

APPENDIX V

SAMPLE MINUTES AND EXTRACTS

What follows are samples of how minutes of Church Courts should be recorded. What is mandatory is that the minutes state that the Court was duly constituted and closed with prayer, that the names of members present are given, and that all items of business dealt with and decisions made are recorded. The order of business may be adjusted to suit the convenience of the courts but the minutes should be written up in such a way that the various items are easily identified. When minutes are hand-written this has traditionally been achieved by marginal notes. Use of computers today may suggest heavy type at the beginning of each paragraph introducing new business.

A. KIRK SESSIONS AND DEACONS' COURTS

(1) Minute of a Kirk Session Meeting

At..... and within the Session Room/ Vestry of the Free Church there on 19.. the Kirk Session of met and was constituted.

Sederunt: Rev, Moderator with Messrs..... and..... Ruling Elders. Apologies for absence were received from and duly noted.

Minister's Induction: The Session noted that Mr had been inducted as minister of the congregation by the Presbytery of on and welcomed him to his first meeting of the Kirk Session.

Minutes: The minutes of the meeting of Kirk Session held on were read, adjusted, approved and signed by the Moderator and Clerk.

Clerk: The Kirk Session referred to the desire of Mr to be relieved of the duties of the clerkship which he had intimated at the last meeting. The Session, with great regret, acceded to his request, to be effective from the close of this meeting and thanked Mr cordially for the years of service he had rendered as clerk.

The Session then proceeded to appoint a new clerk. It was moved, seconded and unanimously agreed to request Mr to become clerk. Mr agreed to do so and promised to discharge the duties of the clerkship faithfully. His appointment was fixed to begin at the close of this meeting.

Elders' Districts: The Kirk Session considered this to be a suitable time for reviewing the allocation of districts to each of the elders so as to achieve the best possible pastoral oversight of the congregation. The congregation was duly divided into districts and the elders assigned to

each were requested to visit the families within their districts and to report to a future meeting of Session with regard to any feature requiring special attention.

Need for Additional Elders: In the course of the review of district duties it became evident that pastoral oversight of the congregation would be greatly improved by the election of three new elders. The Session therefore agreed to take the necessary steps to have such an election by the communicant members of the congregation.

The minute might then continue in one of the following ways:

(a) It was then resolved to prepare a printed list of all male communicants of 21 years of age and over for circulation to those on the Communion Roll with the request that they indicate by a cross opposite the names (*or*, the request that they number the names in order of preference to show) those whom they wished to be elected as elders. The lists should be circulated by *insert date* and returns duly marked and signed should be given in to the clerk of session by *insert date*. The Kirk Session would meet to examine the returns on *insert date*.

(b) The Kirk Session resolved to submit to the communicant membership of the congregation the following list of eight names of male communicants deemed by the Session to be suitable for election as elders. It was agreed to request communicants to indicate their choice by placing a cross opposite the relevant names and to sign and return the form by *insert date*. It was further agreed that intimation of this should be made from the pulpit on *insert date*, and that the Kirk Session would meet to examine returns on *insert date*.

(c) The Kirk Session resolved to meet with the communicant membership of the congregation on *insert date* and to propose to them that Messrs be elected as elders of this congregation.

Election of Representative Elder: The Kirk Session noted that the Commission of Mr as Representative elder on the Presbytery of and Synod of had expired with the recent meeting of Synod and that a new election must be made within two months of Synod's meeting. It was therefore moved, seconded and agreed to that Mr should be elected to represent the Kirk Session in the Presbytery of and Synod of for the ensuing year. The Kirk Session testify that Mr is an acting member of this Session.

Notice of Motion to Rescind a Decision: Mr referred to a recent decision of the Kirk Session (Minute of *insert date*) to cease holding services of public worship in the village of He informed the Kirk Session that this decision was productive of consequences unforeseen at the time and he therefore gave notice that at the next meeting of Kirk Session he would propose the following motion: "The Kirk Session rescind their decision of *insert date* to cease holding services in the village offrom *insert date* and to review the matter afresh with a view to overcoming difficulties which have arisen since the decision was made known."

The meeting was then closed with prayer.

(2) Another Kirk Session Minute

Atand within the Session Room/Vestry of the Free Church there on 19.. the Kirk Session of met and was constituted.

Sederunt: Rev., Moderator with Messrs. and Ruling

Elders. Apologies for absence were received from and duly noted.

Minutes: The minutes of the meeting held on were read, adjusted, approved and signed by the Moderator and Clerk.

Election of Elders: The Kirk Session examined the voting forms returned by communicant members and found that Messrs and had been chosen by a clear majority of the communicants. Messrs. and had each been favoured by a majority but with the same number of votes given to each. In this case the Session deemed the more suitable and also approved the election of and It was agreed to ascertain the mind of each of the three chosen as to their acceptance of the office of elder. The minister was asked to interview all three. In the event that any should decline he should also interview Mr as the next in the list of those who had received a majority vote of the communicants.

[This above paragraph would be altered to accord with the alternatives given in Minute 1].

It was agreed that the Session should meet again on to arrange further action in the light of the responses of those elected.

Notice of Motion: The Session now referred to the notice of motion which had been given in at the last meeting. The motion as notified was duly moved and seconded in the following terms:

The Kirk Session rescind their decision of *insert date* to cease holding services in the village of from *insert date*, and to review the matter afresh with a view to overcoming difficulties which have arisen since the decision was made known.

Mr informed the Session that the degree of local disappointment and distress occasioned by the decision of the Session was much greater than had been anticipated. Moreover the availability of transport to the central Church was not as good as had been previously stated. The earlier decision should therefore be rescinded and the matter reviewed. The Session agreed to rescind their earlier decision and agreed also that a service of worship should be held in the village of on a monthly basis instead of the fortnightly basis which had obtained in the past.

Application for Baptism: The Moderator informed the Session that he had been visited by Mr of *insert address* with a request that his infant should be baptised. The Moderator had examined Mr as to his knowledge of the meaning of the sacrament, and his conduct of family worship. He had found the responses satisfactory, and knew Mr and Mrs to be regular in their attendance at public worship. He had drawn their attention to the nature of the solemn commitments made on receiving baptism for their child and was satisfied with their responses. He recommended that the request be granted. The Session agreed to this.

The meeting was closed with prayer.

(3) Another Kirk Session Minute

At and within the Session Room/Vestry of the Free Church there on 19.. the Kirk Session of met and was constituted.

Sederunt: Rev., Moderator, with Messrs. and, Ruling Elders. Apologies for absence were received from and duly noted.

Minutes: The minutes of the meeting held on..... were read, adjusted, approved and signed by the Moderator and Clerk.

New Elders: The Moderator informed the Kirk Session that Messrs..... and and, had all agreed to accept eldership in the congregation. It was therefore agreed that ordination and induction of the new elders should take place on after public worship. An edict should be served on the congregation on intimating that the ordination and induction of Messrs. and, and the induction of Mr who had already been ordained an elder in another congregation would take place on the date specified unless objection to the life or doctrine of any named was substantiated.

Appointment of Communion: The Session resolved that the sacrament of the Lord's Supper should be observed in the congregation on *insert date*.

The meeting was closed with prayer.

(4) Another Kirk Session Minute

At..... and within the Session Room/Vestry of the Free Church there on 19.. the Kirk Session of met and was constituted.

Sederunt: Rev., Moderator, with Messrs. and, Ruling Elders. Apologies for absence were received from Mr and duly noted.

Minutes: The minutes of the meeting held on were read, adjusted, approved and signed by the Moderator and Clerk.

Return of Edict: The Moderator intimated that he had duly served the Session's Edict relative to the ordination and induction of new elders. The Session arranged that a further intimation be made at this point informing the congregation that they were now met to receive any objection which might be made to the life or doctrine of those proposed for eldership in the congregation. No objections were received and the Session agreed to proceed forthwith to the ordination and induction and met with the congregation for this purpose.

After sermon the Moderator explained to the congregation the steps which had been taken to have new elders and named those who had been chosen. He recalled that opportunity had been given by public edictal intimation, to any who might have objected to the life or doctrine of the persons named. As no objection had been intimated he was now prepared to proceed with the ordination and induction.

Messrs., and were requested to stand and the questions appointed by the General Assembly were addressed to them and answered satisfactorily. Thereafter they each signed the formula in the presence of the congregation and the Moderator, with solemn prayer, ordained Messrs. and to the eldership and inducted the said Mr to the Kirk Session of this congregation, giving to each along with the members of Session present, the right hand of fellowship. The Moderator then suitably addressed the new elders and the congregation. The names of the newly inducted elders were added to the Roll of Session. The meeting was closed with prayer.

(5) Another Kirk Session Minute

At..... and within the Session Room/Vestry of the Free Church there on 19.. the Kirk Session of met and was constituted.

Sederunt: Rev. , Moderator, with Messrs. and, Ruling Elders. Apologies for absence were received from Mr and duly noted.

Minutes: The minutes of the meeting held on..... were read, adjusted, approved and signed by the Moderator and Clerk.

New Communicants: The Moderator informed the Session that and had intimated to him a desire to be received as communicants for the first time. He had examined them as to their faith and knowledge and was satisfied as to their Christian behaviour. They were introduced to the Session, some questions were asked and satisfactorily answered and the Session agreed to their request and gave to each the right hand of fellowship.

The following were also introduced to the Session having tendered disjunction certificates from other congregations. They also were welcomed and given the right hand of fellowship by members of Session.

The Session remained open throughout the Communion season when the ministers assisting were Rev. and Rev. The cordial thanks of the Session were accorded to them.

The meeting was closed with prayer.

(6) Another Kirk Session Minute

At and within the Session Room/Vestry of the Free Church there on 19.. the Kirk Session of met and was constituted.

Sederunt: Rev. , Moderator, with Messrs. and, Ruling Elders. Apologies for absence were received from Mr and duly noted.

Minutes: The minutes of the meeting held on..... were read, adjusted, approved and signed by the Moderator and Clerk.

Motion Re : Mr referred to a matter on which he thought the Kirk Session ought to take action. He moved in the following terms: and the motion was seconded. It was also moved and seconded that:

After discussion a vote was taken and the second motion was approved by a majority. From this decision Mr entered a simple dissent which was duly recorded. Mr intimated a dissent and craved leave to complain to the Presbytery of, undertook to submit reasons within ten days and craved extracts which were granted. The Moderator and Mr were

authorised to prepare answers to the Reasons to be submitted and to represent the Session at the bar of the Presbytery of

Discussion Re....: Mr drew the attention of the Session to and invited the Session to consider what action they should take in regard to it. The ensuing discussion showed that the Session were uncertain as to the legalities involved, or unable to decide how they should proceed. It was therefore resolved to refer the matter *simpliciter* to the Presbytery of..... requesting advice. The Moderator was appointed to state the reference.

Certificate to Members of Assembly: The Kirk Session were informed that the Presbytery of had commissioned Mr one of their number as a member of the forthcoming General Assembly. The Session authorised the Moderator and the clerk to complete and sign the certificate provided testifying that Mr is an active member of their Session and that he has signed the formula.

The meeting was closed with prayer.

(7) Minute of Kirk Session appointing Congregational Meeting

At and within the Session Room/Vestry of the Free Church there on 19..., the Kirk Session of met and was constituted.

Sederunt: Rev., Moderator with Messrs and Ruling Elders. Apologies for absence were received from and duly noted.

Minutes: The minutes of the meeting held on were read, adjusted approved and signed by the Moderator and Clerk.

Congregational Meeting: The Deacons' Court requested the Kirk Session to authorise the calling of a congregational meeting for the purpose of electing two local trustees, and to approve a Petition to the General Assembly requesting authority to sell the Church at

The Kirk Session approved of both requests and appointed the meeting with the congregation to be held in on at The Session directed that the congregation be informed by pulpit intimation that by Act of the General Assembly (Act XVIII, 1844) the right to elect trustees is vested exclusively in those listed on the congregational Communion Roll.

The meeting was closed with prayer.

(8) Minute of Meeting with the Congregation

At and within the Free Church there on 19... , the Kirk Session of met with the Congregation according to appointment and was constituted.

Sederunt: Rev., Moderator with Messrs and Ruling Elders. Apologies for absence were received from and duly noted.

The Moderator referred to the need to appoint local trustees and it was then moved and seconded that Mr and Mr be appointed. This was unanimously agreed to by the communicants present and listed in the Communion Roll.

Mr , Deacon, introduced a Petition to the General Assembly requesting sale of the Church building at and explained the reasons for this request.

It was moved, seconded and agreed that the congregation approve the terms of the Petition.

The meeting was closed with prayer.

(9) Minute Relating to Proposed Retirement of Minister

At and within the Session Room/Vestry of the Free Church there on 19... , the Kirk Session of met and was constituted.

Sederunt: Rev., Moderator with Messrs and Ruling Elders. Apologies for absence were received from and duly noted.

Minutes: The minutes of the meeting held on were read, adjusted approved and signed by the Moderator and Clerk.

Retirement of Minister: The Moderator informed the Kirk Session that he intended to retire from the pastorate with effect from 30th September following and in terms of Act I, 1989, he wished to apply for a Retirement Allowance. He undertook to resile from the membership of the Kirk Session and other congregational bodies upon his retirement and requested that the undertaking be duly minuted. The requisite form of Application to be forwarded to the central Pensions Committee via the Presbytery of was duly completed. The Kirk Session took opportunity to express to Rev. their appreciation of his ministry and their sadness at its impending end. They wished him God's blessing in his retirement.

The meeting was closed with prayer.

(10) Edict to be served on Congregation prior to the Ordination and Induction of Elders

At the day of 19... , the Kirk Session of the Free Church Congregation of having appointed an election of Elders to take place on and the Congregation, after due intimation, having made choice of Mr and Mr..... etc., and the Session having judged the aforesaid duly qualified for the office, and the said Mr etc. having intimated their [*or his*] acceptance of the office, the Kirk Session did, on the day of appoint the ordination and admission to the office of the Eldership of the said Mr [and, *if any persons or person chosen have been already ordained*, the induction of the said Mr], etc. to take place on Sabbath, the day of It is accordingly hereby intimated, that if any member of the Congregation have objections to state to the life or

doctrine of the said Mretc., he will have an opportunity of doing so at a meeting of Session to be held in on the day of

(11) Form of Commission to Elder as Representative in Presbytery and Synod

This is an extract from the minutes of the Kirk Session and reads:

At and within the Session Room/Vestry of the Free Church there on 19 , the Kirk Session of met and was constituted.

Inter Alia:

Election of Representative Elder: The Kirk Session noted that the commission of Mr as Representative elder on the Presbytery of and Synod of..... had expired with the recent meeting of Synod and that a new election must be made within two months of Synod's meeting. It was therefore moved, seconded and agreed to that Mr should be elected to represent the Kirk Session in the Presbytery of and Synod of for the ensuing year. The Kirk Session testify that Mr..... is an acting member of this Session.

Extracted by

Clerk

(12) Extract to member who has intimated dissent and complaint.

At..... and within the Session Room/Vestry of the Free Church there on 19., the Kirk Session of met and was constituted.

Inter Alia:

Motion Re : Mr referred to a matter on which he thought the Kirk Session ought to take action. He moved in the following terms and the motion was seconded It was also moved and seconded that

After discussion a vote was taken and the second motion was approved by a majority. From this decision Mr entered a simple dissent which was duly recorded. Mr intimated a dissent and craved leave to complain to the Presbytery of....., undertook to submit reasons within ten days and craved extracts which were granted. The Moderator and Mr..... were authorised to prepare answers to the Reasons to be submitted and to represent the Session at the bar of the Presbytery of

Extracted by

Clerk

(13) Extract Re Reference to Presbytery

At and within the Session Room/Vestry of the Free Church there on , 19.. the Kirk Session of..... met and was constituted.

Inter Alia:

Discussion Re ... : Mr drew the attention of the Session to , and invited the Session to consider what action they should take in regard to it. The ensuing discussion showed that the Session were uncertain as to the legalities involved, or unable to decide how they should proceed. It was therefore resolved to refer the matter *simpliciter*, to the Presbytery of requesting advice. The Moderator was appointed to state the reference.

Extracted by

Clerk

(14) Petition to the Kirk Session

To the Moderator and other members of the Kirk Session of , the Petition of the undersigned humbly shows that:

- 1. Whereas
- 2. Whereas
- 3. Whereas

Wherefore your Petitioners request that the Kirk Session take the foregoing into consideration and arrange that ; or do otherwise as seems best to the Kirk Session to meet this situation.

Signed [names and designations and whether communicants or adherents]

[The above is the formally correct way for people to bring a matter to the Kirk Session, but a courteously worded letter is usually accepted as though it were a Petition.]

(15) Petition by the Kirk Session and/or others to Presbytery with reference to the minister.

To the Reverend the Presbytery of
[or, To the Moderator and other members of the Presbytery of]

The Petition of the undersigned humbly shows that:

Out of concern for the good of the congregation of and for the well-being of the Church generally, we are constrained to draw the attention of your reverend Court to the following matters affecting the minister of the congregation:

- (a) Whereas
- (b) Whereas
- (c) Whereas

Wherefore, we humbly request the Presbytery to consider these facts and to take such action as it deems most appropriate.

Signed [*names, designation, noting whether elders, communicants or adherents*]

(16) Petition to Presbytery by persons who claim to have been refused a hearing by the Kirk Session

To the Reverend Presbytery of
[or, To the Moderator and other members of the Presbytery of]

The Petition of the undersigned humbly shows that:

1. Your Petitioners duly brought certain matters [*specify*] to the attention of the Kirk Session of
2. That the Kirk Session came to a decision without summoning your Petitioners to the bar and thus deprived them of access to your Reverend Court by appeal.
3. That consequently your Petitioners seek the intervention of your Reverend Court in respect of the aforesaid matters and the decision of the Kirk Session of

Signed

(17) Minutes of the Deacons' Court

Minutes of the Deacons' Court follow the pattern given for the Kirk Session, as do extracts. The election of Deacons is processed by the Kirk Session and follows the pattern shown for the election of elders.

As the Deacons' Court may meet in the absence of the Moderator there is a variation in the opening part of the minute where that occurs. It may read:

At the day of the Deacons' Court of met.

Sederunt: Messrs. , , and , Elders and , , and , Deacons.

In the absence of the minister, Mr was called to the Chair and the meeting was duly constituted.

(18) Form of Petition to the General Assembly for Sale of Property

Unto the Venerable the General Assembly of the Free Church of Scotland, indicted to meet in Edinburgh on 22nd May 19 .. , the Petition of the Deacons' Court of the Congregation of humbly shows:

1. Whereas the Church building at is in need of extensive repairs;
2. Whereas the building is now surplus to the requirements of the congregation;

Wherefore it is humbly requested that the General Assembly grant authority to sell the said building, and direct that the proceeds of sale be applied to the funds of the congregation, or do otherwise as in their wisdom they deem best. And your Petitioners will ever pray.

Signed Moderator.
Clerk

This Petition should be accompanied by (1) extract minute of the Deacons' Court proposing the sale and requesting the Kirk Session to authorise the calling of a congregational meeting; (2) extract minute of the Kirk Session approving the sale and calling the congregational meeting; and (3) extract minute of the congregational meeting certifying approval by the congregation. The Petition and extracts are forwarded to the Presbytery and by the Presbytery sent on to the Custodier of Titles, with an extract minute of the Presbytery's decision.

B. PRESBYTERIES

The general pattern of meetings of Presbytery follows that shown for Kirk Sessions. The minute shows that the Presbytery was duly constituted, notes the names of those present and then records the various items of business transacted in an orderly fashion. The minutes conclude with a statement indicating that the meeting was closed with prayer. It is not deemed necessary to provide a sample minute of a typical Presbytery meeting. The samples following will give indication of how minutes of *in hunc effectum* and *pro re nata* meetings should be introduced and of how various matters peculiar to the Presbytery may be recorded.

(1) Minute of Meeting *in hunc effectum*

At the day of 19 .. , the Free Presbytery of met *in hunc effectum*, and was constituted.

Sederunt:

The part of the Minute of the last Ordinary Meeting appointing the meeting was read and the Presbytery proceeded to deal with the matter(s) specified.

It was moved that , etc.

The meeting was closed with prayer.

(2) Minute of *pro re nata* meeting

At the day of..... 19., the Free Presbytery of met *pro re nata* and was constituted.

Sederunt:

The circular addressed by the Moderator to members was read as follows ...

It was moved, seconded and agreed to that the Presbytery approve of the Moderator's action in calling this meeting.

Presbytery proceeded to deal with the matter referred to in the circular.

It was moved that etc.

The meeting was closed with prayer.

(3) Minute resolving to Moderate in a Call

Mr, Interim Moderator of the vacant congregation at introduced Messrs and Commissioners appointed by the said Congregation to request the Presbytery to moderate in a call to a minister [*or in a call to , minister at*]. In introducing the Commissioners the Interim-Moderator expressed confidence that if Presbytery should accede to the request a harmonious Call could be anticipated.

The Commissioners and others were heard and the Presbytery agreed to meet in at to moderate in a Call to a minister [*or to Mr*]. The Moderator of Presbytery [*or Mr*] was appointed to preach and preside on the occasion. The Interim-Moderator was charged to arrange that due edictal intimation be made in the congregation of on at both diets of public worship.

(4) Form of Edict announcing meeting to Moderate in a Call

In name and by appointment of the Free Presbytery of I hereby intimate that, in consequence of an application from this Congregation, the said Presbytery agree to meet within this Church on Thursday, the day of next at o'clock in the for the purpose of moderating in a Call for filling up the vacancy in this Congregation [*or, if the name be inserted, in a Call to Mr to be Minister of this Congregation*], the Rev.to preach and preside on the occasion.

Certificate of Intimation

The above intimation was duly made by me.

..... Signature Witness
 Witness

(5) Form of Call and Concurrence

We, the undersigned Elders, Deacons, and Members of the Free Church Congregation at , desirous of promoting the glory of God and the good of the Church, being destitute of a fixed pastor, and being assured, by good information and our own experience, of the ministerial abilities, piety, literature and prudence, as also of the suitability to our capacities of the gifts of you, Mr, preacher of the Gospel, have agreed to invite, call, and entreat, like as we, hereby do heartily invite, call, and entreat you to undertake the office of Pastor among us, and the charge of our souls; and further, upon your accepting this our Call, promise you all dutiful respect, encouragement, and obedience in the Lord.

In witness whereof, we sign this Call this day of..... one thousand nine hundred and years.

[*Here follow the Signatures.*]

Concurrence in Call by Adherents

We the Subscribers, ordinary hearers in the Free Church Congregation of, hereby declare our hearty concurrence in the Call addressed by Members of the said Congregation to Mr to be their Pastor

[Here follow the Signatures.]

(6) Minute Declining Request to Moderate in a Call

Mr , Interim Moderator of the vacant congregation at reported to the Presbytery that at a congregational meeting held on a majority of the congregation had voted to request that a Call be addressed to Mr minister at [*or, in the case of an open call, to a Minister*], and Commissioners were present to make their request to the Presbytery.

Presbytery were informed that Messrs and were also present to resist the request and to ask Presbytery to delay moderation in a call as there was little prospect of harmony in the congregation.

Both parties were heard by the Presbytery and after discussion it was moved, seconded and agreed to that Presbytery decline to Moderate in a Call in view of the lack of harmony in the congregation on the matter. Presbytery appointed a committee consisting of Messrs Ministers and Messrs Elders to confer with the congregation with a view to restoring harmony. The Committee is to report to the Presbytery.

(7) Minute referring Case concerning a Call to Superior Court

The Committee appointed to confer with the Congregation regarding moderation in a Call reported that in their view there was, at this stage, little prospect of harmony in the Congregation in regard to a Call. Presbytery therefore resolved to refer and hereby do refer the matter to the Synod [*or, General Assembly*] in terms of Act IV, 1859.

7(a) Alternative to above

Inter Alia, Messrs and appeared, representing the majority of the Congregation of, also Messrs. representing the minority of said Congregation.

Mr, Interim Moderator of the Kirk Session and Congregation, made a statement. Parties were heard and removed. It was then moved and seconded that the Presbytery, finding that the want of harmony in the Congregation of still continues, resolve to refer, and hereby do refer, the case to the Synod/General Assembly in terms of Act IV, 1859.

Which motion was unanimously adopted.

Parties were called in and judgment intimated.

(8) Minute in Moderation of Closed Call

The minute calling this meeting was read. The Edict was returned attested as having been duly served.

Presbytery then met with the Congregation when the Moderator went to the pulpit, and preached from Public Worship being ended, the Moderator intimated that the Presbytery would now proceed to moderate in a Call for filling up the vacancy in this Congregation.

The Clerk read the form of Call addressed to Mr..... minister at [*or Probationer*].

The Call was subscribed by communicants, being by mandate and adherents, being by mandate.

It was moved, seconded and agreed to that the Presbytery sustain the Call and the Presbytery appointed Messrs and to prosecute the Call before the Presbytery of and any other competent judicatory of the Church. They were also authorised to draw up Reasons for Translation and to forward them to the Presbytery of

[If the Call is to a Probationer the minute may read as follows]:

It was moved, seconded and agreed to that the Presbytery sustain the Call. Mr being in the building the Call was placed in his hands and he indicated acceptance of it. Presbytery fixed as the date on which Mr should be taken on trials for ordination, the subjects of these trials to be notified to him by the relevant Committee of the Presbytery.

(9) Specimen of Mandate relevant in Closed Call

(a) *Communicant.*

I residing at being a communicant member of the congregation of and being unable to attend the meeting appointed to moderate in a Call to, hereby authorise to sign on my behalf.

Signed

(b) *Adherent*

I residing at being a regular worshipper in the congregation of and being unable to attend the meeting appointed to moderate in a Call to, hereby authorise to sign the concurrence in the Call on my behalf.

Signed

(10) Minute re Moderation in Open Call

The Minute calling this meeting was read. The Edict was returned attested as having been duly served.

Presbytery then met with the congregation when the Moderator preached from Public Worship being ended, the Moderator intimated that the Presbytery would now proceed to moderate in a Call for filling up the vacancy in this congregation.

The clerk then read the form of Call. It was then moved and seconded that the name of minister at be inserted in the Call.

It was also moved and seconded that the name of Mr be inserted in the Call. On a vote being taken the first motion was declared carried, those who had voted for the second motion agreed to acquiesce in the decision of the majority and the name of Mr was inserted in the Call.

The Call was subscribed by communicants and adherents.

It was moved, seconded and agreed that the Presbytery sustain the Call, and that the Call be left in charge of the Kirk Session until for further signatures.

Messrs and were appointed to prosecute the Call before the Presbytery of and any other competent judicatory of the Church. They were also authorised to draw up Reasons for Translation and to forward them to the Presbytery of

(11) Minute Permitting Translation

Presbytery took up consideration of a Call from the Congregation of in the Presbytery of to Mr minister at in this Presbytery. Messrs and appeared as Commissioners from the Presbytery of and congregation of and Messrs and appeared for the Kirk Session and Congregation of

Reasons for translation had been submitted by the calling Commissioners and Reasons against were submitted by the Kirk Session of These were duly read and parties were heard in their interest. Mr was asked to state his mind with regard to the Call and stated that if the Call were placed in his hands he would accept it.

Parties then withdrew.

After discussion it was moved, seconded and agreed to that the translation is expedient and the Call should be placed in Mr 's hands. The Call was accordingly placed in his hands and Mr intimated his acceptance of it.

The Presbytery then resolved to loose Mr from his present charge with effect from the date of his induction to his new charge and directed him to await instruction from the Presbytery of as to the date and time of his induction. Presbytery also requested the Presbytery of to notify it when the induction had taken place.

Parties were recalled, the decisions of Presbytery intimated to them and they acquiesced in them and craved extracts which were allowed.

(12) Minute Resolving to Induct

There were produced and read Extracts from the Presbytery of agreeing to the translation of Mr to the congregation of..... in this Presbytery.

It was resolved to meet *in hunc effectum* in on at for the purpose of inducting Mr to the pastoral charge of , Mr to preach and preside and an edict to be duly served on the Congregation.

(13) Edict Prior to Ordination/Induction

The Free Church Presbytery of, having resolved to proceed to the Ordination and Induction [*or, in the case of a Minister, Induction*] of Mr , who has been duly called to be Minister of this Congregation [and, *in the case of a Probationer*, whose trials have been sustained], did, and hereby do, issue their edict, giving notice to all persons concerned, and especially to members of this Congregation, that if any of them have anything to object to the life or doctrine of the said Mr, they must substantiate the objections to the satisfaction of the Presbytery at a meeting to be held in on....., the day of, at o'clock, with certification that if no one offer any relevant objection, or unless relevant objections be proven *instanter*, the Presbytery will then forthwith proceed to the ordination and induction [*or, in the case of a Minister, induction*] of the said Mr to the office of the holy ministry, and admit him to the pastoral charge of this Congregation.

Certificate showing that edict has been served

The above Edict was this day duly served by me.

Witness

Signed

Witness

(14) Minute of Induction

The Minute calling this meeting was read. The Edict was returned duly served. Presbytery instructed Mr to make proclamation three times in the Church that if any person had any objections to the life and doctrine of Mr, Minister of the Gospel, they might now meet with the Presbytery in the vestry/hall of the Church, and substantiate the same.

Mr reported that he had made proclamation as ordered and that no-one had appeared to object.

The Presbytery then met with the congregation when the Moderator preached from Public Worship being ended the Moderator [*or clerk*] gave a brief narrative of proceedings in the call to Mr , and the Moderator addressed to him the questions appointed to be put to Ministers on their induction to a pastoral charge, and he having returned satisfactory answers to the same, and having signed the Formula in the presence of the Congregation, the Moderator, in

the name of the Presbytery, did then induct the said Mr as Minister to the pastoral charge of Congregation, and the brethren gave him the right hand of fellowship. Thereafter Mr was suitably exhorted by the Moderator, who also, in appropriate terms, exhorted the Congregation. Public Worship being ended, the meeting was closed with prayer.

(15) Minutes re Overtures and Returns to Overtures and Remits

(a) *Minute of an Overture transmitted by a Presbytery. This must go in the form of an Extract, as follows:*

The Presbytery agreed to transmit the following overture to the ensuing General Assembly:— It is overtured by the Free Presbytery of to the ensuing General Assembly of the Free Church of Scotland, that they, etc. or that they do otherwise for this object what to their wisdom may seem best.

(b) *Minute of a Return to an Overture from the General Assembly under the Barrier Act. This must also be sent as an Extract, each Return on a separate sheet of paper, as follows:*

Presbytery took into consideration the Overture transmitted by the last General Assembly in the following terms: [*Here take in*]; and the Presbytery hereby approve *simpliciter* of the same [*or the Presbytery disapprove of the same*].

(c) *Minute of a Return to a Remit from the Assembly not under the Barrier Act. This should also come in the form of an Extract.*

The Presbytery took into consideration the Remit of last General Assembly on the subject of, and the Presbytery find that [*whatever their opinion may be, and however qualified*].

(16) Minutes Appointing Commissioners to the General Assembly

At the day of 19.. years:- Which day the Free Church Presbytery of being duly convened in order to elect their representatives to the ensuing General Assembly, pursuant to a Resolution entered in their Minutes on the day of One thousand nine hundred and did , and hereby do, nominate and appoint Minister at, and Minister at, and..... Minister at, with Messrs Ruling Elders, their Commissioners to the next General Assembly of the Free Church of Scotland, indicted to meet at Edinburgh the day of May next to come, or when and where it shall happen to sit, willing them to attend all the diets of the same, and there to consult, vote and determine in all matters that come before them, to the glory of God and the good of his Church, according to the Word of God, the Confession of Faith, and agreeable to the constitution of this Church, as they

will be answerable; and that they report their diligence therein at their return therefrom. And the said Presbytery do hereby testify and declare, That all the ministers above named have signed the Formula. And further, That the said Elders are of unblemished character, circumspect in their walk, regular in giving attendance on the ordinances of Divine institution, and behave in other respects agreeable to their office. All which the Presbytery have hereby attested on proper information.

(a) *After-Election of a Minister*

At the day of 19 .. years:- Which day the Free Church Presbytery of being duly convened, did, and hereby do, nominate and appoint in place of their Commissioner to the next General Assembly of the Free Church of Scotland; and do hereby testify and declare, that signed the Formula; which the Presbytery hereby attest upon proper information.

(b) *After-Election of an Elder*

At the day of 19 .. years:- Which day the Free Church Presbytery of being duly convened, did, and hereby do, nominate and appoint in place of their Commissioner to the next General Assembly of the Free Church of Scotland; and do hereby testify and declare, that he is in all respects qualified in the same manner as the Commissioner in whose room he is chosen, which the Presbytery hereby attest upon proper information.

(17) Minutes relating to Application of the Act Anent Problem Ministries

(1) *Either (a)* The Committee which conducted a quinquennial visitation of the congregation of drew attention to some disturbing facts: (1) a noticeable diminution in the numbers attending public worship; (2) a considerable reduction in financial support; (3)

The Committee recommended and the Presbytery agreed to make further enquiry into the situation. It was moved, seconded and agreed to that the following Committee be appointed to pursue this further enquiry, namely,

The Committee were directed to meet with all interested parties and instructed to use what means they properly could to resolve any difficulties that might be perceived.

Or (b) The Presbytery were informed by letter signed by elder and communicant members of the congregation of..... of unsettlement in the congregation evidenced by (1) a noticeable diminution in the numbers attending public worship; (2) a considerable reduction in financial support; (3)

It was moved, seconded and agreed to that the following Committee be appointed to pursue this further enquiry, namely,

The Committee were directed to meet with all interested parties and instructed to use what means they properly could to resolve any difficulties that might be perceived.

(2) The Committee appointed to investigate matters reported to Presbytery in the following terms.

The Committee met on occasions and met independently with and They met also with who had recently left the congregation of , and who asserted that Mr’s cultural interests were contrary to the ethos of the locality and prejudicial to the work of the ministry there.

It became evident to the Committee that serious differences have arisen in the congregation which the Committee’s efforts to counsel and exhort have failed to resolve. Committee members attempted to act as intermediaries between alienated brethren but to no avail.

With great sadness the Committee have to report that the attitude of the minister, Rev. contributed to the rise of differences and tends now to exacerbate the situation. They have endeavoured to counsel him but there has been no noticeable change in his attitude. The Committee are persuaded that Mr’s conduct does not warrant disciplinary action. Differences are due to incompatibility of temperament and to difference regarding the exercise of Christian liberty.

The Committee recommend that the Presbytery note these observations, and convey them in full by extract minute to Mr

It was moved, seconded and agreed to that the Presbytery receive the report of the Committee and inform Mr by extract minute of the terms and notify him that the matter will be again dealt with at a meeting of Presbytery to be held on

(3) The Presbytery took up consideration of matters relative to the congregation of and the minister Mr made a statement on his own behalf referring to the extract minute he had received. He insisted that he was within his rights as a Christian in attending and indulging in other cultural interests.

After discussion, it was moved, seconded and agreed to that the Presbytery find that Mr’s indulgence in cultural interests means that the ends of the ministry are not being served and that the state of the congregation is therefore due mainly to factors personal to the minister. Presbytery therefore notify Mr that they will again review this matter in six months time (i.e. on) and unless they find the situation has improved Presbytery will recommend to the General Assembly that Mr’s pastoral tie will be dissolved.

From this finding Mr dissented and claimed leave to complain to the Synod of [or, General Assembly] and craved extracts which were granted.

(4) The Presbytery in accordance with the decision recorded on again took up consideration of matters relating to the congregation of and Mr the minister. Presbytery noted that according to Act I, 1990 Mr’s complaint to the Superior Court did not prohibit further action.

Presbytery after due enquiry found that the situation in the congregation of had not improved. It was therefore moved, seconded and agreed to that Presbytery refer the matter to the forthcoming General Assembly with recommendations that Mr be loosed from the congregation of Mr was appointed to state the Reference.

From this decision Mr dissented and sought leave to complain to the General Assembly and craved extracts which were granted.

(The same sort of minutes would refer in the case where fault was deemed to lie with elders or communicant members. This might be the case when fault was also attributed to the minister).

(C) SAMPLES OF FORMS RELEVANT TO CASES OF DISCIPLINE

Samples given in previous editions mainly instanced cases of fornication and adultery as the moral lapses (they described them as crimes) of which the Kirk Session should take notice with a view to formal discipline. They envisaged mainly a state of affairs in which people cited to appear before Church Courts were unlikely to refuse to do so. Whilst most of the samples given here describe strictly formal procedures, Kirk Sessions and other courts will, no doubt, assess the degree of formality necessary. As discipline aims at reclamation and restoration, it may be that in many cases more will be achieved by gentle and compassionate interviews between ministers and erring members than would be by strictly formal process.

(1) Specimen Minutes for the Kirk Session in Ordinary Discipline

(a) Minute relating to a situation where less formal procedures have been followed:

The Moderator informed the Session that Miss had called on him and confessed to [*or, that, in the course of pastoral visitation he had spoken to , and she had confessed to*] being guilty of the sin of fornication with The moderator had found greatly distressed and, in his view, genuinely penitent and had admonished her and counselled her as to future conduct. He had subsequently called on Mr [*or, had written to, or, had written to Mr and his minister*] and he had also confessed to the sin alleged and expressed penitence.

The Kirk Session agreed that it would be in the public interest of the congregation and the wider Church that and should not, in the meantime, partake of the Lord's Supper. Restoration to this privilege would be considered later in the light of factors relevant at the time.

A stricter and more formal process would become necessary if the man named in the sample above denied guilt or if there was no assurance of the penitence of either party. With minor adjustments the old forms are still applicable to strict process. They are reproduced below:

(b) Minute in the case of a woman against whom a scandal has broken out, and who has been ordered by the Session to be summoned to appear before them to answer to a charge of fornication.

It was reported by the Clerk, that, agreeably to the directions of the Session, A.B. had been duly summoned to appear before them this day; and the said A.B. having been called, appeared,

and on the question being put whether she had been guilty of the sin of which she was accused, answered that she had. Being solemnly exhorted by the Moderator to speak the truth, and further interrogated, she declared that C.D., an unmarried man, belonging to this Congregation, had been guilty with her, and was the father of her child. The Session order the said C.D. to be summoned to appear before them [*insert date*], to which meeting the woman was cited *apud acta*. After a suitable admonition she was dismissed for the present.

(c) *Minute in the case of a woman who comes voluntarily forward to make confession.*

Appearing voluntarily, A.B., residing at in this parish, confessed that she had been guilty of the sin of fornication. Being solemnly exhorted, etc., *ut supra*.

(d) *Minute in the case in which the man accused by the woman belongs to a different Congregation*

The Session instruct their Clerk to write to the Kirk Session of informing them of the accusation made against the said C.D., residing at [*insert residence*] and requesting them to cause him to be summoned to appear here on [*insert date*], that he may be confronted with* To this meeting the woman was cited *apud acta*, and, after a suitable exhortation, she was dismissed for the present.

* *When the place of the man's residence (which must be stated) is very distant, it is common to request the Kirk Session of his Congregation to call him before them, and to receive his declaration.*

The case may also occur of a confession by a woman when the man has disappeared and cannot be found, it being doubtful whether he is alive. In such a case, after the exhaustion of reasonable inquiries, the woman's confession may be acted on.

(e) *Minute of a meeting at which the man is summoned to appear.*

A.B. appeared, agreeably to citation at last meeting, and, adhering to her former statements. C.D., having been duly summoned, was called and appeared. The former Minute having been read over to him, he was asked whether he had been guilty with A.B., and was the father of her child. He acknowledged guilt, whereupon both parties, having received a serious admonition, were dismissed for the present.

(f) *Minute when the case is one of adultery, the man, or woman, or both, having been married persons.*

[The Minute, after stating the acknowledgment of guilt on the part of the man accused, and the admonition of the parties by the Moderator, may run as follows:]

The Session, considering that this is a case of adultery, order their Clerk to transmit extracts to the next meeting of Presbytery, that their advice may be obtained.

The Minute may run in similar terms in the case of a third lapse into fornication, or in any other case in which it is also necessary to obtain the Presbytery's leave to proceed.

(g) *Minute in the event of a denial on the part of the man.*

The question was put to him whether he had been guilty, etc. Whereupon he answered that he was not the father of A.B.'s child, and never had been guilty with her. A.B. was then asked whether she could adduce any evidence of the truth of the charge which she had brought against C.D. She answered that she could, and requested that the following witnesses might be summoned, viz., E.F. and G.H. [*insert residence*]. C.D. also requested that L., M. and N. might be summoned as witnesses in his defence. The Session instruct their Clerk to cause the said persons to be cited to appear before them as witnesses in this case, on [*insert date*], to which meeting the parties were summoned *apud acta*.

(h) *Form of Minute of meeting, at which the Session proceed to probation.*

A.B. and C.D. appeared, according to citation, both adhering to their former statements. The Clerk having reported that all the witnesses in this case had been duly summoned, the Session agreed to proceed with the proof.

E.F. being called, appeared, and having solemnly undertaken to give evidence without malice or partiality, stated that, etc. [*And so on with the other witnesses*]

[*After the examination of whom, the deliverance of the Session on the evidence must be recorded.*]

(i) *Minute when the guilt of the man is not clearly established, but that, in consequence of strong presumption against him, he expresses a desire to take the Oath of Purgation.*

C.D. still persisting in his declaration of innocence, expressed a desire to have the Oath of Purgation administered to him; whereupon the Session agreed to take the advice of the Reverend the Presbytery of, and ordered the Clerk to transmit extracts.

(j) *Minute after the Presbytery have allowed the Oath of Purgation:*

The Presbytery having granted leave to the Session to administer the Oath of Purgation to C.D., charged by A.B. with the sin of, and C.D., being now present, and having expressed the same desire that this oath should be administered to him, he took it accordingly in presence of the Session, whereupon the said C.D. was declared free from scandal, and restored to the privileges of the Church.

If the Presbytery determine that the oath shall be taken before the Congregation, the Minute must be varied accordingly.

(k) *Minute when guilt is not proved and the Oath of Purgation is not administered.*

The Session, on consideration of the evidence adduced, do not find the charge against C.D. to be established; and they therefore delay this case until God in His providence shall give further light.

(l) Minute when a case is concluded in so far as respects the truth of the charge made by the woman, either by the confession of the man, or the production of sufficient evidence against him; and when one or both parties come forward craving absolution and restoration to Church privileges which the Session agree to grant.

A.B. and C.D. appeared, last mentioned in Minute of as having been guilty of the sin of fornication [*or, adultery*], craving absolution from scandal, and restoration to the privileges of the Church; and the said A.B. and C.D. having expressed their deep sorrow for the sin of which they had been guilty, and their resolution that henceforth, through Divine grace, they will walk in newness of life, and endeavour to adorn the doctrine of God their Saviour, the Moderator, after a serious rebuke and solemn admonition, and after prayer, did, in name of the Session, absolve them from the scandal of their sin, and restore them to the privileges of the Church.

(m) Minute when the man accused does not belong to the Church and declines to appear and after all means for inducing him to do so have been exhausted.

The Session, having exhausted all means without success to induce C.D. to appear in answer to the charge brought by A.B. against him, agree to accept of her confession as regards her own guilt.

(n) Minute in cases of antenuptial fornication.

A.B. and C.D. appeared, confessing that they had been guilty of the sin of antenuptial fornication, and having expressed their penitence, the Moderator, etc.

The above specimens refer to adultery or fornication. It is considered unnecessary to give forms of Minutes for all the sins of which a Session ought to take cognisance.

(o) Minute when a person incurs suspension from Church privileges (lesser excommunication)

In consideration, etc., the Session did, and hereby do, suspend the said C.D. from the privileges of the Church.

(p) Special Minutes required in the case of an Elder or Deacon.

(i) Minutes when a fama has arisen or a charge been brought against a Deacon

The Kirk Session taking into consideration the *fama* [*or, the charge*] brought under their notice, request the Moderator and Mr to communicate confidentially with Mr

regarding the same, so as to ascertain whether further action by the Session may be necessary or not.

The Moderator reported in the case of Mr, Deacon of this Congregation, that he was deeply grieved on account of his sin, and was ready to make acknowledgment to the Session in due form.

Mr, Deacon of the Congregation, appeared and confessed himself guilty of

In suspending Mr from ordinances, the Kirk Session find that he is *ipso facto* suspended from the Deaconship *sine die* [or, in a case requiring it, the Kirk Session hereby depose him from the office of Deacon]. Intimation of this sentence was appointed to be given to the Deacons' Court.

(ii) *Minutes when a fama or charge affecting moral character is brought against a Ruling Elder*

(1) The Kirk Session took into consideration a *fama* [or, charge] which had come under their notice against Mr. F.G., a member of their own Court. Mr. G. being present, declared that he was ready to give explanations on the subject, but would rather state them privately, in the first instance, to one or two of the members, and he retired accordingly from the meeting. The Session appoint the following members to confer with him in private, and to report, viz.,

(2) [Either later at that meeting, or at a subsequent one] Mr reported in the case of Mr that he and Mr..... had had a conversation with Mr which was not satisfactory. After deliberation, the Session agreed that the charge against him be drawn out in the following terms: The Session also instructed that the charge be sent to him with regular citation to attend and answer to it on [insert date].

(3) The Kirk Session, having fully considered the evidence, find the charge proven; and while suspending Mr from privileges, they at the same time resolve to depose him from the office of the Eldership.

They then engaged in prayer, the Moderator conducting the devotions, after which the Moderator, in name of the Session, solemnly pronounced the sentence of deposition.

Intimation of this sentence was appointed to be given to the Deacons' Court.

(2) Specimen Minutes for the Kirk Session in Cases of Alleged Heresy

(a) *In a case involving an Elder or Deacon:*

(i) The Kirk Session had before them a complaint signed by ... members of the congregation, as follows: [Here take it in.]

The Session find that the allegations of this document, if well founded, involve the maintenance by T.D., an Elder [or, Deacon] in this congregation, of opinions contradictory to the Confession of Faith and the Word of God, and entirely inconsistent with the professions made through communion in the Free Church of Scotland. The Session accordingly resolve to inquire

carefully into the two questions which must be decided in a case of this kind, viz., *first*, Whether such opinions have been maintained by T.D., and how or in what form have they been expressed; and *secondly*, Whether the expression of them by him amounts to a decided contradiction of the Confession of Faith. With the view of determining these questions, the Session appoint the Moderator, Mr and Mr, a committee to make inquiry by conference with T.D., or otherwise, and to report.

(ii) The Kirk Session, after considering the Report of their Committee in the case of T.D., and taking into account the statements made by him in conference and letters, resolve to cite him to appear at their bar on [*insert date*], to answer to the charge of heresy, inasmuch as, etc. (iii) The Kirk Session, having conclusive evidence before them that T.D. has maintained, and that he declines to repudiate these opinions, find that they are entirely contrary both to the Confession of Faith, and to the profession made by communion with this Church; and therefore declare that T.D. is no longer a member of the Free Church of Scotland, and order his name to be removed from the Roll of Communicants in the congregation of Further, the Kirk Session hereby depose him from the office of the Eldership [*or*, Deaconship] [*or*, declare him to be no longer an Elder [*or*, Deacon].]

(b) *In a case involving a Communicant Member:*

(i) The Kirk Session had before them a statement signed by ... members to the effect that, a communicant member in this congregation, holds and propagates views that are directly contradictory to the doctrine of Scripture, namely that, and that in doing so he is a divisive influence on the congregation. the Session agreed to notify Mr of the allegations made, and to cite him to appear before them on to answer them.

(ii) The Kirk Session referred tot he allegation against, and he duly appeared before them. In his evidence it became obvious that his views on vital matters do not accord with Scripture in that, for example, The Session therefore declare that is no longer a member of the Free Church of Scotland, and order his name to be removed from the Roll of Communicants in the congregation.

(3) Forms of Citation

It is adequate for the Session to issue a citation in the following terms to be delivered either by a member of Session or by Registered Mail or by Recorded Delivery. Using such a method gives assurance that the document has been delivered to the residence of the person concerned.

(a) *Citation of Accused:*

At and within the Session Room of the Free Church there on 19.., the Kirk Session of met and was constituted.

Inter Alia:

The Kirk Session resolved to cite to appear before them at on [*insert date*], to answer an accusation of which has been made against him.

The Kirk Session therefore require you [*insert full name*] to appear before them at on [*insert day*] at [*insert hour*] with respect the accusation made against you, viz.:

Extracted from the Minutes of the Kirk Session by

..... (Clerk).

If the person cited as above appears and denies accusation the Kirk Session may resolve to proceed to hear witnesses at a subsequent meeting. The accused person will be cited apud acta to appear and an undertaking given to him that he will be duly notified of the names and addresses of witnesses and a summary of the evidence to be led. He will be requested to give the names and addresses of witnesses to be cited in his interest.

(b) *Citation of witnesses:*

At and within the Session Room of the Free Church there on 19., the Kirk Session of met and was constituted.

Inter Alia:

The Kirk Session having resolved to proceed to proof in the case of an accusation of against resolved to cite witnesses to give testimony to them.

The Kirk Session therefore require that you residing at named by appear before them at on at

Extracted from the Minutes of the Kirk Session by

..... (Clerk).

(c) *Extracts relating to Evidence of Persons unable to attend a Church Court (Refer to Supplement to Chapter on Discipline)*

(i) It was reported to the Court that A.B. who had been cited as a witness in the case relating to was unable to attend due to illness and this fact was duly certified by , medical practitioner. [*Or, due to old age of which the Court had ample testimony*].

It was therefore resolved to appoint as Commissioner to attend at the home of accompanied by parties to record the testimony of [*name witness*], to arrange for the questioning and cross-questioning and to submit a full record of this testimony, together with a report of the Commissioner, to this Court on

(ii) It was noted by the Court that C.D. who has been named as a witness in the case relating to is resident in South Africa [*or, in at such a distance from this place as to make attendance at this Court impossible*].

The Court resolved to appoint who is resident in to be their Commissioner to record the testimony of

The Court directed Mr at whose instance was named as a witness to prepare a numbered list of questions to be addressed to [*name witness*]. They directed that the list of questions be submitted to the clerk and by him furnished to the other party in the case for the submission of cross-questions. The Clerk was instructed to arrange for a subsequent meeting of both parties with a view to achieving agreement with regard to both lists of questions; the documents as agreed by both parties to be duly signed and retained by the Clerk for submission to this Court on The Clerk was also instructed to cite parties to appear for the adjustment of the lists by the Court.

(iii) The Clerk submitted lists of questions and cross-questions to be put to witnesses by their Commissioner. He reported that these lists had been considered by both parties and general agreement reached, but on a few points parties had agreed to accept the judgment of this Court. Other parties were present according to citation and their views as to adjustments of the lists of questions noted. The Court then adjusted the documents referred to and resolved to pass them to their appointed Commissioner with instructions as in Act VIII, 1994, and requesting that they be returned to this Court together with the Commissioners report by

(d) *Administration of Oath*

If the court decides that evidence should be taken on oath, then the witness being before the Court, the oath administered is the following, the witness standing and holding up his right hand: "I swear by Almighty God, and as I shall answer to God in the great day of judgment, that I will tell the truth, the whole truth, and nothing but the truth, so far as I know, or shall be asked".

It is provided by the *Form of Process*, Chapter II.11., that the witnesses are solemnly to be purged of malice, bribe, or good deed done or to be done, and of partial council. In reference to this the following initial questions were put to them:-

Has any person told you what to say or promised or given you anything for your evidence?

Have you any malice or ill-will against any of the parties?

Have you any interest in the case? - *Form of Process*, Chapter II.11.

(4) Specimen Minutes relevant to Presbyteries

(a) *Minute of Presbytery appointing Committee of Inquiry in a case of fama against a Minister or Probationer*

The Presbytery being alone, it was stated by a member of Court, that certain very unpleasant reports were prevailing in regard to the character of Mr A.B., preacher of the gospel within their bounds [*or, their brother, Mr A.B., Minister of the Congregation at C.*], whereupon the Presby-

tery, after due consideration of the same, appointed the following members, viz. E., F., G., and H., a committee to make further inquiry into the nature of the *fama* now prevailing against the said A.B., and to report to the Presbytery at their next meeting as to the procedure which it may be proper to adopt in this matter.

(b) *Minute appointing Presbyterial Visitation*

The Presbytery having taken this matter into their serious consideration, did, and hereby do, appoint a visitation of the Congregation of C., to take place on day of..... next, that the elders and communicants of said Congregation may be examined respecting the rumours now prevailing in regard to their Minister. The Presbytery instruct Mr E.F. to preach that day; and they further appoint Mr G.H. to preach in the Church of C. on Sabbath, the day of, that due intimation of said meeting of Presbytery may be given to all concerned.

Seven free days must elapse between the intimation and the meeting of Presbytery.

(c) *Minute when Petition against a Minister is presented*

Mr L.M. appeared and presented a Petition signed by members/adherents of the Congregation C., requesting that the Presbytery inquire into certain reports now prevalent in regard to Mr A.B., Minister of said Congregation [*the particular crime alleged must be stated*]. The Presbytery being alone, resolved, after due deliberation that the petition should lie on the table till their next ordinary meeting, then to be taken into consideration and [*should the person accused be absent*] they appointed their Clerk to give intimation thereof to the said Mr A.B.

(d) *Minute when the Presbytery has resolved to serve a Libel upon a Minister in their own name*

The Presbytery hereby approve generally of the form of libel prepared by their committee against Mr A.B., Minister at They resolve to consider its relevancy, and the propriety of serving it, at a meeting of Presbytery to be held at on the day of..... ato'clock. They hereby cite Mr *apud acta* [*or, They hereby resolve to cite Mr in regular form to attend said meeting, and instruct their clerk to transmit to him a copy of the proposed libel, and of the minute now agreed to regarding it, in such time as to give him full ten days' notice, according to Act V, 1853.*]

(e) *Minute when the Presbytery have considered the relevancy of a Libel against a Minister which they propose themselves to serve*

The Presbytery took up the case of the libel against Mr A.B.

It was intimated that the instructions of last meeting had been complied with. Mr A.B. appeared in his place as a member of Court. The Presbytery took into consideration the proposed form of libel against Mr A.B.

It was moved and seconded that this form be found relevant as a libel.

It was also moved and seconded that it be found irrelevant.

On a vote being taken, the first motion was carried. The Presbytery accordingly resolve to serve the libel upon Mr A.B., as one which they have already found to be relevant. From this judgment Mr A.B. dissented, and protested for leave to complain to the Synod of; promising etc.

In accordance with Act IV, 1853, the Presbytery order the libel to be now served in due form, notwithstanding the dissent and complaint, and find that Mr A.B. now ceases, *ipso facto*, to exercise the functions of his office.

(f) *Minute, when it is certified to the Presbytery that the Libel has been served, notwithstanding a Dissent and Complaint*

The Presbytery finding that the libel, as a libel found to be relevant, has been served in due form upon Mr A.B., but that a dissent and protest for leave to complain have been duly recorded and acted on, hereby sist all further procedure in the case until a final decision on the relevancy shall have been pronounced by a superior Court.

(g) *Minute when the Libel has been served without Dissent and Complaint, and the Presbytery desires to act under Act X, 1854*

The Presbytery find that in this case it does not appear expedient for them, in the circumstances, to act both as prosecutors and judges, and therefore they hereby refer the case to the Synod of

(h) *Minute when Libel given in by the Members of the Congregation*

Mr L.M. appeared and presented a libel against Mr A.B., Minister of, which was authenticated by the signature of the Moderator and Clerk, the tenor whereof follows [*here take it in*]. The Presbytery having considered said libel, order a copy thereof, and of the list of witnesses annexed thereto, to be served on the said A.B., and resolve to cite him to appear before the Presbytery to answer the same at their next ordinary meeting, to be held on day of next, at o'clock; said citation to be made ten free days at least before said meeting.

(i) *Minute of Meeting when accused Party appears, and the relevancy of the Libel is considered*

The Clerk intimated that the citation of Mr A.B. had been duly served, with a copy of the libel and list of witnesses. Mr A.B. had been duly summoned to appear before the Presbytery this day, to answer to the same. Mr A.B. being called, appeared. Mr L.M. attended on behalf of the libellers. The libel having been read over, the following defences were given in on the part of Mr A.B. [*here take them in*]. Parties were then heard on the relevancy of the libel, and were then removed. The Presbytery did, and hereby do, find the major proposition relevant. Parties being called in, this sentence was intimated to them. The Presbytery appoint their next meeting to be held at on the day of next, for the purpose of dealing with the said A.B. according to the form of process; or of resolving to proceed to the probation of said libel according to law, and of granting warrant for summoning the witnesses, for proving thereof, as they

shall see cause; and they instruct their Clerk to give timely information of said meeting to Mr A.B., and that the Presbytery require that he appear personally [*or, Mr A.B., being present, was cited apud acta*].

Should the Presbytery be unsuccessful in bringing the accused party to an acknowledgment of guilt, they then resolve to proceed to probation.

(j) *Minute when the Presbytery desires to act under Act IX, 1854*

The Presbytery find that it does not appear expedient, in the circumstances, for the proof to be taken, except in the presence of those who have the power of giving a final deliverance as to its effect, and they therefore hereby refer the case to the Synod of

(k) *Minute of Presbytery resolving to try the Case themselves, and to take the Proof, although they are the Prosecutors*

The Presbytery do not judge it expedient to adopt the course allowed by Acts IX and X, 1854, and therefore resolve to proceed to take the proof.

(l) *Minute when Presbytery resolve to proceed to Probation*

The Presbytery having resolved to proceed to a proof of the charges in the libel, appointed their next meeting to be held at, on the day of for this purpose, and they resolved to cite such witnesses in the list appended to said libel, as to the libellers may seem appropriate, to appear in said place, on that day, to give evidence in the cause, and they appoint their Clerk to issue their edict for that purpose. Parties were summoned *apud acta* to attend said meeting.

The witnesses are cited, and examined, in the same way as before [*see, Kirk Session*].

The witnesses on the part of the prosecution having been examined, the defender is then allowed an exculpatory proof, the Presbytery granting warrant for the citation of the witnesses, as in the former case. The exculpatory proof being finished, the Presbytery come to a deliverance, after hearing parties on the evidence. If the libel infer deposition, and the crime be proved, sentence is then carried into execution, provided no appeal be taken to a superior court.

(m) *Form of Minute in case of Deposition*

The Presbytery having had under their consideration the libel, at the instance of against Mr A.B., Minister of the Congregation at C., which set forth, and the citation of the said A.B., his appearance, his answers to the said libel against him, the proof adduced; and having found the same relevant by the acts and practice of this Church, to infer deposition, as also the articles of the said complaint, sufficiently proved by the depositions of the witnesses, and other proof adduced, viz., that [*here narrate the charges found proven*], as the proof adduced bears. Therefore, the Presbytery did, by their vote, depose the said A.B., like as they

hereby do, in the name of the Lord Jesus Christ, the alone King and Head of his Church, and by virtue of the power and authority committed by him to them, depose the said A.B. from the office of the holy ministry; prohibiting and discharging him to exercise the same, or any part thereof, in all time coming, under the pain of the highest censures of the Church.

Previously to the moderator pronouncing the solemn sentence of deposition, prayer is offered by one of the brethren.

Sentence of deposition must in all cases be reported to the General Assembly; and the Assembly alone can pronounce sentence of deposition on a Minister in his absence.

(n) *Form of Deposition*

In the name of the Lord Jesus Christ, the sole King and Head of this Church, and by virtue of the power and authority committed by Him to it, I do now solemnly depose you, Mr A.B., Minister of the Free Church Congregation at C., from the office of the holy ministry, prohibiting and discharging you from exercising the same, or any part thereof, in all time coming, under the pain of the highest censure of the Church; and I do declare the church of C. vacant, from and after the day and date of this sentence.

*If signs of penitence have been given, and the crime proved does not demand so severe a punishment as deposition, but still so much guilt has been proved as that some punishment is called for, the court may **suspend** the accused from the exercise of his ministerial functions, and that either for a limited or unlimited period, as to the Presbytery may seem most proper in the circumstances of the case, and may declare the pastoral tie to be dissolved.*

If the person accused be a preacher of the gospel, he is, in the event of the libel being proved, deprived of his licence.

(o) *Minute in the case of Deprivation of Licence*

The Presbytery therefore did, and hereby do, deprive the said Mr A.B. of his licence as a preacher of the gospel, declare that he cannot be admitted into any pulpit within the bounds of the Free Church of Scotland, and that he is disqualified to accept a call, or be received into any pastoral charge.

In the case of a minister being deposed, or a probationer deprived of his licence, intimation thereof must be made to the Clerk of the Assembly.

(p) *Citations*

Citations follow the pattern indicated for Kirk Sessions.

(5) Specimen Minute for the Synod in the event of a Case coming before them under Acts IX and X, 1854

A reference in the case of libel against Mr A.B., was brought before the Synod from the Presbytery of, under Act IX, 1854.

Parties were called, etc.

It was moved and seconded that the Synod dismiss the reference, and instruct the Presbytery to proceed with the case themselves.

It was also moved and seconded that the Synod sustain the reference.

On a vote being taken, the second motion carried.

The Synod accordingly sustain the reference.

Thereafter it was moved and seconded that the Synod proceed to try the case.

It was also moved and seconded that the Synod refer the case to the General Assembly.

On a vote being taken, the second motion carried.

The Synod accordingly refer the case to the General Assembly.

(6) Forms of Libel

It does not appear necessary to give samples relating to different offences as the same general form is relevant to all cases: (1) a statement of censurable offences described in Scripture; (2) an allegation that such things have been done by the accused person, with particular instances cited; (3) that this being so the person accused if found guilty is liable to censure in varying degrees up to deposition.

Mr A.B., Minister of the Free Church Congregation at X in the Presbytery of Z, you are indicted and accused at the instance of C.D., Moderator and E., F., G., and H. , members of the Presbytery of Z:

That although by the Word of God and the laws, doctrines and discipline of the Free Church of Scotland, theft/drunkenness/fornication/heresy, is an offence of a heinous nature and severely censurable, yet it is true that you A.B. are guilty of such an offence inasmuch as [*here specify details*] of which the following persons and documents bear witness and this testimony will be used in evidence against you. The documents referred to are in the hands of the Presbytery clerk and may be seen by you or copies furnished to you at your request.

You, A.B., are therefore to be tried before the Presbytery of Z and if the facts alleged be proved to the satisfaction of the Presbytery, you will be liable to such censure, not excluding deposition from the ministry, as may to the Presbytery seem appropriate.

Signed Moderator
 Clerk

List of Witnesses and Documents

At the close of the libel follows the list of witnesses (which is to be regularly served on the accused, with a full copy of the libel) in this manner:-

“List of witnesses to be adduced against you, the said A.B., for proving the foregoing libel:-

1. E.F., presently gardener to C.E., Esq., now or lately residing at D.

2. G.H., now or lately residing at F”.

If there are articles to be produced in evidence, they should be thus expressed after the list of witnesses:-

“There will also be produced as further proof of the foregoing libel:”

[Here mention Documents produced.]

The list of witnesses and documents ought to be authenticated by the signatures of the Moderator and Clerk of the Presbytery, and by that of the libeller, if he is a private party.

(D) FORMS OF EXTRACTS

(1) When Whole Minute is given

At and within the Session Room of the Free Church there on 19., the Kirk Session of met and was constituted.

Sederunt: *[Insert in full.]*

[Insert full text of all business transacted at the meeting.]

Extracted from the Minutes of the Kirk Session by

..... (Clerk).

(2) Where only part given

At and within the Session Room of the Free Church there on 19., the Kirk Session of met and was constituted.

Inter Alia:

[Here incorporate the minute of that part of the business relevant to the extract.]

Extracted from the Minutes of the Kirk Session by

..... (Clerk).