

Church and State  
in the Free Church of Scotland  
between 1843 - 1873

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Abbreviations

B.C.I.	The Edinburgh Christian Instructor
F.C.	Proceedings of the General Assembly of the Free Church of Scotland
G.H.	Glasgow Herald
I.Ad.	Inverness Advertiser
N.B.D.M.	North British Daily Mail
Sc.	The Scotsman

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### Summary

Though slightly disturbed by the Patronage issue, the relations of Church and State as defined by the Westminster Confession of Faith were not seriously questioned until late in the eighteenth century, when, through the influence of the French Revolution, some of the Secession Churches began to claim "new light". In the early nineteenth century the rise of evangelicalism brought to the Church of Scotland a new concern about the spiritual needs of the churchless masses and a new appreciation, -voiced chiefly by Dr. Thomas Chalmers, - of the value, even of the necessity, of an Establishment of Religion as a means towards meeting this need. To this was vigorously opposed the demand for the complete separation of Church and State coming from those Secession Churches who now shared the viewpoint of Voluntaryism.

The period of 1834 - 1843 brought the Establishment into open conflict with the State. The decisions of the Court of Session and the House of Lords against the Established Church in several cases connected with the patronage question appeared to the Non-Intrusion party a threat to the Church's spiritual independence and liberty. As the Established Church had no success in defending her spiritual independence in the civil courts, she submitted a Claim of Right to the Government in 1842, and when the General Assembly met in 1843, since there was no satisfactory response from the Government, the Non-Intrusion party left the Church of Scotland. The new body, the Free Church of Scotland, defined her new position in the Act of Separation and Deed of Demission. She did not abandon the idea of an established church, as it was described

in the Westminster Confession of Faith. In following years the Free Church took up the problem of adjusting to the new circumstances the formula of subscription. The changes made are to the effect that the subscriber, in addition to the Westminster Confession of Faith, approves of the general principles respecting the jurisdiction of the Church and her subjection to Christ as her only Head as laid down in the Claim of Right. The introduction of the expression "general principles" probably indicates a far-reaching change in the <sup>thinking</sup> ~~change~~ of the Free Church in the Church and State question, which she may have drawn from W. Cunningham, who in his Historical Theology developed a distinction between a general principle and the mode of applying it. Cunningham distinguished between a general duty which rests upon the nations and their rulers to promote the true religion and to maintain the Church of Christ, and the specific measures which the State may take up in discharging this duty. This distinction affected the thinking of the Free Church in the establishment question during the following 30 years, especially during the union negotiations between the Free and the United Presbyterian Church from 1863 - 1873.

They had been preceded in 1857 by the Cardross case. The judgments of the different courts here were important for the Free Church in so far as she did not get any recognition as a Church with special privileges, but was treated as a voluntary group only like other non-established denominations.

The union negotiations became another important <sup>stage</sup> ~~point~~ in the thinking about the establishment principle, when they were opened in 1863. From the beginning it was clear that the most difficult point in the negotiations would be the relation between the Church and the State, and



the first union report of 1864 showed the extent of agreement and disagreement. The disagreement mainly was on the question of the duty of the State to endow the Church, which the United Presbyterians denied. For the development of the Church and State question it was important that the Free Church here distinguished between a general principle that there was a duty of the State to embrace and profess the Christian religion and to further the interests of it among its subjects, and the special application that it is the duty of the State "when necessary or expedient, to employ the national resources in aid of the Church, provided that in doing so, while reserving to himself the full control over the temporalities, which are his own gift, he abstains from all his authoritative interference in the internal government of the Church." The following debate showed that this distinction was not universally accepted in the Free Church and two parties emerged, the Unionists accepting the distinction between a general principle and the mode of applying it, and the opposition which maintained that the so-called "application" was part of the original Free Church principle. During the following years, until the negotiations had to be abandoned in 1873, there was no change in the position of the two parties, and the proposals of union seemed in the end of have been abortive, but in fact with the introduction of the distinction between a general principle and the measures to perform it, a significant step had been taken towards disentangling what was essential to the "Establishment principle", the duty of the State to recognise the Church, from what was inessential, the specifications of particular measures by which the State might perform this duty at any given time. Introducing this idea the Free Church had taken the first step away from the "Establishment principle" as it had been understood in former times.

## The Situation of the Church

### The Relation between Church and State until 1733

At the beginning of the 18th century the question of the relation between the Church and the State seemed to have been settled. It was believed that the relation between Church and State was laid down in the Scriptures and this embodied in the Westminster Confession of Faith in chapters XXIII and XXX. God has ordained two distinct governments in the world, that of the civil magistrate and that of the Church. Chapter XXIII sets forth the rights and duties of the civil magistrates, to whom God has given the power of the sword, "for defence and encouragement of them that are good, and for the punishment of the evil-doers."<sup>1</sup> The civil magistrates are not to be allowed to interfere with the Church in spiritual matters, but are to concern themselves with the preservation of order and peace, the suppression of heresy, the reform of abuses, and the keeping of God's commandments. They can call synods for this purpose, be present at them, and provide "that whatsoever is transacted in them be according the mind of God."<sup>2</sup> On the other hand Jesus Christ the only "King and Head"<sup>3</sup> has appointed a government in the Church distinct from the civil magistrate. This church government is in the hands of the church officers who have been given "the keys of the kingdom of heaven", "by virtue whereof, they have power to retain, and to remit sins,..."<sup>4</sup> This publicly acknowledged relation and distinctiveness between the Church and the State continued un-

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- 1.) The Westminster Confession of Faith, ed. by S.W.Carruthers, Manchester; c.XXIII, 1
  - 2.) *ibid.*, c. XXIII, 3
  - 3.) *ibid.*, c. XXX, 1
  - 4.) *ibid.*, c. XXX, 2

challenged until the late 18th century when, influenced by the French Revolution, new ideas hostile to the inherited Church and State relation grew up. But a change in this relation was shadowed forth when in 1712 two acts restored patronage, which had been abolished in 1690, and gave toleration to the Episcopalians in Scotland. The Act was deeply deplored by the Church as "grievous and prejudicial."<sup>1</sup> The General Assembly announced that it had instructed its commission to seek with all proper and dutiful means that the Patronage Act be repealed. <sup>Later</sup> ~~Seen~~ difficulties arose when Presbyteries refused to induct a presentee. When this question could not be settled in a normal way, then the Synod or the Assembly forced the introduction of the presentee by appointing a so-called 'riding' committee to carry through the unpopular settlement.<sup>2</sup> These quarrels about the patronage question led to the constitution of the Secession Church in 1733.

#### The Secession Church of 1733

The Conflict <sup>came to a head</sup> ~~started~~ when Ebenezer Erskine, called to be Moderator of the Synod of Perth and Stirling, preached a sermon in which he attacked the policy of the General Assembly. Censured by fellow-members of the Synod, he appealed to the General Assembly itself.

Meanwhile the Presbytery of Dunfermline, of which his brother Ralph Erskine was a member, had refused to receive as a member of the Presbytery the unpopular presentee at Kinross, though he was already <sup>inducted</sup> ~~ordained~~ as a minister there.

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1.) J.H.S. Burleigh, A Church History of Scotland, p.279  
2.) *ibid.*



Both matters came up at the General Assembly of 1733. The Presbytery of Dunfermline was ordered to receive the Rev. Mr. Stark, and its more rebellious members were rebuked and forbidden to make any further dissent or protest. Ebenezer Erskine was similarly rebuked for language which "tended to disturb the peace and good order of the Church." The Commission of the Assembly suspended Ebenezer Erskine and three fellow-protesters at its August meeting, and finding them obdurate, relieved them of their charges the following November. In reply the four ministers formally seceded from ministerial communion with their brethren until such time, as they might see their sins and mistakes and amend them. The protesters appealed to "the first free, faithful and reforming General Assembly of the Church of Scotland."<sup>1</sup>

#### The Burghers and Anti-Burghers of 1747

After some years the Associate Synod, as it was called, had difficulties in its own membership, which divided over the Burgess Oath Controversy of 1747 into Burghers and Anti-Burghers. People who wished to become burgesses of Edinburgh, Glasgow, Perth, etc. were required to take a Burgess oath. Was it a lawful oath when taken by a member of the Secession Church? This important question came before the Synod. One party, later called Burghers, argued that it was possible to take the oath, regarding it in the light of the time when it began, in the Revolution period, when the Church was quite pure. The other side, the Anti-Burghers, said that this was impossible; the oath must be taken in the sense of those who required it and the words "presently professed in this realm" occurred in it.<sup>2</sup>

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1.) Burleigh, op.cit., pp. 280/281

2.) D.Scott, Annals and Statistics of the Original Secession Church, pp. 36/37; for text see Appendix III

In 1761 another group seceded from the Church of Scotland and formed the Relief Church. Thomas Gillespie and two friends formed the new church as "the Presbytery of Relief for Christians oppressed in their Church privileges."<sup>1</sup>

#### The Influence of the French Revolution

In spite of the different secessions from the Church of Scotland there was no change in the accepted principles of religion as determined in the Westminster Confession of Faith which all parties in the Church of Scotland and among the Seceders were agreed in accepting. It was only with the French Revolution that a new situation began to arise in which some parts of the Westminster Confession were called in question. The French Revolution shook the nations of Europe. It was hailed by all those who felt a strong sense of the corruptions and abuses of the existing governments and societies. But it also aroused fear in those who saw an apparently stable and ancient regime with all its powers and privileges overthrown. But when the revolution ran into great excesses and turned more and more to violence and bloodshed, some of the hopes with which it had been greeted were disillusioned, and the fears to which it had given occasion were increased. The first news of the French Revolution which reached Scotland was received with delight.<sup>2</sup> The changes it brought about in the type of government and the fall of popery were greeted as steps towards a regeneration of Europe "and as introductory to the millenium of civil and religious blessedness."<sup>3</sup> On the other side there were strong evidences of con-

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1.) Burleigh, op.cit., p.284

2.) G.Struthers, The History of the Rise, Progress, and Principles of the Relief Church, p.378

3.) *ibid.*



cern and indeed fears in government and Church. People of influence and property came together to counteract all ideas of reform.<sup>1</sup> Throne and altar discovered afresh how<sup>much</sup> they needed each others' support. In consequence of this the Moderate party in the Church of Scotland, which had been characterized by a tendency towards unorthodox theologies<sup>2</sup>, was strengthened in its orthodoxy, and called the people to gather round the throne and the altar to preserve the Establishment and with it religion.<sup>3</sup> Despite much disappointment and discouragement with the violent course of the events in France, the effect of the French Revolution was a very considerable stimulation of the desire for political reform and freedom. If the Church of Scotland was frightened into a very general retreat to a non-political orthodoxy, in many of the Secession bodies, while the violence was condemned, the interest in political and social change was retained. And this had repercussions on their views of the adequacy of the Westminster Confession, particularly where chapters XXIII and XXX were concerned.

#### The Old and New Light Controversy

In both Burgher and Anti-Burgher parts of the Secession Church parties emerged who felt that they now had "new light" on the relations between the civil authority and the church, and in consequence they must regard the chapters XXIII and XXX as no longer determinative.<sup>4</sup>

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- 1.) Struthers, op.cit., p.378
  - 2.) ibid., p.380
  - 3.) ibid.
  - 4.) ibid., p.384

The controversy began among the Anti-Burghers in 1791, when two overtures were laid on the table of the General Associate Synod asking for a modernisation and correction of the Secession Testimony.<sup>1</sup> These proposed changes were objected to by a minority, later called the "Old Lights". The main issue of the controversy among both Burghers and Anti-Burghers, was the connection of Church and State. The "Old Lights" maintained that the Church and the State had duties to perform for each other.<sup>2</sup> The State should recognize the Divine Being as the God of Nations and frame its laws according to the Decalogue. But the State should have no right to interfere with the internal matters of the Church. The question of giving and receiving endowments they regarded as an open one to be decided in the light of the particular circumstances.<sup>3</sup> They contended for the national recognition and establishment of religion as an abstract principle, though they could not accept the present Establishment because of its Erastian character. The split into "New Light" and "Old Light" occurred among the Burghers in 1799 and among the Anti-Burghers in 1804. The "Old Light" Burghers inclined towards the Church of Scotland and joined it in 1839, while the "Old Light" Anti-Burghers formed the Original Secession Church.<sup>4</sup>

#### The Revival of Evangelicalism

At the ~~end~~<sup>second half</sup> of the 18th century also ~~began~~<sup>saw</sup> the revival of Evangelicalism.

This started in England at first and was connected with the names of

the Wesley/s and Whitefield. The new evangelical movement expressed itself in a new earnestness of preaching and long series of Christian

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1.) D.Scott, op.cit., p.80

2.) ibid., p.81

3.) ibid.

4.) Burleigh, op.cit., p.324

activities. Also it tried to bring back to the church the masses which it had lost during the period of the Enlightenment.<sup>1</sup> Methodism as such had little or no appeal in Scotland, and Wesley's numerous visits produced little result. A native evangelical movement accompanied at times by revivals such as those of Kilsyth and Cambuslang, was led by a number of strongly Calvinistic-Evangelical ministers, highly esteemed and beloved by the people,<sup>2</sup> and also drew on the assistance of George Whitefield. This movement provided, towards the end of the 18th century, cordial support throughout Scotland for the London Missionary Society and the other societies of missionary interests; though the General Assembly refused to commit itself officially, it recommended to all members of the Church of Scotland to promote the Gospel and a just sense of the inestimable blessings it conveyed within their sphere of influence.<sup>3</sup>

The end of the 18th century saw the arrival of several English preachers in Scotland, notably Charles Simeon of Cambridge (1796) and some years later, Rowland Hill. Simeon attracted the support of two Scotsmen, the brothers Alexander and James Haldane.<sup>4</sup> James Haldane accompanied Simeon and, since a missionary project which he had planned for India had come to nothing, he was encouraged by Simeon's example to begin with evangelical journeys of his own through Scotland. At first his practice was to attend the Sunday morning service in the parish church and later in the day to speak at an open air meeting about the morning's sermon. Later with the financial assistance of his brother he built preaching 'Tabernacles' in some of the larger towns. He also organised

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1.) Burleigh, op.cit., p.309

2.) ibid., p.310

3.) ibid.

4.) see Appendix I



a "Society for the Propagation of the Gospel at Home". In doing all this the Haldanes had not been hostile to the Established Church. Their purpose was to encourage the preaching of the Gospel, sadly neglected as they believed it to be by the parish ministers.<sup>1</sup> But great resentment arose against them. In 1799 the matter was brought up in the General Assembly and it passed an Act that only those men should be admitted to preach who had pursued the course of study prescribed by the Church. It also forbade the ministers to employ unqualified persons. With the Act went a Pastoral Admonition showing the people that the ministry had always been well educated to the prescriptions of the Church. The General Assembly urged the ministers to remain loyal to the principles for which their forefathers had fought and suffered. With the beginning of the 19th century a new generation of evangelical ministers had grown up within the Church of Scotland, and therefore the Haldanes could not expand their work.<sup>2</sup> Later the Haldanes with a number of their followers became Baptists.<sup>3</sup>

### The Voluntary Controversy

#### The Situation in 1829

Voluntaryism may be said to have been born in Scotland when the New Light Anti-Burghers came to the conviction that there should be no State church and that "governments should not concern themselves with

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1.) Burleigh, op.cit., p.311

2.) op.cit., p.313

3.) G.D.Henderson, The Church of Scotland, p.120

ecclesiastical matters."<sup>1</sup> This was in 1796. But a long time passed before the Secession Churches came into open conflict with the Establishment on this issue.

The signal for the battle was given by a sermon preached in Glasgow in 1829 by the Rev. Andrew Marshall of Kirkintilloch. There were both ecclesiastical and political events which brought about the debate.

On the ecclesiastical side the steady growth within the Church of Scotland of an evangelical party had passed from a situation in which the evangelicals from all denominations could cooperate happily in such things as Missionary Societies, Bible Societies and the like, into a situation in which, conscious of their growing power in their own Church, aware that they might in the near future be the majority party within that Church, controlling its affairs, the Church of Scotland evangelicals became more conscious of being ministers of an Establishment. There was a cooling off to some degree between them and the dissenting ministers.<sup>2</sup>

Moreover the increased effectiveness within the Church of Scotland of the evangelical party also meant the increase in effectiveness of the Church of Scotland. This was underlined when Thomas Chalmers emerged as the powerful leader of the Church Accomodation Movement. A revived militant established Church of Scotland was to some degree a threat to the Dissenters, who depended to a great deal on dissatisfaction with the national Church to strengthen their own hold on their members.<sup>3</sup> In consequence of this the Old Light Burghers saw no further

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1.) Henderson, op.cit., p.125

2.) Struthers, op.cit., p.455; I.A.Muirhead, Catholic Emancipation in Scotland, II, in The Innes Review, Vol.XXIV,2, p.116

3.) Struthers, op.cit., p.451

need for staying out and returned into the Church of Scotland. On the political side the important event was the passing of the Catholic Emancipation Acts. These became law in 1829, in spite of petitions and bitter agitation, in which the Church of Scotland and the Secession ministers found themselves on opposite sides. Although the Church of Scotland was deeply interested in the repealing of the Corporation and Test Acts, in general it opposed emancipation of the Roman Catholics.<sup>1</sup>

Added to this, public opinion in Scotland was not in favour of this measure and its opponents threatened the government in the hope of persuading it to drop the distasteful proposals, as their forefathers had successfully forced an earlier government to abandon emancipation in 1779.<sup>2</sup> The Secession ministers who were in favour of granting emancipation came into opposition to their people, many of whom thought that the emancipation of the Roman Catholics would cause liberty and religion to perish. This also widened the gap now existing between the Evangelicals of the Establishment and the Dissenters.<sup>3</sup>

The Clare election, the power of the Catholic Association, and the popularity of O'Connell brought Ireland very close to rebellion, so

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1.) Struthers, op.cit., p.454; see also I.A.Muirhead, Catholic Emancipation: Scottish Reactions in 1829, in The Innes Review, vol. XXIV, 1, pp.26-42.

2.) Struthers, op.cit., p.456.

In connection with the political development in England in the late 1770ies the Roman Catholics were freed from a number of severe penal laws. This also led to the relief of the Protestant Dissenters in England in 1779 extending to them all the benefits of the Toleration Act. But in Scotland the intention of the government to lift some penal laws against the Roman Catholics was not well received. Many opposed ~~against~~ it, because they feared a new spread of popery in the country. This feeling led to riots in Edinburgh and Glasgow which spread through the whole country with the result that the government was asked by the Roman Catholics to withdraw the bill. Thus the first attempt failed to relieve the Roman Catholics from these laws. (Struthers, op.cit., pp.307-311)

3.) *ibid.*



that the government of the Duke of Wellington was really forced to give way to the emancipation of the Roman Catholics.<sup>1</sup>

But although Chalmers was in favour of the emancipation, he rejected the possibility of "a national provision for the Catholic clergy." Further he wrote to Sir J.Mackintosh that he was against the alienation of any part, however small, "from the revenues of the Irish Church as at present constituted."<sup>2</sup> He thought it enough to grant Catholics the same rights as other Dissenters. What Chalmers protested against, namely the possibility of some kind of provision by the government for the Irish Catholic clergy, was being freely talked about; to the fear of the power which now seemed placed in Catholic hands through the gift of political equality, there was now added the fear of a Catholic Establishment. It was to this fear that Mr.Marshall's sermon appealed, and its argument was that the abolition of all forms of establishment was the best safeguard against the peril of a Catholic Establishment. All Churches should be equal before the law.<sup>3</sup>

#### Rev. A.Marshall's Sermon

In his sermon Mr.Marshall tried to prove on various grounds that the civil establishment of religion was wrong. His first argument was that "A religious establishment cannot be necessary for propagating the gospel or for maintaining it, because there is no reference to any such thing among the institutions of Christ."<sup>4</sup> Christ gave his commands only to the apostles and from them to the Church and not to the State.

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1.) W.Hanna, Memoirs of Thomas Chalmers, vol.III, p.231

2.) *ibid.*, p.231

3.) D.Woodside, The Soul of a Scottish Church, p.81

4.) A.Marshall, Ecclesiastical Establishments considered, a sermon, p.17

Further he denied the necessity of an establishment on the ground that there is no sign of it in the early church.<sup>1</sup> His next points were that a religious establishment is only a human device<sup>2</sup>, has the tendency to secularize the church<sup>3</sup>, sets aside the ordinances of the Saviour<sup>4</sup>, and that the compulsory provision for the clergy makes a religious establishment felt as a burden.<sup>5</sup>

#### Duncan Maclaren

Not only ministers but also laymen took a prominent part in the controversy which had started. One of these men was Duncan Maclaren from Edinburgh. His main task was to call together all Dissenters and to promote the Voluntary ideas concerning Church and State in connection with a liberal policy.<sup>6</sup> When in 1834 the Voluntary Church Association was transformed into the Scottish Central Board of Dissenters, Duncan Maclaren was made its chairman.<sup>7</sup> The aim of these men was "an immediate, total, and eternal separation of Church and State." The board then vigorously fought against the Church Extension Scheme of the Establishment promoted by the Evangelical party under the leadership of Thomas Chalmers. The Dissenters regarded as dangerous the principle on which the Establishment rested the Church Extension Scheme, that the State should provide sufficient church accommodation for the whole population

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1.) Marshall, op.cit., p.18

2.) *ibid.*, p.20

3.) *ibid.*, p.30

4.) *ibid.*, p.34

5.) *ibid.*, p.36

6.) J.B.Mackie, The Life and Work of Duncan McLaren, vol.I, pp.169/170

7.) *ibid.*, p.170



"irrespective of the means of religious instruction existing outside the pale of the National Church."<sup>1</sup> Therefore, they believed that this could lead to a very close connection between the National Church and the State and to the extinction of all dissent. At this time not all Presbyterian Dissenters had accepted the Voluntary principle as the only possible measure to secure Evangelical teaching and popular rights.<sup>2</sup> In the Voluntary Controversy the Reformed Presbyterian Church took up a position between the Church of Scotland and the Voluntaries. On the one hand, it sympathised with the argument of the Voluntaries in condemning the corruptions and evil tendencies of the civil establishment and in enforcing the duty of the people and the Church to extend the Kingdom of Christ.<sup>3</sup> On the other hand this Church did not follow the Voluntaries in fighting against the church establishment. It agreed to a union between the Church and the State and accepted the duty of the State to recognize and to maintain the Church out of public funds, but opposed the present Establishment, because of its Erastian character and its union with an unreformed and corrupt State.<sup>4</sup>

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1.) Mackie, op.cit., p.171

2.) *ibid.*

3.) M.Hutchison, *The Reformed Presbyterian Church in Scotland*, p.292

4.) *ibid.*

### The Reaction of the Establishment

The Establishment did not react very quickly in defending itself against the allegations of Mr. Marshall. The first answer was a review of Mr. Marshall's sermon in the Edinburgh Christian Instructor, 1829. Another reply of the Establishment was published in the same magazine in 1830. It was some years before the Established Church brought her best men into the fight. In 1833 J. Inglis published "A Vindication of Ecclesiastical Establishments". In addition to the large number of pamphlets issued on both sides, a number of lectures was given defending the Establishment by R. Buchanan and other Church of Scotland ministers in 1835. The defenders of the Establishment argued that it was the duty of every state in which the Gospel was preached to recognise Christ's Church, to protect her, and to make provision for the administration of divine ordinances in her, according to the circumstances in which the Church and the State find themselves. A Christian Church will get her established status, when the State ratifies her confession of faith, form of government, and book of discipline, and recognizes her as an

external and visible society. It is pointed out that this was the way the State established and recognized the Protestant Presbyterian religion in Scotland.<sup>1</sup> They reject Mr.Marshall's argument that the Establishment is only a human device, claiming that it is "erected by the State in discharge of a duty purely moral; it is a deed of civil society about the institutions of Christ."<sup>2</sup> The Establishment is regarded as a bulwark against the Roman Catholic Faith, and it does not increase it.<sup>3</sup> Therefore, they are against Mr.Marshall's suggestion that the Establishment should be overthrown "to prevent the growth of popery, and its struggle for dominion" which Mr.Marshall foresees as the consequence of the late Roman Catholic Relief Bill.<sup>4</sup> As a great advantage of the Establishment they regard the fact that it creates parishes and provides ministers for them, and that it maintains missionaries to extend Christianity. "It is once a missionary enterprise to extend, and a pastoral to take charge of the Christian flock. It does not wait the slow operation of demand, always diminishing the longer the supply is withheld, but it anticipates, or rather creates it;..."<sup>5</sup> Also the Establishment does not need to violate the commands of God, as Mr.Marshall believes, in taking its financial support from sources other than that of the liberality of its members. "To set aside a positive demand of our Saviour, in order to lay an arrest upon the free will offerings of Christians, is at all times a work of supererogation."<sup>6</sup> Also the Divine Sanction of the Establishment is defended

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- 1.) E.C.I., 1830, p.528
  - 2.) *ibid.*, p.594
  - 3.) E.C.I., 1829, p.578
  - 4.) *ibid.*
  - 5.) *ibid.*, p.582
  - 6.) *ibid.*, p.585



and found proven in the Old and New Testament.<sup>1</sup> The different authors of the Establishment argue that the Bible not only gives examples of some kind of establishment, but also that, as the Word of God, it requires the nations and their rulers to profess and to maintain the true religion.<sup>2</sup> Mr. Marshall's argument was that Christ has superseded every institution of the Old Testament, because the office of the Jewish kings and priests have now been abolished. "Whatever was typical was done away in Christ - whatever served to prefigure him or to direct the minds of men to him previous to his coming - ceased of course when he had actually come. ... Away with the argument for civil interference in matters of religion derived from the authority of the Old Testament."<sup>3</sup> His opponents replied that God employed kings and priests when he first set up his ordinances among Israel. The first have been Aaron and Moses. And later in the history of Israel there will be found other kings and priests as examples for co-operation of civil and ecclesiastical authorities maintaining and reforming the religion.<sup>4</sup> In his lectures on Establishment given in 1835, R. Buchanan pointed out that the church establishment doctrine had an important effect on individuals and nations, as it involved a great principle of Christian morals. If they would reject these principles as the Voluntaries did, then there would be no national recognition or connection with God. He continued that the Voluntary doctrine forbade men to profess the allegiance of the kingdom or the nation with Jesus Christ through the medium of its legislature and its laws. If the Voluntary doctrine were adopted

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- 1.) J. Inglis, A Vindication of Ecclesiastical Establishments, pp.241/242
  - 2.) E.C.I., 1830, p.601
  - 3.) A. Marshall, A Letter to Rev. A. Thomson, D.D., 1830, pp.23/24
  - 4.) E.C.I., 1830, p.595

instead of that of the church establishment, Buchanan said, no connection could come into existence between the nation and "Him who is the God of nations". This view of the Voluntary doctrine revealed its atheistical spirit and tendency.<sup>1</sup> Buchanan emphasised that the civil government is an ordinance of God and the rulers are God's ministers for the good of the people. Therefore, he was severely critical of the Voluntary principle, which excluded God from his own world.<sup>2</sup>

Also in defence of the Establishment Thomas Chalmers delivered his lectures on this subject in London in 1838. In these lectures he developed his views in favour of an Established Church and against Voluntaryism. His concern both in education and poor relief was closely linked to the conviction that the old Scottish parish system established by the State was by far the most economic, and economically the wisest method of dealing successfully with social needs. Chalmers felt this more keenly as he grew alert to the extent of the problem of churchlessness, and the immense demands which it placed upon the Church. The task was most urgent and practically an impossible one for any but the Church with proper state support. Where the Voluntaries were agitated about the Churches in relation to an establishing state, Chalmers was concerned with human need, particularly with spiritual need, and with the conviction that the help of the State was necessary. He said that religion was totally different from every other human commodity; it was impossible to use the idea of supply and demand in religion.<sup>3</sup> The State should tax the people to provide for religious ordinances as it did for

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1.) N.L.Walker, Robert Buchanan, D.D., An Ecclesiastical Biography, p.109  
2.) *ibid.*, p.110  
3.) Woodside, *op.cit.*, p.87

education.<sup>1</sup> He objected to Voluntarism, as it provided religion only for those who paid for it.<sup>2</sup>

The defenders of the Establishment principle were not unaware of its abuses and faults. Thus, J.Inglis, having defended the Scriptural authority of establishments and considered their expediency and usefulness, goes on to admit the possibility of some imperfection and undesirable tendencies in this principle observing that the decision in their favour must, in consequence, depend upon a just estimate of their prepondering and indispensable advantages.<sup>3</sup> R.Buchanan, too, is aware of abuses and disadvantages of establishments, quoting words of Rev. Thomas McCrie: "... No defence of establishments how able it may be, will be effective on the public mind in opposition to felt grievances and corruption."<sup>4</sup> The idea that the establishments have faults was also taken up by others who defended the Establishment, but at the same time tried to reform it. "So thoroughly did these views commend themselves to the great body of those who were most active and efficient in defending the church establishment, that the societies which almost everywhere were promptly formed for the defence of the church, engaged, at the same time, to seek its reformation too, - and in particular, to seek, in some way or other, the practical enforcement of the principle of non-intrusion in the settlement of ministers."<sup>5</sup>

The controversy went on for some years, but later attracted less attention than before, because the Established Church was engrossed in struggles arising out of the Church Extension Scheme and the "Ten Years' Conflict".

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1.) Woodside, op.cit., p.88

2.) ibid., p.89

3.) J.Inglis, op.cit., p.252

4.) R.Buchanan, The Ten Years' Conflict, vol.I, pp.231/232

5.) ibid., p.232



### Thomas Chalmers' Views on Establishment

When in the 1830ies the Voluntary Controversy had reached its height, Thomas Chalmers had not yet taken a prominent part in the discussion on the Establishment, except when the Church Extension Scheme was involved, of which he was the leader.<sup>1</sup>

Therefore, he took the opportunity to explain his views and ideas about Church Establishments to a wider public, when in 1837 he was invited by the secretary of the Christian Influence Society to give lectures in London. He accepted this invitation and delivered the lectures in April 1838.<sup>2</sup>

In these lectures Chalmers, extensively dealing with his ideas and thoughts on establishments, defines a religious establishment as existing when a legal provision is made for the ministration of Christianity or legal security is provided to apply funds for the maintenance of the worship and the ministry. Therefore, Chalmers regards this legal provision as an important part of an establishment.<sup>3</sup> The existence of a religious establishment does not necessarily involve a very close connection between the Church and the State. Nevertheless, this connection exists, if the State maintains the Church. But there also is none the less an establishment, if the maintenance of the Church comes from other sources such as private gifts etc. Chalmers says that "it is enough that there is a legal security for the application of certain funds to the maintenance of Christian worship or Christian instruction in the country; and this in whatever way these funds may have originated."<sup>4</sup>

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1.) W.Hanna, Memoirs of The Life and Writings of Thomas Chalmers, vol.II,  
2.) *ibid.*, p.406 p.407  
3.) Thomas Chalmers, Select Works, vol.XI, p.122  
4.) *ibid.*

But the fact that the Church may receive her whole revenue from the State does not open the Church to the influence of the State in religious matters. Chalmers only regards the State as the distributor of "things carnal" and the Church as the distributor of "things spiritual".<sup>1</sup> This means that the State is not allowed to force upon the Church a certain theology, because she receives financial support from it. There Chalmers draws a line of demarcation between the Church and the State. He thinks that the State should employ the same principle towards the Church as it does dealing with the maintenance of religious instruction, where it gives financial support to maintain the teacher of religious instruction and does not interfere with the things which are taught.<sup>2</sup> Chalmers refuses any connection between Church and State beyond this line. The only thing the Church contends for is the organised provision for the clergy and the ministration of Christianity.<sup>3</sup> For this purpose Chalmers thinks it necessary that the Church has to be independent from any State interference.

Throughout his lectures a second consideration which he also regarded as a necessary fact of Establishment was extensively discussed, the parochial system, by which Chalmers meant the territorial arrangement "by which a certain definite district of town or country - every part of which he was required to cultivate, every house of which it was his duty to enter - was assigned to each clergyman."<sup>4</sup> According to this definition of the parochial system, every clergyman is expected to work in his local district for the benefit of the families in it. They must have the preference before all other people from other

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1.) Chalmers, op.cit., vol.XI, p.123  
2.) ibid., p.124  
3.) ibid., p.138  
4.) Hanna, op.cit., vol.II, p.410



places than this certain district.<sup>1</sup> The minister has the duty to direct his attention to the people of his parish in the first instance. "In other words, he is bound to superadd, as far as the people will let him, week-day and household to his Sabbath-day and pulpit ministrations. He is the minister not of the congregation only, as far the greater number of unendowed ministers are, but he is the minister both of a congregation and of a parish."<sup>2</sup> Chalmers believes that the strength of the Establishment lies in this parochial system, because only by an establishment the people can be recovered from the moral degeneracy into which they have fallen.<sup>3</sup>

The special interest of Thomas Chalmers in the parochial system can be traced through all his life.<sup>4</sup> He believed and during his ministry in Glasgow showed that he could transfer the old Scottish parochial system from the country into the large town to improve the situation of the vast number of churchless people. "The one dominant idea which Dr. Chalmers carried with him from Kilmany, and which ruled the efforts of a life-time, was that all those peculiar parochial means and influences which, among the peasantry of Scotland, had secured such an almost universal education of the young, and such an intellectual and moral elevation of the general community, could be employed, and would be equally efficacious amid the densest city population."<sup>5</sup>

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- 1.) Chalmers, op.cit., vol.XI, p.193
  - 2.) *ibid.*, p.194
  - 3.) *ibid.*, p.195
  - 4.) Hanna, op.cit.,
  - 5.) *ibid.*

In his sermon on the occasion of the death of the Princess Charlotte<sup>1</sup>, November 19th, 1817, Thomas Chalmers for the first time <sup>applied</sup> developed his ideas about the system of parish ministry and the principle of locality to improve <sup>the</sup> <sup>mentor</sup> the Christian and the moral state of the people. A certain district should be given to each minister for which he would be responsible and in which the minister easily could reach the people through his week-day and Sunday ministrations.<sup>2</sup> In this way the goods of Christianity could be distributed all over the country. Chalmers used this basic idea later as one of the main arguments in his struggle for Church Extension and Establishment. He knew that it would be necessary to bring Christianity to the people through the means of an establishment rather than to wait until they come to Christianity, because he had seen that the people had no instinctive demand for religion although he believes that they have an interest in religion.<sup>3</sup> Therefore, he favours an aggressive way to spread Christianity. "Nature does not go forth in search for Christianity, but Christianity goes forth to knock at the door of nature, and, if possible, awaken her out of her sluggishness."<sup>4</sup> Chalmers regards this as a virtue of the Establishment that Christianity and Christian instruction is obtruded on the people instead of leaving them alone in the search for it.<sup>5</sup> He does not think that there would be a good Christian instruction without an Establishment. Christian instruction might exist, but only on a small scale and not reaching all parts of the population, especially the poorer among it.<sup>6</sup>

Therefore, he is against the 'free trade' in Christianity. He explicitly

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- 1.) Chalmers, op.cit., vol.III (Sermons I), pp. 446-463
  - 2.) ibid., pp.460/461; Karl Holl, Aufsätze, vol.III, pp.405/406
  - 3.) Chalmers, op.cit., vol.X, pp.62/63
  - 4.) ibid., p.65
  - 5.) op.cit., vol.XI, p.68
  - 6.) ibid., p.80

explains the difference which exists between Commerce and Christianity. Commerce will prosper and prospers under the system of Free Trade, meanwhile Christianity would decline under it and only serve a small proportion of the people.<sup>1</sup> This will happen, Chalmers is convinced, because the appetite of man for intellectual or religious things will not grow like the appetite for non-cultural things, if the supplies are withheld for a time. Men will become uninterested in religious things. Therefore, the appetite for religious things must be created. the best way to do this, is by a religious establishment. "Although it be true that the longer he has been without food the more hungry he is,..., yet the more ignorant man is, not the greater but generally speaking, the less is the desire of knowledge;.." <sup>2</sup> And, as there is no hunger for righteousness, Chalmers is convinced that the appetite for it first must be created.<sup>3</sup>

In his concern for the large number of churchless people who had only insufficient supply of church accomodation, Chalmers shows that 'free trade' in Christianity and, together with it, the unestablished Churches have failed to meet the increasing number of the population.<sup>4</sup> This happened, because 'free trade' in Christianity worked on the commercial system of demand and supply, of which the demand did not exist in the poorer parts of towns. The people of those densely populated areas will go to every kind of shop to buy their provisions, but they will not come to a place of worship where they have to pay for the supply of their moral and religious needs.<sup>5</sup> Therefore, the places of

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- 1.) Chalmers, op.cit., vol.XI, p.140
  - 2.) ibid., p.141
  - 3.) ibid., p.142
  - 4.) ibid., p.152
  - 5.) ibid., p.153



worship, where it is necessary to pay seat-rents, will only be attended by people from other parts of the towns who can afford to pay for their seats. This leads to the fact that all those who cannot afford to pay seat-rents will be excluded from the places of worship. That is the reason why Chalmers accuses 'free trade' in Christianity of excluding the poorer parts of the population. They are left in darkness.<sup>1</sup> These churches reach only that part of the population paying seat-rents for the maintenance of the church and the clergy.<sup>2</sup> Again, the churches set up in the poorer areas need the help of external benevolence of people who are not attending the church, as in most cases the seat-rents do not produce enough money for the maintenance of the places of worship. To Chalmers this is like an endowment given by the State or any other source; it is a violation of the principle of 'free trade' in Christianity.<sup>3</sup> Therefore, he does not see any advantage from 'free trade' in Christianity or from the unestablished churches.<sup>4</sup>

After having rejected the system of 'free trade' in Christianity Chalmers takes up another, the Voluntary principle. Chalmers distinguishes between the Voluntaryism ab intra and the Voluntaryism ab extra.<sup>5</sup> "When a congregation, therefore, do from their own contributions, whether formed by seat-rents or otherwise, support their own minister - we shall put it down to the account of internal voluntaryism; and that because the members of the congregation raise within themselves a sufficiency for all their expenses. In so far as they have been helped to accomplish this by the contributions of others, not members of the congregation,

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1.) Chalmers, op.cit., vol.XI, p.153

2.) ibid., p.148

3.) ibid., p.151

4.) ibid., pp. 150/151

5.) : ibid., pp. 158/159

we shall put it down to the account of external voluntaryism. - as coming from the people without the limits of the congregation."<sup>1</sup> The Voluntary principle consists of both the internal and the external voluntaryism and, therefore, it is distinct from the system of 'free trade' in Christianity.<sup>2</sup> But the internal voluntaryism is for Chalmers just another name for 'free trade' in Christianity, the insufficiency of which he already has proved.<sup>3</sup> Although Chalmers has rejected the internal voluntaryism, he appreciates and accepts the external voluntaryism as a measure to repair the shortcomings of an establishment. But it could not help to fill the space left by the deficiency of the existing Establishment. This space could have been filled by Voluntaryism, but it failed to do so, because of the proved deficiency of the internal and the failure of the external voluntaryism to add enough help. "The unprovided millions of the British population furnish a measure, not for the deficiency of that system after all the additions which have been made to it by the voluntary principle ab extra."<sup>4</sup>

Chalmers does not see any conflict in the combined use of the legal measures and external voluntaryism. Completely in favour of establishments, he admits that it is necessary for the present Establishment to use external voluntaryism to meet the lack of church accomodation in the country through the benevolence of the people. But this does not prove that the Establishment has accepted the Voluntary principle as <sup>the Voluntaries</sup> may believe. The Establishment has to use this measure to help those who are not able to spend money for their own church accomodation.<sup>5</sup>

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- 1.) Chalmers, op.cit., vol.XI, p.159
  - 2.) ibid., p.160
  - 3.) ibid., pp.161 + 171
  - 4.) ibid., p. 162
  - 5.) ibid., p.171

Therefore, he has no doubt of his right to obtain a grant from the State to improve the situation of the churchless, as he already has got the support from the benevolence of the people.<sup>1</sup> The use of the external voluntarism in a particular situation, when the State has failed to give enough support to the Establishment, does not give any reason to Chalmers to abandon the idea of establishment in which he sees the only measure to provide the country and the mass of the people with Christianity. But he requires two things for this: "first the State should select and employ some one Church for the accomplishment of the work; and secondly, that it should adequately endow this Church, and progressively extend it."<sup>2</sup>

### The Ten Years' Conflict 1834 - 1843

#### Patronage

This conflict between the Church and the State, and between the Moderate and the Evangelical party of the Church of Scotland had its roots in the revival of the call of the people in the procedure of the settlement of ministers; subsequently the issues broadened and became concentrated on the major question, the spiritual independence of the Established Church from the State.

Patronage had its own historical development. During the Reformation patronage had not been abolished. The first Book of Discipline tried

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1.) Chalmers, op.cit., vol.XI, p.171  
2.) Hanna, op.cit, vol.II, p.410



to abolish it, but did not succeed. The Act of 1567, c.7 entrusted the examination and admission of ministers to the Church, but it especially reserved the right of presentation to the patrons.<sup>1</sup> The Second Book of Discipline<sup>2</sup> renewed the idea of a popular election of the minister, but the Act of 1579, c.68 reenacted the Act of 1567, c.7. "The presentation of laik Patronages alwaies reserved to the just and ancient Patrones. And that the Patroun present ane qualified persoun, within sex Monethes (...) to the Superintendent of thay parties, quhar the Benefiece lyes, or uthers havand commission of the Kirk to that effect."<sup>3</sup> The Act of 1592, c.117 recognized the right of patronage. This right continued to be recognized until the Act of 1648, c.39, which deprived the patrons of their right of presentation, gave it, termed the 'calling' of ministers, to the congregations.<sup>4</sup> At the Restoration this act among others was rescinded, and by the Act of 1661, c.54/ 1662, c.3 the right of patronage again was restored until the abolition of patronage by the Act of 1690, c.23. The right of presentation then was given to the heritors and elders.<sup>5</sup> In 1712 patronage was restored by Queen Anne. The act gave back to the patrons the right of presentation, only. All other procedures were left in the hands of the Presbyteries. After the restoration of patronage, for ~~many~~<sup>some</sup> years full effect was ~~given~~<sup>still</sup> to the voice of the people. Although the Act of 1712 was very unpopular in Scotland, for many years the settlement of ministers entirely proceeded on the Call by the parish, because almost all patrons did not

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- 1.) J.M.Duncan, Treatise on the Parochial Ecclesiastical Law of Scotland, p.88
  - 2.) chapter 3,5
  - 3.) Duncan, op.cit., p.88
  - 4.) ibid., p.89
  - 5.) ibid.

exercise their right of presentation. During this time the Church Courts often had to decide on the sufficiency of a Call, especially competing ones. Only between 1720 and 1730 did the exercise of the right of presentation come into general use. Also then and throughout the 18th century the Church Courts still had to decide questions of sufficiency of Calls. But the presentee of a patron had never been regarded as independent of the Call of the parish. Several times the General Assembly declared in various acts that the Call was an important and essential part in the settlement of a minister.<sup>1</sup> During the second half of the 18th century things changed. The Call declined in importance. Also it became the accepted opinion of the General Assembly that no effect should be given to any opposition from the parish. The General Assembly made some decisions during those years that any number of signatures attached to the Call, even one, should be sufficient. The form of the Call was preserved, but deprived of its former importance.<sup>2</sup> It remained in use and the General Assembly of 1782 "did, and hereby do declare, that the moderation of the call in the settlement of ministers is agreeable to the immemorial and constitutional practice of this Church, and ought to be continued."<sup>3</sup> When at the beginning of the 19th century the evangelical party acquired more influence within the Church of Scotland, it tried to change these things and to revive the disused Call.

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- 1.) Cases Decided in the Court of Session, vol.XVI, Edinburgh 1838, 16 S 682 - 683
  - 2.) "And in one instance a Call was sustained, also the common written Call had no signature whatever adhibited to it, but one of the heritors of the parish had addressed a letter to the presentee stating his concurrence." 16 S 686
  - 3.) The Principal Acts of the General Assembly of the Church of Scotland of 1782, Act VII, 30th May 1782, p.27

### The Acts of the General Assembly of 1834

The method which the General Assembly adopted was the passing of the so-called "Veto-Act". Chapter 3 of this Act regulates the objections of the congregation. "That if no special objections and no dissents, by a major part of the male heads of families, being members of the congregation, and in full communion with the Church, according to a list or roll to be made up and regulated in manner hereinafter directed, shall be given in, the Presbytery shall proceed to the trials and settlement of the presentee according to the rules of the Church."<sup>1</sup>

The other act of the General Assembly of 1834 out of which trouble also arose was the "Declaratory Enactment as to Chapels of Base".

"The General Assembly of the Church of Scotland, without a vote, approve of the report of the Committee, and did, and hereby do, enact and declare, that all Ministers of Chapels of Base, presently erected and established, or which shall be hereafter erected and established in terms of the Act anent Chapels of Base, of 1798, or prior thereto, by authority of the General Assembly, or the Presbyteries of the bounds, are, and shall be, constituent members of the Presbyteries and Synods within <sup>w</sup>hose bounds the said Chapels are, or shall be respectively situated, and eligible to sit in the General Assembly. . . . And further, The General Assembly did, and hereby do, remit to the Presbyteries within whose bounds said Chapels now established are situated, to allot and asseign to each of the said Chapels a territorial district, and to erect such districts into separate parishes quoad sacra, and to disjoin the same quoad sacra from parishes whereof they at present form parts."<sup>2</sup>

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1.) Acts of the General Assembly 1834, Acts XII, pp.31  
2.) *ibid.*, pp.27



The commencement of the conflict which ended with the Disruption may be dated from this point, as these Acts of the General Assembly came to be challenged in the Civil Courts. Three of these cases are very significant for the conflict between the Church and the State. The Auchterarder case mainly involved the question whether the Presbytery could reject the presentee of the patron after the majority of the male communicants had dissented. The Strathbogie case dealt with the question whether ministers have to obey the laws of the Church or the decisions of the Civil Courts, interdicting and suspending the sentences of the Church courts. The Stewarton case dealt with the problem whether the Church had the right to erect new churches and parishes to help the needs of the people, and whether the ministers of these parishes were eligible for membership of Church courts.

#### The Auchterarder Case

All the trouble in the Auchterarder case arose out of the decision of the Court of Session after Mr. Young, the presentee of the Earl of Kintail to the church and parish of Auchterarder, had been rejected by the Presbytery of Auchterarder. The majority of the male heads of the communicants did not sign the call for Mr. Young, but dissented according to the terms of the Veto-Act of the General Assembly of 1834. The Synod of Perth and the General Assembly in 1835 sustained the decision of the Presbytery. Then Mr. Young went to the Court of Session demanding "that the foresaid judgments or deliverances of the said Presbytery, of date 2d December 1834, and the 7th July 1835, were

ultra vires, illegal, unwarrantable, in so far as that though, by the laws and statutes before libelled, the Presbytery were bound and as-  
tricted to make trials of the qualifications of the pursuer, Robert Young, as presentee to the church and parish of Auchterarder,..."<sup>1</sup>  
This was the first point. The second was that the Presbytery should be enjoined to continue with the proceedings and to take Mr.Young on trials. The third demand was that, if the Presbytery should continue to refuse Mr.Young, he "should be found and declared, to have the just and legal right to the constant, localled, and modified stipend, with the manse and the glebe", respectively the patron.<sup>2</sup> The answer of the defenders, the Church, was that the presentation of Mr.Young by the Barl of Kinbulla was legally correct. They said against the other demand that, "it is settled law, that no man has the right to the temporalities of a benefice, till he has been ordained and inducted by an Ecclesiastical Court"... "It is also settled law, that the vacant stipends shall be paid to the collector of the Widow's Fund; and that the manse and the glebe belong to the heritors, and not to the patron, during a vacancy."<sup>3</sup> The last point the defenders did not regard as lying within their responsibility. This was the question which the patron would have to settle with the heritors. So far both sides were fighting for some civil rights, while both were agreeing about the validity of the call. In his plea the Dean of Faculty as Counsel for the pursuer propounded the theory that the State was, at least to an established church, the source and fountain of all authority and jurisdiction which the Church

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1.) Ch.Robertson, Report on the Auchterarder Case, vol.I, Appendix p.9  
2.) ibid., p.11  
3.) ibid., p.18

enjoyed.<sup>1</sup> In his answer the Solicitor-General Rutherford as Counsel for the defenders pleaded that the remedy did not lie within the Civil Court in matters purely ecclesiastical, "even if the Church acts unjustly, illegally ultra vires."<sup>2</sup> He further argued that if it could be shown that the Call was a part of the law of the Church, it necessarily followed that also it was a part of the law of the land, because the law of the Church had been recognized by the State. Therefore, it was not possible for the Civil Court to deny the lawfulness of the enactments of the Veto-Law, if it had not exceeded the limits of the legislature of the Church.<sup>3</sup> From this position the Church seemed in theory to be unassailable. "If the Church has the right to regulate her own concerns, she must have the right to regulate the appointment of ministers."<sup>4</sup> At the 27th February 1838 the judges began to deliver their opinions. The Lord President declared that the Act of 1592, c.116, the "Great Charter of the Church" gave no hint of any right of the congregation, or any part of it, to interpose themselves between the patrons and the Presbytery<sup>5</sup>, and that in the Act 1711/12 giving back the right of presentation to the patrons there was nothing about the Call, nor the approval or disapproval of the congregation. The Lord President continued: "...that 'The Parliament' is the temporal head of the Church from whose Acts and from whose Acts alone it exists as a National Church and from which it derives all its powers."<sup>6</sup> He denied that the General Assembly had power to repeal an Act of Parliament. If the Act of the

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1.) Buchanan, op.cit., vol.I, p.434

2.) *ibid.*, p.428

3.) Roberston, op.cit., vol.I, p.356

4.) H.J.Laski, *Studies in the Problem of Sovereignty*, p.45

5.) Robertson, op.cit., vol.II, p.11

6.) P.C.Simpson, *The Life of Principal Rainy*, vol.I, p.50



General Assembly of 1834 would be allowed to take effect, it would deprive "the right of patronage of its efficacy, and entirely take away its patrimonial and commercial value, as a right of property, which was previously very considerable."<sup>1</sup> The Lord President further declared that the Church possessed no rights, but only privileges. This view was based on the theory that the legislature of the State had unlimited power. From this it follows that there can be no comparison between the powers of legislature and those of other bodies. Therefore, no other organisation can set aside what Parliament had enacted. According to this theory the Church cannot possess anything other than privileges; "for rights it could hold only by virtue of an unique supremacy, whereas privilege emphasised the essential inferiority of its position."<sup>2</sup> One of the judges followed the line of the Lord President and declared that patronage and presentation were patrimonial rights, "and therefore, the declaration of them, against encroachments, belonged to the Civil Court."<sup>3</sup> The majority of the judges shared the theory that the Church derives its powers only from Parliament. Lord Fullerton, one of the judges of the minority which decided in favour of the Church, said that during former times there had been numerous rejections of presentees on the ground of the insufficiency of the Call, but there had been no challenge by patrons in a Civil Court on a rejection or question about the Call as a condition superadded to the presentation. Lord Fullerton continued: "I

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1.) 16 S 737

2.) Laski, op.cit., p.55

3.) 16 S 754

cannot avoid the conclusion that the requisite of some concurrence on the part of the parish, of which the sufficiency is to be judged of exclusively by the church courts, is by law, part of that form of admission of ministers to which alone presbyteries are bound to admit the presentee of the patron."<sup>1</sup> Lord Jeffrey in sharing the views of Lord Fullerton declared that following from the Act of 1595, c.116 and the usage since then the jurisdiction and power of the General Assembly had not been restricted, "but left on a general reference to the known and existing usage of the Church now openly and publicly professed in this realm." Further, the General Assembly had power to make ordinances which bound the inferior Church Courts and "to put ordour to all matters and causes ecclesiastical, according to the discipline of the Kirk." Lord Jeffrey also made reference to the Act of 1690, c.5 and the Act 10 Anne, c.12, where he found the regard to the usage of the former existing mode of admission. This also had been stated in the Act of 1690, c.23, where it had been enacted that "the presentee of the heritors was subject to the approval or disapproval of the congregation."<sup>2</sup> He, therefore, concluded "1st That by the practice of 120 years, such a concurrence, and in that form, was now an indispensable part of the ecclesiastical procedure, towards ordaining and settling a parish minister; 2d, That the Act of 1834 was truly a mere regulation of the necessary procedure; and 3d, That all proceedings subsequent to sustaining the presentation, were intended for the one purpose of ascertaining the qualifications or fitness of the presentee to be ordained and settled in the congrega-

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1.) Buchanan, op.cit., vol.I, p.452

2.) 16 S 304

tion; and were therefore within the exclusive province of the Church, on the most rigorous construction of then statutes."<sup>1</sup>

The judgment of the Court of Session was pronounced on 8th March, 1838 and said only two things: 1st " That the Earl of Kinnoull has exercised his right, as patron to the church and parish of Auchterarder, by presenting the pursuer, the said Robert Young, to the said church and parish." 2nd that the said Presbytery in so doing (rejecting the presentee) have acted to the hurt and prejudice of the said pursuer, illegally, and in violation of their duty, and contrary to the provisions of certain statutes libelled on, and, in particular contrary to the provisions of the statute of 10 Anne, c.12, entitled 'an act to restore patrons to their ancient rights of presenting ministers to the churches vacant in that part of Great Britain called Scotland'."<sup>2</sup>

The first statement was not challenged by the Church. The second sentence said that the whole procedure of the Call including the dissent of the congregation with the subsequent rejection of Mr.Young as presentee by the Presbytery was illegal. Nothing is mentioned and decided about the stipend, and the further proceedings of the Prebytery. This judgment was regarded as a decision against the spiritual independence of the Church.

The General Assembly of 1838, on its meeting some weeks later, decided to appeal to the House of Lords. Dr R.Buchanan brought forward a motion in which the General Assembly should declare that they "acknowledge the exclusive jurisdiction of the civil courts in regard to the civil rights

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1.) 16 S 804

2.) Robertson, op.cit., vol.II pp.450/451; 16 S 811

and emoluments secured by law to the Church and the ministers thereof, and will ever give and inculcate implicit obedience to their decisions thereafter."<sup>1</sup> They also said that according to the Confession of Faith the Lord Jesus Christ, as King and Head of the Church, has appointed a government within the Church distinct from the civil magistrate. This government lies in the hands of the office-bearers. The judicatories of the Church 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, The Lord Jesus Christ, and is spiritual not having a temporal head on earth, but only Christ, the only spiritual King and Governor of the Kirk.'"<sup>2</sup> In his speech Dr Buchanan explained the position of the Church according to the doctrine of the Standards of the Church of Scotland. He said against the theory of the Lord President, that the Church derives its powers from Parliament, that the Acts of Parliament ratifying the liberty of the Church, "recognise her spiritual independence as a thing already existing - they do not confer it as a mere State privilege."<sup>3</sup> He explains the connection between the Church and the State as "an alliance between two distinct, independent, and co-ordinate powers."<sup>4</sup> The judgment of the appeal to the House of Lords was delivered 3rd May, 1839, refusing the appeal of the Presbytery of Auchterarder and sustaining the sentence of the Court of Session. The day before, the speeches of the Lords Brougham and Cottenham were delivered. The judgment mainly based on the theory of Lord Brougham, that the Church is the judge of the qualification in the case of every presentee to the parish.

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1.) Walker, op.cit., p.133

2.) ibid., pp.133/134

3.) ibid., p.130

4.) ibid., p.131



But Lord Brougham explained that "qualification is a technical term, including under it nothing but doctrine, literature, and life."<sup>1</sup> The other point of his leading theory was that "the Presbytery is in the same position as a bishop in the Church of England, and the civil court has the same jurisdiction in the case of the one as in the case of the other."<sup>2</sup> He continued that any proceeding of a Church Court, however strictly ecclesiastical in its nature, affects a civil right. Following on this idea, the Church Courts are shut out from those things affecting indirectly civil patrimonial rights.<sup>3</sup> He also denied the existence of an independent jurisdiction of the Church. Lord Brougham rejected the idea of a public dissent or veto of the parishioners. He could not find any hint of it in the different acts regulating the presentation of a minister. After this decision one side stood against the other as before. The position was that the civil courts said that the Church is bound by law to induct all "qualified" presentees without any regard to the dissent of the parishioners.<sup>4</sup> The Church pointed out that she could not acquiesce in this interpretation of the law "and in any case we cannot conscientiously agree to renew the old and calamitous system of forced settlements."<sup>5</sup>

#### The Marnoch Case

The Auchterarder Case was the first of a series of cases ending with decisions against the Church. One of the following conflicts was the

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- 1.) Buchanan, op.cit., vol.II, p.4
  - 2.) *ibid.*
  - 3.) *ibid.*, p.9
  - 4.) Walker, op.cit., p.137
  - 5.) *ibid.*

case of Marnoch. In the year 1837 the parish of Marnoch became vacant. The patron, the Earl of Fife, presented a certain Mr. Edwards. He had been an assistant to the former minister for some years. But only one parishioner signed his call. In the following year the case was brought up in the General Assembly of 1838, which ordered the Presbytery to reject the presentee according to the present laws of the Church. The Presbytery rejected Mr. Edwards accordingly, and the patron now presented Mr. David Henry. Mr. Edwards then obtained an interdict prohibiting the Presbytery from taking the other presentee, Mr. Henry, on trials. Thereupon the Presbytery decided that the Court of Session had a right in matters relating to the induction of ministers by a majority of 7 to 4. After the House of Lords had sustained the decision of the Court of Session, the Court declared that the Presbytery was bound to take Mr. Edwards on trials and admit him, if found qualified, as a minister of Marnoch. In December 1839, the Presbytery sustained the call and took Mr. Edwards on trials. A week later the Commission of the General Assembly met. The Commission made a sentence upon Mr. Edwards prohibiting him from applying to the said Presbytery or any member thereof to be taken on trials, or to be admitted to the pastoral charge of the parish of Marnoch.<sup>1</sup> If he should violate the prohibition, he shall be holden and dealt with as contumacious. The Presbytery was instructed to cite him to appear before the next meeting of the Commission. The Commission also suspended the majority of the Presbytery from their ministerial functions and appointed a committee to co-operate with the remaining four ministers. The seven suspended ministers now

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1.) Buchanan, op.cit., vol.II, p.11

called on the Court of Session "to suspend the resolutions, sentence, and proceedings" of the Commission, and "to prohibit and discharge" the minority of the Presbytery from carrying out the instructions of the Commission. They asked further to discharge the minority "from holding any meeting of the Presbytery of Strathbogie, for the purpose of supplying ministerial services, or otherwise exercising any of the functions of the complainers in their respective parishes, or otherwise acting on the foresaid deliverance and sentence."<sup>1</sup> The Court interdicted "the minority of the presbytery and all others, from using the church, church-yard, and school-house, in executing the sentence which the commission had pronounced."<sup>2</sup> But this was not enough for the seven ministers and so they went again to the Court of Session to get the full range of their demand. This was granted in a second interdict to them. But the minority and the members of the committee entirely disregarded it. In March 1840 the Commission again dealt with the Marnoch case. After a long discussion they adopted several resolutions, "the first of which pronounced the late interdict of the Court of Session to be 'contrary to the liberties of the church, as the same are recognised in the constitution of this country, and sanctioned by various solemn enactments of the supreme power in the state.' The second traced these encroachments upon the jurisdiction of the church to the principle laid down by the courts of law in the Auchterarder case; and the third agreed to petition parliament to adopt measures 'for protecting the church from such unconstitutional interference of the court of session with government, discipline, rights, and privileges thereof."<sup>3</sup> The

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1.) Buchanan, op.cit., vol.II, p.129

2.) ibid., p.131

3.) ibid., p.138

Commission accepted this motion by a large majority of 107 to 9. The General Assembly of 1840 agreed to the suspension of the seven ministers. At the next meeting the seven ministers did not appear before the Commission. They only informed the Commission "that they could not 'without acting inconsistently recognize or sanction any part of the proceedings which have been suspended as illegal.'"<sup>1</sup> At the meeting of the Commission on 18th November, 1840, Mr. Robertson, a counsel for the seven ministers, appeared and spoke to the house, "first they denied that the commission had any lawful jurisdiction whatever, as 'not being a court established or sanctioned by the laws of the land;' and second that the sentence of the assembly under which they were libelled having been 'suspended as illegal', and all proceedings arising out of that having been interdicted by the Court of Session, the sentence 'was itself void', and the libel founded on it was a violation of the law of the land."<sup>2</sup> Then ~~the libel was sustained, also that of~~ <sup>the Commission, however, sustained this libel and also that against</sup> Mr. Edwards. On the petition of Mr. Edwards the Court of Session once more declared the Presbytery bound to proceed with his induction. In January 1841 five of the seven suspended ministers met in the church of Marnoch and ordained and introduced Mr. Edwards to his ministerial charge. The General Assembly of 1841 again dealt with this case of insubordination. After all that had happened in January 1841 Dr Chalmers moved the deposition of the seven from the office of the ministry. "The General Assembly approve and confirm the sentence of the commission of date 18th November, 1840, sustaining the relevancy of the libel, and they now find the libel proven, with exception of the charge therein last

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1.) Buchanan, op.cit., vol.II, p.281

2.) ibid., p.293



mentioned, founded upon the serving the commission a notarial protest, and find Mr. etc. ... guilty of the offences therein charged against them respectively, under exception of the before mentioned charge, founded upon the serving the commission with a notarial protest aforesaid,- and the general assembly, in respect of these offences, charged each by itself, and involving desposition independent of the others, do hereby despose Mr.Cruickshank, etc. ..., from the office of the holy ministry."<sup>1</sup> Mr.Edwards' ordination was declared null and void. He also lost his licence as a preacher. During the meeting of the General Assembly an interdict issued by the Court of Session was laid on the table of the Assembly and provoked protest as an unwarranted encroachment on the Church's jurisdiction.

#### The Stewarton Case

Only a short time later the next conflict started. In 1839 a number of congregations of the Old Light Burghers joined the Church of Scotland. According to the Chapels of Ease Act of 1834, their ministers were enrolled as members of the Presbytery and got territorial areas as their parishes quoad sacra. This lead to trouble only in the parish of Stewarton, Ayrshire. The Presbytery proposed to do according to the Chapels of Base Act. While proceeding with their business, an agent appeared in the Presbytery meeting, held on 7th January 1840, on the part of Mr.Cunningham of Lainshaw, and certain other heritors of the parish of Stewarton, and intimated their intention to oppose the erection of the proposed quoad sacra parish. The Presbytery wished to be careful

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1.) Buchanan, op.cit., vol.II, p.377

and decided to ask for advice from the superior Church Court in this new case. In the meantime Mr. Cunningham and the other heritors presented to the Court of Session a note of suspension and interdict, - to prohibit Mr. Clelland, the minister of the proposed quoad sacra parish, "from sitting, acting, and voting as a member of the presbytery of Irvine, in all causes, matters, and proceedings, in any way originating in, or connected with the parish of Stewarton", and also to prohibit the Presbytery of Irvine, "from proceeding in any way or manner by perambulation of the parish of Stewarton or otherwise, 'in dividing the said parish, and designing or erecting a new parish therein, and placing the same under the pastoral superintendence of Mr. Clelland, or any other person, and from constituting a new and separate kirk session, having jurisdiction and discipline over the proposed new parish, and from connecting the said new parish with the church and congregation of Mr. Clelland, and generally, from innovating upon the present parochial superintendence, its kirk session, jurisdiction, and discipline, belonging thereto."<sup>1</sup> The interdict was granted ad interim and confirmed by Lord Ivory on 15th June, 1840. On 14th April, the Synod of Glasgow and Ayr instructed the Presbytery to proceed to allocate a territorial district to the new church of Stewarton according to the Acts of the General Assembly.<sup>2</sup> The Presbytery then decided to follow the instructions of the Synod. But their decision was, by the dissent of one member, carried by appeal to the General Assembly. The Com-

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1.) Buchanan, op.cit., vol.II, p.554

2.) ibid., p.555

mission of the Assembly dismissed the complaint of the Presbytery and instructed it to proceed. At the next meeting of the Presbytery the interdict, obtained by the heritors, was laid on the table. The Presbytery decided to be very cautious and tried to come to an agreement with the heritors. But the heritors refused the offered conference. After this the Presbytery resolved to carry into effect the instructions of the Commission of the General Assembly. The interdict was served anew. Now the Presbytery decided to ignore the interdict and to go on with the proceedings in obedience to the superior judicatories of the Church, "to whom the presbytery consider themselves bound to yield obedience in all spiritual matters, ..." <sup>1</sup> The Presbytery further stated in their minutes that they could not understand the interdict, as intended to hinder them from performing purely spiritual acts, or to go any further to protect the civil rights of the parties concerned, and that they accordingly 'declared and provided' , that nothing now done by them shall in any way or manner affect the civil rights of the parties at whose instance the interdict was obtained. <sup>2</sup> As the Presbytery still declined to obey the interdict, the heritors again went to Court accusing the Presbytery of breaking the interdict. The case was decided against the Church. It was again a fight of theories against each other. The Lord Justice Clerk Hope declared, that an Establishment instituted by the statute cannot claim or legally possess an authority from a divine source, which the statute, constituting the Establishment, may not have thought fit to acknowledge as belonging to it. "The establishment being instituted by the state, the competency of all its acts

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1.) Buchanan, op.cit., vol.II, p.557

2.) *ibid.*

must be subjected to determination of the supreme court of the law."<sup>1</sup> In his speech Lord Moncrieff explained that there could not be any judicial power of the Civil Courts over the Courts of the Church. Like the other Courts, the Civil Court, the Court of the Exchequer, the Court of Justiciary to which special objects have been committed, the Courts of the Church have their special duties, the government of the Church and the exclusive jurisdiction in matters and causes ecclesiastical.<sup>2</sup> He denied that the Civil Court has any jurisdiction in this case, because in this system of different Courts the exclusive care of each class of interests is clearly provided for the different Courts by the State. If one of the Courts should claim to itself all the powers of the State, and finally identify with the State, it would lead to the disorganization of society; this would equally be the case if the Court is not content with its power and invests itself with the jurisdiction committed to another Court.<sup>3</sup> Lord Moncrieff warned against making a decision which would affect the independence of the Church. He believed that such a decision "may go on to break down all the independence, and with it, ..., all the usefulness of the church, even in the things which are confessedly the most sacred and spiritual in their nature - ordination, deposition, the administration of the sacraments, the doctrine taught, the religious purity and order of the preaching of the gospel."<sup>4</sup> The General Assembly appealed to the House of Lords after this decision.

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1.) Buchanan, op.cit., vol.II, p.558  
2.) *ibid.*, p.559  
3.) *ibid.*, p.560  
4.) *ibid.*, p.561



### The Attempts of the General Assembly to solve the Problem

In the meantime the Non-Intrusion Committee had been busy. It was appointed by the General Assembly of 1839. This committee was to try to come to an agreement with the government about the different questions arising out of the decision of the Court of Session in the Auchterarder case. During the summer of 1839 the committee went to London to meet the members of the Cabinet for special negotiations. At the meeting of the Commission of the Assembly, 14th August, 1839, Dr Chalmers reported. "He said, that the committee can confidently state that they are more hopeful than ever of matters being brought to a speedy and successful termination."<sup>1</sup> The committee had received the assurance that the government was fully impressed with the importance of the subject. The government would give it the most serious consideration and instructions to the Lord Advocate to prepare with the Procurator a legal measure to be submitted to the Cabinet. Chalmers continued that the government had authorized the committee to state that the patronage of the Crown would mostly be exercised in accordance with the existing law of the Church.<sup>2</sup> Also some other people in both Houses of Parliament tried to help the Church to come to a settlement with the State. At first the Earl of Aberdeen introduced a bill in the House of Lords giving the Presbyteries more power judging objections against the presentee. But it did not go far enough in providing security against the Civil Courts. Therefore, the Evangelical party refused it. Then the Duke of Argyll proposed a bill legal-

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1.) Hanna, op.cit., vol.IV, p.122

2.) *ibid.*

ising the Veto-Act with minor modifications. This the Moderate party did not accept. Also a third attempt by Sir George Sinclair to find a compromise failed. The Assembly of 1842 was in a bad position. It was impossible to do anything against the ministers who did not obey the decisions of the Assembly. The General Assembly sustained all its former decision in the Marnoch case. Finally, it adopted a resolution, called the Claim of Right . In the following months the Courts of Session again declared the decision of the Assembly illegal. The Resolution and Claim of Right were not favourably received by the government and the answer was quite uncompromising. Nevertheless, another appeal was made to Parliament which was lost in March 1843. During the winter 1842/43 Chalmers and other leaders of the Non-Intrusion party, seeing the disruption coming, began to prepare all things in readiness for it. After a convocation held in Edinburgh in November 1842, the 'Convocationists', as they were called, started a campaign through the country to find more supporters. At the opening of the General Assembly of 1843 they protested and left the Assembly.

In the years during the conflict between the Church and the State the Church made several attempts to get the full recognition of her rights from the State. The Church felt that the State was depriving her of her ancient rights of self-governing and of her own jurisdiction in matters spiritual. She was fighting for her spiritual independence. After the decision of the Court of Session in the ~~the~~ Auchterarder case the General Assembly of 1838 took the first step in this fight in accepting a motion of Dr. Buchanan. The General Assembly resolved that in the Confession of Faith it was declared that the Lord Jesus

Christ as the sole King and Head of the Church has appointed a government in the hands of the church office-bearers separate from the civil magistrate, and that in all matters spiritual the Church possesses an exclusive jurisdiction. Further the Assembly resolved to assert and to fight for this spiritual jurisdiction, as their fathers did, and to enforce obedience upon the office-bearers and members of the Church, "by the execution of her laws in the exercise of the ecclesiastical authority wherewith they are invested."<sup>1</sup>

This motion on the background of the Auchterarder decision shows that the Church is frightened and fears that there may be more decisions against her privileges by the Civil Courts. The Church is not willing to acquiesce in the decisions of the Civil Courts in matters she believes to be spiritual.

In 1842 the General Assembly made the next effort in this fight. It submitted to the Queen a "Claim, Declaration, and Protest by the General Assembly of the Church of Scotland". The Claim of Right starts with a description of the present situation in which the Church is placed; that all her liberties and privileges, assured by the Crown, have been assailed by the Civil Courts, "to which the Church was authorized to look for assistance and protection".<sup>2</sup> The following chapters describe at first the essential doctrine and the fundamental principle of its constitution laid down in the Confession of Faith, that "there is no other Head of the Church but the Lord Jesus Christ", and that "God, the supreme Lord and King of all the world, ha<sup>th</sup> ordained civil

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1.) Walker, op.cit., pp.133/134

2.) Buchanan, op.cit., vol.II, p.633

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", and "it is the duty of the people to pray for the magistrates, to honour their persons, to pay them tribute and other dues, ..., from which the ecclesiastical persons are not exempted."<sup>1</sup> Then follows a chapter containing a survey of the different acts of Parliament recognizing, ratifying, and confirming the Confession of Faith and the exclusive jurisdiction of the Church. The second part contains a summary of the different acts dealing with the supreme power of the King over the Church and its abolition in 1690. Then follows a section dealing with the privileges and the civil rights secured to the Church concerning the right to pass judgment on her own ministers. The next chapter describes the Act of Union confirming the "true Protestant Religion" in Scotland. Then follows a summary of the different acts about patronage abolishing and restituting it. Also, there are mentioned the Acts of Assembly confirming the sentence of the Second Book of Discipline "that no pastor be intruded upon any congregation contrary to the will of the people."<sup>2</sup> This is continued with a long list of decisions of the Civil Courts against the Church in recent years. The last part of the Claim of Right contains the claim of the Church, "that she shall truly possess and enjoy her liberties, government, discipline, rights, and privileges according to the law..." and the declaration "that they cannot, in accordance with the Word of God, the authorized and ratified Standards of this church and the dictates of their consciences, intrude ministers on reclaiming congregations,

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1.) Buchanan, op.cit., vol.II, p.633

2.) ibid.; Acts of Assembly 1638, c.3,5; 1736, c.14; 1834, c.9



or carry on the Government of Christ's church, subject to the coercion attempted by the Court of Session as above set forth"<sup>1</sup>, and the protest "against sentences of the Civil Court in contravention of the Church's liberties, the privileges of establishment,..", and the call "on all Christian people everywhere to note that it is for loyalty to Christ's Kingdom and Crown that the Church of Scotland is obliged to suffer hardship."<sup>2</sup>

After the rejection of the Claim of Right by the Government the evangelical party of the Church protested against the jurisdiction of the Civil Courts and the policy of the Government withdrawing before the General Assembly of 1843 was constituted.

In the opening paragraph of the protest the undersigning ministers and elders of the Church of Scotland say that they cannot regard this Assembly as a free Assembly of the Church of Scotland after the recent decisions of the Civil Courts. Then the grounds of protest follow described in eight points, that it has been declared by the supreme power of the State that the Civil Courts have jurisdiction over the Church as a national establishment. The Civil Courts have interdicted the ordination and admission of ministers, the preaching of the gospel, the spiritual censures of the Church, deposition of ministers and deprivation of licentiates, composition and constituting of Church Courts, and the exercise of their whole spiritual authority, the making provision for the extension among the people of the means of grace, according to Christ's constitution.<sup>3</sup> Under these circumstances they

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1.) Buchanan, op.cit., vol.II, p.646  
2.) Burleigh, op.cit., p.349  
3.) Buchanan, op.cit., vol.II, p.596

cannot regard the Assembly as legally constituted without abandoning the principles of the Church of Scotland sanctioned by the State. They, therefore, continue to protest that the conditions under which the Assembly shall meet are in opposition to the doctrine of the Church of Scotland, "inconsistent with the freedom essential to the right constitution of a church of Christ, and incompatible with the government which He, as the Head of His church, hath therein appointed, distinct from the civil magistrate."<sup>1</sup> They further protest that the Assembly constituted under these conditions cannot be held as a lawful Assembly of the Church of Scotland. And finally, they protest, "that in these circumstances in which we are placed, it is and shall be lawful for us, and other other commissioners chosen to the Assembly appointed to have been this day holden, as may concur with us, to withdraw to a separate place of meeting, for the purpose of taking steps for ourselves and all who adhere to us - maintaining with us the Confession of Faith and the Standards of the Church of Scotland as hereto understood - for separating, in an orderly way from the Establishment;"<sup>2</sup>.

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1.) Buchanan, op.cit., vol.II, p.597  
2.) ibid., p.650

### Claim of Right and Protest of 1843

When on 18th May, 1843, the Free Church of Scotland came into existence, more than 400 ministers and elders had left the Church of Scotland behind. On 23rd May, 1843, they signed the Act of Separation and Deed of Demission. By signing this act they reasserted their adherence to the Protest and Claim of Right adopted by the General Assembly of 1842. In the Act and Deed of Demission the separation from the Establishment is regarded as in continuance with the Protest and the Claim of Right. They did not, they believed, leave the Church of their forefathers. They only left the place of meeting, as Sir H. Moncreiff expressed it, "protesting that a lawful Assembly could not be held there."<sup>1</sup> They regarded themselves as continuing the Church of Scotland, because they did not resign their spiritual charges and only cut off the connection with the State. "They disconnected themselves from the State. They did not disconnect from the Church."<sup>2</sup> Both documents, the Claim of Right and the Protest of 1843, then became important standards of the Free Church alongside the Westminster Confession of Faith. The emphasized continuity made it quite clear that the Free Church did not abandon the idea of an established Church by leaving the Establishment in 1843. The last paragraph of the Protest deals with this question. Here the Free Church declares that there is a right and a duty of the civil magistrates to maintain and support an establishment of religion in accordance with God's word.<sup>3</sup> The protesting ministers and elders

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1.) Sir H. Moncreiff, A Vindication of the Claim of Right, p.213

2.) *ibid.*

3.) Buchanan, *op.cit.*, vol.II, p.649

reserve to themselves and to their successors to strive for this right, "as opportunity shall, in God's providence, be offered, to secure the performance of the duty agreeable 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,.."<sup>1</sup>

Called to be Moderator of the protesting Church Thomas Chalmers in his first speech explained with great emphasis that the new Church had not changed her mind about the question of an religious establishment by leaving the Church of Scotland. He denied that the new Church now had become a Voluntary body, and declared that they held the principle of the duty of the State to maintain the ministry of the Gospel.<sup>2</sup>

The Claim of Right adopted by the General Assembly of the Church of Scotland in 1842<sup>3</sup> gathered together all the principles and decisions about the original and undeniable independence of the Church of Scotland. The Assembly issued the Claim of Right, because it possessed an authority in spiritual matters and a right to represent Scotland in matters affecting religion according to the Act of Security.<sup>4</sup>

After all the events and decisions of the Courts of Session against the Church during the past years, the framers of the Claim felt

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1.) T.Innes, The Law of Creeds in Scotland, p.171

2.) F.C.1843, p.12

3.) This resolution was regarded as being very important, as it can be seen from from a letter written to Mr.A.Dunlop by R.Buchanan on 5th April, 1842. Buchanan regarded the proposed Claim of Right as -"the stantis vel cadentis ecclesiae of the next Assembly."  
(Walker, op.cit., p.197) Buchanan asked Mr.Dunlop to bring the resolution to a decisive point at the end, that it is "the unequivocal intimation of our purpose to stand or to fall on this ground, -that like Luther at Worms, we are brought to the 'hier steh ich!'  
-that the affirmance of the supereminent jurisdiction of the Civil Courts will reduce the Church to the necessity of saying, and saying at once, to the Legislature, 'Give us back our freedom, or we must of necessity regard your simple refusal to do so as ipso facto breaking up our Establishment.'"(ibid., p.199)

4.) Innes, op.cit., p.125



that it was necessary to issue this Claim and to show those who could prevent this development that they might realise the grievous and discouraging disappointment of the Church.<sup>1</sup> Therefore, the principle was laid down and emphatically expressed that the Church must preserve her liberties as a Church of Christ even at the risk of losing her State connection. In the proper exercise of self-government she had to refuse the intrusion of unacceptable ministers on her congregations.<sup>2</sup> She could not obey the unlawful coercion forced upon her in exercise of her spiritual functions and jurisdiction. The Church would prefer to lose her benefits than to continue her government under circumstances "subject to the coercion attempted by the Court of Session."<sup>3</sup> This included the demand of the Church that she should be able to enjoy her liberties according to the laws as explained and interpreted in the Claim of Right.<sup>4</sup> The Church wanted to protect her people's spiritual liberties and at the same time to be protected against encroachments from outside the Church. In reality this was the claim for recognition of a co-ordinate jurisdiction by the State.<sup>5</sup> The whole Claim of Right was built upon "what its authors considered to be demonstrably the old constitutional principle of Scottish ecclesiastical arrangements."<sup>6</sup> But the possible separation of the Church from the Establishment did not mean that she would abandon the establishment principle. The Church felt grievance about the

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- 1.) Moncreiff, op.cit., p. 204
  - 2.) *ibid.*, p.206
  - 3.) *ibid.*, p.203
  - 4.) *ibid.*, p.205
  - 5.) *ibid.*, pp.205/206
  - 6.) *ibid.*, p.206

situation which existed, because she believed that the principle of establishment was not adhered to by the State. Therefore, she asked her members and office-bearers to pray and work for the restoration of a true Establishment, and she would feel it as her duty, even if separated from the State, to use every reasonable means to be re-established according to the principles and statements set forth in the Claim of Right.<sup>1</sup> The Claim of Right was not made in the name of only a small party of the Church, "but for the thoroughly National Church representing and carrying along with it the great body of the people".<sup>2</sup> After the Disruption the Free Church took over the Claim of Right as her own claim and one of her standards. Now, she "claims a rightful inheritance for herself and for the country."<sup>3</sup>

#### The New Formula

#### The Changes

The second General Assembly of the Free Church held in Glasgow in October 1843, took up the question of altering the Formula and drawing up a Testimony. A committee was appointed for this purpose.<sup>4</sup> The first version of the amended Formula was published together with the proceedings of the Assembly in October 1843.<sup>5</sup> In 1844, Dr Cunningham gave the report of the committee. They asked for the addition of a special question to the Formula expressing that Jesus Christ is the

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1.) Moncreiff, op.cit., p.210

2.) ibid., p.204

3.) ibid., p.226

4.) F.C., October 1843, p.150; for text see Appendix III

5.) ibid., p.214

only King and Head of the Church, and that the Civil Magistrate has no right to interfere with spiritual matters, also for the addition of an explicit avowal of the principles contained in the Claim of Right and Deed of Demission. The report further suggested the substitution of the terms Erastian for Bourignian and congregation for parish. The General Assembly then agreed to the amended Formula and sent it down to the Presbyteries.<sup>1</sup>

In the following year, 1845, Dr Cunningham brought up the question of a special statement about the adherence of the Free Church to the Westminster Confession of Faith. He took up this problem, because there had been some misunderstandings with other Presbyterian Secession Churches concerning the adherence of the Free Church to the Westminster Confession. They required a fuller statement than the Free Church hitherto had given on some points of the Westminster Confession, to which they attached much importance.<sup>2</sup> These points concerned the power, the authority, and the functions of the Civil Magistrate. Dr Cunningham said that the Free Church had been accustomed to maintain the whole Westminster Confession, and as he was confident that being investigated it will be found "that it does not countenance on the part of the civil magistrate an Erastian control over the church which he favours, nor does it countenance the persecution of the church of which he does not approve."<sup>3</sup> There could be no change in the adherence of the Free Church to the Westminster Confession. "We do not and cannot make any change in that adherence; but, at the same time

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1.) F.C.1844, p.208  
2.) F.C.1845, p.26  
3.) *ibid.*, pp. 26/27

some statement might be prepared for the satisfaction of other churches which have not considered the matter so deeply as we have done, or, at least, as we ought have done; showing that we do not hold Erastian principles nor intolerance, -showing in fact, that we countenance Erastianism as little on the one hand as we countenance the principles of persecution on the other."<sup>1</sup> Then he proposed the appointment of a committee to consider this question, "with the view of seeing whether some preamble might not be prefixed to the formula, -not, certainly, to make any changes in the language of the formula itself, -and enable other churches to give, as we are prepared to do, unqualified adherence to the existing Presbyterian standards."<sup>2</sup> In no way did the Free Church wish to give up the idea of an established church. Dr Cunningham expressed this by quoting a statement of Dr M'Crie, "which was to this effect, that he could have no possible objection to an explanation of the true import and meaning of parts of the Confession of Faith, if they provided, first, against construction implying that those parts, when fairly interpreted, implied persecution and Erastianism, and if they provided in the second place, that any explanation would not explain away the great national duty of rulers to maintain and support the true religion."<sup>3</sup> On 3rd June, 1845, Dr Cunningham gave the report on the formula, submitting also a draft of a preamble and the supplementary question to the formula. The committee was re-appointed with instructions to report fully to the next General Assembly.<sup>4</sup>

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1.) F.C.1845, p.27

2.) *ibid.*

3.) *ibid.*, p.28

4.) *ibid.*, p.286



In 1846, the General Assembly approved of the amended formula with the preamble and turned it into an Act of Assembly. In this preamble the General Assembly declared, that, while the Church firmly maintained 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 hitherto contended, she disdained intolerant or persecuting principles, and that she did not regard her Confession of Faith, or any portion thereof, when fairly interpreted, as favouring intolerance or persecution, or consider that her office-bearers, by subscribing to it, professed any principles inconsistent with liberty of conscience and the right of private judgment.<sup>1</sup>

#### The Principles of the Free Church

With the amended formula the Free Church for the first time explained her binding principles. This is shown in the addition of the explicit question to the formula which expresses adherence to the main principles of the Headship of Christ over the Church, of church government distinct from civil government which does not possess any jurisdiction or authoritative control over the Church. Herewith the Free Church condemns the Brastian principle, like the authors of the Westminster Confession, when they introduced the principle of the Headship of Christ in it. The Free Church still regards this as a great truth justifying the struggle she pursues against the civil authorities, "as it is sanctioned by the law of the land as well as the word of God."<sup>2</sup>

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- 1.) Acts of the General Assembly of the Free Church of Scotland, Act XII, p.27
  - 2.) W.Cunningham, Historical Theology, vol.II, p.585

This principle also makes it clear that there cannot be any subordination of the Church under the Civil Magistrate, as both are created as government distinct from each other.<sup>1</sup> From this it follows that the State does not possess jurisdiction or control over the regulation of the affairs of the Church.<sup>2</sup>

Beyond this, the fifth question of the formula asks for adherence to the general principles laid down in the Claim of Right and the Protest "as declaring the views which are sanctioned by the Word of God and the standards of this Church with respect to the spirituality and freedom of the Church of Christ, and her subjection to Him as her only Head, and to His Word as her only standard."<sup>3</sup>

The changes made in the new formula are to the effect that the subscriber in addition to the Westminster Confession of Faith approves of "the general principles respecting the jurisdiction of the Church, and her subjection to Christ as her only Head" as laid down in the Claim of Right. Further, a special stress is laid on the liberty and the exclusive jurisdiction of the Church.

Considering the necessary changes, due to the new situation, the Free Church has made use of the opportunity to think over her attitude towards the Westminster Confession. The result of this reflection can be seen in the new formula with its questions and preamble, where the Free Church declares that her Confession of Faith "when fairly interpreted" does not favour intolerance or persecution. She declines to use such principles to inflict intolerance and persecution upon others. Besides this, she admits that her office-bearers subscribing to the

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1.) Cunningham, op.cit., vol.II, pp.585/586

2.) ibid., p.586

3.) Innes, op.cit., p.454

formula do not profess any principles inconsistent with liberty of conscience and the right of private judgment. Herewith the Free Church gives an explanation to the Westminster Confession<sup>1</sup>, that there are no principles in it contrary to the liberty of conscience and the right of private judgment. "At the same time, the Act is seemingly intended to relieve those who would otherwise have scrupled to sign the Confession, by a declaration of the animus imponentis;"<sup>2</sup>

### The "General Principle"

The introduction of the expression "general principle" in connection with the adherence to the Claim of Right and the Protest probably indicates a far-reaching change in the thinking of the Free Church. Now, she only asks her office-bearers for the acceptance of the general principle regarding the spirituality and freedom of the Church and her subjection to Christ as her only Head. In these points, which are in connection with the the Establishment question, the Free Church has forborne to tie herself down to a certain way of performing these principles.<sup>3</sup> Especially, as it is stated in the preamble, the Free Church continues to maintain the scriptural principles as to the duties of nations in reference to true religion and the Church of Christ. She does not force her office-bearers to adhere to and to contend for a particular performance of these principles. P.C.Simpson points out that the Free Church does not want to bind anyone to more than the general principles.<sup>4</sup> After quoting Dr A.Henderson and Dr Kelman of Leith to show that after the Disruption there has been a tendency in

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1.) Innes, op.cit., p.436

2.) *ibid.*

3.) Simpson, op.cit., vol.I, p.158

4.) *ibid.*

the Free Church to<sup>see</sup> the Establishment principle only in general terms, and that she deliberately excluded this principle as a binding one, Simpson<sup>s</sup> comes to the conclusion that the Free Church "in fact and intention refused to make Establishment one of her binding principles."<sup>1</sup> He believes that the Free Church had come to the distinction between a general principle and the mode of applying it.<sup>2</sup> He refers to Cunningham who, as he thinks, has taught the Free Church this distinction. Therefore, she only asks for subscription to the general principle that the State has the duty to recognize and to profess the Christian religion.

#### William Cunningham

In his Historical Theology Cunningham works out this theory of the difference between a general principle and the mode of applying it.<sup>3</sup> He distinguishes between the general duty which rests upon the nations and their rulers to promote the true religion and to maintain the Church of Christ, and the specific measures which the State make take up in discharging his duty. Cunningham regards the question of the particular measures taken up by the State as of inferior importance. If there is a consent on the general principle as part of the scriptural truth, different ways may be possible in performing the particular measures.<sup>4</sup> But the performance of the general duty laid upon the nations must not lead to any authoritative control or jurisdiction of the State over the distinct sphere of the Church of Christ. The civil

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1.) Simpson, op.cit., vol.I, p.160

2.) ibid.

3.) Cunningham, op.cit., vol.II, pp.561/566 + 585/587

4.) ibid., p.561



government also "must not inflict upon men civil pains and penalties, . . . , merely on account of differences of opinion upon religious subjects."<sup>1</sup> These two principles should hinder the State from taking up any measure to erastianize the Church or to impose persecution or intolerance upon her and her members. Cunningham also shows that the idea of the general principle in the Establishment question has already been taken up by Beza and Grotius. He says that both writers have proved that there is a general principle of the duty of the State to maintain and promote the Church of Christ, although they defend Erastianism.<sup>2</sup> Both illustrate, as he thinks, that a distinction should be made between the general principle for the nations "to aim at the promotion of true religion and the prosperity of the Church of Christ", and the special measures taken up by them in discharging this duty. From this it follows that "it is unwarrantable to burden the general principle with particular application."<sup>3</sup>

On other occasions too, Cunningham spoke in favour of a general principle. After his return from America in 1844, he gave a report of his visit to the General Assembly. There, he said that he had met people who express their abhorrence of any connection between the Church and the State. But he also found " a very general admission of the great scriptural principle for which alone we contended, that, in virtue of the principles embodied in God's Word, the obligation is laid upon nations and rulers to have regard to the moral government of God as supreme and the welfare of Christ's Church. The general admission of the doctrine is all we care about."<sup>4</sup> In the early stage of his visit

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1.) Cunningham, op.cit., vol.II, p.562  
2.) ibid., pp.564/565  
3.) ibid., p.566  
4.) Simpson, op.cit., vol.I, p.161

to America he published a statement in the New York Observer in order to explain the thinking of the Free Church of Scotland about her relation to the State.<sup>1</sup> His statement was accepted as perfectly satisfactory by the Americans. In the statement he denied that the Free Church was debarred from entering into an alliance with the State or accepting aid from it. The Free Church could do so but under the condition that the terms were consistent with the free and full exercise of her rights and liberties as a Church of Christ. The Free Church would deal very carefully with any proposals which the State might offer her. The acceptance or refusal of any possible proposals of the State would have to be considered and judged of in relation to other Christian Churches"- as there is good reason to believe that the maintenance of a strict relation between the Churches of Christ in a community would have a far more important bearing upon the interests of religion and the welfare of Christ's people than anything the civil power could do."<sup>2</sup> Cunningham continued with a statement that the Free Church regarded the question of National Establishments as a purely theoretical one in her present views and circumstances. In this statement it can be seen that the Free Church was aware of the fact that she would <sup>not</sup> become established in the near future.

The distinction between a general principle and the mode of applying it affected the thinking about the relation between the Church and the State in the Free Church during the next 30 years, especially during the Union negotiations with the United Presbyterian Church in the 1860ies. All these additions and changes made in the formula and its

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1.) R.Rainy, Life of William Cunningham DD, p.204

2.) *ibid.*, p.514

questions seem to indicate a change in the thinking of the Free Church about her main principles as contained in the Westminster Confession, the Claim of Right and the Protest of 1843. The amended formula may be regarded as the visible starting point of this development, but probably the Claim of Right, by saying that the Church or a part thereof was ready to leave the Establishment, already gives a hint that there may occur a change in the thinking about this question. But the more important in this direction seems to be the introduction of the expression "general principle" into the formula of the Free Church.

#### The Cardross Case

In 1858 the Free Church was faced with a case in the Court of Session for the first time in her history, when one of her ministers was seeking his right in a secular Court.

<sup>Free Church</sup>  
The minister of Cardross, Mr. Macmillan, appealed to the Court of Session for an interdict, after he had been suspended from the office of the ministry. The General Assembly had found him guilty of several moral offences. Mr. Macmillan asked for the interdict, because he wished to prevent his <sup>congregation</sup> parish from being declared vacant, and because he thought that the General Assembly had acted illegally in taking up his case, which the inferior Church Courts had already judged of, and that the Assembly had exceeded its powers in doing so.<sup>1</sup> When the General Assembly heard of the action taken up by Mr. Macmillan, it deposed him from

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1.) W. Wilson, Memorials of Robert Smith Candlish, DD, p. 512

his office without delay. The General Assembly thought it wrong that one of the ministers of the Free Church of Scotland ~~went~~<sup>should go</sup> to the Civil Court to seek for a decision against the Church.<sup>1</sup> But he did not obtain the interdict. The question was decided in favour of the Free Church, because the Lord Ordinary did not want to review ecclesiastical cases which did not fall within the responsibility of the Civil Court.<sup>2</sup> On 15th February, 1858, the Lord Ordinary further decided that the members of the Free Church, inclusive <sup>of</sup> Mr. Macmillan, were bound by their adherence to the constitution of the Church to submit themselves to the decisions of the General Assembly and were "bound to such final sentences and not to bring them in question before any civil court."<sup>3</sup> Again it was decided that the Civil Court was incompetent to deal with such actions. Then Mr. Macmillan appealed to the Inner ~~Court~~<sup>House</sup>. He raised this action, because he wanted the judgment of the General Assembly deposing him from the office of the ministry to be set aside and he asked for compensation of damages. The Free Church pleaded on two general grounds, that the sentences complained of were spiritual acts "done in the ordinary course of discipline by a Christian Church, tolerated and protected by law."<sup>4</sup> Therefore Mr. Macmillan had no right to sue. Secondly they pleaded that these actions "in so far as they conclude for reduction of the sentences complained of, do not relate to any question of civil right."<sup>5</sup> The Free Church also pleaded on more special grounds that the pursuer by becoming a minister of the Free Church and continuing to be has acknowledged her authority in spiri-

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1.) F.C. 1858, pp.243/244

2.) 22 D 298

3.) *ibid*,

4.) Innes, *op.cit.*, p.257

5.) *ibid*.



tual matters, and having subjected himself to the authority of her courts, he cannot ask for compensation of damages. In its decision the Court rejected the general pleas of the Free Church, altering the judgment of Lord Benholme (the Lord Ordinary) in the former decision, and finding "that a voluntary association of Christians had no legal jurisdiction in the proper legal sense of that term."<sup>1</sup> The Court decided that every Church in Scotland but the Established Church was only a voluntary society for religious purposes, founded "on contract between members and that it therefore has and can have, no proper jurisdiction."<sup>2</sup> Therefore, the pleas of the Free Church on the general grounds of having public privileges as a Church were rejected.<sup>3</sup> But the Court retained those pleas founded on the grounds of private contract. The Court did not accept or take in consideration any theories about the Church deduced from the Scriptures or from the Westminster Confession. It would only accept proofs from statutes or other privileges granted by the State.<sup>4</sup> This decision made it clear that in the eyes of the Civil Courts the non-established Churches were founded on contract and that their authority only derived from this. The Civil Court declared that it only would act in cases of violation of this contract.<sup>5</sup> In consequence of this the Court did not recognise the different Church Courts, because they were not recognised by law.<sup>6</sup> It was denied that the Free Church had any jurisdiction of her own, jurisdiction was only conferred on the Established Church by the law of

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1.) 22 D 290, 23rd December, 1859  
2.) Innes, op.cit., p.256  
3.) ibid., p.258  
4.) ibid.  
5.) ibid., p.263  
6.) ibid., p.285

the land. The Free Church became a voluntary group and lost all her jurisdiction by leaving the Establishment.<sup>1</sup>

After this decision which laid down the principle that the Free Church was a voluntary association and had no proper jurisdiction of her own, A. Macmillan for a second time appealed to the Court of Session, where the first judgment was reaffirmed. Again it was said that the General Assembly had acted illegally in pronouncing sentences of suspension and deposition. The Court could not take cognisance of them, because they were pronounced by a voluntary religious association.<sup>2</sup> Then the case was brought up again and finally decided on 9th July, 1862. The whole action was dismissed on the ground that the General Assembly of the Free Church was not a body which could in its active capacity, or by its office-bearers be convened in an action or subject to damages.<sup>3</sup> Therefore, it was not possible to ask for damages. Another opinion was that it was not possible to maintain a claim of damages "against parties upon whom judicial functions were lawfully conferred by private agreement on account of an act done in the exercise of such functions, without allegation of malice."<sup>4</sup> With this decision the Cardross case came to an end. Mr. Macmillan finally dropped it, because of his lack of financial resources to bring it up in the House of Lords. The Free Church also had not much interest in pursuing the case, because she had to expect that she would not get recognition as a Church. The decision in the Cardross case made it clear that the Free Church was a voluntary association for religious purposes founded on the contract

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1.) Innes, op.cit., p.288  
2.) 23 D 1314  
3.) 24 D 1282  
4.) *ibid.*

between its members. Therefore, the Free Church could not have any jurisdiction in the legal sense, because the judicial power of a Church had not been granted to her by the State. It was recognised that she only could act within her own sphere as long as she remained within the contract. Her members were bound to submit themselves to such decisions. The Civil Courts did not grant the Free Church any special status as a Christian Church vested with special privileges, as she had claimed to be. She was regarded as a voluntary association like any other private group under the protection of the law. The judges were of the opinion that the Free Church had lost all privileges of an Established Church by leaving the Establishment.

#### The Resolution of 1857

After some years of quietness, in 1857 attention was again drawn to the question of the relation between the Church and the State. This followed the publication of a resolution proposing Union between the Free and the United Presbyterian Church. This resolution was signed by a large number of laymen of both Churches.<sup>1</sup> Sir George Sinclair of Ulbster who initiated the resolution had published a number of letters and pamphlets before he undertook this move.

Beginning with the statement that charity, unity, and mutual confidence are inculcated in the Scriptures of the New Testament, it is then said that all followers of the Lord Jesus Christ are called upon to heal the

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1.) The Edinburgh Evening Courant, 2nd May, 1857

divisions which have occurred in the Church of Christ. Therefore, it should be possible to break down the walls between the different Churches, if they are convinced of being of one mind and of one judgment as to the things which accompany salvation.<sup>1</sup> The following resolutions contain the consent of both Churches that they adhere to the same principles of Presbyterian doctrine and Church government, and to the principles of non-intrusion and spiritual independence. They also agree to the duty of all men and especially of those in authority to recognise the paramount supremacy of our Lord Jesus Christ. But they want to make it a matter of forbearance which measures the State should take up pursuing its duty in reference to the interest of the Church, especially the question of endowments. The resolution closes with the agreement of both Churches to the importance of the Lord's day and their duty to keep it.

The publication of the resolutions had a favourable reception from almost all parties.<sup>2</sup> However, there was a watchful reaction from Prof. Gibson of Glasgow, who submitted an overture in the Presbytery of Glasgow to the effect of censure on "those who thus sought to forestall the action of the Church Court."<sup>3</sup> But the General Assembly of 1857 did not involve itself in a discussion of the resolutions, because it thought that it was not the right time for it.

The statements on the question of the relation between Church and State are carefully drawn up. Apart from the agreement of both sides on the question of the recognition of the supremacy of Christ by those in power, they agree that the question of endowments should be made

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1.) The Edinburgh Evening Courant, 2nd May, 1857, resolution III

2.) Rainy, op.cit., p.264; J.R.Fleming, A History of the Church of Scotland 1843 - 1874, p.131

3.) Fleming, op.cit., p.131



a matter of forbearance. This shows again how the Free Church drew a distinction between the general principle that all men in authority have a duty to recognise the supremacy of Christ, but ~~they~~<sup>she</sup> will make it a matter of forbearance, which special measures are to be taken up in performance of this duty.

### The Union Negotiation 1863 - 1873

#### The First Year

The first step in the direction of Union was taken by the Synod of the United Presbyterian Church which accepted several overtures asking for the start of negotiation with other non-est<sup>a</sup>ablished Presbyterian Churches.<sup>1</sup> The Free Church General Assembly took up this matter on 28th May, 1863, reading a letter from the Clerk of the Synod of the United Presbyterian Church intimating the result of the discussion in the Synod, that a Committee had been appointed to discuss the possibility of union with other Churches. The proposal of the United Presbyterians to open negotiations with a view to union was generally received with favour by the Free Church. A lengthy discussion on this subject finally ended with the appointment of a Committee to enter into negotiations. Each speaker in the debate was in favour of the idea of a possible union and hopefully looked forward to the beginning of the negotiations. Dr Buchanan as the first speaker said that both Churches agreed on the main points of doctrine as to the Headship

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1.) 15th May, 1863, the United Presbyterian Church came into existence by the union of the United Associate Synod of the Secession Church in 1847 with the Relief Church.

of Christ etc. But he pointed out one difference between the Free Church and the United Presbyterians. This was the view of the lawfulness of setting up a church establishment and endowing it out of public resources.<sup>1</sup> The United Presbyterians thought that a connection with the State automatically would bring the power of the Sword into the kingdom of Christ, "and use force in support of an institution which can be legitimately upheld, as they think, only by the voluntary offerings of its own members."<sup>2</sup> They excluded the State from the support of the Church. At the same time they asked the State to keep and protect the Lord's day and also tried to encourage it to act according to the commandments of God and Christ. Buchanan made it clear that, for her part, the Free Church regarded a union with the State to be lawful, though "we do not hold indispensable."<sup>3</sup> The Church can exist without a union with the State, but she would only enter into such a union under certain circumstances and conditions. Rev.C.J.Brown, in his speech, also drew attention to the point of difference between the Churches, but denied that the difference in the thinking about the lawfulness of a union with the State was a sufficient ground to keep both Churches apart. Neither the Westminster Confession nor the formula said anything in favour of State endowments, and hold them only to be lawful, but under certain circumstances not expedient. Spiritual freedom is a principle of the Church that does not allow any compromise at all, but he regarded the endowment not as a principle, but only as a certain application of the principle of the Headship of Christ over

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1.) Walker, op.cit., p.409; F.C. 1863, p.185

2.) Walker, op.cit., p.409

3.) *ibid.*, p.410

the nations. He pointed out that the United Presbyterians together with themselves hold "the more general principle" and differed in the application of it.<sup>1</sup> In the earlier parts of his speech Rev.C.Brown gave an analysis and appreciation of Voluntaryism. He admitted the main point of difficulty of the 1830ies had been that the Voluntaries believed the New Testament only allowed the support of the Church by the free-will offerings of her members and that the endowment by the State was a restriction to her freedom.<sup>2</sup> But now, the difference between the Voluntaries and the Anti-Voluntaries had been reduced to the question of the lawfulness of endowments. Therefore, he said, there could no longer be a reasonable ground for the separation of both Churches. The expression "Establishment" was also discussed. Mr.Dunlop., MP, claimed that the "Establishment principle", as it had been understood during the Voluntary controversy, did not describe what the Free Church had contended for in the Ten Years' Conflict. They held that it was lawful for the State to endow the Church under certain circumstances. He denied that this idea had anything to do with the "Establishment principle". In no way would the intention of the Free Church be more misrepresented than by using this slogan now in the same sense in which it had been used during that controversy.<sup>3</sup> Referring then to the question of endowments he declared his readiness to lose them. He would be satisfied to find the United Presbyterians agreeing to the general principle "That the civil magistrate, when he enters upon office, should take with him the Word of God to regulate

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1.) F.C. 1863, p.187

2.) *ibid.*, p.190; C.G.McCrie, *The Church of Scotland*, p.239

3.) Walker, *op.cit.*, p.422

himself as a magistrate as well as an individual.." <sup>1</sup> If this problem could be settled, he regarded any further difference of opinion as of no importance. <sup>2</sup> Referring to the resolution of 1857 he stated that there this principle had been brought out sufficiently for him and others. He was satisfied that the resolution was regarded by the United Presbyterian Synod "as setting forth their principle." He then expressed his satisfaction that both sides were agreed on this substantial question. <sup>3</sup> Sir H.W.Moncreiff supporting and agreeing to Dr Buchanan's motion was sure that they would find their way to a union without surrendering their principles. He believed that the main difficulties might be expected in the settlement of practical questions, and that it probably would take longer to overcome them than the possible differences in vital principles. He explained that there were principles which they believed to be founded on the Word of God in which they could not compromise and other principles in which they could allow "individual liberty", <sup>4</sup>

Amidst the general feeling of satisfaction about the first steps towards a Union a few members of the General Assembly looked less enthusiastically at this issue. The first was Prof.Gibson from Glasgow who proposed an amendment to the motion of Dr Buchanan to the effect that "the Committee have due regard to the maintenance in their integrity of the principles of the authorised Standards of their Church, especially to those distinctive principles for which this Church has been honoured to contend and suffer." <sup>5</sup>

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- 1.) Walker, op.cit., p.422
  - 2.) McCrie, op.cit., p.240
  - 3.) Walker, op.cit., pp.422/423
  - 4.) F.C. 1863, p.221
  - 5.) McCrie, op.cit., pp.236/237



In his speech Dr Forbes <sup>also</sup> warned the Assembly not to make too quick steps in the forthcoming negotiations. The question should be discussed very carefully to prevent further controversy. He would rather see no union than a union which might lead to new disunion. With reference to the difficulties which both sides realised, he asked the United Presbyterians that they must be aware of the fact that the Free Church will hold her principles without surrender. He believed that under these circumstances it would be possible for the Free Church to enter into a union, "but upon the entire and full admission of the great principles which we hold."<sup>1</sup> Dr Forbes emphasised that the union between Church and State was necessary, because he regarded it the only way in which the Church could reach the State by the influence of the Word of God and bring it under constitutional obligation "to carry out these principles which the Church acknowledges and acts upon, and to give the Church full liberty in carrying them out."<sup>2</sup> Therefore, he claimed that the Confession of Faith which he regarded as a bulwark against any controversy must be kept without any reservation. He believed that the Free Church people very well understood "the distinction between the Establishment principle in the proper sense, and not the Endowment principle - the scriptural principle on which the Church and the State should stand towards each other".<sup>3</sup> Finally, he admitted that he also was in favour of union, but this union must not violate the principles held by the Free Church.

Dr Begg, too, agreed with the proposed union and believed that a union would have many advantages, when one looked at the present state of

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1.) F.C. 1863, p.206

2.) *ibid.*, p.207

3.) *ibid.*, p.208

religion in the country with its many divisions in numerous denominations, the growth of the churchless, and the progress of popery. Turning to the question of principles, he saw in the very comprehensiveness of the Free Church principles and their scriptural nature the main cause "of the vast stream of liberality with which it has pleased God to honour and bless our Church after having left the Establishment."<sup>1</sup> The people understood the "more comprehensive view of human duty and of Christian liberality" to include not only the duty of individuals, but also the duty of the magistrates to advance the cause of Christ. And the magistrates are bound, as servants of Christ, to fulfill this duty and never can be freed from it by men.<sup>2</sup> Then he mentioned the 12th chapter of the Testimony of the United Associate Synod of 1827 and claimed that it contained the principles of the Free Church. He expressed his hope that the proposed union would be on a similar ground embracing all parties in both Churches. Admitting that he could not hold the view of the unlawfulness of State endowments, he thought it might be better to give up endowments altogether and to fight rather for the recognition of the State's duty towards the Church of Christ. Dr Begg accepted the idea of a union and favoured it, but he would not allow any of the vital principles to be changed. At this time he did not regard endowments as the essence of the Free Church principles, but simply as the accidents of them.<sup>3</sup> "And for one I am prepared to say that earnestly as I desire union, and as much as I am prepared to sacrifice for it, I would rather be a minister in the smallest Church in Christendom,

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1.) F.C. 1863, p.229

2.) *ibid.*

3.) Walker, *op.cit.*, p.424

holding the full testimony for Christ, than I would be a minister of the largest union that ever was formed or conceived, if there is anything like a sacrifice of principle involved."<sup>1</sup>

At the end of the debate Prof. Gibson withdrew his amendment and the motion of Dr Buchanan to form a committee was agreed to unanimously. Although the debate, which gave the sign for the beginning of the negotiations with the United Presbyterian Church, ended with an unanimous decision, it can be seen that the thinking about the possibility of a union and about the principles of the Free Church had not been as unanimous as the result of the debate might suggest. All speakers in the debate were in favour of a union, but they differed very much in their views of the principles of the Free Church and the United Presbyterian Church. Those cordially supporting the idea of a union more or less continued the line thought shown in the formula and the resolutions of Sir G.Sinclair of 1857. They drew the distinction between the general principle which they thought necessary to hold in full and the special problem of endowment on which they thought they could compromise since the United Presbyterians believed endowment to be unlawful. This group of speakers expressed their feelings that the United Presbyterians agreed with them in the main points and principles as to the Headship of Christ over the Church and the nations, the Presbyterian doctrine and church government, and the duty of the nations to further the Church of Christ. They believed that both Churches now were in different positions than they had taken up during the Voluntary controversy. On the other side stood those members of the Assembly who supported the amendment of Prof.Gibson. They mostly believed that the principles of

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1.) F.C. 1863, p.233

the Free Church were "sacrosanct" and did not allow the slightest change or compromise. They did not accept and follow the line of thought of the difference between a general principle and the mode of applying it. It was clear to Dr Buchanan and the Rev.C.Brown, as those who moved and seconded the motion that they would have to expect some kind of Voluntaryism in the United Presbyterian Church, and their counterparts still would be convinced "that it is not one of the functions of the State to establish and endow the Church."<sup>1</sup> They still would find them in their historical position where they had been before.<sup>2</sup> With the appointment of the Committee the Free Church finally started negotiations with another non-established Presbyterian denomination.

After the encouraging start the negotiations between the two Churches got well under way. At first the Committees drew up a programme with several heads, which they thought would need discussion or definition, ranging from the questions of doctrine, such as the question of the Atonement, to more practical ones such as the system of finance. Right from the beginning the question of the relation between the Church and the State was one which seemed to be difficult. Therefore, during the first year the Committee mainly dealt with this question. The first report of the Committee on Union was submitted to the General Assembly

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1.) Walker, op.cit., p.418

2.) ibid., p.421



of 1864. In it the Committee gave a very careful report on the work which had been done during that year. It was reported that the Committees had discussed the first head of the programme: "The extent to which both Churches agree as to the province of the Civil Magistrate in relation to religion and the Christian Church."<sup>1</sup> The substance of the report was that both Churches had agreed on most points connected with the functions of the Civil Magistrate,<sup>2</sup> but they still differed on the question of the legality of endowments and establishment.<sup>3</sup> The Free Church said that she regarded it as a duty of the State, "when necessary or expedient, to employ the national resources in aid of the Church."<sup>4</sup> But the State must abstain from any interference with the internal government of the Church. The Free Church, in accepting the obligation of Christ laid upon his people to support and extend the Church thought it consistent with this obligation that she might lawfully accept the aid from the State on the condition that her independence must be preserved. But this question always should "be judged of according to times and circumstances, whether such aid ought to be given by the Civil Magistrate, as well as whether or not it ought to be accepted by the Church."<sup>5</sup> Further the Free Church stated that this question must be decided by each party for itself. As a last point she said that every branch of the Christian Church which accepted the aid of the State and submitted itself to the authority of the State must be regarded as unfaithful to Christ. Upon this ground the protest is maintained against the Establishment in Scotland.<sup>6</sup> The United Presbyterian Church in her

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- 1.) F.C., Report on Union, 1864, p.5
  - 2.) Walker, op.cit., p.426
  - 3.) Simpson, op.cit., p.155
  - 4.) F.C., Report on Union, 1864, p.7
  - 5.) *ibid.*, p.8
  - 6.) *ibid.*, p.7

statement once more laid down that the State had no authority either to prescribe any creed or form of worship or to endow a Church out of the national resources. They regarded the fact that the State was excluded from the support of the Church of Christ as a commandment Christ had enjoined upon his people as a safeguard of the independence of the Church. The United Presbyterians still maintained the reason of the separation from the "judicatories of the Established Church", which they held hitherto. Although they adhere to these opinions about the connection between the Church and the State, they do not regard them as a term of communion.<sup>1</sup> They also join the protest against the Established Church in Scotland with their statement in the distinctive articles.

The result of the first year of negotiations was quite satisfactory for both sides. The difficulties in the question of the relation between the Church and the State had been narrowed to one single point, the lawfulness of accepting financial aid from the State or not.<sup>2</sup>

The United Presbyterians still held that the State was excluded by a higher law, and that the Scriptures only allowed the free-will offerings of the Christian people to support the Church. But this Voluntary principle never had been a term of communion in the United Presbyterian Church.<sup>3</sup> The Free Church and the United Presbyterians agreed on all other points relative to the functions of the State. From this result it can be seen that the United Presbyterian Church no longer entertained those views, which had been maintained during the Voluntary controversy, and which had incurred the charge of atheism.<sup>4</sup> Now, like the Free

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1.) F.C., Report on Union, 1864, p.8  
2.) Simpson, op.cit., p.155  
3.) Walker, op.cit., p.426  
4.) Simpson, op.cit., p.158

Church she acknowledged the more general principle of the duty of the State towards the Church of Christ. On the Free Church side itself the result was that they did not expect a change in her position towards the State. Even, if it would happen, this should be treated as a matter of expediency. This shows that both Churches were at the same point implicitly applying the idea of the distinction between the general principle, on which they both agreed, and the mode of applying it, on which they disagreed.

But the result of the first round of negotiations had been reached after long discussions in which most of the misunderstandings and prejudices could be removed. One of the most difficult points had been the question of endowments. From letters of Dr Cairns to Dr King in which the former described the negotiations, it can be seen that among the Free Church men there had been some who were very anxious lest the Free Church might compromise one of her principles, and later these turned out to be hostile to the proposed union.<sup>1</sup>

1864 - 1867

In the General Assembly of the year 1864 the Free Church discussed the report of the Committee on Union. Having given the report Dr Buchanan, the convener of the Free Church Committee, dealt with the the Church and State question. He believed that the State had committed a great sin by refusing the claims of the Church and sanctioning the encroachments of the Civil Courts. Doing this, Buchanan said, the State had rent assunder the Established Church. But the time had not yet come, when a union with the State could be realized. This would not only

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1.) A.R.Macewen, Life and Letters of John Cairns, pp.506/512



need a thoroughly scriptural Church but also a Christian State, "a State at once with the Church in its faith, and representing a community substantially of one mind in its views of ecclesiastical and religious truth."<sup>1</sup> But he now had developed a greater confidence "in the idea of a union because the United Presbyterian Synod has accepted two grand distinctive principles " of the Disruption, "the Headship of Christ over the Church and his Headship over the nations", which they would never change for the sake of a union. These principles embodied the right of the Church to exercise her government in freedom and the duty of the States "to cast their crowns at Christ's feet, and to take His Word as their authoritative guide in all matters of legislation and government on which it bears." On these principles, which were the old Secession Testimony, he believed the union could be reached.<sup>2</sup> Dr Candlish admitted that both sides had entertained wrong ideas about each other. But now they both have discovered that they were of a common mind about most of the questions. The Free Church was glad that the United Presbyterians had accepted the view that the State could act on various points according to the Christian religion. The Free Church herself had discovered "that there was nothing in the Voluntary principle,... that really dissociated the civil magistrate from religion, from grace, or from Christianity."<sup>3</sup> Dr Candlish said that the United Presbyterians were glad that the Free Church admitted that the liberality of her own members was the primary and normal method to support the Church, and not the endowment by the State.<sup>4</sup> Yet once again in the discussion the

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1.) F.C., 1864, p.189  
2.) *ibid.*, p.192  
3.) *ibid.*, p.195  
4.) *ibid.*



fear was displayed that the Free Church might compromise in the question of receiving pecuniary aid from the State for the sake of union. Dr. J. Wood very strongly defended his point of view that the Free Church had to adhere to the principle that it was lawful to accept pecuniary aid from the State under certain conditions and circumstances. He said that the question of the pecuniary aid from the State was included in the duty of the State to further religion. He saw no reason to give up a principle "which may and ought to come in operation, if things were as they ought to be."<sup>1</sup> Comparing the articles of difference between both Churches he suggested that the idea of a union should be given up or changed into co-operation, if both Churches continue to stand on their principles. It would be impossible to enter into a union with a Church holding principles opposite to those of the Free Church.<sup>2</sup>

Dr J. Wood even put forward a motion to change the purpose of the committee to talk about co-operation instead of union, but this he withdrew at the end of the debate.

Dr Begg also discussed the question of the civil magistrate. He admitted that there were points of difference. But at the same time he expressed his hope that they might be overcome, because he believed that they held in common with the United Presbyterians that it was Christ's ordinance that all who received the blessings of the preached gospel were bound to contribute to its support.<sup>3</sup> He regarded this as the normal way. But in addition to this the Free Church believed that it did not exclude every other form of financial support. At the end of the debate the Committee was reappointed to continue the negotia-

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1.) F.C., 1864, p.203

2.) *ibid.*

3.) *ibid.*, p.247

During the following year both Committees dealt mainly with the heads of programme no. 2-5.<sup>1</sup> In the General Assembly of 1865 Dr Buchanan gave in the report of the Committee on Union, and Dr Rainy moved its acceptance and the reappointment of the Committee. Without entering into discussion of details Dr Rainy expressed his view that he saw no difficulties and obstacles which could not be overcome by discussion and consideration.<sup>2</sup> Then, very quickly, the discussion again turned to one of the most difficult points, the relations between Church and State. Dr Forbes was not satisfied with the way in which this question had been dealt with. He said that the Free Church necessarily must come to a clear view of the principles which she held on the question of the relation between Church and State. The Free Church ought to uphold the great principle that the rulers of the nations as well as the Church were under Christ and that they should use all their authority, resources, and influences to further the things which concern salvation and should do everything for the truth. He felt alarmed that the negotiations were supposed to go on without having reached a clear and definite agreement upon this subject. He feared that this, at the end, could lead to objections from the other side blaming the Free Church for misleading them on this point. Therefore, the Free Church should clearly express her principles that the other side might know which principles the Free Church was determined to hold, without compromise. On the other hand, he regarded the opinion that the subject of the

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- 1.) F.C., 1864, Report on Union, p.5: "2. Any other matter of Doctrine about which explanations on either side may seem to be called for. 3. Theological Curriculum, and the Training and Licensing of Students, and arrangements regarding Probationers. 4. Election of Office-bearers, Constitution of the Church Courts, and the relation of these Courts to one another, and Forms of Ecclesiastical Procedure. 5. Law and practice of the two Churches as to Public Worship.
  - 2.) F.C., 1865, p.95



relation between the Church and the State might be left as an "open question" as very perilous. He did not think that an "open question" could be a sentiment of great liberality as many believed. Open questions were dangerous, because they would lead to ignorance and prejudice in all cases of faith.<sup>1</sup> Prof. Gibson, after having heard the United Presbyterians saying that they held the Voluntary principle, declared that it should be the duty of the civil magistrate to "act under the very highest principles of religion towards the State."<sup>2</sup> The only way to ensure that the Courts of the State would not interfere with the government of the Church was for the State to recognise the fact that there was a Church, and that her rights and privileges were determined by the Word of God, and not by the State itself. This was the reason why Prof. Gibson regarded this question as of vast importance and would not be prepared to surrender the position of the Free Church.<sup>3</sup> In addition to this, there had been the feeling of some members of the General Assembly that they did not expect any more from the negotiations, because they believed that the United Presbyterians insisted on holding their Voluntary principles.<sup>4</sup> Therefore, it was thought that a union could only be reached with a compromise in truth and principle which they rejected. In spite of this opposition other members of the Assembly expressed their approval of the work of the Committee and its dealing with the Church and State question. They believed that this question should be made an open one.<sup>5</sup> They thought that the duty of the civil magistrate in relation to endowments of religion was one in which a certain latitude should be allowed. The

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1.) F.C., 1865, pp.100/101  
2.) *ibid.*, p.104  
3.) *ibid.*, pp.104/105  
4.) *ibid.*, p.121  
5.) *ibid.*, p.115

State would only be involved in this question as a third person standing far outside of the Church.<sup>1</sup>

In 1866 the Committee on Union submitted the first final report containing the provisional results of the negotiations about all the heads of the programme. Dr Buchanan in giving the report moved that it should be sent down to the Presbyteries for their information.<sup>2</sup> Then he stated that all the four negotiating Churches<sup>3</sup> had reached an agreement "on all these cardinal questions regarding the province of the civil magistrate in relation to religion and the Christian Church,..."<sup>4</sup> They also have agreed that Christ had laid an obligation on all his people to support and extend the Church by free-will offerings. Only one Church out of four held the opinion that this excluded the aid of the State. He denied that the other three Churches, including the Free Church, contended that the State ought to take the support entirely into its own hands. The point of the Free Church was that it was "Christ's ordinance - by which He calls His people to the duty and privilege of providing that they who preach the Gospel should live by the gospel - includes civil rulers as well as private persons."<sup>5</sup> But this must always be decided according to time and circumstances, whether or not the Church should be given or accept the financial aid of the State. Again some members of the Assembly expressed their opposition to the union, because they thought that all Free Church men were bound at their ordination to maintain the principles and the doctrine

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1.) F.C., 1865, p.115

2.) F.C., 1866, p.176

3.) The Free Church, the United Presbyterian Church, the Reformed Presbyterian Church, and the English Presbyterian Church

4.) F.C., 1866, p.158

5.) *ibid.*, p.159



of the Free Church "that it was the duty of the magistrate to determine for himself what was the true religion, and to apply the public funds for its maintenance."<sup>1</sup> This was set aside by the United Presbyterian Church. Those members of the Assembly opposed the acceptance of the report, because they were anxious lest the Committee should give up principles they had promised to maintain.<sup>2</sup> Again they pointed out that they held in opposition to the United Presbyterians that it was not only lawful but also the duty of "the civil magistracy, where there was need for it, to contribute of its means to the support and extension of the Church of Christ."<sup>3</sup> Some believed that the Committee should be discharged, because they thought that the Free Church Committee had no influence on the other Committees to change their mind in the Church and State question, and they saw no further advantage in the negotiations. In addition to this, Dr Begg said that he thought it a more noble thing for a Church to hold the principle of Establishment, when there was no chance to gain anything by it, rather than to hold this principle when something could be expected. If they would now give up this principle after having abandoned the stipends and manses, he would regard this as a ~~severe~~<sup>serious</sup> mistake at present and for the future. The future glory of the Church would be impaired, if they would make it an open question, which probably multitudes in the United Church would declare unlawful, although it was the Word of God that it should be lawful.<sup>4</sup> Dr Begg said that they should go on with the discussion in order to find a solution for this question.<sup>5</sup> On the other side Mr. Williamson, Kingarth,<sup>6</sup> spoke to the effect

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1.) F.C., 1866, p.181

2.) *ibid.*, p.183

3.) *ibid.*, p.198

4.) *ibid.*, p.213

5.) *ibid.*, p.214

6.) Apparently an Edinburgh elder commissioned for Kingarth

that "the historic Church held three principles referred to in the programme of the Union Committee" : The recognition of the Protestant religion, of the Church as an organisation, and the right of the Church to make legal provision for the ministration of the gospel. Therefore, he regarded endowments "as comparatively subordinate."<sup>1</sup>

In 1867, the General Assembly faced a difficult situation, because of a certain pressure from the other negotiating parties, especially, the United Presbyterians, to decide whether there was a bar to union or not respecting the first head of the programme.<sup>2</sup> Dr Buchanan again gave the report and then drew attention to the point of difference relative to the question of the civil magistrate. He stated that a large amount of agreement had been reached in this question. Referring to the distinction between the general principle and the mode of applying it, which Dr Cunningham had brought out in his "Historical Theology", he quoted; "The first question is this - Does an obligation to promote the welfare of religion and the prosperity of the Church of Christ attach to nations as such, and to the civil rulers as representing them and as regulating their affairs ?" Buchanan stated that all the negotiating Churches were at one in this question; they accepted Cunningham's proposition. In the second question Cunningham asked; "In what way or by what means ought the duty be discharged ?"<sup>3</sup> He gave the answer that there was room for difference of opinion about what might be practicable or expedient to do in this matter. Buchanan tried to prove with the explanation of Cunningham's distinction that it was enough to reach an agreement on the general principle and that there was "room for an open question"<sup>4</sup>, regarding the mode of applying the general principle. The

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1.) F.C., 1866, p.197

2.) Simpson, op.cit., p.167

3.) F.C., 1867, p.251

4.) *ibid.*, p.252



difference between the Free Church and the United Presbyterian Church had been narrowed to this practical point, which he did not regard as hindering union. He asked the Assembly not to exaggerate the difference in the endowment question, when they had reached agreements on other more important points. "Are we not straining at a gnat and swallowing a camel, when we allow a difference on a purely theoretical question, as to what ought to be done by the civil power, to outweigh and overmatch in our estimation the many great, pressing, and practical question about which we are all agreed, and which have so direct a bearing on the present duty of the Churches themselves?"<sup>1</sup> Then Dr Rainy pointed out that holding the lawfulness of civil establishments in religion, "when the Church can be satisfied that they can be set up, to speak it shortly, without doing more harm than good", he regarded this question as a practical one arising out of the confession of the Church.<sup>2</sup> He thought that there was "no reason against our taking up the position alongside of our United Presbyterian brethren."<sup>3</sup> The Free Church should take up her position in this practical question and put herself in the right relation to it to ask then when the question might arise - whether it would be expedient or for the Church's good to enter into a connection with the State, if she would have no common mind about that practical question.<sup>4</sup> Then Mr. Dunlop, MP, admitted that he did not have much difficulty in feeling that there was no bar to a union after he had seen that the United Presbyterians had accepted the doctrine of the headship of Christ over the nations, and that they had the duty to exercise their functions according to law of God. If the duty of the

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1.) F.C., 1867, p.258

2.) *ibid.*, p.267

3.) *ibid.*, p.268

4.) *ibid.*, p.258

nations to advance in the truth was admitted, he saw no difficulty that the matter of setting up an establishment, which would entirely depend on the circumstances, could become a bar to a union.<sup>1</sup> Other speakers also agreed that they did not see any reason which could hinder a union, because the question of endowments was regarded as unimportant<sup>2</sup>, and because they believed that there was no real difference between both Churches.<sup>3</sup> It was also denied that there was any point in the Confession of Faith which bound the Free Church to the Establishment principle. The other side, however, strongly held the point that there existed a considerable difference in the thinking of both Churches relative to the duty of the civil magistrate, the one holding that the civil magistrates simply acted as Christian men, the other that it should act "qua magistrate and officially" in addition to it.<sup>4</sup> They did not accept Dr Rainy's denial of the existence of a party which was looking for a union at any price. Renewing this allegation they pointed out that they would not compromise any principles of God's Word, "especially when we ourselves have solemnly vowed and engaged before God and man to hold and defend them".<sup>5</sup> In the course of his speech Dr Begg tried to be fair in the endowment question. He said he would be ready to give up endowments, but then still a problem would remain unsolved, -"What is the duty of the civil magistrate, as laid down in the Word of God, in regard to the maintenance and the support of the Church of Christ, and what is the duty of our Church, in particular, to maintain upon the subject?"<sup>6</sup> It was impossible

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- 1.) F.C., 1867, p.272
  - 2.) *ibid.*, p.305
  - 3.) *ibid.*, p.343
  - 4.) *ibid.*, p.290
  - 5.) *ibid.*, p.332
  - 6.) *ibid.*, p.276



that the United Church could be formed on a diversity even in one principle<sup>1</sup>, because the Free Church would have to give up her testimony as a Church of Christ, and the terms of the Confession of Faith. Then he tried to prove that the Confession of Faith maintained that "it is a homage to Christ, on the part of the nations, to give of their substance for the advancement of His cause."<sup>2</sup> He stated that the 23rd chapter of the Westminster Confession contained this clause, which was proved by different quotations from the Scriptures. He was sure that they were bound to these prophecies. Then turning again to the point of an open question he said that they were not entitled to make a matter an open question or "to abandon the claims" which they had made on behalf of the Lord Jesus Christ in front of the nations. This would mean that they would abandon their position as witnesses of Christ.<sup>3</sup> He did not believe that the negotiations would bring further advantage, if they wished to maintain the idea of an open question. Also Dr Begg made the allegation that the Committee had not talked about the differences of opinion about the civil magistrate during all the time of the negotiations, they only thought it enough to write them down in the distinctive articles instead of discussing them.<sup>4</sup> Then he moved an amendment to the motion of Dr Rainy, in which he asked for the delay of the judgment of the General Assembly on the Union question until the Committee would have given a final report on all heads of the programme.<sup>5</sup> He justified this step with the fact that the members of the present General Assembly only represented one third of the membership of the Free Church and , therefore, the larger part of the Church members

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1.) F.C., 1867, p.279

2.) *ibid.*

3.) *ibid.*, p.281

4.) *ibid.*

5.) T.Smith, *Memoirs of James Begg*, vol.II, pp.500/501

had not yet been consulted in this question.<sup>1</sup> Finally, he declared that he would resist any attempt to destroy the testimony of the Church, although he regarded himself as a friend of union.<sup>2</sup> Towards the end of the debate Dr Candlish assured those who were opposed to the idea of an open question, that this would not mean that they had to be quiet in the united Church. They would not make it an open question which they later never could discuss. Dr Candlish denied that it could become a term of communion. But he warned <sup>that anyone</sup> ~~everybody~~ who wished to make endowment a term of communion that he would risk another Disruption.<sup>3</sup> Principal Lumsden pointed out that "the lawfulness of the civil magistrate endowing the Christian Church" must be regarded as a subordinate part of the creed of the Free Church, even if it could be extracted from it. Therefore, he thought it not necessary to give it a special place in the creed, and it could not be regarded as a bar to union.<sup>4</sup> At the end of the debate the motion was carried by a large majority that there was no bar to union respecting the first head of the programme. After this Dr Begg handed in a protest against it, which was regarded as a very unusual measure, and then with several others resigned his membership of the Committee.<sup>5</sup>

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- 1.) Smith, op.cit., vol.II, p.501; Dr Begg's motion was the following: "The Assembly, on receiving the Report laid on the table by the Committee on Union with other Churches, approve of the diligence of the Committee, and reappoint it with its former instructions. The Assembly at the same time, considering the immature state of the question, the overtures now on the table, and the fact that, whilst only one-third of the members of this Church are entitled to be present in the Assembly, the people of the Church at large have never been consulted in regard to this matter at all, reserve their judgment on any part of the programme till the Union Committee shall have completed its work by bringing up a report on all the heads of the programme, with definite proposals, and the grounds on which they rest, so that the General Assembly and Church may have the whole subject before them.", *ibid.*, pp.500/501.
  - 2.) F.C., 1867, p.288
  - 3.) *ibid.*, p.363
  - 4.) *ibid.*, p.370
  - 5.) Simpson, op.cit., p.173



### The Rise of the Opposition

The report which was laid on the table of the General Assembly of 1868 stated that the Committee according to the instructions of the last Assembly had dealt with "the worship, discipline, and government of the Church, and with those important practical questions which relate to property and finance."<sup>1</sup> In addition to this, the report again contained all the findings relating to the other heads of the programme, as they had been discussed prior to 1868. In spite of the fact that there was nothing new as to the first head of the programme, the question of the relation between the Church and the State occupied a large part of the debate. Again Dr Buchanan pointed out that they and their United Presbyterian brethren were at one on the general principle "of the responsibility of the nations and their rulers to Christ,.." They simply differed on "a particular application of that principle." Dr Buchanan was sure that the difference between both Churches would "not rise to the rank and dignity of a principle - of an article of faith."<sup>2</sup> Referring to the speech of Dr Buchanan, Dr Candlish drew attention to the difference between the inferences from the inspired Scriptures by which they were bound, and the inferences from the statements of the Confession of Faith by which they were not bound, but only by the statements themselves.<sup>3</sup> From this he concluded that there was nothing in the Confession itself which confirmed the existence of the doctrine of civil establishments of religion. It was all a question of inferences. He also denied that at any time in the history of the Church in Scotland there had been a specific assurance of the "principle of

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1.) F.C., 1868, Report on Union, p.2

2.) F.C., 1868, p.141

3.) *ibid.*, p.195

national establishment of religion as a vital principle."<sup>1</sup>, which the Free Church was bound to maintain. Sir H. Moncreiff after having stated that the question of a disruption and of loss of property had been used as a threat during the past year<sup>2</sup> also took up the Church and State question. He said that under all circumstances they would hold it "to be the duty of the civil magistrate to aim at the defence of the true religion."<sup>3</sup> He denied that this contained the principle of national establishments as Dr Begg believed. Then he continued that they always had contended for the higher principle of national establishments, to which the United Presbyterians also have agreed. But never had the establishment principle been a term of communion in the Church, as some tried to make them believe.<sup>4</sup>

The General Assembly of 1869 received the report of the Committee on Union which now contained all the findings regarding all heads of the programme. To express more clearly the points on which the negotiating Churches were at one and those on which they were divided, the first head of the programme regarding the relation between Church and State had been rearranged. Now there were only two points instead of the former three: 1. "Principles which the negotiating Churches hold in common;" and 2. "Statement as to the application of the preceding principles, and their bearing as the present duty of the negotiating churches."<sup>5</sup> During the debate Principal Fairbairn moved to the effect that the Report of the Committee on Union should lie on the table until the next Assembly. In the meantime the report should be published to give information to the office-bearers and members of the Church. "And further, that

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1.) F.C., 1868, p.195

2.) *ibid.*, p.209

3.) *ibid.*, p.210

4.) *ibid.*, p.211

5.) F.C., 1869, Report on Union, p.2



being deeply alive to the heavy responsibility which must lie upon the Church in connexion with the ultimate disposal of this union question, and to the consequent and urgent need she has of Divine light and guidance, the Assembly exhort all her faithful people to abound in prayer to Almighty God that He may be pleased to bring all the courts and congregations of the Church to see eye to eye, and to be of one mind and of one heart regarding it; and meanwhile, recommend then to cultivate fraternal intercourse, as means and opportunity may offer with the office-bearers, congregations, and members of the Churches concerned in the union negotiations, and with all others who love in sincerity the Lord Jesus Christ."<sup>1</sup> / Then he pointed out the differences which now A. existed among the members of the Free Church. He believed that these differences only existed because the Confession of Faith taught nothing definite on the particular point of the endowment question. From the other side the allegation came that those in favour of union were "unconsciously slipping away from the great principles, and removing our Church from off her old, tried, sure foundations."<sup>2</sup> And Mr. Nixon complained that they tried to familiarise the people of the Free Church with Voluntaryism, and that they were ready to split the Church for it. Referring to the Articles of Agreement, he said that they now, under a process of manipulation, were capable "of bearing two opposite meanings."<sup>3</sup> In connection with this he accused the leaders of the union party of keeping them out of the Committee by disregarding their feelings whenever possible, since the Act of 1867. Mr. Nixon, again, declared that they did not change the substance of their principles. They were standing

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1.) F.C., 1869, p.73

2.) *ibid.*, p.100

3.) *ibid.*

where the great leaders had placed them in 1843.<sup>1</sup>

The General Assembly of 1870 again took up the report on Union which had been lying on the table since the previous year according to the resolution of the Assembly of 1869. In his speech Dr Buchanan reminded the Assembly of the feelings with which they had begun the Union negotiations in 1863. Referring then to the difficulties of the negotiations he once more emphasized that the differences had been brought down to one single point, the question of the civil magistrate. He pointed out that the reservations which they had in this questions of the Westminster Confession, were also made by the other negotiating Churches. They all received the Westminster Confession with certain reservations on that point. And this was not a new thing, as even the 17th century Church of Scotland, which they all regarded as their historical ancestor, received the Westminster Confession with important and explicit reservations in 1647.<sup>2</sup> He continued that the Free Church had also made certain reservations nearly two hundred years later in 1846.<sup>3</sup> Then Dr Buchanan turned to the different unions consummated in the Colonial Churches, which the Free Church had cordially sanctioned. He asked if it could be possible that these same proceedings could now be "denounced as something amounting to an absolute apostasy from our principles, when proposed in bringing about a Union between the corresponding churches at home."<sup>4</sup> In connection with this he tried to remind the Assembly that it would be delusive to restore peace in the Church following the line the Anti-Unionists had suggested. He would not believe it to be right to insist on the doctrine of the lawfulness of civil establishments of religion and to make them

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1.) F.C., 1869, p.100

2.) F.C., 1870, p.153

3.) *ibid.*, p.154

4.) *ibid.*, p.155



a term of communion for the office-bearers of the United Church, which had not been one in their own Church. Dr Buchanan again reasserted that he believed in the lawfulness of a civil establishment of religion under certain circumstances and conditions. But now, he would not attach much value to the civil establishment of religion after the "Ten Years' Conflict" and the Disruption had taught them that State Establishment was inconsistent with spiritual independence.<sup>1</sup> Dr Candlish put forward a motion to the effect that the Union Report should be sent down to the Presbyteries to give them the opportunity to discuss the whole issue. Further, the Presbyteries were asked whether there was any objection to a union between the negotiating Churches on the basis of the Westminster Confession of Faith "as at present accepted by the said Churches"<sup>2</sup> Dr Candlish defended this step saying that they really wanted to know the amount of agreement or disagreement which might exist among the Presbyteries.<sup>3</sup> In the course of his speech he further dealt with the question of abandoning the negotiations which the counter-motion moved by Mr. Moody Stuart asked for. Dr Candlish strongly rejected this idea, because he thought it necessary to have the result of the deliberations of the Presbyteries at hand, before they could decide which step was to be taken next. Mr. Moody Stuart in support of his <sup>counter-</sup>motion spoke against a union at the present time, as he believed that they were surrendering their distinctive principles as the Free Church for the sake of union.<sup>4</sup> He regarded the acceptance of Dr Candlish's motion as "a great step towards a forced union, which is contrary to every holy principle."<sup>5</sup> He threatened the members of the Assembly that the deci-

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1.) F.C., 1870, p.156

2.) Acts of the General Assembly 1870 of the Free Church, pp.137/138

3.) F.C., 1870, p.163

4.) *ibid.*, p.170

5.) *ibid.*, p.179

sion which they were asked to make by the unionist would lead to the excommunication of a number of ministers of the Free Church.<sup>1</sup>

In 1871 the General Assembly again dealt with the union question.

Introducing the Report on Union Dr Buchanan once more emphasized that the only difference was the question of the lawfulness of Church Establishments. On all other points they were at one with the other negotiating Churches. Therefore, he disapproved of the idea of making the establishment of religion the "sine qua non" of a union,<sup>2</sup> which it never had been in the Free Church. He was anxious that the insistence on the "sine qua non" would render the Free Church assunder. He pointed out that none of the unions between the different Colonial Churches had developed such difficulties which now had turned up in Scotland. The Free Church, he said, had never gone further in this question than to acknowledge the lawfulness of church establishment under certain conditions. These were: "First, that it be set up as an act of homage, on the part of the State, to Christ and His truth. Second, that the State leaves it spiritually independent, neither asserting nor exercising any right of control over, or interference with, its internal government, or with the spiritual rights and liberties of its people. And Third, that the faith of the State - that is the faith of the nation - is to such an extent identical with the faith of the Church as to make the Church's establishment a really national act, in harmony with the nation's mind and will."<sup>3</sup> Summing up his speech, Dr Buchanan warned the other side of the risk of a breach in the Church. They were ready to go into the union, "asserting for our brethren, and for ourselves, and for the whole Church, the unquestionable right and freedom, if they or we should

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1.) F.C., 1870, p.179

2.) F.C., 1871, p.91

3.) *ibid.*, p.96



think it our duty at any future time to do so, to endeavour to carry the united church over to the side of Church Establishments."<sup>1</sup> Sir H.Moncreiff moved to the effect that in view of the large amount of agreement reached between the negotiating Churches and the positive answer given by the majority of the Presbyteries, the Committee should be instructed "to direct their attention for the present to those measures which may seem best fitted to bring the negotiating Churches into closer and more friendly relations to one another, to encourage and facilitate their cordial co-operation."<sup>2</sup> The motion also contained two explicit declarations of the main principles of the Free Church. For the Anti-Unionists Mr.Nixon rejected the allegation from the other side that they would like to make the acceptance of the civil establishment a term of communion. He assured them that such an idea never had existed. But he stressed on top of this that " a vital and practically eventful difference" would always exist between them and the Voluntary principle.<sup>3</sup> Then he tried to prove on the one hand that the United Presbyterians were still holding the Voluntary principle on the establishment question, and on the other hand that the Free Church never had changed her adherence to the establishment principle.<sup>4</sup> From the action of the United Presbyterians he found it proved that they would not enter into a union except the basis did not contain a "national recognition of God."<sup>5</sup> Finally, he moved that the negotiations be abandoned. But at the end of the debate Sir.H.Moncreiff's motion was carried by a large majority.

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- 1.) F.C., 1871, p.98
  - 2.) *ibid.*, p.100
  - 3.) *ibid.*, p.107
  - 4.) *ibid.*, p.110
  - 5.) *ibid.*, p.113

In 1872 the General Assembly after having received the Union Report took up the matter of the mutual eligibility of ministers which was contained in a motion of Dr J.Adam.<sup>1</sup> The Assembly again faced the hostility of the Anti-Unionists which among other things expressed itself through a large number of memorials signed by more than 50,000 people.<sup>2</sup> The main point of the debate now was the question of mutual eligibility. The opposition spoke against it, because they believed that mutual eligibility did not mean co-operation but incorporation . They feared that this could lead to a union without a basis at all, and open the Free Church to Voluntaryism.<sup>3</sup> Further it was said that the proposed motion "implied all the compromise of principle which would be involved in an incorporating union and that this proposal must lead to an incorporating union."<sup>4</sup> Also the allegation was again made that the Union party was drifting away from the principles of the Free Church. The proposal of the mutual eligibility had been moved by the Unionists, because they thought it the best measure to get closer connections between the negotiating Churches. At the end of the discussion the motion was carried by a majority of 197.<sup>5</sup>

#### The Final Stage

During the year between the Assemblies of 1872 and 1873 the Anti-Unionists did not lessen their campaign against union and mutual eligibility. Dr Begg went so far in preparing for a possible disruption over the mutual eligibility and union question as to send a

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1.) F.C., 1872, p.135

2.) McCrie, op.cit., p.256; F.C., 1872, p.153

3.) F.C., 1872, p.178

4.) *ibid.*, p.183

5.) *ibid.*, p.196

memorial with questions in regard to the "Constitution of the Free Church of Scotland" to a counsel in order to obtain advice on the legal position. Dr Begg put forth the following questions to the counsel: "I. Has the Free Church of Scotland a Constitution, which will be recognised by the Civil Courts, in the determination of the rights of property thereto belonging ? and what is that Constitution?" II. Is the Establishment Principle - that is, the national recognition and encouragement of religion and the Church of Christ, by the State as such, part of the Constitution ? III. Has the Church power by a majority, however large, to alter its Constitution (in the present instance in the face of a large and protesting minority in the Church Courts)? IV. Does Counsel consider the United Presbyterian Constitution - which makes the Establishment Principle an open question - to be at variance with that of the Free Church ? V. Is the Overture referred to at page 120 of the above memorial inconsistent with the Constitution of the Free Church ? and particularly with the maintenance of the Establishment Principle ? VI. Does Counsel consider that if the said 6th provision of the Act 1850, c.8, is amended, as it is proposed to be (...), it will not only declare that provisions of the said Act are not to apply to United Presbyterian or Reformed Presbyterian Ministers, "in cases of orderly transactions," from charges in either of these Churches to charges in the Free Church, but also enact their eligibility and admissibility and enact and authorise their translations ? VII. If Counsel answer query V. in the affirmative, what are the remedies open to those who object to the said Overture being passed into an Act ?"<sup>1</sup>

The Counsel in ~~its~~<sup>his</sup> opinion gave Dr Begg the assurance that the acceptance

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1.) J.Begg, D.D., Memorial with the Opinions of eminent Counsel, pp.225/  
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of the overture anent mutual eligibility would be a violation of the Constitution of the Free Church, ~~Further, they said~~ that the Establishment Principle was part of the Constitution of the Free Church, and that the Constitution could not be altered by a majority in the Church Courts, however large it might be.<sup>1</sup>

On the other hand the Unionist tried to make every effort to reach an agreement. Finally, very close to the Assembly of 1873, a conference took place in which both sides met together. But there was no satisfactory result at the end.<sup>2</sup> As the threat of a disruption became more and more imminent, the leaders of the union party look~~ed~~ for legal opinion in case that a disruption would take place.<sup>3</sup> According to P.C.Simpson no written record of this meeting existed. Only a note in a private journal survived, in which it is stated "even if the lawfulness of establishment formed part of the Church's constitution, this overture (...) in no way touches that question inasmuch as it says to every U.P. or other minister called to any of our charges - "Here is the Free Church formula, and here are the questions which must be signed and answered by all our ministers who enter upon our charges; and these you must sign."<sup>4</sup> In the question of property it was said that it would be very difficult for the minority to raise any question as to the property of the Free Church.<sup>5</sup>

Under these circumstances the General Assembly of 1873 took up mutual eligibility and the union question. Dr Candlish moved that the Union Committee should not be reappointed in regard to the peace and order

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- 1.) Begg, op.cit., pp.235/254
  - 2.) P.C.Simpson, op.cit., p.191
  - 3.) ibid., pp.192/193
  - 4.) ibid., p.193
  - 5.) ibid.



in the Church, and that mutual eligibility should be approved of and turned into a law of the Church. Further, the motion contained a fresh declaration of adherence to the principles of the spiritual independence and the Headship of Christ over the Church and the nations.<sup>1</sup> Introducing the Report of the Committee on Union Dr Buchanan explained and justified the decision of the Committee to discontinue the negotiations and to discharge the Committee.<sup>2</sup> He also rejected the allegation that the majority which had approved of the union movement had turned away from the decision of the Assembly of 1863.<sup>3</sup> Referring to the threats which had been made he warned the opposition not to regard them as the ultima ratio. He believed that they had to make a step forward and to accept the mutual eligibility in order to save the result of the negotiations which had been reached so far.<sup>4</sup> In support of his motion then Dr Candlish said that they had surrendered to the opposition in the union question and acknowledged their defeat. In the mutual eligibility question the Anti-Unionists expressed a strong opposition and still threatened to split the Church over this issue. Their main point of argument against this proposal was that the documents of the Church sent to the minister for acknowledgement should be received with the assent to the conditions before moderating in the call.<sup>5</sup> Whereas Dr Candlish's motion proposed "that in every case of a person being called who belongs to another branch of the Church of Christ, the Presbytery shall, in sustaining the call, direct their clerk to transmit to him along with the call, a copy of the said Act XII, 1846, ..., as also a copy of this present finding

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- 1.) F.C., 1873, pp.135/136
  - 2.) *ibid.*, p.129
  - 3.) *ibid.*, p.128
  - 4.) *ibid.*, p.132
  - 5.) Simpson, *op.cit.*, p.195

in full,.."<sup>1</sup> The opposition objected to this very strongly, and Dr Begg was determined to disrupt over this. "I have mentioned distinctly to my own people that I saw in this a clear ground for separation as in the old Disruption."<sup>2</sup> To prevent such an event Dr Candlish agreed to compromise and to draft an amendment to his motion to the effect that, if the call was found sufficient and regular by the Presbytery so far as the congregation was concerned, an extract of that finding and the other documents should be sent to the person to be called, "informing him that if no communication is sent beyond a simple acknowledgement of their receipt, the Presbytery will then, upon assumption that no difficulty exists on his part regarding the said laws, proceed in the case according to the laws of the Church."<sup>3</sup> The Anti-Unionists agreed to this amendment and the whole motion was passed without a vote.<sup>4</sup> In this way the peace in the Free Church was saved and a new Disruption avoided.

#### The Discussion outside the General Assembly of the Free Church

#### The Anti - Union Pamphlets

The end of the General Assembly of 1867 made it clear that there existed an opposition which did not favour the idea of a union with the United Presbyterian Church. In the preceding years the opposition had acted mainly within the General Assembly of the Free Church. But

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1.) F.C., 1873, pp.135/136  
2.) *ibid.*, p.178  
3.) *ibid.*, p.170  
4.) *ibid.*, p.186

now they bring their fight against the union into the open. The controversy begins with a pamphlet "Statement, Explanatory, and Defensive of the Position assumed by certain Elders of the Free Church of Scotland" which has been published in 1867. This pamphlet is followed by a large number of pamphlets published by both sides. The Anti-Union side complains in one of them in 1867 that the majority does not allow them as a minority to hold the principles which they have subscribed in 1643, without any changes. They plead that it must be allowed for a minority to hold the avowed principles whenever any changes in the Church are contemplated not foreseen in the formation of it.<sup>1</sup> Further, they are against the proposed union, because the majority is ready to give up what they as a minority believe to be the essential principles of the Free Church. They predict little stability and comfort to such a union. And they reject the idea that any Church may do violence to the consciences of brethren in order to pursue a change within the Church. They minority wants to be respected, as they think, in such an eminent question. They protest against a majority which tries to vote them down and which, as it is alleged, tries to vote away "the Free Church itself, -name, history, and distinctive principles - for the sake of a human sentiment, under the name of divine idea; for external uniformity under the name of Christian union."<sup>2</sup> The minority is decisively convinced that they will not give up their position. They regard themselves as Free Churchmen of 1843 who have not changed and will not change. With emphasis they point out that they desire "to preserve the Free Church in its Disruption integrity."<sup>3</sup>

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- 1.) Pamphlet, 1, p.11
  - 2.) *ibid.*, p.13
  - 3.) *ibid.*, p.26



They refuse to be driven into a position in which they will not be allowed to speak about the duties of the civil magistrate in connection with the Church. Then, the Anti-Union party emphasize the importance of the establishment principle, which the negotiations have shown to be a vital principle within the Free Church. It is said that many of the Free Church people regard it as sacred. And now, this principle to which due regard should have been paid during the negotiations has been buried as a result of them. "It is no longer a spring of life and activity. It is a thing to be hidden."<sup>1</sup> Another reason of objection is that they believe that the establishment principle, as a testimony "which this Church has lifted up before Europe for three centuries"<sup>2</sup>, ~~shall~~ may be set aside as a part of the public testimony of the Free Church. It is also repeated that the Free Church gave up the Establishment, but not the "doctrine of Establishment".<sup>3</sup> Together with the establishment principle they believe that the doctrine of a "national religion" also may be given up.<sup>4</sup> In connection with the upholding of the establishment principle in which they include the idea that the State is bound to distinguish the true and the false Churches, the Anti-Unionists would not accept an "indiscriminate establishment or endowment of all sections of the Church true or false."<sup>5</sup> This is suggested by the majority and explained by them to be included in the Articles of Agreement: the State has the duty not towards one preferred branch of the Church but towards all branches of the visible Church of Christ.<sup>6</sup> The minority holds it that the civil magistrate cannot sanction two different

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- 1.) Pamphlet, 2, p.10
  - 2.) Pamphlet, 8, p.24
  - 3.) Pamphlet, 14, p.147
  - 4.) *ibid.*, p.150
  - 5.) Pamphlet, 23, pp.5/6
  - 6.) Pamphlet, 9, p.8

creeds. He only can sanction one which he believes to be true and founded on the Word of God.<sup>1</sup> They also do not see a strong enough assurance in the Articles of Agreement to maintain this essential point in the establishment principle.<sup>2</sup> They, further, find it stated in the Articles that the civil magistrate is excluded from giving any financial aid to the Church. On the other hand, they cannot see any affirmation there that "the nation ought to acknowledge Christ for its head."<sup>3</sup> They think, if the Church will be separated from the State, so that the State has nothing to do with the Church, that will "heathenise the State."<sup>4</sup> From this it follows that then there cannot exist any national religion or acknowledgement of Christ.<sup>5</sup> Also the Church cannot hold the spiritual independence on the one hand, while giving up the truth of the duty of the civil magistrate on the other. They believe that these two things must be held together, because they are joined by the Word of God.<sup>6</sup> The complaints about the possibility of giving up the establishment principle also include the endowment question. The Anti-Unionists here point out that it would be impossible for them to enter into a union with others who think all religious endowments to be unlawful. They hold it not only to be a practical question but also an important one expressing certain truths and articles of the creed.<sup>7</sup> Along with this, the opposition does not want to make anything an open question and disagrees about this with the majority completely. They accuse the Church of sliding into this method of open questions in order to solve

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- 1.) Pamphlet 2, p.25
  - 2.) *ibid.*, p.27
  - 3.) Pamphlet 10, p.8
  - 4.) Pamphlet 13, p.5
  - 5.) Pamphlet 23, p.7
  - 6.) Pamphlet 12, p.4
  - 7.) Pamphlet 1, p.20



the difficulties which have arisen out of the negotiations.<sup>1</sup> They object to the open questions, because they open up questions which have been closed in the Church for a long time. They argue that the closing or fixing of certain questions in the Church indicates their importance. They are distinctive principles of the Free Church. Therefore, they are against these open questions, because they would mean a new valuation of them or the denial of their importance.<sup>2</sup> They cannot again open questions which they once regarded as fixed and sacred.<sup>3</sup> The suggestion to make the duty of the civil magistrate an open question is regarded as a revolution, "to be justified only by a conviction that can be carried by an overwhelming majority of renegades,.."<sup>4</sup> There also exists the fear among the minority that the open question could bring too much compromise into the Church. The Anti-Union party further charges the majority of misleading them in the amount of open questions, because the majority had adopted the practice of open questions which they first rejected. They believe that it would have been fairer, if they had known right from the beginning of the negotiations that the majority was prepared to use this method.<sup>5</sup> The majority also changed its mind, as they believe, in regard to the extent of open questions, in making not only endowment an open question but also establishment.<sup>6</sup> Finally, it is proposed to be an open question "for everyone who pleases to deny not only endowment, and establishment, but any connection whatever between the magistrate and religion."<sup>7</sup> Also the Articles of Agree-

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- 1.) Pamphlet 1, p.16
  - 2.) Pamphlet 4, pp.19/20
  - 3.) Pamphlet 1, p.26
  - 4.) Pamphlet 11, p.13
  - 5.) Pamphlet 1, p.16; 4, p.19
  - 6.) Pamphlet 10, p.51
  - 7.) Pamphlet 14, p.154



ment are said to be of vagueness, obscurity, and indefiniteness in regard to the relations between Church and State.<sup>1</sup> The minority misses a special acknowledgement of Christ as its Head and a confession of Christ's headship over his Church.<sup>2</sup> One of the vague points of the Articles is that they include all denominations which the minority regards as rivals and enemies of Christ. "And we are now with our own hand to cast into this miry slough the testimony by the true Church of Scotland for her spiritual independence and Christ's sole headship over her, that testimony by which our fathers meant and by which we once did mean that the magistrate as Christ's highest servant, his lieutenant, on earth, as they called him, should recognise the Church purified and Reformed his chosen spouse, should not only abstain from controlling or displacing her, but should respect and honour her, not along with many rivals, but as the true Church of Christ, the Bride, the wife of the Lamb."<sup>3</sup> From this it is argued that the Church would commit a great sin, if she were to allow herself to abandon her position "as called to testify both to the Crown-rights of Christ as King of nations and as King of Zion,..."<sup>4</sup> They are anxious that the possible ambiguity of the words of the Articles of Agreement could open the door to the extremest Voluntaries as well as to a greater or lesser relaxation of important doctrines of the Confession of Faith. In connection with this a vague and relaxing formula is regarded as a most dangerous thing for the Church.<sup>5</sup> The United Presbyterians are alleged to have no doctrine at all in regard to the duty of the civil magistrate. Everyone,

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1.) Pamphlet 2, p.25  
2.) Pamphlet 10, p.8  
3.) *ibid.*, p.9  
4.) Pamphlet 12, p.4  
5.) Pamphlet 14, p.66

it is said, is at liberty to choose any opinion he wants to believe.<sup>1</sup>  
The minority also believes that the United Presbyterians would not give up their principles. Instead they ask the Free Church people: "Become one of us,..., and we will give you and your Church the right hand of fellowship."<sup>2</sup> The minority tries to prove that the proposals made for a union suggest that the Free Church should give up her principles, which they regard as distinctive and peculiar, and take up the position occupied by the United Presbyterians, "that we shall have no other doctrine on the civil magistrate than that which they have; that the standards of the Church shall be so far modified as to allow any or all ministers and office-bearers to hold the same views as the United Presbyterian Church."<sup>3</sup>

#### The Union Pamphlets

The Union party rejects all the allegations made by the Anti-Unionists. They say that there is nothing in the Articles of Agreement which could be regarded as a threat to compromise the distinctive articles of the Free Church. The Articles decidedly express the duty of the civil magistrate to further "the interests of the religion of Christ", on which they and the United Presbyterians are agreed. This general principle, they say, covers the whole doctrine of the Confession in regard to this subject.<sup>4</sup> They again point out that endowments are only an application of the general principle of the duty of the magistrate to the Church. This, they believe, is unmistakably expressed in the Articles of Agreement.<sup>5</sup> "It is said again, that Endowments, if not a principle taught

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1.) Pamphlet 14, p.131  
2.) Pamphlet 4, p.7  
3.) Pamphlet 14, p.131  
4.) Pamphlet 18, p.18  
5.) Pamphlet 3, p.9

by the Confession, are at least an application of the principle which it does teach, that nations and their rulers ought to seek the good of Christ's Church."<sup>1</sup> Then they say that neither endowment nor endowed establishment can be regarded as the distinctive principles for which they became the Free Church. It was the principle of spiritual independence of the Church "as necessarily emanating from Christ's headship over it."<sup>2</sup> In the Disruption, they showed the whole world that spiritual independence was to them the sun and the civil establishment "scarcely so much as the moon."<sup>3</sup> The Unionists deny that the Free Church made endowment and establishment distinctive articles in her testimony. The Disruption principle was that the Church must be free to honour Christ as her only Head and His word as her only standard.<sup>4</sup> They reject the idea of being bound to the time of the Disruption and point out that they must be allowed to look at things in their present circumstances.<sup>5</sup> Reversing the allegations of the Anti-Unionists they say that the minority intends to reverse the policy of the Disruption in regarding establishment as a higher principle than spiritual independence.<sup>6</sup> They reject that they make an attempt of "hurry and hard-driving" in order to reach a union<sup>7</sup>; and that they overstrain the consciences of other brethren.<sup>8</sup> Referring to the formula the Union party says that the formula commits them to the principles of the Claim of Right only in respect to the "spirituality and freedom of the Church of Christ, and her subjection to Him as her only Head, and to His word as her

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1.) Pamphlet 5, pp.26/27

2.) Pamphlet 15, p.12

3.) *ibid.*, p.13

4.) Pamphlet 19, p.10

5.) *ibid.*, p.12

6.) Pamphlet 26, p.6

7.) Pamphlet 5, p.15

8.) *ibid.*, p.48



only standard", and, therefore, to nothing else.<sup>1</sup> In pursuing the union the Free Church will not give up any of her principles, for which she contended in the Disruption, "independence of the Church and the rights of the Christian people."<sup>2</sup> To these principles new strength and security will be given in the contemplated union.<sup>3</sup> "We believe that these truths have a fairer field and better chance as open questions than as part and parcel of a Confession where they often merely irritate."<sup>4</sup>

#### The Public Reaction

##### "The Watchword" and "The Presbyterian"

From 1866 both parties started their own magazines in support of their respective ideas. They took up the titles of their magazines from those published during the "Ten Years' Conflict". The Unionists started "The Presbyterian" and the Anti-Unionists "The Watchword". While "The Presbyterian" was modest in tone, "The Watchword" raged a fierce battle against the proposed union. The appearance of "The Watchword" was greeted by those who were looking for a medium to express their feelings against the union, as one reader stated. "...- Along with many of my brethren, I rejoice greatly that you are now to supply a want of which we have felt for a long time - that of a medium through which we could communicate our views and sentiments and state our doubts and difficulties

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1.) Pamphlet 5, p.23  
2.) Pamphlet 6, p.21  
3.) *ibid.*, p.23  
4.) *ibid.*, p.37

on matters bearing on the welfare of our beloved church. I have no doubts that the important question of the projected union will occupy a large portion of your space."<sup>1</sup> During the following years more letters were published in "The Watchword" which expressed the negative feelings of their writers on the union question. In February, 1869, a letter was published in which a Free Church office-bearer asked, commenting on the small number of the United Presbyterians in his part of the country and the discussion of the union, why they were told by their leaders that they, a very large group compared with the United Presbyterians in Caithness, were wrong and the United Presbyterians right in the question of Voluntaryism? He saw the growth of Voluntaryism within the Free Church as "a judgment sent on us as a church for past neglect of duty and discipline,..". He had no doubts that "Caithness will manfully, yet faithfully resist these revolutionists; and when the time comes, if need be, fearlessly forbid the banns."<sup>2</sup> Several other letters which appeared in "The Watchword" indicated that there existed a certain amount of resistance against the union in the Highlands. It was stated that sometimes office-bearers have been anti-union, while their ministers were unionists.<sup>3</sup> Another Free Church member wrote that a congregation in Stornoway had been "full of gratitude" when a minister, who was not its own, told them "plainly of the state of matters".<sup>4</sup> He also remarked that the union ministers present were "dejected and annoyed" that this preacher had denounced "the present negotiations as the cause of dissension and division, and as a surrendering of the principles of our Church,.."<sup>5</sup> A Free Church Elder

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1.) The Watchword, June, 1866, p.95

2.) op.cit., February, 1869, p.448

3.) op.cit., November, 1869, pp.378/379

4.) ibid.

5.) ibid.

wrote about his experiences as a speaker against union. He found that nobody tried to speak against him and that most of the adherents of the Free Church were with the Anti-Unionists. Then he described a discussion with a minister. "I had a combat with him. He could not stand the Scripture argument; but I found him, like a lobster running back to his hole or den. All his arguments were majority, and such and such for the Union, like the Papist's arguments of a majority, and what the the priest said, . . . , which I met more than once."<sup>1</sup> Most writers expressed that the Highlanders would not enter a union unless the Free Church Principles were secured.<sup>2</sup> They believed that they had the proof from the Scriptures that the Unionists had gone astray.<sup>3</sup> In another letter some other reasons against the union were given one of which was: "Because of the barbarous practice sometime ago introduced in the U.P. Church of sitting at prayer in the public worship of God - a practice alike dishonouring to God, contrary to Scripture, and even to civilization, and affronting to common decency."<sup>4</sup>

The letters published in "The Presbyterian" mainly dealt with the year of peace between the Assemblies of 1869 and 1870. Several readers complained about the Anti-Unionists who used this time to disturb the people in the country.<sup>5</sup> Another reader accused the Anti-Unionists of giving unfair statements about the United Presbyterian principles and of misleading the people about the real amount of agreement and disagreement between the Free and the United Presbyterian Church. "Anti-Unionists invariably ignore every point of harmony between the two

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- 1.) The Watchword, November, 1869, p.331
  - 2.) op.cit., April, 1869, p.37
  - 3.) op.cit., October, 1872, p.332
  - 4.) op.cit., April, 1873, p.42
  - 5.) The Presbyterian, December, 1869, pp.223/224



churches, and constantly harp on points of real or seeming difference, and they certainly never err in making these less than they are."<sup>1</sup>

### The Newspapers

When in 1863 the negotiations between the United Presbyterian and the Free Church began, both sides expressed their sincere wishes for union. The beginning of the Union negotiation also had its effect on the general public outside the General Assembly of the Free Church and the Synod of the United Presbyterian Church. While within both Assemblies the leaders of the Churches spoke much in favour of a union and tried to minimise the differences between both Churches, outside the Assemblies the newspapers took up the subject. Not all reactions and comments of the newspaper commentators were enthusiastic. They tried to look from a distant point of view with the result that they saw more clearly the differences which existed between the Free and the United Presbyterian Church. The Commentator of the Glasgow Herald pointed out that it seemed "strange, not to say unwise, that a Church prospering so well on the strictly Voluntary principle should entertain the idea of union with the Free Church, while that Church continues to cling, in theory at least, to the principle of State endowments."<sup>2</sup> He does not think that the Free Church will adopt the Voluntary principle. Therefore, in the meantime he only sees the prospect of a union of opposition, because he believes that the Voluntaryism of the United Presbyterians cannot be regarded as a "secondary or superficial" principle, which easily could be given up. He reminds his readers of the

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1.) The Presbyterian, May, 1871, p.362

2.) G.H., 18 May 1863

Voluntary Controversy 25 years ago which probably has strengthened this principle and not loosened it within the United Presbyterian Church. The Free Church, however, was seen as "practically identical with the Voluntary Church;" although she adheres to the Establishment principle and accepts State grants for the schools. It seems necessary that one or both Churches will have to give up their principles for the achievement of a union. Without this he cannot see a real union. The commentator closes with the remark "that the matter of union is being pushed too fast and too far - at least without sufficient regard to the sentiment of Christian liberality and brotherhood which must precede and form the basis of every ecclesiastical union that is not to end in disappointment and discord."<sup>1</sup>

The Scotsman<sup>2</sup> takes up a very similar position. In addition it points out that the Free Church claims to be the historic Church of Scotland and as such she has excommunicated the Established Church as Erastian and the United Presbyterians as Schismatics. Therefore, either the Free Church must give up her claim to be the Church of Scotland or the United Presbyterians their independence and must return to a "nationality" cleansed of Erastianism.

After one year of negotiations the newspapers of 1864 have the headline "union is not always strength"<sup>3</sup>. The conduct of the negotiations during the first year is regarded as having been "conducted in so admirable a spirit." This discussion will bring the Churches to the point where they clearly can see the amount of difference between them. If, at the end, the position appears to be too divergent to form a union, the commentator then foresees a better co-operation as a result

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1.) G.H., 18 May 1863  
2.) Sc., 5 Jun 1863  
3.) G.H., 14 May 1863

which is likely to be safer and probably more valuable.<sup>1</sup> Taking up a remark ~~which Dr Harper~~ made in the United Presbyterian Synod, that the United Presbyterians have always found strength in union, the commentator reminds his readers that a union with a bigger Church, like the Free Church, holding different views on a number of questions would certainly be something different from the union with the Relief Church or the Anti-Burghers. It is also said that the leaders of both Churches are far ahead of the feelings of their respective Church members. A letter which appeared in The Scotsman expressed concern about this. the writer complained that in the United Presbyterian Church the union question only had been a matter of ministers and ruling elders, and that many of the lay people of this Church violently opposed to "the idea of joining a body which they consider more bigoted and despotic than their own communion."<sup>2</sup> He thinks it necessary that every congregation should be consulted and vote on the union question. But in any case he feels that there will be a split in the United Presbyterian Church from which the Establishment would gain the most at the end. The existing differences between the two Churches are pointed out again in one of the comments. They are regarded as so severe that it does not appear that a reasonable union could be expected. The commentator has the opinion that one or both Church would have to sacrifice their distinctive principles to form a union, "and it is precisely on this ground that we believe a union under the present circumstances would fail to produce those pleasing results which have been anticipated from it."<sup>3</sup> The Inverness Advertiser takes up this

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1.) G.H., 14 May 1864; 31 May 1864

2.) Sc, 9 May 1864

3.) G.H., 31 May 1864



subject too. There it is regretted that the people are not fully consulted in the union question. Further, it is argued that "the principles of ecclesiastical voluntaryism and the relation of the civil magistrate have not been sufficiently discussed."<sup>1</sup> Therefore, there exists the fear that the Churches will break over the question which they have raised.

During the next two years the feeling of the commentators gets stronger that the union "seems pretty decisively settled in the negative"<sup>2</sup> and that "for twenty years to come there is little chance of an amalgamation of the Churches."<sup>3</sup> The future of the union is regarded as not very bright. The negotiation of union with "old enemies" could lead to disunion.<sup>4</sup> Again they are anxious lest the negotiations may fail, if the Churches force a union. This then may lead to a secession in both Churches. Their principles are too antagonistic, a united Church might only face a history of "internal broils and of ultimate disruption."<sup>5</sup> There also has been little or no change in the attitude of the Church members towards the union negotiation. One reader, a United Presbyterian layman, complains that the negotiations have so far caused no or only little interest among the congregations. The projected union appears to him "very much the creature of clerical agitation."<sup>6</sup> He is not very sure about the end of the negotiations. "I would not be much surprised, or do I think the world would be much the worse, if the Union eggs should

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1.) I.Ad., 31 May 1864

2.) Sc., 28 May 1865

3.) I.Ad., 23 May 1865

4.) Sc., 2 June 1866

5.) G.H., 19 May 1866

6.) G.H., 31 May 1866

turn out addled, after all the cackling with which the process of incubation has been carried on."<sup>1</sup> He observes that the majority of the people is "quite indifferent on the subject, and many decidedly opposed to it."<sup>2</sup> The latter would rather leave their Church and return to the Establishment than to be "disponed, assigned, conveyed, and made over to a union for which they don't care."<sup>3</sup> The feeling against the union was not confined to the lay members of the Churches, but also some of the ministers bring their disapproval to the public attention. On 26 th May, 1866,<sup>4</sup> the Inverness Advertiser published an article written by the Rev.D.Fraser of the Free Church on "Presbyterian Union". Herein Mr.Fraser denies that the Free Church can fulfill her mission and duty to the Scottish nation by forming a union with the Dissenters. The Free Church seems to him quite unprepared for a union throughout the country. Many who are in favour of union, so he argues, are working under the false assumption that the United Presbyterians "are in process of hopeful conversion to our principles." But on the United Presbyterian side there also might exist a false assumption that the Free Church is on her way to become "as thorough Voluntaries as themselves." He regards the Free Church as the most faithful sons of the Church of Scotland principles in their purity, which it is the duty of the Free Church to maintain."This duty does not finish until they have obtained that predominance and acceptance which will make unnecessary her separate existence." Turning to the present state of the union negotiations he has the opinion that the Free Church and the United Presbyterian

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- 1.) G.H., 31 May 1866
  - 2.) *ibid.*
  - 3.) *ibid.*
  - 4.) I.Ad., 26 May 1866

Church will be divided over this issue, if the pushing towards union continues. Then the Established Church would gain a large number of those, who might leave both Churches. He fears that this also will aid the Episcopal Church, "which is stealing away the upper classes and many in the middle class from you, and cannot be checked by any possible arrangement,"<sup>1</sup> This article provoked a letter to the editor<sup>2</sup> complaining that the statements of Mr. Fraser misrepresented the feelings of the people of the North of Scotland, because "many, if not most, of the real intelligent and hearty adherents of the Free Church in this quarter" are not afraid of the "dissent" and do not wish to go back "to the crippling power of State connection," The reader says that union is to be desired ecclesiastically and financially.

The year 1867 brought the major decision on the union question. The United Presbyterian Synod decided by an overwhelming majority "to see no insuperable bar to Union in the 'distinctive articles' of the three Churches."<sup>3</sup> The similar decision of the Free Church General Assembly led to the formation of an opposition within that Church. The commentators mainly deal with this question. But the Glasgow Herald takes up one different point of the discussion in the United Presbyterian Synod, the Organ question, and the way it has been dealt with, to show that it is more likely that small questions can break a strong fellowship when the bonds of fellowship are feeble and insecure, -"when union is being brought about by diplomatic compromises and gingerly clauses of agreement."<sup>4</sup> The other important event in the Free Church General Assembly

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1.) I.Ad., 26 May 1866  
2.) *ibid.*  
3.) G.H., 17 May 1867  
4.) *ibid.*



was the formation of a decided opposition led by Dr Begg and Dr Gibson. Although the newspaper comments express a certain satisfaction with the result of the division on the union question, they at once recognise the probable importance of the minority opposition.<sup>1</sup> But the commentator is not sure whether the opposing minority "have, or that they can succeed, in wholly frustrating the proposal to unite." But at least the effect of this action will be delay.<sup>2</sup> Further, they fear that there is the 'imminent danger of a new Disruption'<sup>3</sup> within the Free Church before any union can take place, and it is noticed that there has been nothing new in the discussion of the establishment principle, "nothing to alter the character of it as a purely theoretical and abstract question."<sup>4</sup>

Again a layman (probably U.P.) complains that the people in the Church have not been "consulted in the matter."<sup>5</sup> Although there have been some public meetings, he has the suspicion that these few meetings "were attended more by the desire to a few celebrities than from any great sympathy."<sup>6</sup> The congregations will have to be asked sooner or later. The ministers then may discover "that the United Presbyterian congregations are against union - at all events they will not submit to have their Christian liberties trampled under foot, simply to please a few men however eminent they may be for their learning and talents."<sup>7</sup> This reader is convinced that there will be disunion instead of union at the end, and that not many of the United Presbyterians will become

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- 1.) N.B.D.M., 3 June 1867
  - 2.) *ibid.*; I.Ad., 7 June 1867
  - 3.) I.Ad., 7 June 1867
  - 4.) N.B.D.M., 3 June 1867
  - 5.) Sc., 20 May 1867
  - 6.) *ibid.*
  - 7.) *ibid.*

united with the Free Church.

From the published letters in 1868 it appears that there still is the conviction among the laity that their voice is not really heard in this matter. It is thought necessary that the laity should at least express its opinion through the elders and other office-bearers<sup>1</sup>, which it is asked for by a United Presbyterian elder who assumes that the majority of the laymen may favour the union. In an answer to this letter<sup>2</sup> it is said that the "U.P.Elder" labours under a misapprehension regarding the situation within the Free Church, because not all her members are in favour of union. He then imputes to the United Presbyterians that they really do not say what they think. He has the impression that their aim is a step forward to the disestablishment of all Churches through a union of the present disestablished Churches, and that they fear a union with the Established Church which " would make the Church of Scotland strong enough to resist all waves of Voluntaryism for many a year to come."<sup>3</sup> Another "Layman" writes in The Scotsman, taking up the same problem of "ignoring the people and the people's wishes on the subject"<sup>4</sup>, because since the beginning of the negotiations there has been no move in this direction. He suspects that the contemplated union seems to be an "association for Ministers" which does not need to show any concern for the mass of the Church people. He is convinced that "this project is neither more nor less than a gigantic marriage de convenance."<sup>5</sup> One commentator finds it "a little surprising" that the Establishment principle is said never to have had more than an "incidental connection with the principles of the Free Church", which, as he thinks, the Free

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1.) G.H., 9 Apr 1868

2.) op.cit., 10 Apr 1868

3.) ibid.

4.) Sc., 21 May 1868

5.) ibid.

Church forced "upon mankind, so long as they were its beneficiaries."<sup>1</sup>

He admits that it may not be really possible to extract the principles from the documents. But at first glance he is inclined to accept the arguments of the Drs Begg and Gibson who "assert that not only establishment but endowment is at least inferentially held forth as part of the duty of the State."<sup>2</sup> The Inverness Advertiser remarks that the majority is prepared to make the establishment principle an open question in the united Church. From the course of the discussion the commentator gets the impression that Dr Begg and his followers have renewed the old Voluntary Controversy, which he regards as a mistake.<sup>3</sup>

During the next years the differences and the fights became more and more noticeable between the majority and the minority within the Free Church. Several times the Glasgow Herald pays attention to this controversy. Both parties, of which the minority claims "to represent the view of the Free Church as she came forth free and unspotted from Voluntary stain from the Church of Scotland", seem to move farther away from each other, and the gap opening between them may become impassable in the end. The leaders of the minority have already recognised this gap to be in existence. They are said to stick immovably to the old principles, while they see others moving towards Voluntaryism.<sup>4</sup> The leaders of the majority are suspected of transforming the establishment principle into something different, so that spiritual independence changes into Voluntaryism and State aid into a "form of spiritual bondage of the most degrading kind."<sup>5</sup> Then there seems to be no difference be-

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1.) Sc., 30 May 1868

2.) *ibid.*

3.) I.Ad., 2 June 1868

4.) G.H., 24 February 1869

5.) *ibid.*



tween the Free and the United Presbyterian Church, if Dr Begg and his inconvenient 'principle' are kept out of the way."<sup>1</sup> The suspicion is renewed in another comment that Dr Buchanan and his party have become Voluntaries, reproducing in slightly altered forms the arguments of the old Voluntaries.<sup>2</sup> They are regarded as practically giving up their faith for which they have contended in former times. On the other side the minority led by Dr Begg is said still to be on the ground which the Free Church occupied before 1863. Although they do not apply for nor would they accept State aid under the present circumstances, they still maintain "what they call their right, and lift up their testimony all the louder the farther the State goes astray."<sup>3</sup> The commentator regards the present controversy in the Free Church as "in substance the old Voluntary Controversy."<sup>4</sup>

The lay people still do not appear to take a great interest in the union question neither in favour nor against it.<sup>5</sup> The commentator expects a greater interest of the laity in the future, because the question of union will directly be put before the congregations. But he is not sure of the result, and supposes that a large part will follow the majority, but also there will be a considerable number of Free Church people who will not follow and probably separate from the Free Church.<sup>6</sup> Nearly the same view is expressed through the Inverness Advertiser in 1869 which does not see any union that is likely to come.<sup>7</sup> The union question will lead to "a serious division in the Free Church", because

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- 1.) G.H., 24 February 1869
  - 2.) op.cit., 12 March 1869
  - 3.) ibid.
  - 4.) ibid.
  - 5.) op.cit., 14 May 1869
  - 6.) ibid.
  - 7.) I.Ad., 8 June 1869

the minority declared that they would firmly stand "as consistent Free Church men", on principles which are suggested to be "open questions" in the united Church.<sup>1</sup> The commentator has the impression that the United Presbyterian Church so far has not made the slightest step away from her principles. He also does not expect much from the sending down of the union report to the Presbyteries. He assumes it likely that there will be no "new light" thrown on the question so far as the minority is concerned. A result could be that the next General Assembly will have to decide either to throw out the minority or to abandon the idea of a union.<sup>2</sup>

In the meantime the minority, the Anti-Unionists, were busy trying to influence the public through public meetings in addition to the large number of pamphlets. One of the public meetings was held at Inverness, 27th April, 1870, and received a diverse reaction from the public. One reader complains that at the <sup>so called</sup> "union meeting" only anti-unionists had been present and nobody had been allowed to speak. Therefore, he thinks, it had achieved nothing. The Drs Begg and Gibson had been misusing a congregation which at that moment had no minister, for party purposes. "Drs. Gibson and Begg appear in fact to be playing the wolf among the shepherdless."<sup>3</sup> Also a United Presbyterian expressed his indignation about the same meeting. He had the impression from reading the speeches that the United Presbyterian Church unfairly had been charged with differing from the Free Church on various points on which both Churches do not differ or on which there is no agreement in the Free Church itself. He also protested against the conduct of the meeting

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1.) I.Ad., 8.June 1869  
2.) *ibid.*  
3.) *op.cit.*, 6 May 1870

"of gratuitously suggesting an evil opinion regarding a sister church for the sake of promoting a party end."<sup>1</sup> Another reader protested against the statement made at a meeting of the Free Presbytery of Inverness regarding the union meeting, from which it could be understood that the people of Inverness and the neighbourhood were against a union."<sup>2</sup> A third reader defended the union meeting against all accusations and praised the speeches that had been given.<sup>3</sup>

Also the other side, the Unionists, held a meeting at Inverness, 14th July, 1870, which provoked a letter written by a reader from Edinburgh accusing the Unionists of misrepresenting the minority by saying that they were hankering "after the flesh pots" of the Establishment. He asked whether it was a disgrace to occupy the same position as Thomas Chalmers did?<sup>4</sup>

Later in the year there were two other meetings on union organised by the Anti-Union party at Inverness on 1st and 15th October, 1870. The newspapers also pay attention to the development of the union question in regard to the United Presbyterian Synod and the General Assembly of the Free Church of that year. Previewing the General Assembly of 1870 it is said that, in spite of the probable majority in the Free Church, there will be "a rather loud minority, who will fight to the bitter end, be that end dissolution or death."<sup>5</sup> But they will not have much success. Nevertheless, they will then continue to proclaim "that they are the only Free and legitimate Church."<sup>6</sup> The commentator closes with

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1.) I.Ad., 6 May 1870  
2.) op.cit., 9 May 1870  
3.) op.cit., 6 May 1870  
4.) op.cit., 22 July 1870  
5.) G.H., 10 May 1870  
6.) ibid.



the remark that only that union is desirable and is to be preferred which is "accomplished with unanimity, and without the necessity or scandal of another split."<sup>1</sup>

Not only in the Free Church, but also in the United Presbyterian Church a minority opposition had emerged, the members of which were characterised as "Voluntaries to the backbone - sturdy and aggressive Voluntaries."<sup>2</sup> The minorities are totally different from each other. The Free Church minority fears that the establishment principle will be abandoned in the united Church, whereas the United Presbyterian minority is anxious "about their true-blue Voluntaryism", and will not like to be forced to give up some of their liberties.<sup>3</sup>

In his comment on the General Assembly of the Free Church, 1870, the commentator admits that the majority of the Free Church still keeps up the principles of the lawfulness of endowments and State recognition. But he observes that they do not use such strong terms as Dr Begg and his followers, but are at least distinct from mild Voluntaryism. He regrets that the leaders of the majority are not any longer the Establishment men of former times. They have become weaker in upholding that banner and would lower it to assist the other Dissenters "in maintaining that of spiritual independence."<sup>4</sup> On the other side Dr Begg and his party are not prepared to give up the position they took up in the Voluntary Controversy some twenty-five years ago. They are even more decided not to allow union with the Voluntaries than at the time of the actual Voluntary Controversy. The decision of the General Assembly in favour of union marks in the end the formal split of the Free Church in

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1.) G.H., 10 May 1870  
2.) op.cit., 14 May 1870  
3.) ibid.  
4.) op.cit., 28 May 1870

the eyes of the commentator, which runs through the Free Church since 1867. Therefore, the only position the Anti-Unionists could take up was that of "determined resistance". But this will be in vain.<sup>1</sup>

In 1871 the newspapers seem to be getting tired of the debates on union which now have continued for eight years. They just repeat the positions and main arguments of both parties, nearly in the same words as in the years before.<sup>2</sup> The North British Daily Mail briefly pays attention to the numbers of the majority, in which they see a clear decision of two thirds of the Free Church for a union of the unendowed Churches.<sup>3</sup> The Scotsman<sup>4</sup> regards as the only new point in the debate, described as "the same wide weary wilderness of pious quibbling - if that be pious through which wretched newspaper reporters have been dragged annually for the last half-dozen years", the fact that the union will not be pursued for the near future. Both parties in the Free Church do not appear to know and understand what the United Presbyterians really mean, whether they have come nearer to "Establishmentarianism", as Buchanan and his party like to believe, or have taken back all concessions they have made, as Dr Begg and his followers believe. Out of this, the commentator says, all the struggle within the Free Church has come. "Perhaps", he supposes, "the United Presbyterians do not themselves know what they mean, perhaps they are trying to mean opposite things, which is a very hard work." He is glad that the union negotiations have stopped for a while - "a deliverance well meriting a Te Deum".<sup>5</sup> In the same newspaper the following comment on the pro-

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1.) G.H., 28 May 1870

2.) N.B.D.M., 26 May 1871

3.) *ibid.*

4.) Sc., 27 May 1871

5.) *ibid.*

ceedings of the debate in the Free Church Assembly has been published: "In fact a Union debate in the Free Church Assembly has come to assume very much the character of a liturgical performance, or of a kind of tragi-comedy, with the same dramatis personae and cast of personators. Regularly as season comes, we have the overture led off by the refinements of Dr. Buchanan; then Sir Henry appears as heavy father; then Mr. Nixon gives the wild prophet from the desert; then Dr. Candlish defies creation at large; then Dr. J. C. Brown sheds elegiac tears, and appears and disappears in a nimbus of hazy circumlocution; the Lord Dalhousie presents his toe to be kissed all round; and finally, Dr. Begg dies in the last ditch - the whole being pervaded at all convenient and inconvenient intervals by pugilistic interludes of the alert and tenacious Gibson."<sup>1</sup>

In 1872 the public appears to take more interest in the union question than in previous years. In connection with the alleged false signatures under Anti-union petitions reactions from the public are published in which the allegations are strongly rejected.<sup>2</sup> But on the other hand it appears to be probable that there have been false signatures as another letter shows.<sup>3</sup> The Glasgow Herald<sup>4</sup>, however, remarks that the union movement still lacks enthusiasm from the public. ~~The~~ <sup>Such</sup> zeal and ~~enthusiasm~~ <sup>enthusiasm</sup> which generally ~~ceased to~~ exist, are only working on the Anti-union side. Although the promoters of the union have their calculable success each year, they appear to the commentator to get tired from the prolonged and persistent opposition they have to encounter. An impulse is thought necessary, unless the whole question dis-

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- 1.) Sc., 27 May 1871
  - 2.) I.Ad., 10 May 1872
  - 3.) N.B.D.M., 13 May 1872
  - 4.) G.H., 9 May 1872



appears. "Some conjuror must find out some magic word to make the rods of the Union party swallow up the rods of Dr. Begg and Dr. Charteris."<sup>1</sup> The feeling of "utter weariness of the whole business" is also realised by the members of the Church. A feeling of "distrust and insecurity" has grown among them.<sup>2</sup> A strong reaction against the union then comes from the Rev.G.Gilfillan of the United Presbyterian Church. He says in a sermon commenting on the not very bright end of the union negotiations that he had been against a union right from 1863, when he said the following words: "The present project does not proceed from any desire for Union in the majority of members, or perhaps ministers, of either Church. It is the doing of a clique composed in part of Free Churchmen, and in part of the U.P.'s - of a clique who wish to aggrandise their church and themselves, and to establish a gigantic orthodox monopoly in Scotland."<sup>3</sup>

The Free Church General Assembly of 1872 discusses the mutual eligibility scheme which was intended to work for closer connections between the Free and the United Presbyterian Church. The voices of the public favour this idea. In addition to it one reader expresses his desire that the office-bearers of all Churches should come together and try "to lay down leading Scriptural principles that would form a basis of Union."<sup>4</sup> Another reader (probably a Church of Scotland minister) agrees to the desire for union of the office-bearers. He points out that all Churches have the same enemies to fight against, "they have Romanism, with the masked battery of Ritualism on the one side, and Infidelity on the other."<sup>5</sup> They also face the same danger, whether

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- 1.) G.H., 9 May 1872
  - 2.) op.cit., 10 May 1872
  - 3.) op.cit., 21 May 1872
  - 4.) op.cit., 23 May 1872
  - 5.) op.cit., 25 May 1872

they are established or not, from the State.

In the comment on the Free Church Assembly of 1872 the Glasgow Herald makes the point that the general public sympathises with all those who want to drop the union question for some time. But the commentator sees no way to achieve this, as both parties are too deeply involved to give up the fight. He thinks that some more years of this fight would break the Free Church into pieces.<sup>1</sup>

In 1873 the General Assembly of the Free Church accepts the Mutual Eligibility Scheme, and finally, abandons the union negotiations, which avoided a new Disruption in the Free Church. The Glasgow Herald tries to find out why these negotiations failed. They failed, because only few ecclesiastical leaders worked for their success. The commentator has pity for the United Presbyterians. They were the first to offer negotiations, but later "were treated as if they were applicants to a superior Communion, and to do them justice they took the treatment kindly."<sup>2</sup> He cannot understand the failure, although, the United Presbyterians had come to an agreement over most of the points of difference between them and the Free Church. On the other hand the commentator has no real sympathy with those who had threatened a new Disruption, which at the end was avoided, "and the excitement of the Highlanders and all the Lowlanders of Edinburgh and Aberdeen and Glasgow and Stranraer proves to be so much whipped cream, and worthless."<sup>3</sup> The commentators express their hope that a union could be reached at some future time, on another wider basis, with all Presbyterian Churches. The basis then should be the principles of the Reformation.<sup>4</sup>

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1.) G.H., 1 June 1872

2.) op.cit., 17 May 1873

3.) op.cit., 29 May 1873

4.) I.Ad., 6 June 1873; G.H., 17 May 1873

## Conclusion

For about 30 years the discussion of the Church and State question occupied the Free Church to a greater or lesser extent. With the Disruption the new existing Church had "de facto" given up any connection with the State, until it would be possible for her to enter again into a connection with the State in which her rights and privileges would be respected and guaranteed.

When the Free Church accepted the new formula in 1846, she did not make the establishment question one of her binding principles and asked only for the acceptance of the general principle that the rulers of the nations were obliged to recognise and to maintain the religion of Christ. With the introduction of the distinction between a general principle and the measures to perform it, the Free Church made a step to disentangle the "Establishment principle", by keeping the duty of the State to recognise the Church as a general principle which does not include any specifications of particular measures how the State should perform his duty. Introducing this idea the Free Church had taken the first step away from the "Establishment principle", as it has been understood in former times. In the following years the distinction enabled the Free Church, or at least some of her members, to propose a union with the United Presbyterian Church on this basis, as the United Presbyterian Church was willing to accept the general principle of the duty of the State. The union negotiations were started in 1863, and an agreement was reached between the Free and the United Presbyterian Church regarding the acceptance of the general principle, while they differed about the special measures the State could take up



in performing its duty. The majority of the Free Church was ready to unite with the United Presbyterian Church by leaving the question of the special measures, under which they regarded the State endowments, as an open question.

During the years of the union negotiations the development of the Church and State question in the Free Church partly turned in another direction. While the majority of the Church leaders had accepted the distinction between the general principle and the mode of applying it, the minority turned back and kept the "Establishment principle" in full. They held as a principle that the State had not only to recognise the Church but also to endow her out of the public funds, under the condition that the liberties of the Church were left untouched. The parties within the Free Church differed in that point regarding the endowments, which the majority thought to be a question of minor or just theoretical importance, while the minority regarded them as a vital principle which could not be given up. Taking up this strong point of view the minority party placed itself again in the position which the Church of Scotland had occupied before the controversy which led to the Disruption, and which the Church of Scotland had held during the Voluntary Controversy of the 1830ies. On the other side the majority and the official Free Church had left this position by accepting the distinction between the general principle and the mode of applying it, which William Cunningham had developed. Probably the first time he had explained this distinction was in a letter which he wrote to the editor of *The Witness*, 12th May 1843. There, he explained that the 23rd chapter of the Westminster Confession contained nothing more than the assertion of this general principle. Nothing there is said about the

means which the State has to employ in performing its duty.<sup>1</sup>

The negative result of the union negotiations gives rise to the question, whether it had been the right time for a union between the Free and the United Presbyterian Church. Looking back on the years between the Disruption and the beginning of the negotiations, it can be seen that in these years several unions were accomplished in Scotland and in the Colonies. Also the Evangelical Alliance had been founded in 1845. Therefore, there might well be the impression that the time also was right for a union in Scotland, after the respective parts of both Churches had formed unions in the colonies, which were approved of by the mother Churches in Scotland. But, in spite of this rather positive outlook, the situation was different in Scotland from that in the colonies. First, there still existed an Establishment in Scotland, which both uniting Churches opposed, but on different grounds. Further, the Free Church still held the connection with the State to be possible under certain circumstances. Also a part of the Free Church upheld a strong point of view on the establishment principle which they were not likely to yield, whereas in the United Presbyterian Church a small party existed utterly rejecting any connection between the Church and the State whatsoever. Another factor, which later led to the negative result of the union negotiations, was the gap which still existed as a result of the Voluntary Controversy of the 1830ies between the Voluntaries and the Established Church. A number of leading men on both sides had taken part in that controversy, and some of them were not able to forget their past differences and battles. During the negotiations the

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1.) W.Cunningham in: Three Letters of Dr Cunningham and Dr Bryce on the Circa Sacra Power of the Civil Magistrate, letter 3, pp.3/4



old arguments were used by some on both sides, which led to the threat of a new Disruption in the Free Church and to the end of the union negotiations. Therefore, it appears that the time had not yet come for a union between both Churches, because the old controversies had not yet been overcome.

On the other hand, the lack of public interest and enthusiasm seems to indicate the same feeling. In spite of the large number of pamphlets which had been issued on both sides of the Free Church and the large amount of time which had been consumed in the General Assemblies during that period with the discussion of the union question, the reaction of the general public was very small, so far as it can be seen from published letters in the newspapers. The newspapers, however, took a lively interest in the whole union question, right from the beginning of the negotiations. They seem to have seen more clearly the differences which existed between the two major partners in the negotiations, and therefore, to have anticipated the possible negative result of the negotiations. Nevertheless, in general they took up a quite friendly attitude towards a union. But they were not able to increase the interest of the general public.

Summing up it can be said that the union negotiations finally made it clear that the Free Church had taken up a new position in the Church and State question, when they introduced the general principle into the formula and accepted the distinction between a general principle and the mode of applying it in the relations between the Church and the State. Probably they had seen during the years after the Disruption that there was no way back to an Establishment of the old type, and that they now had to look for something different.



Although the introduction of the distinction between a general principle and the mode of applying it failed to bring about a union between the Free and the United Presbyterian Church in 1873, it did not mean that this idea had no future. In the following decades it seemed to be the presupposition of the union negotiations between the Free and the United Presbyterian Church leading to a union in 1900, and later of the union between the United Free Church and the Church of Scotland in 1929. The Act of Union of 1900 does not contain this idea in express terms, but it can be seen that both Churches had implied the idea when making their Declaratory Acts in 1879 and 1892. These and the idea of a general principle made it easier to discuss and form the union of 1900.

The distinction between a general principle and the mode of applying it later influenced the union negotiations between the United Free Church and the Church of Scotland. Here once more there was a problem about the relations of Church and State, and it was not until the production of the Memorandum drawn up by the Procurator of the Church of Scotland, C.N. Johnston, in 1911, that the discussion began to move forward.

The Memorandum showed the way to be followed in the future negotiations, by suggesting how the main obstacles could be removed. Johnston suggested that a statement of the principles (which finally became the Articles Declaratory of the Constitution of the Church of Scotland in Matters Spiritual, passed by Parliament, 1921, enacted by General Assembly, 1926) be drawn up by the Church of Scotland with the agreement of the United Free Church. These Articles provide a statement in general terms of the relation between a Church accepting national territorial responsibility and the State. The specific arrangements about the endowment of the

Church of Scotland (which at this point were forming a serious problem in the negotiations) were taken as a separate issue and finally dealt with by a separate Act of Parliament after which the union between the United Free Church and the Church of Scotland took place in 1929. Therefore it can be seen that the idea of the distinction between a general principle and the mode of applying it, which had been worked out by W.Cunningham though it failed to bring about a union between the Free and the United Presbyterian Church in 1873, had not been finally unrealistic or unworkable. It continued to influence the thinking of the negotiating parties in the following decades leading finally to a united Church of Scotland.

## Appendix I

### Biographical Notes<sup>1</sup>

Adam, John, D.D. (1818 - 1890)

Born at Kilsyth, ordained to the West Church Alloa, 1843, translated to the South Church Aberdeen, 1849, and to Wellpark, Glasgow, 1867.

Begg, James, D.D., (1808 - 1883)

Born at Monkland, studied at Glasgow University, ordained at Maxwelltown, Dumfries, 1830; 1832 inducted to the Middle Parish Church, Paisley; translated to Liberton parish, 1835. Soon after the Disruption Dr. Begg and a number of his people removed to Edinburgh, securing a site in Newington. In 1865 he was Moderator of the General Assembly. Dr. Begg was a prominent figure on the evangelical side in the contendings for the Church's freedom from civil interference, which issued in separation from the State. In the Union controversy, in which the Free Church was engaged from 1863 - 1873, Dr. Begg was the leader of the Anti-Union party.

Brown, Charles John, D.D. (1806 - 1884)

Born at Aberdeen, ordained at Anderston Church, Glasgow, 1831, translated to Edinburgh, New North, 1837. Dr. Brown was Moderator of the Free General Assembly in 1872. In the "Ten Years' Conflict" he took an active part.

Candlish, Robert Smith, D.D. (1806 - 1873)

Born in Edinburgh, studied at the University of Glasgow, ordained in St. George's, Edinburgh, 1834. In 1847, after the death of Dr. Chalmers, Dr. Candlish was appointed Professor of Theology in the New College, Edinburgh, of which he was appointed Principal in 1862.

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1.) These notes are taken from W. Ewing "Annals of the Free Church of Scotland 1843 - 1900" and from the Dictionary of National Biography.



Chalmers, Thomas, D.D., LL.D. (1780 - 1846)

Born at Anstruther, Fife, studied at the University of St. Andrews, ordained at Kilmany, Fife, 1803; translated to the Tron Church, Glasgow, in 1815, and to the newly erected parish of St. John's, Glasgow, in 1819. Appointed Professor for Moral Philosophy in St. Andrews in 1823; and in 1828 Professor of Systematic Theology in Edinburgh University. Elected Moderator of the Church of Scotland General Assembly in 1832. From that date the place assigned him in the controversy that issued the separation of his Church from the State was that of leader. He was the first Moderator of the Free Church General Assembly and the first Principal of New College, Edinburgh. The foremost preacher of his day, he was also distinguished in mathematical science, natural philosophy, and chemistry. While working as a city minister he projected plans for grappling with the ignorance, the vice and pauperism of a crowded population.

Cunningham, William, D.D. (1805 - 1862)

Born at Hamilton, studied at Edinburgh University and Theological Hall, ordained at Greenock, 1830, translated to Trinity College Church, Edinburgh, 1834. He was one of the leaders during the "Ten Years' Conflict" that culminated in the Disruption. Appointed Professor in the New College, in 1844, in 1845 he was placed in the Chair of Church History, and became Principal in 1847 after the death of Dr. Chalmers. In 1859 he was Moderator of the General Assembly of the Free Church.

Dunlop, Alexander (1798 - 1870)

Church lawyer and Politician. The sympathies of Dunlop were very warmly enlisted in the operation of the Church, and he took an active part in all ecclesiastical reforms and benevolent undertakings of the period. But in a pre-eminent degree his interests was excited by the questions relating to the law of patronage, and the collision which arose out of them between the Church and the civil courts. Relying on history and statute Dunlop very earnestly supported what was called the "non-intrusion" party, led by Chalmers and others, believing it constitutionally to be in the right, and when the Church became involved in litigation he devoted himself with rare disinterestedness to her defence. From 1845-68 he represented Greenock in Parliament.

Fairbairn, Patrick, D.D. (1805 - 1874)

Born at Green law, Berwickshire, and studied at Edinburgh University, ordained at North Ronaldshay (Orkney) in 1830, translated, in 1837, to the new Extension Church of Bridgeton, Glasgow, and in 1840 to the parish of Salton, Eastlothian. In the autumn of 1852 Dr. Fairbairn was appointed assistant to Dr. Maclagan, Professor of Divinity in the Free Church College, Aberdeen, and in the following year became his successor. In 1856 he was transferred to Glasgow as Professor of Theology, became Principal in 1857. He was Moderator of the <sup>Free</sup> General Assembly in 1864.

Forbes, John, D.D., (1800-- 1874)

Born at Moulin, studied at the University of St. Andrews, ordained at Newington 1826; translated, 1828, to the Outer High Church, Glasgow. In the first Union negotiations Dr. Forbes identified himself with the Anti-Union party.

Gibson, James, D.D., (1799 - 1871)

Born at Crieff, studied at the University and Theological Hall, Glasgow, was ordained in 1839 first minister of Kingston quoad sacra church, Glasgow. In 1856 Dr. Gibson was appointed Professor of Systematic and Church History in the Free Church College, Glasgow.

Haldane, James Alexander (1768 - 1851)

Born at Dundee, entered Edinburgh University in 1781. In 1785 he became a midshipman on board the Duke of Montrose, Eastindiaman. Abandoned the sea in 1794 and settled in Edinburgh. He began in 1797 to make extensive evangelistic tours over Scotland. Established in the end of 1797 the Society for Propagating the Gospel at Home and founded in January 1799 the first congregational church in Scotland. In 1801 his brother built him a tabernacle where he officiated until his death.

Haldane, Robert (1764 - 1842)

Born in London, spent a very short time at Edinburgh University; in 1780 he joined the navy until 1783. In 1796 he formed a project for founding a mission in India which failed; joined his brother in 1799. Later he was involved in the Apocrypha controversy.



Inglis, John, D.D. (1763 - 1834)

Born at Forteviot, Perthshire, graduated at Edinburgh University 1783, ordained at Tibermore 1786, was presented to the Old Greyfriars' Church and as proximate successor to Principal Robertson.

Lumsden, James, D.D. (1810 - 1875)

Born at Dysart, studied at St. Andrews and at Edinburgh University and Theological Hall, was ordained at Inverbrothock quoad sacra, Arbroath, in 1836. Dr. Lumsden was appointed Professor of Systematic Theology in Aberdeen Free Church College in 1856; and became its first Principal.

McLaren, Duncan (1800 - 1886)

Born at Renton, Dumbartonshire, was apprenticed to a draper at Dunbar. In 1824 he commenced his own business as draper in Edinburgh. In 1833 he became a member of the Town Council and was successively baillie, treasurer, and provost. At the General election in 1865 he took his seat for Edinburgh which he held until of 1881. He took part in passing the act for the commutation of the annuity tax, a local church rate peculiar to Edinburgh and Montrose.

Macmillan, John (1799 - )

ordained 1826, and was settled at Ballachulish, signed Act of Separation and Deed of Demission, translated to Cardross 1844. In 1858 Mr. Macmillan was suspended under libel, and carried his case to the Court of Session. For his appeal to the Civil Court he was forthwith deposed by the General Assembly. He raised an action for the reduction of this sentence. The case - the celebrated "Cardross case" - dragged on till 1862, when it was finally decided in favour of the Free Church. Mr. Macmillan subsequently resided in Glasgow, and obtained employment in the book trade.

Moncreiff, Sir Henry Wellwood, Bart., D.D. (1809 - 1882)

Born in Edinburgh, studied at the University of Edinburgh and New College Oxford, ordained at Baldernock, 1836, translated to East Kilbride, 1837. At the Disruption he adhered to the Free Church; translated, 1852, to St. Cuthbert's Free Church, Edinburgh, thus becoming a successor to his grandfather, Sir Henry Moncreiff, of St. Cuthbert's



Parish. In 1851 he succeeded to the Baronety. In 1855 he became one of the principal clerks of the <sup>Free</sup> General Assembly, of which he was Moderator in 1869. He was a warm advocate of the union of the United Presbyterian and Free Churches.

Nixon, William, D.D. (1803 - 1900)

Born at Camlachie, Glasgow, studied at the University, Glasgow, ordained in 1831 as minister of Hexham, Northumberland, translated 1833, to St. John's Montrose. He was Moderator of the <sup>Free</sup> General Assembly in 1868.

Rainy, Robert, D.D. (1810 - 1906)

Born at Glasgow, studied at the University of Glasgow and New College, Edinburgh, ordained at Huntly in 1851, and was translated to Free High Church, Edinburgh, in 1854. Appointed Professor of Church History in the New College in 1862. In 1874 he was elected Principal. He was Moderator of the <sup>Free</sup> General Assembly of 1887.

Sinclair, Sir George, of Ulbster (1790 - 1868)

Born in Edinburgh, entered Harrow at the age of ten. In 1811 he succeeded his father in the whig interest as M.P. for the county of Caithness, which he represented at intervals for many years. Sinclair was a faithful supporter of the anti-patronage society with reference to the Church of Scotland, afterwards joined the Free Church.

Wood, James Julius, D.D. (1800 - 1877)

Born at Jedburgh, studied at the University Glasgow, ordained at Newton-on-Ayr, 1827, translated, 1838, to Stirling and 1839, to New Greyfriars', Edinburgh. In 1848 he was settled at Dumfries, <sup>Free</sup> St. George's. In 1857 Dr. Wood was Moderator of the <sup>Free</sup> General Assembly.

## Appendix II

### The Voting Lists

Looking at the voting lists of the General Assemblies between 1863 and 1872 it can be seen that a minority began to build up from 1867. In some parts of the country it increased rapidly in the first year, 1868, before it reached its maximum in 1872/73. This happened in more or less all Synods. The largest increase in the number of opponents occurred in the Synods of Gleneig, Sutherland, Caithness and Ross, where they gained the majority in 1872/73. The members of the General Assembly for the Synod of Gleneig voted with a majority against the union. In all other Synods the majority voted for the Union, sometimes even without any vote against it. It also can be seen that the Anti-Union feeling was very strong only in the North and the Northwest of Scotland, whereas a strong pro union feeling existed in all other Synods reaching the maximum in the South of the country. The analysis also shows that, although the Anti-Union movement had been strong in the North, it reaches the majority only in the last years of the campaign, in 1871/72.<sup>1</sup>

The analysis of the voting of the ministers according to the year of their ordination shows that there is a fairly stable proportion of ministers ordained before 1843 and after the Disruption who voted against the Union from 1867 onwards. It also shows that the Anti-Union movement was not a campaign of the pre-Disruption ministers, as one could suspect, because a considerable number of the younger ministers also was against the union.<sup>2</sup>

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1.) See table no. 4-5

2.) See table no. 6

### Appendix III

#### The Burgess Oath

"I protest, before God and your Lordships, that I profess and allow with my heart the true religion presently professed within this realm, and authorised by the laws thereof. I shall abide thereat, and defend the same to my life's end, renouncing the Roman religion called Papistry."<sup>1</sup>

#### The Acts of the General Assembly 1711

May 22, 1711. - Act concerning Probationers, and settling Ministers, with Questions to be proposed to and Engagements to be taken of them.

...

#### Questions to be put to Ministers at their Ordination

1mo, Do you believe the Scriptures of the Old and New Testament to be the Word of God, and the only rule of faith and manners ?

2do, Do you sincerely own and believe the whole doctrine contained in the Confession of Faith, approved by the General Assemblies of this Church, and ratified by law, in the year 1690, to be founded upon the Word of God; and do you acknowledge the same as the confession of your faith; and will you firmly and constantly adhere thereto, and, to the utmost of your power, assert, maintain, and defend the same, and the purity of worship, as presently practised in this National Church, and asserted in the 15th Act of the General Assembly, 1707, entitled, "Act against Innovations in the Worship of God ?"

3tio, Do you disown all Popish, Arian, Socinian, Arminian, Bourignon, and other doctrines, tenets, and opinions whatsoever, contrary to and inconsistent with the foresaid Confession of Faith ?

4to, Are you persuaded that the Presbyterian government and discipline of this Church are founded upon the Word of God, and agreeable thereto, and do promise to submit to the said government and discipline, and to concur with the same, and never to endeavour, directly or indirectly,

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1.) W. Mackelvie, D.D., Annals and Statistics, of the United Presbyterian Church, Edinburgh 1873, p.18



the prejudice or the subversion thereof, but to the utmost of your power, in your station, to maintain, support, and defend the said discipline and Presbyterian government, by Kirk-sessions, Presbyteries, Provincial Synods, and General Assemblies, during all the days of your life ?

5to, Do you promise to submit yourself willingly, and humbly, in the spirit of meekness, unto the admonitions of the brethren of this Presbytery, and to be subjected to them, and all other Presbyteries and superior judicatories of this Church, where God, in His Providence, shall cast your lot; and that, according to your power, you shall maintain the unity and peace of this Church against error and schism, notwithstanding of whatsoever trouble or persecution may arise; and that you shall follow no divisive courses from the present established doctrine, worship, discipline, and government of this Church ?

6to, Are not zeal for the honour of God, love to Jesus Christ, and desire of saving souls, your great motives and chief inducements to enter into the function of the holy ministry, and not worldly designs and interest ?

7mo, Have you used any undue methods, either by yourself or others, in procuring this call ?

8vo, Do you engage, in the strength and grace of Jesus Christ our Lord and Master, to rule well your own family, to live a holy and circumspect life. and faithfully, diligently, and cheerfully, to discharge all the parts of the ministerial work, to the edification of the body of Christ ?

9no, Do you accept of and close with the call to be pastor of the parish, and promise, through grace, to perform all the duties of a faithful minister of the Gospel among this people ?

Formula, to be subscribed by all such as shall pass trials, in order to be licensed, and that shall be ordained ministers, or admitted to parishes.

I do hereby declare, that I do sincerely own and believe the whole doctrine contained in the Confession of Faith, approved by the General Assemblies of this National Church, and ratified by law in the year 1690, and frequently confirmed by divers Acts of Parliament since

that time, to be the truths of God; and I do own the same as the confession of my faith; As likewise, I do own the purity of worship presently authorised and practised in this Church, and also the Presbyterian government and discipline now so happily established therein; which doctrine, worship, and Church government, I am persuaded are founded on the Word of God, and agreeable thereto: And I promise, that, through the grace of God, I shall firmly and constantly adhere to the same, and to the utmost of my power, shall, in my station, assert, maintain, and defend the said doctrine, worship, discipline, and government of this Church, by Kirk-sessions, Presbyteries, Provincial Synods, and General Assemblies; and that I shall in my practice conform myself to the said worship, and submit to the said discipline and government, and never endeavour, directly nor indirectly, the prejudice or subversion of the same; and I promise, that I shall follow no diversive course from the present establishment in this Church; renouncing all doctrines, tenets, and opinions whatsoever, contrary to, or inconsistent with, the said doctrine, discipline, or government of this Church.<sup>1</sup>

Acts of the General Assembly of the Free Church of Scotland, 1846

Act XII. Act anent Questions and Formula

...

Questions to be put to Probationers before Ordination (and also to a Minister already ordained, at his admission to a Pastoral Charge)

1. Do you believe the Scriptures of the Old and New Testaments to be the Word of God, and the only rule of faith and manners ?
2. Do you sincerely own and believe the whole doctrine contained in the Confession of Faith, approved by former General Assemblies of this Church, to be founded upon the Word of God; and do you acknowledge the same as the confession of your faith; and will you firmly and constantly adhere thereto, and to the utmost of your power assert, maintain, and defend the same, and the purity of worship as presently practised in this Church ?
3. Do you disown all Popish, Arian, Socinian, Arminian, Brastian, and

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1.) Acts of the General Assembly of the Church of Scotland 1711, X, in: Acts of the General Assembly of the Church of Scotland, reprinted from the Original Edition, Edinburgh, 1843, pp. 453-456



other doctrines, tenets, and opinions whatsoever, contrary to, and inconsistent with, the foresaid Confession of Faith ?

4. Are you persuaded that the Presbyterian government and discipline of this Church are founded upon the Word of God, and agreeable thereto; and do you promise to submit to the said government and discipline, and to concur with the same, and not to endeavour, directly or indirectly, the prejudice or subversion thereof, but to the utmost of your power, in your station, to maintain, support, and defend the said discipline and Presbyterian government by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies ?

5. Do you believe that the Lord Jesus Christ, as King and Head of the Church, has therein appointed a government in the hands of Church-officers, distinct from, and not subordinate in its own province to, civil government, and that the Civil Magistrate does not possess jurisdiction or authoritative control over the regulation of the affairs of Christ's Church; and do you approve of the general principles embodied in the Claim, Declaration, and Protest, adopted by the General Assembly of the Church of Scotland in 1842, and in the Protest of Ministers and Elders, Commissioners from Presbyteries to the General Assembly, read in presence of the Royal Commissioner on 18th May 1843, as declaring the views which are sanctioned by the Word of God, and the standards of this Church with respect to the spirituality and freedom of the Church of Christ, and her subjection to Him as her only Head, and to His Word as her only standard ?

6. Do you promise to submit yourself willingly and humbly, in the spirit of meekness, unto the admonitions of brethren of this Presbytery, and to be subject to them, and all other Presbyteries and superior judicatories of this Church, where God in His providence shall cast you lot; and that, according to your power, you shall maintain the unity and peace of this Church against error and schism, notwithstanding of whatsoever trouble or persecution may arise, and that you shall follow no devisive courses from the doctrine, worship, discipline, and government of this Church ?

7. Are not zeal for the honour of God, love to Jesus Christ, and desire of saving souls, your great motives and chief inducements to enter into the function of the holy ministry, and not worldly designs and interests?

8. Have you used any undue methods, either by yourself or others, in



procuring this call ?

9. Do you engage, in the strength and grace of Jesus Christ, our Lord and Master, to rule well your own family, to live a holy and circumspect life, and faithfully, dilligently, and cheerfully to discharge all the parts of the ministerial work, to the edification of the body of Christ ?

10. Do you accept of and close with the call to be pastor of this congregation, and promise, through grace, to perform all the duties of a faithful minister of the gospel among this people ?

Formula (To be subscribed by Probationers before receiving Licence, and by all Office-bearers at the time of their admission)

I,-----, do hereby declare, that I do sincerely own and believe the whole doctrine contained in the Confession of Faith, appoven by former General Assemblies of this Church, to be the truths of God; and I do own the same as the confession of my faith; as likewise I do own the purity of worship presently authorised and practised in the Free Church of Scotland, and also the Presbyterian government and discipline thereof; which doctrine, worship, and church government, I am persuaded, are founded on the Word of God, and agreeable thereto: I also approve of the general principles respecting the jurisdiction of the Church, and her subjection to Christ as her only Head, which are contained in the Claim of Right and in the Protest referred to in the question already put to me; and I promise that, through the grace of God, I shall firmly and constantly adhere to the same, and to the utmost of my power shall, in my station, assert, maintain, and defend the said doctrine, worship, discipline, and government of this Church, by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies, together with the liberty and exclusive jurisdiction thereof; and that I shall, in my practice, conform myself to the said worship, and submit to the said discipline, government, and exclusive jurisdiction, and not to endeavour, directly or indirectly, the prejudice or subversion of the same; and I promise that I shall follow no divisive course from the doctrine, worship, government, and exclusive jurisdiction of this Church, renouncing all doctrines, tenets, and opinions whatsoever,

contrary to, or inconsistent with, the said doctrine, worship, discipline, government, or jurisdiction of the same.<sup>1</sup>

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1.) Acts of the General Assembly of the Free Church of Scotland, May 1846,  
Act XII



The votes of ministers and elders in the General Assemblies 1867-1872





	1867	1868	1869	1870	1871	1872
Synod						
Ross	9	10	7	11	7	8
	4	2	1	4	8	4
Moray	14	24	23	29	26	16
	11	8	8	10	13	17
Aberdeen	43	55	55	46	54	46
	12	7	5	7	4	11
Angus and Mearns	32	38	39	32	37	33
	8	6	6	12	13	16



	1867	1868	1869	1870	1871	1872
Synod	17	31	22	20	35	23
Fife	9	6	2	9	6	12
Perth and Stirling	32	35	35	32	32	32
Edinburgh	30	23	25	22	22	23
Lothian and Tweeddale	23	24	24	22	28	23
		4	3	4	5	3
		11	10	15	17	10
		5	6	9	16	10



Table 4

	1867	1868	1869	1870	1871	1872
Synod						
Argyll	9	19	7	11	10	14
Glasgow	24	28	31	27	37	33
Glasgow and Ayr	57	85	67	58	66	56
	11	8	4	13	11	9
	10	18	10	16	11	12
	8	5				







The Votes of Ministers according to the year of their ordination

		ordained before 1843					
		1867	1868	1869	1870	1871	1872
against Union		27	18	19	21	25	27
pro Union		45	52	36	27	36	28

		ordained in 1843 and afterwards					
		1867	1868	1869	1870	1871	1872
against Union		52	54	35	56	65	61
pro Union		124	153	151	158	171	138