

# **Declaration of Reconstitution of the Free Church of Scotland**

signed in the Magdalen Chapel in the Cowgate of Edinburgh on 20<sup>th</sup> January 2000

We the undersigned Ministers and Elders of the Free Church of Scotland,

Considering that the constitution of the said Church is contained in the Scriptures of the Old and New Testaments, the Westminster Confession of Faith as approved by the General Assembly of the Church of Scotland in 1647, the First and Second Books of Discipline, the Larger and Shorter Catechisms, the Claim, Declaration, and Protest of 1842, the Protest of 1843, the Act of Separation and Deed of Demission executed in 1843, the Formula appointed to be subscribed by probationers before receiving licence and by all office-bearers at the time of their admission together with the Questions appointed to be put to the said parties at ordination and admission, and the Acts of Assembly of the Church of Scotland prior to 1843; and now seeing:

(1st) That Commissioners exercising a majority in voting in the General Assemblies and Commissions of the Free Church of Scotland, and purporting to enact and make findings in the name of the Free Church of Scotland and by authority as office-bearers according to the rule of Christ and the constitution of the Church, have of late years applied in an arbitrary and tyrannical way the resolutions of its General Assemblies and Commissions, establishing these as ultimate rules of conduct, and treating as contumacious any conscientious inability to give obedience to edicts of the said Assemblies and Commissions, contrary to Chapter XXXI Section IV of the Confession of Faith, which states: "All Synods or Councils since the Apostles' times, whether general or particular, may err, and many have erred; therefore they are not to be made the rule of faith or practice, but to be used as an help in both"; and Chapter XX Section II which states: "God alone is Lord of the conscience, and hath left it free from the doctrines and commandments of men which are in anything contrary to his Word, or beside it, in matters of faith or worship, so that to believe such doctrines, or to obey such commandments out of conscience, is to betray true liberty of conscience; and the requiring of an implicit faith, and an absolute and blind obedience, is to destroy liberty of conscience, and reason also": by, inter alia:

- (a) deeming it censurable to refuse to obey instructions of a Church Court which are in violation of the Word of God and the constitution of the Free Church of Scotland, regardless of whether obedience could be rendered in conscience or not;
- (b) bringing disciplinary processes against ministers and elders in respect of matters which have not been declared censurable in Scripture;
- (c) treating as potentially contumacious any suggestion to revisit an administrative decision of the General Assembly notwithstanding that such decisions are not unalterable and are open at all times to review, and instituting disciplinary processes against ministers who called for such review;
- (d) appointing general assessors to a Presbytery in order to impose the will of the General Assembly and its Commission on the will of the substantial majority of the Presbytery conscientiously expressed;
- (e) declaring sinfully schismatic, without proof before the Courts of the Church, the action of a body of believers who withdrew from their local congregation for conscience' sake and out of concern for the correct observance of the constitution of the Free Church of Scotland, and forbidding ministers and office-bearers, under pain of censure, to preach to or have fellowship with the said body of believers notwithstanding that they have not departed from the constitution and principles of the

Church;

(2nd) That Commissioners purporting to exercise lawful judicial authority in the name of the Free Church of Scotland have breached fundamental principles of equity and natural justice, contrary to Chapter XIX, Section V of the Confession of Faith, which states: "The moral law doth for ever bind all, as well justified persons as others, to the obedience thereof; and that not only in the matter contained in it, but also in respect of the authority of God the Creator, who gave it; neither doth Christ in the gospel anyway dissolve, but much strengthen this obligation": by, inter alia:

- (a) forbidding office-bearers and members now or henceforth to pursue matters arising from a particular fama, involving serious allegations against a minister, in any form whatsoever;
- (b) ordering the destruction of documents relating to the aforesaid fama notwithstanding that issues arising therefrom remain unresolved, thereby prejudicing the rights of interested parties to secure a fair and proper resolution of the said issues;
- (c) imposing requirements on ministers and office-bearers additional to their ordination vows, and thereby, in particular, infringing their civil rights to freedom of assembly and association by forbidding them, under pain of censure, to hold office in an association professedly aiming to assert and defend the constitution of the historic Free Church of Scotland;
- (d) annulling the licensing of, and withdrawing recognition as a candidate for the ministry from, a divinity student who had been accepted by the Training of the Ministry and Admissions Committee after due examination of his credentials and then licensed by his Presbytery in accordance with the law of the Church, and against whom no disciplinary proceedings had been brought, and directing the Presbytery to expunge the decision to proceed to license from its minutes;

(3rd) That albeit the Form of Process enacted by the General Assembly of the Church of Scotland in 1707, and being a constitutional document of the Free Church of Scotland, is binding and obligatory on all Courts of the said Church, Commissioners purporting to exercise lawful judicial authority in the name of the Free Church of Scotland have adopted findings and conducted procedures at variance with, and subversive of, the principles of church discipline set out in the said Form of Process and reflected in the authorised practice and procedure of the Free Church of Scotland, by, inter alia:

- (a) endorsing a finding of the Training of the Ministry and Admissions Committee, in relation to the aforesaid fama, without judicial examination of the evidence and without enquiry to ensure that the precognition in the case had been properly conducted and that all relevant witnesses had been duly examined, contrary to the requirement of the Form of Process that when such a matter comes before a church judicatory it ought not to be "negligently inquired into" (Chapter VII, paragraph 2);
- (b) treating the said decision as judicial notwithstanding that the procedure adopted by the judicatory was not conducted under the Form of Process and the decision was therefore no more than administrative;
- (c) purporting to terminate the bringing of private libels in relation to the aforesaid fama, thereby seeking to prohibit a course of action to which the Form of Process (Chapter VII, paragraph 3) gives a right;
- (d) conducting disciplinary processes against ministers before the Commission of Assembly as a court of first instance, in violation of the requirement in the Form of Process (Chapter VII, paragraph 1) that all processes against any minister are to begin before his Presbytery, and using the said Commission to institute such processes without authority from the General Assembly;

And that Commissioners exercising a majority in voting in the General Assemblies and Commissions of Assemblies, purporting to act lawfully therein in the name of the Free Church of Scotland, have, by the aforementioned actions, passed acts and resolutions under which the constitution and standards of the Free Church of Scotland can be, and are violated, and have refused to countenance petitions and other requests for redress of the same; whereby the said persons have ceased to constitute authoritative courts of the historic Free Church of Scotland.

In consequence whereof:

We claim our right and profess our duty, according to our ordination vows thereanent, to administer discipline and government consistent with the requirements embodied in the constitution of the Free Church of Scotland and stated in our ordination vows, which vows bind us to maintain the said discipline and government "notwithstanding of whatsoever trouble or persecution may arise";

We protest that by our engagement to the constitution of the Free Church of Scotland, our office in the said Church prevents, and has always prevented, our being bound by any acts or resolutions (including, but not confined to, the foregoing) of the said persons purporting to act lawfully in the name of the Free Church of Scotland, which are contrary to the authorised standards of the Free Church of Scotland;

We declare that in accordance with the Word of God and the authorised standards of the Free Church of Scotland, we are not and can never be under the jurisdiction of individuals and courts purporting to act in the name of the Free Church of Scotland, yet against the said Word and standards, without doing violence to our consciences and our faithfulness to our ordination vows.

Wherefore -

We have resolved to declare that the Free Church of Scotland is separate from all church courts seeking to impose acts and findings contrary to the constitution of the historic Free Church of Scotland, and we claim still to be the true bona fide representatives of the original protesters of 1843 and to be carrying out the objects of the Protest more faithfully than the majority.

In order the more formally and effectually to carry out the said resolution, we, the Ministers and Elders of the historic Free Church of Scotland under-subscribing, for ourselves and all who may now or hereafter adhere to us, affirming that we and they now adhere as we and they have heretofore done to the constitution and standards of the historic Free Church of Scotland, declare that we hereby disassociate ourselves from any residual subsisting body claiming the title of the Free Church of Scotland; and we further specially provide and declare:

That we for ourselves, and all who may now or hereafter adhere to us, in no degree abandon, impair or waive the rights belonging to us as ministers of Christ's gospel, and pastors and elders of particular congregations, to perform fully and freely the functions of our offices towards our respective congregations, or such portions thereof as may adhere to us;

That signature of or adherence to this Declaration shall in no way prejudice our right to maintain the doctrines and principles of the historic Free Church of Scotland as set forth in her authorised

standards and authoritative documents and to take all steps that may be necessary to vindicate the said doctrines and principles;

That we are and shall be free to exercise government and discipline in our several judicatories according to the Word of God and consistent with the constitution and standards of the historic Free Church of Scotland;

That henceforth we are not and shall not be subject in any respect to the ecclesiastical judicatories of any residual subsisting body claiming the title of the Free Church of Scotland;

That meanwhile, to distinguish the reconstituted Free Church of Scotland (solely for purposes of administration) from any residual body claiming that title we may be called the Free Church of Scotland (Continuing);

That the rights and benefits accruing to the ministers subscribing, or who may hereafter adhere hereto, from the pension and other funds of the Free Church of Scotland are hereby reserved;

That this Declaration shall in no way be held as a renunciation on the part of the said ministers of their rights to the ownership, enjoyment and occupation of the property and funds of the Free Church of Scotland, including but not limited to churches, manses, halls and other heritable properties, nor of any rights which may be found to belong to such ministers or to their congregations or to the office bearers of such congregations or to existing or future trustees on behalf of such congregations or their kirk-sessions in regard to the same;

That there is hereby reserved to us, the subscribers hereto, and to all who may now or hereafter adhere to us, power and authority to take all steps that may be necessary or expedient to declare, vindicate, enforce and preserve the status, rights and privileges of every kind, both ecclesiastical and civil, of and attaching now and in the future to us and all who may now or hereafter adhere to us, as those remaining faithful to the doctrine, government and principles embodied in the supreme and subordinate standards of the historic Free Church of Scotland.

The subscribers call to witness the Christian people of this land, and of the Reformed fellowship throughout the world, that this action is not lightly entered into. It is taken in sorrow at the enforced parting from brethren with whom we have had fellowship in the Lord, but also in defence of truth and justice and of the historic principles and practice of the Free Church of Scotland. We declare that if any residual body continuing to claim the title of the Free Church of Scotland is prepared to return to the constitution and standards of the historic Free Church of Scotland, and to practise and adhere faithfully to the same, we will see it as our duty to seek reconciliation with our brethren within that body.

In witness whereof these presents are subscribed by us at Edinburgh on 20th January 2000 before the undersigning witnesses.