 1720. HS.
2Registers of Acts of the General Assembly, 30 March 1704. HS.
3Stirton, Crathie and Braemar. Page 339.
watch of the judicatures is demonstrated by the Acts against Penny-Weddings. The Kirk-session of Corstorphine tried to regulate the day for weddings, restricting them to Thursday which was the most convenient day as it had been appointed for preaching. Persons marrying on other days were to pay fourteen pounds Scots to the poor. Apparently the session was not able to enforce this rule, as sixteen years later it was noted again in the minutes that it was the parish custom to marry on Friday and it was ordained that Thursday be used in time coming.¹

Still another way in which the church kept a watchful eye on marriages was by the custom of the proclamation of banns. The Assembly of 1690 ordered that this be done "three several Sabbaths in the respective parishes."² It was in accordance with this act that the Synod of Moray heard the case of Isobel Innes, who was married with only one proclamation, and rebuked her.³

Everything about the wedding was checked. William Noble and Margaret Pringle appeared before Melrose Kirk-session on charges of altering their marriage lines.⁴ John Ross and Isobell Miln appeared before the Synod of Angus and Mearns on charges of being clandestinely married.⁵ A deposit was often received with the promise that the rules of the church would be followed, such as the eight pounds

² Register of Assembly, 29 October 1690. MS.
³ Synod of Moray, 1 November 1722. MS.
⁴ Alloaansie, Melrose Parish Registers. Page 168.
⁵ Synod of Angus and Mearns, 17 April 1722. MS.
and two dollars deposited by John Gray with the Session of Currie. 1 If there was a breach of the rules governing the preparation for or the service of marriage, the resulting "irregular marriage" called for disciplinary action. 2 Usually such an offence received a sessional

1 Currie, 19 November 1699, MS.
2 Synod of Lothian and Tweedale, 7 November 1721, MS.

The synod did and hereby do disapprove of the sentence of the Presbytery of Edinburgh only to rebuke Mr. Drummond before them and find that the brethren dissenting had reason for so doing in regard the sentence was too mild considering the greatness of the scandal he having as appears from the presbytery register. 1st Acknowledged that he married Sir James Campbell's daughter without her father's consent or countenance.

2d That he prevailed with the session clerk to give a warrant for proclamation without the said Sir James Campbell's consent and likewise to antedate the warrant eight days.

3d Prevailed with the presbyter to proclaim them in his own room upon Saturday and to give an attestation on the foot of the warrant bearing that they were proclaimed in the New Church, which was never done, and that the said Mr. Drummond made himself master of that attestation upon the Saturday and made use of the same to induce a minister of the established church to celebrate the said marriage.

4th That the said Mr. Drummond went from Edinburgh upon the Lord's day evening to the Queen's ferry where he crossed the water at night and went to the Gate of Pitilver and brought the lady to the Queen's ferry where they landed the next morning; By all which the said Mr. George Drummond has invaded the right of a parent over his child, has induced servants of the church to attest falsehoods in the exercise of their offices, not only contrari to all good order, express laws of the kingdom and acts of the General Assembly, but to the violation of that faith and integrity which is so necessary to the preservation of Christian and humane society and this accompanied with prophanation of the Lord's day and besides that the said Mr. George Drummond is an elder of this church: And further the synod did and
rebuke,1 although the presbytery dealt with a few cases.2 Altogether these "irregular marriages" accounted for less than one percent of the cases heard by the church courts whose records were examined. The fines administered were infrequent and without uniformity. Aberlady Kirk-session fined Peter Wardin four pounds,3 while the session of Mearns demanded twelve pounds from David Wyllie.4

Other family affairs also came to the notice of the Kirk-sessions. Currie Kirk-session rebuked Jean Kilpatrick and reported her to the Justice of the Peace for quarrelling over her children.5 George Stoorie was rebuked by the session of Carriden for not having his children at school.6 Edward Stinson of Mearns was turned over to the civil magistrate for not providing for the care of his children.7 In the same parish William Todd and his wife received a rebuke from an elder for a family fight.8 In Arbothnott,

hence do appoint the register of the Presbytery of Edinburgh for the proceeding half year to be transcribed and the reasons given in by the dissenting brethren for their dissent and the answers of the presbytery to these reasons of dissent to be kept out of the said register and the synod appoints this their sentence to be put into the attest, of the register of the said Presbytery of Edinburgh.

Glasgow, Old, 11 March 1711. MS.
Eastwood, 9 January 1715. MS.
Kilconquhar, 5 June 1711. MS.
Presbytery of Cupar, 22 March 1715. MS.
Presbytery of Chanonry, 5 September 1720. MS.
Presbytery of Foupout, 7 November 1716. MS.
Aberlady, 9 November 1707. MS.
Mearns, 3 March 1728. MS.
Currie, 10 June 1699. MS.
Carriden, 28 March 1693. MS.
Mearns, 11 September 1698. MS.
Ibid., 30 July 1695.
John Spence was admonished by the session for "cursing his wife".¹ The woman, who had "provoked her husband", and the man, who had in return "beat his wife", were both rebuked by the Session of Newchurch.²

Not only did the judicatories of the church regulate the steps to be taken in order to marry, prescribe the service, and sort out family problems; they were equally determined that the marriage should last. In 1704 the Synod of Fife was called upon to arbitrate the dispute between Katharine Baxter and her husband, Andrew Thomson. "She had absented herself from said husband for some time, and now desiring that he would receive her home again, he absolutely refuses the same".³ When a similar case was heard by the Presbytery of Hamilton later that same year, it directed the Kirk-session of Avondale to rebuke the husband and in case he continue obstinate in refusing reconciliation with his wife that he be rebuked from the pulpit and declared uncapable of sealing ordinances till he declare his sense of his former unchristian carriages, and his willingness to be reconciled to his wife.⁴

In the case of a wife who would not cohabit with her husband Kirkcaldy Presbytery did lay out to her, her sin of deserting her husband & appointed her to cohabit with him, called John Henderson camear the presbytrie appoint him to receive home his wife & to carry to her as becoms a loving husband.⁵

¹Arbuthnott, 29 January 1699, MS.
²Newchurch, 8 October 1721, MS.
³Synod of Fife, 12 April 1704, MS.
⁴Presbytery of Hamilton, 26 September 1704, MS.
⁵Presbytery of Kirkcaldy, 23 October 1701, MS.
The Caerness Kirk-session received a letter from the minister of Canisbay about Margaret Macbeth. As a result, they appointed their "officer to warn her to go home to her husband, and to remove out of this parish". Contrary to this usual approach was the action taken by the Kirk-session in 1694. When Elspet Fotheringham "would not cohabit with her husband", they applied to the civil magistrate to remove her from the parish.

In addition to these scandalous acts, fornication, and adultery which were disciplined by the courts of the church, there were several other sexual offences that appeared infrequently in the records examined.

In the manuscripts studied there were a total of fifty-four cases of incest. Three cases were considered by the General Assembly, nine by its Commission, ten by the synods, twenty-six by the presbyteries, and six by the Kirk-sessions. The Confession of Faith defines incest in the following manner.

Marriage ought not to be within the degrees of consanguinity or affinity forbidden in the Word, nor can any such incestuous marriages ever be made lawful by any law of men, or consent of parties, so as these persons may live together as man and wife. The man may not marry any of his wife's kindred nearer in blood than he may of his own, nor the woman of her husband's kindred nearer in blood than her own.

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2 Ezron, 3 September 1694. Ms.
The General Assembly of 1696 declared "the marriage betwixt James Pitcairn and Janet Currie unlawful, being within the degrees prohibits."\(^1\) Dodrow wrote to his wife that the Assembly of 1710 had resolved that "marrying a person that had committed fornication with the man's grand-uncle was incest".\(^2\) The Commission in 1705 had declared in the case of John Mckenzie that his marrying of his first wife's grand-niece was an "incestuous commixtion",\(^3\) as was William Josie's adultery with his "wife's sister's daughter by the mother but not by the father side".\(^4\) William Stevenson was accused of incest with his wife's niece by Angus and Mearns Synod,\(^5\) as was John Baxter who married his former wife's grand-niece, and Robert Hunter who married a woman who had brought forth a child to his grand-uncle.\(^6\)

Some cases of incest occurred only after one of the partners in marriage had died.

John Laing weaver in St. Andrews and Helen Laing his daughter have both confessed judicially before the Kirk-session of St. Andrews that they have lain nightly in the naked bed together since the death of the said John's wife being about the space of seven years (the said Helen being about fourtie years of age) but denied carnal dealing together.\(^7\)

Marion Craig was judged guilty of "incest with James Mason

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\(^1\) Acts of General Assembly, 1696.
\(^2\) McCrie, The Dodrow Correspondence, Volume I, Page 11.
\(^3\) Records of Commission of the General Assembly, 13 April 1705, MS.
\(^4\) Ibid., 13 November 1713.
\(^5\) Synod of Angus and Mearns, 25 April 1703, MS.
\(^6\) Ibid., 27 October 1729.
\(^7\) Synod of Fife, 29 September 1705, MS.
tent in Clachansheils both in the Parish of Potter-
esso; the said woman being the widow of the said James
Mason his father's brother”.

The members from the Presbytery of Lanark,
presented a reference therefrom to the Commission
of the General Assembly for advice, how to pro-
cceed to censure in the case of John Somervell
in the Parish of Carnwath, who had confess himself
guilty of uncleanness with one Janet Graham
his decease wife brother's daughter.

On occasion a confession of incest was brought about
by the death of the wronged party. After her mother's
death one woman confessed to Lanark Presbytery "with
tears her sorrow for her sin" in committing incest with her
mother's husband. After the death of his wife, John Scot
confessed to the Presbytery of St. Andrews his incest with
"Mary Scot his niece by Alexander Scott an adulterous bast-
tard son of his fathers".

Incest was a ground for divorce. Andrew Skinner's wife
had been excommunicated as being guilty of incest and adul-
tery with his brother, and Andrew had been prohibited to
cohabit with her. When he was not able to procure a divorce
because of lack of money, the Synod of Ross recommended to
the kirk-session "to give something to carry on the process".

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1Synod of Angus and Mearns, 22 April 1719. MS.
2Records of Commission of the General Assembly,
   4 January 1711. MS.
3Ibid., 10 March 1722.
4Ibid., 11 August 1725.
5Synod of Ross, 6 November 1711. MS.
For this grave offence the sentence administered by most presbyteries was the greater excommunication, as in the case of the Presbytery of Paisley which disciplined four cases in ten years. When Margaret McLinsheballan was found guilty of incest by Caithness Presbytery, they sent her to prison and reminded her that the civil laws required the death penalty.  Banchory-Ternan Kirk-session regarding Alex Burnet "as a mad man and not an object of kirk censure left him under the scandal". His aunt with whom he was guilty of incest made twelve appearances. Jean Bowshy was required to stand at the door of Northwick Church from the second to the third bell and then before the congregation in the public place. Offenders wore sackcloth.

The scandals of rape, bestiality and sodomy appear even less frequently in the registers of the judicatories.

Of the 2,379 cases of discipline appearing in the Kirk-session records that were studied, there was only one case of rape. James Madden was charged thus by Iron Kirk-session in 1707. He was thought to have been drunk at the

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1 Presbytery of Paisley, 27 August 1701 - 10 May 1710. MS.
2 Presbytery of Dunkeld, 11 January 1715. MS.
3 Presbytery of Forres, 7 July 1795. MS.
4 Presbytery of Caithness, 15 September 1699. MS.
5 Banchory-Ternan, 17 October 1795. MS.
6 Northwick, 22 July 1694. MS.
7 Presbytery of Inverary, 19 April 1692. MS.
8 Presbytery of Perth, 30 January 1706. MS.
time. The presbyteries studied handled six cases. Three of them occurred during a nine year period in the Presbytery of Perth. The lesser excommunication was administered. One case of rape which achieved notoriety was that of Captain Charters which was brought before the Assembly and its Commission at least eight times in 1702. He was accused of several attempted rapes of a young girl and a married woman and of a successful rape within the parish of Linns. The process of excommunication against him was dropped on his promise of repentance and reformation.

The single case of bestiality to be settled by a Kirk-session whose records were examined was in Kirkinner. The offender was given to the sheriff for a civil trial. The presbyteries heard five such cases in which the offenders were excommunicated and bound over to the civil authorities.

Only one case of sodomy was recorded in the registers of all the judicatures examined from Kirk-session to General Assembly. This occurred in 1712 and the offender was put
under the greater excommunication by the Presbytery of Burns. 1

Processes against incest, adultery, trilapse in fornication and other extremes of sexual immorality were only to be initiated by the Kirk-sessions according to the Form of 1707. Final judgement was to be rendered by the presbytery or a higher judicatory.

The scandals involving sexual immorality consumed much of the time of the church courts and accounted for the great majority of the cases. All types of sexual offences were dealt with, as were all the problems of family life. As with the lesser scandals, penalties varied from judicatory to judicatory.

In the next chapter we will discuss the problems of chara-
ing and witchcraft.

1 Presbytery of Burns, 5 August 1712. Ms.
CHAPTER SEVEN

Charming and Witchcraft

A subject, which has gained great notoriety in the history of the church in Scotland, is that of charming and witchcraft. In the sixth chapter of the Form of Process it is listed along with incest, adultery, trilapse in fornication, murder, atheism, idolatry, heresy and error, and schism and separation from the public ordinances; as a scandal whose process is begun by the kirk-session but determined by a higher judicature. In such cases the kirk-sessions were instructed to assess the facts of the case and to deal with the accused to confess his scandalous ways. This accomplished, an extract of the proceedings was to be forwarded to the presbytery. If no confession was made then the kirk-session had to seek the presbytery's permission to lead probation of the case. It was also in the presbytery's hands to prescribe penance and to grant absolution.

The cases of charming and witchcraft which are to be found in the church registers of the years 1690 to 1730 are few indeed. The total number of processes to be found in the manuscripts examined are as follows: Commission of the General Assembly - one, synods - one, presbyteries - twelve,
and kirk-sessions - fifteen.

On the 30th of January 1699 the committee for overtures recommended to the Assembly

that it is fit, that former acts of General Assemblies concerning witchcraft were revived, and recommended to the care of all presbyteries, particularly act Assembly 1640. July 29. Sess. 3. Assembly 1643. August 19. Sess. alt. and Assembly 1649. August 6. Sess. alt.

2. And that it were worthy of the Assemblies consideration to think upon, and prescribe some uniform method, for ensuing ecclesiastically such as shall be convict of witchcraft or charming, and their consultors who escape civil punishment.1

In answer to this overture the Presbytery of Paisley gave it as their opinion

that according to former act of Assembly there should be a committee of lawyers, ministers, and physicians, who should give their opinion of what may be look'd upon to be solid evidences of witchcraft beside either proven or confessed compact with the devil. As also what is to be done with fortune tellers and the presbyteries of opinion that this will much pava the Assemblies way in condensing upon some uniform method for ecclesiasticall censure of such persons. The presbyterie is also of opinion yt all who are convict of charming or witchcraft should be censured with excommunication and that consultors with such persons be suspended from sealing ordinances upon once or twice consulting and declar'd scandalous till they seek for reconciliation and if they be found habitually sligheters or continue to do so after warning that they be censured with greater excommunication and the presbys opinion is that sins be appointed to explain to their hearers and admonish them of ye nature and danger of charming, witchcraft, consulting divination fortune-telling &c that afterwards all such as are guilty may be inexcusable.2

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1 Acts of Assembly. 1699.
2 Presbytery of Paisley, 24 January 1706. 4s.
Apparently, however, no decision was reached in the matter for in 1706 the Assembly's Commission recommended to the judicatures that they apply to the civil courts to put in operation the acts of "Queen Mary Parliament ninth, chapter seventy third, and James the Sixth Parliament seventh, chapter one hundred and fourth." ¹

The art of charming was put to several different purposes, some of which are best described as "folk medicines", while others were but superstitions. At Balfren in 1697, Alexander Barrie confessed to having consulted with "had-neath the charmer, and that at his desire he had applied some things to his horse and said some words when he did it".² The Kirk-session of Arbuthnott cited David Crab for his treating of a "distemper of head & heart". The following is his description of the patient's treatment.

First he rubbed back her head, then he rolled a hose w't an woolen thread about her head and then desir'd to know if he would do as to ye trouble about her heart, for which he again rowed ye hose w't ye woolen thread about her middle & about each of her arms & desired she might take so much brimstone & drink it with sweet milk for three days together every morning we was all he did.³

He denied the use of any words as a charm or of having made a compact with the devil, saying that he had only treated the sufferer as he had previously done for himself with a similar complaint. The Presbytery of Caithness cited a

¹Records of Commission of the General Assembly,
²Smith, Strathnandrick, Page 29.
³Arbuthnott, 8 September 1700, MS.
man who cured "persons dangerously sick with grace".¹ John \nKarender appeared before the Kirk-session of Strichen for \n"endeavouring to cure the fevers by putting a stocken about \nthem".² John Buchanan of Garustarie,³ and Jean Moncrief \nof Auchtersauchy⁴ were both disciplined for consulting \nchasers about the health of their children. \nIn the past, as today, anxious parents were willing to \ntry any remedy in hope of a cure for their ailing child. \nAgnes Nood took Jean Moncrief's child in her arms, and \ncarrying it about an oaken post expressing these \nwords oaken post stand than, bairns saw turn \nthen in the name, of the Father, of the Son and \nof the Holy Ghost turn the bairns saw right.⁵ \nJohn Reid of Taulbland bound his son to a stone near \nDrummond Castle for a night when the boy was "seized with \na distraction".⁶ \nPeter Sheive was reported to Feveran Kirk-session "for \nsuperstititious kneeling about and embracing ye corners of \nye kirk walls". He was trying to cure a tooth-ache.⁷ \nArchibald Hodie was summoned to the Presbytery of Kirk- \ncalder for using a staff from Ireland to cure beasts. \nHe alsest yt any staf yt had grown in Ireland \nif it be stooked upon a beast sting yt ane

¹Presbytery of Caithness, 8 September 1700. MS. 
²Strichen, 21 October 1705. MS. 
⁴Auchtersauchy, 11 March 1711. MS. 
⁵Presbytery of Conar, 27 February 1711. MS. 
⁶Ibid., 24 October 1710. 
⁷Feveran, 15 December 1706. MS.
adder or ayr venomous beast it would make ye venom come downward & he said yt ye reason was because yr is no venomous beasts in Ireland.

The skills of the charmers were put to work in other ways. John Hoeltie was summoned to the Session of Yechop for "consulting ye wise woman anent stollen goods". A Dalston man was summoned for consulting a "supposed wizard in order to discover goods stolen from him". The following minute appears in the register of Dalston Kirk-session.

James Hyld being called upon and compared being interrogate 1mo if he had money stolen from him. Answered he had money stolen from him. 2mo If he went to a dumb person to enquire after the said money. Answered he went to a dumb woman in Edinburgh to enquire after the said money. 3mo If he went to one in Edinburgh who was a Professor of Judicial Astrologie. Answered, he did. 4to If by any of their

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1Presbytery of Kirkcaldy, 2 August 1690. MS.
Synod of Fife, 6 April 1698. MS.
The following account from the synod's records gives an interesting account of the "work" of Haddie and others like him.

Archibald Haddie being again called, compared, and ther being severall kirk-sessions within this province, containing instances of his charming beasts, discovering secrets, telling of things stolen, and such lyke practices, and that he made a trade of this through the countrey, for gaining money, and being interrogat by the moderator, upon the severall informations given in against him; he confessed, that being called to Western saim for curing some of their beasts, he had cloven a cows tail, and mixed the blood with salt and rubbed the cows back therewith and told the people that by tomorrow that the sun rose, the cow would be whole, if they would apply the cure before the sun rose. And that he made them make a powder of routree bork, taken off the North yd of a tree beneath the ground, growing in another Laird's land, and mix it with ale or milk and pource it into the cow.

2Presbytery of Midldie, 24 May 1699. MS.
3Edgar, Old Church Life in Scotland. Page 270.
directions he went upon the housesteps in his gown to draw droughts. Ans: not by their direction but by the direction of some others. 5th by whose direction he did it. Answered that he could not tell at this time. 6th if he had a glass that would represent the face who had stolen that money. Ans: He had a glass that some said would do it. But declared that it did not. 7th being interrogate if he was sorry for using the foreaid practice to regain money. Ans: He was sorry. 8th being interrogate if he would ever use such practices again. Ans: He would not use them. 4

One method of discovering a thief made use of a Bible and a key. In 1691 Katherine Dovell of Edinburgh confessed she endeavoured to catch a thief by charming.

She took the Bible and put the key on the 50 Psalms at the 12 verse and named persons names and it stood still, and when she named Heslop Fisher's name the Bible moved, the bow of the key fell from her finger and that both times answered to that name when she did it. 2

In the case of Catharine Campbell of Kilmichell the key is said (perhaps mistakenly) to have been placed at verse fifteen of the fiftieth Psalm. It was said "that the key and the Bible of their own accord would turn about" when the guilty party was named. 3

Another method of discovering a thief was given to Janet Hogg of Blacklenans.

She had been advised to write the names of suspected persons on little bits of paper, place them on water, and discover the name of the guilty person through its sinking before the others. 4

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1 Walston, 6 May 1716, ms.
3 Presbytery of Inverary, 6 September 1692. ms.
When a "dumb person" in his parish built up a brisk trade in giving account of stolen goods, the Perth Presbytery advised James Gilloch, minister at Arnsesk, to exhort his people against "such an hellish practice as to consult wizards ... severally threatening any who will dare to be guilty of the like for the future", 1 Marion Glen of Eastwood used charming in trying to discover who she would marry. 2 In Whitehouse, David Robertson resorted to charming when his wife, who had just given birth to a child, was found to be without milk in her breasts. The question was, what other woman had taken it from her? 3 The faculty of second sight, of being able to tell the guilty and the future, was evidently not always pleasing to its possessors. A minister living near Inverness wrote that

they are troubled for having it, judging it a sin and that it came from the devil, and not from God; earnestly desiring to be rid of it, if possible; and to that effect, have made application to their Minister, to pray to God for them, that they might be exorciser of that burden. They have supplicated the Presbytery, who judicially appointed publick Prayers to be made in several Churches, and a Sermon preached to that purpose, in their own Parish Church, by their Minister; and they have accompanied before the pulpit, after Sermon, making Confession openly of that sin, with deep sense on their knees; renounced any such gift or faculty which they desired the Minister to pray for them; and this their Recantation recorded. 4

1 Presbytery of Perth, 9 December 1716. 35.
2 Eastwood, 10 November 1692. 35.
4 Aubrey, Miscellanies. Pages 261 - 262.
The use of Christian symbols, such as the names of deity, and the Bible, was common in charming. The Presbytery of Kirkcaldy administered discipline in a process where the Lord's Prayer had been written backwards with the hope that the possessor might use it to drive away evil thoughts.\(^1\) Jean Brown of Penninghaes who was interrogated as to whether "she converses ordinarily with spirits", gave answers that illuminate her delusions which apparently took the form of an intertwining of the carnal with the sacred. Her confession contains statements such as:

"the spirits ly with her ordinarily after that manner that men and women ly when they begat children"; "the spirits say they are Father Son and Holy Ghost"; and "that its that spirit she lyes with carnally that she serves as her God, ... that that spirit made heaven and earth".\(^2\) At Kirkinner it was discovered that the superstitious practice of burning the straw from the bed of the dead was being carried out as part of family worship.\(^3\)

Witches were credited with having a variety of powers as the following charges illustrate:

he had put a hean-tree balt about John Orr which he appointed to be worn nine nights in order to cure frigidity, ... he taught one how to make his own corn grow, and his neighbour's to go back, ... for the making his own corn to grow to sour milk amongst it on Beltane day, ... he cured convulsion fits by pulling

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\(^1\)Presbytery of Kirkcaldy, 8 May 1707. MS.
\(^2\)Presbytery of Wigtown, 30 January 1706. MS.
\(^3\)Kirkinner, 4 April 1703. MS.
some haire out of the eyebrows and paring the nails of the diseased person, which he bound up in a clout with ane half-penny and layed in a certain place, asserting that whoever should find would take the disease off the person that had it; ... for curing John Hunter's beast of the sturdiest he taught to cut off a stirk's head and Boyle it, and burn the bone to ashes, ... one complains that he had not gotten many fishes, he had told him to take the sailing pin out of his neighbour's boat and he would get fish enough:

... under a very sore and unnatural like distemper, frequently seized with strange fits, sometimes blind, sometimes deaf and dumb, the several parts of her body sometimes violently extended, and other times violently contracted, and that these several weeks past she hath disgorged up a considerable amount of hair, folded up straw, unclean hay, wildfowl feathers, with divers kinds of bones of fowles, together with a number of hot coal cinders burning hot, candle grease, gravel stones, ... she continues to fall into a horrible and unaccountable fits, wherein she has a great struggling. Sometimes she turns so rigid that her joints are inflexible; sometimes becomes so prodigiously weighty that she cannot be moved, her tongue fearfully drawn out, and again drawn back into her throat, sometimes she becomes utterly insensible as to all bystanders, and then distinctly conscious of several persons of the bounds whom she constantly affirms to be her tormentors; and when any of them detained by her touch before her, their touching of her, her seeing of them, yea even the speaking of them absent, throws her into the formentioned fits. And this all who see her judge, yea even physicians have declared it, to be pre-natural, physiognomically from the devil and his instruments.1

having a pin in her kipple foot (the end of the rafters of her house), by means of which she could draw milk from the cows of her neighbours, she could also interfere with the poultry of others to increase or diminish the supply of eggs. One of the most convincing parts of the evidence against the accused was, that the minister's horse, which was sent

1Murray, Kilmaclain. Pages 110 - 116.
to bring her to trial, trembled with fear when she mounted and sweated drops of blood. ¹

The judicatories were continually warning against such practices. In 1692 the Presbytery of Inverary appointed

each minr from pulpit to make intimations that

whosoever is found guilty of charms here

after shall be severely punished & fined by the
civil magistrate & underlie the severitie of

church discipline, and in regard the poor vulgar

is deceived by thinking that there is noe sin

in charms consisting of scripturall word as

the first chapter of the Gospell of John &c,

that each minr hold forth that such charms

is the highest profanatne of the work of God.²

In 1698 at a meeting of Caithness Presbytery it was carried

by a unanimous vote to request both heritors and magi-

strates to banish all, who tampered with sorcery and witch-
craft, from the parish of Wick.³ Thirty years later the

Synod of Berse and Teviotdale continued the practice of

warning the people of the evils of charms and witchcraft.⁴

It was the practice of the presbyteries to turn those

 guilty of excessive charming or witchcraft over to the

civil authorities. For his charming John Dongall of In-

verkip was to be reported to the "Shirroff".⁵ The Presby-
tery of Caithness had all those suspected of possessing

supernatural powers put under arrest with a view to their

trial.⁶ Jean Crua, a charmer in Kirkness, was "delated to

the civil magistrate to be punished according to her deservit."⁷

² Presbytery of Inverary, 6 September 1692. MS.
³ Donaldson, Caithness in the 18th Century. Page 36.
⁴ Synod of Berse and Teviotdale, 17 October 1728. MS.
⁵ Murray, Kilmagolm. Page 111.
⁷ Presbytery of Wigtown, 19 July 1698. MS.
The Commission of Assembly appointed a sub-committee to wait upon the Lord Advocate about the affair of the witches of Pitlenweem. ¹

The civil authorities took a more lenient and objective attitude towards the offenders than the men of the church. The Queen's Advocate found Jean Brown of Kircmack "more fitt for a bedlam than a criminal processe".²

In 1715 the King's Advocate General, Robert Dundas of Arniston, quashed the proceedings against the supposed witches of Caithness.³ However, the civil authorities also carried out the letter of the law at times. The Commission trying the notorious case of Christian Shaw (see page 182, the girl tormented by fits) condemned four women and three men to the fire. Six of them burned at the Gallow Green of Paisley. One man had committed suicide while in prison awaiting execution.⁴ In Kirkcudbright in 1698 a commission was to "try and if guilty, adjudge to death Elspeth M'Even. She was strangled and burnt on the 24th of August".⁵ Confessed and suspected witches were also in danger of their lives from the general public. In Kilmarnock "witches" were found murdered in the fields,⁶ and a mob in Thurso beat a woman to death.⁷ The last

¹ Records of Commission of the General Assembly, 7 June 1704. MS.
² Presbytery of Wigtown, 30 January 1706. MS.
³ Donaldson, Caithness in the 16th Century, Page 78.
⁴ Warrick, The Moderators of the Church of Scotland, Page 81.
⁵ Black, A Calendar of Cases of Witchcraft in Scotland, 1510 - 1727. Page 81.
recorded case of the burning of a witch in Scotland was
at hornooch in 1722. 1 All the official executions had the
tacit approval of the church.

Of course the church had its own methods of dealing with
sorcerers. In the cases of minor offences appearing in the
kirk-session manuscript records that were studied, half
received a congregational rebuke and the other half a re-
buhe in the privacy of the session. Agnes Hood, who re-
fused to see any wrong in using charmsing to cure a child,
had the lesser excommunication pronounced against her by
Cupar Presbytery. 2 Jean Brown, visited by spirits and
pronounced "fit for a bedlam" by the Advocate, received
the greater excommunication. 3 The presbyteries also had
recourse to days of fasting and prayers. 4 One last tool
was available to the judicators and this was to isolate
such offenders from the community by a boycott. This was
done to John Greivie by Caithness Presbytery 5 and by the
Presbytery of Wigtown against Jean Crum. 6

What were charming and witchcraft to the eighteenth
century are but folklore and mental disturbances to the
twentieth. The Kirk took the problem seriously and
required the severest of punishments for the worst offenders.

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2 Presbytery of Cupar, 27 February 1711. MS.
3 Presbytery of Wigtown, 30 January 1706. MS.
6 Presbytery of Caithness, 9 September 1702. MS.
7 Presbytery of Wigtown, 19 July 1698. MS.
In the next chapter we will discuss how the minister, elders and other church officials were treated by the discipline of the church.
CHAPTER EIGHT

The Church Officials

All were subject to the discipline of the church, and neither the minister nor his office-bearers were exceptions. Gilbert Haile, writing in 1690, had this to say about Presbyterian ministers:

They must walk by the rule set down in the word; and if they exceed that bounds, they may be curbed by superior judicatures; or if their insolence amount to the disturbing of the peace, the Magistrate may restrain them.

In the kirk-session records examined, twenty-nine cases appear involving ministers, elders, clerks and church-officers. In other words one out of every eighty-two processes involved churchmen. Thirty-seven such cases appeared in the presbytery registers. This represents one in forty-five of the processes.

The visit of the presbytery to his parish for the purpose of strict censures, as recorded in his diary by John Turnbull, was a normal event in the life of the church. The presbytery made regular visitations to each church in its

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1Rule, A True Representation of the Presbyterian Government. Page 12.
bonds to determine the state of the church's life. A great many things were inquired into such as property, fabric, Bibles, life and conduct of the elders, etc. The minister was removed and the elders questioned as to his diligence and way of life. Some or all of the following questions might have been asked.

Is he a haunter of ale-houses? Is he a swearer of small minced oaths, such as, before God it is so? I protest before God, or Lord what is that? Saw ye him ever drink healths? Is Saturday his only hook-day or is he constantly at his calling? Both he preach plainly, or is he hard to be understood for his scholastic term, matter, or manner of preaching? What time of day doth he ordinarily begin sermon on the Sabbath, and when doth he dismiss the people? Both he ever censure people for idleness, breach of promise, or backbiting? Both he restrain abuses at penny weddings? Both he carry any way partially so that he may become popular?

The minister's life was thus thoroughly investigated. He was expected to live the same sort of blameless life as his parishioners. In 1730 Adam Petrie made the following injunction to ministers in regard to their deportment.

Ministers should shun all unnecessary and familiar Converse with worldly and wicked men, lest they be infected with them: I do not mean here that they are to loak upon them as if they were to be neglected by them; for a Minister ought to exhort them to forsake their evil ways, and to repent and turn to the Lord, leaning on the Righteousness of Christ, and to shew unto them their danger in going on in their wicked Courses, and to pray for them; and this should be done in a friendly Civil Way; and that privately, using all Civility and Tenderness towards them. ... I shall advance some Directions how to manage a Re-

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"Edgar, Old Church Life in Scotland. Page 231."
proof. Be sure that the Person deserves a reproof, and that you are able to make it appear; and also, see that the Person be fit for the same; for there are several unfit for the same, as Idiots, drunk Persons, and also Persons in the height of Passion, are unfit for Reproof. It will be fit sometimes, not to reprove directly, but by giving signs of your Displeasure of the same; or you may reprove by Similes, as the Prophet did David for his Adultery and Murder; or you may cause the Scripture reprove the same, and it must be given with all Evidences of Respect, and with Meekness. If then he will not hear you, then you are to take two or three with you, (if the Crime be great) and if, after all, he prove obstinate, you are to tell the Church.

A minister should not detract from any, nor give a banded Ear to Slanderers; but endeavour, to the uttermost, to set forward Piety, Quietness, Peace and Love, among Christians, especially among those committed to his Charge, or may be committed to the same. A Minister must use all Prudence, Modesty, Discretion and Love, in reconciling Differences among his People, and for rectifying Disorders, and bringing them off from bad Practices. 1

At least one minister, Thomas Halyburton, conducted a private examination of himself. He addressed the following questions to himself and recorded them in his diary.

1. Are daily sins, sins of infirmity, search'd, observed, weighed, and mourned for?
2. Is there care taken to exercise faith distinctly in order to the pardon of them?
3. Is peace taken, when not powerful by the Lord spoken?
4. Does the impression of the necessity and excellency of Christ's blood decay?
5. Are the experiences of its use and efficacy distinct as before?
6. Am I formal in worship, duties secret, private, craving blessing to meet, returning thanks, prayer, meditation, and reading, &c.
7. Is there due care of educating my family?
8. Are reb's observed, and suitably improved?

1The Works of Adam Patrie. Pages 21 - 23.
9. Is there due concern for the flock? and singleness and diligence in ministerial duties, prayer for the flock, visiting the sick? &c?
10. Is there sympathy for afflicted saints and churches?
11. Are the sins of the day mourned for?
12. Is the voice of the red beard calling to
   (1). Denialness to relations, the dearest.
   (2). Denialness to the world. (3). To life.

Many clergymen appeared before the judicatures of the church on charges of what could be generally called a negligent ministry. One charge that was raised against several men was that of infrequency of preaching. The churches had a tradition of mid-week worship and at times this particular service was neglected altogether. On other occasions the service would lack preaching. The chief complaint against Mr. Ferguson, minister of Arbroath, was that he failed to have a week-day service. His excuse seems adequate enough. He claimed that no one attended such a service of worship. At the requirement of presbytery he tried again and had an "auditor". In Luss in 1690 William Anderson was cited for being remiss "in his ministerial functions in so far as he never gave his parishioners a weekly sermon as was wont to be done by the former minister of the place". Mr. Ainslie of Lundie carried this aspect of a lax ministry to a greater degree.

Before the synod it was minuted:

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his not only neglecting to lecture in publick for two months in the winter season, notwithstanding he preacht but once such Lord's day during that time and by his neglecting either to lecture or preach upon week days when he did administrat the sacrament of baptism.\(^1\)

Mr. Maxwell of Kilmacolm was not lax in his preaching, but he was admonished for looking at his watch "in time of prayer".\(^2\)

Preaching was not the only thing left undone by such men. Both Anderson and Ainstie had also been charged with failure to catechize and visit families, as was Mr. Couper of Traquair,\(^3\) and Mr. Clerk of Garioch.\(^4\) Clerk was found guilty of supine negligence with respect to several parts of the ministerial function, viz. not administering the Lord's Supper for two years together without giving any sufficient reason for the neglect thereof, as is evident from the answers of the parishioners at visitation and his own shifting to answer anent his celebration of the Communion.

Neill Beattie was cited before the Presbytery of Caithness on the same charge of failing to celebrate the sacrament of the Lord's Supper.\(^5\)

In connection with the sacrament others, such as John Skinner of Brechin, were found guilty of abusing and profaning the sacrament of the Lord's Supper several ways besides intrusting his tokens to one under scandal, to distribute among the people, by admitting grossly scandalous persons while under process for their scandals to partake of the said sacrament.\(^6\)

\(^1\)Synod of Angus and Mearns, 20 April 1710. MS.
\(^2\)Murray, Kilmacolm. Pages 129 - 130.
\(^3\)Synod of Lothian and Tweedale, 5 May 1709. MS.
\(^4\)Presbytery of Garioch, 20 February 1702. MS.
\(^5\)Presbytery of Caithness, 26 July 1699. MS.
\(^6\)Presbytery of Forfar, 14 September 1709. MS.
Such an attitude toward the discipline of the church was far from unique.

A few ministers seemed to ignore the whole concept of discipline. The people of Maybole complained to the presbytery in 1718 that discipline was not being enforced and as a result, there were numerous instances of drinking, swearing and sabbath breaking going unchecked. Donald Forbes of Kilmuir Easter was guilty of neglecting the discipline "against such as are guilty of the sin of uncleanness." 2 Mr. Couper of Traquair was found guilty of administrating contradictory oaths in his session by allowing a woman to depone a man guilty of being the father of her child and by allowing the same man to depone he was not the father of yt child ... never gave his servant man a publick rebuke for his publick breach of ye Sabbath ... conveyed & absolved a scandalous person by himself wt out a church judicatory ... admitted to ye Lords table a person who was under process for antemartial fornication while the scandal was not removed either before the session or congregations after he had denied the same person the benefits of baptism to his child upon the very foresaid account. 3

James Forsyth of St. Ninian's was guilty of celebrating an incestuous marriage. 4 A commission sent North by the assembly made a charge against Arthur Anderson that he for filthie Lucre's sake prostitutes the sacrament of baptism to the children of scandalous persons and fugitives from discipline, both

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1 Story, The Church of Scotland, Volume V. Page 479.
3 Synod of Lothian and Tweedale, 5 May 1709. MS.
4 Register of Assembly, 4 November 1699. MS.
fornicators and adulterers, taking also upon
him for the fiftith Laced funds, to marie per-
sons irregularly, not only without proclamation
of banns and consent of parents, but also others
who are profanely gross and scandalous. 1

Neill Beaton of Caithness confessed to baptizing the
children of immoral unions, of marrying couples in adul-
tery, and admitting scandalous persons to church satisfac-
tion without acquainting the presbytery. 2

At the time of his appearance Beaton was requested to
give up his session register and replied "that he made
it not in readiness particularly the last two years". Mr.
Clark of Garioch was also found guilty of "keeping no
session register, as is plain by his refusing to show the
same though earnestly desired to do it, and from the tes-
timony of two of his schoolmasters". 3 The Reverend Thomas
Harvie of Auchterderran is a good example of a minister
both lax and independent in his parish work. He was found
guilty on sixteen counts, ranging from tampering with the
presbytery records to private baptism. 4

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1 Beaton, Ecclesiastical History of Caithness. Pages 133 - 134.
2 Presbytery of Caithness, 26 July 1699. MS.
3 Presbytery of Garioch, 29 February 1702. MS.
4 Synod of Fife, 26 December 1699. MS.

Article third, His slighting and despising family
worship, instanced in his expressions against
Mr. Cummings prayers. Andrew Abercrombie David
Shadow and James Taylor depoening that Mr. Harvie
said, he might have made two bargains and heard
enough of Mr. Cummings prayers, they were so
long....

Article fourth, Private baptism in his own and
neighbouring congregations evident by witnesses
and his own confession....

Article fifth, Struggling and contending with
persons; For proof herof Andrew Robertson and
Not only the conduct of his ministry, but the whole of a minister's life was scrutinized. He was expected to set an example. Mr. Craig of Dunbartonshire was charged with "omitting family worship." In accordance with the

And Grieve deposes that they saw Mr. Harvie and a man grasping at a horse halter together.

Article sixth, Vitiating the presbytery records proven by two documents the first in the register sixteen forty two, page one hundred and eighty six, the second in the register sixteen forty three page seventh.

Article seventh, Obtaining elder without consent of the session proven by Andrew Inglis, Andrew Gibb and David Botson, item giving a testimonial to a scandalous person without the session's consent, proven by Andrew Gibb and Andrew Inglis maltman.

Article eighth, Incouraging curates in matters of church discipline, Confesseth that he suffered his bedfellows to summon a halter sheltering in his paroch to compear before the Session of Markinch.

Article ninth, Reflecting on Asserplies and other judicatories and particular ministers of this church proven by one instance as to their own presbytery viz. that he said some, they first tempt and then accuse. And the second instance is, that he accused Mr. Andrew Wardroper judicially of perjury.

Article eleventh, Taking no conscience of speaking truth and performing promises one instance hereof viz. that Mr. Harvie said in face of the congregation that nothing was objected against the elders, notwithstanding that four or five went in to his house and objected against them; proven by Andrew Inglis and David Botson, if this Andrew Inglis in his deposition as to that instance, be understood to speak his own words and not the words of Andrew Gibb,

Another instance of his not performing promises, adduced, viz. his baptism privately, after engagements to the contrary made to the presbytery, Asserted to be evident from the presbyterie records and his own confession.

Article fourteenth, Framing acts of session and presenting them to the presbytery as from the session, confess in one instance.

Article sixteenth, Trafficking with witnesses proven by witnesses.

1 Murray, The Church of Cardross and its Ministers, Page 79.
parity between clergy and laity, all the rules regarding
the Christian ordering of one's daily life were as rigidly
applied to ministers as to others.

The minister, for example, was not immune to the charge
of swearing and cursing. Alexander Denume was cited by
the Synod of Moray for

swearing by his faith and by his conscience ...
for his being given to railing, calling men
rascals and using scurrilous expressions
such as that he would twyne a barrow out of a
man's nose and such like.

The Synod of Angus and Mearns summoned Mr. Arbuthnott
for calling people by nicknames. Mr. Lewis Champion, min-
ister at Alvie, and Mr. Burnet of Burntisland were also
found guilty of swearing. Misuse of his tongue was one
of the causes for action against Maxwell of Kilsacolm. He
was charged with "some unguarded unwatchfull expressions
reflecting upon the evil treatment he met with from some
person of distinction." James Lesly was deposed by the
Synod of Sutherland and Caithness for calling his neighbour
"a knave and a villain."

Clergymen were involved in some interesting cases of
breach of the Sabbath or Fast days. Alexander Denume was
also found guilty of "his profaning the Lords day by

1 Synod of Moray, 19 June 1706. Ms.
2 Synod of Angus and Mearns, 22 October 1713. Ms.
3 Synod of Moray, 22 April 1730. Ms.
4 Synod of Fife, 7 September 1715. Ms.
5 Synod of Sutherland and Caithness, 29 August 1706.
travelling thirtie miles upon a sabbath". It was alleged of James Craig of Killicarn

'that he sent upon the Lord's Day two horses to Glasgow to bring home wrappes for his mother's burial gown.' On another occasion 'he roused Malcolm McGregor out of his bed upon the sabbath evening to sett up some fallen stocks of corn'. Duly shocked, McGregor pointed out that it was the Lord's Day, but the minister only urged him to it saying 'Haste you, lest the people see you'. ... Another minister to incur censure was Mr. Gillespie of Brymen, who was accused of 'having on the Sabbath day borrowed or hired three horses and pastured them in his own meadows in order to load his turf on Monday'.

An additional charge against Mr. Arbuthnott was that he caused his servants to work on the Sabbath and that he himself smoked and frequented the taverns. Thomas Keith's admonition came as a result of his performing a marriage on a Fast day.

Drink also numbered its victims among the clergy. Mr. Egid of Burntisland, Chapman of Alvie, Anderson of Caithness, Campbell of Legerwood, Boyd of Glencairn, Clancy of Kirkbean, and others were disciplined for drunkenness. William Oliphant was charged by the Synod of Angus and Mearns for kissing the church-officer's daughter when he

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1 Synod of Moray, 19 June 1706. Ms.
3 Synod of Angus and Mearns, 22 October 1713. Ms.
4 Synod of Sutherland and Caithness, 22 July 1710. Ms.
5 Synod of Fife, 7 September 1715. Ms.
6 Synod of Moray, 22 April 1730. Ms.
7 Beaton, Ecclesiastical History of Caithness. Pages 133 - 134.
8 Synod of Moray and Tweeddale, 20 October 1713. Ms.
9 Synod of Dumfries, 17 December 1696. Ms.
was drunk. The charge that "he had used unsuitable words to Mrs. Cob's step-daughter viz. - kiss his breeches", brought Andrew Graham's case of drunkenness to the attention of the Assembly's Commission.

One also comes across other "minor" scandals such as lying, fighting, and slander, but scandals involving sexual immoralities were dominant among the clergy's errors just as they were with the laity. The Garioch Presbytery cited George Clerk for suspected scandalous carriage. John Carson of Eydie made the mistake of having a

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1 Synod of Angus and Mearns, 16 October 1723. MS.
2 Records of Commission of the General Assembly, 13 November 1719. MS.
3 Beaton, Ecclesiastical History of Caithness, Pages 133 - 134. In 1700, the Commission sent north by the General Assembly had before it the case of Arthur Anderson, 'pretended preaching deacon'. He is charged, notwithstanding his own defence, of being a person 'of a profane and scandalous conversation, given to habitual drunkenness, lying & fighting.

4 Maraines, The Evangelical Movement in the Highlands of Scotland. Page 31. Before the Presbytery, MacKenzie, who was 'under no good report among friends or foes', was charged with assailing one of his parishioners, with being guilty of the sin of shedding 'innocent blood', and with having publicly declared that another of his parishioners 'lied like the devil'.

5 Synod of Merse and Teviotdale, 10 October 1716. MS. Mr. Homes sentence of deposition for injurious expressions against the presbytery was removed. He was suspended for three months and warned that if he repeated the practice that he would be deposed simpliciter. On the 23rd October 1716, Home was declared a slanderer when not one article in his process against James Ramsay for negligence, drunkenness, etc., was found proven.

6 Presbytery of Garioch, 2 May 1701. MS.
business transaction with Isobell Edisone, there being a "fama clasosa of that woman's being infamous". An article of "kissing Jean Fleming, with very indecent circumstances" was lodged against Maxwell of Kilmacolm.

Fornication was not an unknown sin among ministers. Charles Charteris was charged by the Synod of Angus and Mearns, and the Reverend Mr. Meinzie by the Synod of Dumfries. Both were alleged to be guilty with their servants. By far the most prominent process of the period was that involving Thomas Elder, the minister at Whithorn. The case came before the Assembly and/or its Commission at least twenty-two times between May of 1710 and May of 1715.

Elder's wife had given birth to a child four months and twenty days after their marriage. He maintained that the child was premature, denied pre-marital intercourse, and offered to purge himself by oath. The Presbytery of Wigtown pronounced the sentence of lesser excommunication against his wife; but did not want to admit Elder to the oath and sought the Commission's advice. The Commission voted that they would administer the oath to Elder, and appointed Andrew Fullarton to be their represen-

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1 Synod of Fife, 9 October 1695. MS.
2 Presbytery of Paisley, 30 August 1721. MS.
3 Synod of Angus and Mearns, 30 January 1729. MS.
4 Synod of Dumfries, 15 October 1696. MS.
5 Records of Commission of the General Assembly, 12 May 1710. MS.
6 Ibid., 8 November 1710.
tative at the purging at Whithorn. Two months later the Commission received communications from both Fullarton and the Presbytery of Wigtown. Fullarton asked to be excused for not having fulfilled his duty having been prevented because of storms. The presbytery asked the Commission to take a more serious view of the case. The next day the Commission decided to refer the case to the Assembly.

At its session on the 14th of May 1711 the General Assembly began to hear evidence on the matter. A petition was received from the synod, presbytery and kirk-session opposing the administration of the oath. Another was received from some of the heritors and many of the parishioners of Whithorn desiring that Elder be granted the oath. After hearing the evidence and former proceedings in the matter, the Assembly voted by a great plurality not to admit Thomas Elder to the oath on the ground that the presumptions of guilt were so great that an oath would not remove the scandal.

On the 17th of May, writing from the Assembly to his wife, Wodrow observed the following.

I hear the committee about Mr. Elder have agreed that no further censure be gone into, but the suspension continued, and the parish supplied, till next Assembly; when Providence may perhaps

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1. Records of Commission of the General Assembly, 10 November 1710. MS.
2. Ibid., 3 January 1711.
3. Ibid., 4 January 1711.
clear the way. They would have dissolved the relation, but it's said it cannot, or, at least, was never done without a minister's consent. And the presumptions will not infer a deposition. 1

In reality when the Assembly met on May 18th, the commissioners were first given a choice of delaying the process, thereby continuing the suspension, or proceeding. They voted to proceed and on the following vote deposed Mr. Elder. The facts that his wife had formerly been guilty of fornication and that the brethren of the presbytery had advised against his marriage, the fact that he invited a minister to marry him before the banns were thrice proclaimed, the fact that he went outside the presbytery for a clergyman when neighbouring ministers refused to marry him, the fact that he made an attempt to take his pregnant wife to Ireland, and the fact that he owned the child, obviously born of a full term pregnancy, to be his; weighed heavily on the minds of the commissioners. 2

Wodrow writes that the vote carried by eight with many not voting. Of Thomas Elder he had the following to say.

When the sentence was intimated, he said he prayed God might forgive this Assembly for passing such a sentence on an innocent man, who had confessed nothing, and had nothing proven against him, and he wished that some remarkable judgment might not come upon the Assembly for this sentence. Thus he blustered till his last, which was very unsatisfying. 3

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1McCrie, The Wodrow Correspondence, Volume I, Page 226.  
2Registers of Acts of the General Assembly, 18 May 1711. MS.  
In November Elder petitioned the Commission to remove the deposition. He was told that he must first remove the scandal, to which he replied that he could only do that by oath. 1 Eighteen months later he requested to be admitted to the sealing ordinances. He brought statements verifying his good behaviour from a synod and kirk-session in Ireland where he had lived since the Assembly had passed sentence on him. 2 The Presbytery of Wigtown testified that Elder still professed himself to be innocent of the scandal but admitted to his good behaviour and his sorrow. The Commission then voted in favour of admitting Elder to the sealing ordinances. 3

Two years later, on the 13th of May 1715, Thomas Elder returned again from Ireland with more references as to his good conduct and asked the Assembly to re-instate him as a minister. The case was reviewed and various persons, including some brethren from Wigtown Presbytery, gave him good character references. After deliberation the General Assembly took off the sentence of deposition and re-instated him to the office and exercise of the ministry. 4 It should be noted that at no time did the Reverend Thomas

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1 Records of Commission of the General Assembly, 2 November 1711. MS.
2 Ibid., 12 May 1713.
3 Ibid., 13 May 1713.
4 Registers of Acts of the General Assembly, 13 May 1715. MS.
Elder confess himself to be guilty of fornication, nor at any time did he satisfy discipline either publicly or privately for the supposed scandal.

Among those ministers cited for adultery were; James Malfour of Eccles,¹ Hugh Clanny of Kirkbean,² Henry Lobine of Brunt Island,³ and James Jamieson of Perthshire.⁴

In addition to sexual immoralities, other miscarriages which could cause scandal to a married minister were examined. One of the charges by the Synod of Lothian and Tweeddale against Mr. Couper the minister of Traquair, was that there has been contending strife and contentions in Mr. Couper’s family but especially betwixt him and his wife that is unsavory in any family but especially betwixt a minister and his wife who ought to be exemplary unto others every way.⁵

John Gilchrist was cited by the Presbytery of Inverary for "some irregularities in his family, particularly maltreating and beating his wife, whereof there was information from credible persons".⁶

The case of Mr. John Mulligan, minister of Methlick, illustrates the method of libel and answers used in such processes.

asked 'whether or not he did abuse his wife's credit and character in company, he replied by owning that he believed he had complained of her temper, and that he knew she had reproached herself in several places. Whether or not he alleged it

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²Synod of Dumfries, 17 December 1696. MS.
³Records of Commission of the General Assembly, 14 August 1718. MS.
⁴Presbytery of Perth, 23 October 1710. MS.
⁵Synod of Lothian and Tweedale, 5 May 1709. MS.
⁶Presbytery of Inverary, 4 April 1722. MS.
was no wonder she did not agree with him, since she would not agree with her brother when with him, but would sometimes cast the keys in his face ... he has heard these things reported of her, and told them as much. Another he had threatened that he would put his foot on her neck and trample her under his feet ... he owned that she coming one day from the hall door toward his chamber door in which he stood, with her hand lifted up he told her if she offered to lift a hand to him he would sett his foot on her neck and trample her. 4th Whether or not he will not give her money to buy eggs, fish or other provisions for his house, or give it only to the sellers or his servants, and will not trust his wife with it, and causes people come twice or thrice before they gett what his wife has pacheted with them for.' He divides his answer into five heads, like a sermon, 'She has full liberty to buy what she pleaseth. In buying provisions for his family she never asks his leave or consent by acquainting him before it is bought. He pays all things bought for his family, and his wife will not come to him to seek the money or acquaint him with the price, but sends always her servants, man or woman, and sometimes the persons from whom she buys. It was the custom of his former wife to come and ask money for what is needfull for her family. He did give allowance for his family and yet was still complained of. 5th Whether or not he so much neglects his wife as not to give her money for the common charity, and glasses for her hands, and common occurances. He answered that he allows her own and women's vertue to keep her pocket' (sic - probably their household industry such as spinning or weaving is meant): for buying anything needfull for her body he pays what she keep the against his knowledge. 6th Whether or not he frequently discourages people from coming to sell necessaries to his wife, by discharging them when he finds them by the way with butter or fish or such like, and abusing them when they come, saying, how durst you come how dare you sell to her, meaning his wife - as particularly, Thomas Gibb's wife in Melkie Methllick, and Robert Binnie's in Colliery, whom he is said to have called Sirtt, and threatened to cause his Officer scourge her out of the Class, and abuses his wife before them, saying how durst she
buy from you, so that some of them would never come again. He answered, He never discharged any from coming with what he thought necessary to his house, but once he ordered a cadger to go by; for he cared not for his fish, and that he did once quarrel another for selling fish to his wife, because he did not love them, but that yet they were bought for the house; and as to Thomas Gibb's wife, he never quarrelled her for coming with butter, but hearing his wife speak of his former wife before her, intreated her she would hold her peace, but gave no opprobrious languages, but when the said Thomas Gibb's wife was come into his own room, he did tell her that his present wife had once threatened to throw the plates into his face if he spoke one word more; and as to Robert Binnie his wife, he said that she having come in and gotten ten weeks about the middle of June, on a Saturday, for butter which she payed not till about six weeks after at which time meeting her on the way, he asked where she was going; she answered with butter to his wife which was already paid, on which he did indeed tell her she was an unworthy woman, and that it was unhandsomely done, and that he would cause his officer put her out of the Class.¹

The discipline of the ministers in the above examples was governed by the rules found in chapter seven of the Form of Process. All scandals committed by ministers were to be processed initially before the presbytery. Offences were to be considered of greater offence when a minister was involved and for that reason information received in such a case was to be carefully considered. If the presbytery felt that there were grounds for a process, then the minister accused was to receive a copy of the libel and a list of witnesses. Upon his citation, the libel having been read,
the clergyman was able to read his answers. If he confessed and the offence was one that was censurable among the laity, then he was deposed, and required to undergo a public repentance. If the minister fled or refused to answer the summons, he was regarded as guilty, deposed, and sentenced with the lesser excommunication. If he continued contumacious, the greater excommunication was passed against him. On the other hand if the man appeared when summoned, he was permitted to cross-examine witnesses. If the matter with which he was charged had to do with the conduct of his ministry, he was to be admonished by the brethren to correct his ways. In such an event the presbytery were first to visit his parish and ascertain the facts. Before a deposed minister could be re-instated he had to give evidences of his penitence and good character.

Probationers were also subject to careful observation by the judicatories. In 1693 a probationer of Ayr Presbytery was cited for "drinking and learning others to drink healths". 1 Patrick Purdie's drinking had led to his "swearing & beating his wife". The presbytery admonished him, repealed his license, and ordered him to appear before the congregations of Glensuir and Saltpreston. 2 Andrew Dickson of Aberlady was suspended for an irregular marriage. He had married while his wife was under dis-

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1 Edgar, Old Church Life in Scotland. Page 244.
2 Presbytery of Haddington, 6 July 1699. Ms.
discipline and had concealed the fact of marriage. 1 John
Honor of Sterling was also cited for an irregular mar-
riage, 2 At least one probationer fell into adultery.
On the 30th of November 1701 the Presbytery of Edinburgh
rebuked Alexander Rule and repealed his license. 3

While elders had the authority to discipline the people
of the parish, they were subject to the same rules them-
selves. As in the case of the clergy, elders, too, were
expected to maintain a high standard of Christian life.
The Assembly's Commission received an overture in 1735,
the purpose of which was to maintain the "purity of kirk-
sessions". Before a candidate was to be admitted to the
eldership, proof was to be given of his piouness. Kirk-
sessions were to meet both for exercises which would in-
crease personal godliness and for privy censures. 4

In compliance with the synod's appointment the ministers
of Ayr met in 1723 "to draw up a formula of questions to
be put to members of session", 5 As a result of such ses-
sions, William Allanon was deposed as an elder of Mearns
for being "deficient" 6 and the two elders of Stewarston were

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1 Records of Commission of the General Assembly,
16 May 1717. MS.
2 Registers of Acts of the General Assembly,
26 May 1724. MS.
3 Presbytery of Edinburgh, 26 November 1701. MS.
4 Records of Commission of the General Assembly,
11 March 1735. MS.
5 Story, The Church of Scotland, Volume 1, Page 491.
6 Mearns, 7 August 1695. MS.
rebuked for not being at the kirk to collect the offering. Messrs James Wat, Hugh Bankhead and William Bankhead of Kilmaurs were rebuked for frivolously withdrawing as elders.

One of the main duties of the elder was to call the people to task for the breach of the sabbath. As could be expected, in this as in every other area of life elders, too, were vulnerable. John Gray received a private rebuke from Carstairs Kirk-session for bringing in his barley on Sunday. When Adam Scob, elder at Auchtersuchty, offered to sell a cow on the sabbath, he ensured his suspension from the kirk-session. William McKinnie of Glasserton was rebuked for not hindering his son from carrying straw to market on a Fast day. Duncan Stuart of Leochel-Cushnie and John Macdonald of Kingussie earned their rebukes by drinking on the Lord's day. It is interesting to note the following minute of 29 April 1728, as it appears in the South Leith records.

It being represented that the elders seat in the church is very ill frequented by the members of Session, many of them sitting in their own respective seats in several places of the Church. And the Session judging it decent and a piece of good order that this should be amended, and considering former Acts of Session relative.

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2. Kilmaurs, 18 October 1710, MS.
3. Carstairs, 16 November 1699, MS.
4. Auchtersuchty, 26 December 1706, MS.
5. Glasserton, 4 March 1711, MS.
6. Leochel-Cushnie, 19 May 1723, MS.
thereeto, Therefore did and hereby do unanimously enact and appoint for the future that the elders and deacons shall meet on Sabbath days in the Session House at the ringing of the last bell noontide and afternoon, and from thence when publick worship begins shall repair in a body (at least as many as the seat will conveniently hold) into the sd seat, And that under the pain and penalty of two Shillings Scots for each diets absence unless they have a sufficient excuse, And appoints this Act to be read in Session three successive diets after this, that all members of Session may be acquainted therewith and none may be pretend ignorance.

Elders also succeeded to the superstitious practices of charming. John Reid was deposed by the Presbytery of Cupar for tying his son to a stone all night in an effort to rid him of a "distraction," Nor were they immune to the sins of the tongue, such as slander, perjury and cursing. William Miles, an elder in the parish of Kilmenie, received a presbyterial rebuke for slandering Andrew Shepherd, a fellow elder, as a "liar and rascal", John Johnston was suspended from sealing ordinances and rebuked by the Synod of Dumfries for spreading the slander "that he saw Mr. Taylor (the minister) in bed with his sister", Thomas Anderson was suspended from the exercise of his office, as an elder of Auchterdorran, for his slandering.

When the Presbytery of Perth was investigating the ministry of William English of Kilspindy, they questioned two

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2. Presbytery of Cupar, 24 October 1710. Ms.
3. Ibid., 27 December 1720.
4. Synod of Dumfries, 10 October 1711. Ms.
5. Presbytery of Kirkcaldy, 12 August 1708. Ms.
of his elders about the "petition containing an ample testi-
monial in Mr. William English their minister's favour in-
sert in their session book". The elders replied that the
kirk-session unanimously endorsed the petition. When it was
found that the elders in question were not even present the
day the session had the matter before them, the presbytery
deposed them as elders for perjury and placed them under the
sentence of lesser excommunication. 1 Alexander McClingen
was suspended as an elder of Penninghame Parish Church for
using "very unchristian expressions" against his neighbour. 2

James Finnie probably had his tongue loosened by drink.
He was cited for the "sin of cursing, swearing, drunkenness
and endeavouring to pull a woman off her horse, saying it
was his horse when it was not". The presbytery judged
that he deserved to be deposed as an elder of Corstorphine
for his action; but noting his evident repentance they
merely continued his suspension until he gave proof of his
Christian deportment. 3 Drinking often led to this kind of
physical violence. Four elders of Carriden were suspended
for three months when their drinking led to a brawl between
themselves. 4 Auchtersmaughty kirk-session rebuked Henry
Hollock and suspended him as an elder for drunkenness and
fighting. 5

1 Presbytery of Perth, 12 December 1717, MS.
2 Paton, Penninghame Parish Records, Volume 1, Pages 346 - 347.
3 Presbytery of Edinburgh, 10 October 1705, MS.
4 Carriden, 14 June 1692, MS.
5 Auchtersmaughty, 23 March 1702, MS.
However, it was in the realm of sexual immorality that most of the elders' offences were committed. On the 14th of September 1704 Kirkcaldy Presbytery deposed Henry Archibald for scandalous carriage.\(^1\) Robert Notman of Manor,\(^2\) William Reid of Bron,\(^3\) and John Young of Dunkeil were all deposed for fornication.\(^4\) John Mclean of Stranraer,\(^5\) John Thomas of Kirkcaldy,\(^6\) and Archibald Mclemburne of Inverary were all deposed for adultery.\(^7\)

There was one case of incest in the records examined, involving John Auton of Perthshire. He, too, was deposed from the office of elder.\(^8\) as were George Drummond of Edinburgh,\(^9\) and Richard Jamieson of Glenholm for their irregular marriages.\(^10\)

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\(^1\) Presbytery of Kirkcaldy, 14 September 1704. MS.
\(^2\) Manor, 7 March 1697. MS.
\(^3\) Bron, 1 February 1730. MS.
\(^4\) Presbytery of Dunkeil, 26 March 1717. MS.
\(^5\) Presbytery of Stranraer, 4 February 1708. MS.
\(^6\) Presbytery of Kirkcaldy, 15 January 1702. MS.
\(^7\) Presbytery of Inverary, 25 July 1697. MS.
\(^8\) Presbytery of Porth, 30 January 1706. MS.
\(^9\) Synod of Lothian and Tweedale, 7 November 1721. MS.
\(^10\) Presbytery of Biggar, 16 April 1724. MS.
given a private rebuke and allowed to continue his position because of his "seeming sorrow". ¹ When James Bell of Corbie was deprived of his office by the kirk-session for his scandalous carriage, he retaliated by "detaining the key of the kirk". The presbytery asked the magistrates to jail him "till he be made sensible and give satisfaction".²

The churchmen were not immune to chauvinism. Mr. Russell of Auchterdarran was suspended as proctor, session clerk and schoolmaster for writing the Lord's prayer backwards in return for two weeks' payment.³ Nor were they immune to Sabbath breaking. Robert Low of Lysert was suspended for his "profanation of the Sabbath by playing on a corn pip & shaving himself".⁴ However, it was by the scandal of drunkenness that most men came to grief. In 1707 Alexander Scot, church-officer, received his first warning for his drunkenness from the West Calder kirk-session. In 1712 he was cited on the same charge and received a sessional rebuke. In 1714 he was cited a third time and three months later demitted his office. The session had been embarrassed by some "scurrilous verses" which detailed their officer's exploits and were circulating about.⁵ Andrew McGil was suspended by Aberlady Session...

¹ Reid, The Royal Burgh of Forfar. Page 141. ² Presbytery of Wigtown, 31 November 1704. MS. ³ Presbytery of Kirkcaldy, 5 May 1707. MS. ⁴ Ibid., 7 April 1696. ⁵ West Calder, 7 December 1707 – 27 March 1715. MS.
for his drunkenness,\(^1\) as was James Henderson, schoolmaster of Fintray,\(^2\) and Andrew Kirkwood of Salton,\(^3\)

As usual, drinking often led to other scandals. Peter Henderson of Monflieth was discharged as church-officer for "excessive drunkenness, fighting and swearing".\(^4\) Monflieth session had previously been unlucky in their choice of beadle. In 1715 they had to discharge John Marshall for "stealing" and a "cobach'd life and conversations".\(^5\)

Andrew Barren the church-officer of Alyth was summoned to the presbytery. The charge was that he had

publicly miscarried by drinking, unchristian railing and threatening his neighbour upon the Tuesday after the giving of the Sacrament of the Lord's Supper, and having thereupon call'd before the session, did prove contumacious, wherefore was suspended by them from officiating as Church officer, that thereafter he compared and in one upbraiding and reproachfull way express'd himself before them.\(^6\)

Mr. Duncan was deposed as session clerk, precentor and schoolmaster of Boulty "for his scandalous conversation in being several times drunk & guilty of some extravagant on in his cups".\(^7\)

Men do not have to be drunk to misuse their tongues. Mr. Burt, the schoolmaster, of Insh was appointed "to appear before the congregations in sackcloth upon the publick place

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1 Aberlady, 25 August 1706. MS.
2 Fintray, 15 May 1729. MS.
3 Presbytery of Haddington, 24 October 1700. MS.
4 Monflieth, 15 November 1724. MS.
5 Ibid., 29 May 1715.
7 Presbytery of Garloch, 22 November 1710. MS.
of repentance and be rebuked". His appearances for his "blasphemous speeches (though his Savor should come down and plead for him he should break him)" were to continue "so long as shall be judged for edifications and needfull for removing the scandal". ¹ William Reid of Barry was dismissed as clerk and precentor for saying "divell ryd upon his back". ² Sometimes a tongue was turned against the employers. Patricke Christy, schoolmaster in Grimlew, was rebuked for slandering the minister. ³ William Thomsone, beadle at Kennoway, was publicly rebuked for slandering the session. He said they "medled wt affairs yet did not belong to ye". ⁴

Sexual misconduct was among the scandals committed by the "churchmen". Claudi Alexander of Wemyss,⁵ and a Mr. Dickson of Glamis were discharged from their jobs as clerk, precentor and schoolmaster because of their unbecoming carriage.⁶ The Presbytery of Paisley had two such cases in a period of a little over two years. On February the 18th, 1702, they dismissed John Ferguson as schoolmaster and barred him from sealing ordinances for his scandalous behaviour.⁷ On the 12th of April 1704 Hugh Bishop

¹Presbytery of Garloch, 22 November 1710. MS.
²Barry, 6 July 1720. MS.
³Presbytery of Inns, 22 April 1703. MS.
⁴Presbytery of Kirkcaldy, 22 June 1699. MS.
⁵Wemyss, 10 August 1699. MS.
⁶Glamis, 5 March 1721. MS.
⁷Presbytery of Paisley, 15 August 1705. MS.
was suspended as schoolmaster and session clerk for his antenuptial fornication.1

Various types of offences were committed by church officials, as with other men. Of interest are the cases of Adam Rodman who received a sessional rebuke and was discharged as church-officer for re-selling stolen goods,2 and that of the schoolmaster of Linchiam, John Blackwood, who "had made a long and constant practise of exacting more of persons to be married and those that had their children to be baptised, and otherwise, than what was ordinar & due".3 Wodrow, writing to his wife in 1711, told her of a "warm debate about the kirk-treasurer of Edinburgh". It was said in the sub-committee for instructions that "they keep whores in pension to discover persons, and without process, fine people of all ranks, and sometimes get 3,000 merks from one person, and in their accounts give up but 300".4

Although the ministers and elders had the power to discipline the members of the kirk, they, too, were subject to the same strict ecclesiastical discipline. In addition to the examination of their daily lives the church officials were examined as to the execution of their duties and were

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1 Presbytery of Paisley, 13 April 1704. MS.
2 Kilmun, 20 August 1708. MS.
3 Presbytery of Paisley, 15 August 1705. MS.
4 McCrie, The Rodrom Correspondence, Volume 1. Page 220
deposed if found to be wanting.

In the last chapter we will discuss the questions of the frequency and justness of church censures.
CONCLUSION

If one does not keep track of the dates when reading through the minutes of the judicatories, one gets the impression that the courts were overwhelmed by the number of scandals which came under their cognizance. As a matter of fact, considering the vast scope over which they had responsibility, there were but few cases. In the fifty kirk-session manuscripts examined, 2,779 cases were decided. But when one takes into consideration the fact that the total number of years represented amounts to 1,117, it is obvious that on an average the kirk-sessions dispensed discipline in slightly over two cases per year. Even the presbytery's average did not reach three per year. There were 1,692 cases disciplined in a total of six hundred sixty-five years among the twenty-five presbyteries whose records were examined. The reason one gets the impression at first glance that the judicatories were over-burdened with scandals is due to the fact that offenders were made to appear on several occasions before being absolved. And so while a court might have had several cases pending before it, perhaps none were new.

Among the presbyteries Edinburgh carried the heaviest
burden, settling one hundred seventy-one cases in ten years. Aberdeen, Caithness, Burleigh, and Perth Presbyteries were next in line and handled but slightly over four cases per year. Forfar, Arbroath, Chononry, Lums, and Jedburgh Presbyteries disciplined between one and two cases each year; and Biggar Presbytery decided only twenty cases in a thirty-six-year period. The kirk-sessions settled even fewer processes per year. Wiston, Cleish, Erdiquhill, Longformacus, and Wilton Kirk-sessions averaged less than one case per year. Gladsmuir averaged between six and seven processes each year and Wemyss and Canishay between seven and eight per year. Carriden handled the most cases, disciplining one hundred five cases in ten years.

There were many instances in which judicatories did not settle any processes in a particular year. There were a total of two hundred seventy-five such years among the kirk-session manuscripts examined and eighty such years among the presbyteries studied. The Longformacus Kirk-session between 1690 and 1711 decided on cases in only four of the twenty-two years and the Session of Cleish decided on only nineteen cases in the thirty years between 1701 and 1730. A period of seventeen consecutive years went by in which Wilton Kirk-session did not settle a single process. The Presbytery of Biggar discharged discipline in only nineteen years between 1694 and 1730.

In the years when processes were being decided, it is not
difficult to come across cases which show that the method of discipline could be reasonable, just, fairminded and lenient as well as strict.

The registers of the various judicatories contain a number of processes in which the defendant was dismissed because the facts proved him to be innocent or because there were no facts at all. The case of Lewis Chapman, minister at Alvie, reached the General Assembly. Although he was a member of the Presbytery of Abernethy, a process had been raised against him before the Elgin Presbytery. Fearing the uncertainty as to when they might absolve him, he petitioned the Assembly to decide the case. The General Assembly did unanimously find the libel brought against Mr. Chapman not proven, and therefore they took off the foresaid sentence of the synod, and did declare the same to be void and null and did absolve him from this whole process, and farther the Assembly did declare that they are highly dissatisfied with the proceedings of the Synod of Murray, and Presbytery of Elgin, in this matter, and they do appoint this sentence to be intimated from the pulpits of Elgin and Alvie. 1

The Commission of Assembly found the charges against Andrew Ker not proven. He had been cited on three counts: 1. Offering to commit the sin of adultery, 2. Being drunk, and 3. Being friendly with the enemies of the government. Ker produced witnesses that said he had been drinking a little

1 Registers of Acts of the General Assembly, 23 May 1730. MS.
ale but was not drunk. He denied the first charge and the servant girl who came into the room said that she suspected nothing to be amiss. He further stated that there were bad feelings between his wife and his suspected accomplice.1

The Presbytery of Kirkcaldy found in the case of Hendrie Burt that "as to the article of drunkenness upon him" that there was "nothing legally proven by any of the witnesses but on the contrary, sealt witnesses adduced agt him by ye depositions cleard yt part of the lyblie".2 The Presbytery of Edinburgh released Simon Guthrie from a charge of rape when no proof could be found.3 Archibald Angus was freed of a charge of fornication by Dunfermline Presbytery. He was accused by a woman with a poor reputation, and there were not any witnesses or facts to prove guilt.4 Marjorie Campbell was declared innocent of adultery when the Presbytery of Inverary decided that it was all just a rumour and that there was no proof of a scandal.5 Although Perth Presbytery found Captain Nairn guilty of scandalous carriage and drunkenness, they freed him from the charge of adultery and rape when they found there was no proof of such an offence.6

Carriden Session dismissed George Tilloch, having no

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1 Records of Commission of the General Assembly, 11 March 1720. MS.
2 Presbytery of Kirkcaldy, 24 July 1695. MS.
3 Presbytery of Edinburgh, 4 February 1702. MS.
4 Presbytery of Dunfermline, 18 August 1706. MS.
5 Presbytery of Inverary, 30 June 1698. MS.
6 Presbytery of Perth, 15 February 1710. MS.
ground for prosecuting him for the suspected attempt to
strike his grandfather. 1 When it was proved by witnesses
that the charge of fornication against Christine Coute was
a slander, the Kirk-session of Leochel-Cushnie ordered that
her innocence be publicly intimated. 2 At the presbytery's
recommendation that no scandal was proven, Strichen Session
dropped the process against Margaret Law and James Binn
who had slept together in one room in her public house. 3
Janet Pitiburg was cleared of a charge of charging when
the Kirk-session of Brin "could make nothing out against
her". 4 James Greig of Ceres, 5 and John Smith and James Hood
of Strachathro were declared innocent of premarital forni-
cation, the babies being declared premature. 6

Those who were ill or who were caring for the ill, at
times received special consideration. Rachel Cameron was
excused by the Edinburgh Presbytery from publicly appearing
for adultery because she was a cripple. 7 When the Kirk-
session of Elgin called John May's wife

the said John consoled and intreated his wife
might be excused because she was waiting upon
her sister who was lying sick at the time and
told that water that she was carrying upon the
Sabbath day was for her sister to drink where-
upon she was excused and no further to be troub-
led upon this account. 8

1 Carriden, 23 January 1700. MS.
2 Leochel-Cushnie, 30 March 1712. MS.
3 Strichen, 25 February 1711. MS.
4 Brin, 8 May 1694. MS.
5 Ceres, 2 September 1694. MS.
6 Strachathro, 27 March 1720 - 4 March 1722. MS.
7 Presbytery of Edinburgh, 13 September 1704. MS.
in June 1706 it was reported 'yt on sabbath was
a fourth night Mart Oliver in Alyth was found
gathering mail in time of divine worship'.
The minister had made inquiry and she had con-
fessed, 'yet it was only yt she might make a
bath yt for the use of her dying child'. The
session sent her an 'exhortation to walk cir-
cumspectly'.

A Forfar man who was found drinking ale on the Sabbath
"was pardoned because being base he waited in the inn for
a horse to take him and his wife home, she being at ser-
son". Robert Mose who was guilty of a relapse in pre-
martial fornication was dismissed by the Session of Kelton
after only two appearances as he was subject to fits.  
Banchory-Ternan Kirk-session did not require any appearances
of Alexander Burnet who was guilty of incest with his aunt,
but "looked upon him as a mad man & not an object of kirk
ceasure left him under the scandal".

There were others who received somewhat preferential
treatment. Glasserton Kirk-session dealt justly with the
poor. Martha Beattie’s penalty for fornication was
but half-a-crown because of her poverty. The same ses-
sion also imposed the following fines for fornication:

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2 Reid, The Royal Parish of Forfar. Page 141.
3 Kelton, 29 March 1719. Ms.
4 Banchory-Ternan, 17 October 1725. Ms.
5 This in apparent contrast to the practice of some sessions.

CHURCH-Censures are said to be very severe here;
but I perceiv'd the Poor only suffer'd by them;
For a piece of Money will save a Man here from
the Stool of Repentance, as much as in England.
6 Glasserton, 27 November 1706. MS.
Margaret Credle, nothing, because she was a "beggar"; David Cluir, forty pence, because he was a "poor man". The Session of Carstairs also followed this lenient practice. James Walker, Davine Stephen, and Janet White guilty of fornication; and Janet Young guilty of a relapse in fornication paid no penalty as they were all poor. A Feveran adulteress was not fined for the same reason. And among the records of Stonehouse we find the following minute.

Thomas Robertson, kirk treasurer, declared that he had got a sentence against some who had not paid their fines for their fornication; but the session, in regard of their extreme poverty, delayed to exact anything for the time.

The young also received some sympathy. Gledemuir Kirk-session gave Agnes Wright a limited sentence for her breach of sabbath as she was "not of age". And when John Berrit and Allina Gibb got into a fight on the Sabbath, they received but a private rebuke from Newtyle Kirk-session as they were young and it was their first offence.

There are other occasions when the actions of the judecatories, from kirk-sessions to the General Assembly, are

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1 Glasserton, 27 November 1706. MS.
2 Here, perhaps, we could note another action towards the poor which was common among all sessions. This case from Inverness will serve as an example.


The Magistrates having fined two persons for cursing twenty Shill. Scots, it was ordered to be given to Angus Campbell, a poor, blind suppliant.

3 Carstairs, 12 April 1702 - 24 May 1702. MS.
4 Feveran, 27 May 1705. MS.
5 Naismith, Stonehouse. Page 132.
6 Gledemuir, 13 March 1695. MS.
7 Newtyle, 10 September 1722. MS.
best described as lenient. The Session of Currie dropped the case against Mary Greg who was reported to have said that she would poison the minister’s well.1 Wemyss Kirk-session passed Alexander Baxter with a warning that the next time he would receive both ecclesiastical and civil censures. He had slandered one of the elders as the “sufferer of his father”. And when some members of that congregation broke a fast day, "the session thought fit to pass the breach of the sd day in oblivion." In the midst of a debate before the Synod of Ross "John Daine with a high voice and in a great heat called the said Mr. Daniel McKiligin a lyar, a damned lyar and a damned rascal". No evidence appears in the manuscripts of his being disciplined.3 Bron Session were anxious to absolve Alexander Paton of adultery as the scandal was not well known.4 When an Alyth woman failed to answer a citation

the session considering that she lives in the utmost corner of the parish and that it would be a piece of cruelty to oblige her to attend the session in the middle of the winter, delayed to cause cite her until Candlemas next.5

When the case of George McIntosh came before the Session of Inverness

There was a Letter sent by him to the Moderator owning his guilt, and intreating he should be delayed for a time because if it came to his

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1 Currie, 15 April 1694. MS.
2 Wemyss, 6 July 1692 - 27 January 1695. MS.
3 Synod of Ross, 28 May 1707. MS.
4 Bron, 10 February 1730. MS.
Grandmother's care, it would prove hurtful to him, because that by her he had his living at the time, which being considered by the Session, they granted the delay.¹

A homely decision which reveals the personal touch is mentioned in Dr. Bentinck's Eromenoch, where the Session dismissed a charge, they being in perfect knowledge that the said John is a well-natured poor man, and if he was provoked to strike her, it was entirely owing to herself.²

Fenwick Kirk-session found that a scandal of swearing was "not very flagrant" and the accused "being of a stiffe, proud humour, unanimously resolved that he shall only be rebuked before the session".³

The Presbytery of Edinburgh showed leniency in two adultery cases which came before them. In 1701 George Broom confessed that he had been guilty with Nicolas Shand. And he having represented that the circumstance of his family & affairs are such, as that he cannot for some time enter on his appearance in the place of publick repentance; the presbytery granted a delay thereof. And in 1706 they dismissed Janet Grey after only two appearances as they found her to be deeply penitent.⁴ The problem which confronted Caithness Presbytery was that the manager of the fishery on the water of Dunbeath was sending the boats to sea on the Sabbath. The manager and his crew were cited by the Session of Latheron, whereupon Captain Taverner said "he was not convinced of the unlawfulness of

³ Story, The Church of Scotland, Volume V. Page 473.
⁴ Presbytery of Edinburgh, 25 June 1701 & 20 March 1706. MS.
what he had done". The presbytery appointed a committee to converse with Captain Taverner, manager of the fishery at Dunbeath, because he's a stranger, on Monday next, and to use friendly methods with him to bring him from this scandalous practice: before they should proceed to censure.¹

Robert Benzie who was accused before the Presbytery of Gariech for charming explained that, although what had taken place at his home might look like charming, it was simply a coincidence. His explanation was accepted and he was told to apologize to the congregation of Gyn for any offence he might have given.²

The Synod of Lothian and Tweedale heard a report as to

¹ Presbytery of Caithness, 14 June 1710. MS.
² Presbytery of Garioch, 16 August 1703. MS.

Robert Benzie one of ye elders had been guilty of some things, about ye tympe of his flitting at whit Sunday last, qch look like charming and as if he yrby design'd ill to his successor Mr. Fising, such as ye hanging a dog in ye house, extinguishing ye fire at piss, taking out ye crook at ye last and burying a cat under ye hearth ... he having been once again examined before ye assesse denyd all save yt he alleaged he was obliged to take his crook out at ye ringing of ye house, and he knew not but his wife might have cast water on ye fire out of a stoup qch used to hold piss ... pretending also that what he hade done was in ye simplicity of his heart and yrby he design'd no ill to any person, ye modt required if he hade not heard yt ye taking out ye crook and extinguishing ye fire after such manner were things practiced by charmers and such as wished ill to yr succeessors, he denyd yt he heard ye some. Being enquired if Mr. Fising his successors, hade not desir'd him to leave cores to kindle the fire, confessed he did, but he alleaged ye fire was scarce and yr was hardly so much as he was obliged to carry to ye town he was going to for kindling his fyre there.
the "intemperance and levity" of John Lefevre, presumably a French Protestant refugee. The synod rebuked him and decided that "in regard he is a stranger and suffering for the truth & the synod being informed that he hath a good gift of preaching, that therefore the former prohibition to preach be taken off". When the Assembly's Commission was asked to decide between the Presbyteries of Caithness and Kirkwall as to who had disciplinary jurisdiction over pastors who used the ferries to get around their parishes on Sunday, the Commission recommended that all such disciplinary action should be dispensed with. A question dealing with a similar breach of discipline reached the General Assembly in 1722. William Miln, minister at Kildrummie, was deposed by the Presbytery of Alford and the Synod of Aberdeen for traveling on the Sabbath. Petitions were received from some gentlemen "attesting the necessity of the said Mr. Miln his travelling upon the Sabbath", and from "the parishioners of the said Parish of Kildrummie in favours of the said Mr. Miln their minister". The Assembly, after prayer, repealed the sentence of deposition and "did also signify to the commissioners from the foresaid synod that the Assembly could not approve of the conduct of their synod in this affair either as to the matter or form thereof".

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1 Synod of Lothian and Tweddale, 5 November 1702. Ms.
It is not difficult to conclude that though the discipline of the church may generally have been unsympathetic, there were numerous occasions, easily discovered and documented, which present quite a different and more humane viewpoint.

The discipline in the Church of Scotland, 1690 to 1730, presents an interesting study. Through the Westminster Confession of Faith the church had willingly obligated itself to a literal interpretation of the Scriptural laws and commands governing Christian life. The ideal of the "Christian nation" bound all subjects to an observance of the Christian ethic as interpreted by the Kirk and as enforced both by her officers and the civil power.

In sincerity and with a passionate desire to fulfill the word of God the Kirk sought to impose the truth (as they understood it) on all the subjects of the Kingdom, that the entire country might give glory to God. A discipline was established which would best ensure that sin and scandal were kept at a minimum. Offenders were cited and denunciation required in order to keep the church pure that it might shed only honour on God. The various penalties imposed were attempts to bring delinquents to repentance and return them to a Christian life in the church. With kirk-sessions sitting as ecclesiastical courts in each parish, wrongs would be pointed out and punished. By this the people would be enlightened and the Kirk purified.
If one is selective in the information he presents, two opposing views of the discipline in the period can be presented. One view shows the work of the judicatories as being efficient and fair. The other view points out the system as inefficient and tyrannical. A reasonable argument might be provided for either viewpoint.

Was the system efficient? Visitors to Scotland indicated that they found immoralities restrained and the Kirk's defenders claimed a pure church (pages 14 and 15). In its work the church was supported by the government and magistrates thereby adding civil sanctions to the moral persuasion of the ecclesiastical judicatories (pages 43, 46 and 52). This was best exemplified in the position of session bailie (page 53). The elders investigated and supervised a small district in which they took notice of all offences both large and small (pages 65 and 69). The necessity of possessing a "testificate" and a common token, the need to have marriage banns proclaimed and the natural desire for infant baptism added to the efficiency of the system (pages 71, 75, 164, and 74).

Was the system fair? Its penalties were in keeping with the society of the day and with the punishments used by the civil powers (pages 1 and 2). Ministers were exhorted to execute discipline impartially and along with other officials of the church were themselves subject to a strict enforcement of the rules of deportment (pages 69 and 187). Far from objecting to the system, many of the people welcomed it and initiated processes themselves
(pages 12 and 70). When a process was heard, the accused was able to question the witnesses of which there had to be at least two (pages 64 and 80). If the supposed delinquent disagreed with the sentence he was free to appeal to a higher judiciary which would quite often show great patience in reviewing a particular case numerous times (pages 26 and 196). In the records are found many instances of church courts acting with understanding and/or leniency (page 218).

On the other hand, was the system inefficient? There was no attempt to define such a term as "Sabbath breach" resulting in confusion as to where to draw the line (pages 94 and 226). The use of the "narrative" like the court verdict of "not proven" left cases in a very unsatisfying state (page 99).

Everyone did not respond to discipline. The Act of Toleration freed members of other communions from any obligations toward the established church (page 57). Offensive scandals, such as incest and rape, still occurred (pages 168 and 172). Misbehaviour within the church itself during worship was not unknown (page 121). There were those who fled the parish to escape discipline (page 102), and some who were contemptuous simply ignored their summons (page 103), therefore many cases had to be passed on to higher judicatures (page 111). Many offenders repeated (page 111). The presbyteries' time was occupied mostly in considering cases of release in fornication and adultery (pages 152 and 157). The judicatures actually settled on
very few cases. The kirk-sessions and presbyteries, whose records were examined, decided on only two or three cases each year (page 216). Indeed, there were years when no cases were disciplined (page 217).

Was the system tyrannical? The Kirk's opponents said, yes (pages 11 and 12). They complained at the Kirk's morality which censured gaiety and frowned on music, dancing, weddings and wakes (page 135). They resented its intrusion into the private world of neighbourly quarrels and married life (pages 135 and 163). Certainly there were many who did not take kindly to the church's attempt to structure their lives. Ministers and elders were prominent recipients of both slander and physical abuse (pages 138 and 131). The system was at times misused. Old cases were disciplined contrary to the time limitation set forth in the Form of Propers (page 79). Money was accepted in place of public appearances (page 95).

It is difficult today to agree with a system that disciplined superstition, mental illness and the practice of folk medicine, as charming and witchcraft (page 176); that was so thorough in its investigations as to employ "prickers" and to draw women's breasts (page 76) and that made occasional use of corporal punishment (page 96). We are unable to forget that such a system contributed in part to babies being abandoned in the fields (page 156) and to the murder of supposed witches (page 194).

Did the system of discipline enable the Kirk to achieve
its goal of a pure church and of a nation glorifying God? The answer must be, no. They tried to impose morality from without and they failed. The system was comprehensive enough, but the people were not extraordinary. Men and women offended against God's will and clergymen misused it. Let it be said to the credit of the Kirk that it tried to achieve an end for which we all long. Its methods were in keeping with the times. The tyranny and harshness that are to be found in the church of the eighteenth century were no strangers to the age. The impartiality of the system and the sincerity of the great majority of the men seeking to implement it, stand as a credit to the Church of Scotland.

K.M.G.
Concerning Church Government, Discipline, scandals, and Censures in General.

1. Our Lord Jesus Christ hath instituted a government, and governors 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, and did use and exercise the same upon all occasions, and Christ hath from time to time furnished some in his church with gifts for government, and with commission to exercise it when called thereunto, and has promised his presence to be with them to the end of the world.

2. It is agreeable to and founded on the word of God, that some others, besides these who labour in the word and doctrine, be church governors, to join with the ministers of the word in the government of the church, and exercise of discipline and oversight of the manners of the people, which officers are called ruling elders; as also, that the church be governed by several sorts of judicatories, and one in subordination to the other, such
Church discipline and censures, for judging and removing of offences, are of great use and necessity in the church, that the name of God, by reason of ungodly and wicked persons living in the church, be not blasphemed, nor his wrath provoked against his people, that the godly be not leavened with, but preserved from the contagion, and stricken with fear, and that sinners who to be censured may be ashamed, to the destruction of the flesh, and saving of the spirit in the day of the Lord Jesus.

4. Nothing ought to be admitted by any church judiciary as the ground of a process for censure, but what hath been declared censurable by the word of God, or some act of universal custom of this national church agreeable thereto; and the several judicatories of this church ought to take timely 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 there amiss, unless it be of an 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.

5. These assemblies or church judicatories before mentioned, have power to convene and call before them any persons within their own bounds, whom the ecclesiastic
business which is before them both concern, either as
party, witness, or otherwise, and to examine them according
to the nature of the affair, and to hear and determine in
such cases as shall orderly come before them, and accord-
ingly dispense church censures.

6. If a person be charged with a scandal, who lives
within the bounds of another parish, the kirk-session of
the parish where that person resides should be desired to
cause cite that person 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, seeing for order's sake they should not presume to
exercise their authority without their own bounds.

7. The minister of the word being an office above that
of the ruling elder, cannot be liable to the censure of
the kirk-session, but to the superior judicatories of the
Church.

Chapter II

Concerning the Entering Processes, Citation of Parties
and Witnesses, and taking Depositions, and absent
Fugitives from Discipline.

1. Members of kirk-session are wisely to consider the
information they get of scandals, and consult with their
minister thereon, even before the same be communicate
to others, that thereby the spreading of the scandal may
be prevented, and it may be removed by private admonition
according to our Lord and Saviour's rule, Matth. xviii.15,
which, if amendment follow, is the far better way of
 gaining and recovering a lost brother, whereas the need-
 less spreading of a scandal does sometimes burden the
 guilty, grieve the holy, and is dishonourable to religion.

2. When any business is moved in a church judicatory,
 whether by information, petition, or otherwise, they are,
in the first place, to consider whether the matter in its
 circumstancebe case be proper for them to enter upon, and
 whether it be orderly brought in, and proper for them to
 cognosce and discuss it themselves, or prepare it for their
 superior judicatures; and should endeavour to shorten their
 work as much as with the edification of the church they can,
especially as to the head of scandal, but still on all
 occasions the office-bearers in the house of God are to
 shew all commend zeal against sin.

3. In proceeding in all causes where there is any
 person or parties concerned, the judicatory is to see, that,
 before they proceed, these persons or parties be duly
 cited before them by a formal and in time citation in writ
 bearing its cause, either at the instance of a party com-
 plain, or at least by order of the judicatory; and if
 they be residing within the parish, the same may be upon
 forty-eight hours advertisement, and the execution of the
 summons bearing its cause, and made before two or three
 witnesses insert, is to be returned by the bundle or
 officer in writing, and the persons cited, called at the
 door; and this is especially to be observed by presbyteries
and other superior judicatories of the church.

4. Sometimes it may be fit that the party be privately spoken to, before any citation be given or process begun, for their better gaining; in which case, the minister is to exercise his own discretion, and take the concurrence of elders and others with him; but if the party cited as above appear not, there ought to be a second and then a third citation given by the order of the sessions and presbyteries, either personally, or left at their dwelling-house, before the judicatory declare the person contumacious, unless the party be cited to appear before a superior judicatory, the party having actually appeared before the inferior judicatory, and being cited and acts to appear before the superior, and the same marked in the minutes, or having been declared contumacious before the cause was brought before the superior judicatory.

5. All citations and acts are peremptory, and if instructed, infer contumacy if not obeyed.

6. If the person does not appear on the third citation, or upon a citation and acts, and no relevant excuse adduced and verified, though in that case he be censurable for contumacy, yet it may be fit the judicatory proceed to take cognizance, either by examining witnesses upon oath, or by other documents of the verity of the scandals related against him, before they censure him for contumacy.

7. If the party appear, then the moderator is to inform the person of the occasion of his being called, and to give
him, if desired, a short note in writing thereof, with the names of the witnesses that are to be made use of.

9. There seems to be no need of accusers or informers in ecclesiastic processes, where the same are not raised at the instance of a party complaining formally, but the party, if cited by order of the judicatory, is to answer the judicatory in what is laid to his charge; yet so, that if the party cited be found innocent and acquitted, those who informed the judicatory, whether the party require it or not, ought to be noticed, for either their calumny or insincerity, as the judicatory shall find cause.

9. If there be witnesses to be made use of in the process, a list of their names ought to be given to the defenders some time before, or at least at their compari-

ance, and their witnesses ought to be timely cited to give evidence; and if they refuse after three citations given, and executions returned, may be proceeded with as contumacious; or if judged needful, and after the first or second citation, application may be made to the civil mag-

istrate, that he may oblige them to appear.

10. Before the witnesses be judicially examined, the accused person is to be called, and the relevancy of the libel discussed, and if the defender complain, 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; but a person's being the delator or informer, doth not hinder him to be a witness, except in the case where
he formerly complained for his own interest, or of pregnant presumptions of malice against the person accused.

11. Though there be no relevant objection, yet the witnesses are solemnly to be pursued of malice, bribe, or good deed done or to be done, and of martial counsel.

12. The witnesses are to be sworn and examined in the 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 for his exculpation, which, if the judicatory think pertinent, are to be proposed, but no accused person is to interrupt the witness, or speak during the time of deposition.

13. If the party accused do before probation offer grounds of exculpation to be proven by witnesses, the moderator and clerk, if required, are to give warrant to cite the witnesses upon the party's charges, the relevancy of the offered exculpation being first considered and sustained by the judicatory; and if the exculpation be fully proven as to the substance of the scandal, all further proof of the libel and accusation must there sit; and the defendant is to be assailed; as, if the libel be special as to the time and place of a fact, and the accused more pregnantly allege and clearly prove alibi. But if the substance of the scandal be once sustained and depose upon, there can be no place for exculpation, unless it be as to some extenuation or alleviating circumstances not contrary to, but consisting with, the deposition already
taken.

14. If the witnesses cannot subscribe their names to their deposition, the clerk is to mark that they declare they cannot write; and the moderator is to subscribe the same, whether they can subscribe or not.

15. After the depositions are ended, the parties being removed, the members of the judiciary at the same or some after diet thereto appointed, are to advise the cause, and there and then to reason the affair calmly, speaking always to the moderator one after another, without interrupting one another, using no reflecting language to or of one another, nor too long banqueting or digressions.

16. If any person or persons under process for scandalously abscond, they should, after being called before the judiciary and not appearing, be cited first from the pulpit of the parish where the process depends, and where they reside, and if they do not thereupon appear before the judiciary before whom the process depends, they are by order of the presbytery, to be cited from the pulpits of all the kirksw within their bounds, to appear before the presbytery; and if they do not then appear, they are to be declared fugitive from church discipline, and the same intimate in all the kirksw within the bounds of the presbytery, desiring, that if any knows of the saids fugitives, they may acquaint the minister or elder of the bounds thereof, and the presbytery are to sist there until they get further notice of these persons.
Chapter III

Concerning Swearers, Cursers, Profaners of the Lord's Day, Drunkards, and other Scandals of that Nature.

1. It may fall out that one single act of drunkenness or breach of the Lord's day, disobedience to parents, or of swearing, cursing, scolding, fighting, lying, cheating, or stealing, may be clothed with such circumstances as may be a just ground of process immediately, and even bring the persons guilty under the censure of the lesser excommunication and suspension from the benefit of the sealing ordinances, and require their appearance in presence of the congregation to be rebuked, before relaxation; but the weight of this is duly to be pondered, and church judicatories, and members thereof, are to consider whether the private admonition of persons alleged and found guilty of the above scandals, if not clothed with such circumstances or the bringing them to public, will tend most to edification, and proceed accordingly.

2. But ordinarily in all such offences, the guilty for the first fault would be spoken to in private by the minister or an elder, and admonished; and on the promise from a sense of guilt to amend, they may sit still there.

3. But if the person refuse, 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 of sin, to amend, may again sit still.

4. But if the person amend not after that, the session
should orderly proceed, unless repentance appear and due satisfaction be offered, till they inflict the censure of the lesser excommunication and suspension from the benefit of the sealing ordinances, under which the censured are to lie till amendment and reformation.

5. With respect to scandal, the grossness whereof makes it necessary to bring the persons guilty oftener than once before the congregation, the rules prescribed by the fourth act of the General Assembly, anno 1705, are to be followed.

6. If the guilty persons continue in this condition, or lie under the censure of the lesser excommunication a considerable time, and yet be found frequently relapsing in these vices they are censured for, it may be constructed such a degree of contumacy, and so aggravate the crime, as to found a process of the censure of the higher excommunication, which is to be inflicted, or not, as may tend most to the reclaiming of the guilty person and edification of the church.

Chapter IV

Concerning the Sin of Fornication, Adultery, and Scandalous Carriage tending thereto.

1. In delations about the sin of uncleanness, it fall frequently out, that when the matter is put to the strictest trial, all that can be proves is but presumptions of guilt or scandalous behaviour, and not the act of uncleanness, the same being a work of darkness, and therefore this should
oblige the kirk-session to be very cautious how to admit
the public entering a process without good warrant, where
there is not a child in the case, unless the scandal be
very flagrant.

2. Many of these actions which give occasion to the
raising a scandal of uncleanness, are such as are not them-
selves alone publicly censurable, but to be past by with a
private rebuke of admonition.

3. Yet some of these actions which come under the name
of scandalous behaviour may be so licentious and obscene,
and clothed with such circumstances as may be as offensive
as the act of uncleanness itself, and as censurable.

4. If a married woman, whose husband hath been notourly
absent for a considerable time, beyond the ordinary time
that women use to go with child, be found with child, this
also may give ground to a kirk-session for a process against
her; but in this case judicatories would be prudent in con-
sidering well all circumstances, and whether or not the
person hath been always of entire fame before, as also how
the public fame now runs.

5. When an unmarried woman is known to be with child,
the same gives ground to a kirk-session for a process
against her; and after she is cited before the session, and
approseth, she is to be interrogate who is the father of the
child, and though in other cases the divulging of a secret
may be very imprudent, and indeed the raising of a scandal,
yet in this case where there is a child, whereby there is
an undeniable scandal, and the keeping secret of the father
e ground of greater offence, and of suspecting many innocent persons, if she discover not the father, she is to be looked upon as contumacious.

6. Prudence may sometimes require that the person who nameth to be the father of the child be informed thereof, and spoke to privately; and if he deny the same, he is seriously to be dealt with to confess, but if he still deny, then the session is to cause cite him to appear before them.

7. In this process, when the delated father comes forth, he is to be interrogate, and if he deny, he is to be confronted with the woman, and the presumptions as particularly held forth as possible; and all along there should be private treating with him, in all meekness, charity, and seriousness; and if, after all this, he deny, though the woman's testimony can be no sufficient evidence against him, yet presumptions, such as suspicious frequenting her company, or being solus cum solo in loco suspecto, or in suspect poses and such like, which he cannot disprove to the satisfaction of the session, any so lay the guilt upon him as to show 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 absolved; it perhaps may be more for edification that a true narrative of the case be laid before the congregation, and intimation given that there can be no further procedure in that matter, till God in his providence
give further light, and to sit there at the time, 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 (if they shall judge it for edification and removing of the scandal) allow the same, which may be to this purpose:

"I, A.D. now under process before the presbytery of for the sin of alleged to be committed by me with C.D. and lying under that grievous slander, being resonate as one guilty of that sin; I, for ending of the said process, 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 certain knowledge of the said C.D. and hereby call the great God, the judge and avenger of all falsehood, to be witness and judge against me in this matter if I be guilty; and this I do by taking his blessed name in my mouth, and swearing by him, who is the great judge, punisher, and avenger as said is, and that in sincerity of heart, according to the truth of the matter and mine own conscience, as I shall answer to God in the last and great day, when I shall stand before him to answer for all that I do in the flesh, and as I would partake of his glory in heaven after this life is at an end."

3. In taking this oath for purgation, all tenderness and caution is to be used; nor is the session to press any man
thereto, but they are to deal with him and his conscience as in the sight of God; and if he offer to give his oath, the judicatory are to accept it or not as they shall see cause, and then to proceed to remove the scandal, with the advice of the presbytery, as may be most to edification; but this oath is not to be taken in any case but this, when the presumptions are so great that they create such jealousy in that congregation and session, that nothing will remove the suspicion but the man’s oath of purgation, and when his oath will probably remove the scandal and suspicion; in all other cases this oath is in vain, and so should not be admitted, and never but by the advice of the presbytery.

9. This oath for purgation is to be taken either before the kirk-session or presbytery, or the congregation, as the presbytery shall determine; and if the oath be taken before the session or presbytery, it is to be intimated 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 publicly to own his engaging himself by oath, and so be declared free from the alleged scandal.

10. After an end is made as above with the delated 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 confess by her, without naming the person related by her; the judicatory reserving place
for further censure upon further discovery.

11. If the woman who hath brought forth the child doth declare she knoweth not the father, alleging she was forced, as in the fields, by a person unknown, or any the like reason; in those cases, great prudence is to be used, the former behaviour of the woman exactly searched into, and she seriously dealt with to be ingenuous; and if she hath been of entire fame, she may be put to it to declare the truth as if she were upon oath, but not with out the advice of the presbytery, and no formal oath should be taken; and if the woman confess she was not forced, but doth not know the man, whether married or unmarried, the same censure is to be inflicted upon her as in the case of adultery.

12. If a person doth voluntarily confess uncleanness, and if there be no child, and the case be brought to the kirk-session, the session is to enquire what presumptions there are of the truth of the thing confessed, or what may have moved the person to make that confession, whether it floweth from disquietness of mind, or from seditious design, as when a man suing to a woman for marriage is denied, and for revenge, or for to obtain his desire, spreads the report that he hath been guilty with her, they are to be dealt with according as the presumptions upon search are found, or not.

13. If it be found that there is no ground for the confession, and that it is false, the person confessing is to be censured as defaming himself, and likewise as a slanderer
of the other party; and written application is to be made by
the session to the civil magistrate, that he may be punished
according to law.

14. If there be need of witnesses, the directions
formerly mentioned, chap. 36, are to be followed.

15. When persons guilty of uncleanness live one in one
parish, and another in another parish, the process against
them and censure are to be before the session of the
parish where the woman liveth, or where the scandal is most
notour.

16. If a scandal of uncleanness be committed where
neither party resides, as if persons having fixed their res-
idence in one parish, do commit uncleanness in another
parish, or perhaps in the fields, or in the 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 of
where the sin was committed, and the scandal be most
notour where it was committed.

17. When there is a scandal of uncleanness whereof
persons are guilty, living in different parishes, the
session where the sin was committed is to acquaint the
other sessions where any of the persons resides, who are
ex obito to cause summons these persons to appear before
that session, where the scandal is to be tried.

18. When a person is convict of a scandal by a session
of another congregation than his own, and the censure of
the lesser excommunication is inflicted, the session is to send an account thereof to that session to which he belongs; but there is no need of any other sentence of his own session to fix the censure on him, but only a public intimation thereof to be made in his own parish.

19. When a person is censured and absolved from his scandal in another congregation than where he lives, he is to bring a testimonial of his absolution, which is to be intimated to the congregation he lives in, if the scandal be also flagrant there; otherwise it will be sufficient to intimate the same to the session; and the same is to be done in the case of the profession of repentance where there has been a sentence of the lesser excommunication.

Chapter V

Concerning Appeals from a Kirk-session to a Presbytery, &c.

1. All persons who judge themselves laced by the procedure or sentence of the kirk-session, may appeal to the presbytery, by declaring and protesting at passing of the sentence; and should thereupon, according to the eighth act of the General Assembly, 1694, give in the appeal with the reasons thereof in writ, to the moderator or clerk of the session, within the space of ten days after the time of appealing, and procure extracts thereof, and present the same to the next meeting of the presbytery thereafter, if there be competent time, at least ten days free betwixt
the time of appealing and the seating of the presbytery; and should then insist in the appeal; wherein if the appellant fail, the appeal in facto fails and becomes null, and the appellant is to be held as contumacious, as proceeded against accordingly by the kirk-session.

2. When an appeal is brought from a kirk-session to a presbytery, the presbytery is to consider whether the cause is of that nature, as it behoveth 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 alleged adultery or such like; then the presbytery, to save themselves time, may fall upon the consideration of the affair without insisting much upon the base or malo appellantum, though it seem to be preposterously appealed.

3. But if the cause be such as the kirk-session are the competent and proper judges of, even to its ultimate decision, and if there have been no cause given by the kirk-session, by their breaking the rules of an orderly process, either by the course of the process, or by the incompetency of the censure, the presbytery is not to sustain the appeal.

4. If the presbytery do not sustain the appeal, and find there hath been some fault, passion, or culpable mistake in the appellant, the presbytery is to inflict some censure, such as a reproof before the presbytery, or appoint an acknowledging of their precipitancy before their own session or such like, on these appealers they find to have been malicious and litigious, thereby to prevent unnecessary
appeals; and that beside resitting back to the session, to stand either to the censure of the session, if it be inflicted already, or to sit themselves during the process, if it be depending.

5. If the appeal be sustained, and yet upon proceeding on the cause the presbytery find the appellant censurable, it is always to be minded, that whatever censure be inflicted to remove the offence he hath given to the presbytery, yet the appellant, if found guilty, is to undergo a censure, either before the kirk-session or congregation he belongs to, such as the presbytery thinks he deserves, else presbyteries will always be troubled with appeals.

6. If, on the other hand, on trial of the process, the presbytery find the kirk-session hath unwarrantably proceeded, either in contributing to the raising of a scandal, or inflicting the censure without sufficient cause, and thereby the appellant lesioned; the presbytery is not only to assize the appellant, but to take such ways as may be proper and effectual to vindicate the appellant's innocence, and wipe off the scandal taken at him.

7. Herein the presbytery is to exercise great prudence, doing justice to the innocent, yet so as not to weaken the kirk-session's authority in that congregation, if in justice it can be avoided.

8. But such an emergent may very well occasion the presbytery's giving the minister and elders of that session suitable injunctions and rules to walk by, or private admon-
itions, or to call for a visitation of their session register.

9. The same method is to be followed in appeals from presbyteries to synods, and from synods to general assemblies.

10. An appeal being made by parties, should sist the execution of the sentence appealed from, only while the appeal is duly and diligently prosecute, 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 sist until the appeal be discussed.

Chapter VI

Concerning Processes which natively begin at the Kirk-session, but are not to be brought to a final determination by them.

1. There are some processes 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 the opportunity of 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, idolatriy, witchcraft, charming, and heresy and error, veated and made public by any in the congregation, schism and separation from the public ordinances, processes in order to the highest censure of the church, and continued contumacy; but the kirk-session
having received information of such gross scandals, they are to weigh the same according to the rules and directions prescribed them in processes which belong to their peculiar province; and if they find good ground for a process, they are to deal with the person accused to confess that which now cannot be hid or amended, till satisfaction be made to the church, which, when done, the session is to refer the case, and send an extract of their procedure thenceunto to the presbytery.

2. When there is no confession of the scandals above mentioned, the session are not to proceed to lead probation by witnesses or presumptions, till an account of the matter be brought by reference to the presbytery as aforesaid, and the presbytery do themseleves appoint the session to proceed and lead probation; and after probation is led, the same is to be brought to the presbytery, who may inflict what censure they see cause.

3. Sometimes it will fall out that the process is so clear, as in a case of judicial confession, that the kirk-session may summon the delinquent when before them and acts, to comppear before the presbytery, without previous acquainting them thereof, but where there is any difficulty, the kirk-session should inform the presbytery, and take their advice before a party be summoned before them.

4. When the party or parties comppear before the presbytery, if they confess and profess repentance for their sin, then the presbytery having gravely rebuked, and seriously
exhorted the party or parties, are to determine the censure, and prescribe the time and place of the parties, their profession of repentance publicly in the church of that congregation where the process began, the scandal being there to be taken away, or remit them to the session to receive orders thenceforth.

5. It is thought more fit that the delinquents be appointed to remove the scandal in the congregation where the offence is most flagrant, especially if they reside there, rather than in the place where it was committed, if it be not public there, and that intimation of the removing thereof be made in other places, if the judicatory shall find it useful.

6. When persons censured for these greater scandals do apply to the kirk-session for relaxation, they may both be privately conferred with, and likewise their acknowledgments heard before the session; but they ought not to be brought before the congregation, in order to their absolution, nor absolved, but by advice and order of the presbytery.

Chapter VII

Concerning Processes against Ministers

1. All processes against any minister are to begin before the presbytery to which he belongeth, and not before the kirk-session of his own parish.
2. The credit and success of the gospel (in the way of an ordinary mean) much depending on the entire credit and reputation of ministers, their sound doctrine and holy conversation, no stain thereof ought lightly to be negligently enquired into, or when found evident, ought to be slightly censured.

3. And because a scandal committed by a minister hath on these accounts many aggravations, and once raised, though it may be found to be without any ground, yet it is not easily wiped off; therefore a presbytery would exactly ponder by whose information and complaint it comes first before them; and a presbytery is not so far to receive the information, as 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. So, or at least so before the presbytery undertake to make it out, under the pain of being censured as slanderers. Or, 3tio, That the fame clamors of the scandal be so great, as that the presbytery, for their own vindication, see themselves necessitate to begin the process, without any particular accuser; but the presbytery in this case would be careful, first, to enquire into the rise, occasion, broachers and grounds of this fame clamors.

4. All Christians ought to be prudent and wary in accusing ministers of any censurable fault, as that they ought neither to publish nor to spread the same, nor accuse
the minister before the presbytery, without first
acquainting the minister himself, if they can have access
thereto, and then, if need be, some of the most prudent of
the ministers and elders of that presbytery, and their
advice got in the affair.

5. If there shall be ground found to enter in a process
against a minister, the presbytery should first consider the
libel, then order him to be cited, and to get a full copy,
with a list of the witnesses' names to be led for proving
thereof, and a formal citation in writ is to be made either
personally or at his dwelling-house, bearing competent time
allowed to give in answers to the libel, and his just de-
fences and objections against witnesses, at least ten free
days before the day of appearance, 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, and if he
compear, the libel is to be read unto him, and he is to be
enquired if he has any answers to give in to the libel, that
they may be read and considered, in order to the discussing
of the relevancy; and if the presbytery find the same, and
there is cause to insist, they are to endeavour to bring
him to a confession, whereby he may most glorify God; and if
he confess, and the matter confess be of a scandalous
nature, censurable in others, such as the sin of uncleanness,
or some other gross scandal, the presbytery (whatever be the nature of his penitency; though to the conviction of all) are instanter 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 public profession of his repentance.

6. If a minister be accused of any scandal, and cited to appear before his own presbytery, and do absent himself by leaving the place, and be contumacious without making any relevant excuse, after a new public citation and intimation made at his own church when the congregation is met, he is to be held as confess, and to be deposed and censured instanter with the lesser excommunication; but if after some time he do not return and subject himself to the censures of the church, he may be proceeded against till he be censured with the greater excommunication, if the judicatory see cause for it.

7. If the minister accused do appear and deny the fact after the relevancy is found, the presbytery proceeding to probation, and to find the truth of the matter, all the circumstances are to be exactly canvassed, and the accused heard to object against the witnesses. As also, he should be allowed to be present at the examination, and modestly to cross interrogate, and then the reputation of the witnesses and their ability duly regarded, and the examinations considered. If, after consideration
of all these, the judicatory shall find the scandal sufficiently proven, they are to proceed to censure, as advised in the case of confession in paragraph 5th.

8. If the matter laid to the minister's charge be such as in their own nature manifestly subvert that order, unity, and peace, which Christ hath established in his church, or unsoundness and heterodoxy in doctrine, then great caution would be used, and the knowledge and understanding of witnesses much looked into; and withal, 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 tried to reclaim without cutting off, and the advice of other presbyteries sought; and unless the thing be doing much hurt, so as it admits of no delay, the synod or general assembly may be advised with in the affair, and the same intimation to the minister concerned.

9. If the libel and complaint brought against a minister be a multitude of smaller things laid together, as several acts of negligence or other unsuitable actions, the presbytery in proceeding therein are to make a presbyterial visitation of that parish to which the minister belongs, and at the said visitation, are first to see if any of these things now laid to the minister's charge were
committed prior to the last presbyterial visitation of that parish, and whether they were then laid to his charge, and if they were not, it would be tried how they came to be laid to his charge now.

10. If the presbytery find those things laid to his charge to be committed since the last visitation, or find a satisfying reason wherefore they were not then tabled, they are to enquire what diligence hath been used in acquainting the minister with the offence taken at these things when first committed by him, and how far the minister hath been guilty of giving offence, after he knew offence to be taken.

11. It would likewise in this case be enquired, whether any of the complainers did first in a prudent, private way, inform any of the neighbour ministers of some of these things committed by their minister, who is now challenged, before these offences came to be so many, as to merit a public and solemn trial, and accordingly the presbytery is to judge.

12. If the presbytery find, upon trial, 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 no such offence taken, or at least not to remain, so as to hinder the minister's profiting the people; and that the offence was taken by the minister's own people only or mainly; then the presbytery is to take all prudent ways to satisfy and
reclaim both minister and people, and do away with the offence.

13. But before a minister deposed for scandalous carriage can be restored to the exercise of the ministry, there should not only be convincing evidences of a deep sorrow for sin, but an eminent and exemplary humble walk, and edifying conversation, so apparent and convincing as hath worn out and healed the wound the scandal gave.

14. Immediately on the minister's being deposed by the presbytery, the sentence is to be intimate in his congregation, the church declared vacant, the planting thereof with another minister hastened, and never delayed on the expectation of his being reposed, it being almost impossible that ever he can prove useful in that parish again.

Chapter VIII

Concerning Processes in order to the Censure of the greater Excommunication.

1. Since there is a distinction betwixt the greater and the lesser excommunication, it seems that whatever have been the causes of the first process, yet ordinarily all processes that are inorder to the greater excommunication are to be grounded on manifest contumacy, or obstinate continuance in scandalous practices; and where there is no manifest contumacy, or continuance as aforesaid, the lesser excommunication need only have place. Yet in some extraordinary cases, the church, according to Scripture warrant, both
summarily excommunicated persons guilty of notour atrocious scandalous sins, to shew the church's abhorrence of such wickedness.

2. Even where there hath been a scandal delated, and contumacy following by not appearing, it would be considered, whether any scandalous practice hath been proven or not; if not proven, then only the simple contumacy is to be proceeded against, for which it were hard to go a greater length than the lesser excommunication.

3. If the scandal hath been proven, and the censure of the lesser excommunication intimated, as in chapter third, it seems most reasonable that there be no further proceeding, unless the scandal be gross, or of an heinous nature, or that it is spreading and infectious, as in heresies or schism in the church; in which cases, contumacy is to be proceeded against in order to the greater excommunication.

4. The kirk-session having brought the process to an intimation of the censure of the lesser excommunication, before they inflict the same, they are to refer the affair to the presbytery, bringing their whole proceedings before the presbytery in writ, that the presbytery may thereby have a clear and full view of the whole affair.

5. The presbytery finding the kirk-session hath orderly proceeded, and that the lesser excommunication is not sufficient, and that the affair is so weighty as to oblige them to enter on the process, they are to cause their
officer to cite the scandalous person.

6. If the party appear, then the presbytery is to proceed in the enquiry of the accused, about the scandal alleged and libelled; and if he deny it, then they are to proceed and lead probation, as in other cases.

7. But if the party appear not, but condemn the citation, the presbytery causeth renew the same, until he hath got three citations; and after the three citations, he is to be cited out of the pulpit; and for the further conviction of all concerned, intimation is to be made that the judicatory will proceed and enquire into the presumptions or probation of the guilt, and this is to be done although the delinquent be absent.

8. Then the presbytery is to order the minister of the congregation next Sabbath, after forenoon's sermon, to acquaint the congregation what proceedings the kirk-session first, and thereafter the presbytery, hath made in the affair, and how contumacious the party was, and that the presbytery intended to proceed to the highest censure; and the minister is gravely to admonish the party (if present) to repent and submit himself to the discipline of the church, threatening him, if continue impenitent, that the church will proceed; yea, though he be absent, the minister is to acquaint the people, that the church requires him to repent and submit as aforesaid, under the foresaid certification.

9. There should be three public admonitions, and a
presbytery should intervene betwixt each admonition; and if, after all, that person continue impenitent or contumacious, the same is to be represented to the presbytery, who are thereupon to appoint public prayers thrice to be made, in which the minister is to exhort the congregation seriously to join with him in prayer for the scandalous, impenitent, or contumacious person, which he is solemnly to put up to God, humbly begging that he would deal with the soul of the impenitent, and convince him of the evils of his ways.

10. These public prayers of the church are to be put up three several Sabbath days, a presbytery (where its meetings are more frequent, once a month at least) intervening between each public prayer, both to shew the church's tenderness towards theirlapsed brother, their earnestness to have him reclaimed, and likewise to create a greater regard and terror of that dreadful censure, both in the party and in all the people.

11. If, after all, the scandalous person makes no application, but continues impenitent, the presbytery, after prayer, is to pass sentence, and appoint a minister to intimate the same, and to shew the presbytery's resolution is to proceed upon such a Sabbath as they shall name, for pronouncing that dreadful sentence solemnly in face of the congregation, unless either the party, or some for him, signify some relevant ground to stop their procedure.
12. That day being come, it were fit the minister did preach a sermon. The minister should shew the congregation what he is going about, introducing the narrative of the process, with a discourse concerning the nature, use, and end of church censures, particularly that of the greater excommunication, if he hath no done it fully in his sermon.

13. The narrating all the steps of the process in order, shewing the church's faithfulness and tenderness towards the scandalous person, and declaring his obstinate impenitency; and that now, after all other means were used, there remained only that cutting off the scandalous person from the society of the faithful, and intimating the church's warrant and order to him so to do.

14. And before the minister pronounce the sentence, he is to pray, and desire all the congregation to join with him therein, that God would grant repentance to the obstinate person, would graciously bless his own ordinance, and make the censure effectual, both to edify others, and to be a means to reclaim the obstinate sinner.

15. Then after prayer, the minister is, with great gravity and authority, to pronounce the censure; shewing his warrant from our Lord's command, and the Apostle Paul's direction, and recapitulating the presbytery's warrant in obedience therunto, and resuming the scandalous and obstinate person's behaviour, whom he is to name; he, therefore, in the name and authority of our Lord and
Master Jesus Christ, both in verbis de praesenti pronounce and declare him or her excommunicated and shut out from the communion of the faithful, debaring that person from their privileges; and in the words of the Apostle, delivering that person over to Satan, which sentence is to be intimated according to the 9th act of the Assembly anno 1704.

16. If after prayer, or before the censure be pronounced, the scandalous person do make any public signification of his repentance, and of his desire to have the censure stopt, the minister, upon apparent seriousness in the scandalous person, which he showeth to the congregation, may thereupon delay pronouncing the sentence, till he report to the presbytery at their next meeting, who are then to deal with the scandalous person as they shall find cause.

17. After the pronunciation of this sentence, the people are to be warned that they hold that person to be cast out of the communion of the church, and that they shun all unnecessary converse with him or her; nevertheless, excommunication dissolveth not the bond of civil or natural relations, nor exempts from the duties belonging to them.

18. Although it be the duty of pastors and ruling elders to use all diligence and vigilence, both by doctrine and discipline respectively, for preventing and
pursuing out such errors, heresies, schisms, and scandals as tend to the detriment and disturbance of the church; yet, because it may fall out through the pride and stubbornness of offenders, that these means alone will not be effectual to that purpose, it is therefore necessary, after all this, to employ the aid of the civil magistrate, who ought to use his coercive power for the supressing of all such offences, and vindicating the discipline of the church from contempt.

Chapter IX

Concerning the order of proceeding to Absolution,

1. If, after excommunication, the signs of repentance appear in the excommunicated person; such as godly sorrow for having incurred God's heavy displeasure by his sin, occasioned grief to his brethren, and justly provoked the church to cast him out of their communion, together with a full purpose of heart to turn from his sin unto God through Christ, and to reform his life and conversation, with an humble desire of recovering peace with God and his people, and to be restored to the favour of God and Light of his countenance, through the blood of Jesus Christ, and to the communion of the church, and the presbytery upon his application be satisfied therewith, and judge that he ought to be absolved, and thereupon give warrant for his absolution; he is to be brought before the congregation, and there also to make free confession of his
sin and sorrow for it, to call upon God for mercy in Christ, to seek to be restored to the communion of the church, promising to God, through grace, new obedience, and more holy and circumspect walking as becomes the gospel, and that this appearances before the congregation be as often as church judicatures shall find may be for edification and trial of the professing penitent's sincerity; and being satisfied in this, then the minister and the congregation are to praise God, who delighteth not in the death of a sinner, but rather that he should repent and live; as also, for blessing the ordinance of excommunication, and making it effectual by his Spirit to the recovering of this offender, to magnify the mercy of God through Jesus Christ, in pardoning and receiving to his favour the most grievous offenders whenever they unfeignedly repent and forsake their sin. But before the minister proceed to absolution, he is to pray with the congregation to this effect: "That the Lord Jesus Christ, Prophet, Priest, and King of his church, who with the preaching of the gospel hath joined the power to bind and loose the sins of men; who hath also declared, that whatsoever by his ministers is bound on earth, shall be bound in heaven, and also, that whatsoever is loosed by the same, shall be loosed and absolved in heaven, would mercifully accept his creature N. whom Satan of long time hath held in bondage, so that he not only drew him to
iniquity, but also so hardened his heart, that he despised all admonitions, for which sin and contempt, the church was compelled to excommunicate him from the society of the faithful; but now seeing the Holy Spirit by his grace hath so prevailed, that he is returned, and professeth repentance toward God, and faith toward our Lord Jesus Christ, 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 believing and returning sinner, that his former disobedience be never laid to his charge, and that he may increase in all godliness, so that Satan in the end may be trodden under feet by the power of our Lord Jesus Christ, and God may be glorified, the church edified, and the penitent saved in the day of our Lord."

2. Then shall follow the sentence of absolution in these or the like words: "Whereas thou N. hast for thy sin been shut out from the communion of the faithful, and hast now manifested thy repentance, wherein the church resteth satisfied, I, in the name of the Lord Jesus, before this congregation, pronounce and declare thee absolved from the sentence of excommunication formerly denounced against thee, and do receive thee to the communion of the church, and the free use of all the ordinances of Christ, that thou mayest be a partaker of all his benefits to thy eternal salvation."

3. After this sentence of absolution, the minister
speaketh to him as a brother, exhorteth him to watch and pray, and comforting him as there shall be cause; the elders embrace, and the whole congregation holdeth commun-ion with him, as one of their own; and the absolution should be intimate in all the churches where the excom-munication was intimate.

END OF THE FORM OF PROCEED
Overtures Concerning Processes by Matthew Crawford - 1690.

1. If there be any delation by one elder of a scandal on ye paroch ye church session is to consider whither ye matter be such as deserves church censure & if ye matter be of such moment, then the minister & elder are to give one private rebuke if ye matter be of more moment, then ye church session is to appoint ye officer to summon them to ye next dynt.

2. If ye person cited doe not appear then he is to be cited a 2d time & if he compear not ye 2d time he is to be cited a 3d time & if he compear not ye before ye session he is to be cited to ye presbytery & if he compear not before ye presbytery after citation he is by appointment of ye presbytery to be cited publiquely before ye congregation to compear before ye presbytery. And if he compear not then pains is to be taken on him by ye minr & elders to bring him to subjection & obedience but if after all he remain obstinat he is to be declared contumacious. But if he appear before ye presbytery they are either to proceed to ex mine witnesses or remitt him back to ye kirk session.

3. If ye person compear before ye session after citation he either confesses or denyes, if he confesses then he is to be censured by ye session according to ye nature of ye scandal if ye scandal be of a lesser manner & become habituall especially after former admonitions ye a rebuke
beger ye sessions ordinary, if a greater insinant ye ye 
rebuke is to be befor ye congregation if ye scandall be 
proper to ye church session for to meddle with, for in ye 
scene of trilapose fornication it is proper to ye presbiteric 
to meddle wt ye.

4. if ye person deny, witnesses are to be cited (but it 
is to be adverted that no accuser or informer be admitted 
a witness except a minr & elder who are to inform ex-
officio) to prove ye scandall & when ye witnesses are 
cited he ia to be cited & inquired if he hade anything to 
object agt ye witnness, if he propose any objection he is 
to be heard, & if his objections be relevnt in line ye 
witnesses are not to be admitted if ye exceptions be not 
manfest & resonant ye witnesses are to be admitted yet 
so yt if ye accused person desire ye to purge themselves 
by oath, that they have no malice agt him & then they are 
to be sworn the not examined befor ye accused person & if 
yn scandall be proven he is to be censured according to 
ye merit of ye offence.

5. That all clarks in sessions preshitrys & synods be 
exact in recoridng not only ye persons names but also ye 
scandalls & every step of ye process where need requires, 
& verbatim all ye depositions of ye witnesses are to be 
recorded being read in ye hearing befor ye judicatoryes 
& in matters of moment if ye witnesses can write let 
them subscribe their depositions.

6. That in every moment of moment and difficultie ye kirk
session to be advice of ye presbitry befor proceeding to
censure.

7. In some scandalis of fornication if one person confess
& ye other deny then ye minr & elders are to deal seri-
ously with his to confess but if he stand in his denyall
yn both are to be brought face to face before ye session
& if notwithstanding he deny & offer to purge himself by
his oath much pains & circumpeaction is to be used before
his oath be taken.

8. Lett presbitry use the same method in reference to
scandalis brought before ye.

9. But as to scandalis in minrs where yr is cause dissosa
& no informer nor nasser, in that case ye presbitry is to
appoint a visitation in that parish & to inquire amont ye
sd scandalis appointing ye sd minr to preach thereat &
accordingly as they find so to judge & censure.

10. But if there be sue nasser or informer he or they are
to subscribe his lybell gives in against him. Which ye
orbi as to consider whither ye lybell be relevant, yet if 3
or 4 articles conjunction be relevant they would declar
ye same particularly.

11. And ye lybell being found by ye presbitry relevant
if proven, then ye accused is to be summoned personally
and nota if present otherwise they are to give a warrant
subscribed by ye clerk to ye officer to summon him (and
ye sd officer is to subscribe ye execution of ye summoned
& ye names of ye witnesse) against ye next meeting of ye
presbytery & upon his appearance he is to have a double of
his lybell & witnesse (if he demand it) if he have any-
thing to except against them.

12. If he confess then he is to be censured according to
ye nature of ye offence if he deny ye witnesse are to
be examined (being sworn in his presence) if ye exceptions
given in by his be not found relevant, he is to be judged
& censured accordingly what is proven against him by 2
witnesse.

13. It is to be considered whither one article viz, sev-
erall acts of drunkenness being denounced by severall wit-
estes may not sustain as a probatition to prove drunkenness,

14. If ye accused person apprehending ye sentence to goo
against him, decline ye judicatory & appeal, anta catus
sententia in yt case ye judge is to proceed notwithstanding
according to what is proven.

15. And if after sentence he appeal the sentence is to
stand, & if he obey it not he is to be proceeded against
by further censure.

16. If ye session think a matter difficult they are to
refer ye matter to ye prby & if ye prby find a difficulty
they are to refer to ye proviniciall synod & if ye synod
find difficulty they are to make a reference to ye Generall
Assembly giving always liberty to any party that thinks
himself injured to appeal in due form to ye superior
judicatory.

This above writing attributed to Mr. Matthew Crawford being
drawn by him & considered by other brethren with him there-
unto appointed by ye committee of overtures of ye G. Assem-
bly 1690 was transmitted to be considered by my L. Hakron
& my L. Abinchall LL of Session & members of ye Assembly;
And after they had given in their animadversions all ye
papers being considered by some grave experienced brethren
thereunto also appointed; they left it as now it stands
without making further additions or alterations. There-
for Mr. Matthew Crawford & Mr. Patrick Simson appointed
by ye late synod to certify these papers & to transmitt
the effort of their further thoughts upon that subject
of ye form of Processes to ye several prytys betwixt &
ye first of December that being considered by ye these
thoughts might be further ripened enent ye same against
ye sitting of ye synod in January next did think it fitt-
est to lett this paper stand intirely as it is & to offer
some additionals contained in another paper to ye consid-
erations of ye several prsbytrys what they may think
first either to add diminish or alter.
Additional Overtures Anent Ye Force of Process - 1690

1. No delations or accusations of scandal must be referred to oath of party but if it be denied must be duly proved by witnesses else ye process is to sist & ye alleged guilty is to be absolved & yf ye appear uno accuser or complainer he must be oblished eys to prove his lybell or succumbing is to underly censure if he be found to have accused his neighbor militiously or senselessly also a man alleging promise of marriage on a woman or vice versa to stop their marriage with another must instantly upon his alledgeance undertake to prove such a promise if it be denied or is to be heard further nor ye procedure in marriage upon any such alledgeance hindered or delayed.

2. Only in ye case of uncleanness, being a matter of fact usually is not openly committted & cannot always be cleared when a woman being found or confessing herself guilty imparts it to a man who denies ye fact, it is at least after all means of clearing ye matter used, if he cannot evidently disrove ye imputations to be brought to his oath of suratime as is sd article 7th of first paper a small decisione of ye controversy qch at length cannot be refused if he offer & urge it & is to be taken solemnly before ye congregation but if he shall declare to clear himself by his oath ye judicatory is not premitory to urge him to it, but within to declar to him yt they cannot otherways
relieve him of that scandal.

3. If there arise a flagrant scandal of uncleanness betwixt a man & woman yther fornication or adultery & both parties deny the fact, in yt case ye judicatory is to consider ye presumptions yrof if ye be none sufficiently relevant to infer ye fact proved or confessed ye parties are either to be simply assayed or gravely admonished or rebuked as yr shall be cause found from any unbecoming carriage betwixt ye but if ye presumptions be too pregnant as ye scandal cannot oyrways be removed ye man is to clear himself by his oath ut supra but if ye presumptions be so very strong as if themselves do infer ye fact or are equivalent scandal ex. gr. soly by soly lying in naked bed together or ye like in yt case they are not to be admitted to clear ymselves by oath but to be censured as persons of such scandalous behaviour yt ye same degree of censure as if ye fact itself were confessed.

As to Sr. Matthew Crawfords paper consider if ye may not be added. To ye 1 article. That before summoning ye party deflected not only ye matter be found relevant but yt it is a thing which may be proved if it should be denied or by ye notoriely where ye party may be convict. 2iy whither ye party deflected befor be be summoned be previous-ly spoken to by ye minors, or elders "as my L Holowaike suggests" is to be left to ye evidence of ye judicatory according as ye quality and temper of ye person & nature of ye case requires & may be most to ye gaining of ye
person & to edifications for to make it always necessary
"as my L. Abernawhall observes" might prove to several

to be inconvenient.

Upon art. 2. It may be considered if it may not be left
to ye discretion of ye session when a party delinated for
scandal does not appear after the summons by ye officer
yt he may be summoned out of pulpit to appear befor ye
session which has sometimes proved effectual to bring ye
delinquent to obedience & to prevent summoning to ye presby-
try to ye end of ye article to ye end of those words to be
declared contumacious may be added & if they so continue
to be proceeded with to ye lesser or greater excommunication
as ye degree of ye offence & contumacy doth require.

Upon art. 4. It may be considered if ye party duly sum-
moned appear not or decline ye judicatory & ye session or
party find cause to examin witnesses they are to be ad-
mited at all ye cautions yt were to be used if he were
present as yt ye witnesses be persons of good name that no
means have been used to suborn them & in yr admission upon
both they purge themselves of malice or partial counsell.

By ment not receiving of reformers to be witnesses that
is to be understood of unused malitia or bribed in-
formers or spencers or divulgers of scandalous reports of
things not formerly settour for it would seem hard to
extend it to everyone who may find it duty to inform church
officers of evident breaches of Gods commands or scandalous
behaviour or may possibly occasionally have spoken of such
things as they have heard or seen which have come to ye ears of church officers. Jly what is to be done with witnesses not appearing when duly summoned or frightened from appearance by ye party or by their masters & had lords. Quaratuar. Upon art. 5. The exactness of recording all ye steps of process & depositions of witnesses ought to be observed with all ye formalities in processes of moment qch may be lyable to appeal or reference to higher judicatorys to canvass especially in cases of minors. qch require all fair hearing allowed to ye outmost and all continue to be observed in ye procedure beside ye matter of scandal their minors, & all being concerned in their processes but if it would sees yt in ordinary sessions processes where the fact at first denyed is admitted to probation & afterwards is confessed or qch goes no further in ye censure then a sessionall or congregational rebuke all these particularities are not to be so insisted upon or ye register burdened with them.

Upon art. 7. relating to sins of uncleanness see ye first addition above.

Upon art. 11. It is to be questioned wether it be needful to ingrosse ye whole lybell in ye body of ye summons used agt any person yea tho a minor, or only a short summon of ye lybell also if ye many of any or all ye witnesses need to be insert in ye "qch might give the accused occasion to endeavor to corrupt ye," it seeming sufficient yt competent tym be allowed him to object if ye granting of more
tyse be found needfull; qch is not if ye person be not of suspeec faith or face for it is suspesable if he have any relevant objection to produce he will instantly know it in knowing ye person & if he cause none presently nor ye judicatory either he needs not be left to search out objections it is enough if he have no more produce but suspicin or ignorance that ye witness be narged by his oath ut sunra.

Upon art. 13. It would seem requisite that at least one fact or two of allledged habitual scandal should be proved by pluralty of witnesses ad idem the single witnesses of diverse oyx facts may have their own additional weight for ye partys conviction yt at lea-t seems ye safest.

Additional Notices out of Aberchilles paper:
1. If defences be proposed which need witnesses for exculpation to prove them, warrant ought to be granted for citing such witnesses.
2. Witnesses are not to be examined super inquirends but ye precise paynts of ye lybll stuck to or things yt have a necessar contingency therewith.
3. Adilator proposed after perremt or defence is not to be admitted.
4. Warrants & summons in momentous lybells are to be subscribed by ye moderator of ye meeting & ye executione by his ye executes & 2 witness.

Concerning ye manner of proceeding to ye greater excommunicacion as was think is contained in our old diectories.

In ye case of gross & habitual scandals a herosic &
idolatrie continued on after all oyr means used to reclaim, or manifest & oyr ways incorrupt contumacie & contra. reclaiming means ye gradual way of procedure used is yt ye mind of ye parish before ye dismissal of ye congregation do publickly intiast ye persons name & scandal or contumacie & solemny admonish his whether he be present or about to repent and give obedience wit ye certification added of proceeding to excommunication if he do not; oth admonition if it does not prove effectual it is to be renewed a 2d or 3d Lordsday in like manner oth being reported to ye prby & found ineffectual ye prby is to appoynt ye mind to declare to ye congregation his continued insincerity & contumacy & so solemnly to hold up his case to God by prayer yt ye Lord by giving him repentance may yet prevent oscillating oth all ye congregation is to be called to joine yt yt if ineffectual is all to be repeated a 2d & 3d Lords day. If presbitrye meet not very infrequently a presbytery day may interven between each of these admonitions & prayers with a renewed report & appoyntment & one effort following ye presbytery doth proceed to conclude yt sentence of excommunication oth is to be solemnly pronounced in ye congregation also so far as ye infection may probably spread oth is to be as ye presbytry or synod finds cause. This hath been ye way in ordinary gradual procedure but wee find our church has used a more summary way of excommunication in heyness & notorious scandals oth require a more speedy remedy of off cutting for a testimony against such wickedness.
& for preventing ye spreading of ye infection in ye church.

Ye ground of this summary excommunication seems to be in ye case of ye incestuous Corinthian Cor. 15 & of Ryscneus & Alexander 1 Tim 1 20 & of ye gradual Matt: 18 15 17 & T.T 3 10

Concerning ye manner of absolution from censure especially ye greater were leave to ye considerations of presbitry.

Only it would seem in relaxing from ye greater excommunication ye party supplicating first if after ye trials taken of ye sincerity of his professed repentance is by appoint of ye prby once at least before ye day of his relaxations to appear before ye congregation in one humble posture professing his repentance & calling for ye prayers of ye congregation (it not being fitting they should be surprised at his relaxation) ye matter declared by ye sum to ye congregation & exhortation made to ye suitably for preparing ya to receive him each being reported to ye prby & yt his relaxation will be found edifying to ye congregation & his continued evidences of repentance with a suitable walk inviting to it his relaxation may ye be appayated to be performed wt all ye usual solemnitys concluded wt solemn prayers & thanksgivings where at he is now to be put but not before & ys after intimat in all places where the excommunication was but if any excommunicat man in extreme he found penitent & desire relaxations it may be done more summarily. Queritus if any sinr present wt him may not absolve him that he may have access to pray with him &
comfort him at his end quin ye church has always given large allowance but so as if he recover he shall give satisfaction publickly.

Concerning stated dayes of appearing for scandal, pillorys & sackclothes it were good some overtures were thought upon to be reponed for a General Assembly for more uniformitys sake & for avoiding not a few inconveniences in ye exercise of church discipline & censure.
The Kirk-session statistics

The following charts give a rough summary of the cases found in the minutes of the fifty kirk-sessions that were studied, and the figures shown were used to calculate the statistics given in the body of this work. The reason that the sum of the individual cases for each kirk-session does not always equal the total given is because some cases fit into more than one category, while others do not belong in any of them.

Aberdour Kirk-session (1697-1723)  
<table>
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Aberlady Kirk-session (1697-1712)  
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Arbuthnott Kirk-session (1690-1711, 1713-1721)  
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Auchterarderan (1697-1713)

civil 1
cursing 7
Sabbath 2
drunkenness 4
slander 2

Total Cases 48

scandalous carriage 5
fornication 20
relapse 3
trilapse 1
adultery 8

Auchtermuchty (1701-1721)
cursing 7
Sabbath 12
drunkenness 16
slander 1
fighting 6
charming 1

Total Cases 73

scandalous carriage 3
fornication 12
relapse 2
adultery 5
irregular marriage 3

Banchory-Ternan (1699-1730)
cursing 1
Sabbath 9
drunkenness 2
fighting 5

Total Cases 74

fornication 47
relapse 6
quadrelapse 1
adultery 6

Barony, Glasgow (1691-1713)
cursing 2
Sabbath 10
drunkenness 11
slander 1
fighting 2
scandalous carriage 5

Total Cases 100

fornication 54
relapse 5
trilapse 1
adultery 5
relapse 1

Barry (1704-1726, 1729-1730)
cursing 1
Sabbath 7
slander 3
fighting 1

Total Cases 28

fornication 15
adultery 6
irregular marriage 1

northwick (1690-1714, 1728-1730)
sabbath 4
drunkenness 3
fighting 1
fornication 16

Total Cases 44

relapse 5
adultery 10
irregular marriage 2

Camisbay (1706-1715)
cursing 15
Sabbath 17
drunkenness 2
slander 2
fighting 1
scandalous carriage 3

Total Cases 78

fornication 38
relapse 5
trilapse 1
adultery 1
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<th>Drunkenness</th>
<th>Slander</th>
<th>Fighting</th>
<th>Scandalous Carriage</th>
<th>Fornication</th>
<th>Relapse</th>
<th>Antemortem</th>
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<td>(1692-1701, 1720-1722, 1727-1730)</td>
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<td>Montmaur</td>
<td>(1690-1700, 1709-1730)</td>
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- Civil
- Cursing
- Sabbath
- Drunkennesse
- Slandering
- Fighting
- Scandalous Carriage
- Fornication
- Antemiptual
- Adultery
- Irregular Marriage
- Relapse
Monifieth (1690-1706, 1713-1730)  
Total Cases 43

cursing 3  
Sabbath 5  
drunkenness 2  
slander 1  
fighting 2  
fornication 26  
antemptual 6  
adultery 1

Kemnecar (1692-1698, 1701-1703, 1705-1706, 1717-1723)  
Total Cases 53

cursing 4  
Sabbath 8  
drunkenness 2  
slander 2  
fighting 7  
scandalous carriage 1

Newtyle (1696-1710, 1717-1730)  
Total Cases 36

Sabbath 6  
drunkenness 2  
fighting 3  
fornication 10  
relapse 2  
trilapse 1  
quadrelapse 1  
antemptual 6  
adultery 1  
relapse 1

Ordiqhill (1710-1715, 1717-1730)  
Total Cases 17

Sabbath 5  
fighting 4  
scandalous carriage 1  
fornication 6  
relapse 1  
antemptual 1  
adultery 2

Oyne (1701-1706, 1714-1720)  
Total Cases 40

cursing 1  
Sabbath 11  
drunkenness 3  
fighting 5  
skirling 1

fornication 16  
relapse 4  
trilapse 1  
antemptual 1

st.Vigoans (1696-1694, 1727-1730)  
Total Cases 18

drunkenness 1  
fornication 11  
relapse 2  
trilapse 1  
quadrelapse 1  
antemptual 2

skirling (1701-1712, 1715-1720)  
Total Cases 20

cursing 1  
Sabbath 4  
drunkenness 5  
slander 4  
fighting 1  
scandalous carriage 2  
fornication 2  
antemptual 2
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<th>Sabbath</th>
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<tr>
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<th>Fornication</th>
<th>Relapse</th>
<th>Adultery</th>
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<td>West Calder (1707-1730)</td>
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<td>Wilton (1694-1699, 1708-1730)</td>
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</table>
The Presbytery Statistics

Since the overwhelming majority of cases to come before the presbyteries were concerned with sexual scandals (1,517 out of 1,692 cases), we are excluding the other scandals from our statistical tables of the presbytery records.

Aberdeen (1694-1709)

- scandalous carriage 5
- fornication 20
- relapse 2
- trilapse 10

Total Cases 70

- quadrelapse 2
- adultery 25
- trilapse 1
- antemiptual 4

Arbroath (1704-1730)

- fornication 9
- relapse 4
- trilapse 3

Total Cases 29

- antemiptual 1
- adultery 13

Biggart (1694-1730)

- fornication 4
- scandalous carriage 1

Total Cases 20

- adultery 6
- relapse 1

Brochin (1698-1718)

- scandalous carriage 1
- fornication 22
- relapse 2
- trilapse 1

Total Cases 48

- quadrelapse 1
- antemiptual 2
- adultery 13

Caithness (1697-1717)

- scandalous carriage 2
- fornication 5
- trilapse 25
- quadrelapse 5
- pantalapse 1

Total Cases 113

- antemiptual 2
- adultery 65
- relapse 4
- trilapse 1
- quadrelapse 1
<table>
<thead>
<tr>
<th>Location</th>
<th>Total Cases</th>
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<th>Relapse</th>
<th>Adultery</th>
<th>Illicit Marriage</th>
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<td>Dunfermline (1696-1729)</td>
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<td>Dunkeld (1706-1722)</td>
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<td>Edinburgh (1701-1710)</td>
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<td>Fornication</td>
<td>Relapse</td>
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<td>Garioch (1697-1714)</td>
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<td>Jedburgh (1692-1721)</td>
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<td>Kirkcaldy (1693-1708)</td>
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<td>Middlebie (1699-1703, 1717-1730)</td>
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<td>Paisley (1700-1726)</td>
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Penriven (1690-1705, 1714-1716, 1720-1725)

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<td>Trilapse</td>
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<td>Antenuptial</td>
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Perth (1705-1719)

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<tr>
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Stranraer (1703-1719)

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Sigtown (1696-1709)

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<td>Adultery</td>
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BIBLIOGRAPHY

1. Manuscripts

General Assembly
Register of Assembly, 1690 and 1692
Records of Acts of the General Assembly, 1702-1730
Records of Commission, 1701-1730
Forms of Process, Church Discipline, 1703-1707
General Assembly Papers, "Church Papers", 1690-1706
Church Assembly Papers, "Assembly Papers, Main Series", 1701-1730
Miscellaneous Church Correspondence, 1690-1709

Synod
Angus and Mearns, 1701-1730
Dumfries, 1691-1730
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Brechin, 1698-1718
Caithness, 1697-1717
Channonry, 1706-1726
Cupar, 1702-1720
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Wigtown, 1696-1709
Kirk-session

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Aberlady, 1697-1713
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Stracathro, 1709-1723
Strichen, 1701-1730
Swinton, 1703-1730
Seysses, 1692-1701
West Calder, 1707-1730
Wilton, 1694-1699, 1705-1730
Diaries & Autobiography (MS)

Brend, John, National Library of Scotland, No. 1668, 190 fols.
Dinies & Autobiography (38)


Kasayth, James of Edinburgh. Edinburgh University Library, No. 7,61

Hald, of Glenquicken, Scotland. National Library of Scotland, 34,7,12


2. Theses


3. Books

Judiciary & Parish Records


Judicatory & Parish Records


Jamies, David: *Old Church Life in Bellingry*. George Earnet, Kinross, 1890.


McCall, Mary: *History of the Parish of Mid-Calder*. Richard Cameron, Edinburgh, 1894.

Meikle, James: *The History of Altyr Parish Church*. Published by the Author, Edinburgh, 1933.


*Summae Alae Universitatis Glasgowensis*, Volume II. Glasgow, 1854.


Judicatory & Parish Records


Reid, Alan: The royal Burgh of Forfar. J. Mac, Paisley, 1908.


Stirton, John: Orkney and Brora. William Blackwood and Sons, Edinburgh, 1890.


Diaries, Biographies, etc.

A Letter from Edinburgh to One in London. J. Kinnersley, 1691.

