

could not appear from age and failing health, either in Sydney or at the church at Gabarus, a commission was given to three members of Presbytery to take the evidence of these older members, in conformity to *Constit. & Proceed.* 291. "When witnesses cannot attend, their evidence may be taken by commission of the court, or through another church court; but the parties must receive notice of the time and place appointed for the taking of such evidence." This commission was executed, and the elders also attended the meeting of Presbytery. The court upon careful consideration of the case found that there was irregularity in the mode of election, but at the same time agreed to sustain the ordination of these additional elders. From this decision Mr. S. appealed, and the Synod sustained his appeal. *b. Exhibit of Testimony.* There was no meeting of session at which it was agreed to add to the number of elders, Q, P, F. P, S; no conversation outside of the Session with Mr. S. on the desirability of additional elders, P; there was no call to the communicants to meet to elect elders, Q, R; (Mr. S. intimated such a call the Sabbath before April 10th. 1879, S); Mr. Sutherland nominated the new elders, Q, P, S; their election consisted in being named by Mr. Sutherland and no one objecting, Q. No meeting of Session was held between election and ordination to try the canons, Q. One of their ordination vows was that they should be faithful to the minister of the congregation, R. *c.* From the above it appears that the following rules of the *Constit. and Proceed.* were not observed: 223: "It belongs to the Session to determine when an addition should be made to its number; but it is competent for members of the congregation to petition the Session to this effect." 224 "When the Session has resolved to add to the number of elders, it first gives notice of this resolution to the congregation, and proceeds in the manner following: (1.) "A meeting of the congregation is held for the purpose of nominating persons qualified to fill the office. At this meeting a list is made of the names in full of persons duly proposed. This list is then submitted to all the communicants, who are required to return to the Session on or before a fixed date, the votes duly signed. At a meeting held thereafter the Session examines the voting papers, ascertains who have the highest votes, declares them elected, and orders the names of the persons so elected to be publicly announced. (2.) It is competent for the Session to hold an election without a previous meeting for nomination, in which case the requisite number may be elected by open vote, by calling the roll or by ballot. (3.) It is competent for the Session to ask the members to give in on a specified day ballots duly signed, containing the names of persons to the number required. The Session declares those who have the largest number of votes on examination of the ballots, duly elected." (Here three methods are laid down, one of which must be followed; Mr. Sutherland followed none, and violated the spirit of all of them.) 224. (4.): "After the election the Session deals with the elders elect as to the propriety of their accepting office. On their expressing their willingness to accept, the Session proceeds to satisfy itself in regard to their piety, prudence and knowledge of Divine truth, of the government and discipline of the church, and of the duties of the office." The wisdom of these rules is apparent, and if there be no irregularity in ignoring them, irregular procedure is a constitutional impossibility. Mr. Sutherland, though present and examining the witnesses, did not prove that he had the consent of one of his elders to the addition to the Session until he nominated the three additional members. The nomination and election took place at that stormy meeting referred to in § 12. Mr. Sutherland produced no evidence, not even a minute of the meeting, to show that a vote was taken on their election. If it had been taken, the result must have been, from the confusion and excitement of both minister and people, the same as in those which were taken: a few showing their hands upon they knew not which side. *d.* The Synod says: "It appears . . . that the action of the Presbytery . . . was even illegal,—especially in that they employed a civil magistrate to take evidence on oath from ecclesiastical officials." The Presbytery did not act illegally in this, for (1) it was the practice of some of the uniting Churches before the