

OGCASIONAL PAPER.

MINISTERS' PRAYER UNION
OF THE
FREE CHURCH OF SCOTLAND.



*The following Address was delivered by the Rev. J. B. Paton, D.D., at
the Annual General Meeting of the Union, and was followed by the
Resolution appended at the close.*

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1900.

A PROPOSED WIDER UNION.

Dear Brethren,

As one of a body of ministers who formed in England three years ago a Concert or Union of prayer, I wish to express the joy we felt on hearing of the formation of your Prayer Union in the Free Church of Scotland, and to say also what comfort and encouragement we felt when we knew that you had adopted the same hour for communion in prayer that we in England had found most convenient and helpful. That hour, you will remember, was the hour also chosen by ministers in America and England who joined in that great concert of prayer which was vitally associated with the revival of religion last century, and with the birth of the great Missionary Societies at the close of the century.

I am glad to tell you that we have reason to hope that the National Free Church Council in England will send out an invitation to the ministers of all the Free Churches of England, asking them to unite together, ere they enter upon the new century, in a Union or Fellowship of prayer similar to your own.

I wish to say also that the desire has come to some of us to seek a yet larger fellowship in prayer with our brethren in America and the Colonies, who hold with us the great office of the ministry in Evangelical Churches, so that the ministers of all Evangelical Churches in the English-speaking world, and through them their Churches, may enter the new century knit and bound together in this covenant and communion of united prayer. It may be too much to expect that an invitation to our brethren in America and the Colonies should be sent by the members of your Prayer Union; and yet surely it would be most fitting if such an invitation were sent from you in Scotland. Was it not from Scotland last century that the first suggestion and invitation was sent to America, which was reiterated and enforced with such splendid "Persuasives to Special and Extraordinary Prayer" by Jonathan Edwards, and then, reverberating to England, gave birth to the concert of prayer amongst many ministers there? And your Church, born as it was in a time of great spiritual revival, and eminently endowed with spiritual grace, has given example and leadership in many ways to the other Churches of Christendom. It has done so because your leaders, from Chalmers and McCheyne downwards, have been pre-eminently men of prayer. If, however, such a direct invitation be too much to expect, I believe that at any rate you will be delighted to express by a resolution which you may adopt this morning, and which may be communicated to our brother ministers in America and the Colonies, your great desire to be associated with them in such a holy covenant and fellowship of prayer, as we all enter together the new century, bearing the common responsibilities of the sacred office with which we have been intrusted by our Redeeming Lord, the Head of the Church.

Now it may be asked, what is the need, and what the advantage, of such a concert and fellowship of prayer amongst the ministers of the Church of Christ? Is not the answer to be found in those vast and solemn responsibilities which rest upon them individually and collectively? For we are brothers of a common lot, holding the same office of high degree, an office involving arduous labour and much sacrifice. On the fidelity and devotion of her ministers the very life and prosperity of the Church depend; and with the Church are bound up the highest issues and interests of humanity. This immense burden of responsibility rests upon the Church's ministers collectively as well as individually. Surely then, bearing this burden together, they ought to uphold and encourage one another in hearing it, by the closest fellowship with each other and with their Lord, and by continuous prayer to Him who has called them to their office, and in whom alone is their abiding sufficiency.

But it may be further asked, Why should an appeal for such a concert of prayer be made now? What is there in the condition and aspect of our time to make this special call so urgent now? In answer to this question I would give three reasons, which, using President Edwards' phrase, I may call "Three Persuasives to Special and United and Extraordinary Prayer" by all the ministers of our Churches.

First, the new difficulty and trial that beset us in our foremost duty as ministers, namely, the preaching of the Gospel in the grace of God, and the winning of men to repentance and faith in our Lord Jesus Christ. I know that the unbelief of men in every age has wrung from the hearts of the true prophets and ambassadors of God the cry, Who hath believed our report? But a new and subtle and evil influence is at work in the hearts and minds of the men of our time, which gives a keener edge and a deadlier power to this unbelief. Your Moderator sketched with luminous hand the wide-sweeping revolutions of thought in every department of religion occasioned by the general acceptance of the doctrine of evolution, and he vindicated with masterly power some essential truths of the Christian faith against the hostile attacks of evolutionary critics. But deeper than any change in opinion is the change in attitude and temper of mind, in reference to the Christian doctrines of Redeeming Grace, wrought by the popular and erroneous conceptions of the meaning of this doctrine of evolution which have filtered down through the press among all classes of the people. The belief that sin is not wholly evil, but is a necessary product, probably a temporary product, of the process by which man passes from lower to higher stages of development; and that redemption is but the final achievement of that process, when man shall have sloughed off from his nature the tiger and the ape, and shall be liberated from the evil that has beset his earlier growth:—such a belief, which is widely, though it may be vaguely held, cannot prepare the mind to receive the Christian doctrine of sin and of salvation, but rather, like an opiate, its influence dulls and deadens the hearts of men as we preach to them that which is the very essence of our Gospel. We say to them that man's nature is akin to God's, and can find its only satisfaction and rest in the fellowship and service of God; but that an alien and malignant power has beset and enslaved his nature, dragging it darkly down away from God, and so working its ruin and death. Or we speak to them of the marvellous grace of God in Christ; we proclaim the yearning compassion and pity of the Father's heart over His lost and wandering children, and show

how these have broken down the mystic barrier between eternity and time, and have intervened in the sad drama of human history in order that here, in the very prison-house of our captivity, in this death-shadowed world, He might seek and save and bless His own, who are infinitely dear to Him. Are not these two truths the very sum and essence of our Gospel—the two central columns of the fabric of our Faith—which we must preach because necessity is laid upon us? Yea! woe is unto us if we do not preach them. And they are truths, too, which in the last issue and final court of appeal, find their most certain witness and authentication in the heart of man. But how shall we speak these truths convincingly in this world of modern unbelief, so dead and unresponsive, drugged by the subtle opiate of our time? How shall we gain the clear vision, the fervency of faith, the force of conviction, the fire and unction of the Holy One, whereby we can make these great truths of the Gospel burn and shine again in the souls of men? How, indeed, unless with humble and continuous and importunate prayer we pierce into the Eternal Light, and feel in our own hearts the beating of the Eternal Love—the pulsing of those infinite compassions which broke upon our world in the breaking heart of the Beloved Son? How, unless we are able to see sin as it is seen by the holy eyes of God, and long with the longing of God to redeem men from its curse?

Secondly, there has dawned upon our age a new vision and conception of the Church of Christ. Many of you, I think, will have felt with me how imperfect is the definition and idea of the Church expressed in a number of our Protestant Standards and Confessions. And herein, perhaps, may be found one of the causes of the weakness of our Protestant Churches. You know how, in these Confessions, the Church is spoken of as the assembly where the Word of God is duly preached, and the Sacraments are rightly administered. These are the two notes of the Church which alone are expressed or emphasised. How meagre is that conception of the Church compared with the glowing figures of the Church presented to us in the Apostolic writings, especially with that figure, so often repeated, of the Church as the Body of Christ, the immortal Body in which He ever lives upon earth to fulfil His Father's will, and to finish His work! Surely then, if the Church be the Body of the Lord, it will have some likeness to that mortal body in which He tabernacled with us, not only proclaiming the holy love of the Father here among men, but revealing and commending that love, and making it known and felt by men, through the mighty works—all of them wonderful works of love—by which He healed their diseases and comforted their sorrows. Must not the Church of Christ now, in like manner, not only proclaim and reveal in faithful speech and testimony the righteous love of God among men, but also interpret and commend and enforce that love, making it intelligible and real to them, bringing it home to them and making it true, by those "greater works" which our Lord promised that His Church, being endowed with power from on high, would do in the world? By these works the Lord in His Church would now, as of old, undo the cruel and heavy bonds under which sin has bound our fellow men, and assuage their bitter sorrows. As upon Christ Himself, so the Spirit of the Lord comes upon His Church, in gracious baptism, and clothes her with the lustrous evidences of her Divine mission, as she now, like Him, heals the broken-hearted, preaches deliverance to the captives, and recovering of sight to the

blind, and sets at liberty them that are bruised. Thus the Church appears to us as the gathering together in the world of those who are brought into the obedience and fellowship of Christ, who take upon them His blessed yoke of ministry, and who are compacted together in one body, being quickened and drawn and held together by His Spirit. It is the union of men and women who, as they are touched in every fibre of their being with His love, enter the Church that they may serve Him, and be fellow-workers with Him in the redeeming of the world.

But if this be the mission and ministry of the Church of Christ upon earth, how glorious, and yet how responsible and arduous, must be the duties of her ministers, those who are not only to teach and preach the doctrine of the Church, but are to be its leaders and inspirers! Are not these duties summed up and set before us in that wonderful passage (Ephesians iv. 11-12), where, according to the true rendering in the Revised Version (and it seems to me that this is perhaps the most important correction that has been given us in that Version) we are told that prophets and evangelists and pastors and teachers are given to the Church (and all these offices are now centred in the work of the minister), "for the perfecting of the saints," that is, of those who are being sanctified through the faith of Christ and the fellowship of the Church, "UNTO THE WORK OF THEIR MINISTRY?" Here we see that the minister has to nourish and instruct and train every member of the Church, seeking with the help of its other officers to give each member his proper place and service in the great united ministries of the Church, so that they may all be perfected thereby. But whe, we may well ask, is sufficient for these things? The burden of these great responsibilities may well bend and bow us down in abiding and earnest prayer, so that in our weakness and our great need we may find our sufficiency of God, and that we, "having always all sufficiency in all things, may abound unto every good work."

Thirdly, we are standing on the threshold of a new century. It looms before us with strange and awful portents. Men feel that it will be a fateful century in the history of mankind, in which momentous issues will be decided. The vast industrial masses of the people are now emancipated from political vassalage, and hold in their hands political power, giving them all the forces which government can create and wield. They are also being loosened and liberated in all civilised countries from ancient customs and traditions which have hitherto held and trained them. There is among them the stir and unrest of new ambitions and new desires and new ideals. We seem even now to stand amid the rush of mighty forces pouring into the new century to determine there the destinies of our race.

Amid the tumult of present controversy there are seen to be two great forces arraying themselves for strenuous and it may be final conflict. On the one hand there is materialistic socialism, which ignores or denies the highest sanctions and aspirations of the human spirit; which is ready to sacrifice both the independence and freedom of the individual, and the sanctity or even the existence of the family, in order that it may construct a human society in which, as they conceive it, the material advantages and comforts of life may be more equally distributed. On the other hand we see the Church of Christ, with that old Gospel which was heard first on the hills of Galilee, re-born upon her heart and lips, "The Kingdom of Heaven is come nigh unto you": the Church, which also seeks to re-

construct human society but according to the pattern which was shown her on the mount; and for her the mount is Calvary: the Church, which would reform and transform human society into one holy brotherhood, the family of the one Father in heaven, so that His will may be done here upon earth as it is done in heaven.

Which of these forces shall prevail in the coming conflict, the day of the Lord which is at hand? Will not this depend in large measure upon the fidelity and devotion and unconquerable courage of the ministers, the leaders of the Church, the captains of the Lord's hosts? Surely then as we listen to the cries of these mighty forces uplifted against each other, we may hear sounding above them all the trumpet voice of our Lord calling to us, that we humbly and fervently unite together in continuous prayer, and that in this prayer we link ourselves in the closest and most blessed fellowship with Him from whom alone come the wisdom and the conquering grace needful for this solemn hour of awful perils and glorious opportunities. So may we who are ministers of the Church enter into, and abide faithfully in, this covenant of prayer with one another and with Him till our warfare be accomplished, and over this dark world, amid opening heavens, the angel's song again be heard proclaiming, "Glory to God in the highest, peace on earth, goodwill among men."

EXTRACT-MINUTE OF GENERAL MEETING.

"At Edinburgh, the 30th of May, 1900, which day the Annual General Meeting of the Free Church of Scotland Ministers' Prayer Union was held—the Rev. D. M. McIntyre, Convener of Committee, in the chair.

Inter alia, The meeting was addressed by the Rev. Dr. J. B. Paton, Nottingham, with special reference to a proposal to approach the ministers of the Evangelical Churches of the British Colonies and America with a view to the formation of a Prayer Union among ministers throughout the English-speaking world. Thereafter it was unanimously agreed that the brethren present at this meeting,—representing the 650 ministers and missionaries of the Free Church of Scotland enrolled in this Prayer Union,—having heard the statement and appeal by Dr. Paton, express their cordial sympathy with his proposal, and their fervent desire that, on the eve of the new century, and in view of the solemn and ever-growing responsibilities which now devolve upon the ministers of all Evangelical Churches, all these ministers, in this country and in the Colonies and America, may be led to form a Covenant or Concert of Prayer, as they did during last century with manifest and marvellous evidence of God's gracious approval and blessing.

They will rejoice with joy unspeakable if God thus draw the hearts of all ministers of Evangelical Churches into such fellowship with themselves in prayer; so that the Evangelical Churches of the English-speaking world, united through their ministers in such a Covenant of Prayer, may enter upon the new century with their loins girt and their lamps lit, prepared for the high tasks that are before them.

It was further agreed that the hearty thanks of the meeting be accorded to Dr. Paton, and that he be requested to take what steps he may think best in the way of approaching representative ministers of the Evangelical Churches referred to."

D. M. McINTYRE, *Convener*. W. B. HUTTON, *Secretary*.

The Ministers' Prayer Union of the Free Church of Scotland was formed after the issue of the following statement and appeal.

THE Free Church of Scotland was born in the stir and movement of a religious awakening. Her birthright is the gospel. God thrust her forth that she might be an evangelistic and missionary Church. Days of blessing came to her, not once only, but many times, and we should fail in gratitude were we to forget former mercies, or cease to cherish a living hope. "The Lord hath been mindful of us: He will bless us."

But our present need is very great. Quick and complex movements are calling us to renewed earnestness. Strong tides of worldliness are setting in upon us. Intemperance continues to undermine the life of the nation. Other flagrant sins abound. Very many have withdrawn their reverence and faith from the Word of God. And "the midtime of the years" brings languor. To-day the prayer of many is, "Wilt Thou not revive us again?"

We venture respectfully to suggest that a ministerial union for prayer might now be formed within our Church, and that prayer should be offered, first for ourselves, that we, as ministers, may receive a fresh anointing from the Holy Spirit: and then, that the Lord would give to our office-bearers, to our people, and to the whole Church, "times of refreshing" from His own presence.

Our need is great, but God is able to do "exceeding abundantly above all that we ask or think." More than once in the history of the Church of Scotland a similar union has been charged with blessing to the nation.

In 1744 a number of ministers in Scotland proposed that "united, extraordinary prayer" for the advancement of the Kingdom of God should be offered by Christians. The suggestion was eagerly accepted by the *Praying Societies* which were then scattered over Scotland. In 1746 the suggestion was renewed, and in the following year Jonathan Edwards based on the *Memorial* of the Scottish ministers his "Call to united, extraordinary prayer." The result was a widely-extended concert of supplication, which became, as has been said, "the very hinge" of the evangelical revival of the eighteenth century. In 1756 William Romaine and some other like-minded brother ministers entered into a similar agreement to pray earnestly and often for the prosperity of the Church of God, and kindred results followed. "He did hear us, glory be to a prayer-hearing God, and he turned our supplications into praises." In 1784 President Edwards' *Call to Prayer* fell into the hands of Andrew Fuller, of Kettering, who reissued it with a fresh appeal—"Persuasives to extraordinary Union in Prayer for the Revival of Real Religion." The result may be summarised in the words of William Crosbie, of Brighton—"Periodical meetings for prayer were instituted among the ministers in their immediate neighbourhoods. Resolutions were also passed at a meeting of the Association at Nottingham, and subsequently at similar meetings in other districts, recommending the setting apart of the first Monday evening in every month for prayer for the extension of the gospel. It is perhaps not too much to say that these gave the impetus to that missionary spirit which afterwards extended itself successively through every denomination in the Christian world."

The appearance, in 1886, of Mr. Crosbie's appeal, *Is the Spirit of the Lord straitened?* moved the late Principal Brown to ask if the time had not come for the formation of a widely-extended union for prayer. Others

since then have given impressive utterance to similar thoughts. Every-where, indeed, it appears to be acknowledged that the Church of God must now address herself with growing earnestness to fervent and importunate prayer. While the occasions and necessities of our day are teaching us to cry, "It is time for Thee, Lord, to work," they also seem to bring to us this message from God, "It is time for you to seek the Lord, till He turo and rain righteousness upon you." Shall we unite in "extraordinary prayer" for spiritual blessing to descend upon ourselves and our people, our Church and our land?

It is proposed that each member of this union should set apart one evening in each month* (or, where his circumstances make this difficult, some time more convenient) for prayer for an outpouring of the Spirit of God upon our Church and upon the nation.

Where it is practical union meetings may be held at stated intervals. An occasional circular, will, it is hoped, be issued to members. But the great object of the union will be fulfilled if each member engage to spend *one evening in each month** or such time as he is free to offer, in prayer for revival. Will you join us? Those who are willing to unite in this Concert of Prayer are invited to send in their names to the *Interim*

Secretary, REV. D. M. M'INTYRE, 36, Kelvingrove Street, Glasgow.

GEORGE C. M. DOUGLAS, D.D.,
Principal.

ROBERT RAINY, D.D., Principal.

ALEXANDER WHYTE, D.D.,
Moderator.

THOMAS ADAMSON, D.D., Glasgow.

GUSTAVUS AIRD, D.D., Creich.

ALEXANDER BAIN, Campbeltown.

JOHN J. BLACK, LL.D., Inverness.

W. GARDEN BLAIKIE, D.D., LL.D.,
Professor, *Emeritus*.

GEORGE G. CAMERON, D.D.,
Professor.

JOHN CHALMERS, Stirling.

ROBERT COWAN, Elgin.

THOMAS CREER, Leith.

WILLIAM CRUICKSHANK, Inverurie.

ALEXANDER DEWAR, Livingstonia.

WILLIAM FINDLAY, Larkhall.

THOMAS GRANT, Tain.

JAMES HUNTER, Laurieston.

W. B. HUTTON, Crailing.

T. B. KILPATRICK, Aberdeen.

JOHN LAIDLAW, D.D., Professor.

DAVID LOWE, Glasgow.

J. MURRAY MITCHELL, D.D., LL.D.,
Nice.

T. M. LINDSAY, D.D., Professor.

R. S. MACAULAY, Irvine.

C. G. M'ORIE, D.D., Ayr.

JAMES D. M'ULLOCH, Glasgow.

JOHN MACKAY, late of Cromarty.

DUNCAN MACNICOL, Dunoon.

JOHN MACPHERSON, Dundee.

JAMES M. MACPHAIL, M.B., C.M.,
Santalia.

JOHN S. MACPHAIL, Benbecula.

JAMES PATERSON, Glasgow.

GEORGE REITH, D.D., Glasgow.

JOHN RIDDELL, Glasgow.

WILLIAM ROSS, Glasgow.

JAMES ROY, Evie, Orkney.

GEORGE SINCLAIR, Broxburn.

JAMES SOMERVILLE, Mentone.

ALEXANDER SCUTAR, Thurso.

DUNCAN STEWART, Hawick.

GEORGE S. SUTHERLAND, Montrose.

JOHN H. THOMSON, Hightae.

CHARLES H. TODD, Aberdeen.

JOHN TORRANCE, Glasgow.

ALEXANDER WALKER, Millport.

GEORGE WALLACE, D.D., Hamilton.

JAMES WELLS, D.D., Glasgow.

J. H. WILSON, D.D., Edinburgh.

December, 1898.

*This was afterwards altered to one hour a week, preferably an hour on Saturday evening.



THE
SCOTTISH CHRISTIAN
SOCIAL UNION

AND
HOW IT CAME TO BE FORMED.



GLASGOW:
DAVID J. CLARK, 23 ROYAL EXCHANGE SQUARE,
—
1901.



The following Articles and Correspondence appeared in "Saint Andrew." They show how the Scottish Christian Social Union became an accomplished fact. They are republished in pamphlet form in the hope that they may aid in the formation of Local Branches of the Union, ~~not only~~ ^{of similar unions in Ireland} in Scotland, ~~but~~ in the Colonies and in the United States of America.

D. W.

Glasgow, October, 1901.

PROPOSED CHRISTIAN SOCIAL UNION FOR SCOTLAND.

By Rev. DAVID WATSON, *St. Clement's Parish, Glasgow.*

THERE has existed in England for several years, in connection with the National Church, a strong and influential Christian Social Union associated with the names of Dr. Westcott, Bishop of Durham, Canon Gore, Canon Scott Holland, and Dr. Stubbs. The objects of this union are:—(1) To claim for the Christian law the ultimate authority to rule social practice. (2) To study in common how to apply the moral truths and principles of Christianity to the social and economic difficulties of the present time. (3) To present Christ in practical life as the living Master and King, the enemy of wrong and selfishness, the power of righteousness and love.

It is proposed to start a similar union in connection with the Presbyterian Churches of Scotland, and a circular, signed by prominent clergymen, will probably be issued before long to ministers asking them to join. A discussion in the columns of *Saint Andrew* as to the desirability of forming such a union might be profitable. So far as my experience goes, the conviction of its *desirability* is universal. It would gather up and focus the opinion of the Churches on social questions, and would furnish a strong and broad platform from which effective action could be taken with regard to the most pressing social problems of our time. It would evoke the enthusiasm and gratitude of the working classes. The benefit to the Church, in more ways than one, would be incalculable.

I am not yet at liberty to publish names, but one eminent minister, a well-known social expert, writes me thus—"During the whole of my life as a minister I have been impressed with the one idea that the great doctrine of redeeming love, which is the central doctrine of our faith, needs to be manifested and

realised in *other ways and larger senses than we have hitherto conceived and desired*. The redeeming of humanity is not only the conversion of individual souls, and the training of individual lives, but it is also the forming of new and healthy conditions of life for men, and the inspiring of all human law and custom with a regulative and definite Christian idea and spirit."

Another distinguished divine writes:—"My study of great spiritual movements since the Protestant Reformation leads me to conclude they always come in connection with the *new emphasis upon some neglected spiritual truth*, and I am sure that the neglected truths that now need emphasis are those embodied in the second great law of Christ."

These are weighty words, and well worth pondering. The Church is only awakening to her social mission. We are only beginning to understand the meaning and scope of Christ's social teaching. My profound conviction is that the special glory of this new century will be its social reform achievements, and if that conviction be well based, then the work of the Christian Social Union will be the work of the century.

OPINIONS OF REPRESENTATIVE MEN.

WE have been more than gratified by the response which the Rev. Mr. Watson's article of last week has evoked—a response which demonstrates the clamant need that is universally felt for such a union.

The first letter which came to hand was from

Dr. GEORGE MATHESON,

who heartily agrees with the proposal, "not only in the interests of the community, but in the interest of the minister. St. John said of his ideal city, 'I beheld no temple therein.' But I think the ministers of our cities behold nothing but a temple. We view everything from the standpoint of church membership and church attendance. I hold that this is a narrow view of the Christian ministry, and that this ministry will not realise either its duty or its privilege until it extends its parochial boundaries from the membership of a church to the membership of humanity."

Dr. GEORGE REITH

says—"Nothing but good can come from such an association as you propose." He anticipates an objection that may be made. It is an objection that may occur to others, and as it is well expressed by Dr. Reith and effectively answered by him, I quote his words verbatim—"It may be objected that the Christian Church in her ministry exists for no other purpose than this, of exhibiting what Christ's mind is in every department of human interest—domestic, social, economic, and political. Also, that the establishment of the Social Union may imply a reflection on the Church and her ministry for failure in plain duty. Well, I would say, even so, let these be valid; yet if we are awakened up to consciousness of failure and strengthened for the performance of duty omitted (or, if not omitted quite, but fumblingly handled), there must be great gain resulting. The science of Christian ethics in application to present-day life is the question of all questions. You may count on my being with you *quantum valeam*."

Dr. JAMES PATON

hails the proposal with enthusiasm. "You shall have my support, so far as time and health permit, in any way you desire. See clearly what you want, and forge ahead."

Dr. ALEXANDER WHYTE

is "much interested in the proposed union, and thinks a considerable group of people in his church are ready for some such proposal."

Professor ALLAN MENZIES

writes:—"I can assure you of my hearty sympathy if the proposal is carried out, as I presume it will be. I know about the English Social Union, much of the work of which I think very good. I always thought it was the duty of the Church to try to understand how social and economic conditions affect the various classes in the country, and to see what remedies can be found for existing hardships. I presume you will aim at carrying on some organised study, with the help of experts, and making considerable claims on the labours of your members."

Professor JAMES ORR

says—"There certainly seems to me nothing more imperative at the present hour than that Christian ministers and the Christian Church should unite in the earnest effort to make the mind and will of Christ supreme in all departments of our public and private life. I believe the religion of the twentieth century will have to take this turn if it is to retain its hold on men's minds at all. How far a social union such as you propose is fitted to attain that end, I do not feel able to say, but on the proposal itself, or the principle it embodies, I cannot look with anything but favour."

The Very Rev. Dr. PAGAN

thinks the proposed union will do good, if (1) "A sufficient number of men be got who have time to spare and will to throw their gifts and strength into it; and (2) That such men be enlisted as will guide and keep the work on profitable lines."

Dr. MACADAM MUIR

says—"So far as I can judge, the scheme is admirable. Anything that will help to solve our social problems, and bring classes to a better knowledge of each other, should be welcomed. And that work is one which not only demands the attention of the Church, but is part of the very work which the Church has been instituted to carry on in the world. So far as the end contemplated is concerned, and so far as I understand its methods, the union deserves hearty support."

Reserving other letters for next week, it may be stated, in order to prevent *unnecessary* correspondence, and give definiteness to the proposal, that—

(1) The union will be national, with local branches in towns and villages.

(2) It will be free from any theological or political bias. The bond connecting the members will be social service, the desire to apply the moral truths and principles of Christianity to the social and economic difficulties of the present time.

(3) It will make a careful study of pressing social problems, and seek to guide public opinion with regard to them.

(4) It will not be confined to ministers. Laymen will be eligible for membership.

The Very Rev. Principal LANG

writes—"I read the article with an interest all the greater that I was preparing at the time my Baird lecture on social topics. I heartily approve of the projected union."

Professor CHARTERIS

says—"I shall be delighted to join such a social union. I am revising my Baird lectures for the press, and I find that a large part of Lecture I. is occupied with advocating such aims as the article indicates. So you have my deliberate adhesion."

Professor HENRY JONES

believes that "there is work of this kind to be done, and that the Church cannot neglect it. When it loses touch with the life that is going on around, it loses its own vitality, and to touch the life of the present day is indubitably to come into contact with social problems. There is only one thing I should really like to say on this matter, namely—that if the union is formed, I hope its members will inform themselves regarding social difficulties before they try to solve them; and that among the members there will be business men."

Professor GEORGE ADAM SMITH

heartily sympathises, and is of opinion that "the Church in Scotland has never risen to the ideal presented by the incarnation of her Saviour: or rather her conscience and imagination have never realized the extent of that great event: the breadth of our Lord's interest in and claim upon the social and economic life of His day."

Professor JOHN HERKLESS

writes—"There seems to me to be no difficulty as to the *warrant* of the Church to engage in social work. Christ Himself taught individuals, but He also founded a Kingdom, associated a Brotherhood; and if He had no plan for social reform in His own day, He showed by His idea of a kingdom the social character of the Christian. The social side of Christianity is not a new conception. The Franciscans of the thirteenth century dealt with sium life, and their mission was the greatest religious movement of medieval times. Any sign of vitality in the Church

is to be welcomed, but new organisations for talk are not to be desired. Hence the need, it seems to me, of a definite programme of work for the proposed union. For my own part, I am willing to associate myself with a union for definite work, but not with a union for mere talk."

Rev. L. MACLEAN WATT,

of Alloa, considers the formation of a Christian Social Union "not only a commendable but a necessary thing. I think great and lasting, and much-needed benefit would arise from it. I do not think the clergy half sufficiently realise the absolute importance of studying social questions, and a union such as Mr. Watson of St. Clement's proposes would be a source at once of knowledge and of inspiration. I often think a lectureship on this subject, alongside of pastoral theology, should be installed in a Divinity curriculum, and would be a means of giving the Church a marvellous grip of the working people, who, in town and country are often asking themselves what the Church and Christ have for them in their struggle, poverty, sorrow, and sin. It would bring the Christ-power into the battle as a more effective weapon than it has been, and I hope the suggestion will be carried out soon."

Rev. JAMES B. GRANT,

St. Stephen's, after deprecating the mere multiplication of societies, and restating the objection which was answered by Dr. Reith last week, goes on to say—"But the Church has certainly neglected the social aspect of its work, and, so far as I can see, has at present no intention of repairing the neglect. There is need of something like a revolution in the popular conception of the Church. Moreover, one of the reasons why the Church has failed in this branch of its work is the difficulty created by sectarianism. If, in the first place, this proposed union can dissipate that difficulty, and if in the second place it can help to awaken in the Church a sense of its responsibilities and its past guilt, then I do heartily approve of this scheme."

Rev. JOHN LAMOND

says—"We need our modern civilisation to be brought more fully into accord with Christ's teaching. There is the condition

of our cities and the condition of our mining villages that call for attention. New ideals need to be awakened in the minds of the people, but if these ideals are to be realised it will only be through the inspiration derived from the teaching of our Lord. It will be an unspeakable service if through this union you organise opinion in this direction. This, it seems to me, is the great need of the century on which we have entered."

Rev. W. M. RANKIN,

Bridgeton U.F. Church, says—"To me the advantages of such a union would be mainly these—(1) It would tend to promote union and a spirit of co-operation among men who at present are not so closely associated as is to be wished, and so would soften and sweeten our ecclesiastical life; (2) It would make the action of our Presbyteries more harmonious and telling, and we could utilise such a union as a means of promoting a common line of action with regard to such subjects as Sunday labour, intemperance, &c.; (3) I believe also that the formation of such a union would be a just guarantee to the community that ministers are in earnest in trying to make the law of Christ bear practically on every part of our commercial, industrial, and social life."

The Very Rev. Principal STEWART

writes—"We must all feel the pressure of social questions, and must all be convinced that there is in Christianity full and adequate power for dealing with them—in fact, the only power in which there lies any hope of dealing with them successfully." He fears, however, that the proposed union would be cumbrous and unmanageable, and would only result in adding another big annual conference or congress to the many already in existence. He suggests rather the "formation of a comparatively small active association of those keenly interested, who would endeavour to get attention directed to, and opinion guided on, social questions by the use of *existing means*—as the pulpit, the press, Young Men's Guilds, and other societies. A representative committee could do much both to stimulate thought and inquiry, and to disseminate the requisite information."

Rev. H. ERSKINE HILL,

Maryhill, writes—"I am very glad to hear that it is proposed to have an organisation on the lines of the C.S.U. for the Presbyterian Churches of Scotland, and I agree with the article in *Saint Andrew* that it is both greatly needed and likely to be most useful. Our union is confined to members of the Anglican Communion, because it was felt that one great object of the union must be to educate the Church to which we belonged in this direction, and also because it was felt that our union and work would need to be based on a distinctly religious footing, and that corporate communion with united intercession was necessary, and on a wider basis difficulties might have arisen. Our hope is that each religious body will do as you are doing, and I can say for the C.S.U. that wherever it is possible there will be every desire to co-operate."

Rev. Dr. ROSS TAYLOR

says—"I have read Mr. Watson's statement with warm appreciation, and will thankfully welcome any movement fitted to advance the influence of our faith in social life."

Rev. J. MATHIESON FORSON

believes the Church "falls miserably short of its teaching because of the unscriptural distinction so often preached of secular and sacred. Only as we insist on the sacredness of life in all its energies can we hope to make the ethics which we proclaim as the ethics of the Christian Church the ethics of a professedly Christian community. To have clean streets, courts, and entries is as essential as clean bodies or clean hearts. These two forms of activity are only expressions of the one conception of life, and a theory that would divorce them is without foundation in Scripture, and useless as a workable principle in life for the salvation of men."

Rev. Dr. D. M. ROSS, .

of Westbourne Church, desires to make two remarks with regard to the proposed Christian Social Union:—"First, the present condition of our social and industrial life calls for serious and deliberate consideration on the part of the Christian Church and its individual members. Secondly, while the objects aimed at by the Union ought to form an integral part of the programme of

every branch of the Church of Christ, the proposal to form a special society to emphasise them is worthy, to say the least, of being seriously considered."

Rev. THOMAS MARTIN,

of the Barony, says—"One good which might be expected to result from such a union would be, that it would reveal to us the depth and strength of the warm sentiment that undoubtedly exists in the heart of the Christian Church in regard to the social evils and social needs of our times. It would tend to make us conscious of our strength. The ancient Romans were obliged to cease clothing their slaves in a distinctive dress, lest the slaves becoming aware of their vast numbers should be encouraged to revolt. As Christians we wish to become aware of our numbers and our strength in face of these social problems; and the union contemplated would be the distinctive garb we need. The formation of such a union would also tend to a consolidation of social effort. A great deal of social Christian effort is engaged at the present time, but it needs discipline and unity. Our endeavours are too isolated and individualistic, and the good realised is not in proportion to the force spent. To use a military phrase, there is too much 'independent firing.' We wish to advance in line, known to each other, and so organized that our efforts will no longer be spasmodic, but steady, sustained, unified, and directed with masterful aim. It seems to me that the union would help in this direction."

Rev. ANDREW MILLER,

Bluevale, writes—"I am in hearty sympathy. The great difficulty that lies in the way of effective social reform lies in this, that while all earnest and thoughtful men are agreed as to the existence of social evils that are remediable, so soon as any practical measures of reform are proposed, the widest diversity of opinion emerges. A social union might serve the purpose of securing a free and frank discussion of all social questions, which might result in obtaining unanimity, and focussing public opinion on what is practically possible in the direction of reform. It might also help to consolidate and systematise individual efforts that are being made, apart from politics, to better the condition of the poor. I am only afraid of it degenerating into a mere debating

society. We have plenty of talk and more than enough of theorising. What we want is practical work and suggestions, that can take immediate shape in effective action."

Rev. Dr. CAMERON LEES

writes that he will "gladly join in the movement proposed. I trust it may be successful, as it deserves to be."

Rev. Dr. J. B. PATON,

of Nottingham, who is closely identified with many benevolent social movements in England, is a warm advocate of the proposed union. He believes that "such a union will do more for the religious life of Scotland than anything else, for it will train the Christian Church in redeeming service for the world."

Rev. C. ROLLAND RAMSAY

of St. Luke's United Free Church, writes:—"In common with many others, I have read with the deepest interest the able articles and valuable correspondence on the above subject. If the Church is to see her influence maintained and increased, by legitimate and honourable means, she must manifest an ever-deepening practical interest in all that affects the social condition of the people. The question is, how can this best be done? The pronouncements of Presbytery committees on such subjects are manifestly without weight, even for 'the faithful,' how much less in the case of those who own no ecclesiastical allegiance whatever. It is my belief that in this proposed Christian Social Union we shall find the very medium we desire for making the Church's influence felt in such a way as to formulate and regulate public opinion in regard to those questions which affect the physical and moral welfare of the community.

The majority of those at present alienated from the Church are now convinced of the folly of any scheme for brotherhood which has no Christian basis. People now recognise how easy it is by uttering inflammatory words to set class against class; and so they are now prepared, as never before, to welcome any proposal that would weld all classes into one in a united and honest effort to attain to the Church's loftiest ideal—an holy city of God.

CONCLUDING ARTICLE

By Rev. DAVID WATSON, *St. Clement's Parish.*

I HAVE read and re-read most carefully the correspondence which my article of 14th February has evoked in the columns of *Saint Andrew*. That the correspondence has been marked by ability goes without saying. The names of the writers—principals, professors, moderators, ex-moderators, and prospective moderators—are a sufficient guarantee of that. But what I value more even than ability in this matter is *sympathy*, and that has been remarkable and decided. I believe that these utterances may be taken as thoroughly representative of the mind and convictions of the Presbyterian Churches in Scotland on the social question in all its manysidedness, and the natural inference is that these Churches are not only alive to their social mission, and profoundly interested in social amelioration, but that they are prepared to take united and effective action for the removal of everything which hinders social regeneration.

One might almost rest satisfied with having evoked such a pronouncement, if we did not rather hear in it a clear call for the formation of a Christian Social Union. The advantages of such a union have been well brought out by the discussion. It would furnish help to ministers and others—an education in sociology; it would prove to the people our genuine interest in their physical well-being; it would bring brethren of different Churches together on a common platform; it would focus opinion, clarify our aims, and enrich our ideals; it would consolidate effort, make us conscious of our strength, and react beneficially on the Church.

Some seem to fear lest this union should weaken the Church by draining it of its social energy. That is a groundless fear. No doubt the union will be indebted to the Church for its initial energy, but it will return that energy again four-fold into the Church's bosom. It will be a case of giving in order to receive again with interest. The connection between the Church and the union I regard as *vital* and *distinctive*. The union will interpret and write large the mind of the Church on social questions.

Briefly put, the social problem is the problem of the East-end, or more accurately, the problem of the slum. The slum exists

in the north and the south as well as the east. In the West-end there is no social problem to speak of; there you have beauty, room, comfort, leisure, culture, happiness. There is no *social* problem. You may, and do, have a *moral* problem, for the West-end is not quite the new heaven and the new earth wherein dwelleth righteousness only. Sin is there, and so you have the moral problem. It may be that when we get down to the bed-rock we shall find that our social problems are in the last analysis moral problems too. Meanwhile, the social problem is one of environment, one of the slum. Country districts have their own problems. Mining villages have theirs. But it is in the city that social problems meet us in their most acute and most terrible form. Walk through a city slum—mark its poverty, its squalor, its misery, its drunkenness; have we nothing to say about these things? Mark these low-browed youths hanging around the public-house corners, and these stunted, wan-faced children playing in the gutter—have we nothing to say about these? Is this the way to train an imperial race?

General Booth put the matter rather bluntly but forcibly when he said that our slums manufacture criminals faster than we can convert them. Amongst all thoughtful men I find three things:—(1) A profound interest in social questions; (2) a strong desire to do something; (3) a great perplexity as to what exactly to do. Nothing has been voiced more insistently throughout this correspondence than the desire that the contemplated union should be a union for definite, practical work, and not for mere talk. No doubt discussion has a certain value, but it is apt to become doctrinaire and unpractical. Yet a careful study of social problems must precede any attempt to solve them. Information must be patiently sought; all the facts must be collected before any pronouncement can be made, or any action can be taken. The Christian Social Union in England did not set out with any definite programme of immediate reforms, yet it has accomplished much good work. Its ideal was the highest good of all, and in the pursuit of this great end its members found strength in fellowship. The rise and growth of the industrial system, the spread of education, and the extension of political power have created grave and perplexing problems. "A recognised social ideal," says the Bishop of Durham, "is one of our sorest needs,

and to assist in shaping this ideal is the aim of the Christian Social Union. At the present time it is urgently required that Christians should in some way openly acknowledge their peculiar responsibility. While we do not believe that the happiest physical environment can regenerate men, we do believe that physical misery tends to imbrute them, and that, even if they escape the degradation, it is contrary to the will of God. We also believe that certain physical conditions are favourable to a generous character, and that the well-being of the nation is measured by the character of its citizens, and not by the accumulation of material wealth. The Christian law forbids us to seek repose till, as far as lies in us, all labour is seen to be not a provision for living, but a true human life; all education a preparation for the vision of God here and hereafter, all political enterprise a conscious hastening of the time when the many nations shall walk in the light of the holy city, and the kings of the earth bring their glory into it."

Permit me, before closing, to refer to a little book which I think might prove exceedingly helpful in the present movement. Its title is "The Inner Mission," and its author is the Rev. Dr. J. B. Paton, of Nottingham. It describes the remarkable Christian social movement in Germany, which is known by the name of the "Inner Mission." The phrase, as used by Dr. Wichern, of Germany, denotes the Church's mission *within* the land in which it is planted, in contrast to its foreign or "outer" mission; as used by Dr. Paton, it denotes the social redemptive work of the Church of Christ. The "Inner Mission" was established at Wattenberg in 1848, when following the great explosion of the French Revolution "an infidel propaganda with a social doctrine had well-nigh shaken modern society back into a barbaric chaos." In a powerful address, delivered before 500 representatives of all the German Protestant Churches, Dr. Wichern pictured the state of the German people—their alienation from the Church; their poverty, accompanied with resentful and revolutionary bitterness against the more favoured classes in society; their drunkenness and vice that made society a festering mass of corruption. The establishment of the "Inner Mission" has been the salvation of Germany, and also of the German Churches. Space would fail me to tell of all its achievements. It has covered the land with ameliorative

agencies and institutions—city unions, orphanages, asylums, hospitals, deaconess institutions, &c.—touching the life of the people at all points, and healing the wounds of society. Anyone wishing to know more about this movement should procure Dr. Paton's most interesting and eloquent book, a new edition of which has just been issued by James Clarke & Sons, 13 Fleet Street, London, at 1/6 cloth covers, and 1/paper covers. It may also be had from the Religious Institution Rooms, Glasgow. Most heartily do I echo his words when he says that "Christianity is a social religion, that the *Church has to assert and carry out the redemptive work of Christ in Society*, and that its grand, if not its supreme, object is to build up a true Christian nation, the whole atmosphere of whose varied life, and the widespread roots of whose social institutions shall be distinctively Christian; and, further, that all *personal or aggregate efforts inspired by Christian love should be united publicly* in the name of Christ, and have some means of communicating reciprocal knowledge and help."

This is precisely our plea for the formation of a Christian Social Union for Scotland. The first branch of the union will likely be formed soon in Glasgow at a meeting called for the purpose.

INAUGURATION OF CHRISTIAN SOCIAL UNION FOR SCOTLAND.

(From SAINT ANDREW, 11th April, 1901.)

THE correspondence started in our columns by the Rev. David Watson, of St. Clement's, has speedily borne fruit, for the Christian Social Union is now an accomplished fact. The Union was instituted, and the constitution finally adjusted, at a meeting held on Thursday last, 4th April, in the Religious Institution Rooms. On the motion of the Rev. Thomas Martin, of the Barony, the Rev. David Watson, St. Clement's, was called to the chair, and opened the meeting with prayer. Minutes of previous meeting were read, and approved. Apologies for absence were intimated from the Hon. the Lord Provost, Professor Cooper, Professor Jones, Professor Orr, Dr. Forrest, the Rev. Messrs. J. B. Grant, M'Lean, Watt, Councillor Martin, and Mr. J. R. Motion.

The draft constitution was then gone over, and was finally adjusted as follows:—

1. *Name*.—"Scottish Christian Social Union."

2. *Objects*.—(a) To claim for the Christian law the ultimate authority to rule social practice. (b) To affirm the social mission of the Church, and make practical suggestions as to how that mission may best be fulfilled. (c) To investigate, where necessary, the social and economic facts in different departments of the national life, and to study how to apply the truths and principles of Christianity to the problems arising therefrom. (d) To take action, as occasion arises, for the furtherance of specific reforms.

3. The Union will be national, with local branches.

4. *Membership*.—Any member or adherent of a Christian Church will be eligible who approves of the objects of the Union, and is elected by the executive. Subscription—2s. 6d. annually, or £1 for life.

Organisation.—The office-bearers shall consist of presidents, vice-presidents, secretary, treasurer, and executive of twenty members, all to be elected annually at a meeting to be held in the month of April. Local branches may be affiliated by the payment of five shillings yearly, and they shall be entitled to send at least two representatives to the central executive. The ordinary meetings of the Union shall be held quarterly, but special meetings may be called at any time.

6. Changes of constitution may be made at the annual meeting, but only when approved of by three-fourths of those present. Notice of any proposed change must be given to all the members a fortnight before the annual meeting.

The Rev. Dr. Paton, St. Paul's, moved that "this meeting agrees to form a society to be called 'The Scottish Christian Social Union.'" The Rev. Andrew Miller, Bluevale, seconded, and the resolution was unanimously carried.

The Rev. Dr. Reith, College Church, moved, and the Rev. W. M. Rankin, Bridgeton U.F. Church, seconded, that "this meeting approves of the 'Draft Constitution as now adjusted.'" This was agreed to.

On the motion of the Rev. Dr. D. M. Ross, Westbourne, seconded by the Rev. C. Rolland Ramsay, St. Luke's, the following were elected (subject to acceptance in the case of absentees)

as office-bearers for the current year :—

President.—The Hon. the Provost of Glasgow.

Vice-Presidents.—The Very Rev. Principal Marshall Lang, the Very Rev. Principal Story, Professor George Adam Smith, Professor Charteris, Professor Cooper, Professor Thomas Smith, Professor Menzies, Professor Herkless, and Dr. Matheson.

Executive.—Rev. David Watson, chairman; Revs. Dr. D. M. Ross, Dr. Paton, Dr. Ross Taylor, Dr. Cameron Lees, Dr. Forrest, Dr. M'Adam Muir, Dr. John Smith, Dr. Reith, Dr. Harper, Rev. Thomas Martin, Rev. Andrew Miller, Rev. Robert Primrose, Rev. L. M'Lean Watt, Rev. W. M. Rankin, Rev. J. B. Grant, Mr. J. R. Motion, and Miss M. B. Blackie.

Secretary.—Rev. C. Rolland Ramsay, Craigielea, Dennistoun, Glasgow.

Treasurer.—Councillor William Martin, 116 St. Vincent Street, Glasgow.

It was resolved to hold the next meeting of the Union on Wednesday, 1st May, in the Religious Institution Rooms, when a scheme of definite work would be drawn up. The hope was expressed that the questions of "Poor Law Reform," "Sunday Labour," "Intemperance," and "Child-life in our Cities," would soon receive the attention of the Union. At the same time, the members of the Union were evidently agreed that no hurried attempt should be made to cover the whole social field, but that definite bits of reform-work should be taken up one by one, and effectively dealt with.

The Scottish Christian Social Union has started on its way under the fairest auspices, and every lover of his kind and of his country must wish it a hearty God-speed.

NOTE.

The Union has under consideration the question of "Social Institutes," and the question of "Sunday Labour." Papers have already been published on "Child-Life in Cities," and "Some Aspects of the Social Problem," and these may be had from the Secretary.

All who are desirous of joining the Union should forward their names and subscriptions (2/6) to the Secretary or Treasurer, whose addresses are given above.

Scottish Christian Social Union.

Hon. President.

The Hon. THE LORD PROVOST OF GLASGOW.

Hon. Vice-Presidents.

Principal Sir WILLIAM MUIR, K.C.S.I., D.C.L., LL.D., PH.D., Edin.
The Very Reverend Principal STORY, D.D., LL.D., Glasgow.
The Very Reverend Principal MARSHALL LANG, D.D., Aberdeen.
Principal DONALDSON, LL.D., St. Andrews.
Emeritus Professor SMITH, D.D., LL.D., Edinburgh.
Rev. Professor CHARTERIS, D.D., LL.D., Edinburgh.
Rev. Professor GEORGE ADAM SMITH, D.D., LL.D., Glasgow.
Rev. Professor COOPER, D.D., Glasgow.
Rev. Professor MENZIES, D.D., St. Andrews.
Rev. Professor HERKLESS, D.D., St. Andrews.
Rev. GEORGE MATHESON, D.D., Edinburgh.

Executive.

Rev. DAVID WATSON, St. Clement's (Chairman).
Rev. CAMERON LEES, D.D., Edinburgh.
Rev. P. M'ADAM MUIR, D.D., Glasgow.
Rev. JAMES PATON, D.D., Glasgow.
Rev. GEORGE REITH, D.D., Glasgow.
Rev. JOHN SMITH, D.D., Edinburgh.
Rev. D. M. ROSS, D.D., Glasgow.
Rev. D. W. FORREST, D.D., Skelmorlie.
Rev. J. WILSON HARPER, D.D., Alloa.
Rev. THOMAS MARTIN, B.D., Glasgow.
Rev. ANDREW MILLER, M.A., Glasgow.
Rev. L. MACLEAN WATT, B.D., Alloa.
Rev. J. B. GRANT, B.D., Glasgow.
Rev. W. M. RANKIN, B.D., Glasgow.
Rev. JOHN KELMAN, M.A., Edinburgh.
J. R. MOTION, Esq., Glasgow.
J. INGRAM, Esq., J.P., Burnside.
W. GRAHAM, Esq., C.A., Glasgow.
Mrs. MATHER, Glasgow.
Miss M. B. BLACKIE, Glasgow.
(Along with Secretary and Treasurer).

Hon. Treasurer.

Councillor WM. MARTIN, 116 St. Vincent Street.

Hon. Secretary.

Rev. C. ROLLAND RAMSAY, M.A., Craigmylea, Dennistoun.

Robert Egan

**FREE CHURCH UNION
CASE**

**JUDGMENT
OF
THE HOUSE OF LORDS**

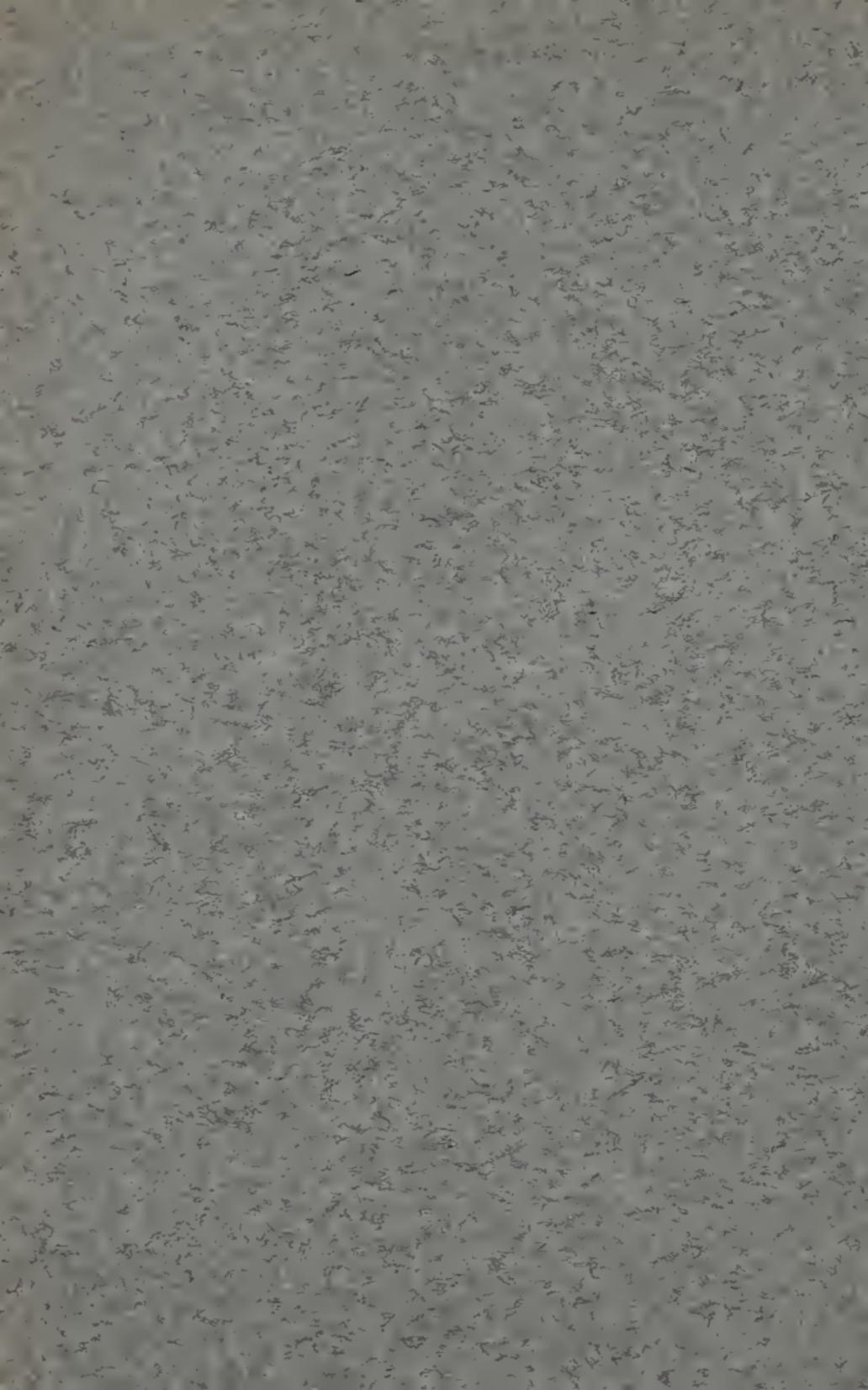
1st August 1904

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WITH INTRODUCTION BY
A. TAYLOR INNES
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CONTENTS.

	PAGE
INTRODUCTION	3
JUDGMENT—	
THE LORD CHANCELLOR'S OPINION	17
LORD MACNAGHTEN'S OPINION	29
LORD DAVEY'S OPINION	37
LORD JAMES'S OPINION	46
LORD ROBERTSON'S OPINION	53
LORD LINDLEY'S OPINION	72
LORD ALVERSTONE'S OPINION	81

The Lord Chancellor and the Judges have carefully revised their Judgments, and the Editor desires to acknowledge their great courtesy in so doing.

FREE CHURCH UNION CASE.

INTRODUCTION.

THE names of the parties to this great cause run back into Scottish history.

The Church of Scotland as a Protestant Church had its origin in the year 1560, for its first Confession dates from August, and its first Assembly from December, in that year. The Estates were friendly, but the "Authority," Mary, Queen of Scots, was Catholic and hostile; and the Church's relation to both gave early opportunity for two opposing feelings arising in it—a desire for a close alliance with the State, and a passionate independence of it. The struggle throughout the reigns of James I. and Charles I. culminated in the Assembly of 1638 and its abolition of Episcopacy, a Solemn League and Covenant with England, and the adoption by the Kirk in 1647 (under certain qualifications) of the recent Confession of Westminster. These "attainments," suppressed by royal authority in 1660, were to a large extent restored and acknowledged by the State in the Revolution Settlement of 1690, the Reformed Presbyterians or "Cameronians," however, protesting, and remaining outside the Establishment. Within it two parties were still represented. But even the Moderate party, dominant in the eighteenth century, claimed for the Church the power of legislation; and the Evangelical party, on becoming the majority in 1834, at once took steps as to Church extension, Church union, and Church investiture or patronage, which the civil courts found beyond the ecclesiastical

powers—powers now declared by these courts to be themselves derived from the State. Against this position the Assembly of 1838 by resolution affirmed spiritual independence; that of 1842 pledged the Church in a Claim of Right to self-disestablishment in the event of submission to the State being enforced; and about one-half of the Assembly of 1843 fulfilled the pledge for themselves in the separating Protest of that year. The outgoing ministers and members named themselves *The Free Church of Scotland*, and remained under this name to the close of the century.

Long before 1843, however, the other parties to the Union of 1900 had come into the field of history. In 1733 the Secession, and in 1752 the Relief, Churches broke off from the Established Church, in a certain sympathy with the Cameronians outside and with a spiritual independence party left within it. Before the close of the century their growth was stimulated by the new spirit of freedom rushing through American and European politics, and by the time of the Reform Bill what in Scotland was Liberalism in politics became to a large extent Voluntaryism in the Church. This gave rise to the Voluntary controversy of that date, and the pressure from without partly explains the resolve of men within the Establishment to remedy the sluggish parochial system by the Church's own legislation, with the swift result of the Disruption of 1843. The Free Church, stripped by that catastrophe of all its churches and manses (many of them, too, built by voluntary subscriptions under Dr Chalmers' scheme), had as its first duty the rebuilding of these, and the creation of a fund for the sustentation of the destitute ministers. In any case it took no direct step at its origin towards Scottish Church union, except placing those buildings under the trust of 1844 for a future "united body," under "whatever name or designation they may assume." But the age of reunion of Presbyterian Churches had long since begun, and now the two largest outside, the Secession and Relief, each already a reconstruction of divided Dissenters, resolved at once to unite with each other, and in 1847 they became the "*United Presbyterian Church*." And under that name this communion flourished side by side with the Free Church until 1860. Only about that date were

negotiations opened for incorporating union between these powerful Churches, and the proposals then embraced two other bodies, one in Scotland and one in England. The negotiations resulted in a finding that there was "no bar in principle" to the union of all four; but the minority in the Free Church which dissented from this conclusion was so considerable that the chief union contemplated—that between the Free Church and the United Presbyterian Church—was formally postponed, while the former of these bodies immediately united in Scotland with the Cameronians, and the latter in England with the English Presbyterian Church there (forming the present Presbyterian Church of England). The century had nearly ended, and the Church leaders who had conducted the Disruption of 1843 and the union of 1847, and later on the negotiations of the 'Sixties, had passed from the scene, when those negotiations were renewed. They were now brought more speedily to a close, and on 31st October 1900 the greatest Church union which Scotland had seen for a thousand years was apparently consummated in the union of the two bodies, under the "name or designation" of the *United Free Church of Scotland*. The United Presbyterian Synod was unanimous in going into the union; but a diminished minority of the Free Church Assembly (only 27 now voting against 643) protested against it, and assuming or retaining for themselves and their sympathisers the name of the Free Church of Scotland, brought this action, claiming the whole property of that body.

This was not the first action of the kind to which the same Churches had been parties, and as some of these are mentioned in their Lordships' judgment, it may be well to set down the more important of the series in chronological order before going on to that which now closes a century. Of the two bodies forming the United Presbyterian Church, the property of a congregation of the Secession was in question in the Aberdeen case of Dunn in 1801,¹ and in the more important Perth case of Craigdallie in

¹ Merison's Dic., *vide* "Society," App. I. 10. See also 'Law of Creeds in Scotland' (1902), 221. The editor apologises for referring to his own book. But, as it happens, there is really no other which includes all the cases above mentioned.

1813¹ (a case more or less in the House of Lords under Lord Eldon for twenty years); while it was the property of a congregation of the Relief which fell to be dealt with in the Campbeltown case in 1839.² The origin of the Free Church, on the other hand, in so far as it originated in the courts of law, is to be found in the nine great cases before 1843, the first Auchterarder case and its seven successors arising out of the Assembly's Veto Act, and the closing Stewarton case (dealing more with church legislative power) arising out of the Assembly's Chapels Act, both Acts having been passed in 1834.³ The union of the Secession and Relief in 1847 was followed by the case (of congregational property not under a model trust-deed) of Kirkintilloch in 1850;⁴ and the union of the Free Church and Original Seceders in 1851 by the case of Thurso in 1859⁵ (also of congregational property and also unprotected). The union of the Free Church and Reformed Presbyterians in 1876 was followed by a Ferguson Bequest case in 1879,⁶ dealing, like a subsequent Ferguson Bequest case, with monies bequeathed for the Churches concerned or their congregations. But the Cardross case, closing in 1862,⁷ and the Skerret case, in 1896,⁸ were brought against the supreme court in the one case of the Free Church and in the other of the United Presbyterian Church. And while both were actions of reduction directed against the jurisdiction, the latter at least impugned also the legislation, of the Church concerned. Neither, however, went to the House of Lords, as did the intermediate cause of *Forbes v. Eden*, also

¹ *Davidson v. Aikman, Craigie and Stewart's Appeals*, vi. 326. L. of C., 222-236.

² *Galbraith v. Smith*, 14 Fac. Coll. and 5 Dunlop, 665. L. of C., 236-242.

³ The original Auchterarder and the Stewarton cases, being of great bulk, are reported separately, the former by *Robertson*, the latter by *Bell and others*. For the whole series of cases in their relation to each other, see L. of C., note on p. 89; and for discussion of them, pp. 68-96.

⁴ *Craigie v. Marshall*, 12 Dunlop, 523. L. of C., 255-259.

⁵ *Couper v. Burn*, 22 D., 120. L. of C., 259-263.

⁶ *Wallace v. Ferguson Bequest*, 6 Rettie, 486. L. of C., 294-297.

⁷ *Macmillan v. F. C. Assembly*, 22 D., 290, 28 D., 1314, and 24 D., 1282. L. of C., 265-277.

⁸ *Skerret v. U. P. Synod*, 23 Rettie, 468. L. of C., 304-309.

an action of reduction, in which the House refused in 1867¹ to set aside the altered canons of the Episcopal Church in Scotland.

In the present case there are two actions and a twofold judgment. The leading cause, *Bannatyne v. Overtoun*,² claims for the minority of the Free Church which declined to go into the union of 1900 the property of that Church as a whole (as distinguished from that of particular congregations), or, alternatively, the pursuers' proportional share of that property. It includes (first) the funds contributed for sixty years for religious and mission purposes, in so far as invested in the names of "general trustees" for "the Free Church of Scotland" to the extent of more than a million sterling; and (second) a still larger amount of heritable property held by the same trustees for the same body in the form of college, mission, and other buildings in Scotland and abroad. The other case, *Macalister v. Young*,³ deals with only one building, and as to it the United Free Church are pursuers and the Free Church minority are appellants. But it was supposed to be a test case, superseding others on both sides in order to represent the case of churches and manses under the Free Church Model Deed of 1844. Under this trust (of church or manse—*i.e.*, parsonage—to be used "by a congregation, of the said body of Christians called the Free Church of Scotland, or of any united body of Christians" it may make by union with others and under whatever name) there are about eight hundred churches and as many manses, all in the name of local trustees; who, however, are to be under the direction of the Assembly of the Free Church or United Church. It may be added that there are in Scotland some three hundred other buildings held as churches and manses in the United Free Church, but with deeds conceived as for the use

¹ *Forbes v. Eden*, 5 Macpherson, 36 (court below, 4 M., 143); and L. of C., 277-286.

² IV. Fraser (5 Series Court of Session Reports), 1083. Also fully in L. of C. (1902), 343, 357.

³ IV. Fraser, 1083 and 1117.

of congregations simply "of the Free Church of Scotland," or at least not under the peculiar trust of 1844.

The first of these two actions is what in Scotland is called a Declarator. It asks the Court to *declare* that the F. C. Trustees called have held the property for the Free Church and cannot divert it; that the U. F. Church does not maintain intact the fundamental principles of the Free Church, and that therefore neither it nor its members have right to any of the funds, while the pursuers are entitled to the whole (or, alternatively, their share). A conclusion follows for interdict against the continued misapplication of the funds, and for reduction—*i.e.*, annulling—if need be, of the Church deeds carrying out the Union and carrying the property into it. This action, raised on 14th December 1900, was brought before Lord Low as Ordinary, and after a full hearing was dismissed by him on 9th August 1901 on the general ground that "the Union did not involve the giving up by the Free Church of any doctrine or principle which formed an essential or fundamental part of her creed or constitution." The pursuers (who have the right of selecting the Lord Ordinary and the Division of the Court which is to review his judgment) reclaimed to the Second Division. And on 4th July 1902 the Lord Justice-Clerk (Kingsburgh), Lord Young, and Lord Trayner (Lord Moncreiff being absent on the ground of health) unanimously affirmed the Lord Ordinary. Both parties, however, having in the meantime "renounced probation," the action was now not simply dismissed (which would have allowed another of a similar kind to be brought), but the defenders were "assoilzied"—*i.e.*, acquitted or justified. The grounds of judgment were also varied: the Lord Justice-Clerk and Lord Trayner pointing out express provision in the ecclesiastical "Barrier Act" of certain constitutional methods (in this case adopted) for innovations in doctrine, as well as in worship, discipline, and government; and Lord Young holding that, while special trusts must be specially enforced, Churches as such are free in law to abandon any religious doctrine or principle, or to revert to it again, without thereby endangering their property.

The second action, *Macalister v. Young*, was decided immediately

after the first, both by Lord Low and by the Court of Session, in favour of the United Free Church, and on the ground that this necessarily followed from their decision in the leading case. The Lord Ordinary, however, put it also on the ground exclusively applicable to property under the Trust Deed, whose provision for a "united body of Christians" he conceived "to apply in terms to the case which has occurred," so that the local trustees throughout Scotland now "hold for the United Church" in each instance.

The Appeal to the House of Lords in both cases came up in November 1903, and was heard for seven days (26th November to 7th December 1903), by the Lord Chancellor (Halsbury), Lord Macnaghten, Lord Shand, Lord Davey, Lord Robertson, and Lord Lindley. During the spring vacation occurred the death of Lord Shand, and the House on again sitting ordered a rehearing of the cause, and invited the presence of two additional judges, Lord James and Lord Chief-Justice Alverstone. Lord-President Kinross, who had also been invited, declined, on the ground "that he had given so many opinions upon questions which were now the subject of litigation that it might be considered that his mind was prejudiced." The rehearing accordingly took place during nine days (9th to 23rd June 1904) before the following tribunal:—

The Earl of Halsbury (Lord Chancellor).

Lord Macnaghten.

Lord Davey.

Lord James of Hereford.

Lord Robertson.

Lord Lindley.

Lord Alverstone (Lord Chief-Justice).

The Counsel in both cases were—

For the Appellants—Mr Henry Johnston, K.C.; Mr Ed. T. Salvesen, K.C.; and Mr J. R. Christie.¹

For the Respondents—Mr Asher, K.C. (Dean of Faculty); Mr

¹ *Agents*—Simpson & Marwick, W.S., Edinburgh; and Deacon, Gibson, Medcalf, & Marriot, Westminster.

R. B. Haldane, K.C.; Mr C. J. Guthrie, K.C.; and Mr R. L. Orr.¹

Mr Johnston, followed by Mr Salvesen, occupied nearly three days with a clear and lucid statement of the whole leading case for the appellants. The duty of an establishment of religion, and all other points found in the Confession of Faith of 1647 and 1690, he held to be unchangeably binding on the Free Church, whose majority had attempted to escape from that obligation in its Declaratory Act, and still more in its Union of 1900. One variation there was upon his former pleading. He stated at once, with regard to the part of the summons which claims for his clients, at the least, their proportional share of property, that he could not present to the Court any argument for that alternative.

Mr Asher and Mr Haldane followed with a powerful argument to meet the deeper questions which had come to the surface much more in the Court of Appeal than in the Court below. The Dean of Faculty (of Advocates) rather pleaded historically that the Church of Scotland, or a party always represented in it, and in any case the Free Church at and since its formation at 1843, had claimed a legislative power to vary from time to time its doctrine, discipline, and government. Mr Haldane illustrated this as the consistent theory held by Presbyterians, especially on the doctrinal questions, which had been less touched upon in the Court of Session; while he maintained also that the Union involved either no change at all, or a very modest variation under the powers always claimed. In the opening statement on this side also, Counsel mentioned what they were *not* to plead. In answer to the Lord Chancellor inquiring as to the second action (*Macalister v. Young*), the Dean stated that he thought there was no substantial difference between that case and the present, and he would not deal with it separately. Accordingly, when their Lordships came to deliver judgment, as in the following pages, they dealt, in stating their opinions, with both cases

¹ *Agents*—Cowan & Dalmahey, W.S., Edinburgh; and Grahames, Currey, & Spens, Westminster.

together, or with the second as included in and dependent upon the first.

The cases were put out for consideration and judgment on the 1st August 1904. After their Lordships had all stated their opinions (Lord Macnaghten and Lord Lindley dissenting from the proposed judgment), the Lord Chancellor moved the REVERSAL of the interlocutors in both actions, and this became the judgment of the House, as follows:—

BANNATYNE *v.* OVERTOUN.

“It is ordered and adjudged, by the Lords Spiritual and Temporal in the Court of Parliament of his Majesty the King assembled, that the said interlocutors complained of in the said appeal be, and the same are hereby, reversed. And it is further ordered that the cause be, and the same is hereby, remitted back to the Court of Session in Scotland, with a direction to declare (1) that the association or body of Christians calling themselves the United Free Church of Scotland has no right, title, or interest in any part of the whole lands, properties, sums of money, and others which stood vested, as at the 30th day of October 1900, in the Right Hon. John Campbell, Baron Overtoun, and others, as general trustees of the Free Church of Scotland; and (2) that the said appellants (pursuers), and those adhering to and lawfully associated with them, conform to the constitution of the Free Church of Scotland, are and lawfully represent the said Free Church of Scotland, and are entitled to have the whole of the said lands, property, and funds applied according to the terms of the Trusts upon which they are respectively held for behoof of themselves and those so adhering to and associated with them and their successors, as constituting the true and lawful Free Church of Scotland; and that the defenders, the said Right Hon. John Campbell, Baron Overtoun, and others, as general trustees fore-said, or the defenders second enumerated, or those of the defenders in whose hands, or under whose control, the said lands, property, and funds may be for the time being, are bound to hold and apply the same (subject always to the Trusts aftermentioned) for behoof

of the pursuers and those adhering to and associated with them as aforesaid, and subject to the lawful orders of the General Assembly of the said Free Church of Scotland, or its duly appointed Commission for the time being; and in particular that they are bound to denude themselves of the whole of said lands, property, and funds, in favour of such parties as may be nominated as general trustees by a General Assembly of the Free Church of Scotland, or its duly appointed Commission for the time being, but subject always to the trusts upon which the said lands, property, and funds were respectively held by the said defenders for behoof of the Free Church of Scotland as at 30th October 1900; and to do therein as shall be just and consistent with this judgment and direction: And it is further ordered that the respondents do pay, or cause to be paid, to the said appellants the costs of the action in the Court of Session, and also the costs incurred in respect of the said appeal to this House, the amount of the said last-mentioned costs to be certified by the Clerk of the Parliaments: And it is also further ordered that unless the costs, certified as aforesaid, shall be paid to the parties entitled to the same within one calendar month from the date of the certificate thereof, the Court of Session in Scotland, or the Lord Ordinary officiating on the Bills during the vacation, shall issue such summary process or diligence for the recovery of such costs as shall be lawful and necessary."

MACALISTER v. YOUNG.

"It is ordered and adjudged, by the Lords Spiritual and Temporal in the Court of Parliament of his Majesty the King assembled, that the said interlocutors complained of in the said appeal be, and the same are hereby, reversed. And it is further ordered that the said cause be, and the same is hereby, remitted back to the Court of Session in Scotland, with a direction to assolvie the defenders from the conclusions of the action, and to do therein as shall be just and consistent with this judgment and direction; and it is further ordered that the respondents do pay, or cause to be paid, to the said appellants the costs of

the action in the Court of Session, and also the costs incurred in respect of the said appeal to this House, the amount of such last-mentioned costs to be certified by the Clerk to the Parliaments; and it is also further ordered that unless the costs, certified as aforesaid, shall be paid to the parties entitled to the same within one calendar month from the date of the certificate thereof, the Court of Session in Scotland, or the Lord Ordinary officiating on the Bills during the vacation, shall issue such summary process or diligence for the recovery of such costs as shall be lawful and necessary."

J U D G M E N T.

AUGUST 1, 1904.

THE LORD CHANCELLOR'S OPINION.

THE LORD CHANCELLOR said:—

My Lords, in this case the pursuers complain of a breach of trust, the trust being for the behoof of the Free Church of Scotland, the breach of trust alleged being the use of certain property being, as alleged, no longer used for the behoof of the Free Church of Scotland, but for the maintenance and support of another and a different body—namely, the United Free Church. That body was formed in 1900, and consisted of a certain number of those who professed to belong to the Free Church of Scotland and others, who up to the time of the union had belonged to the United Presbyterian body. They purported to unite and to exclude from their communion, or at all events from all participation in their organisation, those who refused to unite in the new body, and have, of course, used the funds of which they claim to be the beneficial owners for the use of the new united body. This is the breach of trust complained of, and the question is, whether that complaint is well founded. Now, in one sense there can be no doubt what was the original purpose of the trust. It was for the maintenance and support of the Free Church of Scotland.

What was the Free Church of Scotland in 1843 can hardly admit of doubt. The reasons which those who separated themselves from the Established Church of Scotland then gave for their separation are recorded with distinctness and precision, and I do not think there can be any doubt of the principles and faith of those who came out from the Church of Scotland and described themselves as the Free Church of Scotland. Their name was significant. They claimed to be still the Church of Scotland, but freed from interference by the State in matters spiritual. It was to the persons thus describing themselves that the funds in dispute were given, and until the union of 1900 with the other body we do not hear of any difficulty having arisen in the administration of the trust. Now, however, the new body has established a new organ-

isation. It is alleged to profess new doctrines, and its identity with the Free Church, for whose behoof the property was settled, is disputed, and it accordingly becomes necessary to consider in what consists the identity of the body designated by the donors of the fund as the Free Church of Scotland. Speaking generally, one would say that the identity of a religious community, described as a Church, must consist in the unity of its doctrines. Its creeds, confessions, formularies, tests, and so forth are apparently intended to ensure the unity of the faith which its adherents profess; and certainly among all Christian Churches the essential idea of a creed or confession of faith appears to be the public acknowledgment of such and such religious views, as the bond of union, which binds them together as one Christian community. If this be so, there is no lack of material from which to deduce the identity of the Free Church of Scotland. Its founders left their Claim, Declaration, and Protest to stand for all time as a clear exposition both of their reasons for leaving the Church of Scotland when they did leave it, and as a profession of their faith as the true Church of Scotland though separated from the Establishment, which, in their view, was itself heretical from its submission to the temporal power in what they regarded as exclusively spiritual.

Now, in the controversy which has arisen, it is to be remembered that a court of law has nothing to do with the soundness or unsoundness of a particular doctrine. Assuming there is nothing unlawful in the views held,—a question which, of course, does not arise here,—a court has simply to ascertain what was the original purpose of the trust. My Lords, I do not think we have any right to speculate as to what is or is not important in the views held. The question is, what were, in fact, the views held, and what the founders of the trust thought important. Fortunately, your Lordships have the authority of most learned judges,—their decisions now reaching back for something like a century,—which I shall quote somewhat copiously, as principles upon which such questions as are now in debate should be determined. Commenting upon Lord Eldon, Lord Moncreiff in Scotland and Sir William Cusack Smith in Ireland have expressed themselves on similar questions in a manner which I think can be well applied to the matter now in debate.

In the case of *Craigdallie* and others (appellants), *Aikman* and others (respondents), *Scottish Seceders* (dissenters),¹ Lord Eldon said: "With respect to the doctrine of the English law on this subject, if property was given in trust for A, B, C, forming a congregation for religious worship, if the instrument provided for the case of a schism, then the Court would act upon it. But if there was no such provision in the instrument, and the congregation happened to divide, he did not find that the law of England would execute the trust for a religious society at the expense of a forfeiture of their property by those adhering to the opinions and principles in which the congregation had originally united. He found no case which authorised him to say that the Court would enforce such a trust, not for those who adhered to the

¹ 1 Dow, 16.

original principles of the society, but merely with a reference to the majority, and much less if these who changed their opinions, instead of being a majority, did not form one in ten of those who had originally contributed, which was the principle here. He had met with no case that would enable him to say that the adherents to the original opinions under such circumstances for that adherence forfeit their rights. If it were distinctly intended that the Synod should direct the use of the property, that ought to have been matter of contract, and then the Court might act upon it. But there must be evidence of such a contract, and here he could find none. He proposed, therefore, that the cause should be sent back with two findings of this nature—first, that the ground appeared to have been purchased and the house built for a society united, and proposing to continue united, in religious opinion; second, that it did not, in point of fact, appear how this property was to be applied in case the society should happen to differ and separate.”

In *Craigie v. Marshall*¹ Lord Moncreiff said (quoting Lord Eldon in *Aikman v. Craigdallie*): “If it were distinctly intended that the Synod should direct the use of the property, that ought to have been matter of contract, and then the Court might act upon it; but there must be evidence of such a contract, and here he could find none.’ He therefore proposed to remit the cause with two findings. Accordingly it was remitted with very precise findings, importing that it appeared sufficiently as matter of fact that the ground was purchased, and was to be used for religious worship ‘by a number of persons agreeing at the time in their religious opinions and persuasions, and therefore intending to continue in communion with each other,’ and that the society had acceded to a body called the Associate Synod, but that it did not appear as matter of fact ‘for what purpose it was intended, at the time such purchase and erections were made, or at the time such accession took place, that the ground and buildings should be used and enjoyed in case the whole body of persons using and enjoying the same should change their religious principles and persuasions; or if in consequence of the adherence of some such persons to their original religious principles and persuasions, and the non-adherence of others thereto, such persons should cease to agree in their original principles and persuasions, and should cease to continue in communion with each other, and should cease either as to the whole body or as to any part of the members, &c., to adhere to the Associate Synod.’ With these findings the cause was remitted for further consideration. There is no ambiguity in the principles on which Lord Eldon made this remit. Under the remit the Court ordered a Condescence, with a view to the ascertainment of the matters of fact,—whether there was a real difference in the religious principles or not,—and afterwards pronounced an interlocutor, the result of which was that the Court found that the pursuers ‘have failed to condescend upon any acts done or opinions professed by the Associate Synod or by the defenders from which this Court, as far as they are capable of understanding the subject, can infer,

¹ 12 Young, Tennent, Fraser, and Murray, 560.

much less find, that the defenders have deviated from the original principles and standards of the Associate Presbytery and Synod ; further, find that the pursuers have failed to render intelligible to the Court on what ground it is that they aver that there does exist at this moment any real difference between their principles and those of the defenders, &c. ; and therefore find it unnecessary to enter into the inquiries which had been directed by the House of Lords under the supposition that the defenders had departed from the original standards and principles of the Association."

In *Dill v. Watson*, Court of Exchequer, Ireland, 1836,¹ Smith, Baron, speaking on the same subject, says: "Again, I don't conceive that I appeal from the Word of God to that of man by proclaiming or attesting by my signature that I concur in the interpretation given by a numerous body of my fellow-Christians to certain passages of Scripture. They agree with me. I agree with them in construction and consequent creed, but neither take their belief upon the authority of those others. Both draw their faith from the Bible as its common source. Both consider the Bible as containing the only rule and furnishing the only unerring guide to a true faith. Each with God's assistance, and the subordinate and pious aid of human instruction, interprets as well as man's infirmity will permit. Both coincide in the same interpretation, the interpretation regulates their faith, and all who thus coincide become members of the same religion. We do not coerce our neighbour by calling for his signature to our profession on articles of faith. We leave him free to adopt or to repudiate that faith according as his reason, his conscience, and the grace of God may direct him. We but say to him, If you agree with us, affix your signature to certain articles, or in some way notify your recognition of their truth ; or if you disagree, withhold such signature or declaration. And we say of him, in the former case that he is, and in the latter case that he is not, of our religion. We do not compel him to hold our faith, we but ask him to inform us by certain acts whether he does hold it or does not, and we ask this only if he claim to be enrolled as one of our body, and to be in religious communion with us. In the absence of such a test our establishment would not be a rock cemented into solidity by harmonious uniformity of opinion. It would be a mere incongruous heap of, as it were, grains of sand thrown together without being united, each of these isolated grains differing from every other, and the whole forming nominally a united whole, but really an unconnected mass, fraught with nothing but internal dissimilitude and mutual and reciprocal contradiction and dissension. *Hic dextrorsum abit ; ille sinistrorsum*. This, indeed, I should hold to be, in the language of a late prelate, 'a Church without a religion.'"

The principles for decision thus propounded have been recognised and acted upon ever since, and it would seem that it may be laid down that no question of the majority of persons can affect the question, but the original purposes of the trust must be the guide. Under these circumstances it would seem to reduce

¹ 2 Jones, Rep. 91.

the question in dispute to an examination of the evidence as to what is the difference between them, if any, and if that difference does or does not accord with the original purpose of the trust. But in examining this question one has to bear in mind, not what we or any other Court might think of the importance of the difference, but what the donors of the trust fund thought about it, or what we are constrained to infer would be their view of it if it were possible to consult them.

The first point in dispute is very plainly set forth by the pursuers in the 13th Condescendence. After pointing out in the 10th Condescendence that the Free Church of Scotland was a voluntary association or body of Christians associated together under a definite contract involving the maintenance of definite principles, the Condescendence 13 proceeds thus: "As already stated, one of the essential principles recognised by those who associated themselves to form the Free Church of Scotland, emphasised by their leaders in their utterances at the time of the Disruption and embodied in the Contract of Association or Constitution of said Church as hereinbefore defined, is that it is the duty of the civil magistrate to maintain and support an establishment of religion in accordance with God's Holy Word, and the said Church, as originally associated, recognised and maintained the propriety and advantage of the endowment of pastoral charges and the promotion of religious education by the State. The principle of the duty of the recognition of religion by the State by means of the establishment and, where possible, endowment of a national Church, was, moreover, implicitly involved in the position claimed by the Free Church as being the Church of Scotland freed merely from the control of the Civil Courts in matters spiritual. The said principle formed an essential principle of the Free Church of Scotland, and its maintenance was one of the main reasons for the formation of the Church as a separate association or body of Christians, distinct and apart from those who professed themselves to be 'Voluntaries.' There were several Scottish associations of seceders from the Established Church of Scotland in existence at the time of the Disruption of 1843, holding views practically identical with those of the founders of the Free Church in matters of doctrine and as to the encroachments of the Civil Courts, but differing from them as regards the duty above referred to. In regard to this, these bodies were 'Voluntaries' in the sense of holding such action of the State to be unlawful. The foundation of the Free Church was a protest against the position of such Churches on the one hand, just as it was against the encroachments of the civil power on the other."

In reply to this, the defenders say, "The Confession of Faith does not contain or set forth the said alleged principle in respect to the rights and duty of the civil magistrate in regard to establishments of religion as an article of faith or doctrine or belief. It teaches that nations and their rulers are bound to own the authority of Christian truth; but the Free Church has always held that the teaching of the Confession in this matter is to be read and understood in harmony with the principle (which the

Confession also teaches) that the Christian Church has an independent government and jurisdiction in matters spiritual distinct from the civil magistrate, and also in harmony with the view that the Confession is not to be accepted as favouring intolerance or persecution, or interfering with liberty of conscience. The alleged principle as to the right and duty of the civil magistrate to maintain and support an establishment of religion has always been in the Free Church an open question, in regard to which liberty of opinion has been permitted and exercised, and as to which wide differences of opinion have all along prevailed."

These are the two contentions upon which the first part of the controversy depends.

My Lords, I cannot doubt that upon this head there is an overwhelming body of evidence in favour of the pursuers. Indeed, two of the learned judges have stated in express terms that originally the Free Church did profess what has been conveniently called the Establishment principle, though, for reasons which will be dealt with hereafter, they do not think that those who now represent the Free Church are bound by that original opinion. My Lords, I am unable to understand by what test I am to ascertain what the donor of a fund has made essential to his gift unless it is by what he has said or written; and when I find that the Free Church invited support by the circulation of Dr Chalmers' Address, what can I say but that he expresses the views of the Church that he represents?¹

"By giving up your connection with the State, and thus separating yourselves from the worldly advantages of such a connection, you may be said to have withstood a great temptation to sin in one form. But such is the deceitfulness of the human heart, that without the heedfulness and the humility which the apostles of old so pressed upon the early converts, there is danger of being carried away by temptation in another form—and temptation to the very same sin. Rather than be seduced from one of your greatest principles, you have given up one earthly dependence. But let principle have its perfect work, and have a care lest you be tempted from even the best of your principles by the promises and the allurements of another earthly dependence. Rather than compromise the authority of Christ over the affairs of His own Church, you have forfeited the countenance of men in power—that is, who have the power of this world's authority on their side. Beware of compromising another of your doctrines or articles of faith, and in the defence of which the Church of Scotland did lately signalise herself, over the authority of Christ, over the commandments that they shall be called least in the kingdom of Heaven. The men who stand opposed to us on this second, or, as many choose to term it, this secondary question, might, with all the hay and stubble and wood of this, and it may be of other errors, be reposing on the like precious foundation with ourselves. They might be men with whom we differ, and yet with whom we can agree to differ. They might be coadjutors in the great work of evangelising the people of our land, brethren with whom we

¹ Chalmers' Works, vi. pp. 11, 12.

can hold sweet and profitable counsel on the *capita fidei*, or weightier matters of the law, having one faith and one Lord and one baptism. But we shall not, even for their friendship, violate the entireness of our principles or make surrender of the very least of them. It is not for those ministers of Christ whom I am now addressing and who on the altar of principle have just laid down their all—thus quitting, and for the sake of one principle, the friendship of men who have the power of office—it is not for them to give up another principle for the sake of courting the friendship of men who have the power of numbers. We must not thus transfer ourselves from one earthly dependence to another. We have no other dependence than God. We acknowledge the authority, and will submit to the influence of no other guide than His eternal and unalterable truth as seen in the light of our own consciences. To be more plain, let me be more particular. The Voluntaries mistake us if they conceive us to be Voluntaries. We hold by the duty of Government to give of their resources and their means for the maintenance of a Gospel ministry in the land, and we pray that their eyes may be opened so as that they may learn how to acquit themselves as the protectors of the Church, and not as its corruptors or its tyrants. We pray that the sin of Uzziah into which they have fallen may be forgiven them, and that those days of light and blessedness may speedily arrive when kings shall be the nursing fathers and queens the nursing mothers of our Zion. In a word, we hold that every part and every function of a commonwealth should be leavened with Christianity, and that every functionary, from the highest to the lowest, should in their respective spheres do all that lies in them to countenance and uphold it. That is to say, though we quit the Establishment, we go out on the Establishment principle. We quit a vitiated Establishment, but would rejoice in returning to a pure one. To express it otherwise, we are the advocates for a national recognition and a national support of religion, and we are not Voluntaries."

It would probably be admitted by all that the authority of Dr Chalmers as an exponent of the views of the Free Church would hardly be overrated. But it was not his personal view merely. The words were addressed by him as Moderator, and were adopted unanimously and directed to be circulated by the Assembly.

My Lords, I am reluctant to render longer what I have to say by literal quotations from authoritative declarations of the Free Church. But though I summarise, I am actually using the language which originally and for a long period afterwards those who spoke on behalf of the Free Church have said and written. "The Free Church has ever highly valued her connection with the State." "Firmly asserts the right and duty of the civil magistrate to maintain and support an establishment of religion in accordance with 'God's Word.'" "They reserve to themselves and their successors to strive by all lawful means to secure the performance of this duty." "The State was bound to establish and endow the Church." "The Free Church has not in the least degree altered its

views respecting the lawfulness and the desirableness of a right connection between Church and State." "History and experience have convinced us [the Free Church] that there is a form of alliance which is at once practicable and agreeable to Scripture and highly beneficial." My Lords, I cannot doubt that each of the utterances I have quoted is important, and to my mind conclusive, evidence that originally at all events the views of the founders of the trust were in favour of the Establishment principle. The question whether they were fundamental or susceptible of being changed demands a separate treatment which, as it is applicable to both questions in debate, must be reserved for the present.

Now, the views of the United Presbyterian Church cannot be more definitely or more shortly stated than in their own language, authoritatively stated by themselves, and before their union with the Free Church. "It is not competent," they say, "to the civil magistrate to give legislative sanction to any creed in the way of setting up a civil establishment of religion; nor is it either his province to provide for the expense of the ministration of religion out of the national resources. It is Jesus Christ, as sole King and Head of His Church, who has enjoined upon His people to provide for maintaining and extending it by freewill offerings; that this being the ordinance of Christ, it excludes State aid for these purposes, and that adherence to it is the true safeguard of the Church's independence." In my view, what follows does not at all qualify this passage. But in fairness it ought to be added. "Moreover, though uniformity of opinion with respect to civil establishments of religion is not a term of communion in the United Presbyterian Church, yet the views on this subject held and universally acted upon are opposed to these institutions." Here we have the two bodies which are supposed to establish identity of religious belief, the one asserting the right and duty to maintain and support an establishment of religion, the other asserting that Christ's ordinance excludes State aid. Each of them, therefore, treats the question as one of religious belief and obligation, and not one from which religious duties are excluded.

The second question in debate is the difference between the two bodies as to the two doctrines known as the Calvinistic and the Arminian doctrine of Predestination. I use these two phrases subject to more ample exposition hereafter, in order to summarise what I have to say as preliminary to the discussion of the subject itself. I regret very much that we have not any opinion from the learned judges whose judgment we are called on to review. I am afraid, speaking for myself, I do not think it is competent to me to avoid dealing with it. It is included in the allegation of a departure from the doctrines which is complained of in the summons, and it has been argued before your Lordships with great learning and ability. One observation made by the learned counsel I entirely agree to—namely, that in discussing this subject one cannot ignore the contemporaneous theological discussions at the time the Confession of Faith was compiled. Now, the doctrine in dispute was the subject of a copious amount of literature all through the seventeenth century. Looking, then, at the history

of the particular dispute which is brought into debate, it cannot be said that the language of the Confession of Faith was lightly drawn or arrived at without long debate and deliberation. Indeed, it may be said of the Westminster Confession as a whole that it was composed with a deliberate and careful scrutiny which may be regarded as hardly equalled in any theological discussion; and though councils of the Church have lasted longer, if one regards the composition of the Assembly itself, the original parties to the discussion, the presentation of its different portions to Parliament, the adoption of it by Parliament, and afterwards by the Church of Scotland, these things give an overwhelming sanction to it, and at all events to its original meaning, by those who were content to accept it as a test of the unity of their religious belief. If this observation is true and applicable to the Confession of Faith as a whole (the minute report of its deliberations has been deciphered by the distinguished director and principal librarian of the British Museum), the particular doctrine debated as part of the code of belief which the Free Church adopted in 1843, and which it is alleged that the United Free Church has abandoned, can hardly be said to be one which any Christian Church could regard as a matter of indifference. It divided the Dutch Reformed Church at the beginning of the seventeenth century. It proved the subject of debate at The Hague in 1611, and at Delft in 1613. An edict of the States of Holland sought to put an end to the controversy, but in vain; and finally in 1619, ten years after the death of Arminius, or Hermanson, as was his real name, the Arminian heresy, as it was described, was publicly condemned. Its professors were denounced as liars and deceivers, and those who participated in it were deprived of their civil rights unless they retracted. James I. is said to have procured the exile of Conrad Vorstius, one of the protagonists of the Arminian doctrines, and afterwards he wrote a pamphlet against him, and argued that he ought to be put to death for his unchristian doctrines; while, on the other hand, the Council of Constantinople in 1642, and the Council of Jerusalem in 1672, pronounced the following opinions treating of what they describe as the Calvinistic doctrine:—

Council of Constantinople, 1642, cap. 3: "Deum facit inquisitum, tyrannica potestate utentem, aliens eum sola sua voluntate alios predestinare ad gloriam, alios in penam mittere, nulla operum habita ratione. Quo quid magis impium proferri possit?"

Synod of Jerusalem, 1672, extract from cap. 3: "Sed et hominum ita simpliciter ac sine causa damnatorum auctorem statuere divinam voluntatem, insaniam quanta? que major Deo calumnia inferatur? quanta in supremum Numen injuria, quanta blasphemia? quippe intentatorem malorum non esse Deum, et omnium ex æquo salutem velle, ceu apud quem personarum acceptio nulla est, cognoscimus: et his qui pravis voluntatis suæ moribus ac secundum impœnitens cor se vasa in contumeliam effecere, damnationem juste decerni confitemur. Æternæ autem punitionis, immanitatis, duritiæ, et inhumanitatis nusquam, nusquam dicimus auctorem esse Deum, super uno peccatore penitentiam agente esse in cælo gaudium afferentem. Absit a nobis

ita cogitare, nedum credere, quamdiu nostri compotes sumus: immo vero talia dicentes ac sentientes anathemati sempiterno subijcimus, et cunctis infidelibus pejores agnoscimus."

It was in this state of the controversy agitating the Christian Church throughout the world that the Confession of Faith was adopted by the Church of Scotland on the 27th of August 1647, and the approval and adoption of it was made in a form which was intended to prevent cavil as to its being agreed upon without objection or doubt. It recites that "the Confession was twice publicly read over, examined, and considered, that copies were printed that it might be sedulously perused by all members of the Assembly, unto whom frequent intimation was publicly made to put in their objections and doubts if they had any, and the said Confession being, upon due examination thereof, found by the Assembly to be most agreeable to the Word of God, and in nothing contrary to the received doctrines, worship, discipline, and government of this kirk, it proceeds to adopt it as a Confession of Faith for the three kirks of God in three kingdoms."

My Lords, I think it is only necessary to put in juxtaposition the language of the Confession of Faith itself and the statement of doctrine set forth by one component part of the supposed united body—united in one faith and doctrine.

The Confession of Faith, chapter iii., "Of God's Eternal Decree," sections:—

"III. *By the decree of God for the manifestation of His glory some men and angels are predestinated into everlasting life, and others foreordained to everlasting death.*

"IV. *These angels and men, thus predestinated and foreordained, are particularly and unchangeably designed; and their number is so certain and definite that it cannot be either increased or diminished.*"

Now then for the Act Declaratory anent Confession of Faith, made on 25th May 1892:—

"That this Church also holds that all who hear the Gospel are warranted and required to believe to the saving of their souls, and that in the case of such as do not believe but perish in their sins, the issue is due to their own rejection of the Gospel call. That this Church does not teach and does not regard the Confession as teaching the foreordination of men to death, irrespective of their own sin."

It has been argued with great ingenuity that, inasmuch as the doctrine of Predestination as treated of in the Scriptures is a mystery, and that various opinions have been held in respect of it, it cannot be made a test doctrine, since another doctrine may be held with it, not to human intelligence reconcilable with it, but equally derived from and established by Scriptural authority. If the Scottish Church or the Westminster Confession, as one of its declarations of doctrine, had simply declared that predestination was one of its doctrines, there might be something in the argument, but the argument ignores the fact that the Westminster Confession purports to explain, and does explain in language which does not admit of doubt, what is meant. Each party well knew what they

meant. It is not a question of metaphysical subtleties or ambiguous language. Each meant to exclude and denounce the doctrine of the other. I am, therefore, led to the conclusion that upon this second question the appellants are entitled to succeed.

But, my Lords, another question is raised, which in one sense as affecting the law of trusts and their administration is most important. The Dean of Faculty boldly argued for the inherent power of every Christian Church to change its doctrines, and Lord Young has based his judgment upon this proposition. My Lords, apart from some mysterious and subtle meaning to be attached to the word "Church," and understanding it to mean an associated body of Christian believers, I do not suppose that anybody will dispute the right of any man, or any collection of men, to change their religious beliefs according to their own consciences. But when men subscribe money for a particular object, and leave it behind them for the promotion of that object, their successors have no right to change the object endowed.

In this case, it is suggested that the terms of what is called the Barrier Act suggest such licence to change. I am not able to concur in such an inference. It is obvious that, dealing with such a subject as formularies, books of religious instruction, and the like, many things might be done, written, and taught which might touch doctrine; and for the purpose of preventing any alteration in doctrine, the precautions insisted upon by the Barrier Act were thought necessary to prevent and render impossible any departure from the orthodox standards. It provides that "before any General Assembly of the Church shall pass any Acts which are to be binding rules and constitutions to the Church, the same Acts be first proposed as overtures to the Assembly." Many things might be proposed which, as "binding rules and constitutions," might touch doctrine or worship, or discipline or government; but that the Church of Scotland in 1697 might change its faith, or permit it to be changed, is a suggestion which, to one acquainted with its history, either then or even a very long time after, is not very plausible. It is only just to Lord Young to say that he adds, "I desire to say that there is, in my opinion, no rule of law to prevent a dissenting Church from abandoning a religious doctrine or principle, however essential and fundamental, or from returning to it again with or without qualification or modification. Whether or not a property title is such that a forfeiture of property will follow such abandonment or return is another matter." But that is the whole question now before your Lordships, and it appears to me that there is nothing in calling an associated body a Church that exempts it from the legal obligations of insisting that money given for one purpose shall not be devoted to another. Any other view, it appears to me, would be fatal to the existence of every Nonconformist body throughout the country.

But there is another and a further ground upon which, I think, the appellants are entitled to succeed, and that is that the so-called union is not really a union of religious belief at all. The united body has united in its organisations; it has established its various administrative arrangements; has declared its authority as the

United Free Church, and in that name has absorbed the various bodies of the United Presbyterians and the Free Church as originally constituted. But has it agreed in the doctrines of either of them, and if so, which is it that has given way? My Lords, I am bound to say that after the most careful examinations of the various documents submitted to us, I cannot trace the least evidence of either of them having abandoned their original views. It is not the case of two associated bodies of Christians, in complete harmony as to their doctrine, agreeing to share their funds, but of two bodies, each agreeing to keep their separate religious views where they differ, agreeing to make their formularies so elastic as to admit those who accept them according as their respective consciences will permit. Assuming, as I do, that there are differences of belief between them, these differences are not got rid of by their agreeing to say nothing about them; nor are these essentially diverse views avoided by selecting so elastic a formulary, as can be accepted by people who differ and say that they claim their liberty to retain their differences, while purporting to join in one Christian Church. It becomes but a colourable union, and no trust fund devoted to one form of faith can be shared by another communion simply because they say, in effect, there are some parts of this or that confession which we will agree not to discuss, and we will make our formulary such that either of us can accept it. Such an agreement would not, in my view, constitute a Church at all, or it would be, to use Sir William Smith's phrase, a Church without a religion. Its formularies would be designed not to be a Confession of Faith, but a concealment of such part of the Faith as constituted an impediment to the union. I am disposed to quote one passage from what was said by Dr William Wilson from the Moderator's chair in 1866, and which I find in Mr A. Taylor Innes's most excellent treatise on 'The Law of Creeds in Scotland.' Speaking of the freedom of the Church as to Confessions of Faith, he says: "We are not at liberty to hold forth a Confession in which we do not believe. For in such a case the Church is absolutely without a Confession. . . . It ceases to be either a bond of union or a public testimony. It is lawful for the Church to revise her Confession and adjust it to her present attainments and exigencies; it is lawful for her altogether to dispense with a Confession, if indeed without one any organisation were possible; but to retain a Confession which has ceased to be believed can never be lawful." He is speaking, of course, of the Christian conscience, and as he says at an earlier part of his discourse, when the Church has arrived at the conclusion that its Confession must be altered, "the time has come for us then to frame a new bond of union with each other, a new testimony to the world." This would certainly not be done by making formularies ambiguous or elastic, or authorising its votaries to put different meanings upon a set of words the function of which is intended to be a test of the unity of their faith.

That this is the principle upon which the so-called union has been arrived at, is proved by the declaration of the United Church, in which they claim in effect to retain their own separate views

held either in the United Presbyterian or in the Free Church, or in either of the bodies which originally composed the united body which afterwards became the United Presbyterian Church. They say this: "(1) The various matters of agreement between the Churches with a view to union are accepted and enacted without prejudice to the inherent liberty of the united Church as a Church of Christ to determine and regulate its own constitution and laws as duty may require in dependence on the grace of God and under the guidance of His Word. . . . (3) As this union takes place on the footing of maintaining the liberty of judgment and action heretofore recognised in either of the Churches uniting, it is hereby declared that members of both Churches and also of all Churches which in time past have united with either of them shall have full right as soon as they see cause to assert and maintain the views of truth and duty which they had liberty to maintain in the said Churches."

For these reasons I think the judgment ought to be reversed, and I so move your Lordships; but I cannot conclude without expressing how much we are indebted to learned counsel on both sides for their most able and learned argument.

LORD MACNAGHTEN'S OPINION.

LORD MACNAGHTEN said:—

I am unable to agree in the conclusion at which your Lordships have arrived. I do not differ from any of your Lordships as to the law,—at least, I think not. I accept the principles laid down in this House in *Craigdallie v. Aikman* and the other cases referred to during the argument. I accept those principles loyally and entirely, however much I may err in their application.

Every one, I think, must feel that the consequences of your Lordships' decision to-day, for good or evil, will be far-reaching and of momentous importance—graver, I think, and more serious than the consequences of any decision in which it has been my lot to take part. And the argument addressed to your Lordships has been worthy of the occasion. But, after all, the question at issue is one of a very ordinary description. It is alleged on the one hand, and denied on the other, that there has been a breach of trust in the disposition of property. The complaint is that funds contributed and set apart for one purpose have been diverted to another and a different purpose. Such questions are of everyday occurrence, and the problem in each case must be solved by the ordinary commonplace inquiry, What was the purpose for which the funds in dispute were collected? What was the original trust?

The funds in question in the present case represent money contributed for the support of the Free Church of Scotland. They represent property dedicated to the use of the Church body or voluntary association of professing Christians, founded by those ministers of the Established Church of Scotland who in 1843, on

the memorable occasion known as the Disruption, withdrew from the Establishment; or, according to their own view of the transaction, separated from the State, carrying with them the greater part of the office-bearers of the Established Church, and at least one-half of her members in full communion, asserting all the while for themselves and their followers in time to come the character of the ancient and true Church of Scotland. Setting forth with these lofty pretensions, they declared their adherence to the principles and practice of the Church of Scotland as regards doctrine, worship, discipline, and government, untrammelled and unfettered by connection with the State, and purged of every taint of Erastianism.

The question, therefore, seems to me to be this: Was the Church thus purified—the Free Church—so bound and tied by the tenets of the Church of Scotland prevailing at the time of the Disruption that departure from those tenets in any matter of substance would be a violation of that profession or testimony which may be called the unwritten charter of her foundation, and so necessarily involve a breach of trust in the administration of funds contributed for no other purpose but the support of the Free Church—the Church of the Disruption? Was the Free Church by the very condition of her existence forced to cling to her subordinate standards with so desperate a grip that she has lost hold and touch of the supreme standard of her faith? Was she from birth incapable of all growth and development? Was she, in a word, a dead branch, and not a living Church?

This, I think, is the real and only question. But if I may venture to say so without offence, it has been rather pushed aside and obscured by a very interesting preliminary search after a principle, if it be a principle, called for the sake of convenience, and not, I think, for the sake of clearness, the "Establishment principle," which, in my humble judgment, partakes rather of the elusive attraction of an *ignis fatuus*, which means much or little, just as you may choose to interpret one of the most obscure passages in the Westminster Confession, which in one aspect no Christian man, I think, would hesitate to accept, but which in the mouth of an adherent of a Church that has abandoned Establishment and separated from the State can only mean a counsel of perfection, unattainable in this world at least until the advent of the millennium.

Your Lordships have been furnished with a print of many Scottish statutes and a bulky volume containing the Acts of the General Assembly of the Church of Scotland. I have read those documents and many others to which the attention of the House was directed with much interest and some care. I can only say that they have confirmed me in the opinion I entertained at the conclusion of the first argument—no doubt erroneously—that the judgment under appeal was right, and ought to be affirmed.

I do not propose to trouble your Lordships by tracing the history of the Church of Scotland in its connection with the State from the date of the first Reformation to the time of the Disruption. That was done very ably and very fully by the learned counsel at the bar. It is enough for me to say that during the whole period of the existence of the Church of Scotland there was a constant assertion of spiritual independence. I will only give one example.

In 1838 the General Assembly having heard and considered the overtures on the independent jurisdiction of the Church of Scotland, agreed by a majority to the following resolution:—

“That the General Assembly of the Church of Scotland, while they unqualifiedly acknowledge the exclusive jurisdiction of the Civil Courts in regard to the civil rights and emoluments secured by law to the Church and ministers thereof, and will ever give and inculcate implicit obedience to their decisions thereon, do resolve that, as is declared in the Confession of Faith of this National Established Church, that the Lord Jesus as King and Head of His Church hath therein appointed a Government in the hand of Church officers distinct from the Civil Magistrate, and that in all matters touching the doctrine, government, and discipline of this Church her judicatories possess an exclusive jurisdiction founded on the Word of God, which power ecclesiastical (in the words of the Second Book of Discipline) flows immediately from God and the mediator Jesus Christ, and is spiritual, not having a temporal head on earth, but only Christ, the only spiritual King and Governor of His Kirk; and they do further resolve that this spiritual jurisdiction and the supremacy and sole headship of the Lord Jesus Christ on which it depended, they will assert, and at all hazards defend, by the help and blessing of the great God, who in the days of old enabled their fathers amid manifold persecutions to maintain a testimony even to the death for Christ's kingdom and crown; and, finally, that they will firmly enforce submission to the same upon the office-bearers and members of this Church by the execution of her laws.”

Thus while the Church was in connection with the State she took upon herself to declare emphatically that what she claimed was nothing less than an exclusive jurisdiction founded on the Word of God in all matters touching the doctrine as well as the government and discipline of the Church. The fact that the resolution was passed by a majority shows that it was carried by the vote of the party which five years later went out as the Free Church. Some may have hesitated—some may have dissented. The majority, however, on the very eve of the Disruption recognised this claim of “Church Power” as the governing principle of the Church.

During the period when the Church which had passed through the furnace of two Reformations was approaching her last and greatest trial, there grew up in it two parties—the Moderates and the Evangelicals. It was to the Evangelicals in later days that the Free Church of Scotland owed her separate existence. For a long time the Evangelical party was in a minority, and matters then went tolerably smoothly between Church and State. Ultimately the Evangelicals gained the ascendancy. They were the party of progress, reform, and Church extension. They planted religion in remote and half-civilised districts in the Highlands. They founded missions in all parts of the world. Their zeal and fervour were, as their adherents boasted, in striking contrast to the apathy and lukewarmness of the Moderates. When they became the dominant party they carried matters with a high hand. They passed Acts in the Assembly—the Veto Act and the Chapel

Act—altogether beyond the competence of a Church established by law. They censured and deposed ministers who obeyed the decrees of the Court of Session. They held those decrees to be encroachments on the true liberties of the Church, and actually pronounced them illegal. The State refused to admit their claims. The strong arm of the law restrained their extravagances. Still they maintained that their proceedings were justified, and required by the doctrine of the Headship of Christ which was common to all the Reformed Churches, but to which they attached peculiar and extraordinary significance. Then came the Protest of 1842—"the Unanswered and Unanswerable Protest," as they called it. It was followed by a cold and chilling reply from the Government in power, and it became evident to all thinking men that as the State would not give way, the leaders of the Assembly and those who adhered to them would have to retract their pretensions, and own themselves defeated or quit the Establishment altogether. No one who knew the courage and temper of the leaders of the Assembly, no one who had caught the note of defiance or triumph sounded by Dr Chalmers at the close of the Edinburgh Convocation, could doubt what the issue would be.

And now, in passing, I would call your Lordships' attention to one fact which seems to me not unworthy of notice, when Dr Chalmers's Address, preached before the first Free Church Assembly, is relied upon as a sort of prospectus, on the faith of which the funds of the Free Church were collected—as if the Free Church were a joint-stock concern, and that sermon an invitation to the public to put their money in it. Months before the Disruption actually took place, when all Scotland was looking forward with feverish anxiety to the last act of the drama, the leaders of the Evangelical party, with Dr Chalmers at their head—a great divine and an eloquent preacher, who had a wonderful faculty of organisation and something of the genius of a statesman—set about collecting funds for the needs of the Church. "Before the meeting of the General Assembly"—I am now quoting from a book which, I believe, is of recognised authority¹—"the members of the popular party had arranged their course of proceeding. Associations were formed throughout the whole of Scotland, and subscriptions were collected for the purpose of building churches and providing a maintenance for the ministers, who were soon to lose the benefits of the national endowments. Dr Chalmers presided over the General Finance Committee, and acted with an energy and success which amazed even those who had best known his labours for a similar purpose in the cause of the Establishment. The thousands of circulars which he dispersed bore the following mottoes: 'Surely I will not come into the Tabernacle of my House, nor go up into my bed; I will not give sleep to my eyes, or slumber to mine eyelids, until I find out a place for the Lord, an habitation for the mighty God of Jacob.' 'The God of Heaven, He will prosper us; therefore we His servants will arise and build.'" That was the origin of the fund, those were the winged messengers by which the ground was prepared and the good seed sown. And when the Disruption took place, and when

¹ Ecclesiastical History, by George Grub, iv. 226.

appeals were made in every parish, in every nook and corner of Scotland, calling upon the people to stand by the Church of their forefathers, denouncing the tyranny of the State, describing in harrowing terms the sufferings of ministers, old and young, driven from their homes, with their wives and children, forced to seek shelter in sheds and hovels, while they faithfully ministered to their flocks, and some of them actually dying of want and exposure, money came in abundantly in answer to the call. Dr Chalmers's Address to the first Free Church Assembly was but one of a thousand, I might say of a million, similar discourses. It was eloquent, of course. It was stirring. But I rather take leave to doubt whether the warning that I find there against Voluntaryism, and against Anarchy,—an evil, as the preacher truly says, more to be dreaded than Voluntaryism,—was very stirring, or likely of itself to evoke a generous response. The negation of dangerous principles does not, as a rule, rouse enthusiasm. Of what is called the Establishment principle as a tenet or opinion of the Free Church I shall have a word to say presently. All I want to impress upon your Lordships at this moment is that when that sermon was preached by Dr Chalmers on an occasion more eloquent and more stirring than any appeal in words could be, the fund was already in full swing.

Then for whom and with what purpose was the money collected? Except as regards sums devoted to special purposes and special objects, the fund was all one fund. It was collected for the needs of the Free Church of Scotland. And what was the Free Church? Did it go out as a Sect or a Persuasion, or a Connection, with peculiar tenets, cut and dried, and defined in the precise language of a conveyancer? Nothing of the kind. Those who went out went forth declaring that they were not a Sect but the National Church, and that they were still the Church of Scotland. "We are," they said (to quote the words of Dr Candlish, one who was only second—if he was second—to Dr Chalmers himself), "we are still the Church of Scotland, the only Church that deserves the name, the only Church that can be known and recognised by the maintaining of those principles to which the Church of our fathers was true when she was on the mountain and on the field, when she was under persecution, when she was an outcast from the world. And believing that we are not seceders from the Church, but are the Church separated from the State, believing that we are not a sect separated from the Established Church, but that we are the Church of Scotland separating from the State, we hold ourselves entitled, without any disparagement to other religious bodies, to assume and act upon the principle that we are to maintain the character of the National Church of Scotland."

An impossible position it may be said, in point of law! They went out not as a Church, but as individuals separating from the Church, and they united again in a voluntary body of professing Christians. That may be so; but to themselves and to their adherents, and, I may add, to other religious bodies which were not of their communion, they supported the character of the National Church of Scotland. And supporting that character which, rightly or wrongly, they assumed, they must be taken, I think, in regard to their own body, to have all the powers of a

National Church. Speaking for myself, I cannot form a conception of a National Church, untrammelled and unfettered by connection with the State, which does not at least possess the power of revising and amending the formulæ of subscription required of its own office-bearers, and the power of pronouncing authoritatively that some latitude of opinion is permissible to its members in regard to matters which, according to the common apprehension of mankind, are not matters of faith. I agree that a sect may erect any point or any punctilio, however trifling and absurd, into an article of faith. My position is that the adherents of the Free Church were not a sect, and that they never made the Establishment principle an article of faith. But, my Lords, I go further. This Establishment principle, whatever it is, can have no higher authority than the article of the Westminster Confession in which it is supposed to be embedded. If the Church has power to amend her Confession, she can, of course, take occasion to declare that the Establishment principle is to be regarded as an open question, in reference to which every man is at liberty to exercise his private judgment.

Now, it seems to me clear that the Free Church, when it came into existence, claimed the power of altering and amending her Confession of Faith. On the second argument, the Dean of Faculty called your Lordships' attention to a 'Catechism on the Principles and Constitution of the Free Church of Scotland' issued by authority of the General Assembly. The preparation of this work was taken in hand in 1843. It was issued in December 1845 by authority of the Publication Committee. It puts forward in its forefront the Resolution of 1838, which I have already quoted. In 1847 the General Assembly approved generally of the Catechism as containing "a valuable summary of the Church's history, and exposition of her general principles, from the beginning of the Reformation to the present time," and, at the same time, the Assembly earnestly recommended its general use. So that it has an unquestionable claim to be considered a contemporaneous document. Mr Taylor Innes, in his valuable work on 'The Law of Creeds in Scotland,' quotes from it as a book of authority, but speaks of it as "an intensely polemical volume." So it is. From beginning to end it attacks and flouts and belittles the Established Church. But the very bitterness of its tone shows that it was composed in the earliest days of Disruption. I will not weary your Lordships by quoting from it at any length. But I may remind your Lordships that it points out that the Church of Scotland as a Church, on its own authority, adopted the Westminster Confession, and that at the very time when Knox's Confession had the sanction of the State. The Catechism deals at some length with "Church power." It explains that this power is "the power of the keys." It declares that it is divided into four parts, and that the first part is "the dogmatic power, in virtue of which the doctrines of the Word are declared and religious controversies are determined." It asks, "When is the dogmatic power abused?" The answer is, "When it is made the pretext for a claim of infallibility, and employed to subvert the right of private judgment,

and when the implicit submission which is due only to the Word is demanded for Church formularies and devices." In an earlier passage, in a note quoted by Mr Taylor Innes, there is a sly hit at the Established Church, and a sharp contrast drawn between the views of the Evangelical party and of the Moderate party, not altogether to the advantage of the latter. "It is one thing," says the note, "for the civil privileges and endowments of a Church to be tied to a Confession by civil enactments" (that was the comparative freedom of the Evangelical position) "and quite another thing for a Church itself to be so" (that was the bondage of the Moderates and their Established Church). "In the former case, the Church, when she finds that any articles of her Confession are unscriptural, is at liberty to renounce them, being only bound, if she do, to resign her temporalities. In the latter case, the law allows no relief whatever for the Church in her corporate capacity when she discovers errors in her Confession, which, of course, is as much as to say that the Church is bound always to go absolutely upon the supposition of its soundness, and to interpret the Word of God agreeably to its declarations. Under these circumstances the supreme and ultimate standard of doctrine is not the Bible, but the Confession of Faith." My Lords, I greatly fear that is the position into which the Free Church will be driven if Mr Johnston's argument prevails.

I could easily multiply quotations from this Free Church Catechism, but I think I have quoted enough to prove that to the followers of the Free Church movement the notion of altering the Westminster Confession of Faith was not so very shocking.

If the view which I have roughly indicated is correct, I think it is enough to dispose of this case in both its branches. But there are two points on which a great deal of argument was bestowed, and on which I should like to say a few words. There is the Establishment principle, as it is called, and there are those higher mysteries which were dealt with boldly but reverently by the learned counsel who spoke second for the United Free Church. As regards the Establishment principle, I know that that very distinguished man to whom I have already referred, and who after Dr Chalmers was the leader of the Free Church, doubted to the last whether the principle of a national establishment of religion was a principle at all. He maintained that throughout the whole of the Church's history there was "no event"—that was the word he used—that proclaimed formally and directly that the principle of a national establishment of religion was a vital principle which the Church was bound to maintain. Speaking for myself, I do not altogether take that view. I think it must be admitted that the Establishment principle, as it may be gathered from the somewhat obscure language of the Westminster Confession, was the generally received opinion in the Church. It was necessarily the received though unexpressed opinion of the Church before the Disruption. When the Disruption took place circumstances were altered, and then I think there was a diversity of opinion on the subject. Lord Trayner says that it appears to him "difficult to hold that a mere opinion as to what some third person

was bound to do, which he might neglect or refuse to do, and which the Church would not compel him to do, could in any way be an essential part of the constitution of the Church which held that opinion." Well, that was exactly Dr Candlish's opinion at the very time of the Disruption. I refer to his opinion, not as the opinion of a person authorised to speak on behalf of the Church, but as the opinion of a very leading man, whom many others would probably follow. At the General Assembly, held in Glasgow in the autumn of the year of the Disruption, Dr Candlish, speaking about the Establishment principle, and pointing out that the refusal of the State to establish the Church on the only terms to which the Church would consent left them a great degree of liberty as to the terms on which they should stand with other Churches, put the case thus:—

"Is the division and schism of the Christian Church to be kept up by a question as to the duty of another party over whom we have no control? Let it be that we maintain our different opinions as to the duty of the State to support the Church, and the duty of the Church to receive support from the State when it is given consistently with spiritual freedom, still shall that question, which has become a mere theoretical question in the Church of Christ, and which, so far as we can judge, seems destined to be a mere theoretical question till the time when the kingdoms of this world shall become the kingdoms of our Lord and of His Christ, shall that question prevent cordial co-operation and harmony among ourselves, and our united action in defence of one common Protestantism against one common foe?"

I have no doubt that the opinion which Dr Candlish expressed so eloquently at the time of the Disruption must have been held by many adherents of the Free Church. And as time went on, and the splendid voluntarism of the Free Church, on a basis and a scale never before understood or attempted, placed the Free Church on a level with the Established Church at home, and in a position certainly not inferior as regards missionary labours abroad, the natural tendency, I think, even among those who were disposed to regard the Establishment principle as a sacred principle (if any such there were), must have been in the direction of the conclusion that the Church of Scotland could exist not only without an Establishment, but even without the profession of the Establishment principle.

Speaking for myself, and with the utmost deference to the great majority from whom I have the misfortune to differ, I think this question about the Establishment principle is a very small question indeed. I think it occupied a great deal too much of the argument to the exclusion of far weightier matters.

I cannot call the matters that were discussed by Mr Haldane small or insignificant. They are mysteries into which I do not think it is our province to intrude. And, indeed, I am not quite sure that at the conclusion of Mr Haldane's argument I had gained a clearer insight into hidden things than I had before—at any rate I am happy to think that it is not necessary to enter into these questions at all. If the Church has power to

relax the stringency of the formulæ required from her ministers and office-bearers so as to avoid offence to the consciences of the most conscientious, and to keep within her fold the most able and enlightened of her probationers, that is all that is required. That she has that power I cannot doubt. These formulæ sanctioned by the Church were imposed by Parliament. If they owed their force and efficacy in the Established Church to Acts of Parliament, the Free Church has rejected the ordinances of men and the authority of Parliament, and is free to regulate her own formulæ. If they owed their efficacy to the action of the Church the Free Church, as it seems to me, claiming to act, and recognised by her adherents as acting, in the character of a national Church, and proceeding regularly in accordance with her constitution, may do now what the Church did in the seventeenth century.

Owing to the vast importance of this case, and the very able and learned arguments of counsel at the bar, I have thought it right to state in my own language the reasons which have led me to the opinion I hold. Under ordinary circumstances I should have been content to express my concurrence in the opinions delivered by the learned judges in Scotland, and specially with the opinions of the Lord Ordinary and Lord Trayner.

It is impossible, in my opinion, to overrate the importance of the issue awaiting decision. I do not agree with the learned counsel for the appellants that the United Free Church is a changeling, a creature of a composite nature, with a double face and two voices. Though the name is slightly altered, I think the Free Church has preserved her identity. I think she is entitled to as much respect—I had almost said as much veneration—as when she went forth, casting off for conscience sake the fetters and the advantages of State connection. I do not think she has forfeited any of her rights by receiving into her bosom a reformed and Presbyterian Church, one with her in faith, in baptism, and in all essential points of doctrine. And for my part I should hesitate long before I would give my voice for a decision which will compel her, or at any rate direct her, to subordinate the Scriptures to the Westminster Confession of Faith.

LORD DAVEY'S OPINION.

LORD DAVEY said:—

My Lords, the subject-matter of the action out of which this appeal has arisen is certain heritable and moveable property of great value, which is held by trustees, who are the first respondents, in trust for the Free Church of Scotland. That Church is a voluntary and unincorporated association of Christians, united on the basis of agreement in certain religious tenets and principles of worship, discipline, and Church government. The pursuers and present appellants were in the year 1900, and claim to be still,

members of the Free Church, and their complaint, so far as it is cognisable by a civil court, is that their trustees, at the bidding of other members of the Free Church but in breach of their trust, have applied, and threaten and intend to apply, the trust property to purposes which are alien to the purposes of the trust, and for the benefit of persons who have no title to call themselves members of the Church. In fact, the appellants say that they alone hold in their integrity the tenets and principles of the association for whose benefit the trust was founded.

The law on this subject is free from doubt. It has been settled by numerous decisions of the Courts, both in Scotland and in England, and has been affirmed by judgments of this House. The case of *Craigdallie v. Aikman* came twice before this House. In the second appeal, heard in 1820, Lord Eldon thus stated the principle on which the House proceeded when this matter was formerly before the House:—

“We acted upon this principle, that if we could find out what were the religious principles of those who originally attended the chapel, we should hold the building appropriated to the use of persons who adhere to the same religious principles.” And after stating the result of the inquiries directed by the former judgment, Lord Eldon said: “Supposing that there is a division of religious opinions in the persons at present wishing to enjoy this building, the question would then be which of them adhered to the opinions of those who built the place of worship, and which of them differed from those opinions, those who still adhered to their religious principles being more properly to be considered as the *cestuis que trust* of those who held this place of worship in trust than those who have departed altogether from the religious principles of those who founded this place, if I may so express it.” In an English case (*Attorney-General v. Pearson*), decided in 1817, and therefore between the two appeals in the *Craigdallie* case, Lord Eldon, referring to that case, expounded the principle acted on by the House more at large. “But if,” he said, “on the other hand, it turns out (and I think that this point was settled in a case which lately came before the House of Lords by way of appeal out of Scotland) that the institution was established for the express purpose of such form of religious worship, or the teaching of such particular doctrines as the founder has thought most conformable to the principles of the Christian religion, I do not apprehend that it is in the power of individuals having the management of that institution at any time to alter the purpose for which it was founded, or to say to the remaining members, We have changed our opinions, and you who assemble in this place for the purpose of hearing the doctrines and joining in the worship prescribed by the founder shall no longer enjoy the benefit he intended for you, unless you conform to the alteration which has taken place in our opinion. In such a case, therefore, I apprehend, considering it as settled by the authority I have already referred to, that when a congregation become dissentient among themselves, the nature of the original institution must alone be looked to as the guide for the decision of the Court, and that to refer to any other criterion

as to the sense of the existing majority would be to make a new institution, which is altogether beyond the reach and inconsistent with the duties and character of this Court."

My Lords, I disclaim altogether any title in this or any other civil court of this realm to discuss the truth or falseness of any of the doctrines of this or any other religious association, or to say whether any of them are or are not based on a just interpretation of the language of Scripture, or whether the contradictions or antinomies between different statements of doctrine are or are not real or apparent only, or whether such contradictions do or do not proceed only from an imperfect and finite conception of a perfect and infinite Being, or any similar question. The more humble but not useless function of the civil court is to determine whether the trusts imposed upon property by the founders of the trust are being duly observed. I appreciate—and, if I may properly say so, I sympathise with—the effort made by men of great intelligence and sound learning to escape from the fetters forged by an earlier generation. But, sitting on appeal from a court of law, I am not at liberty to take any such matter into consideration. The question in each case is, what were the religious tenets and principles which formed the bond of union of the association for whose benefit the trust was created? I do not think that the Court has any test or touchstone by which it can pronounce that any tenet forming part of the body of doctrine professed by the association is not vital, essential, or fundamental, unless the parties have themselves declared it not to be so. The bond of union, however, may contain within itself a power in some recognised body to control, alter, or modify the tenets and principles at one time professed by the association. But the existence of such a power would have to be proved like any other tenet or principle of the association.

My Lords, I do not propose to travel through the numerous documents which state or illustrate the grounds of the great Disruption in 1843, and the principles held and professed by the founders of the Free Church. The result, in my opinion, is that the Free Church took with it the doctrine, government, and discipline of the Established Church, freed from the fetters and conditions imposed on that Church by its connection with the State. The Free Church adopted as its standards the Westminster Confession and other subordinate standards of the Established Church. It also adopted the provisions of the Barrier Act, and any other provisions affecting the constitution of the Church and the powers of its General Assembly. In fact, the founders of the Free Church claimed that "in doctrine, polity, and discipline they truly represented the Church of their fathers," and that "it is her being free and not her being established that constitutes the real historical and hereditary identity of the reformed national Church of Scotland." There is, however, one document which should be more particularly referred to—namely, the Protest put forth as their first act by the members of the General Assembly of the Established Church who withdrew from that Assembly on the historical 18th May 1843. This Protest was ordered to be recorded by the several Presbyteries of the Free

Church at the beginning of their Presbytery books as the ground and warrant of their proceedings, and it may fitly be called the Charter of the Free Church. It is at once an *apologia* and an affirmation of the position taken up by the founders of the Church. In vindicating in vigorous terms their right and duty to separate from the Establishment (maintaining the Confession of Faith and other standards of the Church of Scotland as theretofore understood), they were careful to firmly assert the right and duty of the civil magistrate to maintain and support an establishment of religion in accordance with God's Word. It is a matter of dispute whether it was a tenet of the Established Church that it is the duty of the State to establish and endow a National Church. It has been said by learned Judges in the Court of Session that it was not required that the principle of a religious establishment in connection with and endowed by the State should be professed as an article of faith. It was pointed out that the article on the Civil Magistrate admits of other constructions, and that a civil ruler may perform the duty ascribed to him in that article in other ways than by establishment and endowment. But however this may be, I think it is plain from their public utterances that the founders of the Free Church considered that the Establishment principle was part of the body of doctrine which they brought with them from the Established Church, and that they held and stated it in the clearest terms. It is impossible, in my opinion, to get rid of the explicit statement of the doctrine in the Protest of 18th May 1843 by calling it "parenthetical," or a matter of opinion. The affirmation of the doctrine may be said to derive strength from the form of the sentence. For it shows that the authors of the Protest regarded it as of so much importance that they go out of their way to state it, and thus define more clearly their position, and avoid the imputation that by separating from the Established Church they had become Voluntaries. Again, in the Act of 1846 "anent questions and formula," while disclaiming intolerant or persecuting principles, "the Church firmly maintains the same Scriptural principles as to the duties of nations and their rulers in reference to true religion and the Church of Christ for which she has hitherto contended." And (not to multiply evidence of what is not really disputed) in the address of Dr Chalmers, which was incorporated in a Manifesto issued by direction of the General Assembly of May 1843, and entitled "The Affectionate Representation of the Free Church of Scotland," that eminent person expressed himself in language which I will not repeat, as it has been read by my noble friend on the woolsack. My Lords, I cannot bring myself to doubt that a doctrine thus "firmly" asserted and maintained and officially put forward was a distinctive tenet of the Free Church of Scotland, and formed a link in the bond of union between the members of that association.

The Lord Ordinary and the learned Judges in the Inner House treated it as neither fundamental nor essential, and they seem to have regarded it as a pious opinion, held, indeed, by the founders of the Church, but destitute in the circumstances of any practical importance. I have already said that I have no means of testing

the fundamental or essential character of the doctrine apart from the utterances of the parties themselves. They certainly were as far as possible from treating it as an open question, and that attitude was maintained for many years after the foundation of the Church. The doctrine of the independence of the Church under the Headship of Christ alone was the very foundation of their position, and was necessarily put forward by them as fundamental, but that is no proof that they did not regard other tenets also as essential or distinctive articles of belief. The questions, therefore, in my opinion, come to be whether it was a term in the compact or bond of union that the General Assembly should have power to alter or vary the doctrines of the Church, and what are the limits (if any) of such a power? I was impressed, as I believe all your Lordships were, by the powerful argument of the Dean of Faculty. If I understand the learned Dean correctly, he maintained that the General Assembly of the Church of Scotland had by its constitution an inherent power of plenary legislation over all matters ecclesiastical, including doctrine, subject only to the conditions imposed by the Act of Assembly called the Barrier Act. And he carried his argument so far as to maintain that the General Assembly of the Free Church, exercising the inherent powers of the Established Church, but freed from the fetters imposed by Acts of Parliament, might derogate from or even reject the Confession of Faith itself. My Lords, the freedom of the Church from the control of the civil power *in spiritualibus*, which is asserted by the Free Church, does not appear to me to warrant any *a priori* inference of the existence of such a plenary power of legislation in the General Assembly. It is, indeed, almost a truism that an unestablished religious association is free from State control as regards doctrine, government, and discipline. But that freedom, which differentiates a voluntary association from an Established Church, is not inconsistent with the adoption by the association of certain tenets which distinguish it from other similar bodies. The right of the Assembly to impose any innovation from established doctrine on a dissentient minority, and the limits of such right (if any) must be found in the constitutional powers of that body, and must be proved by evidence. The historical argument of the learned Dean appears to me on examination to afford but little assistance on this crucial point. Knox's Confession of Faith was not adopted by the General Assembly of the Church, for at that time the Presbyterian form of Church government was not established, and there was no such body. It was presented by the barons and others to Parliament, and then passed into law. The statutes of 1638 and the subsequent years were passed during the period which is called in Scottish ecclesiastical history the Second Reformation, and appear to be in the nature of protests against the action of the King's Government, and in some instances the King's Commissioner is supplicated to obtain the ratification by Parliament of the Acts of the Assembly. The Westminster Confession was adopted by an Act of the General Assembly in 1647, and did not, it is true, receive parliamentary sanction until 1692, after the period of disturbance between the Restoration and the

Revolution of 1688 had passed away. It is to be observed, however, that in the Act of 1647, approving the Westminster Confession, it is expressly stated that the said Confession was found by the Assembly to be "in nothing contrary to the received doctrine, worship, discipline, and government of this Kirk." The Assembly therefore, did not consider itself to be introducing into the Church any innovation in doctrine. The Westminster Confession was intended to be an eirenicon, or basis of union, between the Churches in the two kingdoms, and the adoption of it by the Scottish Assembly was as much a political as an ecclesiastical act. The "Chapels Act" and the "Veto Act," which were the forerunners and indirectly the cause of the great Disruption, can hardly be cited as evidence of the power of legislation which is claimed. These Acts were said by their authors to be declaratory only of existing rights, and although they involved the assertion of the larger principle for which the majority in the General Assembly were then contending, the particular subjects dealt with would seem to come within the scope of the internal management of an unestablished Church. They were held in the Court of Session and in this House, in the course of the litigation which ensued, to be of no effect, because their provisions (it was held) were at variance with those of Acts of Parliament. It was not necessary, therefore, for the learned Judges to give any decision as to the abstract power in the General Assembly to pass them. But the dicta of the learned Judges were not favourable to the respondents' contention (see the opinion in the Auchterarder case 2; Robertson's report, 25 *et seq.*) Counsel referred to chapter vii. of the 'Second Book of Discipline.' The sections numbered from 6 to 8 describe the powers of all assemblies from kirk-session to an Œcumenical Council, and do not relate specially to the General Assembly. It does not appear to me that any of these sections either confer or recognise the existence of a power in the General Assembly to impose new doctrines on the Church—for that is what is claimed. They seem to be directed to the preservation and maintenance of established doctrine and the reform of abuses. Sections 21 to 26 describe the powers of what is there called the National Assembly, corresponding to what is now designated the General Assembly. There are large powers for the protection of the spiritual jurisdiction, the patrimony of the Kirk, and generally concerning "all weighty affairs that concern the wellbeing and good order" of "the whole Kirk of the realm." But nothing is said as to doctrine. Counsel did not, in fact, bring to your Lordships' attention any work of recognised authority in the Presbyterian Churches in which it is clearly laid down that the General Assembly possesses this plenary power of legislation over doctrine. And I cannot say that it has been proved to my satisfaction that either by inherent right, or by usage, or by contract, the General Assembly of the Free Church has any such power.

But, my Lords, I think that the learned Judges of the Court of Session relied principally on the provisions of the Barrier Act, 1597. The first observation is that that Act is a procedure Act, and not an enabling Act. It does not purport to

confer any new powers whatever. But it regulates the exercise of such powers as the General Assembly may possess. It is said, however, that the provisions of the Barrier Act contemplate and imply the existence of a power in the General Assembly to make some innovations or alterations in, amongst other things, doctrine. I think this would be true if after the word existence you add the words, "or the possible exercise by the Assembly." The Act may have been passed for the purpose of preventing a majority from making sudden innovations and alterations, which it was expected or feared might be attempted, without very carefully weighing what the strict constitutional powers of the Assembly were. But, my Lords, let it be assumed that the language of the Act does imply the existence of some power. Certainly it is not necessarily an unlimited or general power. And the question then is, What is the extent or what are the limits of the power? It has been said that it is a power to legislate in any manner not inconsistent with the continued existence of the Church. But applying that to the case now before us, what, it may be asked, is the Church but an organised association of Christians holding certain doctrines and principles in common? I was at one time disposed to think that a sound limitation might be found if the power were confined to the interpretation of formularies. But further reflection has satisfied me that if your Lordships were so to hold, you would only be making a more or less plausible but wholly unverified assumption. I also think that not only an accepted interpretation of Scripture, but an accepted interpretation of or inference from a subordinate standard, may just as well be an article of faith as any other opinion; and there is no solid distinction for this purpose between one religious principle or opinion and another. I do not think, for example, that you advance the argument by calling the Establishment principle a question of peltity only. I have come to the conclusion that it would be contrary to all principle to infer from the provisions of the Barrier Act, unsupported by any evidence of usage or other evidence, a power in the General Assembly, or the majority, to vary the trusts upon which this property is held to the prejudice of a dissentient minority. I think the Dean of Faculty was logically right in contending for an unrestricted power of legislation. But if the property was intended to be held in trust for a body of Christians holding such doctrines as the majority, acting through the General Assembly, might from time to time approve, such an intention should be made clear beyond the possibility of question.

Now, what is it that the General Assembly has done? I shall content myself by referring to three documents. In 1867 there was a movement in the Free Church for union with the United Presbyterian Church. In a report of a Committee of the Free Church of that year on union with other churches, there is contained a statement of the United Presbyterian Church Committee under the heading of "Distinctive Articles." It is as follows:—

"That it is not competent to the Civil Magistrate to give legislative sanction to any creed in the way of setting up a civil

establishment of religion, nor is it within his province to provide for the expense of the administration of religion out of the national resources; that Jesus Christ as sole King and Head of His Church has enjoined upon His people to provide for maintaining and extending it by freewill offerings; that this being the ordinance of Christ, it excludes State aid for these purposes, and that adherence to it is the true safeguard of the Church's independence. Moreover, though uniformity of opinion with respect to civil establishments of religion is not a term of communion in the United Presbyterian Church, yet the views on this subject held and universally acted on are opposed to these institutions."

I will only ask your Lordships to contrast this language with the views on this subject expressed by Dr Chalmers, and put forward by the founders of the Free Church in their Manifesto entitled "The Affectionate Representation of the Free Church of Scotland, 1843," to which I have already referred. In fact, the voluntary principle—*i.e.*, the unlawfulness of accepting aid in any form from the State—was put forward as one of the most distinctive principles of the United Presbyterian Church in a tract published by authority on the jubilee of that Church in the year 1897.

By an Act of the General Assembly of the Free Church, dated 30th October 1900, after a recital that a union of the Free Church of Scotland and the United Presbyterian Church of Scotland was in contemplation, and was about to be consummated, it was enacted and ordered (among other things) that all property held by the trustees for behoof of the Free Church of Scotland should belong to and be held for behoof of the United Free Church of Scotland. On the following day the Act of Union was passed, and certain declarations were adopted by the united Assembly defining the basis of union, the third of which is as follows: "As this union takes place on the footing of maintaining the liberty of judgment and action heretofore recognised in either of the Churches uniting, so in particular is it hereby declared that members of both Churches, and also of all Churches which in time past have united with either of them, shall have full right as they see cause to assert and maintain the views of truth and duty which they are at liberty to maintain in said Churches."

In other words, the Establishment principle, and the doctrine as to the duty of the Civil Magistrate towards the Church which was maintained and firmly held by the founders of the Free Church, are henceforth to be open questions for members, ministers, and office-bearers; and the property which was placed in trust for the Free Church is henceforth to be held in trust for the maintenance of a Church in the pulpits of which distinctive tenets of the Free Church may or may not be held, and, indeed, doctrines at variance with them, and directly contradictory of the Establishment principle, may lawfully be maintained and taught.

The appellants also say that in the constitution of the United Free Church another distinctive principle of the Free Church, as declared by the founders of that Church, has been abrogated—*viz.*, the unqualified acceptance of the Westminster Confession. They point to the change in the language of the question relating to

the Confession which candidates are required to answer in the United Free Church. They say that this change, accompanied and explained by the declaration contained in the preamble to the Act prescribing these questions, has the effect of substituting for a belief in the whole doctrine of the Confession of Faith belief in such portions thereof only as the General Assembly may from time to time determine to be of the substance of the reformed faith, or (in other words) such portions as the Assembly may from time to time approve. This is not a mere question of interpretation of formularies, and I am disposed to think that on this point also the argument of the appellants is well founded.

The learned Dean of Faculty rightly said that the substantial question was whether the United Free Church has preserved its identity with, and is the legitimate successor of, the Free Church. My Lords, I find myself quite unable to answer that question in the affirmative.

The other two cases relate to the trusts of buildings held for particular Free Church congregations on trust deeds, which are in the form of the Model Trust Deed approved by the General Assembly of the Free Church. The terms of this trust deed were much relied on by the counsel for the respondents, not only with reference to these congregational trusts, but also on the general question. The trust is that the building shall be enjoyed as a place of religious worship by a congregation of the said body of Christians called the Free Church of Scotland, or of any united body of Christians composed of them, and of such body or bodies of Christians as the Free Church may at any time hereafter associate with themselves, under the aforesaid name of the Free Church of Scotland, or under whatever name or designation they may assume. The operative part of the deed is preceded by a long historical narrative, which is interesting, and appears to me rightly to define the position and constitution of the Free Church. But it does not appear to me to carry the case further than the facts themselves do. Nor do the terms of the trust seem to affect the general question beyond showing that it was in the contemplation of the parties that the Free Church might unite with some bodies of Christians. With regard to the congregational property I feel more difficulty. I think the soundest view, however, is to hold that there is a general overriding trust for the purposes of the Free Church, and it was not intended that the majority controlling the Free Church might, by subverting the basis of the Church, divert the trusts of the congregational property. I think, therefore, that the union here contemplated must be taken to be one with other Churches which might properly be made without detriment to the distinctive tenets of the Free Church. More than one union of that character has, in fact, been made without objection.

For the reasons I have given, I am of opinion that the two appeals should be allowed.

LORD JAMES'S OPINION.

LORD JAMES OF HEREFORD said:—

My Lords, in the cases before your Lordships for decision the secular Courts have been appealed to for the purpose of determining differences that have arisen between two sections of the Church until lately known as the Free Church of Scotland. The jurisdiction of the Courts, and therefore of your Lordships, to determine such differences proceeds from the fact that property held by trustees upon certain trusts has lately been dealt with, or sought to be dealt with, for the purpose of carrying out a union between the Free Church of Scotland and another body known as the United Presbyterian Church, and the pursuers in the Court below, the appellants before your Lordships, allege that the application of the properties in question to the purposes of the Churches thus united constitutes a breach of the trusts under which the properties are held. It is obvious that the first step towards the elucidation of the question before your Lordships' House is to determine the nature of the trusts controlling the properties in question. In order to do so a brief reference to facts, some of which have become historical, is necessary. Prior to 1843 the Presbyterian Church of Scotland was in existence as the Established Church. But grave questions deeply affecting the minds and opinions of some of its members had come into existence. The Protest of the General Assembly of the Free Church, dated May 19, 1843, complains—"That the Courts of the Church by law established, and the members thereof, are liable to be coerced by the Civil Courts in the exercise of their spiritual functions, and in particular in the admission to the office of the holy ministry and the constitution of the pastoral relation, and that they are subject to be compelled to intrude ministers on reclaiming congregations in opposition to the fundamental principles of the Church and their views of the Word of God, and the liberties of Christ's people." On this ground, and apparently on this ground only, a large number of the members of the Established Church seceded from it and formed themselves into a new body under the name of the Free Church. As far as I know, the seceding body adhered to all the tenets and views of the Establishment, excepting upon the above question of secular interference with the spiritual affairs of the Church. Upon the Free Church thus constituted as a whole, and upon certain congregations of it, considerable property has been conferred by different settlers and donors. The case set up by the pursuers is that these properties are held under certain trusts; that those who conferred the properties upon the Free Church intended that they should be applied for the purposes of that Church as it existed at the time when the transfers of property were made. It is also alleged that the Free Church, having united with another body known as the United Presbyterian Church, has so varied its conditions as to cease to retain its original identity. In the Courts below reliance

in support of this contention was almost entirely placed upon the argument that a fundamental difference existed between the two Churches in this, that the Free Church acknowledged and asserted the principle of an Established Church, whilst the United Presbyterian Church condemned that principle, and was to the fullest extent a Voluntary Church, accepting Voluntaryism as a necessary and fundamental article of its faith. Such being the case presented in the Courts below and at the bar of your Lordships' House by the pursuers, it is necessary first to determine to what extent the Free Church was based upon the principles of Establishment.

But before entering upon such inquiry it is, I think, worthy of remark that the Church is not a positive defined entity, as would be the case if it were a corporation created by law. It is a body of men united only by the possession of common opinions, and if this community of opinion ceases to exist the foundations of the Church give way. But difference of opinion to produce this result must be in respect of fundamental principles, and not of minor matters of administration or of faith.

The basis of the Established Presbyterian Church was the Westminster Confession of Faith. At the time of the Disruption in 1843 full adherence to the principles of this important document was declared by the seceders. Article III. of chapter xxiii. of the Westminster Confession is as follows: "The Civil Magistrate may not assume to himself the administration of the Word and Sacraments or of the power of the keys of the Kingdom of Heaven, yet 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 effecting 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."

Again, in the Pastoral Address issued by the General Assembly of the Free Church on May 30, 1844, it is stated: "Long was it the peculiar distinction and high glory of the Established Church of Scotland to maintain the whole Headship of the Lord Jesus Christ, His exclusive Headship in the Church which is His kingdom and house. It was ever held by her, indeed, that the Church and the State, being equally ordinances of God, and having certain objects connected with His glory and the social welfare, might and ought to unite in a joint acknowledgment of Christ, and on the employment of the means and reasons belonging to them respectively for the advancement of His cause. But while the Church in this manner might lend her services to the State, and the State give its support to the Church, it was ever held as a fundamental principle that each still remained, and ought under all circumstances to remain, supreme in its own sphere and independent of the other. On the one hand, the Church having received her powers of internal spiritual government directly from her Divine Head, it was held that she must herself at all times

exercise the whole of it under a sacred and inviolable responsibility to Him alone, so as to have no power to fetter herself by a connection with the State or otherwise in the exercise of her spiritual function. And in like manner as regards the State, the same was held to be true on the same grounds and to the very same extent. In reference to its secular sovereignty, it was maintained that as the spiritual liberties of the Church bequeathed to her by her Divine Head were entirely beyond the control of the State, so upon the other hand the State held directly and exclusively from God, and was entitled and bound to exercise under its responsibility to Him alone, its entire secular sovereignty, including therein whatever it was competent for or binding upon the State to do about sacred things, or in relation to the Church, as, for example, endowing and establishing the Church, and fixing the terms and conditions of that establishment."

It seems that this article clearly enunciates the principle of an Establishment, and that this principle, as distinguished from its application, has never been repudiated by those who formed the Free Church. But the opinion of any one on that point at the present day is of but little importance compared with the views expressed by those who founded that Church. Clear and distinct expression of those views can be found in the first place in the Claim, Declaration, and Protest issued by the General Assembly of the Church of Scotland on May 30, 1842. It is stated: "Whereas it is an essential doctrine of this Church, and a fundamental principle in its constitution, as set forth in the Confession of Faith thereof in accordance with the word and law of the Most Holy God, that there is no other Head of the Church but the Lord Jesus Christ (chapter xxv., section 6), and that while God, the supreme Lord and King of all the world, has 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 (chapter xxiii., section 1), and while it is the duty of people to pray for Magistrates, to honour their persons, to pay them tribute and other dues, to obey their lawful commands, and to be subject to their authority for conscience sake, from which ecclesiastical persons are not exempted (chapter xxiii., section 4), and while the Magistrate hath authority, and it is his duty in the exercise of that power which alone is committed to him—namely, the power of the sword or civil rule as distinct from the power of the keys or spiritual authority expressly denied to him—to take order for the preservation of purity, peace, and unity in the Church, yet the Lord Jesus, as King and Head of His Church, hath therein appointed a government in the hand of church officers, distinct from the Civil Magistrate, which government is ministerial, not lordly, and to be exercised in consonance with the laws of Christ and with the liberties of His people."

And again in the same document, at p. 39 of the Appendix, there appears as follows: "And whereas this Church, highly valuing, as she has ever done, her connection on the terms contained in the statutes hereinbefore recited with the State and her possession of the temporal benefits thereby secured to her for the advantage of

the people, must nevertheless, even at the risk and hazard of the loss of that connection and of these public benefits, deeply as she would deplore and deprecate such a result for herself and the nation, persevere in maintaining her liberties as a Church of Christ."

Then in the Protest of May 18, 1843, we read: "And finally, while firmly asserting the right and duty of the Civil Magistrate to maintain and support an establishment of religion in accordance with God's Word, and reserving to ourselves and successors to strive by all lawful means as opportunity shall, in God's good providence, be offered to secure the performance of this duty according to the Scriptures," yet, the document proceeds to announce separation.

But perhaps the most explicit declaration on the subject of the principle of Establishment is to be found in the words of Dr Chalmers, rendered authoritative by their circulation by the orders of the General Assembly of May 1843. My Lords, those are the words which were read by the noble and learned Lord on the woolsack, where Dr Chalmers says, "The Voluntaries mistake us if they conceive us to be Voluntaries," &c., and, therefore, I do not read them again. To these declarations of Dr Chalmers I feel great importance should be attached, apart from the fact that they were issued under the authority of the General Assembly. Dr Chalmers was specially appealing for material support for the Free Church as a seceding body, and I know nothing more likely to influence the generosity of donors than the eloquent appeal of such a man as Dr Chalmers. From him those who gave would seek both guidance and information as to the body upon which their gifts would be conferred. Then in December 1843 the Assembly of the Free Church, replying to the address from the Congregational Churches of North Wales, said: "But you misapprehend the nature of the movement we have made in supposing that we have in the last degree altered our views respecting the lawfulness and desirableness of a right connection between Church and State." That the Establishment principle was adhered to by the Free Church seems to have been accepted in the Court below. Lord Trayner in his judgment says, "It is not open to doubt that the Free Church, from its constitution in 1843 down at least to its union with the United Presbyterian Church, professed the Establishment principle." Even the separation from the Established Church was apparently intended to be of a temporary character only, because we find in the Claim and Protest of May 30, 1842, the following: "But that it shall be free to the members of this Church, or their successors, at any time hereafter, when there shall be a chance of obtaining justice, to claim the restitution of all such civil rights and privileges and temporal benefits and endowments as for the present they may be compelled to yield up in order to procure to their office-bearers the best exercise of their spiritual government and discipline, and to their people the liberties of which respectively it has been attempted, so contrary to law and justice, to deprive them."

Such being the declarations of the Seceders at the time of the

Disruption, I can find no departure from such views at any time before the union with the United Presbyterian Church. On the contrary, between the years 1843 and 1900 repeated declarations of adhesion to the principle of Establishment were made on behalf of the Free Church. I have thus dealt at length with the position accepted by the Free Church in relation to Establishment, and the result seems to be that the Seceders of 1843, having belonged to the Established Church, seceded from it not because it was an Established Church, but because the principle of the Establishment within it had become vitiated. To the principles of Establishment the Seceders still fully adhered, and to the Established Church itself they would gladly have returned as soon as there was any discontinuance of the interference with spiritual government, which they regarded as vitiating the true principles of Establishment.

It still has to be considered whether the principle was essential and fundamental, or a mere matter of policy. It is difficult to define any positive standard between an essential and a non-essential principle, but surely there is a great gulf between the principle of Establishment and that of Voluntaryism. It seems to me, having read the declarations of the General Assembly and the distinct utterances of Dr Chalmers, that scant justice would be done to the eloquent leaders of the Secession movement in 1843 if we construed them as treating the Establishment principle as being non-essential or unimportant. Still more important is it to consider what was the view of the importance of the principle entertained by those donors who may have listened to the appeal of Dr Chalmers. Would they have regarded it as non-essential? Would they have endowed a Church pledged to Voluntaryism? I think not. It is a much easier task to gather the views of the United Presbyterian Church on the subject of Establishment. That Church came into existence in the year 1847 by virtue of the union of two churches which had previously seceded from the Established Church. It is not denied that from first to last the United Presbyterian Church has existed without connection with the State, and as a voluntary Church accepting as a fundamental principle that of Voluntaryism. A most emphatic declaration in favour of that principle was made as late as 1897 in a tract, No. XXV., issued by the United Presbyterian Church. Again I quote Lord Trayner's authority in the Court below. He says that it is not open to doubt "that the United Presbyterian Church throughout the whole period of its existence has repudiated the principle of Establishment, and professed instead the principle of Voluntaryism." Entertaining these different views, the Free Church and the United Presbyterians have taken steps, seemingly correct in form, to become united under the name of the United Free Church, and this union is sought by the majority who support it to be imposed on the minority who object to become members of the new United Church, and to take effect upon property held by the Free Church, so as to transfer it to the new body of the United Church. Apparently it was sought to make the union subject to a reservation, so as to leave an independent and different judgment

to members of the two Churches. Clause 3 of the declaration of the United Assembly is as follows: "As this union takes place on the footing of maintaining the liberty of judgment and action heretofore recognised in either of the Churches uniting, so in particular it is hereby declared that members of both Churches, and also of all Churches which in times past have united with either of them, shall have full right as they see cause to assert and maintain the views of truth and duty which they had liberty to maintain in the said Churches."

But this freedom do differ, whilst admitting the differences, does not lessen or remove them. The United Free Church, as a whole, holds within it neither the principle of Establishment nor of Voluntaryism. Such questions were to be open questions; but the man who, as a member of the Free Church, had accepted the views of a Church which claimed Establishment as one of its fundamental principles, may well object when he is told that he shall no longer belong to a Church holding that principle, but that he must under compulsion join a Church wherein members of it may think as they will on this broad subject, and must, whether he wished it or not, be in communion with the supporters of the Voluntary system to the same extent as if they had been adherents to the principle of Establishment in accordance with the tenets of the Free Church. My Lords, we must recollect that we are dealing with property applied to the use of men in return for services rendered as ministers of the Free Church—to the use of men who have adhered to the tenets of that Church—who have changed nothing, who have varied nothing. From an answer I received from counsel at the bar, I learned that the refusal of these ministers to become members of this mixed body was treated as a matter of discipline, and so the sentence for thus adhering to an old and unaltered faith apparently amounts to deprivation. That this is so seems to proceed from the effect of the Act of October 30, 1900, whereby it was resolved that the whole property of the Free Church should be transferred to and belong to the United Free Church. The assertion that the dissenting minority by so dissenting ceased to be members of the Free Church, and lost and forfeited all their rights and privileges as members thereof, is to be found at statement 15 of the defenders' case. The sentence thus imposed upon the ministers who adhered to their old opinions is somewhat Draconic. "They separated and cut themselves off from the said Church," says the statement of the defenders, and "by so doing lost and forfeited all their rights and privileges as members thereof. They do not constitute or represent the Free Church of Scotland, and they have no title to any property which belonged to the said Free Church of Scotland. They are not members of the United Free Church of Scotland. They had no right or title to any property belonging to it."

My Lords, there are one or two subjects that must be dealt with. Lord Trayner in his judgment says: "But as to that, the Establishment principle had been explicitly declared in 1843 to be an essential principle of the Free Church. I think the Church had the power to abandon that principle, and to that extent alter

that principle." From this view I differ, because, regarding essential as meaning fundamental, I do not think that a Church can change such fundamental principle and yet at the same time preserve its identity. The retention of the name does not preserve identity, and yet the change of principles might be so great as to leave nothing but the name of the Church. I think, too, it was admitted, by way of example, that if the change had introduced the doctrines of the Church of Rome, the identity of the Free Church would be lost. And surely this view brings us back to the question whether there has been any change of a fundamental or vital principle of the Church, and to this an answer has been given.

An important document, the Model Trust Deed of November 1844, has also to be dealt with. The respondents naturally rely upon it as showing that at the very time of the secession it was contemplated that the Free Church might unite with other Churches. I agree that this is so, for the Deed sets out a trust in favour of the congregations "of the said body of Christians called the Free Church of Scotland or of any united body of Christians composed of them, and of such other body or bodies of Christians as the said Free Church may at any time hereafter associate with themselves." Even if the Model Deed contained no such reference to union with other Churches, I should regard the power as existing, for I agree with Lord Young when he says in his judgment that "any two or more Churches may lawfully unite so as to form one Church, and that nothing more is necessary to the union than their own consent, which they are respectively free to give or withhold." Doubtless that is so in respect of the mere legality of the act of uniting. But different considerations are raised in these suits. We have to deal with the right of property, with the execution of trusts, and we have to see that the objects the donors had in view are carried out. Such being the case, I do not think that the Model Trust Deed gives greater power of union than the Free Church possessed without it. The Church may unite, and so says the Model Deed. But if property is sought to be transferred to the new body, the identity of that new body—that is, the Free Church after the union—must be maintained, and nothing in the deed gives a power to unite so as to bring into existence a Church incapable of identity with the Free Church. And if this be so, we are recalled to the consideration of the main question argued in this case.

My Lords, great stress was laid at the bar upon the effect of an Act passed in the year 1697, called the Barrier Act. It was argued that this Act conferred legislative powers upon the General Assembly in respect of matters of doctrine or worship, discipline or government, within the Church. I cannot agree in this view. The Act is entitled "An Act anent the methods of passing Acts of Assembly of general concern to the Church, and for preventing of innovations." It is a procedure Act, regulating the exercise of the existing powers of the Assembly, but conferring no new jurisdiction, and increasing no powers. Doubtless the Assembly had before the passing of the Acts certain powers in

respect of the matters referred to—and it was thought desirable to enact that such powers should only be exercised after full notice given. This is all the Barrier Act did. Certainly nothing within it gives any power to alter the identity of the Church.

My Lords, I have not thought it necessary to enter upon any detailed statement of the law affecting the application of property left in trust for a voluntary body such as the Free Church was. It seems enough to say that sufficient guidance on that subject is to be found in the case of *Craigdallie v. Aikman*, the decision in which case supplies principles applicable to the present. I probably have already conveyed to your Lordships the results I have arrived at. After very earnest consideration of the facts before this House, and the very able argument presented at the bar, I have come to the conclusion that the appellants are entitled to the judgment of your Lordships. That conclusion is founded upon the grounds I have above referred to. I am thus relieved from dealing with the second ground upon which the union of the Churches is attacked, and I am glad that there is no necessity for me to deal with that interesting but difficult problem presented by the alleged difference of doctrine existing in the two Churches.

I am aware that your Lordships' duty is only to give judgment upon the strict issues raised before you, and that the judgment must lie where it falls. But even at the risk of exceeding my duty, I venture to express the sincere hope that some way will be found to avoid the capture by either litigants of any speils of war, and that hope is confident because I believe that the primary, indeed the only, object of those who have united and those who have dissented has been to promote the interests of the Church, and that equally now will it be their care that the Church as a whole and the individual members of it shall in no degree suffer from the events with which your Lordships have had to deal.

LORD ROBERTSON'S OPINION.

LORD ROBERTSON said:—

My Lords, in the elaborate arguments submitted to the House, many questions have been discussed which involve difficult theological and historical inquiries. I have, as in duty bound, carefully considered those various aspects of the controversy, and I have come to the conclusion that the case admits of decision, and ought to be decided, upon grounds much more palpable and certain. The question is—To whom does certain property now belong that was given to the denomination of Christians which called itself the Free Church of Scotland? That body was founded in 1843. It consisted of ministers and laity who seceded from the Established Church of Scotland on certain questions of Church polity, but who

professed to carry with them all the doctrine and system of the Established Church. They only freed themselves by secession from what they regarded as intolerable encroachments by the law courts upon the Church's spiritual functions. Rightly or wrongly, the theory of the Free Church was that they, and not the Established Church, were the Church of Scotland. The Church thus set up was endowed by the liberality of its members with the property now in dispute. Two competitors now claim it. Of the respondents, the first remark to be made goes to the very root of their claim.

They are not either in name or composition the Free Church of Scotland. They are not even the majority of the Free Church, but the assignees of the majority of the Free Church. They are a body formed in 1900 by the fusion of the majority of the Free Church with another body of Presbyterian dissenters—the United Presbyterian Church. The property of the Free Church is claimed by this composite body, which to the extent of a third or some large proportion (for the particulars are not before us, and are unimportant) is composed of United Presbyterians. Of this new body, it may be affirmed nearly as truly that it is United Presbyterian as that it is Free Church, and its name, the "United Free Church," suggests the fact. Now, I do not attach conclusive importance to the name. But it is important, and still more significant. In any view, the change of name and the fact of fusion put it on the respondents to prove their identity with the original beneficiaries. They have to do this, too, not in a question with the heirs at law of the founders, but in competition with an existing body of ministers and members of the original Free Church who have simply stayed where they were, and about whose pedigree there is no dubiety.

For reasons to be afterwards stated, it is not too lightly to be assumed that such unions are within the competency of any majority, however large, even if there existed no essential differences between the uniting bodies. The present, however, is not a case in which (as in some instances, which will presently be examined in detail) the Free Church has absorbed smaller Presbyterian bodies, holding all her own pristine principles, and has done so without any change of her name or formularies. The United Presbyterian Church treated with and joined the Free Church not only formally, but in fact, on at least equal terms. The two bodies which met to consummate the union enacted and declared that the Free Church "do and shall henceforth constitute one united Church; that the name of the united Church shall be the United Free Church of Scotland; and that its Supreme Court shall be designated the General Assembly of the United Free Church of Scotland." From these proceedings it resulted that, so far as the respondents were concerned, the Free Church judicatories

ceased to exist, their place being taken by Kirk-sessions, Presbyteries, Synods, and General Assemblies of the new Church, composed in part of gentlemen who formerly were United Presbyterian, and in part of gentlemen who formerly were Free Churchmen. On the 30th October 1900 the General Assembly of the Free Church made over the whole property of the Free Church to the United Free Church. On the following day, 31st October 1900, the General Assembly of the new Church proceeded to set up a new formulary for the admission of their preachers, which had been preconcerted and made matter of treaty. Whereas a probationer of the Free Church used to be required to affirm his belief that "the whole doctrine of the Confession of Faith" is "the truths of God," the United Free Church probationer requires to affirm his belief in "the doctrine of this Church" (the United Free Church) "set forth in the Confession of Faith." The elasticity of "the doctrine of the United Free Church" which is thus made the object of belief, is ascertained by the fact that the various matters of agreement between the Churches with a view to union were declared by the United Assembly to be "accepted and enacted without prejudice to the inherent liberty of the United Church as a Church of Christ, to determine and to regulate its own constitution and laws as duty may require, in dependence on the grace of God and under the guidance of His Holy Word." The United Free Church probationer has also to affirm the general principles of the (United Presbyterian) "Basis of Union, 1847," as well as those of the (Free Church) Claim of Right of 1842, to be principles sanctioned by the Word of God and the subordinate standards of the Church. I do not at present comment on the importance of such changes, but note them as showing that the constitution of the new Church is a new constitution, enacted by the new and composite body, and adapted to the exigencies of the United Presbyterians.

Another matter of salient importance demands attention. One of the recitals in the Act of the General Assembly of the Free Church by which they authorised the Union is that "the committees of the two Churches having met and communicated to one another the existing doctrinal standards, rules, and methods of the two Churches, it appeared that in regard to doctrine, government, discipline, and worship therein set forth, a remarkable and happy agreement obtained between them, and also in particular in the views of the two Churches in respect to the spirituality and freedom of the Church of Christ—her subjection to Him as her only Head, and to His Word as her supreme standard, and that an incorporating union might harmoniously be accomplished." There is no profession of identity, but of an "agreement" having been "obtained," which is described as "remarkable." Now, the steps and stages of these long negotiations are before the House. And from these it appears that on this question of Establishment there were, in 1863

and in 1867, sharp differences. The tenets of the two bodies are printed in parallel columns in the printed papers, and I am going shortly to refer to them. Nothing before the House shows or suggests that the United Presbyterians departed by an iota from their own doctrine. On the other hand, there is no avowal by the Free Church that she departed from the position formulated in parallel columns. What was done was simply to drop the subject and unite.

While such is the name and such the composition of the respondents' body, the position of the other competitor, the appellants, is very much simpler. They are those ministers and laity of the Free Church who did not concur in the Union of 1900, but protested against it. They have done nothing but remain where they were, holding to the letter all the doctrines of the Free Church, adhering to it as an institute, and continuing its existence according to the measure of their powers. They say that in the event which has happened they are the Free Church—their brethren having left them for this new Church—just as those brethren might have left them for the Establishment or for the Episcopalians. They have, however, been declared by the respondents no longer to be of their Communion, and their manse and churches have been formally claimed by the respondents for their own exclusive use. The adherents of the appellants are numerically few—some few thousands; but it has not been suggested that this introduces any legal difference from the situation as it would have been had they been more numerous. Since the days of Cyrus it has been held that justice is done by giving people, not what fits them, but what belongs to them.

Such being in sketch the relative positions of the two claimants to this property, it is plain that the respondents can only succeed by making out that it was an inherent quality of that Free Church, to which this property was given, that it could transform itself in the way that I have described, and oust from the property those who desire to remain where they were in principle, doctrine, and organisation. For let it not be forgotten that the contention of the respondents necessarily involves that the majority are entitled not merely themselves to retain the property, but also (1) to introduce the United Presbyterians as beneficiaries, and (2) to oust the dissentient minority from the benefits of the foundation. This is what I protested against at the outset, the too ready acceptance of the doctrine that "Union" is competent to a majority. In considering this contention, I steady myself by dwelling on an observation very frequently repeated by the Dean of Faculty in his able speech for the respondents. "This case," said the Dean, "differs from all previous cases in the same region of law in this—this is a gift to a Church," not to a congregation, nor for the promotion of certain doctrines, but to a Church named and designated. I think there is

great force in this, but in another way from that intended. This property was given to the Free Church, an existing Church complete within itself as an ecclesiastical organism, and separate from other Churches. This becomes extremely clear when it is remembered that there were already existing at the moment of the Disruption the two dissenting Presbyterian bodies which now form this very United Presbyterian Church, and that the incorporation of those two into the United Presbyterian Church took place in 1847. During those early years of the Free Church, when this property was being accumulated, those dissenting bodies were, so far as worship, doctrine, discipline, and government were disclosed in their standards, exactly the same as the Free Church which was set up side by side with them. Accordingly, even if we knew nothing to corroborate the inference which this gives rise to, the broad fact is that the Free Church was set up as an independent Church separate from those with whom the recent Union has now been effected. Therefore, with the Dean of Faculty, I say this property was given to a particular Church, and it is very difficult to see that it will do to end that Church, and then, picking up most of her doctrines, come forward to claim that United Presbyterian and Free Church alike shall share as members of a body which is not even called the Free Church.

When the history of the foundation of the Free Church is more closely examined, we see that it was not fortuitously or from mere love of separation that the Free Church was founded and endowed as a Church separate from the two confluents of the United Presbyterian Church. Those existing dissenting bodies held opinions about Church government and Church and State which were inherited and carried forward by the United Presbyterian Church; and in 1843 they, as after 1847 their successor, the United Presbyterian Church, were the exponents in Scotland of Voluntary principles. By this, as it ought to be unnecessary to say, I mean not merely that in fact they were not endowed by the State, but that they were opposed on principle to the endowment of religion by the State. It is honourable to the United Presbyterian Church that, in good times and in bad, it has never used ambiguous language or nicely balanced phrases about this matter, and has never sailed under false colours. All through the negotiations with the Free Church, as before them, it was strenuous and busy in "diffusing a knowledge of the voluntary principles of the Church." It, year by year, upheld the Church's testimony on the proper relation of Church and State, and in favour of religious equality by disestablishment and disendowment, and "renewed the testimony of 1847, constantly maintained, that it is not within the province of the civil Government to provide for the religious instruction of the subject." In order, once for all, to ascertain precisely the true position of the United Presbyterian Church upon these subjects, it is convenient to read the state-

ment of their distinctive principles, made by their committee when negotiating for union with the Free Church in 1867. And the passage has a special value because, in the circumstances, it was not likely to contain overstatements on controversial points. It stands out also as a landmark, because it has never to this day been abandoned by the United Presbyterian Church either before, in, or after their union with the Free Church. Here is what is said: "That it is not competent to the civil magistrate to give legislative sanction to any creed in the way of setting up a civil establishment of religion. Nor is it within his province to provide for the expense of the ministrations of religion out of the national resources; that Jesus Christ as the sole King and Head of His Church has enjoined upon His people to provide for maintaining and extending it by freewill offerings; that this being the ordinance of Christ, it excludes State aid for these purposes, and that adherence to it is the true safeguard of the Church's independence. Moreover, though uniformity of opinion with respect to civil establishments of religion is not a term of communion in the United Presbyterian Church, yet the views on this subject held and universally acted upon are opposed to these institutions." All of this declaration is very clear. But the closing sentence has a special significance in regard to the whole of the present case. On paper, the United Presbyterian Church held just the same general doctrines as the other Presbyterian Churches. Like them, she held the Scriptures to be the only rule of faith. As with them, so with her, the Westminster Confession and Catechisms were her Confession and Catechism. None of her formularies made mention of Voluntaryism, or exacted the profession of that principle from her office-bearers or members. The learned Judges whose decision is now under review would, I suppose, have thought that this fact removed all ground of division between the Voluntary bodies and Free Church bodies in 1843. But the founders of the Free Church were not content with these criteria of the distinctive notes or testimonies of a Church; and they declined to coalesce with Voluntaries, although Voluntaryism was not then, any more than now, a term of communion in those bodies. "The affectionate representation of the Free Church of Scotland, 1843," is conclusive on this point, and it has a peculiarly direct authority and relevance in the present controversy. It has been called, and I think accurately, "the prospectus of the new Church," and it states the grounds and principles on which support was asked for it.

Now, this manifesto or prospectus discusses this very question of the proper relations of the Free Church to the Dissenters who now form the United Presbyterian Church. The manifesto seems to anticipate the not unnatural objection to the formation of a new Church; that here were existing orthodox Presbyterian Churches—why not join them? The answer is conclusive—That would be against our principles. And in two very eloquent pages—for the

writer was Dr Chalmers—the Established principle is urged upon those addressed in the most peremptory terms as being still binding on them as “a doctrine or article of faith.” The Voluntaries are warned that they mistook the Free Church if they conceived them to be Voluntaries; and it is emphatically asserted for the Free Church that, “though we quit the Establishment, we go out on the Establishment principle; we quit a vitiated Establishment, but would rejoice in returning to a pure one.” The same attitude is politely but firmly expressed in the General Assembly’s replies to the various bodies of Voluntaries who addressed the Free Church with congratulations at the time of the Disruption. They were all asked not to mistake the Free Church for Voluntaries. The conclusion which I draw from all this is that it was of the essence of the foundation to which this property belongs that it should be a Church, separate from voluntary dissenters. On broader grounds, though closely connected, it is difficult to see how the pretensions of the Free Church, such as they were, could have been embodied in anything but a Church of her own. Her theory was that she was, amid right-hand and left-hand defections, the Church of Scotland—the Church of the first and the second Reformations—the burning bush, never consumed. With all Presbyterians this is a noble claim to allegiance. Nor was it the less inspiring in 1843 because the Church had been, as she held, unjustly deprived of the benefits of Establishment, and her loyalty to the principle of national religion was proving itself to be of the sort that is true although it be not shone upon.

Now, in dealing with the question before your Lordships’ House, it is necessary from the outset to bear firmly in mind that the Establishment principle can be held by Churches that, in fact, are unconnected with the State, and are, in fact, supported by voluntary contributions alone. I should have thought this the necessary hypothesis of the whole question, as we have to do with a dissenting Church; but in two passages of the learned Judges’ opinions, afterwards to be adverted to, this seems to be forgotten. Again, the intrinsic importance of any particular doctrine in relation to the general body of Christian teaching is no criterion of whether it is or is not an essential or fundamental doctrine in a particular Church, and least of all in Scotland. It is not its own importance, but the place assigned to it in the foundation of the new Church, that has got to be ascertained. I dwell on this for a moment, and illustrate it from the case in hand. Whether the Establishment principle is or is not a fundamental doctrine of the Free Church is the dispute in this case. But there is no doubt at all that the claim of the Free Church as against the Law Courts (I put it shortly) is of the essence of her foundation. This question is settled, not because the Judges or your Lordships so appraise that doctrine in comparison with all the various doc-

trines of faith and morals set out in the Confession of Faith, but because that was the undoubted ground on which the new Church was set up. Now, I observe in Lord Low's very able judgment that he makes much of the fact that here were two Churches identical in doctrine, worship, and form of government, and they were working together in the same field, so that their agencies overlapped, and their efforts were to some extent wasted; and his lordship goes on to speak of the duty of unity among Christians. This is all very true, but then these considerations were full in view of the founders of the Free Church. This is not a case where the new Church was set up in Scotland to preach the Gospel to people who were not within reach of the common doctrines of Christianity, or even of Calvinistic Christianity. In the theory of the founders of the Free Church, it was intolerable that their adherents, although agreeing in all other matters, should continue to worship along with those who were content that the Court of Session should force the Presbytery to ordain the patron's presentee, and do all the various things which led to the Disruption. In fact, again, they set up their churches side by side with those of the other Presbyterian bodies, who also held exactly the same doctrinal standards; and, the evil consequences of having two separate Churches instead of one, which Lord Low adverts to, being palpable and flagrant then as now, the just inference seems to be that the founders of the Free Church deemed the difference between themselves and the Voluntaries so vital that the duty of Christian unity must give way to the more imperious duty of Christian fidelity to truth. In the same fashion the older secessions had taken place on questions not about any of the doctrines of personal religion or of theology, but about Church polity. Questions of polity had, in short, been in Scotland often made the causes of separation between Churches, and in 1843 this unquestionably was again the case. The only question is, Was that what was called Spiritual Independence, or did it not also comprehend the Establishment principle?

I am, of course, not to be understood as speaking in praise of separation (or of any doctrine on one side or another of this dispute); but no one will understand the present case unless he receives into his mind the possibility of people valuing separation as a safeguard for doctrines which they hold intensely, and as to which they know that the surrounding world is indifferent or hostile. And the error of the respondents seems to me to be that, shutting their eyes to the extremely special and limited *raison d'être* of the Free Church, and contemplating themselves as a Christian Church, they measure the importance of any doctrine in relation to Christianity as a whole, and not with reference to their own distinctive origin.

Another fallacy must be guarded against. To prove that

Spiritual Independence is more important than the Establishment principle is only to prove that the latter is in importance subordinate to the former, but it does not entitle us to call the Establishment principle a principle of subordinate importance. The true question, as I view the matter, is whether the two doctrines (Spiritual Independence and Establishment) have not been made by the founders of the Free Church complementary parts of one doctrine.

The instrument of the highest and most direct authority, as evidencing the position of the Free Church, is the Protest of 1843. It was by Act of Assembly enjoined on the Presbyteries to record this Protest, together with the Act of Separation and Deed of Demission, at the beginning of their Presbytery books, as the ground and warrant of their proceedings. The Protest seems to me on the face of it amply to support the Affectionate Remonstrance—already referred to—in the assertion that “we come out on the Establishment principle.” The Protest is that it shall be lawful to them in the circumstances in which they are placed to withdraw from the existing Establishment (as if this act required defence). But they make this protest—“While firmly asserting the right and duty of the Civil Magistrate to maintain and support an Establishment of religion in accordance with God’s Word, and reserving to ourselves, and our successors, to strive by all lawful means as opportunity shall in God’s providence be offered, to secure the performance of this duty agreeably to the Scriptures,” and so on. Your Lordships have doubtless read the document as a whole. There is nothing in the context which detracts from the significant and solemn emphasis of what I have quoted. They had come to the conclusion that in the circumstances in which they found themselves, “a free Assembly of the Church of Scotland as by law established cannot at this time be holden,” and therefore, and therefore only, they came out. The Claim, Declaration, and Protest of 1842 is referred to in the Protest of 1843 as setting forth the true constitution of the Church. Now, Lord Low, admitting that in this document also the Establishment principle is affirmed, remarks that it is “in a parenthetical way.” The simple explanation of the form of the sentence, and of the lesser saliency of the position assigned to that principle in this paper, is that it is a manifesto from and by an Established Church. The motive of the paper is to protest against interference with the judicatories of that Church. Accordingly, the hypothesis is that Establishment as a principle requires no vindication or assertion, and it in fact only enters the argument when the loss of Establishment is referred to as one of the national dangers impending. But the references in this connection are of unmistakable import.

The unqualified language of the Protest of 1843, the document which, as we have seen, each Presbytery was to take as the warrant

of its proceedings, stands witness, therefore, of the distinctive principles of the Free Church. I have already spoken of the Affectionate Remonstrance of 1843 as the manifesto on which endowment was invited, and these two historical papers are those which bear most directly on the question, What are the trusts of this foundation? There are a number of authoritative documents of the General Assembly in following years, and having examined them all, I find them all to bear out the statements made to the public in the Affectionate Remonstrance. The degree of prominence attached to the one or the other of the Church's doctrines of course depends on the occasion of the pronouncement, and it would be unfair to isolate any statement from its motive and context. I shall mention three utterances as instructive in more ways than one, especially as the first of these is founded on by the respondents. In 1851—the matter in hand rendering this appropriate—it is spiritual independence that is put into the "parenthesis," and the Establishment principle that is substantively asserted. "While this Church," it is said, "has ever held that she possesses an independent and exclusive jurisdiction or power in all ecclesiastical matters," and so on, "she has at the same time always strenuously advocated the doctrine taught in Holy Scripture that nations and their rulers are bound to own the truth of God and to advance the Kingdom of His Son." The Assembly goes on in a historical review of Scottish history to illustrate how this had been done and how it had not been done, the first instances approved being the statutes establishing the Church in 1567 and 1592. Now, in this paper there occurs a passage which has been founded on by the respondents, in which the Assembly says that "it is her being free and not her being established that constitutes the real historical and hereditary identity of the Reformed National Church of Scotland." Of course it is not the fact of her being Established that constitutes the identity, or the Free Church claim would be impossible, but I entirely fail to see what this has to say to the principle of Establishment. This argument of the respondents is merely another instance of the recurring fallacy which confuses the fact of a Church being established with the holding by a Church of the Establishment principle. The Act of 1853 is "anent the principles of the Church." It is short and unequivocal, and it contains an authoritative exposition or gloss of the Claim, Declaration, and Protest of 1842, and the Protest of 1843. It "declares that this Church maintains unaltered and uncompromised the principles set forth in the Claim, Declaration, and Protest of 1842, and the Protest of 1843, relative to the lawfulness and obligation of a Scriptural alliance between the Church of Christ and the State." It will be remembered that in the Protest the protesters reserved to themselves and their successors "to strive by all lawful means to secure the performance of the duty of the State to support

an Establishment of religion in accordance with God's Word." So now the General Assembly goes on to explain that there is not in 1853 any "present call" to take steps in that direction. Thus the return to a purified Establishment was the only "union" ever thought of by the old Free Church. The only other Act of Assembly of the Free Church to which I need refer is that of 1873, in which, in full view of the United Presbyterians—for the Act relates to the mutual eligibility of their ministers—the Assembly "declare their adherence to the great fundamental principles of this Church regarding, first, the sole and supreme authority of the Lord Jesus Christ" (I need not quote this in full—it is the doctrine of spiritual independence); "and, secondly, the prerogative of the Lord Jesus Christ as Head over all things to His Church and supreme over nations and their rulers, who are consequently bound collectively and officially, as well as individually and personally, to own and honour His authority, to further the interests of His holy religion, and to accept the guidance of His word as making known His mind and will." We are now, in 1873, entering the zone of negotiation, and the language is becoming a little general, but the important thing is that the doctrine about the State—whatever it was—is put abreast of the doctrine about spiritual independence, the two being declared "great fundamental principles of this Church." And what the second of these doctrines was in 1843 is not in doubt.

What has now been said relates to authoritative declarations of the Free Church herself. Now, a word must be said of her inherited Standards. I shall put the argument very low indeed when I say that the Confession of Faith, on the face of it, is consistent with the high place given by the Disruption leaders to the Establishment principle. It is quite certain that the Confession of Faith is inexorably opposed to the theory of religious equality, which is, as we have seen, to this day avowed by the United Presbyterians, who now form part of the respondents' Church. The notion that the State is to stand neutral between good religions and bad, which is what is meant by religious equality, is diametrically opposed to the whole teaching of John Knox. Upon this subject, and on this occasion, I cannot do better than quote from one of the Disruption leaders themselves—the historian of 'The Ten Years' Conflict.' "Knox," says Dr Robert Buchanan, "and his enlightened and able associates were clear and decided about these two things—first, that no State can, without grievous sin, lend its countenance to the Roman Antichrist, or to any false religion whatever; and second, that every State is bound to embrace, acknowledge, and encourage the true religion." "In Scotland, as everywhere else at the period of the Reformation, the duty of the State to own and uphold the true religion was looked upon as a first principle which did not require and hardly admitted of discussion." To those who realise the high theocratic views of the sixteenth and seventeenth centuries in Scotland, it is easy to under-

stand that the autonomy of God's Church and the duty of the State to support it were but two essential parts of the one great conception of a Christian nation. And this is in truth the clue to the Disruption documents. With regard to the 23rd chapter of the Confession of Faith, I own that I read with some surprise that doubts had been entertained by learned Judges as to the effect of the words that it is the duty of the Civil Magistrate to "take order that" the ordinances of God be "duly settled, administered, and observed." I must still take leave to think that those words do describe what we call Establishment, and I observe that in the Campbeltown case, where these observations were made, the question before the Court was State endowment, which is a different thing.

On all the grounds which I have stated, I come to the conclusion that the doctrine of Establishment was one of the distinctive and fundamental doctrines of the Free Church.

I shall now mention one or two points in the Judgments in the Court of Session, so far as relating to that question, which demand attention. Lord Trayner, whose judgment is most clear, has stated a very curious objection to the likelihood of the Establishment principle being a fundamental doctrine of a Church. His Lordship finds it "difficult to hold that a mere opinion as to what some third person was bound to do, which he might neglect or refuse to do, and which the Church could not compel him to do, could in any way be an essential part of the constitution of the Church which held that opinion." This difficulty really arises out of the time-honoured personification of the State as the Civil Magistrate. It would certainly not have been admitted by John Knox even when Queen Mary represented the Civil Magistrate; and in these latter days of popular power the Civil Magistrate sits in every pew, and his religious duty may be preached from every pulpit. Again Lord Trayner thinks that "the history of the Free Church shows that as a Church, apart from the opinions of individual members, it did not regard the Establishment principle as one of its fundamental principles." I pause to observe that I have founded in no instance on the opinion of individual members, but on the collective and official declarations of the Church. Now his Lordship's first point is—"It was from the commencement, and down to the date of its union, a Church conducted and maintained in point of fact according to the Voluntary principle. If in theory it was something else, the theory did not square with the fact." This comes to no more than that the Free Church had not, in fact, State endowment, which is the hypothesis without which no question could arise. His Lordship's next point is that the Free Church not only did nothing to give effect to the Establishment principle, but, on the contrary, devoted much of its time and energy to bring about, if it could, the disestablishment of the

Church of Scotland. Now this agitation took place only in the later, and, as the appellants would say, the backsliding days, when union with the Voluntaries also came in view. The important correction to be made is that nothing of this kind took place in times which, in any possible view, can be looked to as evidencing the principles of the Church set up in 1843, and therefore as fixing the scope of its foundation. I find in Lord Trayner's judgment an antithesis set up between matter of faith (and sometimes the Latin equivalent is used) and matter of polity. This can only be important if what is matter of polity, as distinguished from matter of faith, cannot be made by a Church one of its distinctive and fundamental doctrines in the sense of this controversy. I have already given my reasons for thinking this untenable, and the distinction, therefore, inconclusive. The Lord Justice-Clerk attaches very great, and Lord Trayner great importance, to the decision in the Campbeltown case, to which I have already alluded. Now that decision was that the principle of State endowment was not an essential or fundamental doctrine of a particular congregation in Campbeltown. It was not a Free Church congregation at all, and the question arose before 1843. The Judges thought that its mere adherence to the Confession of Faith did not pledge that congregation to the doctrine of State endowment; but what, in my judgment, ties the Free Church to the doctrine now in question are acts with which the Campbeltown congregation had nothing to do, and the doctrine is State establishment. I must add that the grounds upon which the Lord Justice-Clerk comes to the conclusion that the principle of Establishment was in the early days of the Free Church treated as "subordinate" do not seem very cogent. In the first place, he quotes as proving the doctrine of "the early days" two documents which belong to the latter days, 1871 and 1873, and must be read in the light of their dates. But further, to say that in 1843 the "principle" of Establishment was "repudiated" is to ignore the whole theory of the appellants' case and the argument it gives rise to. Lord Low decided the case on the ground that the Establishment principle was not so essential that the General Assembly could not depart from it. He expresses a cautious and guarded view as to its power to deal with what he deems more essential doctrines. The Lord Justice-Clerk seems to take much the same view, but he rates very high the legislative power of the Church. Lord Trayner, however, takes a much bolder position — "*Esto* that the Establishment principle had been explicitly declared in 1843 to be an essential principle of the Free Church, I think the Church had the power to abandon that principle, and to that extent alter the original constitution."

Lord Trayner's view was argued at your Lordships' Bar with great vigour and confidence. Before proceeding to consider this

argument, I ought to point out that the judgment of Lord Young is wholly rested upon the ground, stated in very sweeping terms, that there is nothing to prevent a Dissenting Church from abandoning a religious doctrine, however essential and fundamental, and that an *ex facie* absolute property title cannot be limited by reference, not expressed, to "the essential doctrines and fundamental principles in the constitution of the Church." It is unnecessary to say more of this ground of judgment than that it is in flat contradiction of the decision of your Lordships in the case of Craigdallie. The more plausible theory of the respondents is that there are to be found inherent in the Free Church some extremely elastic powers of altering her constitution. Those powers, it is said, were as much a quality of the Free Church when it received the endowments now in dispute as the doctrine of Establishment, and any one giving to the Church gave on that footing. This must mean, if it has any effect on the present controversy, that such alterations may be made by a majority of the General Assembly with the consent of a majority of Presbyteries. The extent of the powers so claimed is shown by the respondents' counsel having avowed that they held that the Free Church could do away with the Confession of Faith as one of her Standards, and Lord Trayner is not prepared to say that the doctrine of the divinity of Christ does not stand in the same precarious position. I shall state in advance the answers to this view, and then examine the opinions of the Court in a little more detail.

First, the learned Judges have greatly overrated the "legislative" power of the Church, misled by what I think an erroneous construction of the Barrier Act. Second, putting this legislative power as high as you choose, it is a power affecting the internal affairs of the Church, and has no relation at all, and for historical reasons cannot have, to such operations as this Union of 1900. Third, the Lord Justice-Clerk has been completely misinformed as to the tenets of the three dissenting bodies, whose unions with the Free Church in 1853 and 1876 his Lordship regards as precedents, and this error brings the argument from actual practice to the ground.

The main ground of the respondents' argument is the Barrier Act of 1697. It is an Act of the General Assembly, and Lord Trayner says that it "confers" on the Assembly a certain legislative power. -Now, if the Barrier Act be examined, it will be seen that it does not "confer" or purport to "confer" any legislative power. What it does is, it imposes certain checks on sudden alterations or innovations in doctrine, worship, discipline, or government. The respondents' argument is that this implies that the General Assembly has unlimited power of legislation in the matters named. I do not think this a legitimate deduction. The Act, on the contrary, rather hints that some recent Acts had been of ques-

tionable legality, or at least had not commanded "exact obedience." It names doctrine, worship, discipline, and government, not as being the ambit of the Assembly's power, but as the regions of apprehended attack. When all this is read in the light of contemporary history, the motive of the Barrier Act is obvious as a desire to ward off incursions of the Episcopalians. And I do not think that at the very most it comes to more than furnishing some evidence that the General Assembly either had been dealing or might be induced to deal with those high matters. The respondents' argument incidentally called attention to a prior Act of Assembly about innovations which is instructive in the same direction. For this Act, August 6, 1641, forbids novation in doctrine to be brought in or practised in the Kirk unless it be first propounded, examined, and allowed in the General Assembly. The inference from this, if the respondents' arguments were applied to it, must be that, according to use, novations in doctrine had formerly been brought in by the inferior Courts or officers of the Church, and that this was the law.

But on the question of historical fact there is no need to rely on the implications—for they are no more—of one Act of Assembly. Where is the Act, where are the Acts, which evidence the actual exercise of those powers? The respondents' appeal to the Act of 1560, adopting Knox's Confession of Faith, entirely fails them. It was adopted by the estates, as Mr Taylor Innes very justly observes in a passage which appears in the first, though not in the second, edition of his admirable work on creeds. "Nothing," he says, "can be clearer than that the doctrine was not adopted in any way upon the authority of the new-born or Reformed Church. All the forms of free and deliberate voting of the doctrine as truth, as the creed of the estates, not of the Church, were gone through." Of the other most extreme instances of independent action which were cited, it may be observed that the Book of Discipline was not an alteration of an existing creed, except to the indirect extent to which an added standard usually affects the authority of the old, even if (as here) both old and new were consentaneous; that the adoption of the Covenant was a revolutionary act in a revolutionary time; and that the Westminster Confession of Faith, while it was adopted by the General Assembly (with certain qualifications), was the offspring of Parliamentary action initiated before the General Assembly took it up. Of the two modern instances, the Chapel Act and the Veto Act, the Chapel Act was held by its authors to be so clearly declaratory that it was not sent down to Presbyteries under the Barrier Act; and the whole theory of the Free Church party was that neither Act was an alteration of the Constitution of the Church, so much so that the Assembly hesitated before sending the Veto Act to the Presbyteries. The case of the respondents, therefore, on the Barrier Act does not stand the test of examination,

and does not support their theory that, in giving to the Free Church, the pious founders of the Free Church were knowingly giving to a Church one of whose inherent qualities was that she could alter her essential principles. Neither history nor law make this out. The House is in a much better position to deal with this question after the rehearing than before it, because of the complete presentation in print of the historical documents relied on. In my own case, a very careful study of those papers has largely increased my confidence in rejecting the respondents' argument. I find nothing from beginning to end which supports the theory that the Church of Scotland exercised or claimed the right to alter doctrines which she had asserted to be Scriptural. (I am not now, of course, speaking of the doctrine of Establishment, which is in dispute, but of doctrine generally, and more especially of the Confession of Faith.)

Amid the mass of documents, the Second Book of Discipline has been confidently relied on by the respondents. Conceding, as I think is their right, that this book was an adopted standard of the Free Church, I fail to discover in it any help in their present trouble. That it stood them in good stead about non-intrusion is certain, but this is not *hujus loci*. What strikes any one who reads the book through is that it is not, and does not purport to be, a picture of an existing institution; and even as an ideal it is vague. As matter of fact, it was promulgated before the system of Presbyterian government had been systematised and set up in Scotland. It is not surprising, therefore, that beyond negating the theory of Episcopacy, it contains no recognisable description of the Scotch Presbyterian Kirk as an ecclesiastical organism, and more particularly it never confronts the question with which your Lordships have to deal—viz., what control has that ecclesiastical organism, even when taken as a whole (and still less when examined in its parts), over her doctrine? The truth is that here, as throughout the case, the respondents mistake the emphatic denial of the right of the State to meddle with those matters for an assertion of the right of the Church to absolute power over her own declared doctrine. The passage mainly relied on (chapter 7, head 8) proves too much, for it applies to all the four kinds of Assemblies. But, on the face of it, it deals with ordinances depending for their utility on circumstances of time and place, and this cannot possibly include doctrine. The only hint or reference to the subject of doctrine in relation to a judicatory (in section 25) would rather imply that Oecumenical Councils are the bodies to declare doctrine, but this is not clear, and it is enough to say that the subject now before us is not dealt with in relation to the Scotch Kirk.

One admitted fact, indeed, in what may be called the consuetudinary law or common law of the Established Church and the Free Church directly negatives this theory of the unrestricted command of the Church over her Creeds. The General Assembly

itself is made up of Commissioners, and each Commission is in writing. By immemorial custom this Commission hears that the Commissioners are to repair to the Assembly, "and there to consult, vote, and determine in all matters that come before them, to the glory of God and the good of the Church according to the Word of God, the Confession of Faith, and agreeably to the constitution of the Church, as they shall be answerable." Now I must own my inability to see how it would fall within this mandate to do away with or help to do away with the Confession of Faith as a standard of the Free Church; and I mention this as testing the argument for the unlimited power of the General Assembly under the Barrier Act.

It has indeed been attempted to use one remark of Lord Cranworth in *Forbes v. Eden* as implying that in all Churches there is a legislative power. The case was that of a specific change on one of the canons of the Scottish Episcopal Church made by the Synod of that body, and I do not think it was laid down as law that powers of legislation are necessarily inherent in every dissenting body, this being in each case really a question of fact. But Lord Cranworth's remarks made perfectly clear that what he is speaking of is entirely internal regulation, and it is here that the whole argument of the respondents about legislation falls short. It may be a merit or a demerit, but the original and historical theory of the Reformed Church of Scotland was that within, and not outside, her pale was truth to be found,—without were Prelatists and Papists. When, later on, some Presbyterians had held aloof from the Revolution Settlement, and still later others had made the several secessions in the eighteenth century, their attitude and the attitude of their parent Church never raised the question of comprehension, the seceders in more than one instance having been deposed. The single instance which we were referred to in pre-Disruption days of a dissenting body coming back into the Church was the return of the Associate Synod in 1839, and it is enough to say that while the Act of Assembly is called "Act anent Reunion with Seceders," each office-bearer of the Associate Synod was required, before taking his seat as a member of Presbytery, to subscribe the Westminster Confession of Faith and the formula of the Church of Scotland, and this being done they were "received," and were declared to enjoy all the rights and privileges of ordained ministers and elders of the Church of Scotland. In passing it may be noticed that one of the recitals in the Act is, "Whereas the members of the Associate Synod do heartily concur with us in holding the great principle of an Ecclesiastical Establishment, and the duty of acknowledging God in our national as well as in our individual capacity." The only reservation made by the returning dissenters was "reserving only to themselves the right which the members of the Established Church enjoy of endeavouring to correct

in a lawful manner what may appear to them to be faulty in its constitution and government." If it had been desired to furnish an illustration of a contrast to the union now in question, it would have been difficult to picture one more complete than is thus supplied by history. The second case of "union" is that of the Original United Seceders, another of the bodies who held by the covenanting traditions. They, in 1852, had come to be satisfied that "We may, with honour and consistency, drop our position of Secession, and maintain our principles in communion with the Church of Scotland—the Free Church." Accordingly they were "received and admitted" by the Free Church "as pastors, congregations, and kirk-sessions of the Free Church of Scotland." The other case of union took place in 1876, also in the days of the Free Church. It is founded upon by the Lord Justice-Clerk in his judgment under a misapprehension, which, unfortunately, enters pretty deeply into his Lordship's judgment. The Lord Justice-Clerk says of the Reformed Presbyterian Church that it "certainly did not hold the Establishment principle." And for this surprising statement he gives as his reason that since 1689 they declined to become members of the Church of Scotland as established, abode by their objections to the Revolution Settlement, and did not "commit themselves to an approval of an alliance of the Church with the British State as at present constituted, having in view especially the unscriptural character of its ecclesiastical relations." Now, so far from the Reformed Presbyterians not holding the Establishment principle, they were the ecclesiastical heirs of the Covenanters, who held it passionately, and they represented the extreme right in Presbyterian orthodoxy. But they washed their hands of the Revolution Settlement, because the same State which established the Presbyterian Church in Scotland ignored the second Reformation, and established in England the Prelatical Church, against which woe had never ceased to be denounced by the Church of the second Reformation. Accordingly, the attitude of the Reformed Presbyterians on the Establishment question was exactly analogous to that of the Free Church. Holding the Establishment principle, they held aloof from the existing Establishments, because, as they held, it was constituted on wrong terms. The statement of the Lord Justice-Clerk, therefore, can only be supported if his Lordship means that men do not hold the Establishment principle if they decline to join the Establishment as constituted at the time; and if this be sound, it furnishes (as already pointed out) a very simple end of the present case. The net result, then, of the history of these unions is this and nothing more, that where the General Assembly has been satisfied about Presbyterian bodies that they held the same standards as themselves, and were sound on the Establishment principle, these bodies have been admitted with full honours.

I have hitherto discussed the case as relating to the general property of the Free Church, and I have come to the conclusion that the appellants are entitled to prevail.

The other action only differs because of the Model Trust Deed. Of it I have only to say that it is, and was treated in its inception as, a conveyancer's instrument, that its clauses about union seem to me to apply necessarily only to such unions as were competent to the Free Church, and that they are entirely satisfied, and were probably suggested, by such cases as had occurred. It is not in such a deed that you can look for constitutional changes, or for new powers not hitherto possessed. Regarding the whole of the property now in dispute, I cannot see how in law or in fairness a majority of the men who acquired it on the representations made by the Affectionate Representation, could have been allowed, say in 1850, to carry off the property to the Voluntaries, and come forward arm in arm with the Voluntaries and claim it for the fused body; and after all the argument we have heard, I have discovered no reason which makes that fair and lawful in 1900 which would not have been so fifty years earlier.

A serious and weighty argument was addressed to your Lordships on both sides of the Bar relating to the Confession of Faith. That argument treated of two separate matters, which, in my judgment, must be separately considered. The first is whether the respondents have not deposed the Confession of Faith from its place of authority as a standard of the Church and whether this of itself does not take them outside the trusts under which the property is held. The second and quite separate question is whether on one specific doctrine—viz., Predestination—the new formulary is not contradictory of the Confession of Faith. On the former of these questions my judgment is in favour of the appellants. First of all, I put aside any confusion which may arise from the substitution of the Westminster Confession for John Knox's Confession. It is with the Westminster Confession that we have to do, and it seems to me that, if anything is certain, it is that the Free Church was pledged to the doctrine of the Westminster Confession as her doctrine and the doctrine of her office-bearers. Through all her history and at every crisis of her history, assuming her identity with the historical Church of Scotland, she proclaimed this on the housetops, and in the most solemn and deliberate of her testimonies. Freed from State interference in 1843, she proceeded to fasten on herself the old obligations. Of her rights in judicial cases to construe the Confession of Faith there is no need to speak. But that the Confession of Faith is "the truths of God" was solemnly attested to be the personal belief of all who signed it. That this was found to be a hard yoke is credible, and has been asserted. Of the means at the command of the Free Church to alleviate this pressure I do not know. But

what she has now done is to substitute a belief in "the doctrine of the Church as expressed in the Confession of Faith," and the general words in the first of the Declarations adopted by the United Assembly on 31st October 1900 make it plain that the doctrine of the Church, as part of her constitution, is intended to be mutable. This places the Confession of Faith in a precarious instead of a stable position, and in my opinion this is an abandonment of an essential characteristic of the Free Church.

Such being my opinion on the more general question as to the Confession of Faith, I deem myself absolved from the necessity of entering on the question of Predestination. I am of opinion that in both cases the judgment ought to be reversed.

LORD LINDLEY'S OPINION.

LORD LINDLEY said:—

My Lords, in the year 1900 the Free Church of Scotland (which the pursuers and appellants claim to represent), and the United Presbyterian Church, united, and formed the United Free Church of Scotland. Property previously held by trustees in trust for the Free Church was transferred to trustees in trust for the united body—*i.e.*, the United Free Church—and the question raised by the first appeal is whether this transfer of property was or was not a breach of trust and invalid, although sanctioned by the General Assembly of the Free Church and by the great majority of the members thereof. The Court of Session decided this question against the pursuers, and they have appealed to your Lordships' House against this decision. The second appeal relates to property conveyed to trustees for particular congregations of the Free Church, the trusts of which are fully set out in the Model Trust-Deed of 1844, which is one of the most important documents in the case. The question raised by the second appeal is whether the trusts declared by that deed are confined to members of the Free Church represented by the appellants, or whether the trusts are wide enough to include all the members of the United Free Church formed in 1900. The Court of Session decided this question also against the appellants. Both appeals are really based upon the ground that the union of the two Churches could not be legally effected consistently with the constitution and standards of the Free Church; and that consequently the transfer of the property of that Church to the United Free Church was a breach of trust and invalid, and that as regards the congregational property the benefits of the trusts of the Model Trust-Deed can only be enjoyed by persons professing the doctrines which

the appellants contend were unalterable doctrines of the Free Church.

My Lords, the whole controversy turns on the powers of the General Assemblies of the Free Church. If they have no power to relax the fetters which, the appellants contend, bound the Free Church hard and fast from its birth, then the appellants ought to succeed; but if, as the Courts in Scotland have held, the General Assemblies of the Free Church have power to do what they have done, then both appeals must fail. I propose therefore to confine my observations entirely to this one crucial question.

The circumstances which led to the secession of the founders of the Free Church from the Established Church, and the views of the Seceders, are fully set out in the Claim, Declaration, and Protest of the 30th May 1842, and in the Protest of the 18th May 1843. These documents, and the Model Trust-Deed framed on the basis of those documents in 1844, show that whilst the Seceders renounced all the benefits derived by the Established Church from its connection with the State, and shook off so far as they could all interference and control by the State, yet they clung tenaciously to the Holy Scriptures, the Westminster Confession, the two Catechisms, and the Second Book of Discipline, and regarded them as determining and regulating their doctrine, worship, and government. The government of the Church is declared to be in the hand of the Church officers, which means in the last resort the General Assembly. The powers of this body as originally established are to be found in the Westminster Confession and in the Second Book of Discipline, but the Free Church greatly enlarged these powers in 1843 and 1851, as will be seen presently. The Claim, Declaration, and Protest above referred to treats the immunity of the General Assembly from all State control as a fundamental principle of the Church of Scotland, and the Free Church was formed in order to secure this immunity more completely than the Civil Courts had declared to be possible in the existing Established Church. Freedom from State control in spiritual matters, as understood by Free Churchmen, is the *raison d'être* of the Free Church. The address to her late Majesty (30th May 1842), the Act of Separation and Deed of Demission by ministers (23rd May 1843), and the Deed of Demission by elders (30th May 1843) which followed it, all put this as the great object of the whole movement. At the same time, the claims of the Seceders are declared to be based on the Constitution and Standards of the Church of Scotland as heretofore understood, and in particular they considered it the duty of the State to promote religion as inculcated in the Westminster Confession and the other Standards of the Established Church. By the expression "heretofore understood," I think is meant, understood by the Church of Scotland unfettered by legislation, and by legal decisions based upon it.

I must now invite your Lordships' attention to the powers of the General Assembly of the Church of Scotland as declared in the Second Book of Discipline (1578), the Westminster Confession (1647, ratified by statute 7th June 1690), and the Barrier Act (1697). The Second Book of Discipline is referred to in the Claim, Declaration, and Protest of 1842 as one of the Church's authorised Standards, and in the Act and Declaration of 1851 (which will be hereafter mentioned) as one of her earliest standards. It is a work of great authority. Speaking of Assemblies, it is laid down (chapter 7, section 8), "They have power also to abrogate and abolish all statutes and ordinances concerning ecclesiastical matters that are found noisome and unprofitable, and agree not with the time, or are abused by the people." This is a very large legislative power exercisable by General Assemblies of the whole Church, but not, I should think, by smaller Assemblies, whose functions are more circumscribed.

The Westminster Confession is, next to the Holy Scriptures, the most authoritative document of all for members of the Scottish Church. It is plain from the language of this Confession that its framers laid no claim to infallibility for themselves, and disclaimed infallibility for the Synods and Councils of the Church which should adopt that Confession (see chapter 31, article 4). But although infallibility is denied them, great power is conferred upon them; for Synods and Councils are to determine controversies of faith and to make rules for public worship and government of the Church (see chapter 31, article 3). Their power is limited to ecclesiastical as distinguished from civil affairs (see article 5). It is also declared in the Confession itself that the Holy Scriptures are the foundation of the doctrine contained in the Confession, and are to be the foundation of the doctrines of the Church which adopts it (see chapter 1). In all controversies of religion the Church is finally to appeal unto the Holy Scriptures (chapter 1, article 8). Chapters 1 and 31, when read together, appear to me to confer upon Synods and Councils the power of interpreting the Holy Scriptures and the various articles of the Confession when controversies arise as to their meaning; and as infallibility is disclaimed, it follows that an interpretation put by a Synod or Council on Scripture or the Confession is not binding for all time, but may be modified or even rejected, and be replaced by another interpretation adopted by a later Synod or Council, and declared by it to be in its judgment the true meaning of the Scriptures or Confession.

I take it to be clear that there is a condition implied in this as well as in other instruments which create powers—viz., that the powers shall be used *bona fide* for the purposes for which they are conferred. If, therefore, a Synod or Council, under colour of exercising their authority, were to destroy the Church which they were appointed to preserve, or were to abrogate the doctrines which

they were appointed to maintain, their acts would be *ultra vires* and invalid in point of law; and it would be the duty of every Court in the United Kingdom so to hold if the question ever involved a controversy as to civil rights, and so arose for judicial decision. For all persons who are members of the Church of Scotland its General Assembly is the highest Council of the Church, and it is difficult to limit the powers conferred upon it by the foregoing documents, except by an appeal to the implied condition to which I have referred. I cannot agree with those who contend that the powers of the General Assembly as declared in these documents are unlimited, but I am not able myself to define the limits of its authority more accurately than above stated. It is probably impossible to draw a sharp line clearly dividing all acts of a General Assembly which are within its powers from all acts which are beyond it, but it does not follow that it is impossible or indeed difficult to decide in the great majority of cases whether a particular act is within its power or beyond it. Great as the powers are, they are limited by what can be found in the Scriptures. The Church must be a Christian Church and a Reformed Protestant Church. So far all is plain. I should myself think that it must be a Presbyterian Church, but this question is disputable, and, happily, does not arise. That very extensive but not accurately defined power both as to doctrine and government are vested in a General Assembly of the Scottish Church is apparent from the Act of Assembly of 1697, commonly called the Barrier Act. Extensive but undefined power is there unmistakably assumed and recognised. No limit is set to it, but very important machinery is provided for its future exercise to prevent hasty decrees. In that respect the Act is a restrictive Act, for unless the prescribed machinery is adopted an Act of Assembly cannot become a "binding rule and constitution" of the Church. But the restriction only affects procedure. The wide powers of the General Assembly are not curtailed. This Act is, in my opinion, clearly applicable to the General Assemblies of the Free Church. It was included in what was adopted when that Church was created. My Lords, if the case now before this House had to be decided on the documents to which I have already alluded, and without reference to any Acts of Parliament or other Acts of Assembly, I should hesitate long before I came to the conclusion that what the appellants mainly complain of was beyond the power of the General Assembly of the Free Church. Any interpretation of Scripture or of the subordinate standards *bona fide* adopted by a General Assembly, and held by them better to express the doctrine intended to be expressed by the language used in the Confession itself, cannot, in my opinion, be treated as beyond their power, but is well within it.

But there are other documents which have to be considered, and

especially the Model Trust-Deed prepared in 1844 under the instructions of the General Assembly of the Free Church, and formally approved and adopted by it in 1851. It is therein recited that it was at all times an essential doctrine of the Church of Scotland that it should have a government in the hands of Church officers distinct from the civil magistrate or supreme power of the State, and that this government comprehends "the whole power of the keys," which expression I understand includes those wide powers to which I have referred in all matters touching the doctrine, worship, discipline, and government of the Church. Then it recites the secession from the Established Church, and the formation of the General Assembly of the Free Church with all the powers and privileges and the same internal government, jurisdiction, and discipline, according to the true and original principles of the Church of Scotland before the separation. The Model Deed then gives a form of conveyance of property to trustees upon trusts declared at great length, but which may be shortly summarised as trusts for the use as a place for religious worship by members of the Free Church. These trusts clearly contemplate the union of the Free Church with "other bodies of Christians as the said Free Church of Scotland may at any time hereafter associate with themselves," and provision is made for worship by such united bodies. The fourth trust is very important. It is to the effect that the trustees shall at all times be subject in the management and control of the trust property, and in all matters and things connected therewith, to the regulation and direction of the General Assembly for the time being of the said body, or united body, of Christians. Provision is made for the event of a secession from the Church—see the ninth trust. These trusts are confined to the congregational property, which is the subject of the second appeal, but no one suggests that as regards the constitution of the Free Church and the powers of the General Assembly there is any difference between one set of members and another. In my opinion the Model Trust-Deed emphasises and makes plain much that is obscure when the subordinate standards alone are looked at, especially when the legislation affecting them is borne in mind. In the year 1844 trustees were appointed to hold any property which might be bequeathed or conveyed to them for the Free Church, and also such places of worship as might be erected on sites granted to trustees nominated by the General Assembly, and also such other places of worship as persons might wish to convey to them on the terms of the Model Trust-Deed. A fresh appointment was made in 1871.

I pass on to consider what was done as regards the union of the Free Church with the United Presbyterian Church. Union with other Presbyterian Churches was apparently desired some fifty years ago, but in order to effect union with the United

Presbyterians several arrangements of importance had to be made, particularly with reference to the mutual eligibility of the ministers and other officers of the two bodies to Church offices, and to adjustment of the different views held by the two Churches respecting Predestination, and respecting their relation to the State and the duties of the State as regards religion. It took many years to settle these preliminary matters. In 1892 the General Assembly of the Free Church passed "The Declaratory Act anent Confession of Faith," and although a small minority of members protested against it, I am quite unable to discover any valid ground for holding this Act to be one which a General Assembly of the Free Church had no power to pass. It no doubt relaxes the excessive stringency of certain articles of the Westminster Confession if construed literally. But it imposes no new fetters, and in relaxing the old ones, and so rendering them more acceptable to many earnest Presbyterians desirous of remaining in the Church or becoming members of it, the General Assembly were honestly attempting to preserve the Free Church and its fundamental doctrines; and in my opinion there is no pretence for saying that they were false to their trust and were endeavouring to destroy any doctrines which it was their duty to preserve. My Lords, I can understand that an ordinary member of the Free Church, brought up from childhood to regard the Confession as an inspired document, to be construed literally and in the same sense for all time, may think some of the doctrines set forth in this Act unorthodox, but that is not the question on which this appeal turns. The question is, whether it is competent for the governing body of that Church—*i.e.*, the General Assembly, complying with the conditions of the Barrier Act, to declare that the Confession, properly understood, does not require absolute uniformity of belief on the matters dealt with by the Declaratory Act. This is the great question at issue between the parties to this appeal, and I have come to the clear opinion that on this question the appellants are wrong. I come to this conclusion after a careful examination of the powers of the General Assembly as contained in the documents before referred to. These powers are, in my opinion, as fundamental in the constitution of the Free Church of Scotland, and as essential to its preservation, as any of the doctrines in the Confession or other subordinate standards.

The appellants made a great point of the alteration made by this Declaratory Act in the fundamental doctrine of the Free Church respecting the principle of Establishment, by which I understand is meant the duty of the State to promote religion, and especially the Presbyterian religion, as set forth in the Westminster Confession and sanctioned by Parliament as already mentioned. Chapter 23, article 3, of the Confession declares what, in the view of the Church of Scotland, is the duty of the State. Its language is very general, and

leaves the State to determine in what manner it will perform such duty. Some, at all events, of the founders of the Free Church attached great importance to this principle of Establishment, which was not held by all Scottish Presbyterian Churches. But it does not follow that this principle was to be tenaciously adhered to for all time, and that no future General Assembly should have power to modify or relax it, if, owing to changes of opinion or other circumstances, the General Assembly of the Free Church deliberately came to the conclusion that the preservation and healthy growth of the Free Church required the principle to be reconsidered. I cannot come to the conclusion that the view taken in 1843 of the duty of the State was a fundamental doctrine admitting of no explanation or modification. Dr Chalmers's address, adopted by the Free Church, shows that he and its then members would have strenuously opposed the change made, but it does not follow that he or they would have denied the power of a future General Assembly to make such change after due deliberation. As I understand the matter, the Free Church can, and does, fulfil all her spiritual functions without any State aid, and the attempt to obtain aid from the State whilst repudiating all State control has proved a failure. This doctrine as to the duty of the State, whether best described as a political or a religious doctrine, is a doctrine which the General Assembly could, in my opinion, repeal or modify as might be expedient.

In 1900 the Act uniting the two Churches was passed by the Free Church of Scotland after complying with all the conditions of the Barrier Act. The Act was dated the 31st October 1900, and the two Churches were then formed into one under the name of the United Free Church of Scotland, and its supreme governing body was designated the General Assembly of the United Free Church of Scotland. Having regard to the constitution of the Free Church, I cannot agree that this union could only be legally valid if assented to by all the members of the Free Church. As part of this transaction the property held for the Free Church by its trustees was ordered to be conveyed to a new body of trustees—for the United Free Church—and this was done. But a dissentient minority protested. This transfer is complained of by the pursuers, and is sought to be set aside. But having regard to the trusts on which the property of the Free Church was held, and to the powers of its General Assembly, the pursuers have, in my opinion, completely failed to prove any breach of trust or misapplication of the property of the Church. The United Free Church is the Free Church lawfully enlarged. The individuals entitled to the use and enjoyment of the Church property are lawfully more numerous than before. The pursuers in the first appeal have not been unlawfully excluded from such use and enjoyment. There is no evidence that any person has

been deprived of the use and enjoyment of any property held in trust for the Free Church, or the United Free Church, or any congregation of either, except a few ministers represented by the appellants in the second appeal, who repudiate the authority of the General Assembly of the Free Church to make the changes complained of, and who by their own conduct had deprived themselves of their right to the benefit of the trusts on which such property is held. Both appeals are based on the erroneous view that the Free Church had no freedom, but that it was bound hard and fast to certain doctrines expressed in language admitting for all time of only one meaning. I am quite unable so to regard it. The struggle for liberty was not so abortive as that.

In the course of the argument many statutes and decisions were referred to. Those which related to the conflicts with the Established Church of Scotland are not so important for the present purpose as those which relate to disputes between members of non-Established Churches. The decisions relating to the Established Church (*viz.*, the Auchterarder case and other Scottish cases referred to in argument) would be all important if your Lordships had to consider the validity of acts done by the General Assembly of the Established Church of Scotland. For that Church is governed not only by the Westminster Confession and Acts of Assembly, but also by statutory enactments, which make reforms in her doctrines, worship, discipline, and government difficult, if not impossible, without legislation. But the Free Church is emancipated from these fetters. As formed in 1843, the Free Church was purely a voluntary religious association, both Christian and Protestant, and believed by its founders to be divinely instituted, professing doctrines based on the Scriptures and the old subordinate Standards, governing itself by certain rules, and providing a representative Assembly of its own for explaining its doctrines and for preserving the association by making such changes in its worship, discipline, and government as might be found expedient after consulting the whole body as required by the Barrier Act. The trust for the Free Church is, in my opinion, a trust for such persons as should hold the doctrines, and submit in ecclesiastical matters to the government and discipline, adopted by the founders of the Free Church, with such modifications as may be made from time to time by the General Assembly of that Church; provided the conditions required by the Barrier Act are observed, and provided that Church is preserved as a reformed Church with Presbyterian government. There is no statutory or other law which makes such an association illegal, or which compels it to accept the Westminster Confession, whether with or without modification. The founders of the Free Church did accept it, but only subject to the powers which they insisted were invested in the General Assembly of that Church. So long, therefore, as the General Assembly does not exceed these powers or act

contrary to some statutory or other law of Scotland, or commit any breach of trust as above explained, it is not the function of any Civil Court to interfere with it. This I regard as settled by the decision of your Lordships' House in *Craigdallie v. Aikman* (1 Dow, 1 and 2 Blich, 529, and *Forbes v. Eden*, L.R. 1 Sc. and Div. App. 568), and is in entire accordance with the general law of trusts applicable to such associations as the Free Church. (See *A. G. v. Pearson*, 3 Mer. 353; *Milligan v. Mitchell*, 3 M. & Cr. 72; *Long v. Bishop of Capetown*, 1 Moo. P.C. N.S. at p. 461.) The distinction between an erroneous decision by a body having jurisdiction to deal with a particular subject-matter, and a decision by a body having no jurisdiction over the matter decided, is familiar to all lawyers, and must be steadily borne in mind in this case. In passing the Declaratory Act of 1892 and the Act of Union of 1900 I can discover nothing *ultra vires* or contrary to any law. Still less can I discover anything *ultra vires* or contrary to any law in the interpretation put by the General Assembly of the Free Church on some of the articles in the Westminster Confession, or in the alterations made in the declarations and forms to be made and signed by the ministers and officers of the Church. It follows that, in my opinion, the transfer of property which is complained of (and which was simply consequential on the Acts of Assembly of 1892 and 1900) was neither *ultra vires* nor contrary to any law, and cannot, therefore, be successfully impeached.

The foregoing observations apply to both appeals. But the second appeal appears to me to present less difficulty than the first. I regret that any ministers should have been excluded from their offices, but the trusts declared by the Model Trust-Deed are clear and explicit, and their validity cannot be questioned by those who have no title to the property to which it applies except under the provisions of that deed. There has been no breach of any trust, declared by the Model Trust-Deed.

My Lords, I might have contented myself with saying that I concurred in the decision of the Court of Session. But the question between the parties is of such great importance, and its solution requires a careful study of so many documents, statutes, and decisions, that I considered I should not be adequately discharging my duty to this House if I did not set forth, as clearly as I could, the reasons which have induced me to give my voice for the dismissal of both appeals, with costs.

LORD ALVERSTONE'S OPINION.

LORD ALVERSTONE:—

My Lords, inasmuch as I am differing in a Scottish appeal from the judgment of the Lord Ordinary, affirmed unanimously by the Second Division of the Court of Session, I think it only right that I should state my reasons for the judgment which I am about to give. The question raised by these appeals is whether funds invested in the names of trustees, and real property held in trust for behoof of the Free Church of Scotland, have been dealt with in a way which constitutes a breach of trust. Both classes of property are now being applied, or it is proposed to apply them, for the purposes of the United Free Church, being a body of Christians formed by a union, or attempted union, of a great majority of the ministers and elders of the Free Church of Scotland with the ministers and elders of the United Presbyterian Church of Scotland. The point to be decided is whether, having regard to the purposes for which the money and property were originally subscribed, given, bequeathed, or conveyed, such application constitutes a breach of trust. The union, or attempted union, was assented to and approved of by a very large majority of the ministers and elders and members of the Free Church. The actual numbers are not material; but, as I understand, all, except some thirty, of the ministers approved of the proposed union. The dissenting minority however represent a very considerable body of adherents to congregations of the Free Church who do not approve of, and some of whom have protested against, the proposed union. The law applicable to funds which have been given for the purpose of a voluntary association, such as the Free Church, is well settled, and it is not necessary for me to do more than refer to the decision of your Lordships in *Craigdallie v. Aikman* to show that such funds, in the absence of express provision, must be applied for the benefit of those who adhere to the original principles of the founders. If the terms of the foundation of the trust provide for the case of schism, the Courts will give effect to them; but if there be no such provision the *cestuisque trust* are those who adhere to the fundamental principles upon which the association was founded.

The Free Church of Scotland was formed in the year 1843 by what is called "The Disruption," or in other words, the secession from the Established Church of Scotland of a large body of the ministers of the Established Church, who renounced entirely the pecuniary benefits of their connection with the Establishment in maintenance of a protest which they had made against the interference by the Civil Courts with rights which they considered

to be the rights of the Church. It is not necessary to trace the history of the Established Church down to 1843, or the history of the various secessions which had taken place before that date, but it is sufficient to say that those who founded the Free Church separated from the Established Church not upon any question of doctrine, but solely upon the ground which I have just mentioned, and which ground is in no way inconsistent with the principle of Establishment. The United Presbyterian Church was not then in existence. It was formed in the year 1847 by the union of two Churches which had separated from the Established Church many years before, and were known as the United Associated Synod and the Relief Church. It is necessary to consider carefully what was the constitution of the Free Church in so far as it throws light upon the question raised for your Lordships' decision—viz., What were the trusts upon which the property in dispute in this action was held?

The first, and, in fact, the most important, question which arises on this part of the case may be stated as follows: It is maintained by the appellants, and denied by the respondents, that the principle of Church Establishment was adopted as a fundamental or essential principle of the Free Church of Scotland, and that its founders made that principle one of the main grounds for refusing to join other existing Voluntary churches. It cannot, I think, be doubted that this principle was regarded as being fundamental by the founders of the Free Church, and was put forward as one of the main inducements in the appeals for pecuniary aid, in response to which a very large proportion of the funds and property now held in trust for behoof of the Free Church was given. Upon this part of the case I might content myself with adopting the view which is expressed by the Lord Ordinary, and by more than one of the judges of the Court of Session. Lord Low, in his judgment, expressed himself as follows: "There is no doubt that the founders of the Free Church when they left the Established Church in 1843 did so declaring that they adhered to the principle of an Established Church, and that they seceded only because, as the law then stood, the Church did not possess that independence in what they regarded as matters spiritual which, in their view, was essential in order to give effect to the cardinal doctrine of the headship of Christ." And later on: "The Establishment principle (to use a convenient short phrase) was one which was regarded as of great importance by the Free Church at the commencement of its history, and naturally so, because in the first place it justified the action of those who had seceded by proclaiming that they were not schismatics, and in the second place the founders of the Church hoped that a change in the law might be effected which would enable them to return to the Establishment." And Lord Trayner says, in even more

emphatic language: "The Free Church from its constitution in 1843, down at least to its union with the United Presbyterian Church, professed the Establishment principle," and "It was the feature of the Free Church, prior to the union, which distinguished it from all other Presbyterian Churches in Scotland, that it was the only Presbyterian Church not connected with the State which professed to hold the Establishment principle." I am aware their Lordships, in other parts of their judgments, expressed the view that the principle either cannot be regarded as fundamental, or was one from which the General Assembly of the Free Church had power to depart; but I refer to these passages at present only for the purpose of showing that, having regard to the views held by the founders of the Free Church with reference to the Establishment, their union with the two then existing Churches, which subsequently united to form the United Presbyterian Church, would not at that date, 1843, have been possible.

In view, however, of the great importance of the question, and inasmuch as opinions have been expressed that the principle of Establishment cannot be regarded as fundamental, I think it right, as briefly as possible, to examine the question for myself, and to state the reasons which have led me to the conclusion that it was regarded as a fundamental and essential principle of the Free Church at its foundation, for very many years afterwards, and, as I think, down to the time of the union with the United Presbyterian Church in 1900. Reliance was placed by the appellants upon the language of art. 3 of chapter 23 of the Westminster Confession, which is as follows: "The Civil Magistrate may not assume to himself the administration of the Word and Sacraments, or the power of the keys of the kingdom of heaven: yet 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 effecting 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." It was strongly urged by the respondents that the article does not enunciate the principle of Establishment or endowment. As regards endowment, the observation is probably well founded; but even taking the article by itself, in my opinion it distinctly embodies the principle of Establishment. Whether this be so or not is not very material from the point of view which I am at present considering. The more important question is, How was it regarded by the founders of the Free Church? The first important document is that of the 30th May 1842. This was a Claim, Declaration, and Protest made by the then ministers of the

Established Church before their secession. It is, therefore, not to be expected that the references to Establishment would be very distinct, but a passage in the document contains the following words: "And whereas this Church, highly valuing, as she has ever done, her connection, on the terms contained in the statutes herein-before recited, with the State, and her possession of the temporal benefits thereby secured to her for the advantage of the people, must, nevertheless, even at the risk and hazard of the loss of that connection and of these public benefits—deeply as she would deplore and deprecate such a result for herself and the nation—persevere." This passage of the Declaration which follows, and the concluding words of the Protest, show that even in a document in which a claim was being made by members of an Established Church to spiritual independence, they thought it right to point out the importance which the signatories attached to the principle of Establishment. The principle is, moreover, emphatically enunciated in the document entitled "The Protest of the Commissioners to the General Assembly on the 18th May 1843"—this being of the then newly formed Free Church. The words are of such importance that I think it right to quote them:—

"And, finally, while firmly asserting the right and duty of the civil magistrate to maintain and support an establishment of religion in accordance with God's Word, and reserving to ourselves and our successors to strive by all lawful means, as opportunity shall in God's good providence be offered, to secure the performance of this duty agreeably to the Scriptures, and in implement of the statutes of the kingdom of Scotland and the obligations of the Treaty of Union as understood by us and our ancestors, but acknowledging that we do not hold ourselves at liberty to retain the benefits of the Establishment, while we cannot comply with the conditions now to be deemed thereto attached."

As far as I know, there is no document or evidence which suggests that there was at the time of which I am speaking—namely, the year 1843—any doubt or difference of opinion as to that which was understood by the expression, the Establishment principle. But it is sufficient for my purpose to quote two passages from the pastoral address of the 30th May 1843, which was embodied in an Act of the Assembly of the Free Church, and to which the ministers were directed to call the attention of their people on the 15th June 1843. The passages from that address state the principle as follows:—

"It was ever held by the Established Church that the Church and the State, being equally ordinances of God, and having certain common objects connected with His glory and the social welfare of the people, might and ought to unite in a joint acknowledgment of Christ and in the employment of the means and resources

belonging to them respectively for the advancement of His cause." And later—"So upon the other hand the State held directly and exclusively from God, and was entitled and bound to exercise under its responsibility to Him alone, its entire secular sovereignty, including therein whatever it was competent for or binding upon the State to do about sacred things or in relation to the Church, as, for example, endowing and establishing the Church and fixing the terms and conditions of that Establishment."

These passages show clearly what was understood by the founders of the Free Church as the Establishment principle. I will not quote again the passage from Dr Chalmers's speech in 1843, to which such frequent reference was made; but it is impossible to read it without being satisfied that he at least made the principle of Establishment one of the fundamental principles of the Free Church, and that view was adopted unanimously by the Assembly on the 20th May, which directed that an account of the proceedings of the previous meeting should be sent to the ministers and friends, which account should contain Dr Chalmers's address as Moderator. It should be noted, in passing, that the Protest of the 18th May 1843 was directed to be recorded at the commencement of the Presbytery books, and I have not the slightest doubt that those documents to which I have referred were regarded by the ministers and members of the Church as formulating the essential principles upon which the Free Church was founded. It was a time of great excitement, and the attention of the Free Church ministers and their congregations and friends throughout the country would be closely directed to these important documents, and I doubt not that every line would be closely criticised and considered. There is, moreover, a remarkable confirmation of this view in the language used in reply to the addresses received from other congregational churches in other parts of the kingdom in the year 1843. I need scarcely point out that in replying to such addresses the elders of the Free Church would have no object in criticising, still less in traversing, any opinions which had been expressed in addresses of a friendly character transmitted to them. And this gives greater force to the language used in reply to such addresses, of which I would cite the two passages set out in the documents before us: "But you misapprehend the nature of the movement which we have made in thinking that we have in the least degree altered our views respecting the lawfulness and the desirableness of a right connection between Church and State." "History and experience have convinced us that there is a form of alliance which is at once practicable and agreeable to Scripture, and highly beneficial. We have renounced the temporal advantages of the Scottish Ecclesiastical Establishment, not in consequence of any alteration in our views on this subject, but because the Civil Courts had violated our constitution, and Parliament, under the guidance of an infatuated

Government, had sanctioned that violation." I pause here to notice an argument strongly urged before us on behalf of the respondents, and which appears to have had weight with the Lord Ordinary and the judges of the Second Division—namely, that the passages in the documents leading up to the foundation of the Free Church, and in the preamble to the Act of 1846, to which I shall refer, were parenthetical, and related to the action of third persons, namely, civil magistrates, and not to the Church itself. So far from weakening the force of the declaration, couched in the terms in which it is, the fact in my opinion gives it additional weight. The separation was in no way promoted because the dissenting ministers objected to the principle of Establishment. That principle was not attacked by the claims of the Courts against which they had protested, and yet its recognition is considered of such great importance as to receive the prominent notice which I have quoted. Then with reference to the argument that it relates to the action of third parties, also strongly pressed upon us, I am unable to see how such an argument assists the respondents. It seems to me also to give additional weight to the firm assertion of the right and duty of Churches to support the State in the performance of its duty towards religion, by the medium, and through the agency, of an Established Church, which assertion the protesting ministers were making. It seems to me, moreover, that a brief consideration of the Establishment principle as contrasted with Disestablishment is sufficient to show its fundamental or essential character. The one seeks to enforce the paramount duty of the State in its official capacity to recognise religion, to maintain and support the Church. The other desires to see all connection between the State and the Church broken down and destroyed, and to prevent the State from exercising any control whatever over the Church in any capacity, and, of course, from endowing or assisting to maintain a Church. And if, as I shall point out later, the United Presbyterian Church certainly considered any civil establishment of religion unscriptural and unjust, it is difficult to understand how such a distinction between the views held by two Churches can be regarded as otherwise than fundamental and essential. Nor does it seem to me that the suggestion made by Lord Trayner that the different view taken on this question by the Free Church and the United Presbyterian Church as a matter of polity and not as a matter of faith makes any substantial difference. In one sense the questions on which the Free Church separated from the Establishment were not matters of faith, but in my opinion the difference between the Free Church and the United Presbyterian was a difference not on a mere matter of detail, but upon a fundamental principle. For these reasons I have arrived at the conclusion that the founders of the Free Church regarded the Establishment principle not only as one of the very greatest importance, but as fundamental and essential,

and that at that date union between the Free Church and either of the Churches subsequently forming the United Presbyterian Church would have been out of the question. If I am right in this view, its hearing on the questions raised before us is of the greatest importance. It cannot, in my opinion, be questioned that the documents to which I have referred, and the principles which they embody, were the documents upon the basis of which the donors of a very large proportion of the trust funds, the application of which is in question in this case, made their gifts and donations, and upon the faith of which also the real property in question was conveyed.

This conclusion leads one to consider whether the history of the Free Church since 1843, and events since that date, support the view that property held for its behoof may without breach of trust be applied for the purposes of a Church which supports the principle of Disestablishment. I pass, therefore, to consider briefly the history of the Free Church upon this point from 1843 to 1900. In the year 1846 we find the Church thinking it right to declare that she firmly maintains the same Scripture principles as to the duties of nations and their rulers in reference to true religion and the Church of Christ for which she has hitherto contended. I regard this as a distinct recognition of the Establishment principle, and as in no way weakened by the words following, which disclaim intolerant or persecuting principles. Five years later—in the year 1851—in a formal Act and Declaration of the Assembly, the principle of Establishment is again recognised as of the highest importance. The words used are, “Holding firmly to the last, as she holds still and through God’s grace will ever hold, that it is the duty of civil rulers to recognise the truth of God according to His Word, and to promote and support the Kingdom of Christ without assuming any jurisdiction in it or any power over it, and deeply sensible, moreover, of the advantages resulting to the community at large, and especially to its most destitute portions for the public endowment of pastoral charges among them.” Again, in the year 1853 the Church in emphatic language reaffirms the principle, calling special attention to that of Establishment—“That this Church maintains unaltered and uncompromised the principles set forth in the Claim, Declaration, and Protest of 1842 and the Protest of 1843 relative to the lawfulness and obligation of a Scriptural alliance between the Church of Christ and the State, and the conditions upon which such an alliance ought to be regulated.” In the year 1864, when the question of union between the Free Church and the United Presbyterian Church was actually under discussion, the Committee of the Free Church stated as one of its distinctive principles that as an act of homage to Christ it is the duty of the civil magistrate, when necessary or expedient, to employ the national resources in aid of the Church. And after, in the year 1867, the principle is enunciated

in even stronger language—"In an act of national homage to Christ the civil magistrate ought, when necessary and expedient, to afford aid from the national resources to the cause of Christ, provided always that in doing so, while reserving full control over his own gift, he abstain from all authoritative interference in the internal government of the Church." Later, in the year 1873, when dealing with the question of eligibility of ministers, the General Assembly declared that it adhered to the great fundamental principle of the Church under two heads, the second of which was as follows: "Secondly, the prerogative of the Lord Jesus Christ as Head over all things to His Church, and supreme over nations and their rulers, who are consequently bound, collectively and officially, as well as individually and personally, to own and honour His authority to further the interests of His Holy religion."

These passages from the proceedings of the Free Church satisfy me that for a period of thirty years after the Free Church was founded the Establishment principle was regarded as fundamental, and I doubt not that during the period, and in reliance on that principle, a considerable part of the property in question was given and conveyed to trustees for behoof of the Free Church. It was suggested by the respondents that the union of the Free Church with the Church known as the United Original Seceders in the year 1852, and with the Reformed Presbyterian Churches in 1876, afforded arguments in support of the union with the United Presbyterian Church in the year 1900. I am wholly unable to follow that argument. I do not propose to trace the history of the two Churches with which the Free Church united, beyond saying that, as far as I can gather from the papers, the Free Church uniting with them in no way abandoned or altered any one of the principles which it had professed in the year 1843, but, on the contrary, both the united Churches represented that they were in complete sympathy with the Free Church. As regards the United Original Seceders, it is only necessary to examine the Representation and Appeal made by the Synod of the Church in the year 1852 to see that their union with the Free Church was based upon, and only consistent with, the view that the Free Church still maintained the Establishment principle. In the case of the Reformed Presbyterian Church, the statement in the Act of Union that the United Churches accept the preamble to article 411 of the Free Church Assembly, 1846, which I have already cited, proves, in my opinion, that the maintenance of the Establishment principle was the basis of union between the Free Church and the Reformed Presbyterian Church. The action of the Free Church in the years 1892 and 1894, though it must be considered when considering the question of the powers of the General Assembly, has in my opinion very little, if any, bearing upon the point which I am at present discussing. In the first place, these Acts were objected to; but I would point out that although the

Act of 1892, which is undoubtedly of great importance in connection with the second branch of the case, has no direct bearing upon the question of Establishment, one of the main grounds of objection and protest was that stated in the following terms: "Because under the head which refers to intolerant and persecuting principles, which is to take the place of the present preamble to the formula, all reference to the duties of nations and their rulers to true religion and the Church of Christ as therein set forth is wholly omitted."

It now becomes necessary to consider the position of the United Presbyterian Church in reference to the Establishment principle. The possibility of a union of the Free Church with other bodies of Christians was undoubtedly contemplated by its founders. Two such unions have in fact taken place. It becomes, therefore, of importance to consider whether or not the United Presbyterian Church was a Church with which the Free Church could properly unite, and whether it would be a breach of trust to apply funds held in trust for behoof of the Free Church as originally constituted to the purposes of the united body, now the United Free Church. In my opinion this matter does not admit of serious doubt. I am aware it was argued by the respondents that the United Presbyterian Church between the years 1847 and 1900 might without breach of trust have united with the Establishment or applied its funds in aid of Establishment; and it was contended by Mr Haldane that the United Free Church could do so without impropriety. Without referring to all the documents which I think contradict this view, I would call attention to the view held by the United Presbyterian Church as stated in the report of 1864, which seems to me to be wholly contrary to this view: "That inasmuch as the Civil Magistrate had no authority in spiritual things, and as the employment of force in such matters is opposed to the spirit and precepts of Christianity, it is not within his province to legislate as to what is due in religion, to prescribe a creed or form of worship to his subjects, or to endow the Church from national resources. That Jesus Christ, as sole King and Head of His Church, has enjoined upon His people to provide for maintaining and extending it by freewill offering, and this being Christ's ordinance it excludes State aid for these purposes, and that adherence to it is the true safeguard of the Church's independence." And again in 1867: "That it is not competent to the Civil Magistrate to give legislative sanction to any creed in the way of setting up a Civil Establishment of religion, nor is it within his province to provide for the expense of the ministrations of religion out of the national resources; that Jesus Christ as sole King and Head of His Church has enjoined upon His people to provide for maintaining and extending it by freewill offerings; that this being the ordinance of Christ, it excludes State aid for these

purposes, and that adherence to it is the true safeguard of the Church's independence. Moreover, though uniformity of opinion with respect to Civil Establishments of religion is not a term of communion in the United Presbyterian Church, yet the views on this subject, held and universally acted upon, are opposed to these institutions." But further, I am wholly unable to reconcile this argument with the statement proved in evidence and made on behalf of the United Presbyterian Church. In 1897 a tract, No. XXV., prepared by the Committee of the United Presbyterian Church on the Disestablishment and Disendowment of the Established Churches of England and Scotland, was issued by the United Presbyterian Church and sent to all the ministers of the Free and Established Churches. In that tract not only is it stated that the United Presbyterian Church maintains as one of its most distinctive principles that it is not the province of the State to establish and endow the Christian Church, but that Civil Establishments of religion are unscriptural and unjust. In the face of these documents it seems to me impossible to adopt the contention of the respondents, but here, again, I should be justified in relying upon the opinion of their Lordships in the Scottish Court. In the course of his judgment Lord Low said:—

"On the other hand, it seems to me to be equally certain that the United Presbyterian Church never read the Confession of Faith as laying down that it is the right and duty of the Civil Magistrate to maintain and support an Established Church. There does not appear to be any material difference between the two Churches upon the point so far as their standards are concerned, but the view of the United Presbyterian Church as a whole has always been that it is not within the province of the Civil Magistrate to endow the Church out of public funds, and that the Church ought to be maintained by the free-will offerings of its members." Lord Trayner, moreover, states in emphatic terms that the United Presbyterian Church had throughout the whole period of its existence repudiated the Establishment principle. With reference to the attitude of the United Free Church, and the possibility of its adopting a different view, the statements in the resolutions of the Assembly of the United Free Church passed in the years 1901 and 1902, to the effect that the Establishment was objectionable on principle, and recording its testimony in favour of Disestablishment of the Established Church of Scotland, which statements were not attempted to be qualified by the counsel for the respondents, are, in my opinion, conclusive against any such contention.

The only argument on this point remaining to be noticed is that which was founded upon the documents agreed to by the Assembly of the Free Church and the Synod of the United Pres-

byterian Church at the time of union. These documents transfer and convey all the property and funds of the Free Church of Scotland to the united body. But it was said that the modified forms of questions formulated by the General Assembly of the United Free Church in the year 1900 were not inconsistent with the principle of Establishment, in so far as that was a fundamental principle of the Free Church, and that office-bearers were left free to hold their own individual views on this question. If I am right in the view which I have endeavoured to express, that the principle of Establishment was regarded by the founders of the Free Church as a fundamental principle of the Church and was so maintained for a period of more than thirty years after its foundation, the fact that the Free Church of Scotland, in uniting with a Church pledged to Disestablishment principles, and regarding Civil Establishments of religion as unscriptural and unjust, had agreed to treat the matter as an open question, seems to me entirely beside the mark. For the purposes of the present discussion, the respondents must justify not only a nominal union, but the claim to apply the trust funds to the purpose of the united body, and to dispossess, as they have attempted to do, the Free Church ministers who have declined to join the United Free Church from the possession of their manse and churches,—unless the respondents can make good their point that the application of the moneys for the purpose of the united body does not amount to a breach of trust. The fact that they agreed, for the purpose of the union, not to raise any question, cannot afford a justification.

The only remaining point which required notice upon this part of the case is the argument that the terms of the Model Trust Deed, which was settled by a Committee of the Free Church and approved by the Assembly in 1844, justify the transfer of the property to the united body. This argument is based mainly upon the first and fourth trusts, and incidentally upon the ninth trust. The object of this Trust Deed was undoubtedly to ensure that the property should be held for the purposes of the Free Church as originally constituted. It proceeds upon a general outline of the history of the Established Church, the Disruption, and the subsequent formation of the Free Church. The first trust was, in my opinion, a provision, not unnatural from a conveyancing point of view, that the trust should not cease in the event of the Free Church of Scotland uniting with themselves other bodies of Christians. It would, in my judgment, be contrary to every rule of law applicable to such a case to hold that it gave the Free Church or the Assembly power by mere union to divert the funds to a body which did not conform to the fundamental principles of the Free Church. Still less can the respondents rely upon the fourth trust, which was the natural sequence of the recital as to the continuation of the form

of Church government by Kirk-sessions, Presbyteries, Provincial Synods, and General Assemblies, and bestowed upon the General Assembly of the Free Church the same powers as those which had been enjoyed and claimed by the Assembly of the Established Church. The ninth clause not only affords no argument for the respondents, but incidentally supports the contention of the appellants. The majority who consented to the union with the United Presbyterian Church did not purport to carry out the object of the Protest of 18th May 1843 more faithfully than the appellants who are the minority. Clause 9 only contemplates an apportionment or division in the event of a section, not less than one-third of the whole of the ordained ministers, claiming to be carrying out the objects of the Protest more faithfully than the others. In my opinion this accentuates the extreme importance attached by the Church at its foundation to the Protest of the 18th May 1843, and would make it entirely *ultra vires* of a section of ministers purporting to act under the ninth trust to disregard the assertion of right and duty therein made, and to claim under this clause to associate itself with a body which was openly promoting Disestablishment.

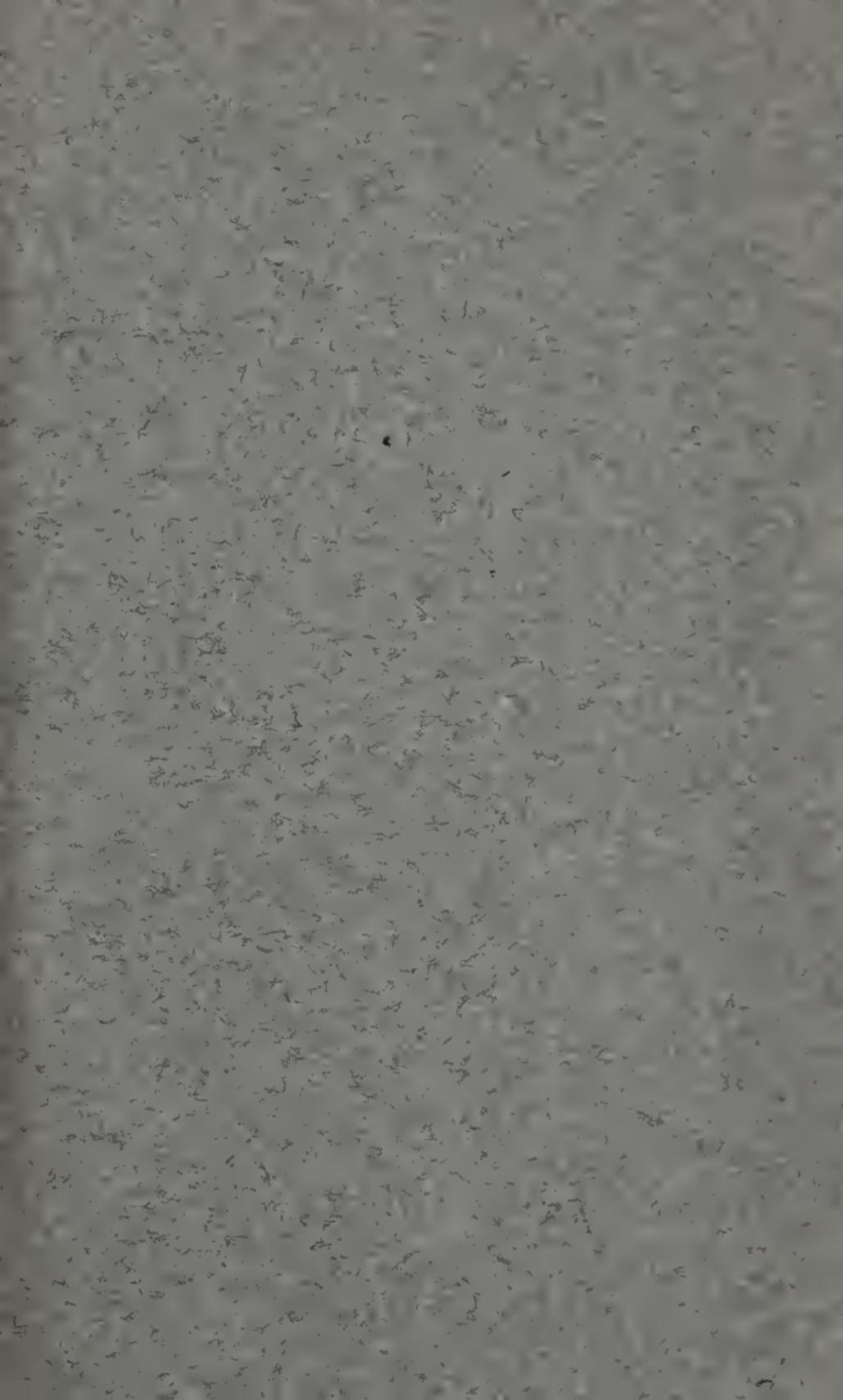
It is contended by the respondents—and this is really the foundation of the judgment of Lord Young—that the General Assembly had power to legislate in such matters and to abandon the Establishment principle, even though and notwithstanding that it may have been one of the fundamental principles of the Free Church. This question has a bearing on the second ground relied upon by the appellants—viz., That the Assembly of the Free Church had departed from the Westminster Confession and the Standard of the Church, and had made changes in doctrine inconsistent with the fundamental principles of the Free Church. The powers of the Assembly of the Free Church were, in my opinion, no greater in relation to the fundamental principles upon which that Church was founded than were the powers of the Assembly of the Established Church. If I am right in the view which I have ventured to express, that paragraph 3 of Article XXIII. of the Westminster Confession, and the documents to which I have referred as showing the fundamental principles upon which the Free Church was founded, did make, to adopt once more the language of the Act of 1873, the Establishment principle one of the great fundamental principles of the Church, I am wholly at a loss to understand upon what ground it can be said that the Assembly either of the Established Church or of the Free Church had the right to permit its ministers and elders to depart from that principle. I agree that the Barrier Act, upon which so much reliance was placed by the respondents, though it confers no new powers, recognises that the General Assembly possesses some powers of alteration with reference to doctrine, worship, discipline, and government, but they do not, in my opinion, include a power to

subvert or destroy fundamental and essential principles of the Church.

I have now to say a few words upon the second point upon which reliance was placed by the appellants, to the effect that the Free Church, by its Acts of 1892 and 1894, and the Assembly of the United Free Church, by their Acts of October 1900, with reference to the questions and formulæ to be used in the ordination and induction of ministers and office-bearers, have departed from the fundamental principle of the Free Church in the matter of doctrine, and particularly in relation to the doctrine of predestination and free will as set forth in the Westminster Confession. For reasons which I will briefly state, had this been the only ground upon which exception could be taken to the action of the Assembly of the Free Church, I am not at present satisfied that it has acted in excess of its powers. I do not wish to express a final opinion, as I do not consider it necessary for the purpose of determining the legal rights of the parties in these appeals, and further consideration might satisfy me that the objection by the appellants that the Assemblies of the Free Church and the United Free Church had released their ministers and office-bearers from adherence to the Westminster Confession as such has more weight than I am at present disposed to attach to it. On the other hand, the argument of the Dean of Faculty and Mr Haldane satisfied me that there are passages in the Westminster Confession and in other Standards of the Church which might require explanation and exposition, which would fairly come within the words used in the Barrier Act—"Alteration in doctrine." I do not feel myself competent, at any rate, upon the information at present before me, to express any final opinion upon such a point, and I do not, therefore, propose to base my judgment upon the second ground which was urged before us on behalf of the appellants.

It only remains to consider the position of the appellants and their rights as a minority of the ministers and elders of the Free Church representing congregations or portions of congregations who are not prepared to join the United Free Church. It is not contended that they have changed their principles, it is not urged that they have departed from any fundamental or essential principle of the Free Church, it is not alleged that they are not faithfully carrying out the objects of the Protest of the 18th May 1844. The respondents are threatening to attempt to eject them from their churches and manse, and to deprive them of any right to participate in any funds of the Church, simply on the ground that they decline to become members of the United Free Church. The decisions of the Court of Session in *Craigie v. Marshall and Couper v. Burns*, unless overruled by your Lordships' House, are wholly inconsistent, in my opinion, with any such right on the part of

the respondents; and I am unable to support a judgment which would deprive the persons forming a minority of their rights, simply upon the ground that they are unwilling to become members of a body which has not only abandoned a fundamental principle of the Church to which they belong, but supports a principle essentially different from that on which that Church was founded. For these reasons I am of opinion that the appeal should be allowed.





United Free Church of Scotland.

REPORT OF COMMITTEE ON THE REVISION OF THE CONFESSION.

MAY 1924.

THE occasion of the Committee's appointment was an overture from the Presbytery of Dundee to the following effect :—

Whereas it is now many years since the Church endeavoured by means of Declaratory Acts to adjust the mind of the Church to its ancient standards : and whereas recent movements in the Church to relate anew its ministers and elders to the Confession of Faith have not issued satisfactorily, it is hereby overtured by the Presbytery of Dundee to the General Assembly of the United Free Church of Scotland, appointed to meet on the 22nd day of May 1923, to take into its consideration the whole question, more especially that of framing a New Confession of the Church's Faith ; or to determine otherwise as to its wisdom may seem best.

When the overture was brought before the Assembly, the following motion was agreed to :—

The General Assembly, while holding in reverend estimation the Westminster Confession of Faith which has for so long been received as the principal Subordinate Standard of the English-speaking Churches of the Presbyterian Communion throughout the world, and adhering to the fundamental truths of the Christian Faith contained therein, recognise that it is the right and duty of the Church from time to time to amend or alter such Subordinate Standards, and to declare anew the living and unchanging Faith of the Church, as she may be guided by the Spirit of God, and believing that there is a growing conviction in this Church that the time has come when the Witness of the Church to Christ and Him crucified and her service of His Kingdom would be made more effective by a new declaration of the faith by which she lives and the sense in which she understands the Scriptures, remit to a large and representative Committee the consideration of the whole question raised by the Overture, instructing the Committee to have especially in view the relation of this Church to other Churches holding the Westminster Confession of Faith, and to report to next General Assembly.

Your Committee felt that their first duty was to inform themselves as to the attitude of Churches holding the Westminster Confession of Faith to that Confession as their principal Subordinate Standard. They thought that a historical review of the facts would greatly assist them and the

Church in deciding how the issue raised by the overture should be dealt with. They accordingly submit to the Assembly the following

Memorandum

The Westminster Confession was adopted by the Church of Scotland in 1647 as "most agreeable to the Word of God, and nothing contrary to the received doctrine, worship, discipline, and government of this Kirk" (*Act of General Assembly*).

This adoption was qualified by two declaratory statements:—(1) It was "expressly declared and provided, that the not mentioning in this Confession the several sorts of ecclesiastical officers and assemblies shall be no prejudice to the truth of Christ in these particulars, to be expressed fully in the Directory of Government." (2) The statement in the Confession in regard to the power of magistrates to call a synod of ministers, and of ministers to meet in such assemblies "if magistrates be open enemies to the Church," was accepted on the understanding that it applied only to "Kirks not settled or constituted in point of Government."

Since 1647 there have been six distinguishable methods in which Churches holding the Westminster Confession have adjusted their relation to it. They are here set out in approximately historical sequence.

(1) BY MODIFYING THE FORMULA

The original practice in respect to Subscription was to adhibit the signature to a copy of the Confession. At first, however, after the adoption of the Westminster Confession in Scotland, this was done only inferentially; the Solemn League and Covenant, which referred to a common confession, was signed, not the Confession itself. The General Assembly of 1690 passed an Act in which "all probationers licensed to preach, all intrants into the ministry, and all other ministers and elders received into communion with us" were required "to subscribe their approbation of the Confession of Faith, approved by former General Assemblies of this Church, and ratified in the second session of the current Parliament" (*Acts of General Assembly*, p. 225).

In 1693 the Scottish Parliament passed an Act "That no person be admitted to be a minister or preacher within this Church unless that he . . . do subscribe the Confession of Faith. . . . declaring the same to be the Confession of his Faith and that he owns the doctrine therein contained to be the true doctrine, which he will constantly adhere to."

The General Assembly of 1694 appointed the following Formula to be subscribed "upon the end of the Confession of Faith." "I do sincerely own and declare the above Confession of Faith, approved by former General Assemblies of this Church, and ratified by law in the year 1690, to be the confession of my faith; and that I own the doctrine therein contained to be the true doctrine which I will constantly adhere to" (*Acts of Assembly*, p. 239). This Act was intended as a test for former Episcopal clergymen, and in 1700 was made absolute for all ministers and ruling elders ordained or to be ordained.

In 1704 an Act was passed by the General Assembly requiring all commissions to the General Assembly to state that those commissioned had subscribed the Confession of Faith under the above Formula (*Acts of Assembly*, p. 327).

In 1711 the General Assembly passed an Act concerning probationers and settling ministers, ordaining that certain questions must be answered by licentiates and ministers and the Confession signed under a prescribed Formula. The leading

questions for licentiates and for ministers differed slightly, but the Formula was the same for all. It was as follows:—"I,, do hereby declare that I do sincerely own and believe the whole doctrine contained in the Confession of Faith. to be the truths of God; and I do own the same as the confession of my faith" (*Acts of Assembly*, p. 456).

This stringent Formula remained in force in the Church of Scotland till 1910, when, under the liberty given by Clause 5 in the Act of 1905, the following Formula was adopted:—"I hereby subscribe the Confession of Faith, declaring that I accept it as the Confession of this Church, and that I believe the fundamental doctrines of the Christian Faith contained therein." (The remainder of the Formula deals with Presbyterian government and submission thereto.)

The Presbyterian Church of England, which in 1890 had approved and authorised the publication of a statement of doctrine known as the "Twenty-Four Articles of the Faith" "as a statement of the fundamental doctrines held and taught by this Church," in 1918 rewrote its Question to be addressed at Ordination to ministers and elders, and it now runs thus:—"Do you accept the Westminster Confession of Faith, and the Larger and Shorter Catechisms, as the Subordinate Standards of this Church, believing the substance of the Christian Faith therein contained; and do you consent that by these Standards, constitutionally interpreted by the Courts of the Church, your relation to this Church shall be determined?" There is also read at every ordination of ministers or elders a Declaration very similar in tenor to the Preamble to the Questions for license or ordination which were submitted to our own Assembly in May of last year, and sent down to Presbyteries under the Barrier Act.

The Presbyterian Church of Australia, according to its Deed of Union (1901), holds as its Subordinate Standard the Westminster Confession of Faith "read in the light of" a Declaratory Statement containing six Articles (these deal with redemption, God's eternal decree, infants and those without the pale of ordinary means, man's fallen nature, liberty of opinion, and the duty of the civil magistrate). The first part of the Formula to be signed by ministers and elders at ordination or induction, and by probationers at license, runs:—"I own and accept the Subordinate Standard of this Church, with the explanations given in the Articles contained in the Declaratory Statement, as an exhibition of the sense in which I understand the Holy Scriptures, and as a confession of my faith."

(2) BY ADMITTING PERSONAL EXPLANATIONS

Liberty has been granted to individuals, at their admission to office, to subscribe the Confession after explaining the sense in which they personally understood its doctrine in this or that particular.

This was done in the case of the Rev. James Wardlaw on his induction to the second charge at Dunfermline in 1718, his explanation of the doctrine of the Atonement in harmony with the teaching of the "Marrow of Modern Divinity" being recorded in the Minutes of the Presbytery. The same liberty was granted in respect to the province of the civil magistrate to the Rev. Thomas Gillespie on his induction to Carnock in 1738.

This method was frequently adopted by the Church of the Secession, and a "marking," as this liberty to make a personal explanation was called, granted in connection with the signing of the Confession by individuals. In the case of the Rev. Dr. Thomas M'Crie, the Edinburgh Presbytery of the Associate Synod not only granted a "marking" but also declared in open court during the ordination service the qualification with respect to the power of the civil magistrate in religious matters on which Dr. M'Crie had insisted.

The matter was referred to the Synod, and in 1796 an Act was passed to the effect that "The Synod declare that as the Confession of Faith was at first received by the Church of Scotland with some exception as to the power of the civil magistrate relative to spiritual matters, so the Synod for the satisfaction of all who desire to know their mind on that subject, extend that exception to everything in that Confession which taken by itself seems to allow the punishment of good and peaceable subjects on account of their religious opinions and observances." This naturally suggests the third method.

(3) BY PASSING A DECLARATORY ACT

The first Declaratory Act that may be noted in the history of the Church of Scotland is that of 1720, when the General Assembly passed an Act condemning the teaching of portions of the "Marrow of Modern Divinity," as contrary to the Holy Scriptures, the Confession and the Catechisms.

The first Declaratory Act of real importance was that adopted by the United Presbyterian Church in 1879. It was a comprehensive Act, dealing with these subjects: redemption, the divine decrees, man's total depravity and loss of all ability of will to any spiritual good accompanying salvation, destiny of the heathen and of children dying in infancy, the province of the civil magistrate, the Headship of Christ, maintenance of ordinances and missions, the extent and limits of Christian liberty. This Act professed only to explain the Standards of the Church, and to free them from difficulty; but in two points it appears to go further. (1) In regard to the civil magistrate, all compulsory or persecuting and intolerant principles are disapproved, and the Church declares "that she does not require approval of anything in her Standards that teaches, or may be supposed to teach, such principles." (2) In regard to the extent and limits of Christian liberty, the Act recognises "liberty of opinion" "on such points in the Standards not entering into the substance of the faith." This is not a new view of what subscription to a Confession of Faith implies, but one which was repudiated by the Church of Scotland in 1711. It certainly transforms the whole relation of any Church adopting it to her Confession.

In 1892 the Free Church adopted a Declaratory Act which in the main resembled that of the United Presbyterian Church. It also recognised and sanctioned "diversity of opinion on such points in the Confession as do not enter into the substance of the Reformed Faith therein set forth," and at the same time declared that "the Church retains full authority to determine, in any case which may arise, what points fall within this description, and thus to guard against any abuse of this liberty to the detriment of sound doctrine, or to the injury of her unity and peace."

In 1900 the Free and United Presbyterian Churches became one and formed the United Free Church. In the Uniting Act there is no mention of the Confession of Faith, or of the Declaratory Acts adopted by the Churches separately. The Assembly which adopted the Uniting Act also approved of and accepted Ordination Questions and a Formula agreed upon by the two Churches prior to the Union, and referred to in the Uniting Act. To these there was prefixed a preamble in which it is declared "that the following Questions are put in view of Act 1647 approving of the Confession of Faith, Act XII. 1846 of the Free Church of Scotland, Declaratory Act 1879 of the United Presbyterian Church, and Act XII. 1892, with relative Act 1894 of the Free Church; and that probationers, ministers, and missionaries are entitled to avail themselves of any of these Acts."

In 1923 the United Free Church Assembly approved, and sent down to Presbyteries under the Barrier Act, a new series of Questions and a new Preamble to be used

at the licensing of probationers, and at the ordination and induction of a minister, etc. In the Preamble in both cases the following words occur :—"By her Declaratory Acts she recognises liberty of judgment on points of doctrine which do not enter into the substance of the Faith." The fourth Question in both cases is :—"Do you acknowledge the Westminster Confession of Faith as the Subordinate Standard of this Church, and do you believe the fundamental doctrines of the Christian Faith contained therein?"

In 1859 a new statement was introduced into the Code (par. 19) of the Presbyterian Church in Ireland, which may be regarded as a brief Declaratory Act dealing with the duty of the civil magistrate.

Reference may also be made here to the "Twenty-Four Articles of the Faith" approved by the Presbyterian Church of England in 1890. These have no place among the Standards of the Church, yet they are described "as a statement of the fundamental doctrines held and taught by this Church," and in the Declaration publicly read at ordinations it is affirmed that though not Standards of the Church they "represent generally her teaching."

Similarly, the Presbyterian Church in the U.S.A. in 1902 brought out a "Brief Statement of the Reformed Faith for the better understanding of our Doctrinal Beliefs," published by authority of the General Assembly. It consists of sixteen Articles, but has no constitutional status.

In 1921, a Committee appointed three years earlier laid before the Assembly of the United Free Church a "Brief Statement of the Church's Faith," consisting of twelve Articles. The Assembly received the Brief Statement, and commended it to the interest and study of the members of the Church. This document also has no constitutional status.

(4) BY AMENDMENT OF THE CONFESSION

The Presbyterian Church in the U.S.A. has passed no Declaratory Act, but has gone much further by adopting amendments of the Confession at different times. The following summary is taken from the *Constitution*, p. 4. "In 1788, the General Synod amended the Confession of Faith in Chapters XX., XXIII., and XXXI., made 'a small amendment' of the Larger Catechism, and adopted the amended Confession of Faith and the Catechisms, the Form of Government, the Book of Discipline, and the Directory for Worship, 'as the Standard of our doctrine, government, discipline, and worship.' Amendments of the Confession of Faith, since 1788, have been as follows :—In 1886-87, by striking out from Chapter XXIV., Section 4, the clause forbidding marriage with a deceased wife's sister. In 1902-03, by adding Chapters XXXIV (of the Holy Spirit), and XXXV. (of the Love of God and Missions), and the Declaratory Statement as to Chapter III. (of God's eternal decree), and Chapter X., Section 3 (of elect infants); also by the alteration of Chapter XVI., Section 7 (of good works), Chapter XXII., Section 3 (of lawful oaths and vows), and Chapter XXV., Section 6 (of the Church)."

(5) BY THE CHURCH'S JUDICIAL DEFINITION

This method was that which the Church of Scotland resolved to employ when counsel had expressed the opinion that the relaxation of the stringent formula in use since 1711 would require to be equally the joint Act of Church and State. The independent jurisdiction of the Church Courts in cases of libel for heresy being unquestioned, the General Assembly proposed to exercise its disciplinary power with regard to an alleged departure from the teaching of the Standards

of the Church, only where the alleged deviation should be judged to affect "the sum and substance of the doctrine of the Reformed Churches." Three pronouncements on the subject were made.

(1) Declaration of the Assembly of 1889 :—"The General Assembly, while desiring by these changes* to enlarge rather than curtail any liberty heretofore enjoyed and to relieve subscribers from unnecessary burdens as to forms of expression and matters which do not enter into the substance of the faith, declare at the same time the adherence of the Church to the Confession of Faith as its public and avowed Confession and containing the sum and substance of the doctrine of the Reformed Churches."

(2) Deliverance of the Assembly of 1901, in which the above "Declaration" is renewed, and it is added :—"Recognising that the complete and exclusive jurisdiction in all cases concerning the faith which is inherent in the Church of Christ has been ratified and guaranteed to the Church of Scotland by National Statutes, and that the Church's ultimate authority in all such matters are the Holy Scriptures and the Holy Spirit, the General Assembly are confident that the office-bearers in the Church will so exercise its jurisdiction as not to oppress the consciences of any who, while owning the sum and substance of the doctrine of the Reformed Churches, are not certain as to some less important determinations also contained in it."

(3) The motion adopted by the General Assembly of 1903, the important part of which is in these terms :—"The General Assembly hereby declare that the Confession of Faith is to be regarded as an infallible rule of faith and worship only in so far as it accords with the Holy Scripture, interpreted by the Holy Spirit."

Instruction was given that whenever office-bearers in the Church were called upon to sign the Formula, these three resolutions should be read to them.

The adoption of the new Formula (v. P. 3) by its reference to the fundamental doctrines of the Christian Faith retains the Church of Scotland's dependence on judicial definition.

In the Declaratory Acts of the United Presbyterian Church (1879), and of the Free Church (1892), it is similarly affirmed that decision as to what is or is not of the "substance" of the Reformed doctrine rests in the hands of the living Church.

(5) BY ADOPTING A NEW DOCTRINAL STATEMENT

The Presbyterian Church of South Africa was formed in 1897 on the basis of the "Twenty-Four Articles of the Faith" approved by the Presbyterian Church of England (with the Appendix on Church Polity, etc.). The Book of Order thus defines the doctrinal basis then adopted :—"The Word of God, as contained in the Old and New Testaments is the supreme Rule of Faith and Practice in this Church. Adhering to the system of doctrine contained in the Westminster and other Confessions of the Reformed Church, we accept and hold as our Subordinate Standard the "Twenty-Four Articles of the Faith" of the Presbyterian Church of

* These changes were the proposed introduction (1) of the following new Formula :—

"I declare the Confession of Faith, approved by former General Assemblies of this Church, and ratified by law in the year 1690, to be the confession of my faith, and I own the doctrine therein contained to be the true doctrine, which I will constantly adhere to . . ."

(2) Of the following new question :—

"Do you declare the Confession of Faith of this Church to be the confession of your own faith?"

England as a statement of the leading doctrines taught in Scripture." Similarly in 1917 the Assembly, with the concurrence of a majority of Presbyteries, adopted (with the appropriate verbal changes) the Declaratory Statement and Revised Questions for Ordination shortly before adopted by the Presbyterian Church of England.

In June 1923, the Assembly of the Presbyterian Church of Canada adopted the Basis of Union, as agreed upon by the Joint Committee of the Presbyterian, Methodist, and Congregational Churches. As the Basis of Union contains a section entitled "Doctrine," comprising twenty Articles, setting forth "the Substance of the Christian Faith, as commonly held among us," it may be argued that the Presbyterian Church of Canada has altered radically its constitutional relation to the Westminster Confession.

It is further worth reporting that in May 1923 the General Assembly of the United Presbyterian Church of North America sent down in overture to Presbyteries a "Confessional Statement," the preamble to which contains these words:—"Affirming the right of a living Church to restate its doctrinal faith in obedience to Holy Scripture and the guiding Spirit of its Divine Head, the United Presbyterian Church of North America, by constitutional action consummated on May , 1924, declares anew its official creed in the Articles that follow. This statement embodies in substance the content of the Standards hitherto maintained as a Confessional basis—the Westminster Confession of Faith and Catechisms and the Testimony of 1858. The primary aim in the revision has been to make the creed of the Church effective in the life and thought of the people. With this end in view a single Statement, brief but comprehensive, takes the place of the former fourfold Declaration. Any changes beyond those that are purely verbal have been made to give expression to the present-day convictions and attainments of the Church." The Statement contains forty-four Articles.

In view of the foregoing it may be held that:—

- (1) The Presbyterian Church in Scotland in all its branches has always claimed and has frequently acted upon the right to interpret, add to, modify, or change her Subordinate Standards and Formulas.
- (2) Most of the branches of the Presbyterian Church derived from the Church of Scotland which adopted the Westminster Confession of Faith in 1647 have profoundly modified their attitude to it, while retaining it as their principal Subordinate Standard.
- (3) This modification, broadly speaking, has consisted in substituting the fundamental doctrines of the Christian Faith contained in the Westminster Confession, for the detailed system of doctrine set forth therein, as the standard to which office-bearers are bound by subscription. It is interesting to note that this modification represents a return on the part of the Churches to the position taken up by the State in the "Act ratifying the Confession of Faith and settling the Presbyterian Church Government" of 1690 A.D. "Like as they by these presents ratify and establish the Confession of Faith, now read in their presence, voted and approved by them, as the public and avowed Confession of this Church, containing the sum and substance of the doctrine of the Reformed Churches."
- (4) Not improbably the present view of subscription is a reversion to its original meaning departed from by the Church when the stringent Formula of 1711 was adopted.

- (5) The only attempt to formulate the fundamental doctrines of the Christian Faith contained in the Westminster Confession is that of the United Presbyterian Church of North America. The Presbyterian Church of South Africa has adopted a new doctrinal basis.

Further from the various methods of adjustment noted above it is clear that the Churches with which the United Free Church is most closely associated, have made trial of every method of modifying the relation of a Church to its creed except those of:—

- (1) Amending the Confession.
- (2) Adopting a new doctrinal statement.

The result of the modifications made has been to give "judicial definition" a determining influence in the relation of each Church to its doctrinal standard, and the method of amending the Westminster Confession of Faith has not been suggested from any quarter.

Your Committee are impressed by the fact that the narrative given above reveals a wide-spread and growing unwillingness on the part of Presbyterian Churches throughout the world to rest content with the Westminster Confession of Faith, without reserve or qualification, as the Subordinate Standard of faith and practice. The same feeling of restiveness is present in our own Church. Proof of this may be found in the Declaratory Acts of 1879 and 1892, the reception given to the "Brief Statement of the Church's Faith," and the action taken by last Assembly regarding the overture sent up by the Presbytery of Dundee. Your Committee cannot close their eyes to the fact that the Church's present position with regard to its Confession is unsatisfactory, and that in rectifying what is wrong little help is to be expected from new Declaratory Acts or changes in the Formula. Now that the question has been raised openly whether the time may not have come to declare afresh the things most surely believed among us, the matter has entered on a new stage. What is really at issue is whether it is possible to state with more religious adequacy "the sum and substance of the Christian Faith," which Presbyterian Churches everywhere have been increasingly tending to make the central and determining element in their Subordinate Standards. A living Church to-day ought to be able to say in plain English what essentially it believes; there is something wrong, intellectually and spiritually, if it cannot and does not. Its witness is weakened and its work hindered till so grave a defect has been remedied.

Your Committee therefore feel constrained to recommend to the Assembly that it be remitted to this Committee, or another, to consider and investigate the possibility of drawing up such a statement in the language of our own time, and the lines on which such a statement might wisely be constructed. They think that meanwhile it is not desirable to enter upon any conference with other Churches. This could only be done usefully, when the action which the United Free Church proposes to take has been more fully defined.

In any case, preparations for the construction of a new statement of doctrine will occupy a considerable time. Your Committee are persuaded that nothing but good can result from the investigation now proposed, and from the steady direction of the Church's mind to the more worthy and evangelical formulation of the faith by which the Church lives.

In name of the Committee,

H. R. MACKINTOSH, *Convener.*

ANDREW N. BOGLE, *Clerk.*

DELIVERANCE OF THE GENERAL ASSEMBLY.

1. The Assembly receive the Report and thank the Committee, especially the Convener and Clerk.

2. The Assembly continue the Committee, and instruct them to consider the possibility of drawing up a doctrinal statement which will set forth with more religious adequacy "the sum and substance of the Christian Faith" in the language of our own time, and the lines on which such a statement might wisely be constructed, and to report.

BRIEF STATEMENT OF THE
CHURCH'S FAITH

THIRTIETH THOUSAND



UNITED FREE CHURCH OF SCOTLAND
PUBLICATIONS DEPARTMENT
121 GEORGE STREET, EDINBURGH and
232 ST. VINCENT STREET, GLASGOW

AT its Session on May 31, 1921, the General Assembly of the United Free Church of Scotland, after having had submitted to it the Report of the Committee on the Testimony of the Church, passed the following Deliverance :—

The Assembly receive the Brief Statement of the Church's Faith and commend it to the interest and study of the members of the Church.

Reprinted October 1921
,, *November 1921*
,, *February 1922*
,, *June 1923*
,, *October 1924*

BRIEF STATEMENT OF THE CHURCH'S FAITH

WHAT follows is a brief expression, in terms of present-day thought, of the great Christian certainties and of the Christian ideal of human life.

I.—Concerning God.

We believe in one Almighty God, Creator of all things, Father of all men, only Ruler and Judge of the world, holy and wise and loving. We believe it is His will that men should know Him; and through the life, death, and victory of the Lord Jesus Christ we have learned that God loves men, seeks their good, bears all their sorrows, suffers for their sins, and will triumph in His glorious purpose over all evil at the last.

II.—Concerning the Lord Jesus Christ.

We believe that God so loved the world that He gave His Son to be the Saviour of mankind. We believe that this very Son of God, for us men and for our salvation, became man in Jesus Christ, Who, having lived on earth the perfect human life, devoted wholly to the will of God and the service of man, died for our sins, rose again from the dead, and is now exalted Lord over all.

We believe that Jesus Christ is the Revealer of the Father, and that the mind of God towards the world must in all things be interpreted by the mind of Christ. We believe that when in our experience we are brought face to

face with Jesus Christ we are in the presence of the eternal and holy God.

Therefore, with the Church of all ages, we worship Him together with the Father.

III.—Concerning the Holy Spirit.

We believe that God through His Spirit is ever present in the lives of men, seeking them for Himself, rebuking their sinfulness, inspiring every right desire, and every effort after truth. We believe that all who seek God through Jesus Christ may in the Spirit have communion with Him by obedience, by prayer, and by the fellowship and Sacraments of the Church; and that by the same Spirit power is granted to all who ask it, giving them victory over sin, and transforming them into the likeness of Christ.

IV.—Concerning the Holy Trinity.

Thus knowing God through Jesus Christ His Son, and through the working of His Spirit in our lives, we acknowledge and adore one God—Father, Son, and Holy Spirit.

V.—Concerning Providence.

We believe, in face of the mysteries of an unfinished world, that God orders all things for perfectly wise and loving ends, that He has every human life in His gracious and holy keeping, and will never forsake the work of His own hands. Inasmuch as He has given to men freedom of will, He is not responsible for their sins or for the miseries that come of these. Yet He is not defeated by our evil doings, but overrules all events for the furtherance of His supreme designs of good.

VI.—Concerning the Kingdom of God.

We believe that the unchangeable purpose of God is the establishing and perfecting of His Kingdom—a society ruled in all its parts by love and righteousness, a society of which Christ is King, and to which all belong who are themselves animated by His Spirit.

We believe that the Kingdom of God is already among us, and that the appointed task of all good men is to advance it, and to bring every relation of human life under the dominion of Christ. We believe that Christ is the true and only Lord of all mankind, and that those who confess Him are bound to make Him known till all the world acknowledge Him as Lord and King.

We believe that the Kingdom of God will finally dominate the life of man, and that in the world to come God will complete and perfect it, the Lord Jesus Christ being manifested in power and great glory.

VII.—Concerning the Church.

We believe that, as Jesus Christ gathered and still gathers round Him a fellowship of faith and love, it is His will that those who through Him believe in God should unite in a visible Church. We believe it to be His purpose that, through their common life of worship and service, they may learn to be like Him in faith, hope, and love, further the ends of His Kingdom, proclaim His Gospel to all mankind, and be His fellow-workers in combating ignorance, pride and covetousness, vice and disease, and every social injustice and public wrong.

We believe that the Catholic or Universal Church is the whole company of the redeemed, and we recognise as belonging to this fellowship all who are united to God through faith in Christ.

Of the visible Church, and every branch thereof, the only Head is the Lord Jesus Christ; and in its faith, order, discipline, and duty, it must be free to obey His holy will.

We receive, as Divine gifts to the Church, the Holy Scriptures and the Sacraments of the New Testament. We believe that through these Sacraments—Baptism and the Lord's Supper—received with faith, there are conveyed to men the blessings of salvation.

VIII.—Concerning the Holy Scriptures.

We believe that God has revealed Himself in nature, conscience, and history, so that never in any nation has He left Himself without witness. Yet the Scriptures of the Old and New Testaments record a clear and ever-growing revelation of God as faithfully and unchangeably Redeemer, which is made complete in Christ; they therefore contain, in a supreme sense, the Word of God, and are needful for the full understanding of His purpose, for reconciliation with Him, and for life according to His will. Of this we are convinced by the witness of the Holy Spirit in the hearts of men to and with the Word; and the Spirit of God, thus speaking from the Scriptures to believers and to the Church, is the supreme authority by which all opinions in religion are finally to be judged.

IX.—Concerning Sin.

We believe that the sin of man was no part of the purpose of God; yet that all men are sinful, and that each of us has been guilty of wilful and repeated sin. We acknowledge that sin separates men from God, and brings them under His condemnation and punishment: and that without His forgiveness and His patient and mighty help no man can deliver himself from either the guilt or the power of his sin.

X.—Concerning the Saving Love of God.

We believe that from the beginning God has been patiently seeking the redemption of His children, and that through prophet and psalmist He made it clear that there is forgiveness with Him. But we believe that His eternal purpose to redeem has been fully made known in Jesus Christ, in Whom God Himself came among men to seek and to save that which is lost, and that in the death of the Cross He has shown us the malignity of sin and His antagonism thereto, but, above all, His love in putting away sin by the sacrifice of Himself.

Therefore, with thankful devotion, we find in the Cross of our Lord Jesus Christ the assurance of God's forgiving grace, and learn that His holy love can only be satisfied with a holy life in those whom He forgives.

We believe that we are received into sonship and peace with God, not because of any good works or holiness on our part, as though we could deserve so great salvation, but only and altogether because of His infinite mercy, freely granted to all who repent and turn from their sins, and accept Jesus Christ as their Saviour and Lord.

XI.—Concerning Christian Sonship.

We believe that all who receive the Gospel are called and enabled to live in fellowship with God as His children, to keep His commandments, to grow in knowledge of His love, and to trust His fatherly care in every trial and perplexity, thereby in their whole life showing themselves thankful to God for all His gifts.

XII.—Concerning the Life to Come.

We believe that after death the soul continues to live, in the just and merciful keeping of Almighty God, who will give to it a body as it pleases Him.

We believe that He, Who alone can read the heart, will judge the world in righteousness by Jesus Christ, and that wickedness will not go unpunished. We believe that those who accept the mercy of God will in His fellowship go on towards perfect holiness and blessedness. And, with glad and solemn hearts, we look for the consummation and bliss of the life everlasting, wherein the people of God, freed for ever from sin and sorrow, shall serve Him in the perfected communion of saints.

These things, as all else in our Christian faith, we hold in reverent submission to the guidance and teaching of the Holy Spirit Who is truth, and we shall ever seek of Him enlightenment and grace both to unlearn our errors and also more fully to learn the mind and will of God, to Whom be glory for ever and ever.

Price 1d.; 50, 2s. 3d.; 100, 4s.

Per Post 1½d.; 50, 2s. 7d.; 100, 4s. 6d.

The United Free Church of Scotland

QUESTIONS AND FORMULA

FOR

MINISTERS AND OFFICE-BEARERS

APPROVED BY THE GENERAL ASSEMBLY
OF THE UNITED FREE CHURCH OF SCOTLAND

27TH MAY 1924



On sale at

PUBLICATIONS DEPARTMENT, UNITED FREE CHURCH OFFICES
121 George Street, Edinburgh, and 232 St Vincent Street, Glasgow

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INDEX

PREAMBLE, QUESTIONS, AND FORMULA

AT

1. LICENSING OF PROBATIONERS	Page 3
2. ORDINATION OR INDUCTION OF A MINISTER	„ 4
3. ORDINATION OR APPOINTMENT OF A MISSIONARY	„ 6
4. ORDINATION OR INDUCTION OF A PROFESSOR	„ 8
5. ORDINATION OR INDUCTION OF ELDERS	„ 9
6. ORDINATION OR INDUCTION OF DEACONS	„ 11

QUESTIONS AND FORMULA

Edinburgh, 27th May 1924. Sess. 12.

THE General Assembly, with consent of a majority of Presbyteries, hereby repeal Act II., 1900, anent the Questions and Formula to be used at the Ordination and Induction of Ministers and other Office-bearers in the United Free Church of Scotland, and enact and ordain that the Preamble, Questions and Formula at the Licensing of Probationers, the Ordination or Induction of Ministers, Missionaries, Professors and Elders to their several offices, and the Preamble, Questions and Formula at the Ordination or Induction of Deacons, as sent down to Presbyteries and appended to this Act, shall be the Preamble, Questions and Formula to be used in this Church in the admission of the aforesaid Office-bearers to their several offices, and Presbyteries and Sessions are enjoined to use the same.

I.

PREAMBLE AND QUESTIONS AT THE LICENSING OF PROBATIONERS.

The Candidate for Licence having taken his place before the Presbytery, the Moderator shall declare as follows:—

In the name of the Lord Jesus Christ, the King and Head of the Church, we are met here as a Presbytery to license M. N. to preach the Gospel as a Probationer of this Church.

The United Free Church of Scotland, with all the Churches of the Reformation, acknowledges as her supreme Standard the Word of God contained in the Scriptures of the Old and New Testaments.

The Church holds as her Subordinate Standard the Westminster Confession of Faith; by her Declaratory Acts she recognises liberty of judgment on points of doctrine which do not enter into the substance of the Faith; and she further claims the right, as duty may require, to interpret, add to, modify, or change her Subordinate Standards and Formulas, under the promised guidance of the Holy Spirit, and with a sense of direct responsibility to her Lord.

In this act of Licence the Church affirms anew her faith in God through Jesus Christ, and her commission to proclaim the Gospel received by the Apostles, preserved and unfolded through the ages by the Holy Spirit, and verified in the experience and fellowship of believers.

Then the Moderator, addressing the Candidate, who is to stand and make answer to the questions put to him, shall say:—

M. N., in view of this Declaration, you are now required to answer these questions:—

I. Do you believe in one God—Father, Son, and Holy Spirit; and do you confess anew the Lord Jesus Christ as your Saviour and Lord?

II. Do you believe, and will you faithfully proclaim, the Gospel of the love and grace of God, wherein through Jesus Christ, His only Son, our Lord, He freely offers to all men forgiveness and eternal life, and calls them into the fellowship and service of His Kingdom?

III. Do you believe the Word of God contained in the Scriptures of the Old and New Testaments to be the supreme rule of Faith and Life?

IV. Do you acknowledge the Westminster Confession of Faith as the Subordinate Standard of this Church, and do you believe the fundamental doctrines of the Christian Faith contained therein?

V. Do you believe, as this Church in her historic testimony has constantly affirmed, that the Lord Jesus Christ is the only King and Head of the Church; that the Church derives from Him a government distinct from civil government; and that civil rulers possess no jurisdiction in her spiritual affairs?

VI. Do you acknowledge the Presbyterian government and discipline, as authorised in this Church, to be agreeable to the Word of God? do you promise to be subject in the Lord to the several courts of this Church? do you engage to seek the purity, growth, and peace of this Church, and to cherish a spirit of brotherhood towards all the faithful followers of Christ?

VII. Are not zeal for the glory of God, love to the Lord Jesus Christ, and a desire for the salvation of men, so far as you know your own heart, your chief motives for seeking to enter into the office of the Holy Ministry?

VIII. Do you engage, in the strength of the Lord Jesus Christ, to walk worthy of your calling, to discharge faithfully the duties of a Probationer of this Church, and to seek the furtherance of the Kingdom of God?

IX. And all these things you profess and promise through grace, as you would answer to your Lord, and enter into His eternal joy?

FORM OF LICENCE.

In the name of the Lord Jesus Christ, the King and Head of the Church, and in the exercise of the authority with which He has invested its office-bearers, we, the Presbytery of....., do now license you, M. N., to preach the Gospel of Christ, and to exercise your gifts as a Probationer for the Holy Ministry in this Church; and we commend you to the grace of God in the discharge of all your duties as a preacher of the Gospel.

II.

PREAMBLE AND QUESTIONS AT THE ORDINATION OR INDUCTION OF A MINISTER.

The Ordinand, or Minister to be inducted, having taken his place before the Presbytery, the Moderator shall declare as follows:—

In the name of the Lord Jesus Christ, the King and Head of the Church, we are met here as a Presbytery to ordain M. N. to the office of the Holy Ministry, and to induct him into the pastoral charge of this Congregation.

(*Or—In the name of the Lord Jesus Christ, the King and Head of the Church, we are met here as a Presbytery, to induct M. N. into the pastoral charge of this Congregation.*)

The United Free Church of Scotland, with all the Churches of the Reformation, acknowledges as her supreme Standard the Word of God contained in the Scriptures of the Old and New Testaments.

The Church holds as her Subordinate Standard the Westminster Confession of Faith; by her Declaratory Acts she recognises liberty of judgment on points of doctrine which do not enter into the substance of the Faith; and she further claims the right, as duty may require, to interpret, add to, modify, or change her Subordinate Standards and Formulas, under the promised guidance of the Holy Spirit, and with a sense of direct responsibility to her Lord.

In this act of Ordination¹ the Church affirms anew her faith in God through Jesus Christ, and her commission to proclaim the Gospel received by the Apostles, preserved and unfolded through the ages by the Holy Spirit, and verified in the experience and fellowship of believers.

Then the Moderator, addressing the Ordinand, or Minister to be inducted, who is to stand and make answer to the questions put to him, shall say:—

M. N., in view of this Declaration, you are now required to answer these questions:—

I. Do you believe in one God—Father, Son, and Holy Spirit; and do you confess anew the Lord Jesus Christ as your Saviour and Lord?

II. Do you believe, and will you faithfully proclaim, the Gospel of the love and grace of God, wherein through Jesus Christ, His only Son, our Lord, He freely offers to all men forgiveness and eternal life, and calls them into the fellowship and service of His Kingdom?

III. Do you believe the Word of God contained in the Scriptures of the Old and New Testaments to be the supreme rule of Faith and Life?

IV. Do you acknowledge the Westminster Confession of Faith as the Subordinate Standard of this Church, and do you believe the fundamental doctrines of the Christian Faith contained therein?

V. Do you believe, as this Church in her historic testimony has constantly affirmed, that the Lord Jesus Christ is the only King and Head of the Church; that the Church derives from Him a government distinct from civil government; and that civil rulers possess no jurisdiction in her spiritual affairs?

VI. Do you acknowledge the Presbyterian government and discipline, as authorised in this Church, to be agreeable to the Word of God? do you promise to be subject in the Lord to this Presbytery, and to the superior courts of this Church, and to take your due part in the administration of her affairs? do you engage to seek the purity, growth, and peace of this Church, and to cherish a spirit of brotherhood towards all the faithful followers of Christ?

¹ or, Induction.

VII. Are not zeal for the glory of God, love to the Lord Jesus Christ, and a desire for the salvation of men, so far as you know your own heart, your chief motives for entering into the office of the Holy Ministry?

The congregation will now stand.

VIII. Do you, the Members of this Congregation, receive M. N. to be your Minister with all gladness, and promise him all due respect, encouragement, and support as his fellow workers in the Lord; and will you give of your means, as the Lord shall prosper you, for the maintenance of the Christian Ministry and the furtherance of the Gospel?

Will you signify your assent by holding up your right hands?

*Again addressing the Ordinand, or Minister to be inducted,
the Moderator shall say:—*

IX. Do you engage, in the strength of the Lord Jesus Christ, to walk worthy of your calling, to discharge faithfully the duties of the Ministry among this people, and to seek the furtherance of the Kingdom of God?

X. And all these things you profess and promise through grace, as you would answer to your Lord, and enter into His eternal joy?

DECLARATION OF ORDINATION OR INDUCTION.

In the name of the Lord Jesus Christ, the King and Head of the Church, we do hereby declare you to be ordained to the office of the Holy Ministry, and induct you into the pastoral charge of this congregation; and we commend you to the grace of God in the discharge of all your duties as a Minister of the Gospel.

Note.—At the Induction of a Minister previously ordained, the words “declare you to be ordained to the office of the Holy Ministry, and” are to be omitted.

III.

PREAMBLE AND QUESTIONS AT THE ORDINATION OR APPOINTMENT OF A MISSIONARY.

The Ordinand, or Minister to be appointed, having taken his place before the Presbytery, the Moderator shall declare as follows:—

In the name of the Lord Jesus Christ, the King and Head of the Church, we are met here as a Presbytery to ordain M. N. to the office of the Holy Ministry, and to appoint him to the Missionary service of this Church.

(Or—In the name of the Lord Jesus Christ, the King and Head of the Church, we are met here as a Presbytery to appoint M. N. to the Missionary service of this Church.)

The United Free Church of Scotland, with all the Churches of the Reformation, acknowledges as her supreme Standard the Word of God contained in the Scriptures of the Old and New Testaments.

The Church holds as her Subordinate Standard the Westminster Confession of Faith; by her Declaratory Acts she recognises liberty of judgment on points of doctrine which do not enter into the substance

of the Faith; and she further claims the right, as duty may require, to interpret, add to, modify, or change her Subordinate Standards and Formulas, under the promised guidance of the Holy Spirit, and with a sense of direct responsibility to her Lord.

In this act of Ordination¹ the Church affirms anew her faith in God through Jesus Christ, and her commission to proclaim the Gospel received by the Apostles, preserved and unfolded through the ages by the Holy Spirit, and verified in the experience and fellowship of believers.

Then the Moderator, addressing the Ordinand, or Minister to be appointed, who is to stand and make answer to the questions put to him, shall say:—

M. N., in view of this Declaration, you are now required to answer these questions:—

I. Do you believe in one God—Father, Son, and Holy Spirit; and do you confess anew the Lord Jesus Christ as your Saviour and Lord?

II. Do you believe, and will you faithfully proclaim, the Gospel of the love and grace of God, wherein through Jesus Christ, His only Son, our Lord, He freely offers to all men forgiveness and eternal life, and calls them into the fellowship and service of His Kingdom?

III. Do you believe the Word of God contained in the Scriptures of the Old and New Testaments to be the supreme rule of Faith and Life?

IV. Do you acknowledge the Westminster Confession of Faith as the Subordinate Standard of this Church, and do you believe the fundamental doctrines of the Christian Faith contained therein?

V. Do you believe, as this Church in her historic testimony has constantly affirmed, that the Lord Jesus Christ is the only King and Head of the Church; that the Church derives from Him a government distinct from civil government; and that civil rulers possess no jurisdiction in her spiritual affairs?

VI. Do you acknowledge the Presbyterian government and discipline, as authorised in this Church, to be agreeable to the Word of God? do you promise to be subject in the Lord to the courts of this Church, and to take your due part in the administration of her affairs? do you engage to seek the purity, growth, and peace of this Church, and to cherish a spirit of brotherhood towards all the faithful followers of Christ?

VII. Are not zeal for the glory of God, love to the Lord Jesus Christ, and a desire for the salvation of men, so far as you know your own heart, your chief motives for entering into the office of the Holy Ministry?

VIII. Do you engage, in the strength of the Lord Jesus Christ, to walk worthy of your calling, to discharge faithfully the duties of a Minister and Missionary, and to seek the furtherance of the Kingdom of God?

¹ *or*, Appointment.

IX. And all these things you profess and promise through grace, as you would answer to your Lord, and enter into His eternal joy?

DECLARATION OF ORDINATION OR APPOINTMENT.

In the name of the Lord Jesus Christ, the King and Head of the Church, we do hereby declare you to be ordained to the office of the Holy Ministry, and appointed to the Missionary service of this Church; and we commend you to the grace of God in the discharge of all your duties as a Missionary.

Note.—If the Missionary-designate has been previously ordained, the words “ordained to the office of the Holy Ministry, and” are to be omitted.

IV.

PREAMBLE AND QUESTIONS AT THE ORDINATION OR INDUCTION OF A PROFESSOR.

The Ordinand, or Minister to be inducted, having taken his place before the Presbytery, the Moderator shall declare as follows:—

In the name of the Lord Jesus Christ, the King and Head of the Church, we are met here as a Presbytery to ordain M. N. to the office of the Holy Ministry, and to induct him into the charge of Professor inCollege.

(*Or*—In the name of the Lord Jesus Christ, the King and Head of the Church, we are met here as a Presbytery to induct M. N. into the charge of Professor inCollege.)

The United Free Church of Scotland, with all the Churches of the Reformation, acknowledges as her supreme Standard the Word of God contained in the Scriptures of the Old and New Testaments.

The Church holds as her Subordinate Standard the Westminster Confession of Faith; by her Declaratory Acts she recognises liberty of judgment on points of doctrine which do not enter into the substance of the Faith; and she further claims the right, as duty may require, to interpret, add to, modify, or change her Subordinate Standards and Formulas, under the promised guidance of the Holy Spirit, and with a sense of direct responsibility to her Lord.

In this act of Ordination¹ the Church affirms anew her faith in God through Jesus Christ, and her commission to proclaim the Gospel received by the Apostles, preserved and unfolded through the ages by the Holy Spirit, and verified in the experience and fellowship of believers.

Then the Moderator, addressing the Ordinand, or Minister to be inducted, who is to stand and make answer to the questions put to him, shall say:—

M. N., in view of this Declaration, you are now required to answer these questions:—

I. Do you believe in one God—Father, Son, and Holy Spirit; and do you confess anew the Lord Jesus Christ as your Saviour and Lord?

¹ *or*, Induction.

II. Do you believe, and will you faithfully teach and proclaim, the Gospel of the love and grace of God, wherein through Jesus Christ, His only Son, our Lord, He freely offers to all men forgiveness and eternal life, and calls them into the fellowship and service of His Kingdom?

III. Do you believe the Word of God contained in the Scriptures of the Old and New Testaments to be the supreme rule of Faith and Life?

IV. Do you acknowledge the Westminster Confession of Faith as the Subordinate Standard of this Church, and do you believe the fundamental doctrines of the Christian Faith contained therein?

V. Do you believe, as this Church in her historic testimony has constantly affirmed, that the Lord Jesus Christ is the only King and Head of the Church; that the Church derives from Him a government distinct from civil government; and that civil rulers possess no jurisdiction in her spiritual affairs?

VI. Do you acknowledge the Presbyterian government and discipline as authorised in this Church to be agreeable to the Word of God? do you promise to be subject in the Lord to this Presbytery, and to the superior courts of this Church, and to take your due part in the administration of her affairs? do you engage to seek the purity, growth, and peace of this Church, and to cherish a spirit of brotherhood towards all the faithful followers of Christ?

VII. Are not zeal for the glory of God, love to the Lord Jesus Christ, and a desire for the salvation of men, so far as you know your own heart, your chief motives for entering into the office of the Holy Ministry?

VIII. Do you engage, in the strength of the Lord Jesus Christ, to walk worthy of your calling, to discharge faithfully the duties of a Minister and Professor, and to seek the furtherance of the Kingdom of God?

IX. And all these things you profess and promise through grace, as you would answer to your Lord, and enter into His eternal joy?

DECLARATION OF ORDINATION OR INDUCTION.

In the name of the Lord Jesus Christ, the King and Head of the Church, we do hereby declare you to be ordained to the office of the Holy Ministry, and induct you into the charge of Professor in..... College, and we commend you to the grace of God in the discharge of all your duties as a Professor.

Note.—If the Professor-elect has been previously ordained, the words “declare you to be ordained to the office of the Holy Ministry, and” are to be omitted.

V.

PREAMBLE AND QUESTIONS AT THE ORDINATION OR INDUCTION OF ELDERS.

The Kirk-Session and the Elders-elect having taken their appointed places, the Moderator shall declare as follows:—

In the name of the Lord Jesus Christ, the King and Head of the Church, we are met here as a Kirk-Session to ordain A. B., C. D., etc.

to the Eldership, and to induct A. B., C. D., E. F., G. H., etc., into that office in this Congregation.

The United Free Church of Scotland, with all the Churches of the Reformation, acknowledges as her supreme Standard the Word of God contained in the Scriptures of the Old and New Testaments.

The Church holds as her Subordinate Standard the Westminster Confession of Faith; by her Declaratory Acts she recognises liberty of judgment on points of doctrine which do not enter into the substance of the Faith; and she further claims the right, as duty may require, to interpret, add to, modify, or change her Subordinate Standards and Formulas, under the promised guidance of the Holy Spirit, and with a sense of direct responsibility to her Lord.

In this act of Ordination¹ the Church affirms anew her faith in God through Jesus Christ, and her commission to proclaim the Gospel received by the Apostles, preserved and unfolded through the ages by the Holy Spirit, and verified in the experience and fellowship of believers.

Then the Moderator, addressing the Elders-elect, who are to stand and make answer to the questions put to them, shall say:—

In view of this Declaration, you the Elders-elect are now required to answer these questions:—

I. Do you believe in one God—Father, Son, and Holy Spirit; and do you confess anew the Lord Jesus Christ as your Saviour and Lord?

II. Do you believe, and will you faithfully uphold, the Gospel of the love and grace of God, wherein through Jesus Christ, His only Son, our Lord, He freely offers to all men forgiveness and eternal life, and calls them into the fellowship and service of His Kingdom?

III. Do you believe the Word of God contained in the Scriptures of the Old and New Testaments to be the supreme rule of Faith and Life?

IV. Do you acknowledge the Westminster Confession of Faith as the Subordinate Standard of this Church, and do you believe the fundamental doctrines of the Christian Faith contained therein?

V. Do you believe, as this Church in her historic testimony has constantly affirmed, that the Lord Jesus Christ is the only King and Head of the Church; that the Church derives from Him a government distinct from civil government; and that civil rulers possess no jurisdiction in her spiritual affairs?

VI. Do you acknowledge the Presbyterian government and discipline, as authorised in this Church, to be agreeable to the Word of God? do you promise to be subject in the Lord to this Kirk-Session and to the superior courts of this Church, and to take your due part in the administration of her affairs? do you engage to seek the purity, growth, and peace of this Church, and to cherish a spirit of brotherhood towards all the faithful followers of Christ?

VII. Are not zeal for the glory of God, love to the Lord Jesus Christ, and a desire for the salvation of men, so far as you know your own heart, your chief motives for entering into the office of the Eldership?

¹ or, Induction.

VIII. Do you engage, in the strength of the Lord Jesus Christ, to walk worthy of your calling, to discharge faithfully the duties of the Eldership among this people, and to seek the furtherance of the Kingdom of God?

IX. And all these things you profess and promise through grace, as you would answer to your Lord, and enter into His eternal joy?

DECLARATION OF ORDINATION OR INDUCTION.

In the name of the Lord Jesus Christ, the King and Head of the Church, and by authority of this Kirk-Session, I do hereby declare you to be ordained to the office of the Eldership, and inducted into the office of Eldership in this congregation; and I commend you to the grace of God in the discharge of all your duties as Elders (*or*, as an Elder).

Note.—At the Induction of an Elder previously ordained, the words “ordained to the office of Eldership, and” are to be omitted.

The Formula of Subscription.

(*To be subscribed in all the foregoing cases.*)

I,....., do hereby declare that, in the strength of the grace that is in Christ Jesus our Lord, I will constantly maintain and defend the doctrine, worship, and government of this Church, with the liberty and exclusive spiritual jurisdiction thereof. I adhere to my answers to the questions put to me; and I will fulfil, to the utmost of my power, all the obligations to which I have solemnly pledged myself.

VI.

PREAMBLE AND QUESTIONS AT THE ORDINATION OR INDUCTION OF DEACONS.

The Kirk-Session and the Deacons-elect having taken their appointed places, the Moderator shall declare as follows:—

In the name of the Lord Jesus Christ, the King and Head of the Church, we are met here as a Kirk-Session to ordain A. B., C. D., etc., to the office of Deacon, and to induct A. B., C. D., E. F., G. H., etc., into that office in this Congregation.

In this act of Ordination¹ the Church affirms anew her faith in God through Jesus Christ, and her commission to proclaim the Gospel received by the Apostles, preserved and unfolded through the ages by the Holy Spirit, and verified in the experience and fellowship of believers.

Then the Moderator, addressing the Deacons-elect, who are to stand and make answer to the questions put to them, shall say:—

In view of this Declaration, you the Deacons-elect are now required to answer these questions:—

I. Do you believe the Gospel of the love and grace of God, wherein through Jesus Christ, His only Son, our Lord, He freely offers to all men

¹ *or*, Induction.

forgiveness and eternal life, and calls them into the fellowship and service of His Kingdom?

II. Do you helieve the Word of God contained in the Scriptures of the Old and New Testaments to be the supreme rule of Faith and Life?

III. Do you acknowledge the Presbyterian form of Church government, as authorised in this Church, to be agreeable to the Word of God? do you believe that the Lord Jesus Christ is the only King and Head of the Church, and that civil rulers possess no jurisdiction in her spiritual affairs?

IV. Do you engage, in the strength of the Lord Jesus Christ, to walk worthy of your calling, to discharge faithfully the duties of the office of Deacon among this people, and to seek the furtherance of the Kingdom of God?

DECLARATION OF ORDINATION OR INDUCTION.

In the name of the Lord Jesus Christ, the King and Head of the Church, and by authority of this Kirk-Session, I do hereby declare you to be ordained to the office of Deacon, and inducted into the office of Deacon in this congregation; and I commend you to the grace of God in the discharge of all your duties as Deacons (*or, as a Deacon*).

Note.—At the Induction of a Deacon previously ordained, the words “ordained to the office of Deacon, and” are to be omitted.

Formula of Subscription for Deacons.

I,, adhere to my answers to the questions put to me, and in the strength of the grace that is in Christ Jesus our Lord, I will fulfil, to the utmost of my power, all the obligations to which I have solemnly pledged myself.

Document secured and transmitted
to the Special Commission of 1925

by its
COMMITTEE ON LITERATURE. **R E P O R T**

OF

**COMMITTEE APPOINTED TO CONFER WITH
REPRESENTATIVES OF
THE UNITED FREE CHURCH OF SCOTLAND**

TO THE

**GENERAL ASSEMBLY OF THE CHURCH
OF SCOTLAND**

26th MAY 1925

R E P O R T.

IN presenting their Report to the General Assembly, the Committee have to record with regret the loss during the past year of a number of their honoured members—Dr Russell, Dr Maclean (Paisley), Sir James Campbell, LL.D., Mr D. M. M. Milligan, and Mr R. Addison Smith, C.V.O.—all devoted servants of the Church, and all deeply interested in the cause of Presbyterian reunion. The Committee recall the fact that sixteen years have now passed since the date of the first appointment of this Committee, and that many of those who shared in its early labours have entered into their rest. But notwithstanding grievous losses, many difficulties, and the great unforeseen interruption of the war, the work of the Committee has gone steadily, if slowly, forward, and the Church of Scotland has been enabled constantly to pursue the pathway of reconciliation marked out for her by her honoured dead.

A historical summary of the progress of the movement from its inception down to the year 1919 was contained in the Report of the Committee to the General Assembly of that year. It will be recalled that, after much consideration by the Committee and by the General Assembly and by Presbyteries, certain "Articles declaratory of the Constitution of the Church of Scotland in Matters Spiritual" had been prepared, and had been recognised by the representatives of the United Free Church as obviating in their view one of the chief obstacles to reunion.

The General Assembly of 1919, upon these Articles as finally adjusted by the Committee being submitted to them, pronounced the following Deliverance:—

"The General Assembly approve of the Report. The General Assembly direct that a copy of the Report and of this Deliverance be transmitted to Presbyteries, and enjoin each Presbytery to report before 30th November whether it approves or disapproves of the Draft Articles as the basis of an approach to the Government, direct the Reports of Presbyteries to be sent to the Agent of the Church, and to be submitted to a special meeting of the Commission of Assembly, which it hereby directs shall be convened by the Moderator of the General Assembly for a date on December next to be fixed by him; empower the Commission in case the majority of Presbyteries shall have signified their approval of the articles as aforesaid to authorise the Committee to approach the Government in regard to the legislation necessary, with a view to union, and direct the Committee to report the result of their communications with the Government to next General Assembly.

"The General Assembly further direct that, in signifying approval or disapproval of the Articles as aforesaid, Presbyteries are to understand that, subject to the recognition of the principle of a two-thirds majority, the Committee will adjust the details of the special safeguards in Article 8 in the light of any suggestions from Presbyteries, or from the Committee of the United Free Church, and submit the same for approval to the Commission.

"The General Assembly direct that a copy of the

Report and of this Deliverance be sent to every minister, and that a supply be furnished to every Presbytery Clerk, who shall transmit a copy to every elder for the time being a member of Presbytery."

In accordance with this Deliverance, the Draft Articles were transmitted to Presbyteries, which had been enjoined to report before 30th November 1919 whether they approved or disapproved of the Articles as the basis of an approach to Government.

The returns from Presbyteries showed 74 for approval and 9 for disapproval.

The Commission convened by the Moderator on 17th December 1919, having approved of Article 8 as adjusted by the Committee, pronounced the following Deliverance:—

"The Commission having received the Report of the Returns from Presbyteries, authorise the Committee to approach the Government in regard to the legislation necessary with a view to union, and direct the Committee to report the result of their communications with the Government to next General Assembly."

Acting upon the instructions of the Commission as authorised by the General Assembly, the Committee proceeded to open up negotiations with the Government, and a conference was held between representatives of the Committee and the Prime Minister, Mr Bonar Law, and the Secretary for Scotland.

Upon 18th May 1920 Mr Bonar Law announced in the House of Commons the intention of the Government to accede to the representations made on behalf of the Church, and to introduce a measure dealing with the matter. This was reported to the General Assembly of 1920, and the Assembly expressed its gratification at the proposed action of the Government, and urged the Government to proceed with the matter.

Owing to the advanced period of the Session and other Parliamentary exigencies, it was not found possible by the Government to proceed further in 1920. Early in 1921 the representatives of the Committee were invited to a conference with members of the Cabinet, and a meeting was held, at which Mr A. J. Balfour, Mr Bonar Law, Sir Robert Horne, and the Secretary for Scotland were present. Following upon

this interview, when Parliament reassembled the intention of the Government to introduce a measure was announced in the King's Speech. A Bill was accordingly introduced in the House of Commons, and this Bill was submitted by the Committee to the General Assembly of 1921. The following Deliverance was passed :—

“The General Assembly cordially approve of the measure which has been submitted to Parliament as being in conformity with the proposals of the General Assembly, and as empowering the Church to take the steps necessary to remove what has been found to be the chief obstacle to reunion. The General Assembly instruct the Committee to watch over the further progress of the measure, and earnestly trust that it will be passed into law with the least possible delay.”

The measure, in the form in which it was submitted to and approved of by the General Assembly, passed through all its stages in Parliament, and as “The Church of Scotland Act, 1921,” received the Royal assent upon 28th July 1921.

The Clauses of the Act to which for the purposes of this report it is necessary to direct attention are the following :—

“(1) The Declaratory Articles are lawful Articles, and the constitution of the Church of Scotland on matters spiritual is as therein set forth, and no limitation of the liberty, rights, and powers in matters spiritual therein set forth shall be derived from any statute or law affecting the Church of Scotland in matters spiritual at present in force, it being declared that in all questions of construction the Declaratory Articles shall prevail, and that all such statutes and laws shall be construed in conformity therewith and in subordination thereto, and all such statutes and laws in so far as they are inconsistent with the Declaratory Articles are hereby repealed and declared to be of no effect.

“(4) This Act may be cited as the Church of Scotland Act, 1921, and shall come into operation on such date as His Majesty may fix by order in Council after the Declaratory Articles shall have been adopted by an Act of the General Assembly of the Church of Scotland, with

the consent of a majority of the Presbyteries of the Church.”

The form which the measure took as regards the date at which it was to come into operation has been explained in previous reports, but in view of the lapse of time and the fact that the Assembly is now invited to take action upon the measure, it may be proper briefly to restate the matter. The Articles had been prepared by a Committee of the Church, and had been approved of by the General Assembly and by the great majority of Presbyteries of the Church, and the Government had been urged by the Church to take steps to obtain Parliamentary recognition of their legality. Why, then, it may be asked, were the Articles not made operative without further reference to the Church, which had framed them and secured their recognition as lawful by Parliament? The answer to this question is to be found in the constitution of the Church, which requires the approval of important legislation by the majority of Presbyteries by an Overture under the Barrier Act. Until the Articles were recognised by Parliament as lawful, it would, for constitutional reasons, have been an unlawful or in any view a hazardous course for the Church to have proceeded to transmit them as an Overture to Presbyteries under the Barrier Act, and thereafter to have adopted them by a legislative Act of Assembly. On the other hand, it might have been deemed contrary to the spirit of the Articles themselves, and calculated to defeat the purpose for which they had been framed, if the Act had taken the form of giving initial validity to the Articles by force of statute, and not by the unfettered action of the Church itself. Such were the considerations which dictated the form which, on the suggestion of the representatives of the Church, the Act took as regards the date at which it was to come into operation. It should be explained that the reference to the King in Council is a technical matter in accordance with Parliamentary usage, as it is necessary that the date at which a statute comes into operation shall be definitely fixed by a public official Act, and not left to be ascertained by independent inquiry.

After the passing of the Act no immediate steps were taken by the Assembly towards bringing it into operation.

The question of the property and endowments of the Church still fell to be dealt with as part of the scheme towards union, and until this matter had been disposed of there might have been difficulty in bringing the Act into operation or obtaining the sanction of Presbyteries apart from collateral issues then under consideration. The delay thereby occasioned has been greater than was originally contemplated, so that the statute has remained upon the Statute Book inoperative for four years. In the opinion of the Committee, in view both of the advancement of the object for which this legislation was sought, and the Parliamentary understanding upon which it was obtained, it is expedient that the General Assembly should now, without further delay, adopt the course contemplated by Parliament, and transmit the Articles for the consent of Presbyteries under the Barrier Act. In the view of the Committee, carefully considered in the light of what they have gathered as to the views of the conferring Church, further delay or any hesitation in the matter would react injuriously upon the progress of the union movement, in the interest of which the recent legislation has been promoted by the Church.

In order to avoid any misunderstanding, the Committee deem it proper to point out that whilst the Articles contain provisions for their own amendment subject to certain safeguards, this power, being derived from the Articles themselves, cannot be exercised until the Articles have been adopted as the law of the Church. No alteration, therefore, can be made in any of the Articles until the Articles have been adopted in their present form as submitted by the Church to Parliament, and set forth in the Schedule to the Statute, and following thereon the Act of Parliament has been brought into force.

The preparation in conference of the terms of a basis of union between the two Churches cannot be authorised by the General Assemblies until the Articles have been adopted by the General Assembly of this Church, with consent of a majority of Presbyteries. But in the meantime the view is shared by this Committee and by the Committee of the United Free Church of Scotland that the movement may be advanced and the ground prepared by conference between the representatives of the respective Churches. The organisation of both Churches is now far more complex than at the dates

when separations took place, and whilst there are no fundamental differences, there are divergences in detail which will require careful examination before any attempt is made to frame a scheme of union.

It will probably be found that one of the first steps towards such an examination will be a classification of the different branches into which the matter may be sub-divided, such, for example, as training for the ministry; the Courts of the Church and the areas assigned to them; the appointment of ministers and the maintenance of the ministry; the missionary and other schemes, &c. Another important matter for preliminary consideration is how far it may seem to be desirable during a transitional period to make such temporary arrangements as may obviate any abrupt breach in established methods and customs in either Church. Experience of Church unions seems to suggest that where there is a divergence of practice and tradition it may be expedient at the outset to allow a measure of elasticity rather than to attempt to devise and enforce a uniform system. In any view, the Committee are of opinion that mutual conference during the coming year will produce a better appreciation of the problems that have to be dealt with, and will advance the movement by the creation of a still better understanding between the two Churches.

The Committee appreciate the desirability and importance of furnishing information as to the present position and the progress of the movement to the office-bearers and members of the Church throughout the whole country. They recognise that the movement cannot be carried to fruition without the sympathy and support of the great body of the faithful people of the Church. The Committee recognise, too, that in the absence of information as to the traditional policy of the Church and the needs of the nation as a whole, opinion may in some cases be unduly influenced by merely local considerations. They accordingly recommend that the General Assembly should authorise them to take steps to bring before the office-bearers and members of the Church information in regard to the general aspects of the matter, and to the considerations which have influenced the recent action of the Church in the promotion of this movement.

The Committee recognise that with the passing of the Act dealing with the property and endowments of the Church a

new chapter opens. So far as legislative action was necessary to pave the way to reunion, the Church of Scotland has now completed her task. Should any further legislation be required to obviate any incidental inconvenience that may be disclosed, it must be as ancillary to union which has been arranged, and not as merely a paving of the way to union, yet to be negotiated. In reviewing the course of events during the past sixteen years, the Committee are satisfied that the action and the attitude of the Church of Scotland in the promotion of this movement have confirmed and strengthened the Church in the confidence and affection of the people of Scotland. The Committee desire also to acknowledge the sympathy and consideration which they have met with throughout the whole course of the movement from their brethren in conference who have guided the councils of the United Free Church. Reunion has yet to be achieved. It may still take time to work it fully out, and establish it upon sure foundations. But the last sixteen years have witnessed a great change in the religious atmosphere in Scotland, and have brought the two Churches into friendly co-operation and alliance in many spheres of Christian endeavour. In the opinion of the Committee, however, whilst they acknowledge with thankfulness the growth of friendly co-operation and mutual goodwill, union is necessary to obviate the waste and dispersion of energy which separation necessarily involves. The social and religious condition of the people of Scotland calls urgently for the service of a great united national Church. Reunion was the vision which inspired the labours of the devoted Churchmen who during the last half of the nineteenth century toiled hard and successfully to revive, build up, and strengthen the Church of Scotland. The Church, with her manifold organisations, has entered into the fruits of these labours, and the Committee believe that the Church will not now prove false to their ideals.

In name and by appointment of the Committee,

A. WALLACE WILLIAMSON,	} <i>Joint- Conveners.</i>
CHRISTOPHER N. JOHNSTON	
(SANDS),	
JOHN WHITE, <i>Clerk.</i>	

Extract Deliverance of the General Assembly of the Church of Scotland on the foregoing Report.

At Edinburgh, the Twenty-sixth day of May, One thousand nine hundred and twenty-five years,—

Which day the General Assembly of the Church of Scotland being met and constituted,—*inter alia*,

The General Assembly called for the Report of the Committee appointed to confer with Representatives of the United Free Church of Scotland, which was given in by The Hon. Lord Sands, LL.D., Joint-Convener, who moved—

1. The General Assembly approve of the Report of the Committee.

2. The General Assembly resolve to transmit the Articles Declaratory of the constitution of the Church of Scotland in matters spiritual, which under the authority of the General Assembly, with the approval of the majority of the Presbyteries of the Church, were submitted to Parliament in 1920, and which are now contained in the Schedule to the Act, 11 & 12 Geo. V., c. 29, as an Overture to Presbyteries for their consent under the Barrier Act.

3. The General Assembly direct that a copy of the Report, with a copy appended of the said Act of 1921 containing the Articles in the Schedule thereto, and a copy of this Deliverance, be sent to every minister, and that a supply be furnished to every Presbytery Clerk, who shall transmit copies to every elder for the time being a member of Presbytery.

4. The General Assembly affirm their adherence to the deliverances of former General Assemblies in favour of the movement for reunion, and their sense of the duty of the Church earnestly to pursue this policy.

5. The General Assembly recognise that the counsels of the Church in pursuance of this policy will be fortified by the assurance of sympathy and support throughout the whole

body of the Church. The General Assembly accordingly instruct the Presbyteries to review the situation in the light of the steps which have already been taken and of recent legislation, and also of any communications of the views of Kirk Sessions which may be made to them through the representatives of Kirk Sessions in their own number or otherwise, and to communicate to the Committee any suggestions they may desire to make as to future procedure or as to the most appropriate means of informing the people of the Church as to the present position and the steps which are in contemplation.

6. The General Assembly instruct the Committee to prepare a statement explanatory of the object and history of the movement, the progress which has been made, and the considerations to which the attention of the minds of the faithful people of the Church ought to be directed at this time. The General Assembly instruct the Committee acting in communication with Presbyteries to take such steps as may be found expedient to bring this statement before Kirk Sessions and congregations. The General Assembly further instruct the Committee to make arrangements for the supply of speakers to explain the movement to congregations or at public meetings when such assistance is desired.

7. The General Assembly authorise the Committee to continue conference with the representatives of the United Free Church of Scotland, with a view to submitting recommendations to next General Assembly as to the course of further procedure.

8. The General Assembly reappoint the Committee, with Dr Wallace Williamson, Dr John White, and Lord Sands as Joint-Conveners, and earnestly commend the work with which they are entrusted to the sympathy and support of the office-bearers and members of the Church.

The motion was seconded by Sir John M. MacLeod, Bart.

It was moved as an Amendment—

The General Assembly resolve that Presbyteries be represented on this Committee: instruct each Presbytery at its first meeting after the rising of the General Assembly to appoint a representative to the Committee; and authorise the Committee thus augmented to appoint from amongst its

members the numbers agreed on to confer with the representatives of the United Free Church.

The Amendment was seconded.

A Second Amendment was moved and seconded—Instruct the Nominating Committee to revise the present list of members and increase the membership of the Union Committee to 100, giving the fullest possible consideration to the desirability of having as many Presbyteries as possible represented directly on the Committee.

On a vote being taken between these Amendments, the second carried, was accepted by the General Assembly, and added to the Motion.

Another Motion was moved—Thank and discharge the Committee.

The Motion was seconded.

On a vote being taken, the Motion was declared lost.

It was further moved and seconded—

That, in the interests of the younger Ministers, and of the future supply of Ministers of this Church, it is the opinion of the General Assembly that negotiations for union with the United Free Church should be suspended until that Church has altered its regulations with regard to the election, rights, and tenure of office of its Ministers, so as to bring these into closer agreement with those of the Church of Scotland; and until the altered regulations in question receive the approval of a future Assembly of this Church.

On a vote being taken, this Motion was declared lost.

The original Motion as amended was then declared carried.

Dr A. Gordon Mitchell dissented.

*Extracted from the Records of the General Assembly
of the Church of Scotland by*

DAVID PAUL,
Cl. Eccl. Scot.

COMMITTEE, 1925-1926.

Very Rev. Principal GALLOWAY, St Andrews.	Rev. G. W. MACKAY, Killin.
" " Dr M'CLYMONT, Edinburgh.	" H. MAOLEAN, Strath.
" " " MARTIN, Peebles.	" DONALD MAOLEOD, Inverness.
" " Professor MILLIGAN, Glasgow.	" P. C. MILLAR, Balmerino.
" " Dr OGILVIE, Edinburgh.	" ARCHIBALD M'INTYRE, Lerwick.
" " Professor PATERSON, Edinburgh.	" JOHN MUIRHEAD, Avendale.
" " Dr PAUL, Edinburgh.	" J. CROMARTY SMITH, Coatdyke.
" " " SMITH, Partick.	" JOHN R. SPENCE, Southdean.
Rev. Professor CURTIS, Edinburgh.	" A. W. STEVENSON, Glasgow.
" " G. S. DUNCAN, St Andrews.	" MATTHEW STEWART, Keith.
" " MAIN, Glasgow.	" J. L. TULLOCH, Hamilton.
" " FULTON.	Right Hon. EARL OF HADDO.
" " GILROY.	Right Hon. LORD POLWARTH.
" Dr C. D. BENTINCK, Dornoch.	Right Hon. WM. WATSON, K.C., M.P., Lord Advocate, Edinburgh.
" " J. MONTGOMERY CAMPBELL, Dumfries.	The Right Hon. LORD MURRAY, Edinburgh.
" " DUNLOP, Edinburgh.	Admiral JOHNSTONE STEWART, Glasgerton.
" " EDIE, Inveresk.	Colonel CHARLES HOPE, Earlston.
" " FERGUSON, Dundee.	Sir HARRY HOPE, M.P., Dunbar.
" " FISHER, Edinburgh.	Sir JOHN M. MAOLEOD, Bart., LL.D., Glasgow.
" " FLEMING, London.	Sir A. D. STEEL MAITLAND, Bart., M.P., Sauchie.
" " FREW, Urr.	Sir ROBERT KING STEWART, K.B.E., Cambusnethan.
" " GILLIES, Lesmahagow.	Sir JAMES WILSON, K.C.S.I., Crieff.
" " DONALD MACDONALD.	JAS. BROWN, Esq., M.P., Ayr.
" " MACLEAN, Edinburgh.	WILLIAM CHREZ, Esq., K.C., LL.D.
" " MAIN, Paisley.	J. ROBERTSON CHRISTIE, Esq., K.C., Edinburgh.
" " MITCHELL, Mauchline.	JAMES S. DAVIDSON, Esq., O.B.E.
" " G. R. MURISON.	J. L. EWING, Esq., LL.D., Edinburgh.
" " GORDON MURRAY, Aberdeen.	J. LEIFER GEMMELL, Esq., Glasgow.
" " RANKIN, Kilmorack.	LEONARD GOW, Esq., Helensburgh.
" " ROBERTSON, Edinburgh.	S. B. HCG, Esq., Row, Doune.
" " WM. SWAN, South Leith.	MATTHEW JAMIESON, Esq., Dumfries.
" " WATSON, Glasgow.	T. GREENSHIELDS LEADBETTER, Esq., Spital Tower, Denholm.
" WM. BARCLAY, Kirkcudbright.	ALEXANDER MACDUFF, Esq., Bonhard.
" JAMES BONALLO, Auldearn.	ALEXANDER J. MACKENZIE, Esq., Inverness.
" J. B. BURNETT, Fetteresso.	C. E. W. MACPHERSON, Esq., C.A., Edinburgh.
" DUNCAN CAMERON, Kilsyth.	CHARLES S. MAOPHERSON, Esq., LL.D., Banff.
" J. F. CAMERON, Blairingone.	W. J. H. MAXWELL, Esq., Munches.
" ANDREW CAMPBELL, Crieff.	D. MEIKLEREID, Esq., Glasgow.
" A. J. CAMPBELL, Glasgow.	A. L. MENZIE, Esq., W.S., Edinburgh.
" DUGALD CLARK, Glasgow.	W. H. MILL, Esq., S.S.C., Edinburgh.
" J. H. COCKBURN, Dunblane.	J. A. S. MILLAR, Esq., M.V.O., W.S., Edinburgh.
" J. T. COX, Dyce.	HUGH MITCHELL, Esq., Pitlochry.
" W. PITCAIRN CRAIG, Torryburn.	H. W. SMITH, Esq., W.S., Edinburgh.
" H. M. DAVIDSON, Dundee.	M. G. THORBURN, Esq., Glenormiston.
" J. H. DIKIE, New Kilpatrick.	WM. WHITELAW, Esq., Hatton House, Kirknewton.
" J. M. DIKIE, Rothesay.	
" J. M'NEILL FRAZER, Glasgow.	
" W. M'L. GOLDBIE, Kilmarnock.	
" JOHN HEGGIE, Barry.	
" A. R. HOWELL, Paisley.	
" R. H. KERR, Canobie.	
" W. E. LEE, Perth.	
" D. MACFARLANE, Kingussie.	
" JOHN MAOLNNEG, Connel.	
" ADAM MACKAY, Huntly.	

THE VERY REV. A. WALLACE WILLIAMSON, D.D., }
 THE HON. LORD SANDS, LL.D., } *Joint-*
 RIGHT REV. JOHN WHITE, D.D., Barony, Glasgow, *Clerk.*

ACT VIII.

OVERTURE ANENT ARTICLES DECLARATORY OF THE CONSTITUTION OF THE CHURCH OF SCOTLAND IN MATTERS SPIRITUAL.

Edinburgh, May 26, 1925. Sess. 8.

WHEREAS it is provided by the Church of Scotland Act, 1921, that, as a preliminary to its coming into operation, the Articles Declaratory of the Constitution of the Church of Scotland in matters spiritual scheduled to said Act shall have been adopted by an Act of the General Assembly of the Church of Scotland, with the consent of a majority of the Presbyteries of the Church, and it is desirable that steps be now taken to have the said Act adopted, the General Assembly of the Church resolve to remit said Declaratory Articles as printed in the Schedule hereto as an overture to Presbyteries for their consideration under the Barrier Act, and consent, with a view to their being adopted by an Act of the General Assembly.

SCHEDULE.

ARTICLES DECLARATORY OF THE CONSTITUTION OF THE CHURCH OF SCOTLAND IN MATTERS SPIRITUAL.

I. The Church of Scotland is part of the Holy Catholic or Universal Church; worshipping one God, Almighty, all-wise, and all-loving, in the Trinity of the Father, the Son, and the Holy Ghost, the same in substance, equal in power and glory; adoring the Father, infinite in Majesty, of whom are all things; confessing our Lord Jesus Christ, the Eternal Son, made very man for our salvation; glorying in His Cross and Resurrection, and owning obedience to Him as the Head over all things to His Church; trusting in the promised renewal and guidance of the Holy Spirit; proclaiming the forgiveness of sins and acceptance with God through faith in Christ, and the gift of Eternal life; and labouring for the advancement of the Kingdom of God throughout the world. The Church of Scotland adheres to the Scottish Reformation; receives the Word of God which is contained in the Scriptures of the Old and New Testaments as its supreme rule of faith and life; and avows the fundamental doctrines of the Catholic faith founded thereupon.

II. The principle subordinate standard of the Church of Scotland is the Westminster Confession of Faith approved by the General Assembly of 1647, containing the sum and substance of the Faith of the Reformed Church. Its government is Presbyterian, and is exercised through Kirk Sessions, Presbyteries, Provincial Synods, and General Assemblies. Its system and principles of worship, orders, and discipline

are in accordance with "The Directory for the Public Worship of God," "The Form of Presbyterial Church Government," and "The Form of Process," as these have been or may hereafter be interpreted or modified by Acts of the General Assembly or by consuetude.

III. This Church is in historical continuity with the Church of Scotland which was reformed in 1560, whose liberties were ratified in 1592, and for whose security provision was made in the Treaty of Union of 1707. The continuity and identity of the Church of Scotland are not prejudiced by the adoption of these Articles. As a national Church representative of the Christian Faith of the Scottish people it acknowledges its distinctive call and duty to bring the ordinances of religion to the people in every parish of Scotland through a territorial ministry.

IV. This Church, as part of the Universal Church wherein the Lord Jesus Christ has appointed a government in the hands of Church office-bearers, receives from Him, its Divine King and Head, and from Him alone, the right and power subject to no civil authority to legislate, and to adjudicate finally, in all matters of doctrine, worship, government, and discipline in the Church, including the right to determine all questions concerning membership and office in the Church, the constitution and membership of its Courts, and the mode of election of its office-bearers, and to define the boundaries of the spheres of labour of its ministers and other office-bearers. Recognition by civil authority of the separate and independent government and jurisdiction of this Church in matters spiritual, in whatever manner such recognition be expressed, does not in any way affect the character of this government and jurisdiction as derived from the Divine Head of the Church alone, or give to the civil authority any right of interference with the proceedings or judgments of the Church within the sphere of its spiritual government and jurisdiction.

V. This Church has the inherent right, free from interference by civil authority, but under the safeguards for deliberate action and legislation provided by the Church itself, to frame or adopt its subordinate standards, to declare the sense in which it understands its Confession of Faith, to modify the forms of expression therein, or to formulate other doctrinal statements, and to define the relation thereto of its office-bearers and members, but always in agreement with the Word of God and the fundamental doctrines of the Christian Faith contained in the said Confession, of which agreement the Church shall be sole judge, and with due regard to Liberty of opinion in points which do not enter into the substance of the Faith.

VI. This Church acknowledges the divine appointment and authority of the civil magistrate within his own sphere, and maintains its historic testimony to the duty of the nation

acting in its corporate capacity to render homage to God, to acknowledge the Lord Jesus Christ to be King over the nations, to obey His Laws, to reverence His ordinances, to honour His Church, and to promote in all appropriate ways the Kingdom of God. The Church and the State owe mutual duties to each other, and acting within their respective spheres may signally promote each other's welfare. The Church and the State have the right to determine each for itself all questions concerning the extent and the continuance of their mutual relations in the discharge of these duties and the obligations arising therefrom.

VII. The Church of Scotland, believing it to be the will of Christ that His disciples should be all one in the Father and in Him, that the world may believe that the Father has sent Him, recognises the obligation to seek and promote union with other Churches in which it finds the Word to be purely preached, the sacraments administered according to Christ's ordinance, and discipline rightly exercised; and it has the right to unite with any such Church without loss of its identity on terms which this Church finds to be consistent with these Articles.

VIII. The Church has the right to interpret these Articles, and subject to the safeguards for deliberate action and legislation provided by the Church itself, to modify or add to them; but always consistently with the provisions of the first Article hereof, adherence to which, as interpreted by the Church, is essential to its continuity and corporate life. Any proposal for a modification of or addition to these Articles which may be approved of by the General Assembly shall, before it can be enacted by the Assembly, be transmitted by way of overture to Presbyteries in at least two immediately successive years. If the overture shall receive the approval, with or without suggested amendment, of two-thirds of the whole of the Presbyteries of the Church, the Assembly may revise the overture in the light of any suggestions by Presbyteries, and may transmit the overture when so revised to Presbyteries for their consent. If the overture as transmitted in its final form shall receive the consent of not less than two-thirds of the whole of the Presbyteries of the Church, the General Assembly may, if it deems it expedient, modify or add to these Articles in terms of the said overture. But if the overture as transmitted in its final form shall not receive the requisite consent, the same or a similar proposal shall not be again transmitted for the consent of Presbyteries until an interval of five years after the failure to obtain the requisite consent has been reported to the General Assembly.

IX. Subject to the provisions of the foregoing Articles and the powers of amendment therein contained, the Constitution of the Church of Scotland in matters spiritual is hereby anew ratified and confirmed by the Church.

Note.—The tenor of the Church of Scotland Act, 1921, is as follows :—

An Act to declare the lawfulness of certain Articles declaratory of the Constitution of the Church of Scotland in matters spiritual prepared with the authority of the General Assembly of the Church.—[28th July 1921.]

WHEREAS certain articles declaratory of the constitution of the Church of Scotland in matters spiritual have been prepared with the authority of the General Assembly of the Church, with a view to facilitate the union of other Churches with the Church of Scotland, which articles are set out in the Schedule to this Act, and together with any modifications of the said articles or additions thereto made in accordance therewith are hereinafter in this Act referred to as “the Declaratory Articles”:

And whereas it is expedient that any doubts as to the lawfulness of the Declaratory Articles should be removed:

Be it therefore enacted by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. The Declaratory Articles are lawful articles, and the constitution of the Church of Scotland in matters spiritual is as therein set forth, and no limitation of the liberty, rights and powers in matters spiritual therein set forth shall be derived from any statute or law affecting the Church of Scotland in matters spiritual at present in force, it being hereby declared that in all questions of construction the Declaratory Articles shall prevail, and that all such statutes and laws shall be construed in conformity therewith and in subordination thereto, and all such statutes and laws in so far as they are inconsistent with the Declaratory Articles are hereby repealed and declared to be of no effect.

2. Nothing contained in this Act or in any other Act affecting the Church of Scotland shall prejudice the recognition of any other Church in Scotland as a Christian Church protected by law in the exercise of its spiritual functions.

3. Subject to the recognition of the matters dealt with in the Declaratory Articles as matters spiritual, nothing in this Act contained shall affect or prejudice the jurisdiction of the civil courts in relation to any matter of a civil nature.

4. This Act may be cited as the Church of Scotland Act, 1921, and shall come into operation on such date as His Majesty may fix by Order in Council after the Declaratory Articles shall have been adopted by an Act of the General Assembly of the Church of Scotland with the consent of a majority of the Presbyteries of the Church.

Church of Scotland (Property and Endowments) Act, 1925.

[15 & 16 GEO. 5. CH. 33.]

Document secured and referred
to the Special Commission
by its
COMMITTEE ON LITERATURE.

ARRANGEMENT OF SECTIONS.

A.D. 1925.

PART I.

STIPEND AND TEIND.

Section.

1. Stipend to be payable only in money.
2. Standard value of victual stipend.
3. Date of standardisation of stipend.
4. Standardisation by election.
5. Standardisation by notification.
6. Collegiate charges.
7. Vesting of standardised stipend.
8. Payment of standardised stipend.
9. Provisions as to Ann.
10. Augmentation of stipend.
11. Teind rolls.
12. Charge to be substituted for liability for stipend exceeding one pound.
13. Allocation of standard charge.
14. Provisions where stipend exceeds one shilling but does not exceed one pound.
15. Extinction of liability for stipend not exceeding one shilling.
16. Valuation and surrender of teinds.
17. Deduction of stipend in question with titular.
18. Sale of surplus teinds.
19. Provisions as to certain payments out of the Consolidated Fund.

PART II.

SCOTTISH ECCLESIASTICAL COMMISSIONERS.

20. Constitution, powers and procedure of Scottish Ecclesiastical Commissioners.
21. Orders of Commissioners.
22. Burgh churches.
23. Parliamentary churches and manse.

[Price 1s. Net.]

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A.D. 1925.

Section.

- 24. Churches and manses of certain parishes erected under Act of 1844.
25. Endowments in certain parishes quoad omnia.

PART III.

TRANSFER OF PARISH CHURCHES, MANSSES, GLEBES AND CHURCHYARDS.

26. Parish churches, manses, glebes and churchyards.
27. Proceedings relating to matters mentioned in section three of 31 & 32 Vict. c. 96.
28. Transfer of rights in parish churches and manses.
29. Rights with respect to sitting accommodation in parish churches.
30. Transfer of rights in glebes.
31. Redemption of feu duty affecting glebe.
32. Transfer of parish churchyards.
33. Preservation of monuments, &c., in churches and churchyards.

PART IV.

GENERAL.

34. Provisions relating to quoad sacra parishes.
35. Provisions relating to the allocation and redemption of bonds of annual rent held for behoof of quoad sacra churches.
36. Requirements of parish to be first charge on endowments.
37. Powers of General Trustees.
38. Additional powers of General Trustees.
39. Allocation by General Trustees of certain moneys to be received from Treasury.
40. Redemption of manse mail, &c.
41. Provisions relating to Court of Teinds.
42. Application to Crown lands.
43. Provisions with respect to certain registration districts.
44. Provisions for preservation of heritors' records.
45. Saving for obligations of relief.
46. Saving for superiors.
47. Interpretation.
48. Repeal.
49. Short title.

SCHEDULES.



CHAPTER 33.

An Act to amend the law relating to Teinds and Stipends of Ministers of the Church of Scotland, and the tenure of the Property and Endowments of that Church, and for purposes connected therewith. A.D. 1925.
[28th May 1925]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

STIPEND AND TEIND.

1. Subject to the provisions of this Act, every stipend which in any way or to any extent depends upon fluctuations in the price of victual (hereinafter in this Act referred to as "victual stipend") shall cease so to depend, and shall be payable only in money at the standard value thereof as hereinafter defined. Stipend to be payable only in money

The substitution of the standard value of a victual stipend for the value thereof according to the present law and practice is hereinafter in this Act referred to as the "standardisation" of the stipend and the expressions "standardised" and "date of standardisation" have corresponding meanings.

A.D. 1925.

—
Standard
value of
victual sti-
pend.

2.—(1) The value in money of victual stipend shall for each county in Scotland be determined by adding to the former county average value of the different kinds of victual in which such stipends are localled an increase of five per centum of that average value, and for the purposes of this section the former county average value of any kind of victual shall be deemed to be the average value of that kind of victual for that county for the fifty years 1873 to 1922, as ascertained—

- (a) In the case of the kinds of victual mentioned in the First Schedule to this Act, by reference to the values set out therein, or where for any county the value of any such kind of victual is not so set out, then by reference to the value of such other kind of victual for that county or to the value of the same kind of victual for such other county or counties as the Court of Session may select, and by Act of Sederunt prescribe, as being most suitable in the circumstances of the case; and
- (b) In the case of any kind of victual not mentioned in the First Schedule to this Act, in accordance with the provisions set out in the Second Schedule to this Act.

(2) In the application of the foregoing provisions of this section to a particular parish, regard shall be had to any special method of calculation of stipend customary in that parish (including calculation of a stipend localled in Bear by reference to the fiars price for first or second Barley) and the sheriff may give such instructions to the Clerk of Teinds as he may deem to be necessary or proper for this purpose upon application made to him by any minister or presbytery or heritor concerned at any time before the expiry of six months after the date of standardisation. If no such application is then made in respect of any parish, this subsection shall not have effect with respect to that parish. Intimation of any such application shall be made to such persons as the sheriff may appoint. The decision of the sheriff shall be final unless an appeal therefrom shall be taken to the Lord Ordinary by the applicant or by any person appearing in the application in manner provided by the Ecclesiastical Buildings and Glebes (Scotland) Act, 1868, with respect to appeals from the sheriff to the Lord Ordinary under that Act, and the provisions of that Act relating to such

appeals shall, with the necessary modifications, apply to appeals under this subsection, and the clerk to the process in appeals under this subsection shall be the Clerk of Teinds.

A.D. 1925.

(3) The value in money of any victual stipend, as the same may be determined under subsection (1) of this section subject to any variation under subsection (2) thereof along with the value of any money stipend is in this Act referred to as the "standard value" of that stipend.

3. The date of standardisation of a stipend shall be the term of Martinmas which shall first occur not less than six months after the date when the benefice becomes actually vacant or is deemed to have become vacant by election or by notification as hereinafter provided. In the case of a benefice which is actually vacant at the passing of this Act the date of standardisation shall be the term of Martinmas, nineteen hundred and twenty-five.

Date of standardisation of stipend.

The words "becomes actually vacant" shall not include the occasion where a minister is succeeded by an assistant and successor appointed to him before the passing of this Act, but shall include the occasion where a minister is succeeded by an assistant and successor appointed to him after such passing.

4. Any minister who at the passing of this Act is entitled to a victual stipend may elect that the stipend shall be standardised, and if he so elects he shall intimate his election in writing in the form set forth in the Third Schedule to this Act or in a similar form to the heritors to the clerk of the presbytery and to the General Trustees, and in such case the benefice shall for the purposes of this Act be deemed to have become vacant by election at the date of the said intimation.

Standardisation by election.

Where at the passing of this Act an assistant and successor has been appointed to a minister entitled to a victual stipend, either the minister or the assistant and successor with the consent of the assistant and successor or of the minister (as the case may be), or failing such consent with the authority of the presbytery may elect and intimate his election as aforesaid.

5.—(1) It shall be lawful for the General Trustees to intimate in writing to the minister of any parish who is entitled to victual stipend and to the clerk of the presbytery and to the heritors that the victual stipend is to be standardised and in such case the benefice shall for the purposes of this Act, but subject as hereinafter

Standardisation by notification.

A.D. 1925:

in this section provided, be deemed to have become vacant by notification at the date of the said intimation: Provided that the General Trustees before making such intimation shall have given to the minister an undertaking that (notwithstanding such standardisation) the amount of his stipend according to the present law and practice will continue to be paid to him by the General Trustees until he ceases to be minister of the parish and that the right (if any) of his widow or other representatives to Ann will, in the event of his death, be satisfied, and the obligations contained in any such undertaking shall be duly fulfilled by the General Trustees, who shall be indemnified by the General Assembly to such extent (if any) as may be necessary having regard to the amount of money at the disposal of the Trustees for that purpose: Provided always that if at any time during the currency of such an undertaking the minister intimates to the General Trustees in terms of the section of this Act relating to standardisation by election, his election that his stipend should be standardised, such intimation shall have effect as in that section provided and the undertaking shall cease to operate.

(2) In the application of the foregoing subsection to a benefice where an assistant and successor has been appointed to the minister before the passing of this Act, the word "minister" shall include and refer to that assistant and successor as well as the minister: Provided that the undertaking to be given by the General Trustees to the assistant and successor shall include his interest in the stipend so long as he remains assistant and successor as well as after he succeeds the minister should that event occur, but shall not include any right with respect to Ann.

Collegiate charges.

6. With respect to a parish where separate benefices exist and both the ministers are entitled to victual stipend, except where in such parish there are no surplus teinds, the foregoing provisions of this Act shall have effect subject to the following modification, namely, that neither of the benefices shall be deemed to be or to become actually vacant or to have become vacant by election or notification, unless the other benefice was actually vacant at the passing of this Act, or shall thereafter have become actually vacant or been deemed to have become vacant by election or notification.

7. Any stipend which has been standardised under the provisions of this Act shall as on and from the date of standardisation vest *de die in diem* in the minister entitled thereto without prejudice to the payment of any stipend vested in him or in any former incumbent of the benefice according to the present law and practice and subject to the satisfaction of any claim for Ann on the part of the widow or other representatives of a deceased incumbent: Provided that in the case of a benefice which is deemed to have become vacant by notification the foregoing provision shall not have effect unless and until the benefice becomes actually vacant or is deemed to have become vacant by election.

A.D. 1925.
—
Vesting of
standard-
ised stipend.

8.—(1) As from the date of standardisation any stipend which has been standardised under the provisions of this Act shall be payable by the heritors to the General Trustees half-yearly at the terms of Whitsunday and Martinmas each half-yearly payment being in respect of the half-year preceding the date of payment subject to the following exceptions, namely—

Payment of
standard-
ised stipend.

(a) that the first half of the standardised stipend for the year beginning on the date of standardisation shall not become payable until the term of Lammas in that year; and

(b) that the second half of the standardised stipend for that year shall not become payable till the term of Candlemas in the following year.

(2) Where as hereinafter in this Act provided the standard value of the stipend as shown by the teind roll is constituted a real burden or has been redeemed or extinguished as the case may be, the provisions of this section shall cease to have effect, and with respect to payments under this section due or payable before that event, the General Trustees shall have all the powers of recovery which according to the present law and practice a minister has with respect to his stipend.

9.—(1) Neither the widow nor any other representative of any minister admitted after the passing of this Act to any benefice in the Church of Scotland shall be entitled to Ann.

Provisions
as to Ann.

(2) The foregoing provision shall, so far as respects any right in name of Ann to any stipend standardised

A.D. 1925. — under the provisions of this Act, apply to the widow and other representatives of any minister admitted before the passing of this Act where the benefice is deemed to have become vacant by election and the minister survives the date of standardisation by one year or more.

(3) Save as in this Act expressly provided, nothing contained therein shall affect or be construed to affect the right which the widow or other representatives of a deceased minister has or have by the present law and practice to one half year's stipend in name of Ann.

Augmen-
tation of
stipend.

10.—(1) On the passing of this Act the present law relating to augmentation of stipend shall cease to have effect without prejudice to any application for augmentation competently made before such passing or to anything following on such application or done therein.

(2) The minister or the General Trustees as the case may be to whom a stipend or a standardised stipend is payable may—

(a) if not less than twenty years shall have elapsed since the date of the last application for augmentation of the stipend; or

(b) upon the expiry of twenty years from the date of the last application for augmentation of the stipend or upon the expiry of ten years from the passing of this Act, whichever of these two events shall first occur;

apply to the Lord Ordinary to find whether there are surplus teinds available for an augmentation. No such application may be made after the expiry of eleven years from the passing of this Act.]

(3) If the Lord Ordinary (whose decision shall be final and not subject to review) finds that there are surplus teinds so available, the minister or the General Trustees, as the case may be, shall be entitled to receive as from the first term of Martinmas following the date of the application an augmentation according to the following scale:—

(a) Where the stipend as last modified by the Court of Teinds does not exceed twenty-five chalders, an augmentation of six ealders; and

A.D. 1925.

- (b) Where the stipend as so modified exceeds twenty-five chalders but is less than thirty chalders, an augmentation of five chalders; and
- (c) Where the stipend as so modified is thirty chalders or upwards, an augmentation of four chalders.

The foregoing augmentation of six, five or four chalders, as the case may be, shall be converted and localled in sterling money according to the standard value, the order of allocation being in accordance with the present practice.

If the amount of the available surplus teinds as ultimately ascertained in the localing of the augmentation among the heritors is insufficient to meet the foregoing augmentations, the augmentation shall be limited to the amount so ascertained.

(4) As from the date when a minister or the General Trustees, as the case may be, becomes or become entitled to an augmentation under this section, the amount of the augmentation shall be added to the stipend and shall be payable and recoverable in like manner.

(5) The provisions set out in the Fourth Schedule to this Act shall have effect with respect to augmentations under this section and any decree of locality following thereon.

(6) An augmentation under this section shall come in place of all future rights of augmentation and shall be final.

(7) In the event of the Lord Ordinary finding that there are no surplus teinds available for an augmentation, neither the minister nor the General Trustees shall be entitled to make any further application.

(8) In the application of this section to a parish where separate benefices exist and both ministers are entitled to victual stipend—

- (a) the expression “the date of the last application for augmentation of the stipend” shall, in cases where applications for augmentation were last made at different dates, mean the later of those dates; and

A.D. 1925:

- (b) the expression "the stipend as last modified by " the Court of Teinds" shall mean the stipend of each or either of the two benefices taken separately.

Teind rolls:

11.—(1) There shall be prepared by the Clerk of Teinds for every parish in Scotland a teind roll specifying in sterling money—

- (a) The total teind of that parish; and
- (b) The amount of that total applicable to the lands of each heritor; and
- (c) The value of the whole stipend payable to the minister, so far as payable out of teinds including vicarage teinds payable as stipend and surrendered teinds so payable; and
- (d) The proportion of that value payable by each heritor in the parish.

(2) The said teind rolls shall be prepared and issued as soon as may be practicable, and the provisions of the Fifth Schedule to this Act shall have effect with respect to the preparation, issue, and adjustment of the teind rolls.

(3) The Court of Session shall make by Act of Sederunt, with the approval of the Treasury, such rules and regulations as may in the judgment of the Court from time to time be necessary to regulate the amount of the fees to be paid to the Clerk of Teinds in connection with the preparation, issue, and adjustment of the teind rolls and the time and place of the payment of the said fees. The expenses of the preparation, issue and adjustment of the teind roll, including where a state of teinds is necessary the expense of the preparation thereof, shall be apportioned among the heritors (including any heritors whose teinds have been valued and surrendered before the date of standardisation) in proportion to the amount of the total teind applicable to the lands of each heritor. The share of such expenses apportioned to any heritor, other than a heritor whose teinds have been valued and surrendered as aforesaid shall be payable by such heritor, and the share of such expenses apportioned to any heritor whose teinds have been valued and surrendered as aforesaid shall be payable by the General Trustees.

12. Where the standard value (as shown by the teind roll of a parish) of the stipend exigible from the teinds of any lands of a heritor in that parish which are comprised in one entry in the teind roll exceeds the sum of one pound—

A.D. 1925.

—
Charge to be substituted for liability for stipend exceeding one pound.

- (1) the amount of such standard value shall by virtue of this Act be constituted as at and from the first term of Whitsunday or Martinmas which shall occur after the date when the teind roll becomes final a real burden (in this Act referred to as the "standard charge") on the lands from the teinds of which the said stipend is exigible in favour of the General Trustees preferable to all other securities or burdens not incidents of tenure;
- (2) the amount of the standard charge shall be payable by equal half-yearly instalments at the terms of Whitsunday and Martinmas each half-yearly instalment being in respect of the half year preceding the date of payment and the said instalments shall be recoverable by the same means and in the like manner as any feu-duty out of the said lands would be recoverable;
- (3) the standard charge over any lands may at any time after the completion of the teind roll be redeemed by and in the option of the heritor of those lands or other person liable in respect of the standard charge either (a) for such consideration or in such manner as may be agreed upon between the person liable and the General Trustees, or (b) at any term of Whitsunday or Martinmas after three months' notice either (i) by payment to the Trustees of such a sum as would if invested at the time of payment in Consolidated $2\frac{1}{2}$ per cent. annuities produce an annual sum equal to the standard charge, or (ii) by transfer to the General Trustees of such an amount of Consolidated $2\frac{1}{2}$ per cent. annuities as would produce an annual sum equal to the standard charge;
- (4) upon the redemption of the standard charge as aforesaid any claim upon the heritor or other person in respect of such standard charge shall

A.D. 1925.

cease and be extinguished and the lands from which the same was exigible shall be disburdened thereof in all time coming and an entry to that effect shall be made in the teind roll which shall be sufficient evidence of the discharge of the burden.

Allocation of standard charge.

13. A standard charge shall from its constitution continue a real burden on the whole of the lands subject thereto, and on every part of those lands notwithstanding any disposition of the lands or any part thereof unless and until intimation of an allocation of the standard charge has been made in writing by the General Trustees and the disponent or his representatives to the Clerk of Teinds, who upon receiving such an intimation shall forthwith make the necessary entry in the teind roll.

If as the result of any such allocation the portion of a standard charge so allocated upon the lands disposed or remaining a real burden on the lands retained by the disponent does not exceed one pound, the disponent or his representatives shall within three months after the date of the entry in the roll redeem the same by payment to the General Trustees of a sum equal to the amount so allocated or remaining a burden multiplied by twenty; and if the portion of the standard charge so allocated or remaining a burden exceeds one pound but is less than fifteen pounds, that portion of the standard charge shall as from the date of the entry in the teind roll be increased by five per centum.

Provisions where stipend does not exceed one pound.

14. Subject to the provisions of the next succeeding section of this Act, where the standard value (as shown by the teind roll of a parish) of the stipend exigible from the teinds of any lands of a heritor in that parish which are comprised in one entry in the teind roll does not exceed the sum of one pound:—

(1) the heritor or other person liable in payment of the said stipend shall redeem the same either

(a) at the first term of Whitsunday or Martinmas which shall occur not less than three months after the date on which the teind roll of the parish becomes final for such consideration or in such manner as may be agreed upon between the person so liable and the General Trustees; or

A.D. 1925.

(b) by payment to the General Trustees at the said term of Whitsunday or Martinmas of a sum equal to the standard value of the said stipend multiplied by eighteen; or

(c) by payment to the General Trustees, along with each half-yearly payment of the said stipend during a period of eighteen years commencing at the said term of Whitsunday or Martinmas, of a redemption instalment equal to seventy-five per centum of the half-yearly payment of the stipend, which redemption instalment shall be recoverable by the General Trustees in the same manner as the half-yearly payment of the stipend :

- (2) Upon the redemption of a stipend as aforesaid any claim upon the heritor or other person in respect of such stipend shall cease and be extinguished and an entry to that effect made in the teind roll shall be sufficient evidence of the redemption.

15. Where the standard value (as shown by the teind roll of a parish) of the stipend exigible from the teinds of all the lands of a heritor in that parish, whether those lands are comprised in one or in more than one entry in the teind roll does not exceed the sum of one shilling, any claim for or in respect of the stipend upon the heritor or other person liable in payment thereof (other than a claim for payments already due) shall, notwithstanding any law or practice to the contrary, cease and be extinguished as at the first term of Whitsunday or Martinmas which shall occur not less than three months after the date on which the teind roll of the parish becomes final.

Extinction¹
of liability;
for stipend
not exceed-
ing one
shilling.

16.—(1) After the passing of this Act, the provisions set out in the Sixth Schedule to this Act which relate to the obtaining of valuations of teinds and the surrender of valued teinds shall have effect for those purposes and the present law and practice relating thereto shall cease to apply but without prejudice to any proceedings taken before the passing of this Act or to any proceedings which may be taken within three years after the passing of this Act for the approbation of reports of sub-commissioners relating to the valuation of teinds.

Valuation
and surren-
der of
teinds.

(2) Where the annual agricultural value of any lands has been ascertained in accordance with the provisions

A.D. 1925. — set out in the said schedule one-fifth part of that value shall be the valued teind of those lands in all time coming.

(3) Where no application for the ascertainment of the annual agricultural value of any lands, the teinds of which have not been valued, is made in accordance with the said provisions and within the period thereby prescribed, the value of such teinds specified in the teind roll for the parish in which the lands are situate shall be deemed to be accepted by acquiescence, and shall be the valued teind of those lands in all time coming.

Deduction
of stipend
in question
with titular.

17. As from the date of standardisation of any stipend which has been standardised under the provisions of this Act, the heritor of any lands from the teinds of which the stipend or any part thereof is exigible shall, in any accounting in respect of those teinds with the titular thereof, be entitled to deduct the amount of the standardised stipend exigible from those teinds, or of any standard charge coming in place of such stipend or any part thereof, whether or not such stipend or part thereof, or standard charge, has been redeemed or extinguished.

Sale of
surplus
teinds.

18. Notwithstanding anything contained in the Act of the Scots Parliament, 1693, c. 23 (an Act renewing the commission for plantation of kirks and valuation of teinds), or in any other enactment or in any charter, grant or deed, it shall be lawful after the passing of this Act for the titular or any other person having right of titularity to sell surplus teinds on such terms as may be agreed upon between him and the heritor.

Nothing in this section shall prejudice or affect the provisions of the Acts of the Scots Parliament, 1633, c. 17 (anent the rate and price of teinds), and 1690, c. 23 (concerning patronages) or any other enactment at present in force authorising the sale of surplus teinds.

Provisions
as to certain
payments
out of the
Consoli-
dated Fund.

19.—(1) The charges and payments described in the Seventh Schedule to this Act and any other payments to or on behalf of the Church or the General Assembly or any committee or institution of the Church or any minister which at the passing of this Act are charged on and payable out of the Consolidated Fund of the United Kingdom shall thenceforth be paid to the General Trustees in such manner as may be directed by the Treasury.

(2) The Treasury may at any time contract for the redemption of all or any of the payments referred to in the preceding subsection by payment to the General Trustees of such capital sum or sums as may be agreed between the Treasury and the General Trustees. A.D. 1925.
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(3)—(i) The Treasury may from time to time borrow from the National Debt Commissioners and those Commissioners may lend to the Treasury such capital sum or sums as may be necessary for carrying into effect any contract made in pursuance of the immediately preceding subsection.

(ii) For the purpose of repaying any such loan the Treasury may create in favour of the National Debt Commissioners a terminable annuity for a period not exceeding twenty years from the date of the loan to be calculated with interest at such rate as may be agreed.

(iii) Such annuity shall be notified by certificate under the hand of the Comptroller or Assistant Comptroller and the Actuary of the National Debt Office and shall be charged upon the Consolidated Fund of the United Kingdom or the growing produce thereof.

PART II.

SCOTTISH ECCLESIASTICAL COMMISSIONERS.

20.—(1) Such persons not exceeding five in number as His Majesty may appoint shall be Commissioners under this Act for the purposes aftermentioned, and shall be styled the Scottish Ecclesiastical Commissioners. One of the Commissioners being a person who holds or has held judicial office shall be appointed Chairman. Constitution, powers and procedure of Scottish Ecclesiastical Commissioners.

(2) The Commissioners shall hold office during His Majesty's pleasure. If a vacancy occurs in the number of the Commissioners by reason of death, resignation, incapacity or otherwise, His Majesty may appoint some other person to fill the vacancy, and so from time to time as occasion requires.

(3) The Commissioners may act by any one or more of their body and notwithstanding any vacancy in their number; but if any person aggrieved by an order or decision of one Commissioner so requires, the order or decision shall be reconsidered on re-hearing by not less than three Commissioners.

A.D. 1925.

(4) The procedure, place of meeting, and authentication of documents of the Commissioners shall be regulated in such manner as the Commissioners determine.

(5) The Commissioners may examine witnesses on oath, and for enforcing the attendance of witnesses, the examination of witnesses and the production of books and documents, shall have all such powers, rights, and privileges as are vested in any of His Majesty's Courts of Law.

(6) The Commissioners may appoint or employ a secretary and such other officers and persons and with such remuneration as they think necessary, and may remove any person so appointed or employed.

(7) The salaries and remuneration of any persons so appointed or employed, and all expenses of the Commissioners incurred in the execution of this Act, shall be paid out of moneys to be provided for that purpose by the General Assembly.

Orders of
Commissioners.

21.—(1) The Commissioners may, after such inquiry in each individual case as they may think fit, make such orders as they may consider necessary or proper for any of the following purposes, that is to say:

- (a) for giving effect to the schemes framed by the Commissioners under the provisions of this Act relating to burgh churches, including the modification of the Act 23 & 24 Victoria, chapter 50, entitled "An Act to abolish the annuity tax in Edinburgh and Montrose, and to make provision in regard to the stipends of the ministers in that city and burgh, and also to make provision for the patronage of the church of North Leith," and of any other local or personal Act, decree of the Court of Session or Court of Teinds or agreement relating to the burgh churches;
- (b) for the transfer to the General Trustees of the parliamentary churches and manses under the provisions of the section of this Act relating to parliamentary churches and manses;
- (c) for the transfer to the General Trustees of the churches and manses of the parishes mentioned in the Eighth Schedule to this Act;

- (d) for the transfer to the General Trustees of endowments referred to in the section of this Act relating to endowments in certain parishes *quoad omnia*;
- (e) for framing and giving effect to schemes relating to churches and manses with respect to which the sheriff may, as hereinafter provided, find and declare that the case ought to be dealt with by the Commissioners;
- (f) for giving effect to the provisions of the section of this Act relating to the transfer of rights in glebes;
- (g) for framing and giving effect to a scheme or schemes under the provisions of the section of this Act relating to allocation by General Trustees of certain moneys to be received from Treasury;
- (h) for the protection and preservation of any church or other ecclesiastical building which is for the time being used for ecclesiastical purposes, and which the Commissioners may, upon application made to them by the Royal Commission on Historic Monuments in Scotland or any person interested, consider to require special provisions in the public interest with respect to maintenance and access;
- (i) for the transfer to and administration by the General Trustees of any capital sum fixed or awarded and invested by way of commutation of fish teinds under the provisions of the Fish Teinds (Scotland) Act, 1864;
- (j) for the transfer to a kirk session of communion plate or other ecclesiastical furnishings in use in a church or by a congregation in any case in which a right of property in the plate or other furnishings is claimed by any public body;
- (k) for any other matter or thing which the Commissioners consider to be necessary or proper in connection with any of the purposes aforesaid.
- (2) Any such order shall have effect as if enacted in this Act, and may be recorded in the Register of Sasines.

A.D. 1925.
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(3) In respect that the Act 23 & 24 Victoria, chapter 50, imposed an obligation on the town council of Edinburgh to grant a bond of annuity for the annual sum of four thousand two hundred pounds to the Edinburgh Ecclesiastical Commissioners for the purposes of the said Act, and in respect that the Act 33 & 34 Victoria, chapter 87, empowered the said town council to redeem the said bond of annuity by a payment to the said Commissioners of the sum of fifty-six thousand five hundred pounds and that the said bond of annuity was so redeemed by the payment of the said sum to the said Commissioners, nothing contained in this Act or in any order to be made by the Commissioners under the provisions of this section shall impose or be deemed to impose any further financial obligation or liability on the said town council in relation to the burgh churches situated within the burgh of Edinburgh, and any liability or obligation incumbent on the said town council in connection with the upkeep and maintenance or restoration or renewal of the burgh churches situated within the said burgh or payment of stipend to the ministers thereof shall be deemed to have been fulfilled and shall be at an end.

Burgh
churches.

22. With respect to the churches mentioned in the Ninth Schedule to this Act (in this Act referred to as "burgh churches") the following provisions shall have effect:—

- (1) As soon as conveniently may be after the passing of this Act the Commissioners shall inquire into all circumstances relating to existing rights of property in the fabrics and sites of the burgh churches, and any manses or other subjects connected therewith, and in any churchyards connected with the burgh churches, the stipends of the ministers thereof and any funds, endowments, pew rents or assessments from which the stipends of the ministers, the maintenance of the churches and other subjects, and any other expenditure in connection therewith is defrayed, and shall thereafter frame schemes for the future ownership, maintenance, and administration of the burgh churches and other subjects and the payment of stipend to the ministers:

(2) Every such scheme shall make provision for— A.D. 1925.

(a) the transfer to the General Trustees of all rights of property vested in or belonging to the magistrates or the town council of any of the burghs within which the burgh churches are situated in the fabrics and sites of the burgh churches and of any manses and other subjects connected therewith, and in any churchyards connected with the burgh churches, and for the transfer to the General Trustees of the duty of maintaining any property so transferred;

(b) the transfer to the General Trustees of all or any property held for church purposes by or on behalf of the magistrates or the town council of any of the burghs within which the burgh churches are situated;

(c) the periodical payment to the General Trustees of all sums which are at present paid or payable by the magistrates or town council of any of the said burghs in respect of the stipends of the ministers of the burgh churches and (so far as the Commissioners consider this to be equitable and reasonable) of all sums which are at present paid or payable by the magistrates or town council of any of the said burghs in respect of the ownership and maintenance of the fabrics and sites of the churches and manses, or other subjects connected therewith;

(d) the redemption of such periodical payments by the payment to the General Trustees of a capital sum or by the creation of terminable annuities or of sinking funds;

(e) the transfer to the General Trustees of any property heritable or moveable held by any public body (whether statutory or otherwise) or person other than the magistrates or town council for the benefit of the minister of any of the burgh churches by way of stipend;

(f) the protection of the interests of the ministers or assistants and successors who at

A.D. 1925.

the passing of this Act are incumbents of the benefices of the burgh churches;

(g) the protection (so far as the Commissioners consider this to be practicable) of the interests of town councils in the burgh churches as regards sittings allotted to the town councils for their use, the right to have the church bells rung on special occasions, and the preservation of any other similar right or privilege hitherto enjoyed by the town councils;

(h) the General Trustees before selling, feuing, or otherwise alienating a burgh church, and the site thereof, giving to the town council of the burgh in which such burgh church is situated an opportunity of acquiring the same on such terms and conditions as may be agreed upon or as, failing agreement, may be determined by an arbiter to be appointed by the sheriff on the application of either party provided as follows:—

(i) The price to be paid to the General Trustees by the town council shall not exceed such a sum as would be necessary to reinstate the church on a new site within the municipal boundaries of the burgh in which such burgh church is situated, should it in the judgment of the General Trustees be necessary to provide at the time a new church within the municipal boundaries of such burgh;

(ii) In the event of it being unnecessary in the judgment of the General Trustees to provide at the time a new church such as aforesaid the price to be paid to the General Trustees by the town council shall not exceed such a sum as would be necessary to reimburse the General Trustees for all expenditure incurred by them subsequent to the passing of this Act, and within forty years prior to the date of the sale, for the repair, enlargement, or renewal of

such burgh church, or part thereof, or as the case may be to liquidate any outstanding debt or obligation incurred or undertaken by the General Trustees relative to any such repair, enlargement, or renewal (so far as such expenditure, debt, or obligation has not been met out of any periodical payment made by the magistrates or town council of such burgh for the maintenance of such burgh church, or out of any capital sum, terminable annuity, or sinking fund paid in respect of the redemption thereof), and to meet the expenses of the necessary conveyance: A.D. 1925.

- (3) The General Trustees shall not be entitled to sell, feu, or otherwise alienate any of the burgh churches or the site thereof to any person unless they shall have previously offered to convey such church or site to the town council of the burgh in which such church is situated, on the same terms and conditions as they may be prepared to accept from such person, and the town council have failed to reply to the offer within a period of one month from the date thereof, or have within that period declined to accept the offer:
- (4) The provisions of this Act in regard to the transfer to the General Trustees of all rights of property in any churchyards connected with the burgh churches, and the duty of maintaining any churchyards so transferred, shall not apply to the churchyards of Greyfriars and Canon-gate in the burgh of Edinburgh, or to the churchyard of St. David's or Ramshorn in the burgh of Glasgow, or to the churchyards of St. Nicholas and St. Clements in the burgh of Aberdeen, which churchyards shall continue to belong to and be maintained by the town councils of the said burghs, respectively:
- (5) In the application of paragraphs (b), (c), and (d) of subsection (2) of this section to any scheme framed with respect to any of the burgh churches the Commissioners shall have

A.D. 1925.

regard to the conditions contained in the decree of disjunction and erection of the burgh church :

- (6) When all matters contained in the scheme relating to a burgh church have been duly carried out and implemented all liability or obligation incumbent on the magistrates and town council of the burgh in which a burgh church is situated, in connection with the upkeep and maintenance of such burgh church and payment of stipend to the minister thereof, shall be deemed to have been fulfilled and shall be at an end, subject only to the payment of any capital sum, terminable annuity, or sinking fund for the redemption of any periodical payment made by such magistrates or town council in connection with the maintenance of such church and the stipend of the minister thereof.

Parliamentary
churches
and
manses.

23. With respect to the churches and manses mentioned in the Tenth Schedule to this Act (which together with any land whether described as churchyard, glebe, or otherwise connected with the said churches and manses are in this Act referred to as "parliamentary churches and manses") the following provisions shall have effect :—

As soon as conveniently may be after the passing of this Act the Commissioners shall inquire into all circumstances relating to existing rights of property in the fabrics and sites of the parliamentary churches and manses, and to the maintenance thereof whether under the provisions of the Act 5 George IV., Chapter 90, and any conveyance or other deed relating to any of the said churches and manses in favour of the Commissioners under the said Act or under any decision of the Court of Teinds or otherwise, and the Commissioners shall thereafter by order provide for the transfer to the General Trustees of the fabrics and sites of the said churches and manses, and of all powers and duties with respect to the maintenance and repair of the said fabrics and the allocation of sitting accommodation in the said churches.

24. With respect to the churches and manses of the parishes quoad omnia mentioned in the Eighth Schedule to this Act, the following provisions shall have effect:—

A.D. 1925.
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Churches
and
manses of
certain
parishes
erected
under Act of
1844.

As soon as conveniently may be after the passing of this Act the Commissioners shall inquire into all circumstances relating to existing rights of property in the fabrics and sites of the churches and manses of the parishes aforesaid, and to the maintenance thereof whether under any existing titles relating to the said churches and manses or otherwise, and the Commissioners shall thereafter by order provide for the transfer to the General Trustees of the fabrics and sites of the said churches and manses, and of all powers and duties with respect to the maintenance and repair of the said fabrics, and the allocation of sitting accommodation in the said churches.

25. Where in the case of a parish quoad omnia (not being one of the parishes quoad omnia mentioned in the Eighth Schedule to this Act) there exists any mortification or other endowment not derived from teinds which is for the benefit of the minister by way of stipend, the Commissioners shall, upon application made to them by the General Trustees, inquire into all circumstances relating to such endowment, and may thereafter by order provide for the transfer of the endowment to the General Trustees:

Endow-
ments
in certain
parishes
quoad
omnia.

Provided that, except in the case of a benefice which is actually vacant at the passing of this Act, any order made by the Commissioners under this section shall not take effect unless or until the benefice shall have become actually vacant after such passing.

PART III.

TRANSFER OF PARISH CHURCHES, MANSSES, GLEBES AND CHURCHYARDS.

26. With a view to the transfer to and vesting in Parish the General Trustees of all rights of property in and churches,

A.D. 1925. —
manses, glebes and churchyards.

duties of maintenance or extension with respect to the churches, manses, and glebes of parishes quoad omnia (other than the churches and manses of the parishes quoad omnia mentioned in the Eighth Schedule to this Act), the transfer to and vesting in the respective parish councils of all such rights in and duties with respect to the churchyards of such parishes, and the extinction of all such rights and duties as aforesaid heretofore belonging to and incumbent upon heritors or ministers, the following provisions of this Part of this Act shall have effect, and shall apply to such parishes only.

Proceedings relating to matters mentioned in section 3 of 31 & 32 Vict. c. 96.

27. No proceedings relating to any of the matters mentioned in section three of the Ecclesiastical Buildings and Glebes (Scotland) Act, 1868, shall be instituted or entertained before or by any presbytery or any court of law or the Commissioners except as hereinafter in this Act provided. The foregoing provision shall be deemed to have had effect as on and from the first day of February, nineteen hundred and twenty-five, but without prejudice to any proceedings instituted before that date or to the enforcement of any order, finding, judgment, interlocutor, or decree made, given, or pronounced therein, or to any contract or agreement made by heritors before that date or to any resolution passed by heritors to levy an assessment to meet expenditure incurred in pursuance of such contract or agreement, and any such assessment shall be recoverable as if this Act had not been passed.

Transfer of rights in parish churches and manses.

28.—(1) Where the General Trustees are of opinion that any church or manse is not in a reasonable state of tenantable repair and that the duty of executing repairs is incumbent upon heritors, the General Trustees may agree with the heritors concerned for the repair of the same by or at the expense of the heritors or for the payment by the heritors to the General Trustees of a sum of money in lieu of repair, and failing agreement the General Trustees may within three years after the passing of this Act apply to the sheriff for an order directing the heritors to carry out such repairs (if any) not involving structural alterations as he may consider necessary, or if the General Trustees so require to pay to the General Trustees such sum of money in lieu of repair as the sheriff may determine. The sheriff shall

deal with any such application in a summary manner and his decision shall be final. A.D. 1925.

(2) Any heritor concerned or the General Trustees may apply to the sheriff for a certificate that all obligations incumbent on the heritors with respect to the church or manse of a parish have been fulfilled, and the sheriff shall deal with the application in a summary manner and shall issue a certificate to that effect if the General Trustees state or admit that all such obligations have been fulfilled, or if failing such statement or admission, he is satisfied either that any agreement or order made as aforesaid has been implemented, or that notwithstanding the absence of any such agreement no application has been made for such an order within three years after the passing of this Act, or that any application for an order so made has been refused. The certificate may be in or as nearly as may be in the form set out in the Eleventh Schedule to this Act, and shall contain or refer to a description of the subjects whether church or manse to which it relates and may be recorded by the General Trustees or by any heritor concerned in the appropriate Register of Sasines.

(3) When a certificate issued by the sheriff under this section has been recorded as aforesaid—

(a) any liability or obligation incumbent on any heritor in connection with the subjects to which the certificate relates shall be at an end except the obligation or liability to assess or to be assessed for the repayment of any debt existing at the date of the certificate; and

(b) all rights of property in the said subjects shall by virtue of this Act and without the necessity of any further conveyance vest in and belong to the General Trustees, to the same effect as if a complete feudal title holding of the Crown in free blench farm for payment of a penny Scots yearly if asked only had been duly constituted in favour of the General Trustees.

(4) Whereas in certain parishes, town councils in their capacity as town councils, or other public bodies (whether statutory or otherwise) or kirk sessions or persons are under the present law and practice or by Royal Warrant, charter, agreement or custom liable along with or in place of the heritors in obligations relating to the church or

A.D. 1925. — manse, it shall be lawful, in any such case, for the presbytery or the General Trustees or any other person concerned to apply to the sheriff to find and declare that the case ought to be dealt with by the Commissioners, and if the sheriff so finds and declares the provisions of this section shall have no further application to the case, and the Commissioners shall as soon thereafter as conveniently may be inquire into all circumstances relating to existing obligations in respect of the fabric and site of such church or manse and the maintenance of such fabric, and by order provide for the transfer to the General Trustees of the said fabric and site, and of all powers and duties with respect to the maintenance and repair of the said fabric.

(5) If in any application to the sheriff under this section a question arises as to whether or not the church or manse to which the application relates is the church or manse of a parish within the meaning of this section, that question shall be determined by the sheriff in a summary manner, and his determination shall be final.

(6) Whenever in any parish it shall be necessary in consequence of anything done, or agreed, or ordered to be done under or in pursuance of this section to impose any ecclesiastical assessment upon lands and heritages in the parish, and such assessment is imposed according to the real rent thereof, the following provisions shall have effect, in lieu of the provisions of section three of the Ecclesiastical Assessments (Scotland) Act, 1900 :—

63 & 64 Vict.
c. 20.

- (a) No part of such assessment shall be imposed or levied upon lands and heritages occupied solely as the church and accessory buildings or burying-ground attached of any religious body, or as the dwelling-house with offices or garden or glebe land attached of the minister of such church;
- (b) The rental on which each heritor shall be assessed shall be his total rental within the parish as appearing in the valuation roll (whether such rental consists of one or more subjects), but subject to deduction of the sum of thirty pounds;
- (c) The amount of the deficiency created in the total amount of the assessment, by allowing

A.D. 1925. — manse, it shall be lawful, in any such case, for the presbytery or the General Trustees or any other person concerned to apply to the sheriff to find and declare that the case ought to be dealt with by the Commissioners, and if the sheriff so finds and declares the provisions of this section shall have no further application to the case, and the Commissioners shall as soon thereafter as conveniently may be inquire into all circumstances relating to existing obligations in respect of the fabric and site of such church or manse and the maintenance of such fabric, and by order provide for the transfer to the General Trustees of the said fabric and site, and of all powers and duties with respect to the maintenance and repair of the said fabric.

(5) If in any application to the sheriff under this section a question arises as to whether or not the church or manse to which the application relates is the church or manse of a parish within the meaning of this section, that question shall be determined by the sheriff in a summary manner, and his determination shall be final.

(6) Whenever in any parish it shall be necessary in consequence of anything done, or agreed, or ordered to be done under or in pursuance of this section to impose any ecclesiastical assessment upon lands and heritages in the parish, and such assessment is imposed according to the real rent thereof, the following provisions shall have effect, in lieu of the provisions of section three of the Ecclesiastical Assessments (Scotland) Act, 1900 :—

63 & 64 Vict.
c. 20.

- (a) No part of such assessment shall be imposed or levied upon lands and heritages occupied solely as the church and accessory buildings or burying-ground attached of any religious body, or as the dwelling-house with offices or garden or glebe land attached of the minister of such church;
- (b) The rental on which each heritor shall be assessed shall be his total rental within the parish as appearing in the valuation roll (whether such rental consists of one or more subjects), but subject to deduction of the sum of thirty pounds;
- (c) The amount of the deficiency created in the total amount of the assessment, by allowing

the said deduction of thirty pounds to every heritor, shall be defrayed by the General Trustees; A.D. 1925.
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- (d) No heritor, who by reason of any exemption or deduction allowed by this subsection is relieved altogether from assessment in respect of the execution of any repair, or in respect of any payment by the heritors in lieu of repair, shall be entitled at any meeting of the heritors to take part in the discussion of, or to vote upon, any question concerning any plans for or the execution of the said repair, or the defraying of the expenses of the same, or any question concerning an agreement involving payment by the heritors in lieu of repair.

(7) Whenever in any parish it shall be necessary in view of anything to be done or agreed, or in consequence of anything done or agreed, or ordered to be done under or in pursuance of this section to call a meeting of heritors, a circular letter containing an intimation of the meeting shall be sent twenty-one clear days before the meeting to every known heritor whose total rental within the parish as appearing in the valuation roll (whether such rental consists of one or more subjects) exceeds the sum of thirty pounds, and intimation of the meeting shall also be given by advertisement in a newspaper circulating in the parish once during each of two successive weeks and within the said period of twenty-one days.

(8) Subject to the modifications in the two immediately preceding subsections of this section the existing law and practice relating to heritors' meetings and ecclesiastical assessments shall apply to meetings of heritors to be held and ecclesiastical assessments to be imposed under, or in consequence, or pursuance of this section.

29. On the expiry of one year from the date on which any church is by or in pursuance of this Act transferred to the General Trustees the right of allocating sitting accommodation in the church, whether with or without payment therefor, and the right of disposal of any proceeds therefrom shall belong to the kirk session, or to such other body as the General Assembly may direct and any existing right to such accommodation shall cease and terminate. Rights with respect to sitting accommodation in parish churches.

A.D. 1925.

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Transfer of
rights in
glebes.

30. With respect to glebes, the following provisions shall have effect:—

- (1) It shall be the duty of the clerk of every presbytery within one year after the passing of this Act to furnish to the Commissioners a list of the glebes appropriated to the ministers of the parishes in the presbytery, and of any cases where a minister has accepted or is entitled to any annual payment in place of glebe, and at the same time to intimate in which cases (if any) it is claimed by the presbytery (whether on the representation of the minister concerned or otherwise) that the heritors concerned have not fully implemented the obligations incumbent on them according to the present law and practice with respect to the provision and enlargement of a glebe:
- (2) As soon as conveniently may be after the receipt of the said lists, the Commissioners shall inquire into all circumstances relating to existing rights of property in the glebes, and in any payments in place of glebe, and shall thereafter make orders relating to the glebes and payments:
- (3) Every such order shall make provision for—
 - (a) the implement by the heritors of any obligations incumbent on them as aforesaid which have not already been implemented; and
 - (b) the transfer to and vesting in the General Trustees of the ownership of the glebes; and
 - (c) the preservation of the existing rights of all persons other than the heritors or the minister of the parish who, under or in pursuance of any general or local Act of Parliament or otherwise, have acquired any right in any glebe or any part thereof, whether as purchasers, feuars, or tenants, and the payment of any feu-duties, casualties, or rent to the General Trustees in place of the minister; and
 - (d) the manner in which—
 - (i) any burden upon the glebe created under section eighteen of the Glebe Lands (Scotland) Act, 1866; and

29 & 30 Vict.
c. 71.

(ii) any of the costs, charges and expenses referred to in that section which have not been made a burden on the glebe

A.D. 1925.
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- may be dealt with, discharged and extinguished; and
- (e) the transfer to the General Trustees of any feu-duties and Government or other securities or investments representing the price or consideration received for any glebe or part thereof or right therein under or in pursuance of the Glebe Lands (Scotland) Act, 1866, the Feudal Casualties (Scotland) Act, 1914, or any other general or local Act of Parliament, or any decree of the Court of Teinds, or any grant or contract validly made by a minister and held by any persons acting as trustees in trust for the payment of the income to the minister of the parish; and
- (f) the conversion into a money payment of any right of pasturage over any lands which is possessed by the minister as minister of the parish, and the redemption of that money payment, if the heritor or heritors concerned so desire, in such manner as may be agreed upon between the General Trustees and such heritor or heritors, or as, failing agreement, may be fixed by the Commissioners; and
- (g) the protection of the interests of the ministers or assistants and successors who at the passing of this Act are incumbents of the benefice of any parish.

4 & 5 Geo. 5.
c. 48.

31. Where the glebe or any part thereof has been feued to the proprietors of conterminous lands in terms of section seventeen of the Glebe Lands (Scotland) Act, 1866, and the feu-duty payable therefor has been transferred to the General Trustees by an order made by the Commissioners, the said proprietors or their successors shall be entitled to redeem the feu-duty affecting the glebe or any part thereof—

Redemption
of feu duty
affecting
glebe.

- (a) for such consideration or in such manner as may be agreed upon between the person liable and the General Trustees; or

A.D. 1925. (b) at any term of Whitsunday or Martinmas after three months' notice either—

(i) by payment to the Trustees of such a sum as would, if invested at the time of payment in Consolidated $2\frac{1}{2}$ per cent. annuities produce an annual sum equal to the feu duty; or

(ii) by transfer to the General Trustees of such an amount of Consolidated $2\frac{1}{2}$ per cent. annuities as would produce an annual sum equal to the feu duty.

Transfer of parish churchyards.

57 & 58 Vict. c. 58.

18 & 19 Vict. c. 68.

32.—(1) The property of any churchyard heretofore held by the heritors of any parish shall as at and from the passing of this Act by virtue of this Act and without the necessity of any further conveyance be transferred from the heritors and vested in the parish council to the same effect as if the churchyard had been as at that date transferred by the heritors to the council in pursuance of subsection (6) of section thirty of the Local Government (Scotland) Act, 1894: Provided that due regard and respect shall be had by the parish council to the memory of the dead and the wishes of their relatives before any ground already allocated as a burial ground shall be treated as being vacant and unoccupied ground and re-allocated by the parish council as the burial place for another family or for the interment of another body: Provided also that in addition to the powers and duties by the said subsection transferred from the heritors to the parish council the power or duty of enlarging or extending the churchyard and assessing for the cost of such enlargement or extension shall also be so transferred and for the purpose of providing ground for such enlargement or extension or additional accommodation in a suitable and convenient situation, the parish council shall have and may exercise all the powers relating to the acquisition of land for burial grounds contained in the Burial Grounds (Scotland) Act, 1855, and the costs of providing, maintaining, and managing ground so acquired, so far as they require to be defrayed out of any rate, shall be a charge on the poor rate or the assessment under the said Act of 1855, as the parish council may determine: Provided further that where any churchyard transferred to a parish council by or in pursuance of this Act surrounds or

adjoins any church or other ecclesiastical building vested in the heritors or in the General Trustees or in any other body holding the same in trust for the purpose of worship or for preservation as an ancient or historic monument—

- (a) the churchyard shall be held subject to a right of access to the minister and the congregation attending the church, and such other persons as may resort thereto for the purpose of public or private worship, or of inspecting or repairing the church, or for any other lawful purpose; and
- (b) no funeral shall be allowed to take place during the usual time of the ordinary services in the church; and
- (c) any road or path through the burial ground shall be kept in good and sufficient repair by the parish council; and
- (d) where the use of part of the churchyard is required for the enlargement or repair of the church it may be so used in any case where it might lawfully have been so used if this Act had not been passed and subject to the like conditions and restrictions, and where used for the purpose of the enlargement of the church the part so used shall thereupon vest in the heritors or the General Trustees or other body holding the church as aforesaid.

(2) The provisions relating to the sale of the right of burial contained in section eighteen of the Burial Grounds (Scotland) Act, 1855, shall apply to any churchyard transferred to a parish council by or in pursuance of this Act, and to any enlargement or extension thereof.

(3) Where the powers and duties conferred and imposed by the Burial Grounds (Scotland) Act, 1855, are exercised and carried out by a local authority other than the parish council, the foregoing provisions of this section shall, with the necessary modifications, have effect as if that authority were named therein instead of the parish council, and any expenses of the local authority due to the operation of this section shall be defrayed in the same manner as expenses under the said Act of 1855. Where in any parish the powers and duties

A.D. 1925. — conferred and imposed by the said Act of 1855 are carried out by more than one local authority, this subsection shall be held to refer to the local authority carrying out the said powers and duties within the district where the churchyard is situated.

(4) Where the property of a churchyard is held by the kirk session of the parish the foregoing provisions of this section shall, with the necessary modifications, have effect as if the kirk session were named therein and in subsection (6) of section thirty of the Local Government (Scotland) Act, 1894, instead of the heritors.

(5)—(a) Where a churchyard of a parish has been closed—

- 60 & 61 Vict.
c. 38
- (i) either before or after the passing of this Act under the Burial Grounds (Scotland) Act, 1855, or as a result of proceedings under the Public Health (Scotland) Act, 1897; or
 - (ii) before the passing of this Act by resolution of the heritors on the ground that no accommodation for further interments remains available therein; or
 - (iii) by desuetude during a period of twenty years or upwards prior to the passing of this Act;

the kirk session of the parish may, within ten years after the passing of this Act, in the case of a churchyard which has been closed before the passing of this Act, or within ten years after the date of the closing of a churchyard in the case of a churchyard closed after the passing of this Act, intimate in writing to the parish council or other local authority to whom the churchyard has been transferred that the kirk session desire to take over the custody, maintenance, and control of such churchyard, and the parish council or other local authority, as the case may be, shall, on receiving such intimation, transfer the custody, maintenance, and control of such churchyard to the kirk session, subject always to such conditions (if any) as the parish council or other local authority may appoint with respect to the public right of access to the churchyard free of charge.

(b) Where a churchyard of a parish which has been transferred to a parish council or other local authority has been closed, or has ceased to be used for interment, the parish council or other local authority, as the case may

be, may at any time, upon the application in writing of the kirk session of the parish, transfer the custody, maintenance, and control of such churchyard to the kirk session. A.D. 1925.

(c) Where the custody, maintenance, and control of a churchyard have, in pursuance of this subsection, been transferred to the kirk session, the kirk session shall thenceforward be responsible for such custody, maintenance, and control, and for any expense in connection therewith.

33. For the preservation and maintenance of any family burying ground, or enclosure, tombstone, monument, or other memorial to the dead, in any parish churchyard or parish church, any person who, in the case of a parish churchyard, satisfies the parish council or other body to whom the parish churchyard or the control thereof is transferred, and in the case of a parish church satisfies the General Trustees that he has an interest in such burying ground, enclosure, tombstone, monument, or other memorial, on the ground of relationship to the deceased person or persons therein buried or thereby commemorated, shall be entitled, with the approval of the parish council or other body to whom the parish churchyard or the control thereof is transferred, or the General Trustees, as the case may be, to provide for the preservation and maintenance of the same. Preservation of monuments, &c., in churches and churchyards.

PART IV.

GENERAL.

34. With respect to parishes quoad sacra erected under the New Parishes (Scotland) Act, 1844, the United Parishes (Scotland) Act, 1868, and the United Parishes (Scotland) Act, 1876 (other than parishes quoad sacra erected under section fourteen of the said Act of 1844), the following provisions shall have effect:— Provisions relating to quoad sacra parishes.
7 & 8 Vict. c. 44.
31 & 32 Vict. c. 30.
39 & 40 Vict. c. 11.

(1) In the case of a parish erected before the passing of this Act—

(a) The statutory properties and endowments of the parish shall be transferred to the General Trustees as in this section provided;

A.D. 1925.
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(b) As soon as conveniently may be after the passing of this Act there shall be prepared by the General Trustees and certified by the Clerk of Teinds with respect to each parish, an inventory referring to this section of this Act and setting out the statutory properties and endowments of the parish, and each such inventory shall specify—

(i) the name of the parish;

(ii) each property or security forming part of the said statutory properties and endowments; and

(iii) the name or names of the person or persons in whom the same is vested;

(c) Without prejudice to the provisions of the immediately following paragraph of this subsection any person in whom any property or security specified in any such inventory is vested shall if so required by the General Trustees, and at their expense, transfer such property or security to the General Trustees, and do and concur in doing all acts and things necessary for that purpose;

(d) Upon any such inventory in so far as the same relates to heritable properties or securities being recorded in the appropriate register of sasines the heritable properties and securities specified in such inventory shall by virtue of this Act and without the necessity of any further conveyance be deemed and taken to be validly transferred to and vested in the General Trustees as if a disposition or assignation by the person or persons in whom the said heritable properties or securities were vested had been granted in favour of the General Trustees and had been recorded in the appropriate register of sasines;

(e) (i) The Clerk of Teinds shall make available to the General Trustees, so far as may be necessary for the purposes of this section, all or any title deeds, certificates, or other documents which are in his custody as keeper of the records of the Court of

Teinds relating to any properties or securities specified in any such inventory;

(ii) Upon the completion of the transfer of any such properties and securities to the General Trustees the Clerk of Teinds shall hand over to the General Trustees any title deeds, certificates, or other documents relating to the same which are in his custody as aforesaid upon a receipt therefor being given by the General Trustees;

(f) The General Assembly, or any body to which the General Assembly may delegate the necessary power, may at any time after the completion of the transfer to the General Trustees of the properties and securities specified in any such inventory alter the existing deed of constitution of the parish to which the inventory relates, or annul the said deed and grant a new deed of constitution in place thereof;

(g) The statutory properties and endowments of the parish transferred to the General Trustees under or by virtue or in pursuance of this subsection shall, notwithstanding anything elsewhere in this Act contained, be held by the General Trustees for the same ends, uses, and purposes as those for which they were held by the trustees or other persons in whom they were vested prior to their being so transferred;

(2) In the case of a parish erected after the passing of this Act—

(a) the titles, deeds, certificates, and other documents of or relating to the statutory properties and endowments of the parish shall be taken in the name of the General Trustees;

(b) the original deed of constitution shall be in such terms as the General Assembly, or any body to which the General Assembly may delegate the necessary power, may direct, and the General Assembly or any such body may subsequently alter the said deed or

A.D. 1925.

annul the same and grant a new deed of constitution in place thereof:

(3) Nothing in this section shall apply to any permanent endowment secured from teinds under section thirteen of the New Parishes (Scotland) Act, 1844:

(4) In this section—

the expression “the statutory properties and endowments of the parish” means—

(i) the church erected as a parish church for the parish under the aforesaid Acts of 1844, 1868, and 1876; and

(ii) where a manse or glebe has been permanently provided under the said Acts as part of the endowment of the minister of the parish, such manse or glebe; and

(iii) any feu-duties, ground annuals, bonds of annual rent, or other heritable securities permanently provided and secured at the time of erection or subsequently substituted with the sanction of the Court of Teinds for the minister of the parish or for the maintenance of the church or manse or payment of the feu-duty thereon; and

(iv) any Government securities or other securities or investments (not being heritable securities) permanently provided and secured or substituted as aforesaid;

the expression “church” includes the fabric and site of the church and hall (if any) and any ground used as a burial ground in connection therewith;

the expression “manse” includes the dwelling-house and offices and appurtenances thereof.

Provisions relating to the allocation and redemption of bonds of annual rent

35.—(1) Where the debtor under any bond and disposition in security, bond of annual rent, or other heritable security, whereby the payment of any annual sum is secured over land in favour of the minister of any parish quoad sacra erected under the New Parishes (Scotland) Act, 1844, the United Parishes (Scotland)

Act, 1868, and the United Parishes (Scotland) Act, 1876, or in favour of the trustees acting under the deed of constitution of any such parish or of the General Trustees as coming in place of such minister or trustees (such minister or trustees or the General Trustees, as the case may be, being hereinafter in this section referred to as "the creditor"), sells or has sold any portion of such land the debtor shall be entitled to allocate upon the portion of such land so sold such a proportion of such annual sum as may be agreed upon between the debtor and the creditor, or, failing agreement, as may be fixed by the sheriff of the county in which such land is situated upon the application of the debtor.

A.D. 1925.
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held for
behooof of
quoad sacra
churches.

(2) If, as a result of any such allocation as is provided in the preceding subsection, the proportion of such annual sum so allocated, or the proportion of such annual sum remaining unallocated, does not exceed one pound in amount, the debtor shall forthwith redeem the same by payment to the General Trustees of a sum equal to the proportion of such annual sum so allocated, or to the proportion of such annual sum remaining unallocated, as the case may be, multiplied by twenty, and if the proportion of such annual sum so allocated, or the proportion of such annual sum remaining unallocated, exceeds one pound but is less than fifteen pounds in amount, such proportion shall be increased from the date when such allocation takes effect by five per cent.

(3) Where the debtor and the creditor have agreed upon, or the sheriff has fixed, the proportion of such annual sum to be allocated the debtor shall be entitled to obtain from the creditor a memorandum of allocation in or as nearly as may be in the form of the Thirteenth Schedule to this Act, and upon such memorandum of allocation being recorded in the appropriate register of sasines the allocation contained therein shall be binding on all having interest.

(4) Such annual sum or an allocated proportion thereof exceeding one pound may at any time be redeemed by and in the option of the debtor either

- (a) for such consideration or in such manner as may be agreed upon between the debtor and the creditor; or

A.D. 1925.

(b) at any term of Whitsunday or Martinmas after three months' notice either

(i) by payment to the creditor of such a sum as would, if invested at the time of payment in Consolidated $2\frac{1}{2}$ per cent. annuities produce a yearly amount equal to the annual sum to be redeemed, or

(ii) by transfer to the creditor of such an amount of Consolidated $2\frac{1}{2}$ per cent. annuities as would produce a yearly amount equal to the annual sum to be redeemed.

(5) Upon such annual sum or the allocated proportion thereof being redeemed by the debtor, as in this section provided, the debtor shall be entitled to obtain from the creditor a deed or other document disburdening the land over which the same is secured, which shall be recorded on behalf of the debtor in the appropriate register of sasines.

(6) The whole expenses of any allocation of such annual sum and of the redemption of such annual sum or a proportion thereof shall be defrayed by the debtor.

(7) In this section the word "debtor" includes the original debtor, his successor in such land, any uninfert or infert purchaser of such land or portion thereof, or any disponee to whom such land or portion thereof may be disposed.

Require-
ments of
parish to be
first charge
on endow-
ments.

36. All moneys received by the General Trustees with respect to any parish under or in pursuance of the provisions of this Act relating to stipend and any church, manse, glebe or other property heritable or moveable situated in, or forming part of, the endowments of any parish transferred to, or received by, the General Trustees by or in pursuance of this Act, and the proceeds of any such moneys, property, or endowments shall be appropriated in the first place to meeting the proper requirements of that parish or its neighbourhood (as such requirements may be determined by the General Assembly or by any body to which the General Assembly may delegate the necessary power), and any remainder after these requirements have been fully met shall form part of a general fund at the disposal of the General Assembly: Provided that except

where a benefice is actually vacant at the passing of this Act or has become actually vacant thereafter— A.D. 1925.

- (a) all payments received by the General Trustees from heritors in respect of a stipend or standard charge until the same is redeemed, and the income from the redemption money in respect of the stipend or standard charge, shall be appropriated to the payment of that stipend after deduction of a sum not exceeding two per centum of the said payments and income to meet the expense of administration; and
- (b) the determination of the General Assembly shall not be exercised so as to decrease the amount of stipend, or the income from, or in respect of, any property transferred to the General Trustees as aforesaid to be received by the incumbent of a benefice nor so as to diminish the benefit to be derived by the incumbent from the use or occupation of any such property.

37. In addition to any powers which they already enjoy, the General Trustees shall have power to hold, maintain, administer, and dispose of any property of whatsoever description transferred to, or received by, or vested in them under, or in pursuance of this Act, subject always to the provisions of this Act and to the directions of the General Assembly: Provided that the General Trustees before selling or feuing a glebe or any part thereof shall give to the heritor or heritors whose lands adjoin such glebe or part an opportunity to purchase or take the same in feu at such price or feu-duty and on such terms as may be agreed upon between the General Trustees and the heritor or heritors, or as may, failing agreement, be determined by an arbiter appointed by the sheriff on the application of either party. Without prejudice to the foregoing generality, the General Trustees shall have power, subject as aforesaid, to compromise or settle any claim against or by any heritor or other person arising out of anything contained in this Act or done thereunder.

Powers of
General
Trustees.

38.—(1) The General Assembly shall have power to appoint from among the General Trustees a chairman and a vice-chairman of the General Trustees who shall

Additional
powers of
General
Trustees.

A.D. 1925. — respectively hold office for such period with such powers and duties, and subject to such conditions as the General Assembly may determine, and such chairman and vice-chairman or either of them may receive such remuneration as the General Assembly may from time to time fix. Such chairman, whom failing such vice-chairman, shall when present act as chairman at all meetings of the General Trustees, and when so present shall come in place of any chairman falling to be appointed under section thirteen of the Church of Scotland (General Trustees) Order, 1921, and shall have the like voting powers. Without prejudice to the provisions of the said section with respect to the manner in which meetings of the General Trustees may be called, the chairman or the vice-chairman appointed by the General Assembly may direct that meetings of the General Trustees shall be called.

(2) The General Trustees shall have power to appoint or employ (either from among their own number or otherwise) a solicitor or legal adviser to the General Trustees and such additional officers, attorneys, and persons as they may consider necessary for the proper conduct of the business of the General Trustees, and to pay to such solicitor or legal adviser or other officers, attorneys, or persons employed by them suitable remuneration for their services.

(3) Any intimation to the General Trustees shall be competently made if addressed to the clerk or the chairman or vice-chairman of the General Trustees on their behalf at the known address of the General Trustees in Edinburgh, and any intimation by the General Trustees shall be competently made by the clerk or the chairman or vice-chairman on their behalf.

(4) The General Assembly shall have power to determine from time to time the number of General Trustees who shall form a quorum at meetings of the General Trustees, provided always that the number so determined shall in no case be less than three as prescribed in section thirteen of the Church of Scotland (General Trustees) Order, 1921.

(5) All expenses incurred by the General Trustees in the discharge of their duties under this Act, so far as such expenses are not otherwise provided for under this Act, shall be defrayed in such manner as the General

Assembly may determine, and the provisions of section nineteen of the said Order of 1921 shall not apply to such expenses. A.D. 1925.
—

(6) The General Assembly may from time to time make byelaws and regulations to be observed by the General Trustees in the discharge of their duties under this Act.

39.—(1) As soon as conveniently may be after the passing of this Act the Commissioners shall frame a scheme or schemes for the allocation by the General Trustees of the annual sums of twelve thousand pounds and five thousand and forty pounds mentioned in the Seventh Schedule to this Act, and of the income from any capital sum or sums received by them in redemption of the said annual sums, or either of them, and for the payment by the General Trustees of the various amounts so allocated. Allocation
by General
Trustees of
certain
moneys to
be received
from
Treasury.

(2) In framing any such scheme the Commissioners shall provide for the protection of the interests of the ministers who at the passing of this Act are entitled to augmentations of stipend under the Teinds Act, 1810, and the Teinds Act, 1824, or to stipend under the Act 5 Geo. 4. c. 90, and the right in name of Ann of the widow or other representatives of any such minister, and for that purpose the Commissioners shall have regard to the provisions of the aforesaid Acts, notwithstanding any repeal of those provisions under this Act. 50 Geo. 3.
c. 84.
5 Geo. 4.
c. 72.

(3) Pending the making by the Commissioners of an Order giving effect to a scheme under this section, the General Trustees may, out of the annual sums or the income from any capital sum or sums aforesaid, pay to any minister or assistant and successor, or widow or other representative of a deceased minister, or to the Collector of the Church of Scotland Ministers' and Scottish Universities' Professors' Widows' Fund, as the case may be, such half-yearly sum or sums, as in the judgment of the General Trustees, would have been payable under the aforesaid Acts to such minister or assistant and successor, or widow or other representative, or Collector if this Act had not been passed.

40.—(1) Where in any parish manse mail is at the passing of this Act payable in lieu of a manse the heritors legally liable in payment thereof shall redeem the manse Redemption
of manse
mail, &c.

A.D. 1925. — mail by payment to the General Trustees of a sum equal to the annual amount thereof multiplied by twenty, such redemption payment to be made within five years after the passing of this Act.

(2) Where a manse has been sold and the price invested and the income from the investments representing the price paid to the minister, those investments shall within five years after the passing of this Act be transferred to the General Trustees, and on the completion of the transfer any liability of the heritors in respect thereof shall cease.

Provisions
relating to
Court of
Teinds.
31 & 32 Vict.
c. 100.

41. Notwithstanding anything in the Court of Session (Scotland) Act, 1868, the Court of Teinds may meet at such hours as may be convenient on such days as the Court of Session may by Act of Sederunt prescribe, and section one hundred and six of the said Act of 1868 (which relates to Acts of Sederunt) shall, for the purposes of Acts of Sederunt relating to the Court of Teinds, have effect as if references to that Act in the said section included references to this Act.

Application
to Crown
lands.

42. This Act shall be binding on the Crown and the provisions of this Act shall apply to lands vested in His Majesty in right of the Crown, and to lands vested in any Government Department for public purposes, and to the teinds of any lands so vested in His Majesty or in any Government Department.

Provisions
with respect
to certain
registration
districts.

43. Where under the provisions of the Births, Deaths and Marriages (Scotland) Acts, 1854 to 1910, the powers and duties by those Acts conferred and imposed on parish councils belong to and are discharged by the heritors, it shall be lawful for the sheriff, upon the application of the parish council of any parish wholly or partly comprised in the registration district, or upon the application of the Registrar-General of Births, Deaths and Marriages in Scotland, to regulate and determine all questions as to the right to elect a registrar for the registration district, and all questions as to the assessments to be levied for registration purposes within the district; and it shall also be lawful for the sheriff to regulate and determine all questions as to such right of election and such assessments in any case where two or more parishes or portions of parishes may hereafter be united into one

registration district; and any decision of the sheriff under this section shall be final and not subject to review. A D. 1925. —

44. Whereas in consequence of the transfers of rights of property and the transfer or termination of obligations in connection therewith effected or to be effected by or under or in pursuance of this Act, the powers and duties of heritors (including the power and duty to impose and levy heritors' assessments) will in due course be extinguished, it shall be the duty of the clerk to the heritors of any parish where such extinction has been effected to make intimation thereof in writing to the Secretary for Scotland, who may by order under his hand give such direction as he may think necessary or proper with respect to the preservation and permanent custody of the books of the heritors or any records or documents in their possession as heritors or in the possession of their clerk. Provisions for preservation of heritors' records.

45. Nothing in this Act shall prejudice or affect any obligation to relieve the heritor of any lands from liability in respect of any stipend or augmentation thereof exigible from the teinds of such lands, and any such obligation shall extend to relief from liability in respect of any standard charge over those lands or in respect of any payments under the section of this Act relating to provisions where stipend does not exceed one pound. Saving for obligations of relief.

46. Nothing in this Act shall affect or be deemed to affect the rights of superiors of the sites of the churches mentioned in the Ninth Schedule to this Act, where the superiorities are not held by or on behalf of town councils, to payment of their feu duties from the parties in whom the dominium utile of the said sites is vested by this Act or otherwise, and to all other rights and privileges vested in such superiors prior to the passing of this Act. Saving for superiors.

47.—(1) In this Act, unless the context otherwise requires— Interpretation.

“ The Church ” means the Church of Scotland;

“ The General Assembly ” means the General Assembly of the Church;

A.D. 1925;

— “The General Trustees” means the Church of Scotland General Trustees incorporated by the Church of Scotland (General Trustees) Order, 1921;

“The Commissioners” means the Scottish Ecclesiastical Commissioners to be appointed under this Act;

“Minister” means a minister of the Church;

“Stipend” means the stipend of a minister, including any allowance for communion elements payable by heritors out of teinds;

“Glebe” means the lands appropriated to a minister as his glebe, and shall be deemed to include grass glebe or minister’s grass, servitudes, right of pasturage, or other heritable rights belonging to the minister and forming part of the benefice, or any money payments in use to be made to the minister in respect of the said rights or any of them, and any land settled in perpetuity on the minister for the time being;

“Court of Teinds” has the same meaning as in the United Parishes (Scotland) Act, 1876;

“Manse” and “Lord Ordinary” have the same meanings as in the Ecclesiastical Buildings and Glebes (Scotland) Act, 1868.

(2) For the purposes of this Act the surrendered teinds of any lands payable as stipend shall be deemed to be stipend exigible from the teinds of those lands.

27 & 28 Vict.
c. 114.

(3) The reference to “teinds” in section fifty-nine of the Improvement of Land Act, 1864, shall be construed so as to include standard charges.

Repeal.

48. The enactments specified in the Twelfth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule, and so much of any Act as is inconsistent with this Act is also hereby repealed.

Short title:

49. This Act may be cited as the Church of Scotland (Property and Endowments) Act, 1925.

SCHEDULES.

FIRST SCHEDULE.

TABLE A.—FIARS PRICES FOR THE COUNTIES OF SCOTLAND.
Average 1873 to 1922 inclusive.—Showing the value of One Boll of Meal and One Boll of Barley in each county according to these prices, and the average value of the Double Boll of Meal and Barley, and the average value of the Chalder in each county.

County.	Meal.			Barley.			Value of the Double Boll of Meal and Barley.			Value of 1 Chalder calculated to nearest Penny.		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
1. Aberdeen -	0	16	11 ⁰ / ₁₂	1	3	5 ⁰ / ₁₂	2	0	5 ⁶ / ₁₂	16	3	8
2. Argyll -	1	0	5 ⁸ / ₁₂	1	3	6	2	3	11 ⁸ / ₁₂	17	11	9
3. Ayr -	0	18	6 ⁰ / ₁₂	1	5	0 ⁸ / ₁₂	2	3	7 ⁶ / ₁₂	17	8	11
4. Banff -	0	16	11 ⁸ / ₁₂	1	4	7	2	1	6 ⁸ / ₁₂	16	12	2
5. Berwick -	1	0	1 ¹ / ₁₂	1	4	11 ⁴ / ₁₂	2	5	0 ⁰ / ₁₂	18	0	3
6. Bute -	0	19	6 ¹ / ₁₂	1	3	11 ⁰ / ₁₂	2	3	6 ⁰ / ₁₂	17	8	6
7. Caithness -	0	17	2 ⁰ / ₁₂	1	0	5 ² / ₁₂	1	17	7 ¹ / ₁₂	15	1	3
8. Clackmannan -	0	18	9 ¹ / ₁₂	1	4	0 ¹ / ₁₂	2	2	9 ⁰ / ₁₂	17	2	6
9. Dumbarton -	1	0	6	1	3	1 ⁴ / ₁₂	2	3	7 ¹ / ₁₂	17	8	11
10. Dumfries -	0	18	3 ⁷ / ₁₂	1	4	8 ¹ / ₁₂	2	3	0 ⁰ / ₁₂	17	4	4
11. Edinburgh or Mid Lothian	0	19	0 ³ / ₁₂	1	5	4	2	4	4 ³ / ₁₂	17	14	10
12. Elgin or Moray	0	17	7 ⁶ / ₁₂	1	5	1 ⁴ / ₁₂	2	2	8 ¹⁰ / ₁₂	17	1	11
13. Fife -	0	19	3 ⁶ / ₁₂	1	4	0 ³ / ₁₂	2	3	3 ⁰ / ₁₂	17	6	6
14. Forfar -	0	18	10	1	2	4 ¹ / ₁₂	2	1	2 ⁴ / ₁₂	16	9	7
15. Haddington or East Lothian	1	0	3 ³ / ₁₂	1	8	3 ⁴ / ₁₂	2	8	6 ⁷ / ₁₂	19	8	5
16. Inverness -	0	18	5 ² / ₁₂	1	5	0 ⁶ / ₁₂	2	3	5 ⁸ / ₁₂	17	7	9
17. Kincardine -	0	17	10 ³ / ₁₂	1	2	1 ³ / ₁₂	1	19	11 ⁰ / ₁₂	15	19	8
18. Kinross -	0	19	5 ⁸ / ₁₂	1	2	6 ⁵ / ₁₂	2	2	0 ¹ / ₁₂	16	16	1
19. Kirkcudbright	0	17	10 ⁴ / ₁₂	1	4	6 ⁵ / ₁₂	2	2	4 ⁹ / ₁₂	16	19	2
20. Lanark -	1	0	4 ⁰ / ₁₂	1	4	11	2	5	3 ⁰ / ₁₂	18	2	6
21. Linlithgow or West Lothian	0	19	7 ⁰ / ₁₂	1	4	7 ⁶ / ₁₂	2	4	3 ³ / ₁₂	17	14	2
22. Nairn -	0	18	9 ⁵ / ₁₂	1	5	2 ³ / ₁₂	2	3	11 ⁸ / ₁₂	17	11	9
23. Orkney -	0	15	2 ³ / ₁₂	0	16	7 ⁰ / ₁₂	1	11	10	12	14	8
24. Peebles -	1	1	3 ¹ / ₁₂	1	5	4 ⁰ / ₁₂	2	6	8 ⁵ / ₁₂	18	13	7
25. Perth -	0	19	5 ² / ₁₂	1	3	6 ¹⁰ / ₁₂	2	3	0	17	4	0
26. Renfrew -	0	19	9 ⁷ / ₁₂	1	4	11 ¹ / ₁₂	2	4	9 ³ / ₁₂	17	18	2
27. Ross and Cromarty -	0	18	3 ³ / ₁₂	1	4	5 ⁵ / ₁₂	2	2	8 ⁸ / ₁₂	17	1	9
28. Roxburgh -	0	19	8 ¹⁰ / ₁₂	1	4	7	2	4	3 ¹⁰ / ₁₂	17	14	7
29. Selkirk -	0	19	0 ⁶ / ₁₂	1	4	2 ⁸ / ₁₂	2	3	3 ⁰ / ₁₂	17	6	1
30. Stirling -	1	0	0 ¹ / ₁₂	1	4	1 ⁰ / ₁₂	2	4	2 ¹ / ₁₂	17	13	5
31. Sutherland -	0	19	2 ⁸ / ₁₂	1	4	1 ⁰ / ₁₂	2	3	3 ⁸ / ₁₂	17	6	5
32. Wigtown -	0	17	3 ⁶ / ₁₂	1	3	6 ¹ / ₁₂	2	0	10	16	6	8

A.D. 1925.

TABLE B.—FIARS PRICES FOR THE COUNTIES OF
 SCOTLAND.

1ST SCH.
 —cont.

*Average 1873–1922 inclusive.—Showing the Value of one quarter of
 Wheat, Oats, Bear and Barley in each County according to an
 average of the fiars prices struck for the 50 years 1873–1922.*

County.	Wheat per Quarter.			Oats per Quarter.			Bear per Quarter.			Barley per Quarter.		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
1. Aberdeen	1	18	1 ⁵ / ₁₂	1	2	11 ¹⁰ / ₁₂	1	3	11	1	12	21 ¹ / ₁₂
2. Argyll	2	1	2 ⁴ / ₁₂	1	4	1 ⁹ / ₁₂	1	11	1 ⁶ / ₁₂	1	12	31 ³ / ₁₂
3. Ayr	1	16	11 ⁴ / ₁₂	1	2	0 ⁶ / ₁₂	1	5	7	1	14	41 ¹ / ₁₂
4. Banff	1	18	8 ⁵ / ₁₂	1	2	10 ⁹ / ₁₂	1	9	1	1	13	91 ³ / ₁₂
5. Berwick	1	19	7 ¹⁰ / ₁₂	1	5	8 ⁸ / ₁₂	—	—	—	1	14	31 ¹ / ₁₂
6. Bute	2	3	1 ³ / ₁₂	1	4	0 ⁸ / ₁₂	1	8	91 ¹ / ₁₂	1	12	11 ⁴ / ₁₂
7. Caithness	—	—	—	1	0	3 ⁸ / ₁₂	1	6	5 ⁵ / ₁₂	1	8	0 ⁹ / ₁₂
8. Clackmannan	1	15	10 ⁵ / ₁₂	1	4	1 ¹² / ₁₂	—	—	—	1	12	11 ⁹ / ₁₂
9. Dumbarton	1	16	1 ⁸ / ₁₂	1	3	91 ¹ / ₁₂	1	8	11 ⁸ / ₁₂	1	11	81 ⁴ / ₁₂
10. Dumfries	1	19	3 ⁵ / ₁₂	1	3	6 ⁸ / ₁₂	—	—	—	1	13	11 ⁹ / ₁₂
11. Edinburgh or Mid Lothian	1	17	10 ⁵ / ₁₂	1	5	3 ⁷ / ₁₂	—	—	—	1	14	9 ⁵ / ₁₂
12. Elgin or Moray	1	17	7 ⁹ / ₁₂	1	2	91 ⁴ / ₁₂	—	—	—	1	14	51 ¹⁰ / ₁₂
13. Fife	1	15	10 ⁸ / ₁₂	1	2	11 ⁵ / ₁₂	1	3	11 ⁸ / ₁₂	1	12	111 ¹ / ₁₂
14. Forfar	1	15	8 ⁶ / ₁₂	1	2	10	1	4	6 ⁹ / ₁₂	1	10	8 ¹ / ₁₂
15. Haddington or East Lothian	2	1	9 ⁸ / ₁₂	1	8	7 ⁶ / ₁₂	—	—	—	1	18	10
16. Inverness	2	1	2	1	2	11 ¹¹ / ₁₂	1	12	2 ⁸ / ₁₂	1	14	4 ⁰ / ₁₂
17. Kincardine	1	15	11 ⁷ / ₁₂	1	2	3 ¹⁰ / ₁₂	1	3	7 ⁵ / ₁₂	1	10	4 ³ / ₁₂
18. Kinross	2	1	0 ³ / ₁₂	1	2	11 ¹ / ₁₂	—	—	—	1	10	11 ⁵ / ₁₂
19. Kirkcudbright	1	17	4 ¹ / ₁₂	1	2	7 ¹ / ₁₂	—	—	—	1	13	8 ⁴ / ₁₂
20. Lanark	1	17	1 ³ / ₁₂	1	3	8 ³ / ₁₂	—	—	—	1	14	2 ⁹ / ₁₂
21. Linlithgow or West Lothian	1	17	4 ¹ / ₁₂	1	4	2 ⁶ / ₁₂	—	—	—	1	13	91 ¹ / ₁₂
22. Nairn	1	19	71 ¹ / ₁₂	1	2	10 ⁵ / ₁₂	—	—	—	1	14	7 ⁵ / ₁₂
23. Orkney	—	—	—	—	—	—	1	2	10 ³ / ₁₂	1	2	10 ³ / ₁₂
24. Peebles	2	0	0	1	5	2 ³ / ₁₂	—	—	—	1	14	10 ⁷ / ₁₂
25. Perth	1	17	3 ³ / ₁₂	1	3	8	—	—	—	1	12	4 ⁵ / ₁₂
26. Renfrew	1	17	0 ¹ / ₁₂	1	3	10 ¹ / ₁₂	—	—	—	1	14	3 ⁷ / ₁₂
27. Ross and Cromarty	1	19	1 ⁶ / ₁₂	1	3	3 ⁷ / ₁₂	—	—	—	1	13	61 ¹ / ₁₂
28. Roxburgh	1	18	5 ² / ₁₂	1	4	10 ⁸ / ₁₂	—	—	—	1	13	9 ¹ / ₁₂
29. Selkirk	2	13	5 ³ / ₁₂	1	4	5 ¹⁰ / ₁₂	—	—	—	1	13	3 ³ / ₁₂
30. Stirling	1	17	2 ³ / ₁₂	1	3	10 ⁸ / ₁₂	—	—	—	1	13	11 ¹⁰ / ₁₂
31. Sutherland	2	0	0 ¹ / ₁₂	1	3	6 ¹⁰ / ₁₂	1	1	31 ¹ / ₁₂	1	13	1 ⁵ / ₁₂
32. Wigtown	1	16	3 ⁸ / ₁₂	1	1	6 ¹ / ₁₂	1	8	3 ⁷ / ₁₂	1	12	4 ¹ / ₁₂

SECOND SCHEDULE.

A.D. 1925.

Section 2.

PROVISIONS RELATING TO THE COUNTY AVERAGE VALUE
OF KINDS OF VICTUAL NOT MENTIONED IN THE
FIRST SCHEDULE.

A.—WHERE THE VALUE OF THE KIND OF VICTUAL IS GIVEN IN
THE OFFICIAL RETURNS OF FIARS PRICES.

1. The minister of a parish, the whole or part of whose victual stipend has been localled in any kind of victual not mentioned in the First Schedule to this Act or the clerk of the presbytery where the benefice is vacant or any heritor concerned, may apply to the Clerk of Teinds to fix the former county average value (in this Schedule referred to as the "average value") of such kind of victual. In any such application by the minister or the clerk of the presbytery the applicant shall give the names of the heritors on whose lands the whole or part of such stipend has been so localled.

2. Thereafter the average value of the kind of victual in question for the fifty years one thousand eight hundred and seventy three to one thousand nine hundred and twenty-two shall be fixed by the Clerk of Teinds by reference to the official returns of fiars prices for the county in which the parish is situated or where no value for that kind of victual is given in those returns then by reference to the official returns of fiars prices for such other county or counties as the Clerk of Teinds may select as being most suitable in the circumstances of the case.

3. The average value as so fixed shall be intimated by the Clerk of Teinds to the minister or the clerk of the presbytery where the benefice is vacant and to the common agent of the heritors, and the Clerk of Teinds shall at the same time enter the said value in a book to be kept by him in the Teind Office for the purpose, the said book being available for inspection by any member of the public at the Teind Office during the official hours of opening thereof.

B.—WHERE THE VALUE OF THE KIND OF VICTUAL IS
NOT GIVEN IN THE OFFICIAL RETURNS OF FIARS PRICES.

1. The minister of a parish the whole or part of whose victual stipend has been localled in any kind of victual not mentioned in the First Schedule to this Act or the clerk of the presbytery where the benefice is vacant or any heritor concerned may apply to the sheriff to fix the average value thereof.

A.D. 1925.
—

2ND SCH.
—cont.

2. The sheriff after intimation of any such application to such persons as he may appoint and after such inquiry as he thinks fit shall fix the said average value.

3. The said average value as so fixed shall be intimated by the sheriff to the Clerk of Teinds who shall enter the value in the book mentioned in paragraph 3 of Head A of this Schedule which shall be open for inspection as therein mentioned.

Section 4.

THIRD SCHEDULE.

FORM OF INTIMATION OF ELECTION THAT STIPEND SHALL BE STANDARDISED.

Date.

I, Minister (or as the case may be) of the Parish of..... in the Presbytery of hereby intimate that I elect that the stipend to which the Minister of the said Parish is entitled shall be standardised in accordance with the provisions of the Church of Scotland (Property and Endowments) Act, 1925.

Section 10.

FOURTH SCHEDULE.

PROVISIONS RELATING TO AUGMENTATION OF STIPEND.

1. In ascertaining the amount of the available teinds the victual teind and stipend shall be converted according to the average of the fiars prices for the five years preceding the year in which an application is made:

Provided that---

- (a) if in the case of victual teind that average is less than the value as determined in accordance with paragraph 3 of the Fifth Schedule to this Act, the victual teind shall be converted in accordance with that paragraph; and
- (b) if in the case of victual stipend that average is less than the standard value, the victual stipend shall be converted according to the standard value.

2. Any application to the Lord Ordinary, and the localing of any augmentation, and any decree of locality following thereon shall, subject to the provisions of this Act, be made and dealt with in such manner as the Court of Session by Act of Sederunt may prescribe.

FIFTH SCHEDULE.

A.D. 1925.

Section 11.

PROVISIONS RELATING TO THE PREPARATION, ISSUING,
AND ADJUSTMENT OF TEIND ROLLS.

1. Where a benefice is actually vacant at the passing of this Act or where, after the passing of this Act, a benefice becomes actually vacant or is deemed to have become vacant by election or notification the clerk of the presbytery shall forthwith intimate the vacancy to the Clerk of Teinds, who shall communicate the intimation to any titular who has previously notified the Clerk of Teinds in writing that he desires to receive such intimation.

2. Where a benefice is actually vacant at the passing of this Act or where, after the passing of this Act, the benefice becomes actually vacant or is deemed to have become vacant by election or notification it shall be the duty of the heritors concerned forthwith to prepare and lodge in the Teind Office a state of teinds unless in any case the Lord Ordinary shall on the application of any party dispense therewith.

3. For the purposes of the teind rolls the value in sterling money of teind valued in victual shall be determined:—

- (a) Where a basis of conversion has been specified in the decree of valuation by reference to that basis; and
- (b) In any other case by reference to the former county average value within the meaning of section two of this Act.

4. Effect shall be given in the teind roll by the Clerk of Teinds to any augmentation of stipend or to any reduction of stipend following upon a surrender of teinds, made in accordance with the provisions of the Sixth Schedule to this Act. The Clerk of Teinds may also give effect in a teind roll to an extra-judicial surrender made before the passing of this Act on intimation from or on behalf of the heritor concerned that such a surrender has been made and on production to him of evidence thereof.

5. Where a heritor is entered in the teind roll separately for different subjects belonging to him in the same parish for teinds of the same class only, he shall be entitled to have the said entries or some of them consolidated into one entry, and on receiving from the heritor an application to that effect before the teind roll is made final, the Clerk of Teinds shall give effect thereto.

6. Where stipend is payable to the minister of one parish from the teinds of lands situated in another parish the Clerk of Teinds shall in the teind roll of the parish where stipend is so payable specify the value of the stipend so payable, and in the teind roll of the parish wherein the lands are situated the teinds

A.D. 1925. of those lands shall be stated under deduction of any stipend payable as aforesaid.

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5TH SCH.
—cont.

7. Where the Clerk of Teinds has prepared a teind roll for any parish he shall report the same to the Lord Ordinary who shall take the roll into consideration and make such order as he thinks fit with respect to the intimation of the roll (including where necessary an order for the appointment of a common agent by the heritors concerned) and with respect to the subsequent adjustment and completion of the roll. The date of the Lord Ordinary's interlocutor ordering intimation of the teind roll is hereinafter in this Act referred to as the "date of issue of the teind roll."

8. Subject to the provisions of this Act relating to valuation and surrender of teinds no objection to a teind roll shall be competent unless the same is lodged with the Clerk of Teinds before the expiry of eighteen months after the date of issue of the teind roll and so soon as any such objection and any application for the valuation of teinds has been disposed of and any surrender of teinds has received effect and any necessary adjustment of the teind roll has been made, the Lord Ordinary shall by interlocutor declare the roll to be final. As on and from the date of such interlocutor the roll shall for the purposes of this Act be final, subject to such alterations and adjustments as may be necessary in consequence of changes of ownership or in consequence of redemption.

9. The Court of Session shall make by Act of Sederunt such rules and regulations as may in their judgment from time to time be necessary with respect to the preparation, reporting, adjustment, disposal and custody of the teind roll.

10. Nothing in this Act shall affect the right of the titular to lodge a state of teinds should he elect to do so, provided that the expense of the preparation of the said state by the titular shall be payable by the titular.

Section 16.

SIXTH SCHEDULE.

PROVISIONS RELATING TO THE VALUATION OF TEINDS AND THE SURRENDER OF VALUED TEINDS.

1. Any heritor whose teinds in any parish are wholly or partly unvalued, or the titular of any such teinds, or any minister whose stipend is wholly or partly exigible from unvalued teinds or where the benefice is vacant the General Trustees may at any time not later than the expiry of twelve months after the date of issue of the teind roll for the parish apply to the sheriff to appoint a valuer for the purpose of fixing the annual agricultural value

A.D. 1925.

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6TH SCH.
—cont.

of the lands the teinds of which have not been valued, and in estimating that value the valuer (who shall be appointed by the sheriff at his own hand) shall have regard to the following directions, that is to say: Where the lands are bonâ fide let for a term of years, the rent payable under the lease (so far as it represents agricultural rental) and where the lands are not so let the agricultural rent at which the lands might, in the opinion of the valuer, he reasonably expected to be let shall be deemed to be the annual agricultural value:

Provided that in either case there shall be deducted from the rent—

- (a) interest on expenditure by the heritor or his predecessors, upon permanent improvements within twenty years prior to the date of valuation, where such expenditure is shown to the satisfaction of the valuer to have increased the annual agricultural letting value of the land; and
- (b) interest on any other improvement expenditure made by the heritor or his predecessors which, in the opinion of the valuer, has increased such letting value as at the date of valuation.

2.—(a) Any heritor or titular who applies to the sheriff as aforesaid shall so soon as the appointment of a valuer has been made give written notice thereof to the minister of the parish in which the lands are situate, or if the benefice is vacant to the General Trustees, and any minister or the General Trustees so applying shall in like manner give notice to the heritor of the lands.

(b) The minister, or the General Trustees or the heritor, as the case may be, receiving such notice may within fifteen days after the date of the notice intimate in writing to the valuer that he or they desire to be heard.

3. The valuer shall after such inquiry as he may think necessary, including the hearing of the parties where a desire to be heard has been intimated as aforesaid, issue a certificate of valuation showing the annual agricultural value of the lands.

4. The provisions set out in the Second Schedule to the Agricultural Holdings (Scotland) Act, 1923, relating to the removal of arbiters, evidence, statement of case and expenses shall, with the necessary modifications, apply to any inquiry by a valuer appointed by the sheriff under this Schedule. The Court of Session shall from time to time by Act of Sederunt make such regulations as they may think necessary for regulating the fees of valuers so appointed.

5.—(a) Where the annual agricultural value of the lands, as shown by the certificate issued by the valuer, does not exceed fifty pounds the certificate shall be final. Where the said value exceeds fifty pounds—

- (i) The applicant for the appointment of the valuer, or the heritor, or the minister, or the General Trustees, as the

A.D. 1925.

6TH SCH.
—cont.

case may be, interested in the valuation, if not satisfied with the said valuation, may within fifteen days after the issue of the certificate by the valuer, appeal to the Lord Ordinary, who after such inquiry as he thinks necessary (including if the Lord Ordinary so directs, a remit to a skilled valuer) may either approve or modify the certificate, and the certificate so approved or modified shall thereupon become final. In estimating the annual agricultural value of the land the Lord Ordinary shall have regard to the provisions in that behalf contained in paragraph 1 of this Schedule, which for this purpose shall apply with the substitution of the Lord Ordinary for the valuer.

- (ii) If no such appeal has been intimated before the expiry of fifteen days from the issue of the certificate by the valuer, the certificate shall upon such expiry become final.

6.—(a) Where the annual agricultural value of the lands as shown in the certificate issued by the valuer does not exceed fifty pounds the applicant for the appointment of the valuer shall within ten days after the issue of the certificate lodge the same at the Teind Office for registration.

(b) Where the said value exceeds fifty pounds the certificate issued by the valuer shall be so lodged within ten days of the date when the same becomes final—

- (i) by the applicant if the certificate has not been modified by the Lord Ordinary; and
(ii) by the appellant if the certificate has been so modified.

(c) When a certificate has been lodged as aforesaid the Clerk of Teinds shall issue a certificate of the amount of the valued teind and such certificate shall be recorded in the Teind Office, and when so recorded shall be evidence of the valuation to the same effect as an extract decree of valuation of the Court of Teinds issued in accordance with the present practice.

7.—(a) Any heritor or titular whose teinds have been valued either in accordance with the present practice or in accordance with the provisions of this Schedule, and whether there is or is not a depending process of locality may, so soon as the decree of valuation has been extracted or the certificate of the amount of the valued teinds has been recorded, as the case may be, and within the period hereinafter limited in that behalf, surrender the amount of such valued teind to the minister or the General Trustees, as the case may be. Such surrender shall be as nearly as may be in the form presently in use in the Court of Teinds, and if there is a process of locality pending may be embodied in a minute of surrender lodged in that process, and if there is no depending process of locality the surrender may be signed by the heritor or his agent or the titular or his agent (as the case

may be) and lodged at the Teind Office. Any heritor whose teinds have been valued in accordance with the present practice may exercise the powers of this paragraph, notwithstanding that such valuation comprises the teinds of a heritor other than the heritor named in the surrender, but only where there has been an agreement between the parties interested with respect to the division of the cumulo valuation.

A.D. 1925.

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6TH SCH.
—cont.

(b) Surrender of valued teinds shall not be competent unless the minute of surrender is lodged in a process of locality or the surrender is lodged at the Teind Office as aforesaid before the date hereinafter mentioned (that is to say) :—

- (i) In cases where the teinds are valued before the date of issue of the teind roll for the parish in which the lands are situate, before the expiry of six months after the date of the said issue; and
- (ii) In cases where the teinds are valued after the date of issue of the teind roll for the parish in which the lands are situate, before the expiry of two months after the issue by the Clerk of Teinds of a certificate of the amount of the valued teinds; and
- (iii) In cases where the value of teinds specified in the teind roll for the parish in which the lands are situate is deemed to be accepted by acquiescence as hereinbefore in this Act provided, before the expiry of fifteen months after the date of issue of the teind roll for that parish.

(c) The heritor or the titular shall at the same time as the minute of surrender or the surrender, as the case may be, is lodged as aforesaid send a copy thereof to the minister of the parish, or if the benefice is vacant to the General Trustees, and the Clerk of Teinds shall, as soon as may be after the lodging of the minute or of the surrender, examine the state of the teinds in the parish and calculate what deficiency of stipend (if any) would ensue if the surrender took effect, and shall notify the result of his examination and calculation to the minister or to the General Trustees, as the case may be. Within twenty-one days after the date of such notification the minister or the General Trustees, as the case may be, may lodge objections to the surrender, which shall be finally disposed of by the Lord Ordinary; but if no such objection shall be so lodged the surrender shall have effect at the expiry of the said period of twenty-one days.

(d) It shall not be a valid objection to a surrender made under the provisions of this Schedule that the decree of locality on which the stipend has been paid up to the date of the surrender has not been made final.

8. Where a surrender made under the provisions of this Schedule has become effectual, whether no objection has been lodged or any objection lodged has been disposed of, and a deficiency of stipend amounting to not less than ten pounds per

A.D. 1925.

6TH SCH.
—cont.

annum is caused thereby, the minister of the parish, or if the benefice is vacant the General Trustees may within thirty days after the date when the surrender has become effectual, intimate in writing to the Clerk of Teinds that he or they claims or claim that the deficiency of stipend shall be re-allocated among those heritors in the parish (if any) who have unexhausted teinds not yet allocated for stipend. The Clerk of Teinds on receiving intimation of the claim shall notify the same to the common agent of the heritors, and if any heritor within thirty days after the date of such notification lodges with the Clerk of Teinds a written objection to the claim the matter shall be finally disposed of by the Lord Ordinary. But if no such objection be lodged, the re-allocation shall be made by the Clerk of Teinds, who shall issue to the minister or to the General Trustees, as the case may be, a certificate specifying the amounts of stipend payable by the heritors whose teinds are affected by the re-allocation.

9. Any calculation as to the amount of any deficiency of stipend caused by a surrender in accordance with the provisions of this Schedule or as to the amounts of unexhausted teinds available to meet such deficiency shall be made—

- (a) so far as the stipend is concerned, on the basis of the standard value thereof; and
- (b) so far as the value of the teind is concerned, in accordance with paragraph 3 of the Fifth Schedule to this Act.

10. A heritor may have his unvalued teinds valued or surrender valued teinds in accordance with the provisions of this Schedule, whether he has or has not a heritable right to such teinds:

Provided that—

- (a) Where the heritor proposes to have valued or to surrender any teinds to which he has no heritable right, he shall at the time when he gives notice of the appointment of a valuer or lodges a minute of surrender or a surrender as aforesaid intimate the appointment or the surrender in writing to the titular of the teinds who shall have the same rights of objection and appeal as are by the provisions of this Schedule conferred upon the minister of the parish or the General Trustees;
- (b) When a heritor receives from a minister or the General Trustees notice of the appointment of a valuer with respect to lands to the teinds of which he has no heritable right, he shall forthwith intimate the appointment in writing to the titular of the teinds, who shall in such case have the same rights of objection and appeal as are by the provisions of this Schedule conferred upon the heritor.

SEVENTH SCHEDULE.

A.D. 1925.

Sections 19
and 39.

PAYMENTS OUT OF THE CONSOLIDATED FUND.

(1) The annual sum of 12,000*l.* on account of augmentations of stipends chargeable on and payable out of the Consolidated Fund of the United Kingdom, under the Teinds Act, 1810, and the Teinds Act, 1824.

(2) The annual sum of 5,040*l.* on account of stipends, chargeable and payable, as aforesaid, under the Act 5 George IV. chapter 90.

(3) The annual sum of 2,000*l.* chargeable and payable as aforesaid to the General Assembly for itinerant preachers.

(4) The annual sum of 1,100*l.* chargeable and payable as aforesaid towards the expenses of the General Assembly.

(5) The annual sum of 86*l.* 3*s.* 1*d.* land revenue allowances, chargeable and payable as aforesaid to certain precentors and ministers.

(6) The annual payment under Royal Warrant to the minister of Dunkeld and Dowally of an amount fixed by reference to Fiars Prices, chargeable and payable as aforesaid.

EIGHTH SCHEDULE.

Sections 21
and 24.

LIST OF CERTAIN PARISHES QUOAD OMNIA ERECTED UNDER
 THE NEW PARISHES (SCOTLAND) ACT, 1844.

PARISH.	DATE OF ELECTION.
North Bute - - -	26th June 1844.
Shettleston - - -	30th June 1847.
Calton - - -	11th July 1849.
Teviothead - - -	20th February 1850.
Maryhill - - -	10th July 1850.
Kirkhope - - -	25th June 1851.
Springburn - - -	14th June 1854.
Ardoch - - -	21st February 1855.
Colonsay - - -	27th February 1861.
Coll - - -	15th March 1865.

A.D. 1925.

NINTH SCHEDULE.

Sections 22
and 46.

LIST OF BURGH CHURCHES.

1. East Kirk, Aberdeen.
2. Greyfriars, Aberdeen. Manse.
3. North Kirk, Aberdeen.
4. South Kirk, Aberdeen.
5. St. Clement's, Aberdeen. Manse.
6. West Kirk, Aberdeen. Manse.
7. Greyfriars, Dumfries.
8. St. Clement's, Dundee.
9. St. David's, Dundee. Manse.
10. St. John's, Dundee.
11. St. Paul's, Dundee. Manse.
12. Canongate, Edinburgh.
13. Greenside, Edinburgh. Manse.
14. Greyfriars New, Edinburgh.
15. Greyfriars Old, Edinburgh.
16. High Kirk (St. Giles'), Edinburgh.
17. Lady Yester's, Edinburgh.
18. New North (West St. Giles'), Edinburgh. Manse.
19. St. Andrew's, Edinburgh.
20. St. George's, Edinburgh.
21. St. John's, Edinburgh.
22. St. Mary's, Edinburgh.
23. St. Stephen's, Edinburgh. Manse.
24. Trinity College, Edinburgh.
25. Tron, Edinburgh.
26. College or Blackfriars, Glasgow. Manse.
27. St. Andrew's, Glasgow.
28. St. David's or Ramshorn, Glasgow. Manse.
29. St. George's, Glasgow. Manse.
30. St. James', Glasgow.
31. St. John's, Glasgow.
32. St. Paul's, Glasgow.
33. Tron, Glasgow.
34. East Kirk, Greenock.
35. Middle Kirk, Greenock. Manse.
36. High Kirk, Kilmarnock.
37. High, Paisley. Manse.
38. Laigh, Paisley. Manse.
39. Middle, Paisley. Manse.
40. St. John's, Perth. Manse.
41. St. Paul's, Perth.

42. St. Mark's, Perth. Manse.
 43. Queensferry.
 44. North, Stirling.
 45. West, Stirling.

A.D. 1925.
 —
 9TH SCH.
 —cont.

TENTH SCHEDULE.

Section 23.

LIST OF PARLIAMENTARY CHURCHES AND MANSES.

Name of Place.	Parish or Island.	County.
1. Loch-Gilthead - - -	Glassary - - -	Argyll.
2. Muckairn (manse only)	Muckairn - - -	do.
3. Duror - - - - -	Appin - - - - -	do.
4. Kilmeny (manse only)	Islay Island - - -	do.
5. Portnahaven - - -	do. - - - - -	do.
6. Oe or Oth - - - -	do. - - - - -	do.
7. Kinlochspelve - - -	Mull Island - - -	do.
8. Salen (manse only) -	do. - - - - -	do.
9. Tobermory - - - -	do. - - - - -	do.
10. Ulva - - - - -	Ulva Isle - - - -	do.
11. Iona - - - - -	Iona Isle - - - -	do.
12. Strontian - - - -	Ardnamurchan - -	do.
13. Acharacle - - - -	do. - - - - -	do.
14. North-Balachulish -	Kilmallie - - - -	Inverness.
15. Ardgour (no manse) -	do. - - - - -	Argyll.
16. Rothiemurchus (manse only).	Rothiemurchus - -	Inverness.
17. Tomintoul - - - -	Kirkmichael - - -	Banff.
18. Inch (manse only) -	Kingussie - - - -	Inverness.
19. Steinsholl (in Trotter- nish).	Skye Island - - - -	do.
20. Halen (in Waternish) -	do. - - - - -	do.
21. Trumisgarry - - -	N. Uist Isle - - -	do.
22. Bernera Isle - - -	Harris - - - - -	do.
23. Plockton - - - -	Lochalsh - - - -	Ross and Cromarty.
24. Shieldaig - - - -	Applecross - - -	do.
25. Carnoeh, Strath-Conan	Contin - - - - -	do.
26. Kinloch-Luichart - -	do. - - - - -	do.
27. Poolewe - - - - -	Gairloch - - - -	do.
28. Croich - - - - -	Kincardine - - -	do.
29. Ullapool - - - -	Loch-Broom - - -	do.
30. Cross (Ness District) -	Lewis Island - - -	do.
31. Knock (Eye District) -	do. - - - - -	do.

A.D. 1925
 —
 10TH SCH.
 —cont.

Name of Place.	Parish or Island.	County.
32. Rhuistore - - -	Assynt - - -	Sutherland.
33. Kinloch-Bervie - - -	Edrachilles - - -	do
34. Strathy - - -	Farr - - -	do.
35. Berriedale - - -	Latheron - - -	Caithness.
36. Keiss - - -	Wick - - -	do.
37. Deerness (manse only) -	St. Andrew and Deerness.	Orkney and Shetland.
38. N. Ronaldshay (manse only).	Cross and Burness	do.
39. Sandwick (manse only)	Dunrossness - - -	do.
40. Quarff - - -	Quarff - - -	do.
41. Interwick, or Innerwick (in Glenlyon).	Fortingall - - -	Perth.
42. Rannoch - - -	do. - - -	do.
43. Kirktown of Foss -	Dull - - -	do.

Section 28.

ELEVENTH SCHEDULE.

CERTIFICATE OF SHERIFF UNDER THE CHURCH OF SCOTLAND (PROPERTY AND ENDOWMENTS) ACT, 1925.

County of
 Parish of

I, _____, sheriff of

as authorised by the Church of Scotland (Property and Endowments) Act, 1925, hereby certify that all obligations incumbent on the heritors of the said parish, with respect to the subjects mentioned in the Schedule annexed hereto have been fulfilled.

[Signature and date.]

SCHEDULE.

Church or manse

(Insert or refer to a description of the church, and the site thereof, or the manse (with pertinents, if any) and the site thereof, or both of the said subjects (as the case may be) to which the certificate relates.)

TWELFTH SCHEDULE.

A.D. 1925.

ENACTMENTS REPEALED.

Section 48.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
50 Geo. 3. c. 84.	The Teinds Act, 1810 -	The whole Act.
5 Geo. 4. c. 72	The Teinds Act, 1824 -	The whole Act.
5 Geo. 4. c. 90	An Act to amend an Act for building additional Places of Worship in the Highlands and Islands of Scotland.	Sections 13 and 14, so far as those sections relate to payment of stipend, sections 23 and 24.
8 & 9 Vict. c. 83.	The Poor Law (Scotland) Act, 1845.	Section 54, from "provided also" to the end of the section.
17 & 18 Vict. c. 80.	The Registration of Births, Deaths and Marriages (Scotland) Act, 1854.	Section 13

THIRTEENTH SCHEDULE.

Section 35.

FORM OF MEMORANDUM OF ALLOCATION.

The proportion of the annual sum of £ created by
(particulars of deed) allocated upon all and whole *(description*
of land) is hereby fixed at £ *(and if an increase is*
payable, add) with £ of increase making a total of
£ per annum.

[To be signed by minister or trustees under deed of constitution or the General Trustees, as the case may be, or by an agent on behalf of the minister or trustees or General Trustees, respectively.]

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R. G. J. M.

CHURCH UNION IN SCOTLAND

The First Stage Completed

BY

ALEX. MARTIN, D.D.

PRINCIPAL OF NEW COLLEGE, EDINBURGH

BEING

'CHURCH UNION IN SCOTLAND—THE FIRST PHASE'

(1923)

RECAST AND ENLARGED

"Take up the stumbling-block out of the way of My people"

Isaiah lvii. 14

EDINBURGH

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1925

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PREFATORY NOTE

AT the date of its publication two years ago the brochure, on which the present is founded, could only speak of the financial settlement involved in the readjustment of the relation of the Church of Scotland to the State as a thing of the future. Now, however, with the passing, in June last, of the Church of Scotland (Property and Endowments) Act, the principles of the earlier enactment, dealing with the constitution of the Church, have been given effect to in the financial sphere, and it has seemed desirable, accordingly, to add some account of how this has been done. Hence the present issue. Occasion has been taken to recast throughout the argument as originally presented. And, for what it is worth, the writer's reading of the situation is put forth—so much is confessed frankly—in the hope that it may do something to smooth the way for the advancement of the final phase of a movement with which, in his earnest judgment, are bound up closely the renewal of the power of religion in the land and the highest well-being of his fellow-countrymen.

EDINBURGH,
November 1925.

FOREWORD

It is not always understood—although it leaps to the eye of the attentive observer—that the project of Church Union now under discussion in Scotland falls naturally into two parts. First comes the removal of obstacles in the way, occasioned by the presence of a third party, the State, upon the scene; and next, with the elimination of these, the consideration by the Churches themselves of their duty in the situation thus created, and the adjustment, as may be confidently anticipated, of the terms of an incorporating union. With the passing of the Church of Scotland Act, 1921, and the Church of Scotland (Property and Endowments) Act, 1925, the first of these stages may be said to have been overtaken. And in the following pages the attempt is made to set forth what, between them, the Church of Scotland and the State have accomplished in the interest of the reunion of our Presbyterianism, together with the steps by which an achievement so striking—unique, indeed, in the annals of Christendom—has been arrived at.

CHURCH UNION IN SCOTLAND

REUNION to-day is, of course, no feature of Scottish Church life merely. It is a concern of universal Christendom. Alike in the lands long enriched by the Christian heritage, in the young and virile countries across the seas, and on the Foreign Mission field the same phenomenon is visible. Everywhere the barriers are crumbling. Issues that divided an earlier generation are seen in a new perspective. Watchwords that once stirred the blood are grown obsolete, and a unifying tendency is at work to obliterate the divergences bequeathed by the past to an age afflicted by its own deep distractions. When the history of the Christian Church in our time comes to be written, the main characteristics of it to be recorded—and they are connected closely—will be just these two: the new assault delivered, all along the line, upon the world's entrenched heathenism, and the rallying of the discipleship to a fresh realisation of their unity in the common Lord and their obligation to draw closer to one another in the worship of His Name and the promotion of the interests of His Kingdom.

IN SCOTLAND THE QUESTION AN URGENT ONE.

Our Scottish case, however, presents features peculiar to itself, and all serve to make reunion urgent.

For one thing, our divisions are internal to our own Presbyterian fellowship. It is, in the main, our historic Scottish Church, by universal admission a most potent factor in the development of the common life of the land for centuries, that has fallen asunder—making the problem of the reconciliation of our differences *prima*

facie comparatively simple. To harmonise Church systems differing in genius, polity, and historical antecedents should be a harder matter. Yet this too is being attempted in many quarters of the world, not without success. Thus in Canada an inter-denominational union has recently been effected: Congregationalists, Presbyterians, and Methodists have closed their ranks in order to meet with a more effective evangelicalism the needs of that growing Dominion. In Australia a similar project has been mooted. A promising rapprochement is on foot in South India between Anglicans and non-Anglicans. The Lambeth Appeal is to 'All Christian People'; and the Faith and Order movement aims at a unity which would be world-wide. How, then, men ask, should Scottish Presbyterians stand longer apart? What accounts for their delay in finding means to compose their domestic differences? The new generation ask it even with impatience. Can we blame them?

Next, and in close connection with this, there falls to be considered a circumstance of high importance which is too apt to be forgotten. All the world is aware how, whatever defects may be attributable to it otherwise, our Scottish Christianity has taught its adherents to connect faith in Christ very closely with concern for the Community which is His Body—loyalty to Him has all along been conceived to include a readiness to take thought and pains for His Church as well. And that in three main directions. First, in the interest of her fidelity to the truth—this, however, not always wisely, but too often in a spirit of narrowness which only the influence of time has overcome gradually. Next, of her spiritual independence, with regard to which Scottish evangelicals have been nobly unyielding—intransigent, if you like. And once more, of her unity. But this last has come to be so much ignored (and the obligation involved underrated) that it is necessary to dwell upon it for a moment.

Really it is one expression of our High Churchism. To our Presbyterian way of thinking the Church is the

unmixed creation of the Lord the Spirit : a company of men and women drawn together, and knit together, in a spiritual fellowship by Him : in the words of one of our older theologians, “ a perfect visible society . . . a city, a kingdom, a temple . . . Jesus Christ Himself in being and in power.” From which there followed for them immediately the obligation to preserve her unity. Was Christ divided ? So neither was it tolerable that His Church should be. Thus, on the eve of the Reformation, when the “ little flock ” began to “ set itself in order,” the declared intention was to initiate a severance, not from “ the true and halie Kirk of Christ,” but from “ the false hirelings ” who misled the sheep ; and thereafter, for several generations, few things exercised the thoughts of Scottish divines more than the endeavour to avoid the scandal of showing a divided front in a troubled time. What was termed “ Separatism ” was abhorrent to them. Need one quote the great names and utterances : Samuel Rutherford and his expostulation—“ Why should we strive ? For we be brethren, the sons of one Father, the born citizens of one mother, Jerusalem ” ; Gillespie’s “ the Head and the Body make but one Christ, so that you cannot divide the Body without dividing Christ ” ; or the thesis of Brown of Wamphray—“ To the Catholic visible Church Christ gave the ministry, the Word, and the ordinances of God, for the ingathering and perfecting of the saints ; and all the members of this Church are bound to keep holy fellowship, both in divine worship and in the performance of such spiritual offices as tend to promote mutual edification ” ; on to the final assertion of the *Good old Way* : “ Our Presbyterian principle is that a Christian should part with what is dearest to him in the world to redeem the peace and unity of the Church ; yea, that nothing can warrant or excuse [disunity] but the necessity of shunning sin.” There came a day, no doubt, when another strain mingled with the story. Our divisions are notorious, and we have often been reproached with them. For the most part, however,

unthinkingly enough. Get beneath the surface and you find a large and catholic conception of the Church dominating the age of the Secessions also. The consciousness is always present that, in the words of another seventeenth-century classic,¹ nothing serves more "to the wearing out of the spirit and life of religion, nothing more marreth the progress and interest of the Kingdom of our Lord Jesus" than the breaking of Church fellowship, and that only a truly constraining cause may justify it; while moreover, as is well known, from the days of the Society men downwards, the unvarying contention is that it was not they, the dissentients, who had left the Church, "the declining and corrupt part" thereof had left them! That is to say, the disruptive episodes which have marked so deeply the history of our Scottish Church, have been, so to say, of the nature of family disagreements. Nor was it ever anticipated that they should be long lived: the breach, as the Relief fathers expressly affirmed, would be restored, as it were automatically, so soon as her ministers should be found "asserting the liberties of Christians"—the disturbing cause having been removed the waters would flow together again. Hence the naturalness and simplicity of the reunions of which the last century has some half-dozen or more to show. And hence, too, the inevitability, sooner or later, of the larger reunion now under consideration. It lay in the logic of history. The earlier attempts, indeed, of 1878 and 1886, which paved the way for the present 'unrestricted' negotiation, miscarried. Yet even in these abortive efforts the restlessness of a conscience ill at ease in presence of existing separations is, on both sides, clearly visible—in the Church of Scotland's readiness to share with other Churches "the trust now reposed [by the State] in [herself] alone," and in their as great anxiety to assure their "established" sister that, establishment apart, reunion is their concern too. The plain truth is, Christ's Kirk in Scotland has never grown reconciled to the injury to her life and power

¹ Durham, in his *Dying Man's Testament to the Church of Scotland*.

entailed by the wounds which history has inflicted on her unity. There never has failed her the underlying sense of the essential kinship of the children of the Reformation, together with the obligation to labour for the visible expression of it. And with the tendency towards consolidation, which is sweeping round the world and loosening so many things, here in Scotland too, from their moorings, comes the promise of a regathering which shall be altogether in keeping with the best traditions of the past, while at the same time providing for us what our bitter needs cry aloud for.

One thing, then, may be said with confidence in passing. The aversion to ecclesiastical reunion which is to be seen rising in some quarters among us, this preference for the existence in the community of many Churches, whether competing or complementary, rather than of a catholic and inclusive Church, is no native growth of the religious life of Scotland. It has no roots in the deeper strata of our history. It does not belong to the genius of Presbyterianism to add to the divisions of the common life, but rather to compose them. The aspiration of our two Churches, again and again declared publicly, is in the same direction. And from sectarianism of every kind, whatever the motive for it be, this generation, happily, moves steadily away.

But that which more than all serves to make the question of Church reunion in Scotland acute and pressing is the ecclesiastical situation that has arisen in the land and the spiritual needs of the people. It was not by accident that, at an early stage in the Conference now drawing to a close, serious attention was directed upon it. The present writer well remembers how ineffectual the preliminary colloquies had been; how academic and unprofitable; and how a new sense of reality was infused into the whole proceedings when, from the discussion of abstract Church principles, the delegates turned to consider the scene in which the Churches' work has to be done. For mal-adjustment

of resources to religious necessities there is perhaps not another in Christendom to compare with it. It is not that the Churches have been inactive. Far from it. The last two generations especially have seen an earnest rivalry maintained in the laborious effort to keep pace with the needs of a population which has doubled itself within the century, and to follow its migration from the country to the town. But on the most generous estimate there remain whole masses of the people still unprovided for. Moreover, denominational and not purely religious requirements have, as was inevitable, dictated in numberless cases the application made of the resources that were available ; the result being ¹

“ a distribution of Church agencies which, viewed in the light of the religious needs of the situation alone, is both wasteful and inadequate. In thinly populated districts this is more especially obvious, where churches, beyond the needs of the population, stand side by side to serve the wants of the several denominations. But in the cities also the same condition of things largely prevails. . . . Nor so long as the Churches remain apart, does it appear how it can well be otherwise.”

In the years that have elapsed since these grave words were penned the situation has grown only worse. The smaller fragments of our shattered Presbyterianism do not here come into view. But, taking the Church of Scotland and the United Free Church alone, is it realised, one wonders, that between them they have some two hundred congregations with less—in very many cases much less—than fifty, and nearly five hundred congregations with less than one hundred members apiece ? It is, besides, too frequently in the same parish that these attenuated groups of worshippers are to be found confronting each other, in the enjoyment, for the most part, of the full ministerial equipment and provision of ecclesiastical buildings of which no Church would willingly deprive its faithful adherents, however few. And meanwhile in the congested areas the

¹ See *Joint Report to the General Assemblies of 1911*, p. 26.

worker bears a burden which, after a limited period, is felt to be almost intolerable, and the white fields of heathendom call aloud for labourers! That redoubtable statistician of the last generation, Dr Robert Howie, was wont to say that the Presbyterian ministry of Scotland could spare eight hundred men from its ranks and be only the better for the depletion; and the calculation is not at all so extravagant as might be supposed. Already since the amalgamation, twenty-five years ago, of the Free and United Presbyterian Churches, nearly four hundred Congregational Charges and Stations have been reduced to less than half that number—with nothing but the happiest consequences to all concerned; and it will be a grave reproach upon our Scottish churchmanship if, in the immediately coming years, the healthful process be not carried greatly further. It will be worse. Union of Churches, it is true, can be bought too dear, and the inheritance of principle handed down from the past is not ours to give away. And yet the workers, men and women, and the means entrusted to any Church—these also are not hers, above all not hers to squander. They are her Lord's, to be directed and employed for Him so as to secure the amplest return for His Kingdom. And about the "wasteful and inadequate" employment now being made of them in Scotland the only thing to be said by serious Christians is that it is not to be endured a day longer than paramount duty demands.

'CO-OPERATION' AND UNION.

For such a situation, now, 'co-operation' is no real remedy. It may abate somewhat its worst evils, and in special circumstances effect a good deal. Under the pressure of the War it accomplished not a little; its most lasting outcome, however, being the conviction that something more was necessary. The experience of the Free and United Presbyterian Churches, prior to the Union of 1900, had already proved this; and in replying to the Church of Scotland's invitation in 1909 the

United Free Church said as much with emphasis. Since, plainly, so long as Churches take themselves to stand for anything worthily distinctive, it will be not only their impulse but their duty to maintain and expand their own activities. And besides—to put it bluntly—where one Church occupies a position of financial and other privilege over against the rest, co-operation must inevitably suffer from an invincible handicap. Hence the readiness with which this, the original suggestion of the Church of Scotland in 1908, gave place by agreement to the proposal that the fundamental causes serving to estrange the Churches should be subjected to frank and thoroughgoing examination. It is a feature of the times, not merely in ecclesiastical affairs but on a wider field, that groups of persons, often much more widely severed than are these sections of our Scottish Presbyterianism, should frankly agree to pool their principles and ask whether no better ground may be discoverable lying beyond that which each has hitherto occupied. To some the venture made in this direction by the Scottish Churches sixteen years ago appeared foolhardly and even perilous. But the result has disappointed their fears.

THE PROBLEM—AND THE SOLUTION PROPOSED.

Nevertheless, the problem set was a singular one, and might well seem insoluble. "State Church *or* Established Church *or* National Church," writes a well-known authority,¹ "is the recognised antithesis to Free Church," and, had this been all there was to say, a settlement by consent in Scotland could only have been despaired of. The clue to a solution was found in the Churches' common heritage. After all, there is no ecclesiastical ideal of which any one branch of the Scottish Church has the monopoly. Applications or embodiments of those ideals there have been which have served, from time to time, to divide Christian brethren seriously; but these, it appeared, might be modified.

¹ T. Bennett, LL.D., in *Free Churches and the State*, p. 3.

The existing Church and State arrangement, in particular, is an heirloom from the past, and none were satisfied with it fully. It has proved a divisive arrangement, and represents, in truth, no durable or final expression of the national desire to make fitting acknowledgment of the Christian faith. But the transformation of it, so as to suit the conscientiously held views of both Churches, has turned out not impossible. The thing, indeed, has been done. Out of it, and without violently ending it, there has been evolved a finer and worthier acknowledgment, one bringing the ideals of the unity, the nationality, and the freedom of the Reformation Church in Scotland to their fulfilment together. Our land's long travail in the quest of the just and right relation of Church and State deserved, perhaps, no less a reward and consummation.

THE METHOD OF SOLUTION.

The means by which alone such a transformation might be accomplished are fairly obvious. Obstacles to union which are of the State's creation only the State could take away. Accordingly, the plan has been, *first*, that the Church of Scotland should anew set forth its constitution as a branch of the Church of Christ, in terms expressly drawn to meet the views of the sister Church as to what such a constitution must contain; and, *next*, that Parliament should enact the lawfulness of the adoption of this constitution, everything in the existing connection of the Church of Scotland with the State inconsistent with its provisions being at the same time expressly annulled and swept away. Thereafter—the temporalities, the enjoyment of which had gone with 'establishment,' having been dealt with consequentially—the Churches, meeting now on a level footing, would be free to consider their duty in the new situation thus created, and, as might be confidently hoped, to carry through the Union desired. Such was the scheme of the Church of Scotland Memorandum

of 1912.¹ In its simple comprehensiveness nothing could be more admirable. Its author deserves well of his countrymen.

THE NEW CONSTITUTION OF THE CHURCH OF SCOTLAND.

A careful examination of the Church of Scotland Articles in which her constitution is redrafted and of the Act (1921)² enabling her to adopt it, reveals the transformation of the State relation thus effected to have been three-fold.

I. THE FREEDOM OF THE CHURCH.

To begin with, the Church of Scotland has taken to her bosom the full principle of spiritual autonomy, and in her new constitution has once for all given expression to it with finality and completeness. The fact is cardinal, and cannot be too much insisted on. In a sense she prefers no new claim in doing so. It is the very hallmark of the Scottish Reformation to set high store by liberty, and the tale of the Church's struggles to secure it, both in the civil and the religious sphere, is one that stirs the blood to this hour. The enactments on which she is 'established' were a bulwark against Pope and King alike. The famous Statute of 1592, in particular, deserves its historic title of 'the Charter of Presbyterian Independence.' By her supporters the Church of Scotland has been held for the 'freest Church in Christendom'; and among State Churches at least her claim to the title is beyond dispute. The glories of her early history are the proud possession of us all.

Nevertheless, it is admitted, I believe, on all hands that the protection then wrung from the State for the Church (even as modified a century and a quarter later) was faulty in character—faulty with the faultiness of

¹ See Appendix I. The outline of procedure there suggested has, in various particulars, been departed from, but in view of its historical importance it has seemed desirable to give the document in full.

² See Appendix II.

all men's ideas on the subject of Church and State in those days. The bond between them was too tightly drawn. Intended to secure the Church in her proper rights, it had unwittingly abridged them. Presently, with the growing expansiveness of her life, the fact became apparent. This, in a nutshell, is the significance of the epoch-making controversy of eighty years ago. The legal position then was ascertained definitively: the inhibitions and restraints in which her connection with the State had involved the Scottish Church became plain—with consequences which are matter of history. A good deal has happened since, no doubt, and the bounds of the Church's freedom have decade by decade grown wider. Still, here are a few of the concrete instances of restriction on liberty which admittedly survived :

“ the constitution of the Courts of the Church ; the admission of Ministers and Office-bearers to sit therein ; the rearrangement of Parochial boundaries ; the transportation of Churches ; the suppression of Charges ; the disjunction and creation of new Parishes ; facilities for Union with other Churches, and such like,”¹

—under which last indefinite indication need only be named the all-important right of shaping her religious convictions and formulating her message to the world. True, in actual experience these restraints have not hindered the Church's activities and progress so seriously as might have been supposed. The ready concurrence of the civil authority with her views has prevented this ; and for evidence she is entitled to point to an expansion of power and influence during the last two generations, both at home and in the foreign field, in which every lover of Christ's Kingdom must rejoice. But at the same time such features in ‘ the face of Kirk ’ look differently to other eyes. Those who, for the sake of the freedom of Christ's Church over the entire area of her life and service, have, in the memory

¹ See *Joint Report to the Assemblies, 1911*, p. 11.

of men still living, twice over counted the world well lost, could not but find them fatally unacceptable. And accordingly, to satisfy not her own conscience but that of her severed brethren, the Church of Scotland, in the constitution she proposes henceforward to live under, has set forth a claim to spiritual liberty of which it is simple truth to say that it is the most elaborate, comprehensive, absolute yet advanced by any Church in Christendom.

The Nine Articles composing the new constitution of the Church of Scotland will be found on pp. 58-60. Here it is necessary to refer only to one or two of the more important among them.

i. Thus, *Article IV* secures for the Church unfettered freedom in its *organisation and action* generally. Organisation, that is, in the comprehensive sense of that word: the self-organisation of a body possessed of inherent characteristics and powers, which cannot but claim to be independent over the entire field of its various operations. 'Doctrine, worship, government, and discipline' is the time-honoured rubric which covers these, and an indication has already been given of the limitations under which the Church of Scotland suffers with regard to them. Henceforward such restrictions disappear.

The Article may be said to represent the core of the revised claim preferred by the Church of Scotland against the State. Let it be honoured, and what relic of restraint remains? Note especially the claim to "the right and power . . . to legislate." Here is the crucial test of corporate freedom. Administration, or even 'adjudication' is on another level. This last, for example, the Church of Scotland at present has and exercises independently. It has the power of applying its laws to cases--as in the exercise of discipline--since this has been vested in it, namely by the State; and, under these conditions, the decisions so reached are final. But legislation is a different matter. Bye-laws any subordinate body may pass for itself, but to enact

laws proper is the function of a body which is essentially self-constitutive and independent. The Church which is possessed of such a power—and which is ‘recognised’ to be inherently so endowed—has gained that full freedom to obey the Inner Voice of which Churches have so often fallen short.

The significance of this Article, accordingly, will appear at once to everyone familiar with the story of our Scottish Church. The right to innovate in ‘doctrine,’ indeed, has only of late years begun to be agitated among us; but in other directions the lack of legislative liberty has, in practical experience, been fatal. Readers need only be reminded of the supreme instance of it. It was in the course of her noble efforts in the early decades of last century to keep pace with the spiritual necessities of the land that the Church discovered, to her astonishment, how hampered by her State connection her proper activities were. That she should be unable to expand independently, to erect new Congregations as they might be needed, or to officer her Presbyteries as she might desire—here indeed was an unlooked-for consequence of a relationship which she valued highly. Nor, be it added, in spite of the New Parishes Act and much else, is the Church of Scotland (as we have seen) free from restraint to-day in the utilisation of her resources to meet the necessities of the land. But under Article IV she will be free. Had it been in force in the ‘forties, the most serious secession in her history could not have occurred.

ii. *Article V* secures freedom in *doctrine*. No ecclesiastical claim is more unchallengeable. The teaching she is to give to her members, and the evangel she is to proclaim to all mankind, are plainly the business of the Church herself and of no one else at all. That the British Parliament in particular should take a hand in defining these strikes the mind to-day as ludicrous. In bygone times, when Church and State were less clearly discriminated, it might be different: each, the theory ran, was bound for itself to search the Scriptures, and to

aid the other in maintaining the truth so plainly there made evident. But all such assumptions have fallen to the ground long ago. The theory on which our political democracy rests has no room for them. The modern State neither can nor will—if it can help it—intromit with religious doctrine. In the case of our Scottish Church it overtly confessed as much in 1905, when taking a step, the significance of which has been too much overlooked. Till then the formula of subscription, binding the ministers of the Church of Scotland to the Westminster Confession—itsself embodied in Statute, and therefore not to be modified or replaced by another without Parliamentary sanction—had been adjusted by agreement between the Church and Parliament. But in Clause 5 of the Act settling the properties between the litigants in the great Free Church dispute, the power of drawing a new formula was given to the Church alone. In other words, the State publicly withdrew from this field, announced that it had no conscience in such matters, and henceforth took no concern about them. An entirely becoming procedure: if Christian States for the future conform to the Christian ethic and revere its sanctions, they will do well—Christian doctrine lies beyond their province. It only remained, accordingly, to rid the Church of the legal shackle binding the seventeenth-century standard upon her, and this by the recent Act has now been done. Henceforward the Church of Scotland is free (as, very early in these negotiations,¹ it was acknowledged that any and every Church has the “inherent right” to be) to interpret the Word of God “without any external interference” and to give unfettered utterance to the truth as the Spirit of God leads her to conceive it. No feature of the change in her position now effected has been, one may suppose, more welcome. Hampered in perpetuity by the armoury of the past, how might she hope to fight effectually the battles of the difficult days ahead?

¹ See *Joint Report*, 1911.

It has been objected, it may be said in passing, that the liberty thus seemingly assured has, in point of fact, been limited by certain other features of the new Constitution inserted in a different interest. Article I contains, it is alleged, a summary of Christian truth which is unchangeable. The powers reserved by the Church for the modification of the Articles do not extend to this, since they must be exercised "always consistently" therewith; which implies (the whole Articles being scheduled in an Act of Parliament) that Parliament's leave must be sought before fundamental truth may be restated, otherwise the continuity and identity of the Church are gone. Is this, it is asked, compatible with the view just indicated that her faith is the Church's own affair, or that, to put it otherwise, in the matter of the teaching she delivers, the lord of the conscience is God alone?

Two or three misunderstandings, however, would seem to need correction here. To begin with, it is not (see Article VIII) the terms, but the "provisions" of Article I that are permanently binding—a very different thing. Even so, it is adherence to these "as interpreted by the Church" itself which is "essential to its continuity and corporate life." And besides, Article I is not really a summary of credal truth as is apt to be supposed. It is not there indeed for properly credal purposes at all. It is a description of the body which, as "part of the Holy Catholic or Universal Church," asserts in the Articles following such and such rights and powers, and is intended to make clear that that body has no desire, however high its claims to liberty be put, to claim the right to cease to be itself. Clearly there is a limit to the claim implied in all rights whatsoever. Have I a "right" to commit suicide? Neither has the Christian Church, or any "part" thereof, the "right" to destroy itself. If the Article is examined, it will be seen that its "provisions" are restricted to Trinitarian Protestantism. Can it be said to infer a limitation of the rightful powers of an Evangelical Church that, in assert-

ing its *dogmatica potestas*, it should give to all concerned a public pledge that it shall fall away neither to unbelief nor to Rome? The United Free Church, in the Act (1906)¹ in which it touched the high-water mark of its historic claim to Spiritual Independence, inferentially subjects itself to a precisely analogous limitation. *It* has no liberty within its constitution to become Unitarian or Roman Catholic, not to speak of Buddhist or Mohammedan, nor does it desire such liberty. And if it be said that, in the Church of Scotland case, the pledge, being enshrined in a Parliamentary Act, at least places in the hands of Parliament a power which ought not to be there, the answer is that at this point the analogy between the Churches is complete. Under its new Constitution, the only issue that could raise the question in the Church of Scotland of a loss of 'continuity' and corporate identity in connection with doctrinal change, would be one concerning rights of property depending thereon; and in the United Free Church the situation is precisely similar. If there be any distinction at all between the two cases, it lies, I conceive, only here—that, in the one, the issue would fall to be decided in view of a special enactment (the Act, 1921), and, in the other, under the general law of the land. But this is a distinction without a difference. Both Churches, in short, so far as doctrine goes, have entire liberty to be themselves, 'parts of the Holy Catholic or Universal Church,' proclaiming the Three-fold Name and 'the substance of the Reformed faith' as they understand these, to all men; and there their liberty ends. Let them cease to be and do these things, and, unless by consent of the civil authority, they part with their property and endowments. Ought they to retain them?

iii. Once more, attention may be drawn to *Article VII*,

¹ See Appendix III. It is interesting to compare the United Free Church Act and the Church of Scotland Articles: both alike express with emphasis what has lain deepest in the heart of Scottish Presbytery, the later document, however, being (as is natural in view of the circumstances in which each was drawn up) much the more full and satisfying of the two.

which asserts *the power of uniting with other Churches*. The nineteenth century has seen in Scotland a notable series of Reunion movements. Scarcely a decade but has furnished its instance; the result being to rally to the common flag all the more considerable sections of the national Church which had at one time or another broken with the State. But in the history of the State Church itself there have been no such happy incidents. Why? Because of the existing State connection. The constitutional framework within which the Church moved and had its being was too rigid to allow of such expansion. Individuals it could absorb; as when, to take the most notable example of all, the Auld Licht Ministers and their congregations, who were "desirous of being admitted into connection and full communion with the Church of Scotland," were "received" accordingly,¹ but that is another thing. Churches *qua* Churches it could not receive: nor could it, as a Church, be received by them. The basis on which it rested as an 'Establishment' forbade such developments. But this disability also will now give place. The Church of Scotland regains the power to join forces with other Churches "on terms which [it] finds to be consistent with" the constitution it has framed for itself and adopted. Considered well, could better proof be had to show that the Church of the Articles is one every way autonomous and free? ²

2. THE SPIRITUALITY OF THE CHURCH.

So much for the freedom of the Church of Scotland as secured by the constitution to be adopted. Even this

¹ In 1839.

² The 'terms' must necessarily be for adjustment in each case separately. The Articles are sometimes spoken of loosely as constituting a 'basis of union' with the United Free Church—which would suggest not the union of the latter with the Church of Scotland, but absorption in it. The true position, of course, is that the adoption of the Articles enables the Church of Scotland to unite with the United Free Church—or any other—on such 'terms' (or 'basis') as may be mutually agreed on.

all-important matter, however, it may be said, is not the most fundamental feature of the Christian Church. Still more essential is its properly spiritual character. Since the Body of Christ is a form of 'group life' like no other. It represents a society within society; a community resting on faith and conscience, and holding of the Unseen; the immediate creation of the Spirit of God in the inner world of human experience. That is why it must be free. An organ of the Divine, it cannot compromise with earthly authority. It dare not.

Now, at this point again our Scottish inheritance has proved at fault; though not so seriously, be it added, as in the case of many other Churches. In none of the national Establishments of the Reformation was the true nature of the Christian *Ecclesia* less defaced or obscured. There was no intention of imparting to it a civil character in giving it a place among the public institutions of the land, the design was to accord to it honour and protection. And yet, the line of demarcation between civil and religious being so imperfectly understood, it was, to say the least, dangerous to effect this by lending to the Church's government 'the strength of a law'; and the ultimate result was serious. As a branch of Christ's Church reformed, the Church of Scotland might retain her purely spiritual character. But as taken up into a special relation to the State, and clothed with civil privilege, she fell to be considered as 'wholly the creation of Statute.' That was what 'establishment,' as legally interpreted, involved; and the functions the Church fulfilled, accordingly, could be represented as of a quasi-civil sort. Even it was laid down authoritatively that 'Parliament is the temporal head of the Church, from whose Acts and from whose Acts alone it exists as a National Church, and from whom it derives all its powers.'

Under the new conditions, however, this incongruity disappears. Full autonomy ensures it. A self-constitutive, self-organising, self-evolving body owes nothing

to any external source or authority. It is 'wholly the creation' of its own inner life. The powers it exercises are not 'derived' but inherent powers, and its characteristics are found within. The freedom and the spirituality of the Church in short—unfettered freedom and unadulterated spirituality—go together. Really they are different aspects of the same thing. They are at least involved in one another. And to acquire one is to acquire both.

It will be seen how far-reaching is the transformation thus accomplished. Like every living and growing institution the Church of Scotland has, as she came up through the years, acquired fresh rights and powers from time to time, enabling her to function still more fruitfully in changing circumstances as they emerged. But how? Not solely through the free unfolding of new capacities within. Always, owing to her State connection and the necessary concurrence of the State in the new adjustment called for, it could be represented that the fresh faculty put forth was State-derived, State-given. The Church was not freely developing fresh powers: she was exercising, under permission, powers conferred. Surely it is of high advantage that assertions of the kind shall no longer be even plausible.

Take two illustrations out of many. There is perhaps no prerogative which has been regarded with more satisfaction by the Church of Scotland than what is known as the Independent Jurisdiction of her Church courts. In virtue of this the judgments they pronounce—say in a case of trial for heresy—are final. The civil authority is powerless to intervene; not even in respect of the civil consequences which may accrue is the ecclesiastical decision liable to review elsewhere. An admirable arrangement in the eyes of every lover of Church independence, but the ground on which it rests is not so admirable. It is this—that, by right of her 'established' position within the State, the courts of the Church are courts of the realm. The jurisdic-

tion they exercise, whatever inherent character it may be supposed to possess,¹ is at the same time a jurisdiction civilly conferred²; and only in virtue of the powers thus assigned to them are the verdicts reached conclusive. In future this investiture of the Church's courts with an authority foreign in character to their own, will fall away. Their independence will remain unshaken, but it will rest upon another foundation. Jurisdiction will be assumed. Or rather, it will be recognised as "derived from the Divine Head of the Church alone" (Article IV). The courts of this Church, in short, will be taken for what they are, courts in the realm of the spirit, dealing with far other than civil matters, and exercising inherent rights and powers with which none may interfere.

Again, in our Scottish Churches there are few spiritual rights about which we have been more solicitous than that which, to use the ancient phraseology, "pertains to the Christian people to call their ain pastors." The phrase—or rather the thing—has been a very storm centre of controversy generation after generation, and all will admit the happy advance made in the abolition of patronage fifty years ago. But how was it abolished? On what understanding, and to what effect? In such wise as to leave the right now enjoyed by the people liable to be described³ as a "civil" right "like every other conferred by Parliament," "a franchise created by Statute," "a civil right created by Statue and by nothing else." This is more than a manner of speech offensive to the feelings of Christian people. It is a mixing of things that differ gravely. And it is well that it should cease.

For, let it be said again, the spirituality and the freedom proper to a Church of Christ are conserved

¹ Which, be it noted, has also, on occasion, been recognised legally (cp. *Sturrock v. Greig*, 1849).

² "As much a creation of law as that of any other court in the kingdom." (Lord President Inglis in *Presbytery of Lewis v. Fraser*, 1874.)

³ In *Cassie v. The General Assembly* (1878).

in their entirety under this new Constitution of the Church of Scotland. Here is no fresh grant of powers from the civil authority, but the acknowledgment of powers which as 'part of the Holy Catholic or Universal Church' she receives from the Church's living Lord; no widening of the bounds of a liberty conferred and still confined, but the recognition of that whose only restraint henceforward lies in His will made known in her heart. This Church is no longer in any sense or degree a 'State-created institution': it would be difficult to exaggerate the completeness with which she stands divested of any such character. *Vis-à-vis* with the State she is as self-constituted a body (under her Invisible Head) as is the State itself. No branch of Christ's Church could be, so far as this goes, more essentially and purely spiritual. None, therefore, is more entirely free.

3. ABSENCE OF PRIVILEGE.

Finally, in the State relation which has come down from the past, there is another element without the elimination of which no reunion of Scotland's historic Church would be possible. I refer to the *damnosa hereditas* of legal privilege. In Reformation days, when the assumption obtained universally that the true Church could be only one, the State was held bound to limit its honour and protection accordingly: as for other so-called 'Churches,' they were, if not 'synagogues of Satan,' at the best sources of civil disorder, to be frowned upon where not suppressed. In the Statutes establishing Knox's Church the idea is imbedded deeply. The Reformed flock are declared to be 'the only true and halie Kirk of Jesus Christ in this Realm.' To it and to it alone was 'declared and grantit jurisdiction.' 'Nae uther face of Kirk' was to be suffered in Scotland. Even the Revolution Settlement proceeds upon this footing, surrounding 'the true Protestant religion contained in the [Westminster] Confession of Faith' and 'the only

government of Christ's Church within this Kingdom' with safeguards, and loading them with privileges designed to ensure their continuance 'in all time coming' inviolably. Nor, toleration and all, is the legal position essentially altered yet. No Scottish Churchman, to be sure, unchurches his Christian brethren: it is not our Presbyterian way. We understand our High Churchism differently. But, with the exception of the Church which it 'establishes,' the State unchurches us all. And to that Church, even under the changed conditions of modern days, it still continues favours which are enjoyed by it alone.

What, now, of all this under the arrangement in contemplation? Certain *specific* privileges arising for the Church of Scotland (for the most part indirectly) out of her exceptional State connection do not come here into consideration: they are reserved, by consent, for treatment later. The most conspicuous of them is the entrenched position of the Church in the theological faculties of the four national Universities, the last relic of the provision¹ which placed the entire educational machinery of the country in her hands. Here, obviously, reform is overdue. The whole problem of the place theology should occupy amongst the sciences taught by the University, is—more especially in view of the divided state of the Christian Church—a difficult one, as experience elsewhere shows. Various solutions have been attempted, and Scotland may possibly achieve one of her own. But in any case it seems plainly improper that an important group of University appointments should be open to one section of the religious community only; and this, along with other denominational *privilegia* of different sorts, will fall to be dealt with in due course, whether by special legislation or otherwise. Of matters of time-honoured usage again, it is perhaps enough to say² that, as these are not obligatory by Statute, nor is it proposed to make them obligatory by

¹ Dating from 1707: see the *Act of Security* of that year.

² With the *Joint Report* of 1919.

any new Statute, "they would continue as might be agreed upon."

But with regard to the privileged position of the Church as a general one what is to be said? How much of this, under the new arrangement, survives? Really nothing. Jurisdiction as expressly 'grantit to the said Kirk' alone as a boon from the State, together with the 'ratifying and establishing' of the Westminster Confession of Faith, which two particulars, especially the establishment of the Church in Scotland involved¹—these, of course, disappear. But further, that more comprehensive 'preferential dealing' in virtue of which the Church had been constituted legally the Church of the nation, comes to an end also. Parliament ceasing to be the 'temporal head of the Church,' the Church can no longer be described as a 'State created institution'; and with that all 'privilege' in the legal sense—everything prejudicial to other Churches—has been removed. No more than they will she hereafter enjoy boons civilly conferred. One thing only she will experience at the hand of the State which they have yet to attain to, the acknowledgment, namely, of the spiritual and autonomous character which in her new constitution she claims for herself. But then (be it said once more) it is as 'part' of the one Catholic Church of Christ that she prefers this claim of right, and it is as such that the claim has been acknowledged. This is no case, accordingly, of the granting of an unjust 'privilege' from which other 'parts' of the Church are shut out. Rather, in this one branch of it, the Christian Church as such is—for the first time?—recognised in her true character, and secured in the unhindered development and exercise of the powers belonging to her. And while it is true that, for the present, this one Church only is so acknowledged, is that anything against such acknowledgment supposing this to be in itself good and desirable? Is our eye evil because the position of a sister Church before the law has been made good? For the rest, the civil authority,

¹ See *Acts* 1690 and 1707.

in taking up this remarkable attitude expressly affirms (see Act, 1921, Clause 2) that

nothing contained in this Act or in any other Act affecting the Church of Scotland, shall prejudice the recognition of any other Church in Scotland as a Christian Church protected by law in the exercise of its spiritual functions.

Until these Churches are in the field, setting out their claims and urging them, could it do more ?¹

THE NATIONAL RECOGNITION OF RELIGION.

How, then, shall we define the resultant relation of the Church of Scotland to the State ? In the heart of that relation there has been planted the large and expansive principle of unfettered spiritual freedom. In virtue of this the Church, invested once for all with plenary spiritual authority, emerges from the old position of civil institution and restraint, and confronts the State henceforward as a body self-constituted, self-expanding, self-adjusting, free. With that every shred of civil character attaching whether to the Church as a whole or to any of its attributes or functions, shrivels away ; and legal privilege, its necessary consequence, to the last vestige is gone. What remains ? There remains, to say the least in innocuous form, a *national recognition of religion*. And, this secured along with Church autonomy, our old Church tangle in Scotland is solved.

Now, if we are rightly to appreciate this principle for

¹ What do you gain, said Lord Chancellor Halsbury to the defendants in the notorious case of 1904, by calling yourselves a ' Church ' ? Scottish Free Churchmen might be excused for thinking they gained a great deal. But they were wrong. The power of doctrinal change—a very modest exercise of which was, at the most, all that was in question—could not be discovered in the ' contract ' binding them together ; and in the event a judicial result was achieved filling the land with ecclesiastical confusion and wreckage. One would be glad to believe that this new enactment might tend to prevent such mischances for the future. It is to say the least, highly unfortunate when the consequences of a judicial decision are so intolerable that the executive must be called in to undo them.

which the Church of Scotland has stood so unbendingly, two things must be kept in view. First, that concern for its preservation represents an anxiety entertained not so much in the interest either of religion or of its organised expression, the Church, as of the nation itself—it is the hurtful reaction upon the nation's character and life and prestige in the world that is feared should it cease to pay wonted homage to the Christian faith and kingdom.¹ And again, it is, I conceive, not questioned that the most effectual expression of the principle by far lies in the region of public life and action. A nation pays tribute to religion above all when, in its whole domestic and other relations, it does justly and loves mercy, fulfilling faithfully its mission of service by mankind and moving through the centuries in the fear of God. With which, it is true, a state of things is entirely compatible under which Church and State shall ignore each other. A conspicuous instance is found in the United States of America. There no statutory notice is taken of Churches. Nevertheless, Christianity, to quote Lord Bryce, is “in fact understood

¹ The presence of a representative of the Sovereign of the day at the sittings of the General Assembly is a rather special case in point. Here is an ancient usage, attended by a certain amount of pomp and pageantry, about which modern feeling among Scottish Christians differs widely. Some value its retention highly, while others probably deem it scarcely consistent with the simplicity of their religion. I offer no opinion—the time for the consideration of the matter has not yet come. But discussion of it, whether now or later, is idle unless it be recognised on all hands just what the custom aims at.

Seeing that the matter has been referred to, it is as well to add that the practice according to which the Commissioner is expected (echoing the Moderator's language) to dissolve the Assembly and to “nominate and appoint time and place when and where the next General Assembly shall be held,” if based upon statute (compare Act, 1592, cap. 116) would seem to collide with the new constitution of the Church of Scotland (Article IV) and to be abrogated accordingly. Is the writer rightly informed, by the way, that, on one occasion, a few years ago, the Commissioner, through inadvertence, omitted this part of his valedictory utterance—and nothing happened! Very frequently in the history of the Church, of course, no ‘King's Commissioner’ has attended at all. (See Peterkin's *Records of the Kirk of Scotland*.)

to be, though not the legally established religion, yet the national religion,"¹ and how true that is, in the sense that Christian ideals and impulses penetrate deeply the common life and policy and institutions of that great people need not be said. This assuredly is the gist of the matter, and as much will be admitted by all.

At the same time, here in Scotland we have always desiderated more than this. We have craved to see organised religion recognised publicly as well: the Christian Ecclesia, that Divinely created institute founded upon faith and conscience—was it not worthy of express acknowledgment and honour at the hands of the civil authority? There is no difference of view at this point between the negotiating Churches. In Article VI we read that

the Church and the State owe mutual duties to each other, and acting within their respective spheres may signally promote each other's welfare.

But these are borrowed words. They will be found (with insignificant alterations) in the 'Articles of Agreement as to National Religion,' adjusted between the Free and United Presbyterian Churches more than half a century ago; and how, it may pertinently be asked, shall any corporate bodies perform their 'duties' by each other and 'promote' each other's 'welfare' unless, to begin with, they recognise each other for what they severally are?

In the present instance the State recognition of the Church desired has been achieved in a three-fold manner.

i. First, through the retention, subject—a vital proviso—to the over-riding power of the new enactment (1921), of the ancient statutes securing for the Church of Scotland a special State relation. Some entertain misgivings at this point. Why? The thread of identity preserved is of the finest spun. And yet it is

¹ *The American Commonwealth*, ii. p. 702.

valuable.¹ It will not be forgotten how, naturally, there were limits to the lengths the Church of Scotland were prepared to go in order to facilitate reunion. They could not consent to 'build upon new foundations'—to accept what would have seemed to many a beginning of their Church's history *de novo*. On the terms proposed this condition is observed. No rupture with the past takes place. There is no dislocation of historic sentiment. The same venerable pile still rears its head in the land, with the memories of three and a half centuries clustering round it, and dear to multitudes of hearts. That is why the old statutes are not expunged from the statute book. Their power to institute is gone. They restrain no liberty, they impose no claim, they confer no power or privilege. Repealed in so far as they availed to prevent the Church organising itself as a wholly independent and self-governing institution, they have in effect been repealed *in toto*. If not, to what effects are they operative? By every canon of sound metaphysics and common sense a thing *is* what it *does*: what is it then the Statutes *do* for the Church hereafter? Their retention as a 'symbol' of continuity with the past, however, is invaluable. It opens the road into the better future that is to be. And otherwise the road was closed.

ii. Next, the Church is recognised as—the relevant Article (I) is long, but not too long to quote in full and ponder over—

part of the Holy Catholic or Universal Church: worshipping one God, Almighty, all-wise, and all-loving, in the Trinity of the Father, the Son, and the Holy Ghost, the same in substance, equal in power and glory; adoring the Father, infinite in Majesty, of whom are all things; confessing our Lord Jesus Christ, the Eternal Son, made very man for our salvation; glorying in His Cross and Resurrection, and owning obedience to Him as the Head over all things to His Church; trusting in the promised renewal and guidance of the Holy

¹ In law, I presume, it preserves the right to name and property. Here, however, the reference is more especially to those 'matters spiritual' in which the true being of any Church stands.

Spirit ; proclaiming the forgiveness of sins and acceptance with God through faith in Christ, and the gift of Eternal Life ; and labouring for the advancement of the Kingdom of God throughout the world. The Church of Scotland adheres to the Scottish Reformation ; receives the Word of God which is contained in the Scriptures of the Old and New Testaments as its supreme rule of faith and life ; and avows the fundamental doctrines of the Catholic faith founded thereupon.

Is not this a very noble and impressive acknowledgment, at the hands of the civil authority, of the Church of Jesus Christ ? an acknowledgment or recognition of her in that truly spiritual and majestic character which makes her what she is, and as pledged to those high ends for which she exists among men ? The State relation thus created is a positive relation—and a positive relation is clearly that which should be. Where Christianity is in the position of a missionary faith—as, let us say, in China—the situation is different. There toleration—that it should be let alone, to grow, like other faiths, from its own roots and by its own inherent vitality—is all that can be asked for. But your Christian State is on another footing. Its obligation to acknowledge duly the Christian Church, that most wonderful of all societies, which has its foundations in the supernatural order and lasts forever, is express and indubitable. Is it wrong to think even reverently of the hour in history in which an enactment so memorable was framed ? The ‘Disruption’ wheel has come full circle. In any case, a relation has been instituted which is honouring alike to the State and to the Church which are parties to it. Nor is there, as already urged, anything here involving invidious consequences of any kind. The result, one must suppose, is a distinctive gain to the jurisprudence of the country ; and in due course all other Churches, in those varying relations with the law which are inevitable, can scarcely fail to be advantaged by it.

iii. And once more, the Church remains ‘national.’

Not, however, any longer in the offensive legal sense, of being 'a creature of the State' or the like, but in the sense defined by the Church herself as follows (see Article III):

This Church is in historical continuity with the Church of Scotland, which was reformed in 1560, whose liberties were ratified in 1592, and for whose security provision was made in the Treaty of Union of 1707. The continuity and identity of the Church of Scotland are not prejudiced by the adoption of these Articles. *As a national Church representative of the Christian Faith of the Scottish people it acknowledges its distinctive call and duty to bring the ordinances of religion to the people in every parish of Scotland through a territorial ministry.*¹

Here again, there are those who intimate hesitation. But on what grounds? Is it not just thus that we of the United Free Church would, if occasion required it, describe ourselves? Is not this also our historical background? Is it not the case that our 'continuity and identity' were 'not prejudiced by the adoption of,' say, our 'Act anent the Spiritual Independence of the Church' (1906), which is the equivalent of the Church of Scotland Articles? And are not we too "a national Church, representative of the Christian faith of the Scottish people" and acknowledging a similar obligation to minister the Gospel to the whole people throughout the land? Some people are anxious—and not improperly—about legal equality here. Well, they have got it; and having got it, let it be borne in mind that an even finer thing than equality is equity. Which of our Scottish institutions, after all, is national if not the Church which rocked the cradle of the nation at the beginning, and whose teaching and power have been so deeply interwoven with its life all down the centuries? "Scotland," as has been truly said,² "has no history apart from the history of the Scottish Church." No legal privilege is conveyed in allowing her in the use of the

¹ The italics are the writer's.

² Cp. A. R. MacEwen's *History of the Church in Scotland*, p. 1.

epithet. The term is not imposed upon her by any outside authority, or even included in the title by which she is known. In point of fact it is one of those descriptive features of which she could (if *per impossibile* she thought fit) denude her constitution in virtue of those internal powers which the constitution itself contains. Its use and value are of a moral and historical—or, if the word be used broadly enough, sentimental—character. And historical truth and equity demand that an institution which has played so great a part in moulding the stuff and shaping the destinies of the Scottish people shall be acknowledged as representative of their religion still as, in restored unity of organised power, she addresses herself afresh (in cordial co-operation with all evangelical Churches) to the maintenance of the Protestant faith of our land and the guiding of its spiritual fortunes in the perilous times ahead.

Under this arrangement, now, is the Church of Scotland an 'established' Church? It is so asserted by some. As Newman has it, however, "words have a meaning whether we use them in that meaning or not; and you cannot make a language to yourself." The meaning of 'establishment' in Scotland¹ hitherto is quite unambiguous. Let it be indicated once more. The 'establishment' of the Church in Scotland, as legally defined and given effect to, involved the adoption of a single Church into such a relation to the State that it acquired a civil or quasi-civil character, became invested with civil powers and privileges, and was restrained in the exercise of its proper rights and powers. Here is the 'establishment' which, a generation ago, Robert Flint was so careful to distinguish as a 'fact' from the 'principle' of the nation's recognition of Christianity. But this 'fact' is gone! Nothing can be plainer than that, with the effecting of the changes above referred to, everything hitherto considered

¹ I say 'in Scotland' advisedly—it has had various connotations in the Christian world, let alone heathendom.

noxious in the relation of the Church to the State in Scotland—everything that formerly engaged serious men for the proposal of *dis-establishment*—has disappeared. What is left is, as has been already urged sufficiently, the recognition of the Church of Christ, in one branch thereof, in her own proper nature, and in the exercise of her various offices and powers. If any choose to speak of this as ‘establishment’ be it so. For indeed the term is one of the most variable in the entire ecclesiastical vocabulary. Did not a Lord Chancellor of a former day¹ maintain that voluntary Churches also were ‘established’ inasmuch as, being ‘tolerated,’ they had a place of security in the commonwealth? And a recent Anglican writer² has affirmed that “every religious body in the country that holds any property is to a certain extent established.” Principal Rainy too, it will be remembered, had a vision of “something valuable and useful in the nature of establishment” arising for the Church in the future, something that would imply “regulated relations between Church and State.”³ Now, however, that, by a different road than any which lay, forty years ago, before even that far-seeing mind, the goal he aimed at has been reached, it might be well to describe it differently. To employ a term which is so elastic and variable can only, under existing conditions, breed confusion. With reference to the situation now created it should be definitely dropped.

THE TRANSFORMED STATE RELATION.

The truth is, the relation of the Church of Scotland to the State which has been now attained, is one which resolves the contradictions of an earlier time. With its realisation the “recognised antithesis” referred to at the outset is overcome. In Scotland there will henceforth be a Church both ‘national’ and ‘free.’

¹ Lord Mansfield.

² The Bishop of Gloucester in *The Anglican Church*, p. 195.

³ See *Life*, vol. ii. pp. 53 f.

So much has been saved out of a belated State relation which has been transformed radically. The solution is a novel one, and it is not surprising that it should not have everywhere had justice done to it. The fusion of these attributes, be it observed, has been effected, not by way of compromise on the part of the negotiating Churches, still less of surrender: rather an adjustment has been effected in virtue of which each must be the gainer. That the future Church will be free from every taint of Erastianism need not be urged again. If additional evidence be desired, it may be found in the final provision (see *Article VIII*) by which, under its new constitution, the Church claims power over this constitution itself¹; asserts, that is, the full right of a self-creative, self-evolving body, limited only by that necessity of continuing to be itself which is no limitation at all.² But further, through the recognition now extended to her in such a character, the Church is *secured* in the exercise of this and all her powers. Her freedom is protected positively—by public authority—as it ought to be. So groundless would seem the suggestion that because it is embodied in an Act of Parliament, the constitution of this Church is stereotyped. Were the constitution a rigid one this might be so. But the constitution is elastic, self-expanding: what is ‘stereotyped’ by the Act is liberty! On the other hand, the ‘national’ character of the Church has been purged of those legal implications which had constituted it a ‘branch of the institutions of the country,’ while retaining all that *de facto* connotation for which men really prize it. In this sense, as has been said, the United Free Church equally with the Church of Scotland shares in such a character. Are not both alike firmly rooted in the history of the

¹ To be exercised under special safeguards, to which some have objected as a hindrance to progress. But all that these secure is specially deliberate action where exceptionally grave matters (lying within the ambit of the Articles themselves) are involved. And if found desirable they may be changed.

² Cp. pp. 19 f.

past centuries, and operative and influential throughout the whole extent of Scottish life to-day? Conjoin them and the result must be a communion more truly national than either. Representative of the religion of the Scottish people, and gathering up into itself all the main streams of the sentiment of earlier times, it will be eminently deserving of the title. And it will approve itself worthy just in proportion as it fulfils the obligation, laid upon it not by the State—to the State it is under no contract¹—but by Him Who has assigned it such a place in history and set before it a task so high, to penetrate the national life throughout with the Christian righteousness, and to bring the ministrations of the Gospel to all sections of the people in every corner of the land.

The problem of Church and State, as it presents itself in different parts of the world, is a various one, and is doubtless destined to receive different solutions for long to come. But the significance of the solution here indicated can escape no student of history. It was not too much perhaps to describe it as unique in Christendom. In any case it satisfies the convictions of the two conferring Churches. And it does more. Unless they grievously misunderstand the heritage entrusted to them, the eirenicon devised conserves, and for the first time gives full and fit expression to the whole burden of the faith and hope and purpose of the Church of the Scottish Reformation to the present day.

THE TEMPORALITIES.

With regard to the readjustment of the Church of Scotland's temporalities comparatively little need be said. When the negotiations now promising to eventuate so happily were entered upon, a true instinct dictated that

¹ If it be under contract, what, one may ask, are the conditions involved on either side?

the consideration of the constitutional questions involved—those which concern the true character of the Church and her right relation to the State—should take precedence of every other; and the general opinion, it is believed, will endorse this order of procedure. These graver matters once disposed of, the rest should be easy. Churches need not expect to be judged leniently, which, having reached an accommodation on spiritual principle, would permit union to founder on finance.

Let it be considered, further, how secondary a feature in her financial system to-day—much more in that of a future united Church—is represented by the Church of Scotland's historic endowments. These things must be looked at in their true perspective. Less than £400,000 in all have accrued to her annually under this head. One-third of her congregations, on the other hand, have been erected (at a cost of some six million pounds) and are maintained by the givings of her own adherents; her total income derived from the freewill offerings of her membership approaches a million, and is rising steadily; while the corresponding income of the United Free Church is fully a million and a half. In other words, the Church in Scotland becomes more and more a 'voluntary' Church. So groundless has proved Dr Chalmers' despair of "any good being done in the way of Christianising our population but through the means of a government . . . endowing the true religion." On the contrary, the experience of two generations demonstrates sufficiently that the hope of the future lies with the well-tried liberality of the Christian people.

At the same time, the disposal of the Church's temporalities presented a problem to be dealt with, if only as a consequence of the passing of the enabling Act discussed above. If the character of the 'establishment' inherited from the past has imposed inhibitions and restraints on the Church's autonomy, her partial dependence upon outside sources for financial support

has operated in the same direction. Reliance on Parochial teinds (paid by heritors in respect of land-ownership), Exchequer grants, Burgh revenues, etc., and the possession of much property held under special law, inevitably implies a measure of subjection to the jurisdiction of civil courts; the broad effect being to hamper the Church—so outsiders could not but judge—in the expansion of her work and the application of her resources to the religious requirements of an ever-changing situation. Hence the necessity that the Act of 1921 should be followed by further legislation,¹ to ensure that the independent powers, now acknowledged to reside within the Church, should be given full scope over the entire area of her practical activities. A Departmental Committee, appointed by His Majesty's Secretary for Scotland² to deal with the matter, issued, in April 1923, a Report making certain recommendations. On this Report was framed in due course a Government Bill which, after being exposed to the customary ordeal in both Houses of Parliament, and to rather more than the ordinary vicissitudes of political history, emerged in the form of the measure known as the Church of Scotland (Property and Endowments) Act, 1925 [15 and 16 Geo. 5, Ch. 33].

With much that the Act contains the topic discussed in these pages has little or nothing to do. The system of ecclesiastical finance with which it deals had originated in the sixteenth and seventeenth centuries, and was antiquated and cumbrous in the extreme. Its ramifications had spread through the social system in every direction, and landowners, lawyers, and churchmen alike were glad to be done with them. A summary of

¹ Originally it was contemplated that one measure should embrace both constitution and temporalities; but this turned out not to be feasible.

² Mr Robert Munro (now Lord Alness), in April 1922. The Commission consisted of the Rt. Hon. Viscount Haldane, Chairman; the Rt. Hon. Sir Joseph J. Maclay, Bart. (since created the Rt. Hon. Baron Maclay of Glasgow); Sir James M. Dodds, K.C.B., LL.D.; The Very Rev. Sir George Adam Smith, D.D., LL.D., etc.; and John Prosser, W.S., Crown Agent.

the provisions which are of interest with a view to Church Union¹ is sufficient for the present purpose. Certain matters, it will be observed, have been remitted to a body of Ecclesiastical Commissioners (see paragraph II below) specially charged with their disposal in accordance with instructions given. Commissioners have been appointed,² and their decisions, which must necessarily follow the general lines on which the Act as a whole proceeds, may be expected ere long.

SUMMARY OF THE PROVISIONS OF
CHURCH OF SCOTLAND (PROPERTY AND
ENDOWMENTS) ACT, 1925.

(1) Life interests of Ministers now in office are preserved.

(2) In the old or original parishes, 884 in number, ministerial stipend, which was formerly a burden on the fruits of the land, fluctuating every year in amount in accordance with the rise and fall in the price of grain, and collected direct by the minister from the individual heritors, will, after the first vacancy, become a real burden on the land (called "Standard Charge") of fixed amount, payable by the landowner to the General Trustees of the Church, who may agree with him as to its redemption, or may dispose of it in the same manner as other property. All stipend will in future be paid from the Church's own resources.

(3) When the new system comes into force, small heritors will be relieved of liability for stipend if the annual sum payable by them is 1s. or less. If the annual sum exceeds 1s. and does not exceed £1, the heritor is bound to redeem the annual payment, and may do so

¹ As submitted to the General Assembly of the United Free Church in 1925 (see *Report*, pp. 9 and 10).

² The Hon. Lord Ashmore, *Chairman*; Sir Kenneth Mackenzie, Bart.; Professor R. Candlish Henderson, K.C.; James Brown, C.B.E., M.P.; Charles D. Ker, C.A.

either in such manner as may be agreed upon with the General Trustees or by a capital sum, calculated at eighteen years' purchase, or in his option by equal half-yearly payments spread over eighteen years.

(4) Ministers are given the option of coming under the provisions of the Act as regards payment of stipend at any time, or the General Trustees may by intimation bring any parish, where no vacancy has occurred, under these provisions, after giving the minister an undertaking that his stipend will not be interfered with.

(5) In parishes where there are still free or surplus teinds available (said to be not more than 360 in number) the minister was formerly entitled to apply to the Court of Teinds for an augmentation of stipend at the expiry of every twenty years. Under the Act the minister of each such parish will receive one final augmentation, the amount of which is fixed according to a scale laid down in the Act, and this must be applied for before the expiry of eleven years from the passing of the Act.

(6) The General Assembly is given the power of deciding (after life interests are discharged) how much stipend should be appropriated to meet the proper requirements of each parish or its neighbourhood, and any remainder after these have been fully met shall form part of a general fund at the disposal of the General Assembly.

(7) After the Churches and Manses of the old or original parishes have been put into a state of tenantable repair, or the General Trustees have agreed with the heritors to accept a sum of money in lieu of repair, the Churches and Manses are to be handed over by the heritors to the Church as its absolute property, and their upkeep thereafter will be a charge upon the Church itself. Where the final assessment for repair is levied on the real rent, £30 shall be deducted from the rental on which each heritor is assessed, and the deficiency created by this reduction will be paid by the Church.

(8) All glebes are to be transferred to the General Trustees.

(9) Parish Churchyards are to be transferred from the

heritors or Kirk Session to the Parish Councils, subject to certain reservations.

(10) Certain sums paid to the Church annually out of the Consolidated Fund mainly for stipend are in future to be paid to the General Trustees, and the Treasury are empowered to contract for their redemption by payment of a capital sum.

(11) The following matters are to be disposed of by a body of Commissioners to be appointed by Parliament :—

- (a) Burgh Churches.
- (b) Parliamentary Churches and Manses erected under the provisions of the Act 5 George IV, cap 90.
- (c) Churches and Manses of certain parishes *quoad omnia* erected under the New Parishes (Scotland) Act, 1844.
- (d) Endowments in other parishes *quoad omnia*.
- (e) The allocation by the General Trustees of the annual sums received from the Treasury in augmentation of stipends of Parliamentary charges and Exchequer livings, and of the income from capital sums received in redemption of these annual payments.

The Schemes to be prepared by the Commissioners are to provide for the transfer to the General Trustees of the Churches, Manses, and Endowments, and the payment to them of the stipends and the redemption of periodical payments.

(12) The right to let sittings in the Parish Church will belong to the Kirk Session.

(13) All moneys arising from Church collections are to be at the disposal of the Kirk Session, subject only to review of the higher Courts of the Church.

(14) In *quoad sacra* parishes, 548 in number, the statutory properties and endowments raised from voluntary sources and amounting to two and a half millions sterling or thereby, will be transferred by the existing trustees to the General Trustees, and all the

Title Deeds, Certificates, and other documents relating to these in the custody of the Clerk of Teinds will be handed over to the General Trustees.

Discussion of the details of the above would here be out of place. It ought not to go unrecorded, however, with what frankness the Church of Scotland, with the sole aim of promoting a great public object, that of Church reunion, placed the whole properties referred to in the hands of the national Parliament for disposal as might be thought fit. Naturally she accompanied her action with an indication of her views as to what ought to be done with them; and also she may be said to have been favoured by fortune in the Government to whom it fell to arbitrate in the matter. Still, to Caesar she had appealed, and by the award of Caesar she had no option but to abide. In point of fact she has lost heavily over the transaction—one-sixth, perhaps, of the whole annual revenues involved. On the other hand, she has reaped a highly valuable two-fold compensation.

For, first, her whole properties are henceforth her own: she knows what they are, and her right in them is unambiguous and indisputable. The 'standard charge' which, as a real burden on the land, takes the place of the former variable 'teind' and is payable to the General Trustees of the Church, has been spoken of freely as a 'land tax.' Surely an inexcusable misuse of language. The 'charge' in question can be at any time redeemed by the landowner or disposed of, as a marketable security, by the Church Trustees—is a tax liable to such treatment? The 'standard charge' clearly is a property on the same footing with any other property: the Church's right in it is an indefeasible one.¹ And, accordingly, the Church's control of this, as of all her properties, is unfettered by any statutory or other outside authority. In other words, the existing rigidly congregational system of finance

¹ From the Church's point of view much is to be said for the compulsory redemption of all teind, within a given time-limit, proposed by the Haldane Commission. But this was found impracticable.

obtaining in the Church of Scotland (so far as stipend is concerned) is replaced by a centralised or church system. The authority which determines all such matters henceforward is the General Assembly. It is true that "the proper requirements of the parish or its neighbourhood" are to be a first charge upon the moneys received by the General Trustees in lieu of the local teind. But the General Assembly (or "any body to which the General Assembly may delegate the necessary power"), is to determine what these requirements are, and, this done, "any remainder shall form part of a general fund at the disposal of the General Assembly." What this will mean for the wise and fitting application of the Church's ancient resources to meet the changed needs of the modern community, only the future will show. A glance at any recent population map of Scotland, however, will be enough to suggest the uneconomic distribution—not to say the waste—of these resources which, in certain areas especially, has obtained too long. Hereafter the Church herself will assign to each locality, in accordance with the needs she recognises, the proportion of the customary provision thought proper, whether the whole or part or none.¹

Broadly, however—and this is the only further aspect of the temporalities question that needs to be adverted to—it is the civil equity of the Parliamentary settlement reached that causes some persons trouble. They have been accustomed to think of these as national or public moneys: can it be right, they ask, to hand them over, in full possession and in perpetuity, to a sect? Is this not to 'endow' the Church of Scotland more unequivocally than ever—and irrevocably? And how

¹ It is obvious how favourably this arrangement with regard to the 'ancient endowments' compares with the system by which endowments of more recent origin—in either Church—are *ascripti glebæ*, tied to particular localities. In the United Free Church, which the writer knows best, some four or five hundred congregations at least possess local endowments yielding sums ranging up to four-fifths of the standard minimum stipend, which, presumably, would require in each case the intervention of Parliament were their destination to be changed.

should a Nonconformist Church be asked to have any share in such a proceeding?

It should be recalled at this point that, in the course of these negotiations, one express declaration has been made on this subject by the United Free Church—namely, in 1919¹—a declaration made without demur from any quarter. In it agreement was indicated with the Church of Scotland's views in regard to various particulars, and it was added that

“‘pious uses’ have from time immemorial been burdens on the Teinds, and it might be provided that any surplus of the ‘teinds’ or ‘unexhausted teinds’ not made over [by Parliament] to the Church of Scotland shall not be secularised or bestowed in endowments, but shall be entrusted to such body representative of the general community as Parliament shall create, to expend the income thereof in grants to religious uses and purposes under rules and directions as Parliament may order.”

The passage is worth recalling. Men sometimes speak as though the United Free Church had in this matter made no reference to the possibility of a public interest being involved at all. The contrary is the case: the view here stated was frankly placed before every Government which dealt with the question.

The award which has been made, however, is that known to every one. The smaller heritors have been treated generously; the larger are relieved of assessments (£70,000 or thereby per annum); and the settlement with the Treasury (cp. paragraph 10 above) may be expected to be of the usual stringent character. But otherwise any public interest in the funds in question has been ignored. Have United Free Church people a right—or rather are they bound—to complain of it? We are not, I submit, in a position even to discuss the question profitably unless we recognise that two views are honestly tenable here. The ‘ancient endowments’ were undoubtedly assigned to the Church by Parliament at various dates from the Reformation downwards;

¹ See *Report to General Assembly* of that year, pp. 9 and 10.

they are held under statute law; and they cannot be administered without reference to the civil courts. In that sense they are public or national property: from which the inference has been drawn that they should be treated as other national resources are, and applied for the behoof of no one section of the community, but of all. But another view also is possible, according to which it is only in a very modified sense that they can be termed public funds at all. They are, it is alleged, the Church's own. They never were raised by taxation, but represent pious benefactions coming down from time immemorial, and are in short the Church's 'proper patrimony,' or rather the miserable fraction of it which the spoliations of the past have spared. This is not a view held by prejudiced or interested parties merely, high legal and historical authority can be quoted in support of it. For a private individual to express an opinion would be idle. Discussion among such persons—or between Churches—has gone on for generations, and might continue for generations more. The decision lies with one authority only, the sole body competent to pronounce upon such matters once for all.

Take, in illustration, the case which may be thought least favourable to the Church of Scotland's claims. A century ago religion was at a low ebb in these islands. South of the Border, however, sufficient zeal was left to secure from the Government of the day large public grants for the maintenance of ordinances in the poorer parts of the country; and in Scotland the Church, not to be outdone, and chiefly at the instance of Dr Chalmers, made similar application. With the result that to this day some £20,000 is drawn annually from the public purse, in aid chiefly of stipend in a number of Highland Churches and elsewhere. Have we not here a clear case of a sect enjoying what belongs to all? The answer given, however, is that this represents merely the equivalent or part-equivalent of certain moneys, Bishops' teinds and such like, of which the Church was deprived long ago. That answer again may be historically

accurate or not: in some cases, I believe, its accuracy can be vouched for,¹ in others evidence may be awaiting. But, as a general one, how shall the question be determined? Its practical determination could only be found at Westminster, the national 'bed of justice' for the settlement of all disputed civil rights and claims.

And now Parliament has spoken. The award is made. Not certainly as the result of an historical research, taking men up into the mists of antiquity, but on what, presumably, have been held to be grounds of public right and expediency. 'Here,' the nation's representatives have said, 'is a stumbling-block to Church union: we shall take it out of the way, putting an end at the same time to a belated and highly cumbrous system of land-tenure. After all, the Church has a prescriptive right, founded on more than three hundred years' tenure, to these funds and properties; nor would it be in the general interest to dislocate her finance or seriously cripple her work.' Hence, one imagines, the decision come to.

Suppose, now, one disagrees with the conclusion arrived at—in the United Free Church there is a notorious cleavage of opinion on the subject—but for argument's sake let the supposition be made. Nevertheless, in the highest court of appeal that opinion has been overborne. Are we bound—have we the right—on this account to hold aloof from the Church whose convictions have carried the day? Is a difference of this sort—a difference, not in point of principle, but as to an exceedingly complex and disputable matter of historical and legal fact—to keep fellow-Christians apart? and not only now, I suppose, but always? Is there here a valid reason for declining to make common Christian cause with those with whom we have everything else in common? I confess the inference strikes me as an altogether unreasonable one. In short, it will not bear stating. So that if this be—as one understands it is—the final

¹ See, *e.g.*, the grants to the parishes of Queensferry and Dunkeld and the Royal Charters thereanent.

objection taken to the rapprochement between the Churches, it may be said (without undue disregard for the convictions of others, I trust) that this last would seem to be complete. These Conferences, so long drawn out, have at length achieved their object. The undertaking of the Memorandum¹ has been implemented and the position of the Churches has been substantially equated. In respect of matters spiritual and also of her control of her own resources the Church of Scotland finally, and in the fullest sense of the word, is free.

And with this the first grand stage upon the road to Union has been overtaken. The 'main causes keeping the Churches apart' have been removed. The two-fold stumbling-block, concerning spiritualities and temporalities respectively, which the State, inadvertently enough, had interposed between them, the State has once for all cleared away. And henceforward the Churches are free, deferring solely to the authority of their common Lord, to consider their mutual relations to each other as these are and as they ought to be, and together to adjust their service of His Kingdom as His will shall be made plain to them and strength and courage given to obey.

CONCLUSION—THE DUTY OF THE CHURCHES.

These pages deal with the first or negative phase of the present movement only: the use to be made by the Churches of the opportunity now offered to them, and the issues which will evolve from it, lie in the future. One thing, however, may be said with confidence. If the view here taken of what has thus far been accomplished be at all sound and accurate, the immediate duty before these sister communions is indeed a pressing one. Human nature is always fertile in finding excuses for 'letting it alone,' and one can

¹ See pp. 51 f.

conceive of reasons leading men to be content even with the disordered ecclesiastical condition of Scotland as it is to-day. But it is hard to conceive of any reason that will bear examination. And, on the other hand, how manifold is the summons to deal with it forthwith! Is it a light reproach that the use made of the most abundant Church resources perhaps—in proportion to population—of any country in the world is “both wasteful and inadequate” and increasingly so? The ideas and forces, also, with which our Scottish Church has travailed in birth all down its history, are manifestly struggling towards a new and more harmonious expression of themselves than ever before: are they to be withstood? Again, the gaping wounds from which society around us suffers to-day call loudly upon the Churches, if they are to help in their healing, first to close their own. While, with the removal of differences compelling conscientious separation in the past, the abiding obligation of the Christian discipleship everywhere to present itself to the world as one family resumes its sway. Let it be granted that the true unity of Christ’s Church is of a spiritual kind, and that within that unity there is room for diversity of many sorts. Granted even that a certain denominational variety can be defended. Still, within the same denomination—and more particularly in the case of Churches such as ours, which have the same historical antecedents, faith, polity, territory to work in, present tasks, and outlook on the future—what ground for severance can any longer be alleged? If this were not the sin of schism, what should be? Nevertheless, one supporter at least of the reunion of the Scottish Church has to confess that it is from a further consideration still that the question for him mainly gathers urgency. Already there stands around us a generation to whom it is not easy to explain, in any way to interest or hold their minds, the differences between our Churches. And with those who are coming up behind them—in view, especially, of the thoroughgoing approximation

of these Churches in spiritual status, liberty, tenure of resources and all else, now effected—will it not be harder still? ‘Look on this picture and on this.’ Who shall distinguish between them? What prospect, with such alternatives to choose between, is there for the religious mind of young Scotland henceforward but bewilderment and confusion? It is, as I conceive it, the bounden duty of this generation to save those coming after them from a perplexity so wanton. One thing, indeed, would be to be deplored, what Milton terms ‘the forced and outward union of cold and neutral and inwardly divided minds.’ May God in His mercy avert it. Our supreme need is the reviving among us of a true and deep concern for the spiritual well-being of the land; and one way to secure this is to throw the imagination into the future. Then the heart will kindle. And men of goodwill, I cannot but believe, impressed and stirred by the prospect which reunion opens—and by the thought of that from which nothing else can save us—will together combine to urge this movement forward, unhasting but unresting, to its happy destined end.

APPENDIX I

CHURCH OF SCOTLAND MEMORANDUM

Showing Suggested Course of Procedure and of possible Legislation with a view to Presbyterian Reunion in Scotland. [1912.]

1. The most pressing duty at the present time is to make a real effort to show how the problem of State relationship can be dealt with in such a manner as shall satisfy the most cherished ideals of both Churches.

2. In the Joint Report submitted to the Assembly of 1911 the view was indicated that it would be difficult, if not impracticable, to secure concurrence in any attempt to define special State relations in a modern Statute, and that in this connection legislation would probably have to be limited to the recognition by Parliament of the freedom which must be a condition of any possible union, and the repeal in general terms of all enactments in any way inconsistent therewith.

3. Before any approach can be made to Parliament the Churches must be in agreement as to the Constitution of the United Church. It would not meet the views of either Church that the Constitution should either in form or in substance be prescribed by Parliament. But there seems to be no reasonable objection to Parliamentary recognition of the Constitution in a form which would not in any way fetter the Church in her own spiritual legislation and administration, or interfere with such power of future modification of any of the terms of the Constitution as the Constitution itself contains. The Constitution must therefore be a concordat between the Churches themselves. Questions of State relations do not necessarily enter into the framing of such a Constitution, but care must be taken that the Constitution contains nothing inconsistent with the claim of the United Church to recognition by the State as national, preserving her continuity with the Church of the Reformation.

4. In the course of these negotiations both Churches have accepted the principle that in matters spiritual the Church shall be free from external authority and shall be governed or limited only by her own Constitution. Two questions of difficulty have

emerged in this relation which are closely related to each other—doctrinal testimony and the limits of the power of the Church under her own Constitution to alter the Constitution itself. But these are not questions as between the Church of Scotland as an Established Church and the United Free Church as a non-Established Church. Even if the Church of Scotland were non-Established these difficulties would still have to be met. It is not proposed on the part of the Church of Scotland that such matters, even as they may affect civil rights, should be governed by special State relations.

5. The position of other Churches is not prejudiced by these negotiations. The Church of Scotland has expressed her sympathy with the suggestion that these Churches might be given an improved status in the eye of the law, and beyond this it is not easy to advance by way of seeking any changes as regards these Churches which they are not at present seeking for themselves. But, on the other hand, one of the obstacles to union is the view that exclusive recognition of a national Church infers positive injury to all other Churches by depressing their position in the eye of the law. There are expressions in some of the Statutes which give colour to this argument, and it seems desirable to endeavour to meet it, if not by positive legislation for these Churches, at all events by a statutory disclaimer of any exclusive claim of the Church of Scotland to recognition by the State in Scotland as a Christian Church.

6. As regards endowments and ecclesiastical law in its civil relations generally (fabrics, churchyards, banns, city churches, university chairs, etc. etc.), the matter is one of great complexity, and it would be very difficult for the Churches to come to any complete agreement by negotiation between themselves, even if it were proper for the Churches to treat these as domestic matters to be settled by themselves alone. The Church of Scotland maintains that the endowments are to be conserved for the United Church, and will go forward in the matter of union only upon the footing that the United Free Church and the Government of the day, which is to make itself responsible for the necessary legislation, accept the position that the endowments are not to be secularised. But the details of the manner in which the ancient endowments are to be dealt with under the new conditions must be entrusted to a strong and sympathetic Parliamentary Commission. Such matters have been recognised as appropriate to Parliament throughout the whole history of the Church since the Reformation.

7. The manner in which union might be carried out on some such lines as these above indicated deserves careful consideration.

It is obvious that legislation is necessary, and it would appear that this legislation should be subsequent to (1) the adjustment of a Constitution for a United Church, and (2) its approval by both Assemblies with the consent of Presbyteries, but prior to (3) the formal completion of a union by Acts of Assembly upon the basis of that Constitution. There are thus three steps. The Act would be an enabling measure as regards the Church of Scotland, in her civil and temporal relations, and the union would be the voluntary act of both Churches. It is not overlooked that there may be objection to take steps (1) and (2) on a tentative basis, the consummation of the union on the lines approved of being dependent upon the action of Parliament. It is hoped, however, that this objection is only theoretical, and that it will not be allowed to stand in the way of negotiations for union if other difficulties are removed. Antecedent assurances may insure the assent of Parliament to the necessary measure, and there is reason to believe that there will be no difficulty in obtaining such assurances.

8. Suggestions as to the form which the necessary legislation might take must in the meantime be tentative. But to avoid any misunderstanding as to the suggestions which follow, it must be understood that they presuppose antecedent approval of the Constitution by the United Free Church and agreement to unite with the Church of Scotland upon the basis thereof. Although this agreement might not be expressly referred to in the Bill, if that course were more acceptable to the United Free Church, the conclusion of the agreement would be a public fact within the cognisance of Parliament when Parliament was invited to assent to the proposed measure. In the view of the Church of Scotland, legislation,—such as is here indicated—would be desirable only if union following thereupon were assured, and union would not be assured or in any way advanced by legislation to which both the great Presbyterian Churches in Scotland were not cordially assenting parties.

9. The terms of the Preamble to the Bill would be a matter of much importance. Some such Preamble as the following might be framed :—

Whereas the Treaty of Union between the kingdoms of Scotland and England makes provision for the security of the doctrine, government, worship, and discipline of the Church of Scotland, and Acts of the Parliament of Scotland in that regard are thereby ratified, approved, and confirmed : Whereas it is expedient to remove any obstacle which present law may be deemed to place in

the way of the union of other Presbyterian Churches with the Church of Scotland, as the Church of Scotland claiming historical continuity with the Church of the Reformation as the same was recognised as the national Church of Scotland by the Act of the Parliament of Scotland, 1592, cap. 8: Whereas the Constitution in the Schedule to this Act has been approved of by the General Assembly of the Church of Scotland, with the consent of a majority of the Presbyteries of the Church: Whereas it is expedient that this Constitution should be recognised by Parliament as the Constitution of the Church of Scotland, and that it should also be recognised that the Church possesses and enjoys thereunder in relation to the State and to the law, all the liberty, rights, and powers in matters spiritual therein claimed and set forth, and that no limitation thereof is to be derived from any Statute or law affecting the Church of Scotland at present in force, such Statutes and laws in so far as they may be inconsistent with said liberty, rights, and powers being herein repealed and declared of no effect: Whereas stipends modified out of the teinds, parish churches, manses, and glebes, and sundry other property and revenues possessed and enjoyed by the Church of Scotland under public law, have from time immemorial, or for long periods, been dedicated to religious uses and to the maintenance of a territorial ministry throughout Scotland: And whereas it is expedient that the same should not be diverted therefrom, but should continue to be devoted to religious uses, and to the maintenance of a territorial ministry under provisions adapted to the conditions created by the union of the Church of Scotland with any of the said Churches, and always in a manner consistent with the terms and provisions of the said Constitution of the Church, and the liberty of the Church in matters spiritual therein set forth and herein recognised.

10. In the enacting part of the Statute provision would have to be made for the following matters:—

- (1) The recognition of the Constitution in the Schedule (with any modifications of the same which may hereafter be made by the Church under the powers contained in the Constitution itself), as the Constitution of the Church of Scotland, and the repeal

of all statutory provisions and laws inconsistent therewith, or which would derogate from the liberty, rights, and powers in matters spiritual of the Church as therein set forth.

(2) The appointment of a Commission, the duties of which would be :—

- (a) To prepare, subject to any conditions which might be prescribed, and consistently with the Constitution of the Church, a scheme for the administration and application of the property and revenues possessed and enjoyed by the Church of Scotland under public law; and the adjustment of the civil law generally in relation to or as affected by the present arrangement of parochial and other ecclesiastical areas to the new conditions created by union upon the basis of the said Constitution.
- (b) To make temporary orders, either general or particular, with reference to such matters of civil right in order to obviate difficulties which might otherwise arise during the transition period.
- (c) On the application of the General Assembly of the Church of Scotland, or of any Commission appointed by the same, and after hearing all parties interested, to make orders modifying the trusts under which any property or endowments are held by the Church or by any congregation or organisation in connection therewith, other than the property and revenues possessed and enjoyed by the Church of Scotland under public law, in so far as may be necessary in order to bring the said trusts into legal harmony with the conditions created by the union of Churches, but always in such a manner as will most satisfactorily give effect to the purposes and objects to which the property and endowments are at present dedicated, or to cognate purposes and objects, due regard being had to the rights and interests of particular localities and congregations.
- (d) To make all such vesting orders as regards the property and endowments of the Church of Scotland or of any Church uniting with it or of any congregation or organisation in connection

with the same as might be necessary to carry out the said union in terms of the said Constitution.

Provision would have to be made for the conservation of all vested life interests.

11. It is a matter for earnest consideration whether a provision might not be embodied to the effect that nothing which is contained in any Act of the Parliament of Scotland, or of Great Britain, or of the United Kingdom, in relation to the Church of Scotland, should be construed to the prejudice of the recognition by lawful authority of any other Church in Scotland as a Christian Church protected by law in the exercise of her spiritual functions.

APPENDIX II

CHURCH OF SCOTLAND ACT, 1921 [11 and 12 Geo. 5, Ch. 29.]

AN ACT to declare the lawfulness of certain Articles declaratory of the Constitution of the Church of Scotland in matters spiritual prepared with the authority of the General Assembly of the Church.
[28th July 1921.]

WHEREAS certain articles declaratory of the constitution of the Church of Scotland in matters spiritual have been prepared with the authority of the General Assembly of the Church, with a view to facilitate the union of other Churches with the Church of Scotland, which articles are set out in the Schedule to this Act, and together with any modifications of the said articles or additions thereto made in accordance therewith are hereinafter in this Act referred to as "the Declaratory Articles":

And whereas it is expedient that any doubts as to the lawfulness of the Declaratory Articles should be removed:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:—

1. *Effect of Declaratory Articles.*—The Declaratory Articles are lawful articles, and the constitution of the Church of Scotland in matters spiritual is as therein set forth, and no limitation of the liberty, rights and powers in matters spiritual therein set forth shall be derived from any statute or law affecting the Church of Scotland in matters spiritual at present in force, it being hereby declared that in all questions of construction the Declaratory Articles shall prevail, and that all such statutes and laws shall be construed in conformity therewith and in subordination thereto, and all such statutes and laws in so far as they are inconsistent with the Declaratory Articles are hereby repealed and declared to be of no effect.

2. *Other Churches not to be Prejudiced.*—Nothing contained in this Act or in any other Act affecting the Church of Scotland shall prejudice the recognition of any other Church in Scotland as a Christian Church protected by law in the exercise of its spiritual functions.

3. *Jurisdiction of Civil Courts.*—Subject to the recognition of the matters dealt with in the Declaratory Articles as matters spiritual, nothing in this Act contained shall affect or prejudice the jurisdiction of the civil courts in relation to any matter of a civil nature.

4. *Citations and Commencement.*—This Act may be cited as the Church of Scotland Act, 1921, and shall come into operation on such date as His Majesty may fix by Order in Council after the Declaratory Articles shall have been adopted by an Act of the General Assembly of the Church of Scotland with the consent of a majority of the Presbyteries of the Church.

SCHEDULE

ARTICLES DECLARATORY OF THE CONSTITUTION OF THE CHURCH OF SCOTLAND IN MATTERS SPIRITUAL.

I. The Church of Scotland is part of the Holy Catholic or Universal Church: worshipping one God, Almighty, all-wise, and all-loving, in the Trinity of the Father, the Son, and the Holy Ghost, the same in substance, equal in power and glory; adoring the Father, infinite in Majesty, of whom are all things; confessing our Lord Jesus Christ, the Eternal Son, made very man for our salvation; glorying in His Cross and Resurrection, and owning obedience to Him as the Head over all things to His Church; trusting in the promised renewal and guidance of the Holy Spirit; proclaiming the forgiveness of sins and acceptance with God through faith in Christ, and the gift of Eternal Life; and labouring for the advancement of the Kingdom of God throughout the world. The Church of Scotland adheres to the Scottish Reformation; receives the Word of God which is contained in the Scriptures of the Old and New Testaments as its supreme rule of faith and life; and avows the fundamental doctrines of the Catholic faith founded thereupon.

II. The principal subordinate standard of the Church of Scotland is the Westminster Confession of Faith approved by the General Assembly of 1647, containing the sum and substance of the Faith of the Reformed Church. Its government is Presbyterian, and is exercised through Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies. Its system and principles of worship, orders, and discipline are in accordance with "The Directory for the Public Worship of God," "The Form of Presbyterial Church Government," and "The Form of Process," as these have been or may hereafter be interpreted or modified by Acts of the General Assembly or by consuetude.

III. This Church is in historical continuity with the Church of Scotland which was reformed in 1560, whose liberties were ratified in 1592, and for whose security provision was made in the Treaty of Union of 1707. The continuity and identity of the Church of Scotland are not prejudiced by the adoption of these Articles. As a national Church representative of the Christian Faith of the Scottish people it acknowledges its distinctive call and duty to bring the ordinances of religion to the people in every parish of Scotland through a territorial ministry.

IV. This Church, as part of the Universal Church wherein the Lord Jesus Christ has appointed a government in the hands of Church office-bearers, receives from Him, its Divine King and Head, and from Him alone, the right and power subject to no civil authority to legislate, and to adjudicate finally, in all matters of doctrine, worship, government, and discipline in the Church, including the right to determine all questions concerning membership and office in the Church, the constitution and membership of its Courts, and the mode of election of its office-bearers, and to define the boundaries of the spheres of labour of its ministers and other office-bearers. Recognition by civil authority of the separate and independent government and jurisdiction of this Church in matters spiritual, in whatever manner such recognition be expressed, does not in any way affect the character of this government and jurisdiction as derived from the Divine Head of the Church alone, or give to the civil authority any right of interference with the proceedings or judgments of the Church within the sphere of its spiritual government and jurisdiction.

V. This Church has the inherent right, free from interference by civil authority, but under the safeguards for deliberate action and legislation provided by the Church itself, to frame or adopt its subordinate standards, to declare the sense in which it understands its Confession of Faith, to modify the forms of expression therein, or to formulate other doctrinal statements, and to define the relation thereto of its office-bearers and members, but always in agreement with the Word of God and the fundamental doctrines of the Christian Faith contained in the said Confession, of which agreement the Church shall be sole judge, and with due regard to liberty of opinion in points which do not enter into the substance of the Faith.

VI. This Church acknowledges the divine appointment and authority of the civil magistrate within his own sphere, and maintains its historic testimony to the duty of the nation acting in its corporate capacity to render homage to God, to acknowledge the Lord Jesus Christ to be King over the nations, to obey His laws, to reverence His ordinances, to honour His Church, and to

promote in all appropriate ways the Kingdom of God. The Church and the State owe mutual duties to each other, and acting within their respective spheres may signally promote each other's welfare. The Church and the State have the right to determine each for itself all questions concerning the extent and the continuance of their mutual relations in the discharge of these duties and the obligations arising therefrom.

VII. The Church of Scotland, believing it to be the will of Christ that His disciples should be all one in the Father and in Him, that the world may believe that the Father has sent Him, recognises the obligation to seek and promote union with other Churches in which it finds the Word to be purely preached, the sacraments administered according to Christ's ordinance, and discipline rightly exercised; and it has the right to unite with any such Church without loss of its identity on terms which this Church finds to be consistent with these Articles.

VIII. The Church has the right to interpret these Articles, and, subject to the safeguards for deliberate action and legislation provided by the Church itself, to modify or add to them; but always consistently with the provisions of the first Article hereof, adherence to which, as interpreted by the Church, is essential to its continuity and corporate life. Any proposal for a modification of or addition to these Articles which may be approved of by the General Assembly shall, before it can be enacted by the Assembly, be transmitted by way of overture to Presbyteries in at least two immediately successive years. If the overture shall receive the approval, with or without suggested amendment, of two-thirds of the whole of the Presbyteries of the Church, the Assembly may revise the overture in the light of any suggestions by the Presbyteries, and may transmit the overture when so revised to Presbyteries for their consent. If the overture as transmitted in its final form shall receive the consent of not less than two-thirds of the whole of the Presbyteries of the Church, the General Assembly may, if it deems it expedient, modify or add to these Articles in terms of the said overture. But if the overture as transmitted in its final form shall not receive the requisite consent, the same or a similar proposal shall not be again transmitted for the consent of Presbyteries until an interval of five years after the failure to obtain the requisite consent has been reported to the General Assembly.

IX. Subject to the provisions of the foregoing Articles and the powers of amendment therein contained, the Constitution of the Church of Scotland in matters spiritual is hereby anew ratified and confirmed by the Church.

APPENDIX III

UNITED FREE CHURCH ACT ANENT SPIRITUAL INDEPENDENCE OF THE CHURCH (1906)

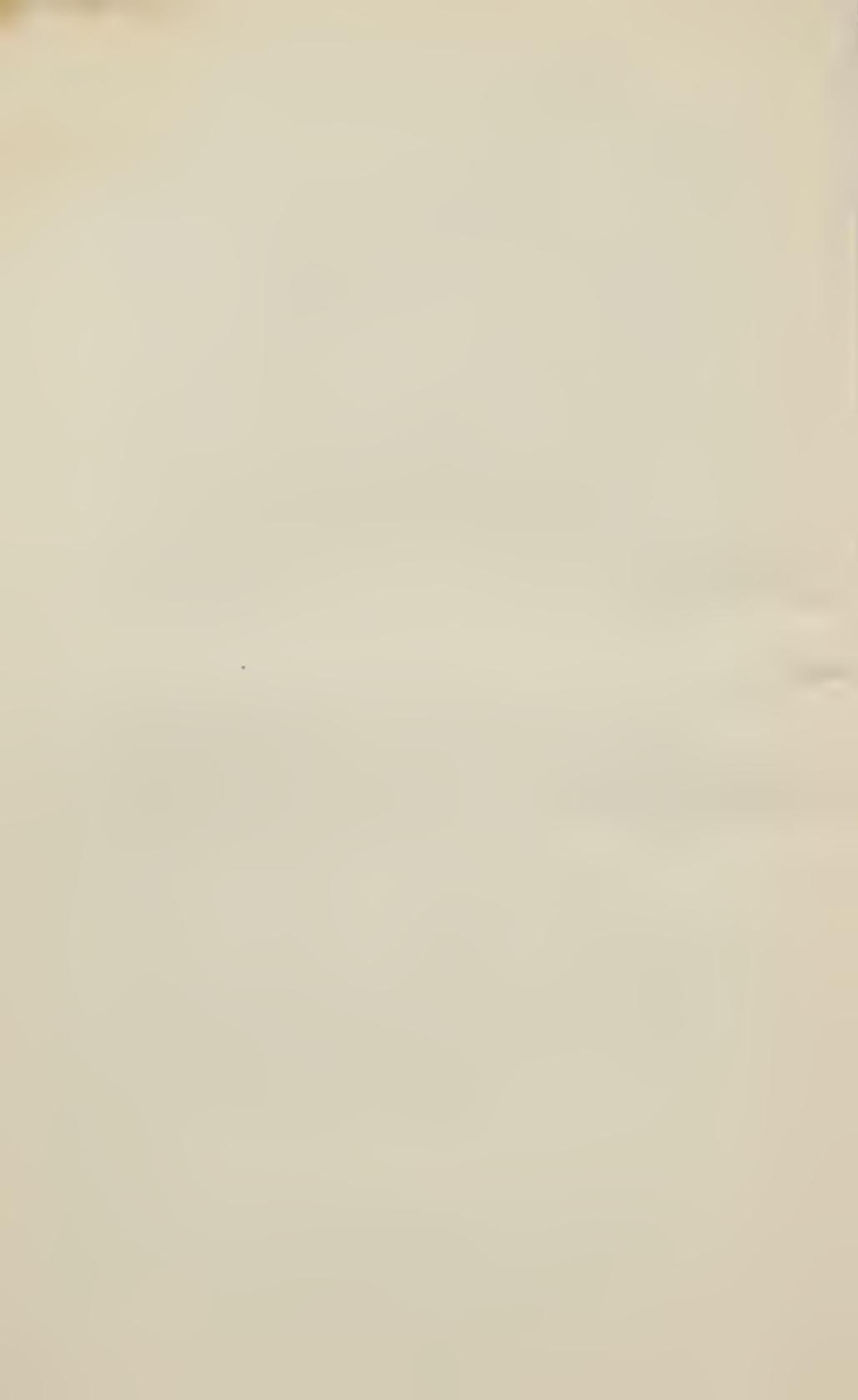
THE Overture anent Spiritual Independence sent down by last General Assembly to the Presbyteries of the Church having been approved by the great majority of the Presbyteries of the Church, the Assembly hereby pass the same into a standing law of the Church as follows :—

Whereas the General Assembly judged it necessary in the circumstances of the Church to pass the following Act, and although the principles set forth therein involve no new departure and are not in any sense a constitutional novation, but have been always accepted and maintained by this Church, yet in respect of the importance of making manifest to all that the whole Church explicitly adheres to these principles, the General Assembly deemed it right to send it down as an Overture under the Barrier Act: the General Assembly hereby, with consent of a majority of Presbyteries, declare and enact, as follows :—

Considering the situation created by the decisions of the House of Lords on 1st August 1904, in the Cases of *Bannatyne and Others v. Lord Overtoun and Others*, and *Young and Others v. Macalister and Others*, and the grounds on which these decisions were based; considering also the Resolutions relative thereto of the Commission of Assembly at its ordinary Meeting on 10th August 1904, of which Resolutions the Assembly hereby approve; and considering that it is needful to make clear the position in which the United Free Church of Scotland stands in reference to the questions thus raised, the General Assembly resolve and declare as follows :—

1. They assert and protest that those branches of the Church of Christ in Scotland now united in this Church have always claimed, and this Church continues to claim, that the Church of Christ has under Him as her only Head independent and exclusive jurisdiction and power of legislating in all matters of doctrine, worship, discipline, and government of the Church, including therein the right from time

- to time to alter, change, add to, or modify, her constitution and laws, Subordinate Standards, and Church Formulas, and to determine and declare what these are.
2. The General Assembly accordingly declare anew and enact that it is a fundamental principle and rule of this Church that, in dependence on the grace of God, recognising the authority of the Word of God, contained in the Scriptures of the Old and New Testaments, as the supreme unchangeable Standard, and looking to the Head of the Church for the promised guidance of the Holy Spirit, this Church has the sole and exclusive right and power from time to time, as duty may require, through her Courts to alter, change, add to, or modify, her constitution and laws, Subordinate Standards, and Formulas, and to determine and declare what these are, and to unite with other Christian Churches ; always in conformity with the Word of God, and also with the safeguards for deliberate action and legislation in such cases provided by the Church herself—of which conformity the Church herself, acting through her Courts, shall be the sole judge—and under a sense of direct responsibility to the ever-living Head of the Church, and of duty towards all the Church's members.
 3. The General Assembly also declare and enact that in all the Courts of the Church a decision of the Court given either unanimously, or by a majority of its members present and voting, is the decision of the Court, and the decision of the General Assembly so reached is final. With respect to Acts which are to be binding Rules and Constitutions of the Church, the Assembly shall have regard to the safeguards referred to in the foregoing resolution.
 4. The General Assembly further declare that the Church holds her funds and property, present and future, in conformity with these principles ; the Church reserving her right to accept and hold benefactions, subject to specific conditions attached to them by the donor, when and so long as she judges these conditions to be consistent with her liberty and her principles, and to be expedient in the circumstances of the time.



Church of Scotland.

OVERTURES

SENT DOWN TO PRESBYTERIES BY THE
GENERAL ASSEMBLY AT THE AD-
JOURNED MEETING THEREOF ON 21ST
NOVEMBER 1928.

Overture No. I.

OVERTURE WITH REGARD TO THE BASIS OF
UNION, AND THE PREAMBLE, QUESTIONS,
AND FORMULA.

EDINBURGH, *November 21, 1928.*

A The General Assembly adopt the Overture the tenor whereof follows, and transmit the same to Presbyteries, directing that Returns be sent in not later than the 30th day of March 1929, viz. :—

WHEREAS with a view to the contemplated Union between the Church of Scotland and the United Free Church of Scotland (1) a Basis of Union between the said Churches; and (2) the Preamble, Questions, and Formula for use at the Ordination and/or Induction of a Minister in the United Church, have now been adjusted by Committees appointed by the said Churches :

And whereas it is necessary that the Basis of Union as so adjusted, and the said Preamble, Questions, and Formula as also so adjusted, should be submitted to the Presbyteries of the said Churches respectively under the Barrier Act, in order that they may be converted into Standing Laws of the United Church in the event of the contemplated Union being finally agreed to by both Churches :

Therefore the General Assembly of the Church of Scotland, having approved thereof, now resolve to send down to the Presbyteries of the said Church for their approval under the Barrier Act :—

(First) The said Basis of Union, including therein the proposed Uniting Act with relative Declarations as follows :—

I.

The Church of Scotland and the United Free Church of Scotland, as branches of the Holy Catholic or Universal Church, believing that it is the will of their Lord for His disciples that they all should be one, acknowledge that the witness borne to the Lord by the Catholic Visible Church and the particular Churches which are members thereof, is obscured, and that His work is hindered by division and separation therein :

And WHEREAS in the Church of Scotland, which was reformed by Presbyters in 1560, and whose outward and visible unity continued for long time thereafter unbroken, separations have taken place among those who alike claimed to share in the common heritage and adhered to the common traditions and standards, whereby :—

In 1690 certain members thereof, being unable to consent to the Revolution Settlement of the Church, continued independent ordinances and ultimately became known as the Reformed Presbyterian Church in Scotland :

And in 1733 certain brethren, on grounds duly set forth and made public at the time, separated themselves from the jurisdiction of the Church of Scotland, and in due course formed the Secession Church in Scotland :

And in 1761 certain other brethren, for grounds and reasons similarly declared and published, formed the Relief Church in Scotland :

And in 1843 there occurred the cleavage in the Church of Scotland historically known as the Disruption, when a large section of the Church, severing ecclesiastical connection with the State on grounds set forth and recorded in the Claim, Declaration, and Protest of the General Assembly, 1842, and the Protest, 1843, formed the Free Church of Scotland :

And WHEREAS the obligation resting upon the followers of Christ to manifest their inward and spiritual unity to the world, in a common profession of faith and observance of the ordinances of Christ, has never ceased to be acknowledged by the Scottish Church throughout all her branches, so that not only were these separations contemplated and carried through with profound reluctance and in hope of ultimate reunion, but further, as the way was opened in God's Providence, various unions took place from time to time, and in particular those effected under and in terms of the several Uniting Acts following—viz., the Articles forming the Basis of Union of the United Secession and Relief Churches to form the United Presbyterian Church in 1847; the Act of Union of the Free Church of Scotland and the Reformed Presbyterian Church in 1876; and the Uniting Act with Declarations anent Union of the Free Church of Scotland and the United Presbyterian Church to form the United Free Church of Scotland in 1900:

And WHEREAS the Church of Scotland and the United Free Church of Scotland, maintaining alike the common historic heritage, and steadfastly desiring reunion, agreed, in 1909, through their General Assemblies, to enter into "unrestricted conference on the ecclesiastical situation in Scotland and the main causes which keep the Churches apart, in the earnest hope that by God's blessing, misunderstandings and hindrances may be removed, and the great object of Presbyterian reunion in Scotland be thereby advanced":

And WHEREAS in the course of conference it appeared that the main obstacles to reunion were concerned with differences which had arisen in regard to certain aspects and applications of the principles, common throughout their history to both Churches, of the National Recognition of Religion and the Spiritual Freedom of the Church under Christ, the only King and Head thereof:

And WHEREAS in the Articles Declaratory of the Constitution of the Church of Scotland in Matters Spiritual adopted by the General Assembly of 1926, and in the United Free Church Act

anent the Spiritnal Independence of the Church, 1906 (which Articles and Act are appended to the present Act), these principles are reaffirmed and set forth in a manner which is in accordance with the convictions of both Churches :

And WHEREAS these Churches, deeply conscious of the evils of disunion, and being increasingly impressed with the urgent need for reunion in order to meet more adequately the religious requirements of the people, welcomed the opportunity thus afforded for the readjustment of their relations to each other, and in the General Assemblies of 1926 agreed to confer together on the formation of a Basis of Union, and generally on the whole matters to be arranged before an incorporating union could be carried through successfully :

And WHEREAS representative Committees having been appointed and having communicated to one another the existing standards, rules, and methods of the Churches, it appeared that in regard to doctrine, worship, government, and discipline as therein set forth substantial agreement obtained between them :

And WHEREAS certain further necessary adjustments have now been made ; and in particular Questions and a Formula to be used at the Ordination and Induction of Ministers, the constitution of the Courts of the united Church, provision for the support and for the training of the Ministry, and arrangements for combining the methods and work of the two Churches, have been agreed upon, and have been duly authorised by the Courts of the two Churches :

NOW THEREFORE THE GENERAL ASSEMBLY OF THE CHURCH OF SCOTLAND AND THE GENERAL ASSEMBLY OF THE UNITED FREE CHURCH OF SCOTLAND, devoutly acknowledging the mercy and long-suffering shown by Almighty God to themselves and to their fathers, rendering humble and hearty thanks for the gracious guidance bestowed upon them in this their endeavour to heal the divisions in His Church and to promote His glory, and entreating Him to pour out His Spirit upon His servants and upon those who shall come after them,

that as good stewards of the manifold grace of God they may with growing power minister to the people of this land and to the nations that have not yet received the Gospel, DO HEREBY, in terms and in pursuance of Deliverances of their respective General Assemblies, with approval of the Presbyteries of the respective Churches in accordance with the provisions of the Barrier Act, ENACT AND DECLARE THAT THESE CHURCHES, being historic branches of the Reformed Church in Scotland, DO AND SHALL HENCEFORTH CONSTITUTE ONE CHURCH, and that the name of the united Church shall be THE CHURCH OF SCOTLAND.

II.

The General Assembly of the Church of Scotland and the General Assembly of the United Free Church of Scotland enact that the Churches enter into union in view of the following Declarations, viz. :—

1. The various matters of agreement between the Churches with a view to union are accepted and enacted without prejudice to the inherent liberty of the united Church as a branch of the Church of God to determine and regulate her own constitution and laws as duty may require, in dependence on the grace of God and under the guidance of His Word and Spirit, all as more particularly set forth in the after-mentioned *Act*, 1906, and *Articles*, 1926.

2. The following are leading documents setting forth the constitution, standards, rules and methods of the united Church, viz. :—

GENERAL CONSTITUTION, including the Principles of the Spirituality and Freedom of the Church, and the National Recognition of Religion.

United Free Church Act anent Spiritual Independence (1906).

Articles Declaratory of the Constitution of the Church of Scotland in Matters Spiritual (1926).

DOCTRINE.

- The Westminster Confession of Faith* (1647).
United Presbyterian Church Declaratory Act (1879)
Free Church Declaratory Act (1892) with *Act* (1894)
 relative thereto.
The Church of Scotland Act on the Formula (1910).

GOVERNMENT.

- The Form of Presbyterian Church Government and of Ordination of Ministers* (1645).

WORSHIP.

- A Directory for the Public Worship of God* (1645).

DISCIPLINE.

- The Form of Process* (1707).
 Which *Form of Presbyterian Church Government*,
Directory for the Public Worship of God, and
Form of Process respectively are to be regarded
 as generally regulative and as of validity, as
 these have been interpreted or modified by Acts
 of General Assembly or by consuetude.

3. The following *Uniting Acts* are historic documents the general principles whereof are held to be conserved in the united Church :—

- Articles forming the Basis of Union of the United Secession and Relief Churches to form the United Presbyterian Church* (1847).
Act of Union of the Free Church of Scotland and the Reformed Presbyterian Church (1876).
Uniting Act with Declarations anent Union of the Free Church of Scotland and the United Presbyterian Church to form the United Free Church of Scotland (1900).

4. *The Larger and Shorter Catechisms* prepared by the Westminster Assembly of Divines, sanctioned by the General Assembly in 1648 and for long approved as manuals of instruction, continue to be held in honour in the united Church.

5. The following documents are also held in honour as

having an important place in the history of Scottish Presbyterianism :—

Scots Confession (1560).

First Book of Discipline (1560).

Second Book of Discipline (1578).

Book of Common Order (1564).

6. As this Union takes place on the footing of maintaining the liberty of judgment and action heretofore recognised in either of the Churches uniting, so in particular it is hereby declared that members of both Churches shall have full right, as they shall see cause, to assert and maintain the views of truth and duty which they had liberty to maintain in the said Churches.

7. The Churches, in entering into Union, under a sense of responsibility as a branch of the Church of God, acknowledge afresh the obligation resting on the Church to provide the ordinances of religion to the people of Scotland through a territorial ministry and to labour for the universal diffusion of the Gospel, and the duty of her members to contribute, according to their ability, both by their service and their means, for the support of the ordinances of religion in this land and the extension of the Kingdom of Christ throughout the world.

III.

The General Assembly of the Church of Scotland and the General Assembly of the United Free Church of Scotland enact and ordain that all previous enactments and regulations of the General Assemblies of either uniting Church in force at the passing of this Act, unless in so far as modified by the Basis and Plan of Union, shall continue in force in the same manner as prior to the passing of this Act, so long as they shall not have been repealed or amended in accordance with the law of the united Church : provided always that where any such enactments or regulations are found in conflict or where the former practice of the two Churches is materially different and has not been adjusted by the Basis and Plan

of Union, any necessary legislation to which the procedure of the Barrier Act is appropriate shall be by interim Act only, which shall be transmitted to Presbyteries in accordance with the provisions of the Barrier Act for consent or suggestions before its adoption as a standing law of the Church.

IV.

The General Assembly of the Church of Scotland and the General Assembly of the United Free Church of Scotland enact and ordain that the General Assembly of the Church of Scotland and the General Assembly of the United Free Church of Scotland, when they have met for the purpose of consummating the Union, and have adopted the Uniting Act, shall thereafter have the powers of a General Assembly of the united Church, and may do and authorise all things necessary or proper and lawful to be done with a view to the orderly inauguration and conduct of the affairs of the united Church, and in consistency with the terms of Union agreed upon.

APPENDIX TO UNITING ACT.

ARTICLES DECLARATORY OF THE CONSTITUTION OF THE
CHURCH OF SCOTLAND IN MATTERS SPIRITUAL.

I. The Church of Scotland is part of the Holy Catholic or Universal Church ; worshipping one God, Almighty, all-wise, and all-loving, in the Trinity of the Father, the Son, and the Holy Ghost, the same in substance, equal in power and glory ; adoring the Father, infinite in Majesty, of whom are all things ; confessing our Lord Jesus Christ, the Eternal Son, made very man for our salvation ; glorying in His Cross and Resurrection, and owning obedience to Him as the Head over all things to His Church ; trusting in the promised renewal and guidance of the Holy Spirit ; proclaiming the forgiveness of sins and acceptance with God through faith in Christ, and the gift of Eternal Life ; and labouring for the advancement of the Kingdom of God throughout the world. The Church of Scotland adheres to the Scottish Reformation ; receives the Word of God which is contained in the Scriptures of the Old and New Testaments as its supreme rule of faith and life ; and avows the fundamental doctrines of the Catholic faith founded thereupon.

II. The principal subordinate standard of the Church of Scotland is the Westminster Confession of Faith approved by the General Assembly of 1647, containing the sum and substance of the Faith of the Reformed Church. Its government is Presbyterian, and is exercised through Kirk Sessions, Presbyteries, Provincial Synods, and General Assemblies. Its system and principles of worship, orders, and discipline are in accordance with "The Directory for the Public Worship of God," "The Form of Presbyterian Church Government," and "The Form of Process," as these have been or may hereafter be interpreted or modified by Acts of the General Assembly or by consuetude.

III. This Church is in historical continuity with the Church of Scotland which was reformed in 1560, whose liberties were ratified in 1592, and for whose security provision was made in the Treaty of Union of 1707. The continuity and identity of the Church of Scotland are not prejudiced by the adoption of these Articles. As a national Church representative of the Christian Faith of the Scottish people it acknowledges its distinctive call and duty to bring the ordinances of religion to the people in every parish of Scotland through a territorial ministry.

IV. This Church, as part of the Universal Church wherein the Lord Jesus Christ has appointed a government in the hands of Church office-bearers, receives from Him, its Divine King and Head, and from Him alone, the right and power subject to no civil authority to legislate, and to adjudicate finally, in all matters of doctrine, worship, government, and discipline in the Church, including the right to determine all questions concerning membership and office in the Church, the constitution and membership of its Courts, and the mode of election of its office-bearers, and to define the boundaries of the spheres of labour of its ministers and other office-bearers. Recognition by civil authority of the separate and independent government and jurisdiction of this Church in matters spiritual, in whatever manner such recognition be expressed, does not in any way affect the character of this government and jurisdiction as derived from the Divine Head of the Church alone, or give to the civil authority any right of interference with the proceedings or judgments of the Church within the sphere of its spiritual government and jurisdiction.

V. This Church has the inherent right, free from interference by civil authority, but under the safeguards for deliberate action and legislation provided by the Church itself, to frame or adopt its subordinate standards, to declare the sense in which it understands its Confession of Faith, to modify the forms of expression therein, or to formulate other doctrinal statements, and to define the relation thereto of its office-bearers and members, but always in agreement with the Word of God and the fundamental doctrines of the Christian Faith contained in the said Confession, of which agreement the Church shall be sole judge, and with due regard to liberty of opinion in points which do not enter into the substance of the Faith.

VI. This Church acknowledges the divine appointment and authority of the civil magistrate within his own sphere, and maintains its historic testimony to the duty of the nation acting in its corporate capacity to render homage to God, to acknowledge the Lord Jesus Christ to be King over the nations, to obey His laws, to reverence His ordinances, to honour His Church, and to promote in all appropriate ways the Kingdom of God. The Church and the State owe mutual duties to each other, and acting within their respective spheres may signally promote each other's welfare. The Church and the State have the right to determine each for itself all questions concerning the extent and the continuance of their mutual relations in the discharge of these duties and the obligations arising therefrom.

VII. The Church of Scotland, believing it to be the will of Christ that His disciples should be all one in the Father and in Him, that the world may believe that the Father has sent Him, recognises the obligation to seek and promote union with other Churches in which it finds the Word to be purely preached, the sacraments administered according to Christ's ordinance, and discipline rightly exercised; and it has the right to unite with any such Church without loss of its

identity on terms which this Church finds to be consistent with these Articles.

VIII. The Church has the right to interpret these Articles, and, subject to the safeguards for deliberate action and legislation provided by the Church itself, to modify or add to them ; but always consistently with the provisions of the first Article hereof, adherence to which, as interpreted by the Church, is essential to its continuity and corporate life. Any proposal for a modification of or addition to these Articles which may be approved of by the General Assembly shall, before it can be enacted by the Assembly, be transmitted by way of overture to Presbyteries in at least two immediately successive years. If the overture shall receive the approval, with or without suggested amendment, of two-thirds of the whole of the Presbyteries of the Church, the Assembly may revise the overture in the light of any suggestions by the Presbyteries, and may transmit the overture when so revised to Presbyteries for their consent. If the overture as transmitted in its final form shall receive the consent of not less than two-thirds of the whole of the Presbyteries of the Church, the General Assembly may, if it deems it expedient, modify or add to these Articles in terms of the said overture. But if the overture as transmitted in its final form shall not receive the requisite consent, the same or a similar proposal shall not be again transmitted for the consent of Presbyteries until an interval of five years after the failure to obtain the requisite consent has been reported to the General Assembly.

IX. Subject to the provisions of the foregoing Articles and the powers of amendment therein contained, the Constitution of the Church of Scotland in matters spiritual is hereby anew ratified and confirmed by the Church.

UNITED FREE CHURCH ACT ANENT
SPIRITUAL INDEPENDENCE OF THE CHURCH (1906).

“WHEREAS the General Assembly judged it necessary in the circumstances of the Church to pass the following Act, and although the principles set forth therein involve no new departure and are not in any sense a constitutional novation, but have been always accepted and maintained by this Church, yet in respect of the importance of making manifest to all that the whole Church explicitly adores to these principles, the General Assembly deemed it right to send it down as an Overture under the Barrier Act : the General Assembly hereby, with consent of a majority of Presbyteries, declare and enact, as follows :—

“Considering the situation created by the decisions of the House of Lords on 1st August 1904, in the Cases of *Bannatyne and Others v. Lord Overtoun and Others*, and *Young and Others v. Macalister and Others*, and the grounds on which these decisions were based ; considering also the Resolutions relative thereto of the Commission of

Assembly at its ordinary Meeting on 10th August 1904, of which Resolutions the Assembly hereby approve : and considering that it is needful to make clear the position in which the United Free Church of Scotland stands in reference to the questions thus raised, the General Assembly resolve and declare as follows :—

1. "They assert and protest that those branches of the Church of Christ in Scotland now united in this Church have always claimed, and this Church continues to claim, that the Church of Christ has under Him as her only Head independent and exclusive jurisdiction and power of legislating in all matters of doctrine, worship, discipline, and government of the Church, including therein the right from time to time to alter, change, add to, or modify, her constitution and laws, Subordinate Standards, and Church Formulas, and to determine and declare what these are.
2. "The General Assembly accordingly declare anew and enact that it is a fundamental principle and rule of this Church that, in dependence on the grace of God, recognising the authority of the Word of God, contained in the Scriptures of the Old and New Testaments, as the supreme unchangeable Standard, and looking to the Head of the Church for the promised guidance of the Holy Spirit, this Church has the sole and exclusive right and power from time to time, as duty may require, through her Courts to alter, change, add to, or modify, her constitution and laws, Subordinate Standards, and Formulas, and to determine and declare what these are, and to unite with other Christian Churches ; always in conformity with the Word of God, and also with the safeguards for deliberate action and legislation in such cases provided by the Church herself—of which conformity the Church herself, acting through her Courts, shall be the sole judge—and under a sense of direct responsibility to the ever-living Head of the Church, and of duty towards all the Church's members.
3. "The General Assembly also declare and enact that in all the Courts of the Church a decision of the Court given either unanimously, or by a majority of its members present and voting, is the decision of the Court, and the decision of the General Assembly so reached is final. With respect to Acts which are to be binding Rules and Constitutions of the Church, the Assembly shall have regard to the safeguards referred to in the foregoing resolution.
4. "The General Assembly further declare that the Church holds her funds and property, present and future, in conformity with these principles ; the Church reserving her right to accept and hold benefactions, subject to specific conditions attached to them by the donor, when and so long as she judges these conditions to be consistent with her liberty and her principles, and to be expedient in the circumstances of the time."

and

(Second) The said Preamble, Questions, and Formula as follows :—

PREAMBLE.

The Narrative shall be read and, the Ordinand having taken his place before the Presbytery, the Moderator shall declare as follows :—

In the name of the Lord Jesus Christ, the King and Head of the Church, Who, being ascended on high, hath given gifts unto men for the edifying of the body of Christ, we are met here as a Presbytery to ordain A. B. to the office of the Holy Ministry by prayer and the laying on of hands by the Presbyters to whom it doth belong, and to induct him into the pastoral charge of

In this act of ordination the Church of Scotland, as part of the Holy Catholic or Universal Church worshipping One God—Father, Son, and Holy Spirit—affirms anew its belief in the Gospel of the sovereign grace and love of God, wherein through Jesus Christ, His only Son, our Lord, Incarnate, Crucified, and Risen, He freely offers to all men, upon repentance and faith, the forgiveness of sins, renewal by the Holy Spirit, and eternal life, and calls them to labour in the fellowship of faith for the advancement of the Kingdom of God throughout the world.

The Church of Scotland acknowledges the Word of God which is contained in the Scriptures of the Old and New Testaments to be the supreme rule of faith and life.

The Church of Scotland holds as its subordinate standard the Westminster Confession of Faith, recognising liberty of opinion on such points of doctrine as do not enter into the substance of the Faith, and claiming the right, in dependence on the promised guidance of the Holy Spirit, to formulate, interpret, or modify its subordinate standards: always in agreement with the Word of God and the fundamental doctrines of the Christian Faith contained in the said Confession—of which agreement the Church itself shall be sole judge.

Then the Moderator, addressing the Ordinand or Minister to be inducted, who is to stand and make answer to the questions put to him, shall say :—

A. B., in view of this Declaration, you are now required to answer these questions :—

QUESTIONS TO BE PUT TO MINISTERS BEFORE THEIR
ORDINATION OR ADMISSION TO A CHARGE.

1. Do you believe in one God—Father, Son, and Holy Spirit; and do you confess anew the Lord Jesus Christ as your Saviour and Lord ?

2. Do you believe the Word of God, which is contained in the Scriptures of the Old and New Testaments, to be the supreme rule of faith and life ?

3. Do you believe the fundamental doctrines of the Christian faith contained in the Confession of Faith of this Church ?

4. Do you acknowledge the Presbyterian Government of this Church to be agreeable to the Word of God; and do you promise to be subject in the Lord to this Presbytery and to the superior Courts of the Church, and to take your due part in the administration of its affairs ?

5. Do you promise to seek the unity and peace of this Church; to uphold the doctrine, worship, government, and discipline thereof; and to cherish a spirit of brotherhood towards all the followers of the Lord ?

6. Are not zeal for the glory of God, love to the Lord Jesus Christ, and a desire for the salvation of men, so far as you know your own heart, your great motives and chief inducements to enter into the office of the Holy Ministry ?

7. Do you engage in the strength of the Lord Jesus Christ to live a godly and circumspect life; and faithfully, diligently, and cheerfully to discharge the duties of your ministry, seeking in all things the advancement of the Kingdom of God ?

8. Do you accept and close with the call to be Pastor of this charge, and promise through grace to study to approve yourself a faithful Minister of the Gospel among this people ?

The questions having been answered to the satisfaction of the Presbytery, and the formula having been signed, the Ordinand shall kneel, and the Moderator, by prayer with laying on of hands, in which all the Ministers present join, shall ordain him to the Office of the Holy Ministry.

Thereafter the Moderator, except in cases in which there is no induction to a pastoral charge or any office, shall add these words :—

I now declare you to have been ordained to the office of the Holy Ministry, and in the Name of the Lord Jesus Christ, the King and Head of the Church, and by authority of this Presbytery, I induct you to this charge ; and in token thereof we give you the right hand of fellowship.

The following Question shall then be addressed to the Congregation, who are asked to signify assent by rising and standing in their places :—

Do you, the members and adherents of this Congregation, receive A. B., whom you have called to be your Minister, promising him all due honour and support in the Lord, and will you give of your means, as the Lord shall prosper you, for the maintenance of the Christian Ministry and the furtherance of the Gospel ?

FORMULA.

I believe the fundamental doctrines of the Christian faith contained in the Confession of Faith of this Church.

I acknowledge the Presbyterian government of this Church to be agreeable to the Word of God, and promise that I will submit thereto and concur therewith.

I promise to observe the order of worship and the administration of all public ordinances as the same are or may be allowed in this Church.

This Formula shall also be that to be signed by Elders on admission to office.

B And, further, the General Assembly transmit for the approval of the Presbyteries of the Church, under the said Barrier Act, the Act the tenor whereof follows, *videlicet*:—

The General Assembly, with consent of a majority of the Presbyteries of the Church, hereby enact and ordain:—

(a) That an incorporating Union may be effected by the General Assembly in terms of and in accordance with the said Basis of Union ;

and

(b) That the said Preamble, Questions, and Formula shall be the Preamble, Questions, and Formula to be used in the United Church.

Overture No. II.

OVERTURE WITH REGARD TO THE
PLAN OF UNION.EDINBURGH, *November 21, 1928.*

A The General Assembly adopt the Overture the tenor whereof follows, and transmit the same to Presbyteries directing that Returns be sent in not later than the 30th day of March 1929, viz. :—

WHEREAS with a view to the contemplated Union between the Church of Scotland and the United Free Church of Scotland the Committee of the General Assembly for Conference with the United Free Church of Scotland have considered, along with the similar Committee of the said last-mentioned Church, the arrangements necessary to be made in harmonising the methods of the two Churches, so far as that is needful with a view to inaugurating the orderly and harmonious action of a United Church, and have presented a detailed plan of Union containing proposals for the purpose, which having been sent down to Presbyteries for suggestions and after consideration of suggestions sent up by them, has been adjusted by the said Committees, reported to the General Assembly, and approved of, which Plan of Union has respect :
(First) To the constitution and powers of the General Assembly and the other Courts of the Church ; *(Second)* To the Training of the Ministry ; *(Third)* To the Provision for the Ministry ; *(Fourth)* To the Aged and Infirm Ministers' Funds and the Pension Fund of the Church of Scotland ; *(Fifth)* To the Amalgamation of Missionary and other Funds ; *(Sixth)* To Church and Congregational Properties and Finance ; *(Seventh)* To the Widows' and Orphans' Funds ; *(Eighth)* To Rules and

Ferms of Procedure ; (*Ninth*) To Discipline ; (*Tenth*) To the Constitution and Administrative Regulations of Assembly Committees ; (*Eleventh*) To Relations with other Churches ; and (*Twelfth*) To the arrangement of Synods and Presbyteries, all as set forth in the Plan of Union herewith sent down to Presbyteries.

And whereas it is expedient that the Plan of Union, as so adjusted (*except that part thereof relating to the arrangement of Synods and Presbyteries which is being sent down separately to the Presbyteries for comment and suggestion*), should be submitted to the Presbyteries of the said Churches as an Overture under the Barrier Act in order that the proposals therein contained may, so far as necessary, be converted into standing laws of the United Church, in the event of the contemplated Union being agreed to by both Churches.

And whereas, while having regard to the terms of these proposals, certain provisions therein contained need not be made matters of legislation previous to Union, other subjects require to be legislatively dealt with in accordance with said proposals. And whereas none of these proposals is in any respect inconsistent with the standards of this Church, with its Constitutional Law and Practice, or with the liberty of its members.

B THEREFORE the General Assembly, with consent of a majority of the Presbyteries of the Church, hereby enact and ordain that the Plan of Union hereto annexed, and the proposals therein contained and hereinbefore referred to, is authorised and accepted by this Church, with a view to an incorporative Union with the United Free Church of Scotland as a Plan to come into operation as soon as a Uniting Act shall have been passed by the General Assemblies of both Churches, with consent of a majority of the Presbyteries of the respective Churches ; And the General Assembly further enact and ordain, with consent foresaid, that all Rules and Regulations set forth in the said Plan of Union where such Rules and Regulations require the consent of the Presbyteries of the Church according to the laws and practice thereof, shall be the Rules and Regulations of the said United Church ; But Declaring always that such particular provisions of the said Plan of Union as might, in accordance

with the law and practice common to both the Uniting Churches, have been lawfully enacted by the General Assembly, without recourse to the procedure prescribed by the Barrier Act, shall not, by reason of their enactment as part of the Plan of Union by the General Assembly with consent of a majority of the Presbyteries of the Church in accordance with the procedure prescribed by the said Act, be held to have been thereby converted, within the meaning of the said Act, into standing laws and constitutions of the United Church, which shall not subsequently be capable of alteration by the General Assembly except in accordance with the procedure prescribed by the said Act, but shall be deemed to be subject to revocation, alteration, or modification by any Resolution or Act of the General Assembly of the said United Church.

PLAN OF UNION.

CONSTITUTION AND POWERS OF COURTS.

THE GENERAL ASSEMBLY.

1. The General Assembly is the Supreme Court of the
5 Church. In matters spiritual its decisions are final, and are not subject to review by any Civil Court.

2. The membership of the General Assembly consists of Commissioners elected by Presbyteries for each Assembly. These Commissioners, being Ministers (including Theological
10 Professors) and Ruling Elders, are elected in proportion to the size of each Presbytery, one Minister for every four or part of four Ministers on the complete Roll of the Presbytery, and an equal number of Ruling Elders. Ministers elected as
15 of the Presbyteries by which they are elected. Elders so elected must be *bonâ fide* acting members of Kirk Sessions within the Church. The quorum of the General Assembly shall be 31, of whom not less than 16 shall be Ministers.

3. Each General Assembly is presided over by a Moderator
20 elected by itself from among its own members. It is the duty of the Moderator to preside at meetings of Assembly and apply the Standing Orders for the conduct of business. He alone declares the dissolution of the Assembly and intimates the day appointed by the General Assembly for the meeting
25 of the next Assembly. At the close of the Assembly he delivers an Address ; and preaches at the opening of the next Assembly, constituting the Court, which shall then proceed to elect its Moderator.

30 The Moderator of the Assembly at which Union takes place shall be nominated by mutual agreement between the Committees on Union of the Church of Scotland and the United Free Church of Scotland. The first Assembly

shall nominate the Moderator of the second Assembly, and the second Assembly shall determine the future method of nomination of Moderators of Assemblies.

4. The General Assembly will loyally welcome the Sovereign 5
should it be the royal pleasure to attend in person : or, failing the Sovereign, a Lord High Commissioner as the royal representative. Neither the Sovereign nor the Lord High Commissioner as such is a constituent member of the Assembly.

5. The Commission of Assembly shall consist of the members 10
of the Assembly with one member added, who shall be nominated by the Moderator ; its quorum shall be the same as that of the General Assembly ; it shall appoint its own Chairman, and it shall deal with such business as has been made statutory for the Commission by the law of the Church or has 15
been remitted to it by the Assembly.

PRESBYTERIES AND SYNODS.

20

1. In all Presbyteries and Synods there shall be an equal number of Ministers and Elders when the Roll is fully made up.

2. Every Minister inducted to a charge within the bounds of the Presbytery shall be a member of the Presbytery. The Kirk Session for each charge shall elect annually a representative Elder from amongst their own number (of which 25
intimation shall be made to the Presbytery within three months of the close of the General Assembly), or with the special permission of the Presbytery from any Kirk Session 30
within the bounds.

3. Ministers to whom Assistants and Successors or Junior Colleagues have been appointed prior to 31st May 1932 shall continue to be members of Presbytery, as well as their Assistants and Successors or Junior Colleagues, and Ministers and Theological Professors of either the Church of Scotland 35
or the United Free Church of Scotland who prior to the Union had demitted their charges on account of age or infirmity, and Ministers and Theological Professors so demitting their charges prior to 31st May 1932 may, if they so desire, remain members of the Presbyteries which accepted their demission (or in the case of Ministers of the Church of

Scotland may, if they so desire, return as members to such Presbyteries), it being understood that the question of the extension of this right to Ministers having Junior Colleagues appointed to them or Ministers and Theological Professors so demitting their charges subsequent to 31st May 1932, is meantime reserved for determination of the General Assembly with the consent of the Presbyteries of the Church. Ministers who have demitted their charges for any other reason may remain members of the Presbyteries which accepted the demission of their charges, subject to the approval of the Synod. When the Presbytery which accepted the demission has ceased to exist, or the charge which the Minister demitted has been severed from it, "the Presbytery which accepted the demission" shall be construed as meaning the Presbytery in which after the said date his said charge is situated.

4. Theological Professors who are Ministers of the united Church shall be members of the Presbytery within whose bounds is situated the College or University in which they teach.

5. Ministers in Colonial or Continental Charges, Missionaries who are ordained Ministers, Chaplains to His Majesty's Forces, and Chaplains on the Indian Establishment who have retired from active service, may remain members of the Presbyteries of which they were members at the date of their retirement on the same conditions as Ministers of home charges.

6. Ministers of the united Church who are temporarily appointed by or with the sanction of the Presbytery for a period of not less than twelve months to the charge of congregations, shall be received as members of the Presbytery within whose bounds they labour for the period during which they hold such temporary appointment, their membership in any other Presbyteries being meantime suspended, due intimation being made to the other Presbyteries concerned.

7. In order to maintain the equal number of Ministers and Elders in the Constitution of the Court, the Presbytery shall elect as members such a number of Elders as may be necessary for this purpose, such Elders to be chosen at the will of the Presbytery from any of the Kirk Sessions within the bounds.

8. With regard to Ministers of Charges furth of Scotland, the situation shall be accepted as it exists at present, and it shall be left to the united Church to make such readjustments as may be considered advisable.

5

FUNCTIONS AND POWERS OF SYNODS.

A Supplementary Report was sent down to Presbyteries in accordance with the Deliverance of the General Assembly. 10
In response suggestions were received, but it has been agreed that any important change in functions and powers of Synods is a matter which would most suitably be considered and decided upon by the united Church.

15

FUNCTIONS, CONSTITUTION, AND POWERS OF KIRK SESSIONS.

Until otherwise determined by the united Church through its General Assembly, after due consultation with Presbyteries, the method of election to and the powers and duties of Kirk Sessions shall continue in each congregation of the united Church to be governed by the regulations presently 25
applicable to such congregation according to the branch of the united Church to which it belonged prior to the Union, except that the Formula to be signed by Elders on admission to office shall be the Formula hereinbefore provided for Ministers.*

30

The same shall apply to Deacons' Courts, Committees of Management, Congregational Boards, &c.

There is submitted herewith a Draft Scheme for the Re-arrangement of Presbyteries and Synods (Appendix to Joint Report). 35

* Cf. Function, Ordination, and Induction of Ministers (Rules and Forms of Procedure).

TRAINING OF THE MINISTRY.

THE General Assembly shall take immediate steps towards the adjustment and co-ordination of the system of Training for the Ministry and Theological Teaching upon the lines of
 5 the subjoined Report subject to such readjustments as may be approved of by the General Assembly with consent of Presbyteries, and so far as the Universities are interested, subject to the completion of negotiations and the obtaining of the necessary sanctions for a scheme on the lines set forth
 10 in the said Report with such readjustments as may be approved of as aforesaid. The General Assembly shall make such interim arrangements as shall be found expedient.

15

(A)

RELATION OF DIVINITY HALLS TO THE UNIVERSITIES.

In the Report which was presented to the last General Assembly with regard to the Training of the Ministry and the Future
 20 Relations of Theological Teaching to the Universities, it was stated that meetings had been arranged with the four University Courts for the purpose of discussing future relations between the Universities and the united Church. Repeated
 25 conferences have since taken place, and have resulted in the adjustment of the Scheme which is printed as an Appendix hereto.

The Committee gratefully acknowledge the helpful and
 30 accommodating spirit in which the requirements of the Church were considered by the various Courts, and, in particular, the services rendered by the Principals of Glasgow and Edinburgh Universities in the actual drafting of the Scheme.

The negotiations were conducted on the basis of the three

general principles which were enunciated in the previous Report and accepted by the General Assemblies of both Churches—viz. : (1) that the existing University Theological Chairs, freed from statutory tests, should be continued in a form in which they would still be serviceable to students of the Church ; (2) that the relations between the Theological Colleges and the Universities should be as close as possible ; and (3) that the Church must retain effective control over those to whom the doctrinal instruction of its ministry is entrusted. 5

The main features of the Scheme which has been adjusted are :— 10

- (1) That in the case of the existing University Theological Chairs, while statutory tests should be abolished, appointments to these Chairs should be made by an Electoral Board equally representative of the Church and the University. A two-thirds majority would be necessary for an appointment, thus ensuring that no Chair could be filled by a Professor whose teaching was repugnant to the Church. Powers would be taken to admit of other Churches being represented on the Board. 15 20
- (2) That the Professors of the United Free Church Colleges holding office at the date of Union should become Professors in one of the University Faculties of Theology, provided that the Church guarantees payment of their stipends ; and that, under a similar guarantee, their successors should be appointed by the Church. The University must, of course, be satisfied with the academic qualifications of any person nominated to a University Chair, and for that purpose every nomination would be subject to confirmation by the University. It would also be a necessary qualification for the tenure of these new Chairs, the stipends of which would be wholly provided by the Church, that the Professor should be and continue to be an ordinand or ordained minister of the Church. The holders of both classes of Chairs would constitute, and would deliberate as, one University Faculty, and at the same time the necessary control of the Church over its teachers would be secured. 25 30 35

(3) That on a vacancy occurring, either in an existing University Chair or in any new Chair, the necessity for modifications in the subject-matter of its teaching (and in the case of a new Chair the necessity for its continuation) should be considered by the Church and the University with the assistance of a joint Advisory Committee representative of both. Any possible overlapping resulting from the immediate association of the two staffs would thus be gradually eliminated, and provision could then be made for any desirable extensions of the curriculum.

(4) That as the teachers of the Church would thus acquire the status of University Professors, students preparing for the Ministry would be matriculated students of the University. At the same time, the existing United Free Church Colleges would be maintained as Colleges of the united Church, and the buildings and libraries made available for the purposes of the enlarged Faculty. The corporate life which is regarded as a valuable feature of these Colleges would thus be preserved.

(5) That the Joint Advisory Committee already referred to would advise as to partition of class fees, arrangements for the maintenance and use of buildings and libraries, and other administrative details.

The Committee recommend this Scheme as one which satisfactorily meets the requirements set forth in their previous Report. They would, however, point out that the circumstances of the four Universities vary a good deal, and the detailed provisions of the Scheme are more directly applicable to Glasgow and Edinburgh. The Courts of both these Universities have intimated that they approve of it as a basis for action. In St Andrews, on the other hand, there is no United Free Church College, and in Aberdeen also the conditions are somewhat different; so that, in the case of these two Universities, some adjustments in the application of the Scheme may have to be made. This contingency is covered by the following resolution passed at a conference between the four University Courts held at Glasgow on 23rd July 1927: "That as far as possible the four Universities

should proceed on common lines, regard being had to particular differences of conditions in the several Universities." At the same time it was minuted: "That in the opinion of the conference the general plan outlined in the Proposals and Memorandum presented to the University Courts of Edinburgh and Glasgow affords a suitable basis for action on the part of the Universities, certain members from Aberdeen reserving their opinion on the proposed abolition of University Tests." 5

In these circumstances the Committee consider that a sufficient measure of agreement with regard to the future of theological teaching has now been attained. No binding agreement can be made until Union takes place, because the Scheme involves acts of third parties—*e.g.*, the legislation necessary to abolish tests, the relinquishment by the present patrons of their rights of patronage and the approval by the Universities' Committee of the Privy Council of the conditions of tenure of the new Chairs, which cannot be obtained *ab ante*. All that the Committee could hope to attain at this stage is substantial agreement between the two Churches and the Universities as to the lines upon which provision for theological instruction should be made, and substantial agreement has been reached. 10 15 20

SCHEME.

25

1. It is desired that, in respect of theological teaching, the closest possible relations should be established between the united Church and the University, by means of an enlarged and readjusted Faculty of Theology. 30

2. It is desired that the existing University Theological Chairs should be retained, but free from their present statutory tests, and subject to certain readjustments.

3. It is desired that—

(1) The Church shall retain control of the Course of theological training prescribed by it for its own candidates for the ministry. 35

(2) As far as practicable, facilities should be provided for the theological training of students of other Churches.

- (3) Having regard to the necessary increase in the number of students, and the greater variety of their requirements, the Faculty should be enlarged, with a view to its greater efficiency and comprehensiveness.
- 5 (4) It is accordingly proposed to arrange (a) for a permanent association with the University of such Professorships of Theology now in the United Free Church College as should be maintained subject to any desirable modifications; and (b) for an
- 10 immediate association with a University of those Professors who occupy Chairs in the United Free Church College at the time when the Union of the Churches takes effect.
4. To further these ends, it is suggested that, in regard to
- 15 the existing University Chairs—
- (1) The Crown and the University should relinquish their respective rights of patronage.
- (2) Future appointments should be made by an Electoral Board, containing, say, five representatives appointed
- 20 by the University Court and five representatives appointed by the Church. Powers should be taken to allow the Electoral Board to be enlarged should circumstances arise which make it desirable to admit representatives of other churches.
- 25 (3) Professors appointed by the Board should be subject to no statutory tests.
- (4) An appointment by the Board to any Professorship shall require to be approved by at least two-thirds of the whole number of members of the Board.
- 30 (5) The University should have power to assign the duties of the Theological Professors, so as to permit of the possible alteration or redistribution of their subjects.
- (6) On any Chair falling vacant, the University should make such readjustments as, in consultation with the
- 35 Advisory Committee, seem desirable.
5. With regard to the Chairs in the United Free Church College, arrangements are required under both sub-heads (a) and (b) of Clause 3 (4) above.

Powers should be taken by the University under which any Professor of the United Free Church College holding office as

such at the date of the Union will become a Professor of a University in the Faculty of Theology, provided the united Church guarantees payment of his present stipend and appropriate superannuation charge. He will be subject to the age-limit and other regulations prescribed for Professors of the University. 5

When his Chair falls vacant, the Advisory Committee named in Clause 10 below will report whether the Professorship should be continued with or without modification of subject-matter or other conditions. It will be open to the Advisory Committee, if they think fit, to recommend the substitution of a Lectureship. 10

If, in accordance with such report, the Church agrees to continue the Professorship as a Chair in the University, provided by the Church, she will undertake to maintain it by providing the necessary stipend and superannuation charge, under the following conditions:— 15

(1) The nomination to any such new Chair to be made by the Church, subject to confirmation as a University appointment by the University Court. 20

(2) The endowment of the new Chair to consist of the provision of an annual stipend and superannuation benefit, agreed to by the University with the approval of the Universities (Scotland) Committee of the Privy Council, and duly guaranteed by the Church. 25

(3) A necessary qualification for appointment to and tenure of the new Chair to be that the Professor be and continue to be an ordinand or ordained minister of the Church. 30

(4) In other respects the Professor to be subject to the direction and discipline of the University Court in the same manner as other Professors. 30

In the event of the Church's undertaking to maintain a Lectureship, the conditions as to appointment and tenure will be adjusted by agreement with the University Court on the recommendation of the Advisory Committee. 35

6. It is suggested that the present Colleges of the United Free Church in Edinburgh and Glasgow, together with their buildings, libraries, and other equipment, shall be maintained as Colleges of the united Church, and shall be available for

the purposes of teaching, examination, study, and research by the enlarged Faculties.

It is contemplated that holders of the existing Theological Chairs in the University shall be associated in the closest possible way with the governing body of the Colleges.

7. In case the Church shall consider it desirable to maintain an administrative head of the College, powers should be taken to admit the Principal or other officer appointed to act in that capacity to a seat on the Faculty and the Senatus; and the provisions of Clause 5 above shall apply *mutatis mutandis* to such administrative officer as well as to the occupants of Chairs.

8. It is understood that all Fellowships, Scholarships, Bursaries, and Prizes open to students in the existing Faculty shall be open (subject to the conditions, if any, of their respective Trust Deeds) to students in the enlarged Faculty.

9. All students in the enlarged Faculty preparing for the ministry of the Church should be required to be matriculated students of the University.

10. For the purpose indicated in Clauses 4 (6) and 5, and also for the purpose of discussing and reporting to Church and University respectively on questions of common interest, or other matters referred to it by the University Court or the Church, a Joint Advisory Committee should be established, consisting of three members appointed by the Court and an equal number of members appointed by the Church, with the Principal of the University as Convener. The same Committee will advise as to the incidence of class expenses, the partition of fees, and any other administrative details in the work of the enlarged Faculty.

30

(B)

35 After careful consideration of the Regulations presently in operation in the Church of Scotland and the United Free Church respectively, the following suggestions are made for the future training of the Ministry in the united Church :—

I. THE SUPERVISING COMMITTEE.

A Committee shall be appointed by the united Church—to be named “The Committee on Education for the Ministry”—to which shall be entrusted the work of supervising all matters pertaining to the Training of Candidates for the Ministry. 5

This Committee shall consist of 49 members or thereabouts, and shall be constituted as follows :—

- 1 member from each Synod of the Church ; 10
- 12 members from the Teaching Staffs of the Divinity Halls, 3 being appointed from each ;
- 24 members appointed by the General Assembly, 12 of whom shall be laymen.

Normally the period of service on the Committee shall be four years, but it shall be open to the respective electing bodies to recommend the reappointment of any retiring member on good cause shown for such period as they may determine. 15

The following sub-committees shall be appointed, each with its own convener, to take oversight of the matters specified, and report to the parent Committee :— 20

- (a) A sub-committee on Examination, Scholarships, and Bursaries.
- (b) A sub-committee on Petitions, Courses and Status of students.
- (c) A sub-committee on Supply of students, including Gaelic-speaking students. 25
- (d) A sub-committee on Finance.

The Powers and Functions of the Committee shall include :—

- (a) The general supervision of the procedure of students towards the Ministry of the Church. 30
- (b) The general oversight of the Curriculum, including Pastoral Institutes.
- (c) The supervision of the properties and finances of the Colleges.
- (d) The investigation of any question which may arise relative to the status or discipline of any member of the Teaching Staffs, and, without invasion of the right of a Presbytery to raise such a question, the advising as to the initiation of any process against such a member. 35

- (e) The consideration of the salaries and retiring allowances of the professors appointed by the Church.
- (f) The dealing with appeals and petitions of students.
- (g) The arrangement and superintendence of examinations, together with the adjudication of the results.
- 5 (h) The nomination to the General Assembly of Examiners and Assessors, who need not be members of the Committee, though they must be members of the Church.

10 It shall fall to the Committee to report to the General Assembly upon all matters, whether arising within the Church or not, which have a bearing upon the education of the Church's students, and their progress towards the Ministry. Petitions by students with reference to their curriculum shall be in the first instance submitted to the Committee, and
15 after consideration the Committee shall present a report to the Assembly of each case, appending to each their recommendation as to how it should be disposed of.

20

II. THE STUDENT.

A. *Entrance on the Study of Divinity.*

25 Before entering on the study of Divinity in any of the Theological Faculties of a Scottish University, candidates for the Ministry of the Church must satisfy the Presbytery with which they are connected of their character, and the motives which have actuated them to seek entrance into the work of the Ministry. They must further produce certificates
30 showing that they are in full communion with the Church, and be nominated by their Presbyteries for admission as candidates for the Ministry.

During their course of theological study they shall remain under the supervision of the Presbytery which nominated
35 them, except in so far as their permanent place of residence shall fall within the bounds of another Presbytery, in which case that Presbytery shall exercise supervision over them. The supervising Presbytery shall confer with them at least once during each recess on the progress of their studies, as shown by their class certificates, and shall satisfy itself of

their fitness to go forward to the office of the Ministry ; it shall also, as it sees fit, test their theological attainments, or require them to deliver a discourse ; but there shall be no Presbyterian examinations upon prescribed books, either before certification for admission to the theological course, or between the various sessions of that course. 5

All intending students, before admission to a regular theological course qualifying for the Ministry of the Church, shall be required to pass an Entrance Examination ; and this examination shall embrace five subjects, the first four of which shall be compulsory, namely, Scripture Knowledge, Hebrew, Greek, and Moral Philosophy ; while the fifth may be chosen from the following : English, Latin, French or German, Mathematics (Pure or Applied), Economics, Gaelic. 10

In order to be admitted to this examination, a student must be a graduate in Arts, Medicine, Science, or Law of a Scottish University, or of some other University whose curriculum is recognised for this purpose by the General Assembly ; or he must have completed in a Scottish University a curriculum qualifying for graduation in Arts, with or without honours, after having passed the Arts Preliminary Examination in the manner required by University regulations. Candidates shall be exempted from examination in any prescribed subject in which they have passed the University Degree Examination. 15 20

No student who fails in Scripture Knowledge in the Entrance Examination shall be permitted to enter on a course of theological study. But a student who fails in one subject, other than Scripture Knowledge, may so enter by special permission of the Committee, which shall have regard to the standard he has reached in the other subjects. The subjects in which he has satisfied the examiners will be credited to him as a pass in these subjects ; and an opportunity will be given him at the next Entrance Examination, or at an earlier date if the Committee so determine, to qualify in the subject in which he has failed. If he succeeds in completing his examination, his work of the previous session, should it have satisfied his professors, will be regularised as part of his theological course. No one shall be enrolled as a regular student in the second session who has not completed his Entrance Examination and had his first session sustained. 25 30 35

The Entrance Examination will be held annually in the month of September, and a small fee will be charged from the candidates.

There being at present in operation in the United Free Church a shortened course of study in Arts for men of maturer years, with permission to enter the theological curriculum without having passed the University Preliminary Examination, and the principle of such a course having already been approved by the General Assembly of the Church of Scotland, it is suggested by the sub-committee that it should be continued and maintained in the united Church.

B. Curriculum and Course of Study in Divinity.

In the present position of the question of the relation between the Church and the Universities the Committee consider that many matters bearing on the future curriculum can only be finally determined by the Church after Union. And they are also of opinion that, since the new arrangements can only be gradually brought into operation and must be the subject of negotiation between Church and University, it would be unwise to enter into details on the subject at present and so give the appearance of finality to what must at this stage be only tentative.

Accordingly they have limited themselves to setting down what appear to be the essential subjects which are required for the adequate training of their students for the Ministry and what is the curriculum demanded from all.

The normal period of study shall consist of three winter and three spring terms, with, in addition, such use of summer terms as the Church shall from time to time prescribe.

The essential disciplines are the five leading subjects:—

1. *Old Testament*—Language, Literature, and Religion.
2. *New Testament*—Language, Literature, and Theology.
3. *Church History*—Especially that of the Early Church, of the Reformation, and of Scotland.
4. *Systematic Theology*—Including Apologetics, Dogmatics, and Principles of Christian Ethics.
5. *Practical Theology*:—
 - (a) Homiletics.
 - (b) Public Worship, Pastoral Duties, and Church Music.

- (c) Government and Discipline of the Church.
 - (d) Principles and Methods of Religious Education and Care of the Young.
 - (e) Christian Missions.
 - (f) Practical Application of Christian Principles. 5
- This Department will be under the charge of a professor, assisted, it is hoped, by lecturers.

There are other subjects which the Committee desire to receive fuller treatment in the Faculties, and the teaching of which the enlarged Faculties will be able to undertake. While 10 these would be available for the more thorough training of all students, they would especially meet the needs of B.D. students and of advanced students who desire to take a longer curriculum than that of three years. They would also offer the opportunity for the Church at a future time to con- 15 sider and provide for the institution of alternative courses for the students generally.

The subjects alluded to are specially Philosophy of Religion ; History of Religion ; Church History in its larger scope ; Hellenistic Greek ; and Semitic languages, such as Aramaic, 20 Syriac and Post-Biblical Hebrew.

PROPERTY AND FINANCE.

PROVISION FOR THE MINISTRY.

On the Provision for the Ministry the following *Joint Memorandum and Plan of Amalgamation* has been agreed 5 to, with an accompanying explanation of the procedure that will be necessary in regard to the adjustment of stipend in the united Church :—

10

MEMORANDUM.

I.

1. It may be taken for granted that the united Church 15 will create an Assembly Committee responsible for ingathering from the General Trustees and all other available sources, and for their distribution, all funds destined for stipend.

2. The function of this Committee will be to carry on the various lines of development and work carried on by 20 the Committees of both Churches.

3. Its relation to the General Trustees and to other Trustees, in so far as they may hold and distribute funds for stipend, will be similar to the relation which has existed between the Churches and the Ferguson Bequest Trustees. 25 When the Ferguson Bequest Trustees make a grant to stipend, this becomes part of the stipend from "local sources" in relation to which distribution from stipend funds is made.

II.

The stipend funds of the two Churches shall be amalgamated at the date of Union, subject to the following considerations :—

1. Interests of Ministers in regular charges in both Churches, existing at the date of Union, remain unaffected. 5
2. On the expiry of such interests, standardised stipends and all other stipend funds other than those held under private trusts will become available for distribution among the necessary churches in each parish or neighbourhood, due regard being had to the necessity for making sufficient provision, by endowment or otherwise, for the maintenance of ordinances: it being understood that any remainder, after these requirements have been fully met, shall form part of a General Fund at the disposal of the General Assembly for stipend purposes. 10
3. It will be the duty of each congregation of the Church to contribute annually in accordance with its resources towards the Maintenance of the Ministry Fund of the Church. 20
4. While it is a duty incumbent upon all members of the Church to contribute according to their ability, and likewise the duty of the Church to take whatever measures are necessary to ensure that every congregation shall contribute according to its ability for the support of the ordinances of religion, the claim of a parish or neighbourhood to its proper requirements from the standardised stipend shall not be dependent upon, or affected by, the amount to be contributed either to the stipends of ministers or to the Maintenance of the Ministry Fund. 25
5. In order to avoid hardship or difficulty that might arise consequent on any schemes for amalgamation or readjustment and for allocation of stipend, and in order to meet the case of such congregations as have not hitherto been bearing the burden of stipend and the expenses of upkeep of fabrics, and to provide a 35

limited period in which they would become accustomed to the duty of providing a substantial portion of the whole stipend, special consideration shall be given to the circumstances of the formerly benefiting Parish Churches at the occurrence of the earlier vacancies after Union.

III.

10 PROPOSED PLAN OF AMALGAMATION.

1. The united Church shall have a Fund, to be called "The Maintenance of the Ministry Fund," to secure the maintenance of religious ordinances throughout the land, so that the strong may be enabled to help the weak in a systematic as well as a brotherly manner. The Fund shall be administered by a Committee representative of the whole Church, to be called "The Maintenance of the Ministry Committee."

20 2. The Committee shall consist in the first instance of the Church of Scotland's Maintenance of the Ministry Committee with representatives from the Association for Augmenting the Smaller Livings of the Clergy added, and the Central Fund Committee of the United Free Church. The Committee thus formed shall be subject to such reduction in numbers as the General Assembly shall determine.

30 3. The Committee shall administer the income from all capital Funds at present administered by the above Committees and Association in accordance with the trusts under which the same were acquired.

4. The Committee shall aim at providing such an annual amount as shall secure for all regular charges of the Church a minimum stipend of not less than £400 and a manse, in so far as this has not been provided otherwise.

35 5. It shall be the duty of the Presbytery in consultation with the Committee to take measures to secure that every congregation shall contribute annually to the Fund in a measure adequate to its resources; in particular when a charge is vacant the Presbytery and the Committee shall receive a statement of the proposed stipend arrangements

and minimum contribution promised to the Fund, and the Presbytery shall delay the filling of the vacancy until they and the Committee are satisfied that these are in harmony with the resources of the congregation.

6. The charges on the Fund shall be:— 5

(a) All payments such as office expenses and various grants which ought to be a charge on any of the funds amalgamated.

(b) The provision of the average stipend enjoyed for seven years prior to 1st January 1928 to all ministers in smaller living or aid receiving charges at the date of the Union. 10

(c) The provision of a Standard Minimum Stipend, to be fixed each year, to all Ministers inducted to a charge whose ministerial income for the year from all other sources shall be less than the minimum fixed. 15

7. In all matters of administration not provided for by these general rules the Committee shall exercise its discretion under guidance from the Regulations of the different Funds amalgamated. 20

8. The Committee shall present to the General Assembly for approval, at as early a date as possible after Union, Regulations which shall control the administration of the Funds available for Stipend in the united Church. 25

EXPLANATION OF PROCEDURE.

The Joint Committee, in submitting the accompanying Memorandum on the Provision for the Ministry, desire to explain the procedure that will be necessary in regard to the adjustment of stipend in the united Church, subject to the continuance of all life interests. 30

1. The General Assembly will have to appoint a Committee whose duty, on the occurrence of a vacancy or other opportunity, will be to consider in concert with the Presbytery and local parties the whole circumstances of the parish and neighbourhood, and endeavour to secure such amalgamation of charges or other readjustment of agencies as shall further the efficient discharge of the Church's work. 35

2. The General Assembly will further have to remit to Presbyteries and the Committee on the Maintenance of the Ministry Fund to consider and deal with standardised stipend in accordance with the provisions of the Act, 1925. In regard
5 to this matter there will have to be considered the decision on readjustment and the total amount of standardised stipend available, as well as the circumstances of each congregation in the parish or neighbourhood.

3. Thereafter the Presbytery and the Committee on the
10 Maintenance of the Ministry Fund, acting in concert, will be called upon to deal with the congregations involved in any alteration of stipend, especially those in which a vacancy has occurred, in regard to :—

15 (1) The amount of stipend available from standardised stipend or local endowment.

(2) The amount of contribution to the minister's stipend which the congregation are prepared to make. It will be the duty of the Committee to endeavour to maintain the stipend at not less than £400 and a manse. In cases in which before Union the stipend
20 was less than that sum, the endeavour will be to maintain it at not less than the level previously existing.

(3) The amount of contribution to the Maintenance of the Ministry Fund which the congregation are prepared to give.
25

(4) The total amount of stipend which the minister is to receive, with the amount of help, if any, which may be necessary from the Maintenance of the Ministry Fund.

30 4. It is not proposed that there should be uniformity of stipend throughout the Church, except where help is given towards the total from the Maintenance of the Ministry Fund ; in such cases the principle of a standard minimum stipend will operate.

35 5. It is confidently expected that a wiser use of the available resources will enable the Church to meet more effectively the religious needs of the people, and to provide a minimum stipend beyond the sum of £300 and a manse, which both uniting Churches have regarded as inadequate support for the work of the ministry.

PROVISIONAL PROPOSALS FOR CERTAIN CONGREGATIONS WHICH
MAY DESIRE TO DEPEND WHOLLY FOR STIPEND ON THE
FREE-WILL OFFERINGS OF THE PEOPLE.

1. It shall be open to any congregation to declare within
three months after the date of Union its intention to depend 5
for stipend entirely on Free-will Offerings, and these con-
gregations, for the guidance of the Courts and Committees
of the Church in relation to questions of stipend and readjust-
ment, shall be formed into a group. It shall be in the option
of any of these congregations, with the approval of the Pres- 10
bytery, to withdraw from the group at any time.

2. In order to meet the situation thus created, the Main-
tenance of the Ministry Committee shall keep two separate
accounts, (1) for funds received from Standardised Stipend 15
and any other funds derived from endowments, and (2) for
funds derived solely from the Free-will Offerings of the people.
Congregations in the above group shall share only in the
funds included in the second account. The auditors of the
Committee's accounts shall certify in each year that no part 20
of the standardised stipend or interest from endowment
funds has been allocated to any of the congregations within
the group. These financial arrangements shall be revised
only on request being made to the General Assembly by Over-
ture to that effect, and after the mind of the Church has been
ascertained by consultation of Presbyteries. 25

AGED AND INFIRM MINISTERS' FUNDS.

PROPOSED PLAN OF AMALGAMATION. 30

1. There shall be one governing and administration Com-
mittee, to be called the Aged and Infirm Ministers' Fund
Committee.

2. There shall be one fund, composed of the two funds 35
amalgamated as to capital and interest and other sources.

3. The charges on the Fund shall be :—

(a) All payments of expenses, &c., which have been
oustomary in connection with either Fund.

(b) All grants to annuitants hitherto authorised in either Church under the Regulations in force when the grants were made.

5 (c) The provision of retiring allowances to ministers inducted prior to the union applying after the date of union, to an amount as far as possible similar to that to which they would have been entitled, inclusive of bonus payments, from the separate funds of the two Churches, provided the applicant is qualified for a grant by age or infirmity within 10 fifteen years of the date of union.

(d) Provision of an allowance from the Fund for all other ministers at a rate to be fixed by the General Assembly on the report of the Committee.

15 4. All new grants from the Fund shall be made by the Committee, which shall meet four times in the year at stated dates for the purpose of dealing with applications. At these meetings a certificate shall be submitted by the Secretary, who may receive assistance from a professional adviser, of 20 the amount of money available for the purpose of making additional grants. No grant shall be made unless there is a balance available for it.

5. In the event of there not being sufficient funds available to make grants to all the applicants on any occasion, con- 25 sideration shall be given to age, degree of infirmity, length of service, and the resources of each congregation involved.

6. In all matters of administration not provided for by these general rules the Committee shall exercise its discretion under guidance from the Regulations of the different Funds amal- 30 gamated.

7. The right of a minister who at the date of union is in receipt of the stipend of the parish to claim three-tenths of the stipend on retirement is reserved subject to the conditions in the Regulations of the Aged and Infirm Ministers' Fund of 35 the Church of Scotland.

8. The Committee shall present to the General Assembly for approval, at as early a date as possible after union, Regulations which shall control the administration of the Aged and Infirm Ministers' Fund.

9. While the aim of the Committee shall be to provide a

reasonable retiring allowance in complete independence of the Maintenance of the Ministry Fund, the Committee may receive assistance from that Fund by authority of the General Assembly given from year to year, so that a minimum retiring allowance of £155, or such higher sum as the Church shall fix, may be provided for all ministers retiring through age or infirmity. 5

PENSION FUND OF THE CHURCH OF SCOTLAND. 10

The relation of the united Fund to the Pension Fund shall be as defined in the Constitution of the Church of Scotland's Aged and Infirm Ministers' Fund. 15

*Excerpt from Constitution of the Aged and Infirm Ministers' Fund and Pension Fund of the Church of Scotland:—*A contributor to the Pension Fund shall not be precluded from receiving an annuity from the Aged and Infirm Ministers' Fund Department in addition to (1) the pension to which he is entitled from the Contributors' Fund, and (2) the appropriate share of the divisible income from the Pension Capital Fund, provided always that the share of such divisible income shall not in any one year exceed £50, or, alternatively, one-half of the annuity which he may receive from the Aged and Infirm Ministers' Fund, whichever is greater. 20 25

MISSIONARY FUNDS. 30

In regard to the amalgamation of missionary and other funds (Home, Highlands and Islands, Foreign, Jewish, Colonial and Continental, Youth, &c.), full information has been exchanged between the Committees, and they are satisfied that the amalgamation of these funds presents no difficulty either of principle or of administration, and can be easily and effectively dealt with as a consequence of the adjustment of the varied work of the two Churches under appropriate Committees. 35

CHURCH AND CONGREGATIONAL PROPERTIES AND
FINANCE.

The Joint Committee are of opinion that if the identity of each uniting Church is preserved in the united Church, which
5 must be safeguarded by the uniting Act, Church properties and funds not held under private trusts will become the properties and funds of the united Church, and similarly congregational properties and funds will remain the properties and funds of the congregations. Subject to Presbyterian
10 order congregations in entering into the Union carry with them their existing rights in the possession and control of their property, and in the administration of congregational affairs under their respective constitutions.

15

WIDOWS' AND ORPHANS' FUNDS.

In regard to the Widows' and Orphans' Funds the Joint
20 Committee propose that a Sub-Committee in conjunction with representatives of the Trustees of both Funds should be asked to consider what changes may be necessary in relation to the right of ministers inducted for the first time into a charge in the united Church, and of missionaries (as provided
25 for under Churches (Scotland) Act, Commission Order No. 19, Widows and Orphans Fund, Section 3) to join one or other of these Funds, and the possibility of their amalgamation. The rights of ministers and missionaries already connected with either Fund will not be affected by the union of the Churches.

RULES AND FORMS OF PROCEDURE.

Until a Manual of Procedure has been prepared by the united Church, it is understood that Presbyteries, Sessions, and Congregations are at liberty to follow any of the methods of procedure in use in either of the Churches except in so far as modified by the Plan of Union, provided always that in cases where there is uncertainty in any Congregation or Kirk Session as to which rules should be followed (as, for example, in cases of amalgamation of charges), the question shall be referred to the Presbytery, whose decision shall be final.

ELECTION AND APPOINTMENT OF MINISTERS.

1. In the case of a vacancy the Presbytery shall appoint an interim Moderator of Kirk Session, and the Congregation shall appoint a Vacancy Committee. 15
2. Those persons shall be entitled to vote for a Minister (i) who are members of the Congregation in full communion, and (ii) as adherents, such other persons being parishioners or seatholders at the date of the occurrence of the vacancy, not under twenty-one years of age, and not members of any other Congregation in Scotland at the time of the vacancy, as have claimed in writing to be placed on the Electoral Register, and in regard to whom the Kirk Session is satisfied that they desire to be permanently connected with the Congregation, or are associated with it in its interests and work, and that no reason exists for refusing to admit them to the communion if they should apply. As regards adherents, the decision of the Kirk Session shall be final. 20 25 30
3. No person shall be nominated without previous intimation to him in writing.
4. The vote may be either open or by ballot. A decision on this point shall be made by the Congregation at

the meeting at which the Vacancy Committee is appointed.

- 5 5. When a vacancy takes place intimation thereof shall be made by the Presbytery to the General Interests (or other similar) Committee, which shall have opportunity, acting in concert with the Presbytery, to intervene where it is thought there may be need for readjustment of agencies.
- 10 6. There shall be a time limit for the right of the Congregation to elect a Minister. The period of this right shall begin with the date when leave to elect is announced to the Congregation, and shall extend to nine calendar months, provided that at the end of six months notice shall be sent to the Congregation by the Presbytery that if no appointment is made within three months the Presbytery will itself take steps towards the appointment of a Minister; provided also that, even after the date when the right of appointment has fallen to the Presbytery, it shall be 15 competent for the Presbytery, according to the circumstances of the case, either to grant or to refuse the crave of a petition from the Congregation for extension of the period allowed or for a particular appointment to be made.
- 20 7. Every appointment or call by a Congregation shall be subject to the judgment of the courts of the Church; and in such judgment the number of signatures appended to the call in proportion to the membership of the Congregation, as shown by the roll of 25 communicants, shall be a factor in the decision of the Presbytery whether or not to sustain the appointment or call.
- 30 8. Arrangements for the signing of the call, as soon as the election has been completed, shall be made by the Kirk Session. It shall be competent for any person who is unable to attend at the time or place fixed to have his or her name appended by the Moderator, or by any member of Kirk Session authorised by the Moderator to do so, on application duly signed and submitted to the Session Clerk. Such names 35

shall be initialled by the Moderator or member of Kirk Session appending them.

9. There shall also be opportunity for persons over fourteen years of age who are connected with the Congregation, but who are not members thereof in full communion, to sign a paper of adherence to the call. 5

FUNCTION, ORDINATION, AND INDUCTION OF MINISTERS.

1. The ministry of the Word, the conduct of Public Worship, and the dispensing of the Saeraments belong to the Minister, subject to the control and direction of the Presbytery. 10
2. The ordination of a Minister is the solemn setting apart by prayer and the laying on of hands by Preshyters of a person already licensed to preach the Gospel, to the office and function of the Holy Ministry with a view to the exercise of that Ministry in a particular sphere. 15
3. Induction is admission to a particular charge of one who has been previously or on the same occasion ordained in accordance with the standards of the uniting Churches. 20

SUNDRY MATTERS. 25

1. *Records of Church Courts.*—Material alterations shall be attested by both Moderator and Clerk ; clerical errors by the initials of the Clerk.
2. *Convening of Kirk Session.*—It is the function of the Moderator to call meetings of Kirk Session. He shall be bound to do so within ten days if requested in writing by a majority of the elders, or where these exceed nine in number by at least one-third with a minimum of five. 30
3. *Quorum of Kirk Session.*—This shall be three, the Moderator and two Elders. 35
4. *Assessors to Kirk Session.*—If there be not a sufficient number of Elders available to make a quorum, or in cases of difficulty at the discretion of the Presbytery, Assessors may be appointed by the Presbytery with

or without a vote according to the terms of their appointment.

- 5 5. *Rolls, Registers, &c.*—Those persons who, at the annual
 10 revisal of the Communion Roll, are found to have
 been absent from Communion for three consecutive
 years without a sufficient reason known to the Kirk
 Session, shall be deemed not to be communicants,
 and their names shall be removed from the Roll ;
 and the names of such persons can be restored to the
 15 Roll only by a resolution of the Kirk Session to
 that effect duly recorded in its Minutes. Provided
 always, that if at the annual revisal of the Roll any
 communicant, whose address is known, is found to
 have been absent from Communion for two con-
 20 secutive years without a sufficient reason known to
 the Kirk Session, it shall take such means as shall
 seem best to inform the said communicant of this
 enactment.

A Register of Baptisms shall be kept by the Minister
 in each charge, and it is recommended that a
 25 Register of baptised persons, not communicants, be
 also kept.

The Rolls, Registers, and Records shall be examined
 annually by the Presbytery, and an abstract of
 the congregational accounts (after being audited)
 25 shall be examined and attested by the Presbytery.
 Every Presbytery shall keep a Benefice Register of
 the property belonging to each Charge within the
 bounds.

6. *Presbyterial Visitation.*—The principle of periodic visita-
 30 tion of all Congregations is affirmed.

7. *Overtures.*—In their return to Overtures, remitted for
 their consideration in accordance with the provisions
 of the Barrier Act, 1697, IX., Presbyteries shall be
 required to state clearly and categorically whether
 35 they approve or disapprove, but they shall have the
 opportunity of appending remarks or suggestions.
 If any alteration so proposed in no way modifies
 the substance, sense, or intention of the Overture,
 it shall be competent for the General Assembly to

- adopt it. It shall be competent for a Presbytery among its remarks to indicate approval of the principle of an Overture while disagreeing with the method in which it is proposed to carry out that principle. In this case, however, it shall be reckoned 5 to disapprove. When so instructed by the General Assembly, Presbyteries shall give to Kirk Sessions the opportunity of stating their opinion on Overtures.
8. *Non-residence*.—When a Manse is provided, the Minister shall reside in it unless with the express consent of 10 the Presbytery to reside elsewhere. In all cases the Presbytery shall require him to reside within a reasonable distance of the Church and sphere of ministry. A Minister may be dealt with for non-residence. 15
9. *Proclamation of Banns*.—In parishes where there is more than one church, the banns shall be duly published if proclaimed in such church or churches in the parish as shall be selected for the purpose by the Presbytery within whose jurisdiction the parish is situated. Until 20 the Presbytery has made a selection, the existing practice shall continue, and proclamation of banns shall be made in the church or churches in the parish where it was in use to be made before union.
10. *Parishes and Other Territorial Areas*.—For the purposes 25 of effective pastoral work on a territorial basis, it shall be an early duty of Presbyteries after Union to readjust parochial and other areas where necessary, and assign spheres of pastoral labour and responsibility to the Ministers of particular charges. 30
- Until this has been done (1) for the purposes of the immediately preceding article the boundaries of parishes shall remain as at the date of Union, and (2) existing arrangements, whereby parochial or other areas are assigned or recognised as spheres of pastoral 35 labour and responsibility, shall continue.

DISCIPLINE.

I. APPLICABLE TO ALL COURTS.

Principles.

Discipline in the government of the Church is of Scriptural
 5 authority. The ends contemplated by it are the glory of God,
 the purity of the Church, and the spiritual benefit of her
 members. It is to be administered in faithfulness, meekness,
 love, and tenderness.

Discipline consists in the administration of the appropriate
 10 censures of the Church to those whose conduct shall have
 given occasion for it.

Nothing is to be admitted as the ground of a process for
 censure but what is declared censurable by the Word of
 God, or by some Act or universal custom of this Church.

15 The subjects of discipline are those who hold office in the
 Church, communicants, and baptised persons who are
 adherents.

Censures.

20 The Censures of the Church are Admonition, Rebuke,
 Suspension, Deposition from office, and Excommunication,
 and they are administered only on confession or proof of sin
 or offence. Private admonition, which is not a censure, may
 in certain cases meet the ends of Discipline.

25 Suspension of a person under scandal from performance
 of duties, or even from sealing ordinances during the in-
 vestigation of the scandal, is not a Censure as long as the
 charge is not judicially confessed or proven.

30 Suspension from office *sine die* involves removal from the
 office held.

Record Apart.

To keep the ordinary records of the courts, which have
 to be consulted and inspected for various purposes, free
 35 from the presence of undesirable matter, and to obviate
 their mutilation by the deletion of the proceedings, the prin-

ciple of a Record Apart shall be adopted in all cases where moral delinquency is alleged. As far as the cases which ordinarily come before Kirk Sessions are concerned, involving communicants or baptised persons who are adherents, the desired end may be achieved by the use of a Minute Book of Discipline as mentioned in the procedure recommended below. In all other cases, such as processes against office-bearers, the court of first instance shall resolve from the first to keep the proceedings of the case in a Record Apart, and said resolution shall be minuted in the Record Apart, and not in the ordinary record. 5 10

When the judgment which finally disposes of the case, by whatever court of the Church pronounced, involves any degree of censure of the accused, then the court of first instance shall engross in its ordinary Minute Book the first Minute of the Record Apart, the libel, or a summary of each of the charges thereof, if a libel was served, and the final judgment. When a case has ended in entire acquittal, if there is a Record Apart in any court inferior to the General Assembly, it shall, with all papers in the case, so far as these do not affect the interests of third parties, be sealed up in presence of that court, docketed with the name of the congregation and the date of final judgment, and kept *in retentis* for five years and thereafter destroyed. When a process ends in entire acquittal, the person whose innocence has been proved ought to have a certified copy of the judgment of the court delivered to him. 15 20 25

In every case the inferior courts shall keep an Inventory of Process, in which the clerk shall enter and number all the documents. 30

Persons accused have the right of access to any productions in the case which are in the possession of the court.

Parties may appear by or have the assistance of Counsel or Agents in any process depending before the Presbytery or any higher Court, unless such Court shall otherwise determine. They shall not be entitled to have such assistance in any process depending before a Kirk Session except with the special permission of the Kirk Session. Any parties appearing by Counsel or Agents shall not be entitled to be heard also by themselves. 35

II. PROCESSES IN WHICH THE KIRK SESSION IS THE COURT OF FIRST INSTANCE.

When a person under scandal refuses to submit to discipline, notwithstanding such pastoral dealing as appears to the
 5 Kirk Session sufficient, the Kirk Session may intimate to *him* (or *her*) by registered letter by its clerk that, unless within thirty days *he* shall make known *his* willingness to submit to discipline (or, if the charge is denied, to discipline or trial), *he*
 10 will be suspended from privileges till such submission is made and disposed of, or till the Kirk Session is otherwise satisfied.

When an accused person has made known *his* willingness to submit to discipline, the Kirk Session may remit the case to the Moderator alone, or to the Moderator and one of the
 15 elders.

If a record be kept by the Kirk Session of all cases of discipline, it shall be in a book reserved for this purpose alone. The names, and all that might lead to the identification of the parties, shall be rendered illegible after five
 20 years. In such cases the Kirk Session shall not, unless requested by the person accused, be required to keep a Record Apart, but in the event of an appeal or dissent and complaint to any superior court other than the General Assembly, a Record Apart shall be kept by that superior court.

25 Kirk Sessions shall afford facilities for the transference of cases from one Kirk Session to another when this would be for the convenience of parties and Kirk Sessions.

30 III. PROCESSES IN WHICH THE PRESBYTERY IS THE COURT OF FIRST INSTANCE.

When a *fama* has arisen against an office-bearer (minister or probationer) who is subject to the jurisdiction of a Presby-
 35 tery, it shall be the duty of the Presbytery to institute a preliminary inquiry, and if the offeree is denied, and there still appears ground for investigation, the court shall, except in the case of a minister who demands that a libel be served

on him, proceed to a formal inquiry or a trial by libel. In such cases a Record Apart is required.

Alike in the case of such a formal inquiry and of a trial by libel, there are certain principles to which it is desirable to give effect:—

(a) It is the right of the courts of the Church to adjudicate in all matters of discipline, and the court should not be both prosecutor and judge.

(b) The difficulties occasioned by the numerical size of Church courts ought to be recognised, and such procedure adopted as will ensure that findings on matters of probation will be reached only by those who have heard the whole of the case.

Accordingly there shall be a Committee on Cases against ministers (or probationers) appointed by the General Assembly, who shall advise with the Presbytery if it so desires as to the scope of a formal inquiry, and furnish prosecutors to conduct the inquiry; or in cases where a libel is instituted, who shall prepare the libel and prosecute it, after it has been submitted to and revised by the legal adviser of the Church.

There shall also be a Committee of Assessors appointed annually by the General Assembly, and when evidence has been appointed to be taken either in a formal inquiry, or in a trial by libel, the Presbytery shall commit the hearing of the evidence to a Committee of its own number, or to a panel consisting of, say, three or five of its own number and two assessors, who may hear the whole case, and report to the Presbytery their findings on the extent of probation of the various charges, stating whether they are unanimous or with how many dissentients, and whether their findings are acquiesced in or appealed against by the accused.

It will be for the Presbytery to judge of the report, and to determine the degree of censure appropriate to the extent of the offence found to have been proved. In the event of an appeal to a higher court, this finding shall be transmitted with the other documents in the case.

CONSTITUTION AND ADMINISTRATIVE REGULATIONS OF ASSEMBLY COMMITTEES.

ACCORDING to the Scheme submitted the Administrative work of the united Church is arranged in Departments. Within
 5 each Department are placed the various Committees of Assembly, which in field or function have more or less affinity. The present freedom of action enjoyed by each Committee in relation to the Assembly in matters remitted to it by the Supreme Court remains unimpaired. Many of the Committees
 10 have at present their own secretarial arrangements, and these abide. As vacancies occur, however, it will be for the Committees within each Department to review the situation as it then presents itself, and under guidance of the Assembly consider any new appointment in relation to the Department
 15 as a whole, and with a view to securing the most effective service of that Committee within the Department to which it belongs. The Scheme is not complete in every detail, but the General Assembly, guided by the experience within the united Church, will develop or modify it as in its wisdom it deems
 20 best.

Proposals bearing upon unifying the practice of the two Churches in respect of the position, duties and method of appointment of Secretaries are not meantime submitted; these require further consideration and will be presented to
 25 the next Assembly.

Note.—In the following Scheme dealing with the grouping of the Committees it is to be understood that each Committee carries its respective duties into the new arrangement within the united Church.

A.—CONSTITUTION OF ASSEMBLY COMMITTEES.

I. GENERAL INTERESTS DEPARTMENT. To include the work of the following Committees :—

	(a) The General Committee in the matter of Law and Libels ; also certain Arrangements for the General Assembly.	5
CHURCH OF SCOTLAND.	(b) Assembly Arrangements.	
	(c) Synodical Reports.	
	(d) Constitution of <i>Quoad Sacra</i> Parishes.	
	(e) Benefice Register and Church Records.	
	(f) Statistics.	10
	(g) Committee on Overtures.	
	(a) Assembly Arrangements.	
	(b) Law.	
	(c) Assessors in Cases of Discipline.	
	(d) Property Cases.	15
UNITED FREE CHURCH.	(e) Reports of Synods anent Presbyterial Visitation.	
	(f) Statistics.	
	(g) General Interests, so far as not concerned with "Readjustment of Agencies" and Union of Congregations.	20
	(h) Nomination.	
	(i) Church and State.	

It is suggested that the work of this Department be grouped in these three Committees :— 25

1. *General Administration*.—To include—

From Church of Scotland, *b, c, d, e, f,* and *g.*
From United Free Church, *a, e, f, g,* and *i.*

30

2. *Law, Property Cases, and Discipline*.—To include—

From Church of Scotland, *a.*
From United Free Church, *b, c,* and *d.*

35

3. *Nomination*.

II. FINANCE DEPARTMENT.—To include the work of the following Committees :—

The General Committee in the matters of :—

- | | | |
|----|---------------------------|--|
| 5 | CHURCH
OF
SCOTLAND. | Administration of General Purposes Fund.
Arrangement of the Assessments.
Supervision of Banking Operations.
Finance and Annual Budget.
Freewill Offerings.
Affairs of the Offices of the Church.
Affairs connected with Office at Assembly Hall. |
| 10 | UNITED
FREE
CHURCH. | Finance.
Systematic Giving and Ingathering of Funds. |
- 15 The necessary subdivision of the work of above Department to be determined later.

20 III. CHURCH AND MINISTRY DEPARTMENT.—To include the work of the following Committees :—

- | | | |
|----|---------------------------|---|
| 25 | CHURCH
OF
SCOTLAND. | (a) Maintenance of the Ministry.
(b) Aged and Infirm Ministers' Fund and Pension Fund, including Aged and Infirm Probationers' Fund. |
| 30 | UNITED
FREE
CHURCH. | (a) Central Fund.
(b) Aged and Infirm Ministers' Fund.
(c) General Interests—so far as it acts as a Readjustment of Agencies Committee. |

It is suggested that the work of this Department be grouped in these three Committees :—

- 35 1. Maintenance of Ministry.
2. Aged and Infirm Ministers' Fund and Pension Fund, including Aged and Infirm Probationers' Fund.
3. Union of Congregations and readjustment of Agencies.

IV. HOME DEPARTMENT.—To include the work of the following Committees :—

1. *Home Mission.*

- (a) The work of its present Home Mission Committee. 5
- CHURCH OF SCOTLAND. (b) The Evangelistic enterprise of the Christian Life and Work Committee—*i.e.*, Work among Fisher-folk and Mission Weeks.
- (c) Moderator's Visits and Assembly Deputies.
- UNITED FREE CHURCH. (a) The present work of the Home Mission and Church Extension Committee. 10
- (b) The Visitation Work of the Church Life and Social Problems Committee.

Connected with the Home Mission Committee these three related Committees which follow—*viz.*, 2, 3, and 4. 15

2. *Church and Manse Building—*

- CHURCH OF SCOTLAND. Such matters in connection with churches and manses as are not undertaken by the General Trustees. 20
- UNITED FREE CHURCH. Church and Manse Building Fund.

This Committee shall apply the regulations of the Assembly in respect of grants given on the recommendation of Presbyteries for the erection and repair of ecclesiastical buildings. In cases where grants are applied for, it shall withhold its consent to the undertaking proposed until assured that this is structurally sound, and that a sum is in hand sufficient to warrant the work being carried out without an undue debt remaining upon the congregation. It shall also, in such cases as require it, provide expert counsel or advice. 25 30

This Committee shall be composed in one-half of its membership of men possessed of professional or other special qualifications, and nominated by the Nomination Committee; the other half of its membership shall be nominated by the Home Mission and Highlands and Islands Committees in the proportion of three to one respectively. 35

3. *Committee for the Highlands and Islands, including the operations of the Royal Bounty Committee of the Church of Scotland.*

- 5 Take oversight of Gaelic-speaking areas, also Orkney and Shetland Islands; superintend, in conjunction with the Home Mission Committee, Mission Stations, Mission Agents, and Evangelists within these areas; advise with Presbyteries as to Church Extension in the Highlands and Islands; act as a Highland Probationers' Committee within these Gaelic-speaking areas; render assistance to Gaelic-speaking students preparing for the ministry.
- 10

Representation on this Committee shall consist of one-third of its members nominated by the Home Mission Committee; in regard to the other two-thirds, the Nomination Committee shall take special care in regard to the selection of members with a knowledge of Gaelic and the Gaelic-speaking areas; to these shall be added eight members from the Ladies' Highland Associations. The Superintendent of Highland Missions to be *ex-officio* a member of the Home Mission Committee.

15

20

These two Committees, 2 and 3, to manage their own affairs, including the raising and control of their own funds, and to report direct to the General Assembly.

25 4. *Women's Home Mission.*—To include :—

30 CHURCH OF SCOTLAND. Work of the Women's Associations for Home Missions, including the Direction of the Order of Parish Sisters, also Direction of such Deaconesses as enter into the employment of the Committee.

35 UNITED FREE CHURCH. Work of the Women's Home Mission, including the enterprises conducted by them in various parts of the Home Field; also the Direction of the Order of Deaconess and Church Sister at present under charge of the Home Mission Committee.

Note 1.—The membership of this Committee as a Committee closely related to the Home Mission Committee yet to be determined.

It shall have power to raise and control its own finances, and shall report to the General Assembly through the Home Mission Committee.

Note 2.—The Order of Deaconess within each Church shall remain for the period of three years under the direction of its present Committee. The two Committees concerned shall present at the close of that period a Scheme which secures unity in the regulations which bear upon their admission to the Order and upon their employment in the service of the Church. 5 10

5. *Christian Life and Work.*—To include—

Work of Woman's Guild, and Direction of the Order of Deaconess with its related Institutions at present under charge of the Christian Life and Work Committee of the Church of Scotland. 15

6. *Social Work.*

To continue the work of the Social Work Committee of the Church of Scotland—*i.e.*, Rescue and Preventive Work, Farm Colonies, and Orphanages, &c. 20

7. *Church and Nation.*—To include—

CHURCH OF SCOTLAND. Church and Nation. 25

UNITED FREE CHURCH. Church Life and Social Problems with the exception of Visitation work. 30

8. *Temperance.*

This Committee to include not only the Temperance Committee of both Churches, but also the Woman's Temperance Association of the Church of Scotland. 35

V. FOREIGN MISSIONS DEPARTMENT.

This Department to include in one Committee the Foreign Missions Committee of each Church, also the incorporation of the work of the Women's Association for the Foreign Missions of the Church of Scotland. This Committee to be left to form its own Special Sub-Committees.

10 VI. CHURCHES OVERSEAS DEPARTMENT.—To include the work of the following Committees :—

- 15 CHURCH OF SCOTLAND.
- (a) Church Overseas.
 - (b) Jewish Missions.
 - (c) Women's Association for Jewish Missions.
 - (d) Correspondence with other Reformed Churches.
 - (e) Chaplains to H.M. Forces.
 - (f) Faith and Order.

- 20 UNITED FREE CHURCH.
- (a) Colonial and Continental.
 - (b) Jewish Missions.
 - (c) Women's Jewish Missions.
 - (d) Chaplains to H.M. Forces.
 - (e) Faith and Order.

25 Work of this Department to be undertaken by these four Committees :—

- 30
1. Colonial Churches ; Chaplaincies and Churches in India.
 2. Jewish Missions, including Jewish Mission Work undertaken by the two Women's Organisations.
 3. Work on the Continent and Relations with other Churches, this to include work of Faith and Order Committee.
 4. Chaplains to H.M. Forces.

VII. PREPARATION FOR THE MINISTRY DEPARTMENT.—To include the work of the following Committees :—

	(a) Education for the Ministry.	
CHURCH	(b) Board of Pastoral Institutes.	
OF	(c) Library of the General Assembly.	5
SCOTLAND.	(d) Probationers.	
	(e) Admission from other Churches.	
UNITED	(a) College.	
FREE	(b) Probationers and Transference of Ministers.	
CHURCH.	(c) Petitions and Status.	10

The Work of this Department to be undertaken by these three Committees :—

1. Education for the Ministry.
Note.—All Trust Funds of the respective Colleges of the United Free Church shall remain meantime under present administration. 15
2. Probationers and Transference of Ministers.
3. Admission of Ministers from other Churches and all questions of Status. 20

VIII. YOUTH AND EDUCATION DEPARTMENT.—To include the work of the following Committees :—

		25
CHURCH	(a) Religious Instruction of Youth.	
OF	(b) Education.	
SCOTLAND.		
UNITED	(a) Youth, including the Federation of Young People's Societies.	30
FREE		
CHURCH.	(b) Education.	

The work of this Department to be undertaken by these three Committees :—

1. Religious Instruction of Youth. 35
 2. Education.
 3. Societies of Young Men and Women.
- Note.*—The Joint Conveners of the Union Sub-Committee shall call together in conference representatives of the

- 5 different Societies of Young People in both Churches, and of the Committees concerned, with a view to reaching some adjustment whereby these Societies shall be brought into a direct relationship with each other and their common service be secured for the united Church.

In addition to the foregoing Departments these two Committees (unrelated) :--

- 10 1. *Committee on Public Worship and Aids to Devotion.* To include :--

CHURCH (a) Psalmody and Hymns.
OF (b) Aids to Devotion.
SCOTLAND.

- 15 UNITED (a) Praise.
FREE (b) 'Book of Common Order.'
CHURCH.

2. *Committee on Publications.* To include :--

- 20 CHURCH Church Magazines as conducted by "Christian
OF Life and Work" and by "Religious Instruction
SCOTLAND. of Youth" Committees.

UNITED (a) Publications and Records.
FREE (b) Magazines conducted by the Committee on
CHURCH. Youth.

- 25 *Note 1.*—The Committees of the united Church which are interested in Publications shall be given adequate representation upon the Publications and Records Committee.

- 30 *Note 2.*—A Profit and Loss Account shall be kept for each Committee interested in Publications, any ascertained balance, after the expenses of the Department have been made, to be paid over to, or by, the respective Committees.

35

B.--ADMINISTRATIVE REGULATIONS OF ASSEMBLY COMMITTEES.

1. The Presbytery shall be the Court from which the "representative" element shall be drawn.

2. The Committees which raise funds from congregational

sources shall be the Committees on which representatives of Presbyteries shall be placed.

(Exception is made of the Church and Manse Building and of the Women's Home Mission Committees.)

3. The "representative" element and the "nominated" element shall be practically equal. 5

(Exception is made of the Nomination Committee, the Education for the Ministry Committee, and the Admission of Ministers Committee.)

4. The numbers of each Committee shall be according to requirements, and on a general arrangement yet to be worked out; but until experience suggests otherwise, these four Committees—"Maintenance of the Ministry," "Home Mission," "Foreign Mission," and "Youth of the Church"—shall have a membership not exceeding 120; other Committees dealing with funds shall have a membership not exceeding 80, the remaining Committees shall have a membership not exceeding 60. 10 15

5. The representation from Presbyteries shall be according to the number of congregations within the bounds, and in a proportion yet to be determined. 20

6. Membership of Committees shall be for a period of four years.

7. Conveners of Committees shall hold office for five years, and Vice-Conveners for three years. 25

8. Ministers and elders shall be placed upon Committees as far as possible in equal numbers. In committees which carry a representation of women, the proportion shall be 40 per cent ministers, 40 per cent elders, and 20 per cent women, an exception to this being made in the case of the Foreign Mission Committee. 30

9. Committees shall meet as a rule in June, October, December, February, and April. They shall be free to meet on other months as business may require. The third Tuesday of the month, and if need be the days following, shall be regarded as the selected day or days. 35

10. Expenses incurred by members of Committees, consisting of travel charges and a sum for maintenance when required, shall be defrayed; the source from which these expenses shall be drawn shall be determined later.

11. The Nomination Committee of Assembly shall consist, to begin with, of forty-eight members, two-thirds nominated by Synods and one-third by the Assembly through its Selection Committee. Membership of the Nomination Committee
5 of Assembly shall be for four years. No member shall be open for re-election until after a period of four years, except for special cause shown. The Convener'ship of this Committee shall be for three years.

RELATIONS WITH OTHER CHURCHES.

I. THE CONFERRING CHURCHES IN RELATION TO OTHER PRESBYTERIAN CHURCHES.

(a) *General Relations.*

Both Churches are constituent members of the Alliance of Reformed Churches holding the Presbyterian System (a federation instituted fifty years ago and inaugurated in Edinburgh, and now embracing almost every Presbyterian Church in the world), and contribute annually substantial sums towards its maintenance. Their membership in the Alliance implies a public recognition of the Sister Churches as forming one ecclesiastical family, without determining such questions as mutual eligibility and identity of orders. 5 10

Through the Committee on Correspondence with Other Reformed Churches, and in relation to Churches in the British Dominions and Dependencies, through the Committee on the Church Overseas, the Church of Scotland sends and receives official delegates, provides bursaries for Continental students preparing for the Ministry, and in several instances sends financial assistance where required. The United Free Church acts in the same way through one Committee, the Colonial and Continental Committee. 15 20

Both Churches through their Foreign Mission and Overseas Committees maintain fraternal relations with autonomous Churches in Mission fields in Africa, Asia, and the West Indies, some of which are now united Churches including ministers and members who formerly belonged to other de- 25

nominations—*e.g.*, Congregational, Methodist. These united Churches are as follows :—

United Church of Northern India.

United Church of India, South.

5 Bantu Presbyterian Church of South Africa.

Church of Central Africa, Presbyterian.

Presbyterian Church of Jamaica.

United Church of Christ in China.

10 In these Churches Scottish missionaries are for the most part full members of the Church Courts, and the Mission Councils have a close relationship to the Churches in Scotland.

15 It is recommended that all the foregoing relations, which are practically identical for both Churches, be continued, after union, with a redistribution of the provinces and activities of the Standing Committees mentioned above.

20 (b) *Recognition of Orders and Admission of Ministers.*

In 1911 the Special Committee of the Church of Scotland on the Petition of the Rev. J. A. D. J. Macdonald, a Wesleyan Minister who had served the Church as Minister to the Scotsmen in the mills upon the Hoogly, gave in unanimously, through the Rev. George Gardiner, D.D., an extremely valuable and comprehensive report on this subject (Assembly Report, pp. 1149-1198), reviewing the Doctrine, Law, and Practice of the Church. Among the Committee's conclusions, which were not questioned and may be held as authoritative, the following (p. 1192) regarding Ministers already ordained are here relevant :—

35 “*Doctrine*, § 3. A Minister who hath been an ordained presbyter of the Church of England or of ‘other Reformed Church’ is to be admitted without reordination.”

“*Doctrine*, § 4. The Ordination of an ecclesiastical union whose constitution is not that of a court governing the several congregations represented in it does not satisfy the requirements of the doctrinal standard of our Church.”

“*Law*, § 2. The orders of other regularly constituted Presbyterian Churches are recognised as valid.”

“*Practice*, § 1. With very few exceptions, and these all prior to 1850, Presbyterian Ministers (*i.e.*, already ordained) have been admitted either as ordained Ministers or as licentiates who were to be admitted (*i.e.*, inducted) without ordination on being called to a pastoral charge. This latter practice ceased in 1875. Only one case has been found of the re-ordination of a Presbyterian Minister.” 5

No similar document is available in the United Free Church, but the above findings are in accord with its Doctrine, Law, and Practice. 10

The conferring Churches have at no time drawn up complete lists of the Presbyterian Churches whose orders are held as sufficient to qualify for admission. They have both been content to deal with particular cases of application as they emerged. The procedure in each Church is by petition to the General Assembly through the Standing Committee on Admission of Ministers of Other Churches, which reports on the applicant's orders and theological training and character, &c., and his avowed reason for seeking admission. 15 20

Section IX. of the Church of Scotland Act (XI., 1907) decrees that “Ministers admitted from Churches whose ordination of probationers of the Church of Scotland is recognised as valid under Act XV., 1902, and Ministers of Presbyterian Churches in Scotland, shall be enrolled in the list of ministers (*i.e.*, ordained ministers). The Churches specified in Act XV., 1902, without prejudice to others that may be so recognised, are the Presbyterian Churches of England, Ireland, Canada, United States (North and South), Australia, New Zealand and South Africa, the Reformed Church in America (Dutch), the United Presbyterian Church of North America, the Dutch Reformed Church of South Africa, and the Reformed Church of the Netherlands.” 25 30

In the United Free Church, as stated in the Manual of Practice and Procedure, a similar position is held, the Churches specified, without prejudice to others, being the Presbyterian Churches of Canada, Australia, New Zealand, and South Africa. 35

It is recommended (i) that as at present in both Churches a Standing Committee (to be

named the Committee on Admission and Status of Ministers) be entrusted with the supervision of applications for admission by licentiates, ministers, and professors from other Churches; and

5 (ii) that it be held not advisable to draw up a list of Churches whose training for the ministry and whose orders are to be deemed valid for the purpose of admission, but that individual cases of application be considered by the Com-

10 mittee on Admission and Status of Ministers as they arise in accordance with the standards of the united Church.

(c) *Eligibility for Direct Election and Appointment.*

15 In the case of an ordained minister "holding at the time a regular congregational charge of any Presbyterian Church in Great Britain or Ireland adhering to the doctrine, govern-

20 ment, and discipline of this Church," the Act VIII. of Assembly 1921, Church of Scotland, declares that it shall be competent for a Congregational Committee to nominate him with a view to an election and appointment to a vacant Parish, "provided that, prior to such nomination he shall have received from the Committee on the Admission of Ministers of Other Churches a Certificate approving his course of study for the Ministry,

25 both in Arts and in Divinity, as equal in extent and character to that required of a licentiate of this Church." That requirement being fulfilled, election, appointment, and call may competently follow in the same manner as in the appointment of an ordained minister of this Church. And provision

30 is made for the application of this rule to cases of Presbyterian appointment *tanquam jure devoluto*, and to appointment by the Presbytery of Edinburgh to stations under the Colonial, Foreign Mission, and Jewish Mission Committees. By this Act the relevant Acts of 1886 and 1911 were repealed.

In the United Free Church ordained ministers of the Pres-

35 byterian Churches in England and in Ireland have been recognised as eligible.

It is recommended that in the united Church it shall be competent for a congregational committee to nominate, with a view to election to a

vacant charge, an ordained minister holding at the time a charge or office in any Presbyterian Church in Great Britain and Ireland which adheres to the doctrine, government, and discipline of the united Church, *provided that*, prior to such nomination, the congregational committee shall have received from the Committee on Admission and Status of Ministers a certificate approving (i) his course of study for the ministry both in Arts and Divinity as equal in extent and character to that required of licentiates of the united Church ;

(ii) his ordination as valid ; and

(iii) his presbyterial certificate as satisfactory.

This requirement being fulfilled, election, appointment, and call may competently follow as in the appointment of an ordained minister of the united Church.

This rule, it is further recommended, shall also apply to appointments made *tanquam jure devoluto*, and by the Foreign Mission, Jewish Mission, Chaplains, and Overseas Committees, as well as to appointments to vacant theological chairs.

A probationer of the Church of Scotland, ordained by a Presbyterian Church furth of Scotland, who has not expressly demitted, or been judicially deprived of, his status as a probationer of this Church, does not on his return to Scotland require to apply to the Standing Committee on the Admission of Ministers of Other Churches, nor has an ordained minister of the Church, similarly returning after service in another Church, been required so to apply.

It is recommended that probationers and ordained ministers of either conferring Church, who return to Scotland from other countries where they have held office as ministers or missionaries or professors outside the jurisdiction of the Church which licensed them, shall be eligible for nomination with a view to appointment to office in the united Church, provided (1) that they have not expressly demitted their

status as licentiates or been judicially deprived of it, and (2) that they shall have satisfied the Committee on Admission and Status of Ministers as to their character, record, and standing, and shall have received from that Committee a certificate to that effect.

2. THE CONFERRING CHURCHES IN RELATION TO
CHURCHES HOLDING OTHER SYSTEMS.

(a) *The Roman Catholic Church.*

Thomas Abernethie, Roman Catholic priest and Jesuit, was received into communion after "abjuration of Poperie" in 1638, and was admitted by reordination to the charge of Hounam in 1640.

But James Tyrie, a Roman Catholic priest, received in 1735, seems to have been admitted to an Orkney charge without reordination.

So recently as 1884, Dr Browne, priest of the same Church and Professor of Metaphysics, was admitted by the Church of Scotland as a minister.

No cases of admission from the Roman Catholic Church have occurred in the United Free Church.

It is recommended that any cases of application be dealt with by the united Church as they arise in accordance with her standards.

(b) *Anglican and Moravian Churches.*

Ministers of these Episcopal Churches have been admitted by the Church of Scotland without reordination. No case has arisen in the United Free Church.

It is recommended that any cases of application be dealt with by the united Church as they arise in accordance with her standards.

(c) *Wesleyan and Other Methodist Churches.*

(i) *Church of Scotland Practice.*

In 1872 a Wesleyan Minister was admitted as a probationer in British Guiana, the Assembly having declined to interfere beyond advising the Presbytery to "use extreme caution in the exercise of the power to admit to the status of a probationer." 5

In 1876, John Gunson of the Methodist Free Church was admitted as a licentiate at the same time as George Chute of the Church of England was admitted as an ordained minister; and two years later the same action was taken with a Primitive Methodist Minister, Lewis Frederick Armitage, followed by Arthur Jenkinson, United Free Methodist, in 1885. 10

In 1898 reordination was required by the Assembly in the case of John Robbins, minister of the Wesleyan Methodist Church in Canada from 1875, admitted in 1885 to the Presbyterian Church in Canada, and in 1896 inducted to a charge at Watford by the Presbytery of London (Scottish Church in England). 15

In 1911, in the case of J. A. D. J. Macdonald, above cited, the Special Committee was equally divided on the question of admitting him as an ordained minister, but by the casting vote of the Convener recommended adherence to the previous Assembly's resolution to admit as a licentiate. "In those circumstances," it is reported, "and in view of the fact that no application has been made, or indication given, by the Wesleyan Methodist Church that this Church should review its history, or give judgment as to the orders of its ministers, your Committee deem it unnecessary and undesirable to pronounce on these matters." The General Assembly "gave no opinion on the Report," but resolved by a majority, "without calling in question the validity of Mr Macdonald's ordination," that it was inadvisable to alter its former decision in this case. 20 25 30

(ii) *United Free Church of Scotland.*

Since 1916 seven Methodists have been admitted as ordained ministers. 35

It is recommended that any cases of application be dealt with by the united Church as they arise in accordance with her standards.

(d) *Congregational and Baptist Churches.*(i) *Church of Scotland.*

Prior to 1866 no admission is recorded. From 1866 to 1882 practice varied as to the status granted on admission.

- 5 In 1873, W. M. Metcalfe, Congregational Minister at Ayr, was admitted as a licentiate *not to be reordained*. Similarly in 1874 William Mackay, of the same denomination at Alexandria, and in 1875 R. H. Hutchieson. In 1877 and 1878 five Congregational Ministers were received as licentiates to be subsequently reordained. Since 1880 all Congregational
10 Ministers admitted have been given licentiate status only, with two exceptions in 1882 in whose favour reordination was dispensed with.

- Applicants from Evangelical Union Churches and from
15 Baptist Churches have in all cases been received as probationers *simpliciter*.

(ii) *United Free Church of Scotland.*

- Since 1916 sixteen Congregational and seven Baptist
20 Ministers have been admitted, not seldom without reordination.

It is recommended that any cases of application be dealt with by the united Church as they arise in accordance with her standards.

25

3. THE CONFERRING CHURCHES IN RELATION TO THE UNITED CHURCH OF CANADA.

- The United Church of Canada is composed of Presbyterian,
30 Methodist, and, in a very small proportion, Congregational elements, with the first of which the conferring Churches have been in fellowship. This Church claims to be Presbyterian in doctrine, government, orders, and worship, and desires to have the same relations with the united Church of Scotland
35 as the Presbyterian Church in Canada maintained with the conferring Churches.

It is recommended that fraternal relations be maintained with this Church, and that, in the event of applications being made for admission

by ministers in it, each case should be considered on its merits in accordance with the standards of the united Church, as already recommended in connection with applications from ministers of other Churches outside the British Isles. 5

It is also recommended that regulations be drawn up to guide the Committee which is to be entrusted with the supervision of admissions and re-admissions as above-mentioned. [See *Draft Scheme of Proposed Regulations on Admission to the Ministry* appended.] 10

4. THE CONFERRING CHURCHES IN RELATION TO WIDER UNION MOVEMENTS. 15

(a) The Churches are both official participants in the *Faith and Order Movement*, contributing financially, and represented regularly on the Continuation Committee and ecumenical gatherings through the Assemblies' Committees on "World Conference on Faith and Order." Their freedom of action is expressly reserved. 20

(b) They are both official participants on similar terms in the *Life and Work Movement*, through the Church of Scotland Assembly's Committee on Church and Nation, and the United Free Church Assembly's Committee on Church Life and Social Problems, without financial obligation. 25

(c) The same is true of the *World Alliance for Promoting International Friendship through the Churches*, to whose British National Council the Assemblies appoint representatives. 30

(d) The Churches are also regularly represented through the same Committees on the *Scottish Churches Council*, an essentially deliberative and advisory body, numbering delegates from practically all the Scottish Churches except the Roman Catholic and the Free. 35

(e) The Churches have both returned favourable replies to the overtures of the Church of England suggesting conference with the Episcopal Church in England and Scotland on the Lambeth proposals towards a larger reunion, though they

have asked, as was courteously anticipated by the Archbishop of Canterbury, that conference be deferred until the prior obligations of their pending union have been discharged.

(f) The General Assemblies have both welcomed distinguished representatives bringing ecclesiastical greetings from the Lutheran Churches of Sweden and Finland, on the introduction of the Committee on Correspondence with Other Reformed Churches and the Colonial and Continental Committee as well as Archbishops and Bishops of the Anglican Church.

10

It is recommended that the above wider relations be maintained as hitherto through the appropriate Committees of the united Church.

15

SCHEME FOR ADMISSION OF MINISTERS AND LICENTIATES OF OTHER CHURCHES.

- 20 1. Applicants for Admission to the Ministry of the united Church shall approach the General Assembly by Petition submitted through the Committee on Admission and Status of Ministers, whose duty shall be to examine each Petition, to have an interview with the Petitioner, to make such investigation and inquiry as may seem expedient in each case, and to transmit the Petition to the General Assembly, with a recommendation as to the judgment which in the opinion of the Committee ought to be pronounced, and whether the crave ought to be granted, partially granted, deferred, or refused.
- 25 2. The Committee shall be empowered to make such Regulations for its procedure, and to require such Fees from Petitioners as it may deem fit, and to issue a statement of these Regulations and Fees in a separate pamphlet for the guidance of applicants and for orderly procedure in its own work.
- 30 3. The Committee shall be empowered to make such Regulations for its procedure, and to require such Fees from Petitioners as it may deem fit, and to issue a statement of these Regulations and Fees in a separate pamphlet for the guidance of applicants and for orderly procedure in its own work.
- 35 4. The Petition in each case shall be as far as possible framed after a style to be set forth in the pamphlet issued by the Committee. The Petition shall give full particulars as to the Petitioner's age, present Church connection, Educational Currieulum and Ministerial Career, with an explicit statement of the reasons for which the Petitioner proposes

to seek admission to the united Church, and shall be accompanied by all documents required to substantiate the facts set forth. These documents shall be originals, or, if the originals are not available, copies or extracts from official records certified by the persons qualified to grant them. The Petition shall be lodged with the Secretary of the Committee not later than the first day of January preceding the meeting of General Assembly for which it is intended. 5

3. Immediately after 1st January in each year, the Convener shall prepare a synopsis of each Petition received before that date, and shall cause it to be issued to the members of Committee at least a week previous to a Statutory Meeting to be held before 31st January, when the Petitioner shall appear for interview (unless in any particular case of an exceptional nature the Convener recommends the Committee to dispense with this requirement entirely, or to defer it till a subsequent meeting), and answer such questions as may be put to him hearing on the matters set forth in his Petition, or as may be relevant to the subject of his application. The Committee shall then deliberate as to the recommendation to be made to the General Assembly, but at this stage its resolution shall be merely provisional, and liable to be confirmed, reversed or varied at a later meeting. As soon as possible the resolution shall be communicated to the Petitioner, who shall be required to reply in writing whether he desires to adhere to his Petition as already presented, or to withdraw it, or to vary its crave in consequence of the said resolution. In exceptional cases, and for reasons to be stated in its Report, the Committee may resolve to make no recommendation, but to refer the case *simpliciter* to the General Assembly, but otherwise the Committee shall not be required to assign to the Petitioner any reasons for its finding. 10 15 20 25 30

4. In order that the Courts of the Church may have their rightful place in the reception of those who are to become Ministers of the Church, and also in order that the Committee may have further opportunity of investigating the facts as set forth in the Petition, and be more fully persuaded of the desirability or otherwise of the admission of the Petitioner, the Petition shall then be forwarded to the Presbytery of his residence; but if he has not resided mainly within the bounds 35

of any Presbytery in Scotland for three months prior to 1st January, it shall be forwarded to the Presbytery of Edinburgh. It shall be accompanied by a copy of the synopsis already mentioned, and of the recommendation which the
 5 Committee has provisionally agreed to make. The Presbytery may, if it so desires, call on the Committee to forward also the documents on which the synopsis is based for inspection and return. The Petitioner shall be instructed to report himself to the Clerk of Presbytery, and to hold himself
 10 in readiness to appear before the Presbytery, if that Court should desire an interview. The Presbytery shall deal with the matter as soon as possible, and, after making such investigations and inquiries as it deems fit, shall communicate to the Secretary of the Committee its opinion on the case
 15 not later than the 15th day of April, and shall also intimate the same to the Petitioner.

5. As soon as possible thereafter, the Standing Committee shall again meet, and, having anew considered each case with the opinion of the Presbytery thereon, shall come to a
 20 final decision as to the recommendation to be made to the General Assembly, and shall in this recommendation state whether or not the admission of the Petitioner seems to be for the benefit of the united Church. The decision shall forthwith be intimated to the Petitioner, who may, if he so
 25 desires, withdraw the Petition (in which case the documents he has lodged in connection therewith shall be at once returned to him) or may alter its crave.

6. When the Committee's Report is presented to the General Assembly, each case shall be considered separately. The
 30 recommendations alike of the Committee and of the Presbytery shall be included in the Report. The Petitioner shall appear at the bar in support of his Petition, unless for cause shown and approved by the Committee or in exceptional circumstances by the Assembly. He shall have the right to
 35 be heard only with regard to any inaccuracy in the synopsis of the facts set forth in his Petition, of which synopsis a copy shall be supplied to him at least seven days before the meeting of Assembly.

7. If the Assembly resolves to grant the crave of the Petition and to admit the Petitioner, it shall remit the case

to the Presbytery concerned, or to such other Presbytery as the Assembly may deem more expedient, in order that the appropriate steps may be completed, and the said Presbytery shall enrol him according to the status which the Assembly has granted; but the Presbytery shall not take these steps until any period of probation or interim-admission which the Assembly may have prescribed has been completed, and until a report on such period has been presented to the Assembly. 5

8. It shall be competent for the General Assembly, whether or not on the recommendation of the Committee, instead of granting full admission to a Petitioner immediately, to grant probation or interim-admission for a year, or for such other period as may seem expedient, during which period he shall not be permitted to officiate in a vacant charge or to administer either of the Sacraments, though he may exercise the other functions of the Ministry, this restriction being without prejudice to the validity of his orders. Further, it shall be competent for the General Assembly, whether or not on the recommendation of the Committee, to require the Petitioner to attend additional classes in Arts or Divinity with due performance of the work thereof. During this period of probation or interim-admission, the Petitioner shall be required to make such report to the Committee as its Regulations may state, alike as to the work in which he has been engaged and as to the classes, if any, which he has been required to attend, and the Committee shall include in its Report to the ensuing Assembly a statement with regard to the case in these particulars. 15 20 25

9. Until the Petition of any applicant is actually submitted to the General Assembly, it (as well as all the other documents referring thereto) shall be regarded as confidential, and all procedure either by Committee or by Presbytery or other Court shall be taken in private; but this shall not be deemed a hindrance to the Committee (or to a Presbytery to which the case has been referred) in pursuing its proper inquiries and investigations. 30 35

10. If a Minister who applies for admission to the united Church has already been ordained to the full status and function of the Ministry by any Presbyterian Church, whose orders are recognised by the united Church, and if the General

Assembly resolves to admit him to the Ministry of the united Church, he shall not on such admission be reordained; but in any other case the Standing Committee shall refer the matter to the General Assembly with their recommendation.

- 5 11. If a Minister who desires admission is already a Minister in full standing and the Minister, whether Emeritus or Acting, of a congregation of any Presbyterian Church in Great Britain or Ireland whose orders are recognised by the united Church, it shall not be necessary for him to make applica-
 10 tion in the manner aforesaid; but he shall not be eligible for appointment to any charge in the united Church until he has satisfied the Committee or its Executive that he has taken a full course in Arts and Theology equal to that required of Licentiatees of the united Church, and that his
 15 character is in accordance with his profession; but after receiving a certificate from the Committee or its Executive (in accordance with any Regulations or conditions which that Committee may frame), he shall be eligible for transla-
 20 tion from his present charge to a charge in the united Church, or for being received by a Presbytery as a Minister residing or officiating in its bounds without a charge; provided always that in the latter event he shall not be entitled on this ground alone to a seat in the Presbytery.

12. If a Licentiate or Minister either of the Church of
 25 Scotland or of the United Free Church of Scotland before their union, or of the united Church subsequent thereto, has neither demitted nor been judicially deprived of the status he possessed, but has undertaken employment which is not subject to the jurisdiction of the Church as so united, he shall, on
 30 ceasing to be so employed, be eligible for appointment to office in the united Church, according to his status; provided that prior to nomination for such office he shall have satisfied the Committee or its Executive as to his status, record and character, and shall have received from it a certificate to
 35 that effect.

13. It shall not be competent for the Committee to recommend to the General Assembly the admission of any Petitioner whose age on the 1st day of January preceding the Meeting of Assembly exceeds 45 years, unless he has held a charge or charges in any Presbyterian Church in Great Britain or

Ireland or the Dominions for at least ten years; but this shall not preclude the Committee in exceptional cases from transmitting his Petition *simpliciter* if otherwise satisfactory, nor shall it preclude the General Assembly in the exercise of its *nobile officium* from granting admission; but in the latter event the Petitioner shall come under the ordinary regulations of the Aged and Infirm Ministers' Fund as regards annuity or retiring allowance. 5

14. A Petitioner may, along with his Petition, submit to the Committee a separate application to be permitted to be employed in the meantime in connection with the Church. If the Committee resolves to grant the application, it shall be endorsed accordingly, and unless recalled shall be valid until the General Assembly has disposed of the Petition; provided (1) that the permission shall not entitle the Petitioner to administer either of the Sacraments or to be placed on the Register of Probationers, or to officiate in a vacant charge; (2) that so soon as employment has been obtained the Petitioner shall submit the application as endorsed to the Clerk of the Presbytery within whose bounds the work is to be performed, and shall be deemed to be under the care and jurisdiction of that Presbytery, or of any other Presbytery to which he may be transferred; (3) that it shall be competent for the Committee or its Executive to recall the permission, or for the Presbytery to suspend its operation, at any time; (4) that the Presbytery within whose bounds he is employed shall report to the Committee within three weeks of such a report being requested, as to the manner in which he has performed his duties. Without production of the application as endorsed, it shall not be competent for a Petitioner to undertake, or for a Kirk Session to give, employment other than occasional supply while his case is pending. The same rules *mutatis mutandis* shall be observed by a Committee of the Church which may employ the Petitioner, and in this case the report to the Committee shall be made by the Convener of such Committee. 10 15 20 25 30 35

15. The foregoing principles and rules, together with such other regulations as the General Assembly may frame, while referring principally to Ministers of other Churches in full status, shall be regarded as applying also to Licentiates of

other Churches, so far as capable of such application. Students who have been trained by other Churches, and who have not already been granted the status of Licentiates, shall not come within the scope of the procedure herein enacted, but shall report themselves to the Committee on Education for the Ministry, which shall deal with such cases under its own regulations.

W. E. P. H.

THE RE-UNION OF THE SCOTTISH CHURCH

*An Address
delivered at the Opening of the General Assembly
of the United Free Church of Scotland
21st May 1929*

BY THE
REV. PRINCIPAL ALEXANDER MARTIN, D.D.
MODERATOR

"No children on earth have less reason to be ashamed
of the Mother that bore them."—*Alexander Henderson*

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THE RE-UNION

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THE SCOTTISH CHURCH

FATHERS AND BRETHREN,

I have to acknowledge, with deep gratitude, the singular kindness which has recalled me to this Chair. The unusual "outward honour" infers, I fear, unusual "inward toil"—which, however, may I be permitted to say, is shared by others also. This is no ordinary General Assembly. We meet in circumstances which must render its proceedings altogether unique and memorable, and upon the responsibility thus laid on all of us I do not presume to dwell. For myself, I can but ask for that generosity and forbearance on which none who serve this Church ever count in vain.

THE VERDICT

For indeed, Fathers and Brethren, it is no easy task to gather up—as it may be expected of me to do—and to express the thoughts that are moving through all our minds at this time. Let me come at once to the situation. Six months ago there was laid before the Scottish Church and people the most momentous question which it has fallen to them to deal with for many generations; and to-day their answer is before us. Its emphasis is remarkable. Complete unanimity has not been reached—that, alas! is seldom our Scottish way. Nevertheless, from every quarter—from city and town and village, from Highland and Lowland straths and from the islands of the western and northern seas, not to add from every

outpost in our far-spread Continental and Foreign Mission fields—has flowed in a truly impressive endorsement of the scheme on which judgment was desired. Plainly the deliberate verdict of the Church, given through Courts and Congregations alike, is that this great thing be done. I suppose such a result was to be anticipated—even long anticipated. Fifty years have passed since our brethren, led by great-hearted Churchmen of the day, made to us the first gesture in the direction we are about to take. In the intervening period religious sentiment in Scotland has craved increasingly that somehow our divisions should be overcome; while, from an early stage in the present negotiations, it has been evident that these last could only end one way. Nevertheless, now that the end has come (or all but come), so much comes along with it—so much that has had power over the heart draws to a close in it, and so very much that appeals to faith and hope is brought within reach by it—that, I confess, upon one mind here at least the effect is all but overwhelming. I but mention in passing the debt under which the whole Church lies to the “happy band of brothers” whose long, painstaking collaboration has rendered this achievement possible. One name alone, *clarum et venerabile*, the Assembly, I believe, will desire to recall: would that to our learned and sagacious leader and father, Dr Archibald Henderson, to whom the project owes so much, it had been permitted to guide us all the way. Yet in truth, my brethren, do we not feel that we are in the presence here of that in respect of which, in the last resort, the most valued co-operation of men passes out of view? *Non nobis, Domine*. “Behold what hath God wrought!”

LOSS AND GAIN

One preliminary remark I hesitate and yet am bold to make. We gather—we and our brethren—in our respective Supreme Courts for the last time: when we resume, a few months hence, it will be to merge in a reconstituted

General Assembly in which much will be changed. And the change will reflect itself quickly in every parish throughout the land. Will it be grudged to us if in view of that which is before us there should be found, on either side, mingled with feelings of a worthier kind, a certain degree of misgiving and regret? Let us be frank about it: we have been tied too long to these familiar moorings not to have just a little apprehension of the risks of the open sea. Each several communion surrounds itself inevitably with its own peculiar atmosphere. These long years of separation have resulted in differences of attitude and practice which will not be adjusted in a day. And—this more especially perhaps—the compacter associations we have been in use to cultivate have begotten loyalties and pieties “felt in the blood and felt along the heart,” which the enlarged fellowship now in prospect must in some degree unsettle and disturb. And yet I should be ashamed to dwell on this. Be it so that a transformation of our Church life is before us which will leave no part of it quite the same. Nevertheless, the enriched inheritance we together enter on should be reward a thousand-fold for anything we may have to surrender. I touch on it at all in order to remind myself and the Assembly that the Church of Christ, even as we know and have our own familiar prized experience of it, is after all not ours but His—His in the sacredness of its proper character and the catholicity of its range and the scope of the ends it seeks among men. The “zeal of the Lord’s House” should be a fire to burn up everything in His servants’ devotion to it that is prejudiced and parochial, and merely conventional and poor. The Church, I repeat, is not ours, it is the Lord’s. And to open the heart afresh to the high thought is to learn how to find in all such enlargements, and in the losses that attend them, lasting gain.

LOCAL UNIONS AND THE LARGER VIEW

A special instance of what I mean must not be passed over. It would be foolish to charge upon disunion alone the present ill-adjustment of the religious resources of the land. Our leading separations proved to be Church Extension movements. The same is true of the extraordinary recuperation of the Church of Scotland in the later decades of last century; and had these represented in any sense a concerted effort to solve the problem of the time—that occasioned by the rapid increase and displacement of population following in the wake of the industrial revolution—they would have gone some good way to meet the need. But just this concert has been lacking; and in the event the situation has fallen into the painful disorder which no one any longer defends. It is encouraging to find how, all over the land, the people have begun to take the remedy into their own hands—and it will be for the re-united Church to foster the tendency sedulously. There is no reason at all to fear that it will be anywhere pressed with inconsideration or harshness. Yet where the question arises is it too much to expect that the larger view will be taken—on both sides, of course? The time is come when religion should cease to be a divisive force in the village life of Scotland. And few things are more to be desired than that to our faithful people, leading it may be a secluded life, where memories are lasting and use and wont is strong, there be given a new impulse towards the knitting up again of the broken ties of Christian fellowship, and a readiness to part with much even that the past has endeared to them in the wider interest of God's Kingdom.

THE DEEPER FACTORS INVOLVED

So much for that which, on the surface even, of itself suggests re-union. The practical exigencies demand it; and public opinion, I suspect, will appraise our achieve-

ment very much in the light of the success or failure attending our efforts here. The underlying factors, again, which also have been at work to draw the Churches together, require fuller consideration. Their import goes deeper and reaches far ; and standing where we do to-day, on an eminence from which we look before and after, it would be to sin against all our history not to take account of them. We are to remember how unique the situation is. The growth of toleration, it has been said, is the hall-mark of the modern time ; and of the Church unions that have so greatly enriched our recent history it might be enough to say that they were due to the penetration of our Church life by the influence of this principle. But that would be no true description of what is coming to pass now. Far otherwise ! We are not agreeing to bury our causes of dispute in silence, we have overcome them. These long years of conference have done more than merely remove misunderstandings and alter the perspective for us all. They have definitely effected something—something in virtue of which the position of our Churches, *vis-à-vis* one another, has been radically changed. Great principles have been probed to the root, and an adjustment of them altogether new has been arrived at. It would be tedious to rehearse what is so familiar. And yet I believe the Assembly will desire that the broad significance of what has been accomplished be placed upon the record once for all. It will be expected of us, and it is only right, that we give all the world to understand the meaning of this thing we do—what it is that has been brought to an end among us, and what is about to be begun—and that we emblazon on our banners the legend under which, with re-formed ranks, the Scottish Church fights henceforward for the Crown and Covenant of her King.

SCOTTISH PIETY AND UNITY

Let us begin at the beginning. Our Scottish type of piety has its limitations, no doubt. Nevertheless, it has exhibited its own characteristic qualities, and along with the rest—and as a feature truly distinctive—the sense of what it means for the Christian man to belong to the Christian fellowship. Our Presbyterian polity may in part account for it: in any case the fact is incontrovertible. To care for the Church's well-being has been, for the Scottish Christian, a native part of his religious loyalty, and in particular—this is what I stress for the moment—for her visible unity and peace.

The trait runs far back into our history. At the outset—of our Reformed period, I mean—the claim to the true continuity with the Church catholic was nowhere urged more resolutely—the “rotten wall,” as it came to be put later, had “fallen away,” leaving the edifice otherwise intact. If the Scottish Church drew up a Confession and Book of Order of her own, the object was to exhibit her substantial oneness with the other Reformed Churches: while for the rest, the front early Protestantism presented to the world remained unbroken longer here than anywhere. It was in the age that followed, however, that supreme value came to be placed upon this aspect of Church life. The spectacle to be witnessed across the Border had alarmed our divines. England was honeycombed with sects. A repressed Reformation had revenged itself in religious anarchy, and among ourselves, where also grave dissension was threatening, there was an earnest desire to avert it. I shall not quote again the familiar exhortations not to suffer minor differences to separate Christian brethren, which lie strewn over the pages of our seventeenth-century divines. Nor need I do more than remind this House how, not content with the dream of “a blessed unity in religion” among the three kingdoms, these imperially minded thinkers, if they had had their way, would have joined forces with

“other Christian Churches” for “the enlargement,” as they express it, “of the Kingdom of Jesus Christ.” But I venture to recall the noble conception of the Catholic visible Church upon which all this proceeds. At this point at least we have no reason to quarrel with our venerable Confession of Faith. For it—and for all who have remained true to the Westminster tradition here—the unity of the Church of Christ is more than a vision or an aspiration of Christian hearts. It is more even than a faith: it is a fact apprehended by faith and indefeasible. Those who have been brought home to God through Christ make one spiritual household, the household of faith—one family, the family of God. In other words, of its own nature the Church is one—unity is its inherent property. The expression of this property may be hindered, so as to be now “more” and again “less visible.” It may be reduced, in given circumstances, to something like mockery, the Church of Christ in the manifold forms it takes even adding to the divisions of society instead of abating them. But it can never be destroyed or really tampered with. The unity of the Church is intrinsic: it is of its essence; a phase of that spiritual fellowship introduced into history long since, the Body of Christ Jesus, the Lord; one aspect of the life which ceaselessly struggles for self-manifestation among His members, and which it is for them to liberate and find expression for “as God giveth opportunity.”

Have we, then, I wonder, been lacking perhaps in the courage of our doctrinal convictions during these long-drawn-out negotiations? Our choice has too often been represented as though it lay between fidelity to the principles of our Church and unity. We dare not admit the antithesis. The principle of unity is itself among the principles of our Church, among its fundamental principles; and it is so because it is a principle of the Christian Church as such. The Church of Christ, be it said once more, is of its proper nature a single spiritual organism,

and is under obligation, unless where constraining reasons forbid, to express this outwardly. It is disunion among Christians—in faith and worship, in sacraments and service—that is always on its defence. The onus lies on it, and we are to be careful before we allow that its existence is justified. There is a sin of schism; and the frequency of its emergence in history—raising altar against altar in the land—does nothing to lessen its guiltfulness or to render its consequences less grave.

And what it is exceedingly important should be understood at this time is that, according to all our reading of them, there is nothing that conflicts with this churchly teaching in the true character of those separations which we are on the eve of closing. On the contrary, they exemplify it. The very term by which they are commonly described proclaims as much. "Secession," as this Assembly does not need to be told (although it is forgotten outside too frequently), does not, in proper parlance, mean the mere break-up of a Church connection. It is, as it has been put, a *vox signata*, and indicates "the right and duty" (in given circumstances) "to maintain a separate Church life . . . *without any severance from the life of the true Church.*" Men smile perhaps as they listen to the handful of Hillmen maintaining that they have not left the Church, "the declining and corrupt part thereof has left them"; but at least let justice be done to the largeness of the thought on which the claim is based. Rightly or wrongly grounded, it is precisely that of the first Reformers over again—they were the true Catholic Churchmen, and the real continuity lay with them! Similarly with other separations later, and especially with the last and greatest of them all. It makes no matter that the claim was not granted. The point is, it was urged, and with conviction—to this day, I suppose, there is no smallest fragment of our national Presbyterian mosaic but takes itself to be the genuine preserver of the original style and hue. From all which follows this, that whoever would under-

stand our history must not let himself be obsessed by our divisions merely. Deeper down they are already transcended—in virtue of the common ideal they cherished our Churches have all along been, in a true sense, one. To-day the current flows strong in favour of Christian unity, and no doubt its influence has been felt among us. But we were already haunted by the craving after a better state to be regained. A century of re-unions proves it. The Scottish Church, in short, has never been at rest under her internal separations. They were a wrong, a constant challenge, an evil to be undone; and whether realised vividly or again more dimly and fitfully, the belief has never failed her that it was in the logic of history—say rather that it was a part of her Lord's gracious purpose for her—that, in His good time, they should, even the most inveterate of them, be overcome.

THE SPIRITUAL AND TEMPORAL POWERS

Here, then, is one grand element in our ecclesiastical inheritance. And it throws the next into high relief. Since if at the heart of our history has lain this urge towards unity, always operative in spite of our divisions and of late years gathering force visibly, that fact alone suggests that it is nothing trivial or unimportant that has occasioned them. True, we Scottish Presbyterians (let us give thanks for it) have had the supreme things—the things that make for a standing or a falling Church—in common always. But our outward relations have been the undoing of our peace. Here, as all men know, the perturbation, and the rending, of our Church life, again and again renewed, has originated: namely, in the clash and collision, as determined by the special circumstances of the Scottish situation, of the temporal and spiritual powers. No student of European history will consider that an unimportant quarrel, or one which, in the interest of either, could afford at any time to be composed or slurred over lightly.

At this point, accordingly, there emerges the second of those great principles which it has been laid upon the Scottish Church to vindicate. And it is a principle even more closely bound up with the Church's proper life and well-being than the other. For, after all, if it must be so, the Church of Christ, provided always that its true nature be unimpaired, can exist in many forms and instances, in each of these exhibiting and accomplishing all that the Lord of the Church (and of the Churches) expects His Church on earth to be and do. But just this proviso is what is involved in the secular quarrel referred to: not even properly the Church's freedom, which is secondary and inferential, but its essential character. We say of the Church of Christ that it is an historical institution, and that is true. But if in history it is not of history. It is from above: a manifestation in the world of time and change of the spiritual and eternal order; a supernatural intrusion into history, as is the religion of which it is the creation and which it guards. Hence the marks of sovereignty which, in our eye, rest upon it so manifestly. Over against all powers and authorities which the natural evolution of history creates, it stands alone—the Body of Christ the Lord. The tenacity, the absoluteness, the intransigence, if you will, with which our tradition affirms this principle is the special gift we bring to the re-formed Church to be.

COMMON PRINCIPLE AND DIFFERING APPLICATIONS

And yet, Fathers and Brethren, how unjust, and how oblivious of much that is noblest in our nation's past, should we be, were we to omit from the reckoning what is common here also to all Scottish Presbyterians. It is a commonplace that nowhere has the battle for spiritual autonomy been fought to so clear an issue as on Scottish soil; and the heroic chapters of the conflict belong to all of us. To all alike pertain the Covenants and the martyrs,

and the lesson, stamped once for all upon the national mind, that with the advent of spiritual religion you have "two Kings and two Kingdoms" in the land, between whose claims to obedience, should difference arise, there is no choice at all. We all claim inheritance in Alexander Henderson's boast that "No children on earth have less reason to be ashamed of the Mother that bore them"; and even in later times, when our internal troubles and controversies were at their height, it would be easy to quote from the lips of those most opposed to the position our fathers took, assertions of the great principle of religious freedom which in clearness and force leave nothing to be desired.

The application of a common principle, however, to one situation and another as it arises, is a different matter, and has often enough availed to divide men. As every one to-day sees easily, the seeds of discord between the temporal and the ecclesiastical powers in Scotland were implanted in their relationship from the beginning. "He who knows to distinguish between the body and the soul," Calvin had said, "will have no difficulty in perceiving that the spiritual Kingdom of Christ and civil government are things very far separate." Nevertheless, the distinction was nowhere grasped satisfactorily. The Reformed Churches carried over not a little of the mediæval absolutism. The spiritual power had the mundane at its mercy, and among ourselves also asked too much; receiving aid from it to an extent which at the time may have been inevitable, but which naturally led to a latitude of interference in the end arousing resentment. That storm-signal in our history, the Act of the British Parliament, 1712, may be taken as the symbol of all the rest. It was more. Its acceptance by the Church (which, we should remember, came slowly and with infinite reluctance) was symptomatic of an attitude and a temper which gradually spread—to issue ultimately in those successive reactions and disintegrations which have created for us our heritage.

And at that we can perhaps afford to leave it. Now that the historic debate is finally closed this least of all is the time to rehearse it. It is not suggested that either Church should disown its past ; nor, as we here are convinced, will the time ever come when the story of those who battled for "the liberties of Christians," and over and over again counted the world well lost for the sake of them, will be read by serious-minded Scottish men and women unmoved. For the rest, history will judge. Says Durham shrewdly, speaking of the offences and separations that in an imperfect world must needs come, "commonly both sides are faulty, though not equally." And if it be thought by any that, in the tradition we have received, more intransigence has been shown than was needful, at least two things may, and in bare justice to the facts must, I think, be added. The first is that the position so stubbornly held was never in defence of any merely ecclesiastical principle commonly so called. The principle, I mean, was interpreted always in terms of religion, of personal loyalty to Christ as men understood what that meant for them : the broad result being, after all due allowance made for unworthier accompaniments of many kinds, to release forces into the higher life of the land without which it had been greatly poorer. While, further, the ideal they defended so unflinchingly, so fanatically if you will, has in this most realistic of all the world's ages somehow carried the day!

RADICAL CHANGE IN ATTITUDE OF CIVIL POWER

FOR, Fathers and Brethren, what is it we have lived to see? Taylor Innes used to forecast the time when the State which had been responsible for the obstructions so long dividing us, should itself remove these out of the way ; and the forecast has now come true. I can hear that philosophically minded constitutional expert say : "What has happened is something of this sort. A radical change had been coming over men's thinking

about the scope and character of the supreme civil power. Formerly—as in those extremely offensive decisions leading to the upbreak of 1843—that power took itself to be everywhere paramount. The mediæval theocracy had been replaced by the modern unitary State: the social groups within its range were regarded as set up by its authority and invested with rights and privileges to be exercised under its control. Whereas to-day a self-creative power is beginning to be recognised as at work in the community, in virtue of which this form of human fellowship and that other must be acknowledged for what it inherently is and allowed to go its independent way.” But even a layman in the law can see that this is the significance of our recent Scottish Church legislation. The memorable Act, 1921, can be interpreted in no other way. Once for all the Church of Christ in this particular instance of it (and by implication in all other instances) has been allowed in her intrinsic claim and in the plenary exercise of all her powers—and *with that the grand barrier between our brethren and ourselves is down!* It is an astonishing achievement, and not the less to be prized, that though accomplished by the State, this was at the frank and fearless solicitation of the Church itself. It is scarcely for Christian brethren to bandy compliments with one another, else there might be much to say, and with unfeigned sincerity, of a magnanimity that risked much to make the meeting of the Churches with each other on even terms possible. On the other hand, there can be no word here of victory for the Church which has been placated; for indeed the accommodation has been reached by a path which we had not dreamed of. Let it be said rather that in the modern world there are working forces which are proving irresistible everywhere—forces operating for the ruin of everything in Church and State alike that even savours of the domination of either—and which in Scotland demanded, with an insistence not to be denied, that, not only for the sake

of unity but on broader grounds still, the Church should be left intact in her pure spirituality, and over the entire area of her proper activities free.

PRINCIPLES INTERLOCKED

Moreover, is it not at this point plain how the principle our brethren on their part have stood for, so far from contradicting has proved to be the complement of our own? "The powers that God hath ordained" (so runs our common faith) "and the liberty which Christ hath purchased, are not intended by God to destroy but mutually to uphold and preserve one another." Mutually! There are communities where, in the reaction against civil encroachment, the Church of Christ, in its various branches, has been content to be legally tolerated and ignored. Religious opinion in Scotland for the most part has demanded something different. Not freedom but *freedom recognised* has been the watchword—history itself has said it. Historically, the Church in Scotland has been an all-important social force. It is a small thing to say that she antecedes both Crown and Parliament. The nation itself was shaped largely through her unifying power. She has been the mother of civil liberty, of justice, and of the education of the people; and her influence has been wrought into the texture of the common life throughout. Conversely, the national temperament has found no more characteristic expression than in our ecclesiastical institutions and activities. Inevitably, therefore, the craving referred to has persisted stubbornly—it has almost been part of the national inheritance. And this craving the solution reached fulfils, in a form too, I repeat, which ensures the benefit of it for other Churches also. That is to say, the claim of the Church of Christ—this august, supernatural, and super-national institution—has been acknowledged positively. Its autonomy is not merely suffered, it is safeguarded. Our brethren's principle and our own are

interlocked together, and out of that which either Church had taken for its special trust there has been formed a richer unity. For the rest, it is anything but amiss that at this stage above all in our history we should be reminded how there will be laid upon us in future—God's providence has so decreed, and we may not decline it—the responsibility of representing in a quite special degree the nation's evangelical Christianity, and so ministering its blessings and its powers as that the national life from end to end shall be leavened with the righteousness of God's Kingdom, and its Good News preached effectually to the whole people throughout the land.

HERITAGE CONSERVED

And yet withal—I return upon it once more—in this national Scottish Church, our peculiar heritage, that with which all our past has entrusted us, has been amply vindicated and conserved. One is tempted to recall well-known utterances of our fathers here. It is unforgettable how, time after time, as the breaking of ties was sorrowfully resolved upon, protestation was solemnly made that, under different conditions, these would (how gladly !) be knit up again. But I forbear, partly because the lapse of time has brought about a change of circumstances such as might be thought to render quotation unfair ; and also because we have our own responsibility to bear and must face it frankly. We do face it frankly ; and without misgiving or hesitation we affirm that the old wounds are healed. To-day the heroes of the past—their names will live for ever in our hearts—are with us. We shall hear their footfall behind us as we set out to rejoin our brethren in the way. The seed sown by them in tears has grown a golden harvest. The lessons they taught have been learned late but finally ; and in the light and inspiration of these we together face the destiny which awaits us in the days to come.

A LANDMARK IN HISTORY

To sum up, Fathers and Brethren, the life of the Reformed Church in Scotland has been actuated and informed throughout by three or, let us say, four great principles. Those, namely, of the unity of the Church, its proper spirituality, its inherent freedom, and its right to acknowledgment and protection at the hands of society (being itself Christian), together with the obligation to penetrate the life of the latter with the power of the Évangél through and through. It has not proved easy to reconcile these various claims: in point of fact our history is very largely the history of their warfare—how they have crossed and hindered and thwarted one another, until the Church of Christ, as a spiritual magnitude in the land, has been broken up into many lesser and partially competing magnitudes, and the very idea of her visible unity has threatened to crumble away and disappear. And now, at long last, we see them coming to their harmonious realisation together. Our historic Scottish Church is verily rearing itself in its ancient style and true proportions in our midst once more. And along with that, you observe, a notable landmark in history has been reached. In the age-long strife of the spiritual with the civil authority which makes one main strand in the development of Christian civilisation, where, it may be asked, shall the like be found of what is now appearing in our midst? “Free Churches” there are in Christendom to-day—a great variety of them: of State Churches also a few remain, with their proper character as branches of Christ’s Church Catholic only too visibly affected, so that in the instance nearest to ourselves, for example, the believers are not even free to worship God after the manner they desire. But a Church unimpaired in her supernatural character and unhindered in her spiritual activities, and at the same time in friendly concert with the temporal power, whose Christian character she is to secure while

herself in turn secured by it in her peculiar rights and privileges—where else, I repeat, has such an arrangement, so honourable to both, been reached? It has been reserved, so far as I know, for the Church and nation of our fathers only. The long campaign of the spiritual and civil powers in Scotland had drawn to a head in this unique and striking sort. Shall we say that the travail of the past merited some such reward and outgate? In any event, here is the invaluable gift, bestowed upon us of God's great mercy, which we are to hand on to our children's children. Christ's Kirk in Scotland has had memorable days in the past, and we shall never forget them. Yet I am not sure whether, since the Reformation itself, that which is now approaching is not the most memorable of all. "Behold, the days come, saith the Lord, that it shall no more be said, The Lord liveth that brought up His people out of the land of Egypt, but, The Lord liveth that brought them . . . from all the lands whither He had driven them: and I will bring them again into their land that I gave unto their fathers."

THE NEW AGE AND SOLIDARITY

Fathers and Brethren, very plainly we are come to the close of an epoch in the religious history of our people: can it be quite without significance that this synchronises with what is manifestly the close of a period in the history of the Western nations, if not of mankind? It is not merely ruin that has been left behind by the storm which so lately passed over our civilisation. The tornado yielded one grand gain—I will not say the new thought, but a new and poignant emphasis laid upon the thought of human solidarity; of the need-be for more human relations between man and man; for a spirit of mutual subordination and co-operation among all classes in order that society may be both stable and progressive; for a new internationalism and inter-racialism in the world,

if the world is not to perish. To this great work of reconstruction we bring our modest contribution. "Religion," as Bacon has it, "being the chief bond of human society, it is a happy thing when itself is well contained within the true bond of unity." It is most true; how shall we help to allay the enmities all around unless we be first wise enough of heart to overcome the differences among ourselves? Withdrawn at length from these to what is central—to that Good News of the reconciliation which has subdued the last, most basal of all antagonisms, that of the human soul to God—we may humbly expect, if only there be given to us the grace of faithfulness, to fill more worthily the place appointed us in Christendom, and to exert our own measure of influence in bringing about a happier time.

THE SCOTTISH CHURCH AND THE FUTURE

Were this the occasion for it there might be much to say upon the various service to be expected of a re-united Scottish Church. Thus, the ending of these two centuries of separation can scarcely fail to foster the impulse towards re-union which is so marked a feature of the modern time. What a general aspiration of the sort requires is the reinforcement which the concrete case of its fulfilment affords: then it gathers strength and definiteness. There are portions of our own Presbyterian household from whom we are still divided; and without them we shall not be made perfect. In the wider world of Catholic Christendom the movements of these days are more and more aligning our special type of Church life and polity with the Free Protestant Churches on the one hand, and on the other hand with those that hold by what are termed "Catholic" elements of Church faith and order—making it an altogether possible thing that in Presbyterianism rather than elsewhere may be found the "bridge" that leads to unity; while on the Foreign Mission field no contemporary

phenomenon is more striking than the anxiety definitely to be done with those divergences which are already outgrown at home. Is it too much to hope that our present happy experience may render us in some degree serviceable here? Every way are we not pledged afresh to the sacred cause of unity—"that the world may know that the Father hath sent the Son to be the Saviour of the world?"

The yet more clamant tasks before us, again, are unmistakable. They are indeed but one task, the penetration of the secular mind—which is rapidly coming to present very similar features everywhere—with the power of the Christian faith, and the evangelisation of the world. I spoke at the outset of the practical exigencies at our own doors necessitating re-union, and they cannot easily be exaggerated. They say, I do not know with what authority, that in proportion to population the numbers of the churchless are greater still elsewhere. But the more general—and dark—the situation, the more serious it is and sad. In truth the relaxed power of organised religion to-day is the index of a *malaise* in the common life which is expressing itself in many ways. There is spiritual tragedy at the heart of our time. The outward and the inward satisfactions are fallen out of equipoise with one another. The equipment of experience with all that scientific knowledge and contrivance can provide has outrun the apprehension of those underlying realities on which human existence rests, and for the moment we are confronted with the spectacle of a society to an unprecedented degree "increased with goods and having need of nothing," while inwardly the prey of a gnawing poverty and distress. Still, who that believes in the spiritual nature of man but is assured that this will pass? Ultimately everything is in faith's favour. It never has been easy to overcome the world's evil with the Christian good; yet, the more difficult the conditions the more irresistible their challenge and appeal. And we have to ask ourselves whether we

understand the faith we hold if we have ever weakened in the conviction that amid all the clash and din of the material interests of our day it can still be trusted—could we but deliver it to them rightly!—to evoke and educate the living soul in men and to win them to their calling as children of God and of eternity.

And in this connection—may I say in passing—a specific urgent duty, as it seems to me, is beckoning. It is not with the weapons of the past that the warfare of the present can be waged successfully. The doctrinal formulation held to govern a Church's utterance, and the working faiths by which men live, ought to correspond with one another. When so great a gap—I am not thinking in terms of chronology merely—divides them, it is a weakness, a danger, and a grave reproach; and for instructional and other purposes a re-statement of the faith we preach is long overdue among us, one much less elaborate than that we now possess, less metaphysical, more elemental, and expressed in language which the modern man will more readily receive and profit by. The whole Presbyterian world has realised the need for it, and awaits, as I believe, a lead from Scotland. Here perhaps is one test of our fitness to fill the rôle of a progressive and forward-looking Church. The age, be it remembered, spite of all its confusedness, grows steadily more constructive. Lausanne alone has proved it. Its "Message of the Gospel" is a vitalising utterance, a creative utterance, and has not yet received the recognition it deserves. Let the grace and truth it sets forth with such fulness be preached everywhere, and among ourselves also, and an instructed evangelical experience must be begotten—through what is not dead in Scotland yet, "the conscionable hearing of the Word"—out of which all good fruits of the Spirit, and, among the rest, this that the modern mind insistently asks for will surely come.

Finally, there is the part we are called to play in the Christianisation of the non-Christian peoples. Exactly

one hundred years ago the General Assembly of the Church of Scotland appointed its first foreign missionary, in the person of the apostolic Alexander Duff; it is the expansion of missionary propaganda more than anything else that has given its character to the intervening century of Christian history; and the native Churches rising in every part of the field are enough to prove the finality of the Christian Gospel and its power to meet all human need. Nevertheless, the cry of the heathen world sounds louder in our ears to-day than ever. It has been easier to undermine the traditional faith of the native races than to replace it with another more able to bless their life. Our problems have been transferred to their soil before we have solved them for ourselves; and the influence of our Western civilisation, every year becoming more pervasive, has resulted in many directions in mere disturbance and bewilderment. How huge, in short, the debt incurred by the Christian to the non-Christian world—a debt which it is for the Christian discipleship in all lands to pay. We here in Scotland share the indebtedness: to the Jew, whose claim for reparation is not to be calculated, to the Muhammadan, at the door of whose sombre world we have scarcely begun to knock, and to those uncounted millions whose spiritual helplessness and need are greater still. It would be for the Church as life from the dead to labour that the debt be paid in full. One has read of the Christian Church “struggling for its life in the modern world”: let it struggle for the world’s life and its own life is secure! “There is that scattereth and yet increaseth.” And the vitality of our re-united Church will be rich and strong just in proportion as it spends its all and is spent, that “in the Name of Jesus every knee may bow, and every tongue confess that He is Lord, to the glory of God the Father.”

But I detain you too long, Fathers and Brethren, over the harvest to be reaped from our re-union. The com-

ing years—and generations—will gather it in. To-day our hearts are full of mingled memories rather. As she moves through the ages the Christian Church undergoes a wonderful discipline, and in all the chequered story no chapter perhaps is more arresting or of more sustained significance than that which narrates the experience of the Church of our forefathers. What a record of struggle it has been, of alternating triumph and defeat, of achievement and falling away again, of divine chastisement and renewal; and alas! to say no more, how marred it all is with that which Robert Leighton prayed to be delivered from, the errors not only of wise men, but of the good. And now we are brought into “a large room.” The past has been all crowned with God’s inexpressible loving-kindness; its failures have been retrieved, its attainments secured, and its shortcomings requited very graciously. One thing further, one only, we ask at His hand: the plentiful outpouring of His Holy Spirit, together with a strong faith in Him and a steadfast reliance on His promises. Then we shall be ready for His service. For the future, we commit all to His care and guidance. There it is safe. “Is not the Lord in Zion? And is not her King in her?” “He that scattered Israel will gather him, and keep him as a shepherd doth his flock.” “The Lord hath been mindful of us, and He will bless us.” “I will be unto her a wall of fire round about her, saith the Lord: I will be the glory in the midst of her.”

