

"sent to parties adopting the proposed alterations, or the position heretofore used and observed."

The question of the Moderator's having visited voters who had sent in their votes as "opposed" to induce them to change their votes, was touched on in the circular. In the minutes it is declared that the Moderator stated he had not asked them to change their votes, "but merely to acquiesce with the majority for the sake of conformity."

The Appellant respectfully submits, that whether the 60 persons who sent in votes as "opposed" changed their votes, or withdrew their opposition, or acquiesced for conformity, or were asked by the Moderator to do so, is of no great importance, except that the Session with votes in their hands from parties as "opposed" might have called, and as Appellant thinks ought to have called for some evidence of the change of views, or acquiescence, before treating them as having really acquiesced in changes of such importance which they had formally opposed. But not having inquired into the fact, having refused to investigate it, by testimony, the Session erred—if it considered the circular as disproved, or the statement in it as false, even if the statement of the Moderator contradicted the printed statement in fact, and not simply in form.

Another statement of the circular as to a matter of fact was to the effect that the Moderator had recently said "that to sit at prayer was most unseemly." This was also a matter of fact which required to be examined into, before it could be held to be a false statement or an unchristian averment. Whether the statement was, or was not made by the Moderator, does not appear of record, there being no evidence on the point, inasmuch as the prayer of the Appellant for proof was not allowed.

In the report of remarks made by a member of Session and so irregularly entered on the minutes, is the following statement.

"That the foot note attached to the circular, contained a vile insinuation that the boxes containing the voting tickets had been tampered with, and the voting not conducted fairly and which was untrue"

Now the foot note is in these words:—

"N. B. "sealed boxes," not "closed boxes" was the language of the pastoral."

The appellant does not desire to allude in this appeal to the pastoral, which does not appear on the minutes of Session. It is a printed document and the words "sealed boxes" were the words therein used. The appellant is therefore unable to perceive how the mention of this fact can justly be called a "vile insinuation" nor how he should have been dealt with as he was, for stating the fact as it really existed.

The only other statements in the circular, to which the appellant thinks it necessary to allude, relate to the report being called "an unfair document" and to the resolution as "ingeniously worded" because it referred to the notes "given in" as "agreeable" not to the whole number "issued." It will be noticed that the circular states the object of the appellant in publishing it to be "to correct statements made as to the result of the voting of the congregation on the proposed changes and posture during the worship in St. Andrew's, and to show that these statements were far from being correct."

This was a fair and legitimate object. The Appellant had a right to oppose the changes, and to argue against them by all fair and open arguments. He used his right, and unfortunately has suffered for doing so, and is therefore driven to this appeal. He may have argued inconclusively in urging that the whole number of "votes issued" should have been considered as the test of a majority, and not the number "given in." The circular may have been weak