

Union to employ a civil magistrate to take evidence on oath, (2) "witnesses may be examined on oath," (*Constit. and Proced.* 287), and no particular person is authorized to administer such oath, and (3) the magistrate was present at the Commission not as a civil officer but as a member of the Commission, being one of the three appointed by Presbytery.

17a. THE FIFTH APPEAL of Mr. Sutherland was taken against a decision of his Presbytery ordering himself, Session, and Trustees to secure Mr. McDonald in his right to the pew which Mr. S. had taken from him and given to D. McIntyre. Mr. McDonald, as did all the people of Gabarus, subscribed to the Church and paid for a pew in it, upon the distinct understanding that the pew was to be his own property. b. The Synod again attempting to cover Mr. S. by his Session, says: "The Session of Gabarus was guilty of no irregularity or illegality in transferring the pew once occupied by McDonald to D. McIntyre." But the Session never did transfer the pew to D. McIntyre, unless the Session was like that of Poolewe—consisting of the minister alone. *Three of the four elders of Gabarus concurred in McDonald's petition, and thus condemned the action of Mr. S. in this case.* c. The Presbytery had a perfect right to receive the said petition, for one of its first duties is "to receive and dispose of petitions."—(*Constit. and Proced.* 21, and compare also 104). d. The Synod charges Presbytery with assuming to interfere with the action of the Session. No candid reader of these pages or of the documents in the case can credit the charge. e. Mr. Gordon in his reasons of appeal, says: "The Synod had more before it than the judicial record." The Synod replies: "It is not correct to say that the Synod had any matter before it other than what was collected by direct or legitimate inference from the papers submitted to the Synod by the Presbytery of Sydney." This needs a word of explanation. In a speech on the case in Presbytery, after the evidence on the petition was closed, Mr. Sutherland produced a little book which he said contained the rules of the congregation of Gabarus, and from which he said certain things might be proved, and handed it to the clerk, upon which he was asked if he gave this in as part of his evidence in defence; he replied "No." and immediately asked for the return of the book. Members of Presbytery had no opportunity of examining it. Its identity as a book referred to in the evidence was never attempted to be established. At the same time Mr. Sutherland raised the minute-book of his Session in his hand and laid it down again. These two books were before the Synod's Committee.

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## APPENDIX A.

### LIST OF WITNESSES EXAMINED.

#### 1. ON THE GENERAL PETITION.

- |                            |                          |
|----------------------------|--------------------------|
| A. Capt. John McLeod.      | H. Hugh Stewart.         |
| B. Duncan Morrison.        | J. Charles Stewart.      |
| C. Hector McKinnon.        | K. John Stewart.         |
| D. Donald Arch. Munro.     | L. D. McIntyre.          |
| E. Roderic McLean, Esq.    | M. Angus McCormick.      |
| F. Philip McDonald, Elder. | N. John Fergusson.       |
| G. Don. McIntyre's Son.    | O. Alexr. McLeod, Elder. |

#### 2. ON THE ELECTION &c. OF ELDERS.

- |                            |                           |
|----------------------------|---------------------------|
| F. Philip McDonald, Elder. | R. John McCormick, Elder. |
| P. Norman McLean, Elder.   | S. Rev. D. Sutherland.    |
| Q. John McLean, Elder.     |                           |