

MINUTES OF THE PROCEEDINGS  
OF THE COMMISSION  
OF THE  
GENERAL ASSEMBLY OF THE FREE CHURCH OF SCOTLAND

being the Minutes of the Special Meeting of Commission held on Thursday 23rd March 2006.

*At Edinburgh and within the Free Assembly Hall there on Thursday 23rd March 2006, at 7.00 o'clock evening,  
the Commission of Assembly did convene and was constituted with devotional exercises.*

- 1. Commission constituted** Which day a quorum of the Commission appointed by last General Assembly being met in special session called by the Moderator of last General Assembly at the request of the Stewardship and Policy Committee to dispose of a Report from the said Committee anent the outcome of a recent communication from the Free Church of Scotland (Continuing), Rev. A. J. Macdonald was called to the Chair, and the meeting was constituted with devotional exercises.
- 2. Statement by the Moderator** The Moderator made a statement. It was moved, seconded and agreed to that the Commission approve the calling of this special meeting of the Commission.
- 3. Clerk** In the absence of the Assistant Clerk it was moved, seconded and agreed to that Rev Kenneth Macleod be appointed Assistant Clerk *pro tem* for this meeting of the Commission.
- 4. Note of Business** The Clerk submitted a note of the business to come before the Commission.
- 5. Standing Orders** It was moved, seconded and agreed to that Standing Orders be amended so as to allow commissioners to speak more than once to the report, such speeches to be limited to 5 minutes on each occasion.
- 6. Report of the Stewardship and Policy Committee** The Commission of Assembly called for the Report of the Stewardship and Policy Committee which was given in the following terms by the Vice-Convenor who addressed the Commission thereanent.

**1. Introduction**

On the 8<sup>th</sup> of March the Committee received notification from the Clerk of Assembly of the Free Church of Scotland (Continuing) [FCC] that their Commission of Assembly had instructed their Committee on Legal Advice and Property to abandon their appeal against Lady Paton's decision (*para.6* of their finding). The communication from their Clerk also contained proposals to resolve the dispute between the FCC and the Free Church of Scotland [FC] without recourse to the Courts. The notification and proposals were in the following terms.

**Extract**

At Dores and within the Free Church there on Tuesday 7<sup>th</sup> March, 2006, which day the Commission of Assembly of the Free Church of Scotland (Continuing) being met and constituted.

*Inter Alia*

The Commission took up consideration of a Report from the Committee on Legal Advice & Property.

It was moved, seconded and agreed that

1. The Commission of Assembly receive and adopt the Interim-Report of the Legal Advice and Property Committee and thank the Committee and our legal team;

2. The Commission of Assembly welcome and adopt the provisions contained in the document entitled *Proposals for Extra-judicial Settlement*. Noting the content of the communications dated 27 January and 20 February from the Convener of the Legal Group of the Free Church of Scotland, they commend these proposals for acceptance in principle by their Commission of Assembly and invite them to subscribe therein their views of the fundamental principles that led to the lamentable division in the Free Church. Subject to receipt by our Principal Clerk of Assembly by 30 March 2006 of an unequivocal acceptance in principle by the Free Church of Scotland of the terms of settlement contained in of the *Proposals* document, the Commission of Assembly hereby instruct the Committee immediately to fall from further legal process for resolution of our dispute with our brethren;

3. The Commission of Assembly appoint a Committee of three of their number, two of whom shall be representatives of the Legal Advice and Property Committee, to represent the interests of the Free Church of Scotland (Continuing) in any discussions that may be required for adjustment of the *Proposals for Extra-judicial Settlement* document. In addition they hereby nominate an independent observer in terms of paragraph 4.3 of that document;

4. The Commission of Assembly humbly resolve, in prayerful dependence upon God' grace and help, to seek to strive with energy, diligence and mutual respect to resolve this dispute with their separate brethren in a manner that is becoming of fellowship in the Lord Jesus Christ;

5. In the absence, however, of an acceptance in principle by the Commission of Assembly of the Free Church of Scotland of the provisions contained in the document entitled *Proposals for Extra-judicial Settlement*, the Commission of Assembly instruct the Committee to take such action as they deem to be appropriate, in consultation with the legal team, for the defence of the interests of the Free Church of Scotland (Continuing) and of her local congregations.

6. Noting the instruction given to the Committee by the Commission of Assembly on 2 November 2005 not to embark upon any further legal action in the absence of sufficient funds to cover contingent liabilities, the Commission of Assembly now instruct the Committee to abandon the Reclaiming Motion marked in the Court of Session.

**Proposals** - for extra-judicial settlement of the dispute between the present subsisting bodies of Christians known as: THE FREE CHURCH OF SCOTLAND (CONTINUING) and THE FREE CHURCH OF SCOTLAND.

The General Assemblies of both bodies, humbly conscious of the damage that has been done to the Cause of Christ by the dispute that has divided the Free Church of Scotland in recent years and desirous that the rift be healed to such an extent that both bodies can exist in harmony with each other for however long organic reunion continues to elude them, hereby agree to the following provisions for settlement of their dispute without further recourse to the civil magistrate.

1. Whereas the Free Church of Scotland (Continuing) assert

1.1 that the right of continued protest in the Courts of the Reformed Church in Scotland against defections from constitutional principles and the rights of a dissenting minority against an oppressive majority have both ever been constitutional principles of the Free Church (General Assembly Act IX, 1851 and Act IX 1852)

1.2 that no charge may be laid against any member of the Church of Jesus Christ which is not a breach of Biblical requirement ( Free Church *Practice* Part III 1.5) and that no member of the Church can be deprived of his privileges except by the establishment of his guilt with reference to a relevant charge, proved by competent evidence, before a competent Court and by means of a regular and fairly conducted trial ( Free Church *Practice* Part III 2.10)

1.3 that the foregoing premises are founded upon the principle that Christ alone is the Head of the Church and that office bearers in the Courts of the Church must govern ministerially according to the laws of Scripture rather than magisterially by exercise of oppressive rule; and that faithful exercise of the constitutional right of continued protest enables office bearers to assert, maintain and defend the doctrine , worship, discipline and government of the Church, thus preserving the unity of the Church against error and

schism; and that office bearers cannot be declared to be in violation of their ordination vows in the absence of due process. Mark 10 : 35 - 45

2. Whereas the Free Church of Scotland assert.....

3. Whereas the Civil Magistrate has declared that neither the Free Church of Scotland nor the Free Church of Scotland (Continuing) have departed from the fundamental tenets of the Free Church of Scotland,

Wherefore

4. For the sake of peace and the restoration of ecclesiastical relations between brethren, it is hereby agreed and enacted by the General Assemblies of the Free Church of Scotland and the Free Church of Scotland (Continuing) that they will adhere to the following terms of settlement:

#### 4.1. Title

For the purposes of distinguishing between the separate bodies, each claiming unbroken succession from the Disruption fathers, the Free Church (Continuing) is content to be known by that title for as long as organic reunion eludes us.

#### 4.2 The Suspensions

The "suspensions" imposed by the Commission of Assembly upon 22 ministers of the Gospel on 20 January 2000 and subsequently by a number of Presbyteries on other ministers adhering to the Free Church of Scotland (Continuing) are hereby recognised as being void.

#### 4.3 Property

The overriding principle that each congregation has a suitable place for worship and no minister of the Gospel is without appropriate accommodation for his needs will regulate the approach of both bodies to resolution of property matters.

The general principle will be that current occupancy will be accepted as the appropriate occupancy for future regulation. Where possible, and subject to the agreement of local congregations, adjustments to currently prevailing conditions of occupancy that are likely to make for more efficient use of places of worship may be arranged.

Title to those properties held under the terms of the Model Trust Deed and now to be occupied as of right by or for congregations adhering to the Free Church (Continuing) will pass to the Free Church of Scotland (Continuing) by means of the Free Church General Trustees renouncing any interest in the affected properties in favour of General Trustees appointed by the Free Church of Scotland (Continuing). The terms of the trust under which these properties are held will remain unchanged in principle by this process and any proposed future change in these terms will be subject to agreement by both the Free Church of Scotland and the Free Church of Scotland (Continuing). In like manner, title to properties held by local trustees will pass where goodwill prevails between the parties under the supervision of Law Agents for both bodies and of a joint Committee appointed for the purpose. In those cases where agreement on the basis of goodwill cannot be reached the *status quo* will continue to prevail and the matter will continue to be kept under review by the joint Committee until a resolution can be found.

Oversight of these arrangements will be undertaken by a joint committee to be known as the Committee anent Settlement Arrangements. The Committee will have a complement of 6 persons, 3 from each of the two Denominations, appointed by their respective General Assemblies and chosen with regard to their gracious disposition and aptitude for administration. Both bodies will have the right to nominate one of their number to the office of Convener of the Committee. Chairmanship of meetings will alternate sequentially between the Convener representing both bodies. The terms of membership and rules of procedure will be as laid down in the Standing Orders of General Assembly in respect of Standing Committees prior to the division. Both bodies will have the right at their exclusive discretion to nominate one independent observer to membership of the Committee. Any such observer will be a minister or ruling elder from a Denomination or ecclesiastical body with which the Free Church of Scotland or the Free Church of Scotland (Continuing) has fraternal relations.

#### 4.4 Finance

In those local situations where there are frozen bank accounts, resolution of the entire situation will involve an amicable settlement of all property and financial matters, including that of funds held for behoof of the local Free Church congregation, now in frozen bank accounts. Under supervision of the Committee and the Law Agents for both bodies, these financial matters will be resolved in such a manner as will be to the satisfaction of the relevant Bank for release of frozen funds. Where funds are held for behoof of the local congregation in the Free Church Share Pool or in other centrally held funds, the Committee and the Law Agents will take this into consideration in their proposals for settlement. Any other funds generated, for example, by sale of local properties, in which the separated sections of a local congregation can each reasonably claim to have an interest, will also be incorporated into the proposals for settlement. In proposals for resolution of property matters, as provided for under paragraph 4.3 hereof, the General Trustees of the Free Church will undertake to give due consideration to release of funds held in trust for behoof of local congregations.

#### 4.5 Free Church Pension Fund

It has become clear that the Stewardship and Policy Committee of the Free Church of Scotland and the Trustees of the Pension Fund are faced with an immense problem due to the significant shortfall in funding. This is an issue that the members of these bodies are currently giving urgent attention to in collaboration with independent professional advisers. The Trustees of the Pension Fund hereby give an undertaking to ensure, that whatever course of action is deemed to be prudent in the light of advice received, they will seek to guarantee equity and equality to all members, irrespective of denominational affiliation. Subject to satisfactory arrangements being put in place in respect of the other matters dealt with in this agreement, as well as an equitable share of centrally held material assets being made available to them, the Free Church of Scotland (Continuing) give an assurance that they will give diligence to providing whatever financial help is deemed to be equitable to assist in resolving this difficult problem.

#### 4.6 Ecclesiastical Records

The general principle will be that the *status quo* will continue to prevail but, with goodwill prevailing on both sides, efforts will be made to ensure that neither side is disadvantaged by the absence of records. Where possible and desirable, this will be effected by exchange of copies to maintain continuity. A Joint Working Party anent Annals of the Free Church will be re-appointed to take this project forward in a sensitive manner.

#### 4.7 Library Access

It is hereby agreed that access on the part of ministers and divinity students of the Free Church of Scotland (Continuing) to the library held at the Free Church College will be equal and equivalent to that of ministers and divinity students of the Free Church. It is also hereby agreed that the terms of access to the New College library, governed by the provisions of the Churches Scotland Act 1905, is taken to include all ministers and divinity students of the Free Church of Scotland (Continuing).

#### *Implementation of these provisions*

5.1 The provisions of this draft agreement, subject to such adjustment as may be agreed between representatives of the Legal Group of the Stewardship & Policy Committee of the Free Church of Scotland and of the Legal Advice & Property Committee of the Free Church of Scotland (Continuing) will be tabled at Commissions of Assembly of both bodies indicted to meet in March 2006. Subject to the terms of this agreement being approved in principle by both Commissions of Assembly, the Free Church of Scotland and the Free Church of Scotland (Continuing) each undertake to fall from further legal process for resolution of the difficulties between them. 5.2 On the terms of the agreement being approved in principle by both Commissions of Assembly, a joint Working Party will be appointed to finalise the detail of this agreement for approval and implementation by the General Assemblies of both bodies indicted to meet in Edinburgh in May 2006. The Free Church and the Free Church Continuing will each appoint 3 of their number to the Working Party to confer with each other and with their respective Committees for final resolution of outstanding matters for incorporation into a jointly approved Report to the General Assembly of both Denominations. In the event of any matter not being satisfactorily resolved by negotiation in advance of preparation of the joint Report to General Assembly, it will be competent for the Committee of either Denomination to requisition the calling of a Special Commission of their Assembly for resolution of any such matter.

5.3 Both bodies humbly resolve, in prayerful dependence upon God' grace and help, to seek to strive with energy, diligence and mutual respect to resolve this dispute between them in a manner that is becoming of brethren in the Lord Jesus Christ.

## 2. Narrative

A brief narrative of events since the last meeting of Commission in October 2005 is as follows.

- In October the International Conference of Reformed Churches (ICRC) meeting in Pretoria, South Africa, refused the FCC application for membership and made clear that this would be reconsidered when the FCC ceased to sue the Free Church in the civil courts.
- Informal and ongoing contact was established between the Moderators of the Free Church and the FCC.
- On 2<sup>nd</sup> November 2005 the FCC Commission assured their people that “the Church will not embark upon any further legal action in the absence of sufficient funds to cover contingent liabilities”.
- On 20<sup>th</sup> December 2005 Lady Paton found the FCC liable for the vast majority of Free Church expenses in the FCC case.
- On 19<sup>th</sup> and 24<sup>th</sup> January communications from the FCC Assembly Clerk and Convener of their Legal Advice Committee were received, inviting meeting and talks.
- Our Legal Group met on 25<sup>th</sup> January and agreed that, in order to ensure that any proposals received were representative of the FCC's position, the Free Church would only be prepared to look at proposals approved by the FCC Commission of Assembly. This position was subsequently supported by the Stewardship and Policy Committee.
- After a meeting and further discussions between the Conveners of the respective Legal Committees, the FCC Committee agreed to put proposals to their Commission of Assembly.
- The FCC Commission met on 7<sup>th</sup> March and agreed to the finding and proposals as submitted to the Free Church and now in the hands of commissioners.

## 3. Response

We welcome the FCC Commission's instruction to their Legal Advice Committee to abandon their appeal against Lady Paton's decision and we look forward to the Free Church of Scotland (Continuing) now settling the expenses due to the Free Church. Our Law Agent has received a letter from the FCC lawyers with formal confirmation of their intention to depart from their appeal in the following terms: “We write to formally confirm that we now have instructions from our clients to depart from the present Appeal. In the circumstances, it is our intention to enrol a Motion in terms of the accompanying form 23.2 on Wednesday 22 March. We anticipate that this will come before the Court on Friday 24 March, or such later date as the appropriate Division may be sitting.”

It appears to your Committee that this presents the divided Free Church of Scotland with a unique opportunity – a unique *kairos* opportunity (in New Testament terms) to heal the divisions in this part of the Church of Christ. This is a new situation, the consequences of which may take some time to be assimilated by all involved.

It is our understanding that most left the Free Church of Scotland and became part of the Free Church of Scotland (Continuing) believing that they were in fact remaining in the Free Church of Scotland. This was partly due to the fact that they were staying in the Church building and/or with their minister, and partly due to the fact their leadership convinced them that the Free Church of Scotland (Continuing) was the true Free Church. The FCC Commission of Assembly, in deciding to drop their Appeal, have effectively accepted Lady Paton's judgement in the case they brought to the Court of Session.

Lady Paton made clear in her Opinion that the FCC (the pursuers) were asking the Court to declare “the pursuers to be the true Free Church entitled to the property and assets held for behoof of that body of Christians known as the Free Church of Scotland. Alternatively, if the Court of Session concluded that neither party had forfeited their rights to the assets and that the assets should be apportioned between them in terms of the sixth conclusion, the case should be put out By Order for further procedure.” (Lady Paton's Opinion [28]). She concluded, however, that they were not entitled to any of what they sought, including their claim for a share of assets, and so dismissed their action (Lady Paton's Opinion [79]). The legal effect of her ruling is that the FCC is not the Free Church of Scotland (and therefore not entitled to the assets of the Free Church or even to a proportion of them).

Consequently it appears that this is the right time for the Free Church of Scotland to indicate their willingness to receive back into membership those who left under the misapprehension that they were remaining in the Free Church of Scotland.

Your Committee believes that the New Testament emphasis on the unity of the Church justifies such an attitude on our part. Our Lord prayed that we would be one, even as He and the Father are one (John 17:20-23). The Apostle Paul too lays great emphasis on the unity of the Church as one body (1 Corinthians 12) and the love that ought to be shown (1 Corinthians 13).

As far as the interaction of individual members is concerned, there may very well be mutual repentance and forgiveness as our Lord commanded us (Matthew 18:21-35). “Forgive as the Lord forgave you” (Colossians 3:13). In any case we should seize this opportunity to put the past behind us and to take seriously the Scriptural truth that love covers a multitude of sins (1 Peter 4:8).

We are conscious that this still leaves several difficulties, the most major of which is the relationship of the Free Church of Scotland to those office bearers who were suspended from office as a result of their having walked out of the Commission of Assembly on 20<sup>th</sup> January 2000, repudiating its authority, and also those who were subsequently suspended for similar reasons. It is the recommendation of the Committee that those office bearers who wish to return to the Free Church of Scotland be invited to return to the Courts of the Church which suspended them, in order to have their suspensions dealt with on the basis of the Biblical procedure laid down in *The Practice of the Free Church of Scotland*. This is consistent with Lady Paton’s opinion [76]: “...it seems to me that some or all of the pursuers in the present case may be in breach of promises or undertakings made on joining the Free Church. Matters have still to be ruled upon by the General Assembly, but in my view there are at least prima facie grounds of failure by the pursuers (or some of them) to comply with the discipline and government of the church.”

One of the main purposes of church discipline is the recovery of the offender and restoration on repentance. If our Lord could restore Simon Peter after he denied him (John 21:15ff), surely it is not beyond the bounds of possibility (and of grace) that there could be restoration in this case! The Apostle Paul similarly speaks of the importance of restoration (2 Corinthians 2:5-11). We realise that this is a most sensitive issue with great sensitivities on both sides. This is not a time for triumphalism – “There is no place for a spirit of rivalry in any disciplinary process” (*The Practice*, p.89). This is the time to seize a historic opportunity to do what has seldom been achieved before in Scottish Presbyterianism – to heal a church split.

We realise that what we are proposing is visionary and may seem fantastical to many, but we believe it is right that we seek to achieve what is undoubtedly Biblical. If our proposal for what has been called a “One Church Solution” were accepted by at least the majority of Free Church of Scotland (Continuing) people and office bearers, this would solve most of the property issues, as congregations would be returning with their buildings to the Free Church. Obviously many practical difficulties relating to reorganisation of congregations would need to be resolved, but where there is goodwill these should not be insurmountable.

While it is our heartfelt desire that the “One Church Solution” would become a reality, we recognise that for some this may prove impossible. Whether because of views strongly and conscientiously held, or simply because “too much water has gone under the bridge”, some may feel they cannot return to the Church of their fathers, and would prefer a “Two Church Solution”. While still urging them to consider the One Church Solution, we recognise that at least in the meantime a Two Church Solution will be desirable for some. If it becomes clear that there remains a group who wish to remain as the Free Church of Scotland (Continuing), separate from the Free Church of Scotland, we are prepared to offer the following five proposals, with the proviso that all five must be accepted together:

1. The Free Church of Scotland recognises the Free Church of Scotland (Continuing) as a separate denomination, and while making clear that their ministers remain suspended from the ministry of the Free Church of Scotland, the Free Church of Scotland recognises them as office bearers of another denomination, which must make clear by its name that it is not the Free Church of Scotland.
2. The Free Church of Scotland asks Free Church of Scotland (Continuing) to recognise that they do not have legal title to property held on behalf of the Free Church of Scotland and therefore to return all property which Free Church of Scotland congregations require. The Free Church of Scotland for its part will give an undertaking that where this is done, arrangements for the renting or sharing of church buildings for services will be implemented, where possible and desirable, and for copies to be made of relevant ecclesiastical records.
3. With regard to buildings which the Free Church of Scotland does not at present require, the Free Church of Scotland is prepared to rent, lease or sell these to the Free Church of Scotland (Continuing).

4. A joint committee would be appointed to oversee these arrangements in consultation with local congregations.

5. The Free Church of Scotland expects the Free Church of Scotland (Continuing) to cooperate fully in the removal of any outstanding legal process related to this dispute, and in the release of funds held in suspense, including those held in congregational bank accounts as well as those on joint deposit with our respective law agents.

JAMES M. FRASER, Convener  
IAN MACIVER, Vice-Convener

**First Motion** It was moved and seconded that,

1. The Commission of Assembly receive and adopt the Report of the Stewardship and Policy Committee and thank its members.

2. The Commission of Assembly note the communication from the Commission of Assembly of the Free Church of Scotland (Continuing) dated 7<sup>th</sup> March 2006, together with the document entitled "*Proposals for Extra-judicial Settlement of the Dispute*" etc.

3. The Commission of Assembly welcome the decision of the Commission of Assembly of the Free Church of Scotland (Continuing) *viz.* "Noting the instruction given to the Committee by the Commission of Assembly on 2 November 2005 not to embark upon any further legal action in the absence of sufficient funds to cover contingent liabilities, the Commission of Assembly now instruct the Committee to abandon the Reclaiming Motion marked in the Court of Session." Consequently, the Commission of Assembly expect the FCC to settle the expenses due to the Free Church.

4. The Commission of Assembly, on the understanding that the instruction to abandon their Reclaiming Motion has been carried out, and in order to seize this historic opportunity to resolve the dispute between us, make the following proposals:

1) The Free Church of Scotland will welcome back those members who left the Free Church around the year 2000 because they thought the FCC was the true Free Church of Scotland and who now wish to return to the Church of their fathers. Likewise those who became members subsequently to 2000 may also be received if they so wish. This for the following reasons:

a) It is right and proper, in the light of New Testament teaching on the unity of the Church, that a Christian Church ought to seek to heal divisions.

b) The FCC Commission of Assembly have, by abandoning their Reclaiming Motion (Appeal) in the Court of Session, effectively accepted the decision of that Court in Lady Paton's Opinion that the FCC is not the Free Church of Scotland and is not therefore entitled to any of the assets of the Free Church.

c) Many members of the Free Church of Scotland (Continuing) may have been under the misapprehension that they, by identifying with the Free Church of Scotland (Continuing) were remaining in the Free Church of Scotland.

2) The Free Church of Scotland invites those office bearers of the Free Church of Scotland (Continuing) who were suspended from office by the Courts of the Free Church of Scotland around the year 2000 to return to the Courts which suspended them in order to have their suspensions dealt with according to the principles of Scriptural discipline as laid down in *The Practice of the Free Church of Scotland*. This for the following reasons:

a) One of the main purposes of church discipline is the recovery of the offender and restoration on repentance. If our Lord could restore Simon Peter after he denied him (John 21:15ff), surely it is not beyond the bounds of possibility (and of grace) that there could be restoration in this case! The Apostle Paul similarly speaks of the importance of restoration (2 Corinthians 2:5-11). This is a most sensitive issue with great sensitivities on both sides. This is not a time for triumphalism – "There is no place for a spirit of rivalry in any disciplinary process" (*The Practice*, p.89).

b) This is the time to seize a historic opportunity to do what has seldom been achieved before in Scottish Presbyterianism – to heal a church split.

c) This is consistent with Lady Paton's opinion [76]: "...it seems to me that some or all of the pursuers in the present case may be in breach of promises or undertakings made on joining the Free Church. Matters have still to be ruled upon by the General Assembly, but in my view there are at least prima facie grounds of failure by the pursuers (or some of them) to comply with the discipline and government of the church."

3) While it is our heartfelt desire that the "One Church Solution" would become a reality, we recognise that for some this may prove impossible. Whether because of views strongly and conscientiously held, or simply because "too much water has gone under the bridge", some may feel they cannot return to the Church of their fathers, and would prefer a "Two Church Solution". While still urging them to consider the One Church Solution, we recognise that at least in the meantime a Two Church Solution will be desirable for some. If it becomes clear that there remains a group who wish to remain as the Free Church of Scotland (Continuing), separate from the Free Church of Scotland, the Free Church of Scotland is prepared to offer the following five proposals, with the proviso that all five must be accepted together:

a) The Free Church of Scotland recognises the Free Church of Scotland (Continuing) as a separate denomination, and while making clear that their ministers remain suspended from the ministry of the Free Church of Scotland, the Free Church of Scotland recognises them as office bearers of another denomination, which must make clear by its name that it is not the Free Church of Scotland.

b) The Free Church of Scotland asks Free Church of Scotland (Continuing) to recognise that they do not have legal title to property held on behalf of the Free Church of Scotland and therefore to return all property which Free Church of Scotland congregations require. The Free Church of Scotland for its part will give an undertaking that where this is done, arrangements for the renting or sharing of church buildings for services will be implemented, where possible and desirable, and for copies to be made of relevant ecclesiastical records.

c) With regard to buildings which the Free Church of Scotland does not at present require, the Free Church of Scotland is prepared to rent, lease or sell these to the Free Church of Scotland (Continuing).

d) A joint committee would be appointed to oversee these arrangements in consultation with local congregations.

e) The Free Church of Scotland expects the Free Church of Scotland (Continuing) to cooperate fully in the removal of any outstanding legal process related to this dispute, and in the release of funds held in suspense, including those held in congregational bank accounts as well as those on joint deposit with our respective law agents.

5. The Commission of Assembly instruct the Clerk of Assembly to send this finding, together with the Report, to the Clerk of Assembly of the Free Church of Scotland (Continuing) with an invitation to appoint, consequent on the acceptance in principle of these proposals by the FCC Commission of Assembly, five representatives to meet with a similar number of representatives of the Free Church to discuss the implementation of these proposals.

**Second Motion** It was also moved and seconded that, paragraph 4.2 (a) of the Deliverance be amended to read as follows: "a) one of the main purposes of church discipline is the recovery of the offender and restoration on repentance", with the remainder of the paragraph deleted.

With the permission of the Commission the Vice-convener accepted the second motion.

**Finding** Wherefore it became the finding of the Commission that,

1. The Commission of Assembly receive and adopt the Report of the Stewardship and Policy Committee and thank its members.

2. The Commission of Assembly note the communication from the Commission of Assembly of the Free Church of Scotland (Continuing) dated 7<sup>th</sup> March 2006, together with the document entitled "*Proposals for Extra-judicial Settlement of the Dispute*" etc.

3. The Commission of Assembly welcome the decision of the Commission of Assembly of the Free Church of Scotland (Continuing) viz. "Noting the instruction given to the Committee by the Commission of Assembly on 2 November 2005 not to embark upon any further legal action in the absence of sufficient funds to cover

contingent liabilities, the Commission of Assembly now instruct the Committee to abandon the Reclaiming Motion marked in the Court of Session.” Consequently, the Commission of Assembly expect the FCC to settle the expenses due to the Free Church.

4. The Commission of Assembly, on the understanding that the instruction to abandon their Reclaiming Motion has been carried out, and in order to seize this historic opportunity to resolve the dispute between us, make the following proposals:

1) The Free Church of Scotland will welcome back those members who left the Free Church around the year 2000 because they thought the FCC was the true Free Church of Scotland and who now wish to return to the Church of their fathers. Likewise those who became members subsequently to 2000 may also be received if they so wish. This for the following reasons:

a) It is right and proper, in the light of New Testament teaching on the unity of the Church, that a Christian Church ought to seek to heal divisions.

b) The FCC Commission of Assembly have, by abandoning their Reclaiming Motion (Appeal) in the Court of Session, effectively accepted the decision of that Court in Lady Paton’s Opinion that the FCC is not the Free Church of Scotland and is not therefore entitled to any of the assets of the Free Church.

c) Many members of the Free Church of Scotland (Continuing) may have been under the misapprehension that they, by identifying with the Free Church of Scotland (Continuing) were remaining in the Free Church of Scotland.

2) The Free Church of Scotland invites those office bearers of the Free Church of Scotland (Continuing) who were suspended from office by the Courts of the Free Church of Scotland around the year 2000 to return to the Courts which suspended them in order to have their suspensions dealt with according to the principles of Scriptural discipline as laid down in *The Practice of the Free Church of Scotland*. This for the following reasons:

a) One of the main purposes of church discipline is the recovery of the offender and restoration on repentance.

b) This is the time to seize a historic opportunity to do what has seldom been achieved before in Scottish Presbyterianism – to heal a church split.

c) This is consistent with Lady Paton’s opinion [76]: “...it seems to me that some or all of the pursuers in the present case may be in breach of promises or undertakings made on joining the Free Church. Matters have still to be ruled upon by the General Assembly, but in my view there are at least prima facie grounds of failure by the pursuers (or some of them) to comply with the discipline and government of the church.”

3) While it is our heartfelt desire that the “One Church Solution” would become a reality, we recognise that for some this may prove impossible. Whether because of views strongly and conscientiously held, or simply because “too much water has gone under the bridge”, some may feel they cannot return to the Church of their fathers, and would prefer a “Two Church Solution”. While still urging them to consider the One Church Solution, we recognise that at least in the meantime a Two Church Solution will be desirable for some. If it becomes clear that there remains a group who wish to remain as the Free Church of Scotland (Continuing), separate from the Free Church of Scotland, the Free Church of Scotland is prepared to offer the following five proposals, with the proviso that all five must be accepted together:

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b) The Free Church of Scotland asks Free Church of Scotland (Continuing) to recognise that they do not have legal title to property held on behalf of the Free Church of Scotland and therefore to return all property which Free Church of Scotland congregations require. The Free Church of Scotland for its part will give an undertaking that where this is done, arrangements for the renting or sharing of church buildings for services will be implemented, where possible and desirable, and for copies to be made of relevant ecclesiastical records.

c) With regard to buildings which the Free Church of Scotland does not at present require, the Free Church of Scotland is prepared to rent, lease or sell these to the Free Church of Scotland (Continuing).

d) A joint committee would be appointed to oversee these arrangements in consultation with local congregations.

e) The Free Church of Scotland expects the Free Church of Scotland (Continuing) to cooperate fully in the removal of any outstanding legal process related to this dispute, and in the release of funds held in suspense, including those held in congregational bank accounts as well as those on joint deposit with our respective law agents.

5. The Commission of Assembly instruct the Clerk of Assembly to send this finding, together with the Report, to the Clerk of Assembly of the Free Church of Scotland (Continuing) with an invitation to appoint, consequent on the acceptance in principle of these proposals by the FCC Commission of Assembly, five representatives to meet with a similar number of representatives of the Free Church to discuss the implementation of these proposals.

**7. Press Statement** The Commission agreed to release a Press Statement.

**8. Minutes** The minutes of this sederunt were read and approved.

**9. Closure** There being no further business the sederunt was closed with prayer.