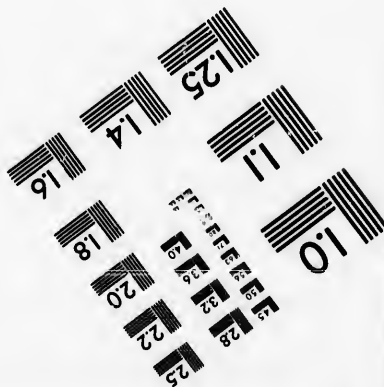
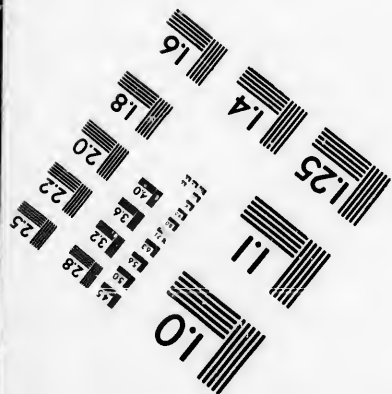
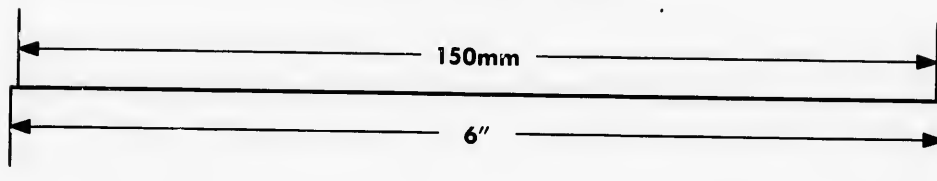
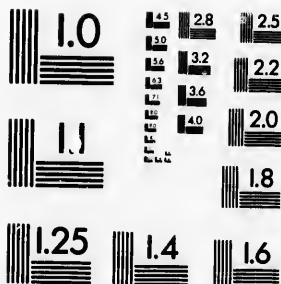
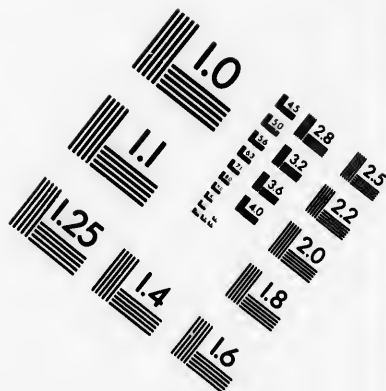
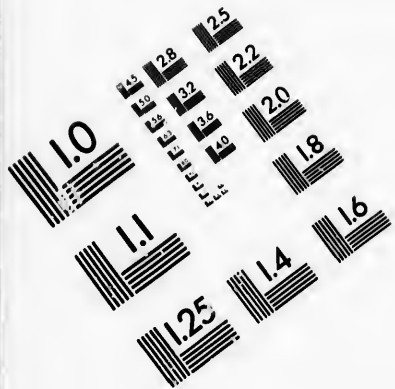


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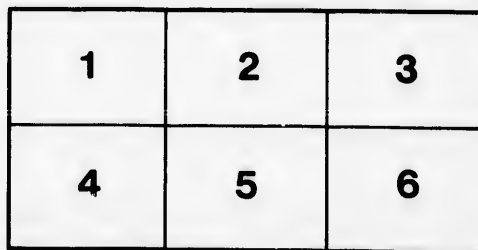
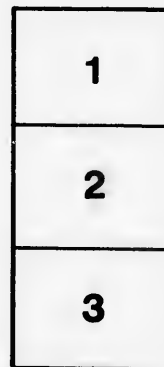
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P

ON THE APPEAL OF
JAMES JOHNSTON,
ELDER ST. ANDREW'S CHURCH.
TO THE
PRESBYTERY OF MONTREAL.
AUGUST 1, 1871.

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PRESBYTERY OF MONTREAL.

IN THE MATTER OF

JAMES JOHNSTON,

An Elder of St. Andrew's Church, Montreal,

APPELLANT;

AND

THE KIRK SESSION

Of said ST. ANDREW'S CHURCH,

RESPONDENTS.

TO THE PRESBYTERY OF MONTREAL :

The Petition of the said James Johnston hereby appearing as appellant to prosecute the same by him instituted

Respectfully Represents,

That in order to the due understanding by the said Presbytery, of the present appeal, the Appellant directs the attention of the Presbytery to the main facts and circumstances which give rise to it, and which seem to the Appellant to leave no other course open to him, than either to submit to a judgment, which he considers to be contrary to the discipline and rules of the Church, and highly injurious to his character and standing as an Elder of the church, or to demand the judgment before the Presbytery for a hearing and adjudication, at the risk of increased suffering by doing so.

The case although directly affecting the Appellant only, yet raises before the Presbytery important questions as to the jurisdiction and powers of Kirk Sessions, and their modes of procedure, and indirectly brings up still more vital questions which must ultimately be decided upon, as to how far changes in the mode of worship can under the laws of the Church be decided upon by Kirk Sessions and Congregations, and how far an inferior court, can interfere with the standards and modes of discipline and worship, without the action of the Presbytery and the consent of the Church.

This case originated in proposed changes in the mode of worship in St. Andrew's Church, on the first occasion on which the changes came up, or were spoken of, in the Kirk Session, so the minutes show, or as this Appellant is aware, was on Sunday the 2nd day of April, 1871, when the business of the meeting is recited in the minutes in the following terms :

The object of the meeting having been stated, it was moved by Mr. Morris, seconded by Mr. Ewing, with but one dissenting voice, " That the Congregation be requested to express their opinion, as to the propriety of changing the mode of Public Worship, to standing at sing-

ing and kneeling at prayer, and that the means of obtaining the sense of the Congregation on these points be left with the Moderator."

At the next meeting of the Kirk Session, held on the 15th day of April, 1871, the Moderator reported to the Session the course pursued by him, and the numbers of the Church and Congregation who were "agreeable," "indifferent," or "opposed," to the changes. The minutes of the meeting declare, that this report was received and adopted unanimously, and that the course of the Moderator concerning the proposed changes was also approved unanimously, and the following entry appears on the minutes:

"It was then moved by Mr. MORRIS, and seconded by Mr. EWING, and unanimously resolved:—That inasmuch as the majority of the votes given in were 'agreeable' to altering the mode of public worship from sitting to standing at singing, and from standing to kneeling at prayer, that the Session do consent to parties adopting the proposed alterations, or the position heretofore used and observed."

Another motion is also recorded in the minutes of this meeting in the following terms, viz: "That this Session expresses its disapproval of any one member, unauthorized by the Session, addressing the members of the Congregation on business of the Church, by circulars or letters."—"Carried unanimously."

The third meeting was held on the 26th day of April, the object of which is thus recorded in the minutes. "The Moderator then stated that the object he had in calling this meeting, was to consider the position in which the Session has been placed, *first*, by a circular issued and signed by Mr. Johnston, and circulated by him amongst the Congregation, as well as amongst members of other denominations, said circular containing mis-statements and mis-representations, and *second*, Mr. Johnston's refusal to retract the statements made in that circular."

The Appellant does not desire to dwell here, upon the extraordinary and unusual nature, of the large part of the entries recorded in the minutes of Session, as constituting the proceedings of this meeting, in entering the excited and injurious remarks, made by one member of the Session against him. The Presbytery on reading them, will be able to judge of the temper which prompted them, and in what way the Appellant would be dealt with by persons who could utter or record such statements.

It is enough to say, that at the next meeting of the Kirk Session, held on the 29th day of April, it was proposed and carried "That no remarks of members introducing motions be permitted to form part of minutes," and to refer the Presbytery to the minutes.

It appears by these minutes, that the Appellant contended at the meeting, and urged that the report of the Moderator did not pass unanimously, and was never put to the meeting, or voted upon, and that the Appellant then stated that he had not agreed to any motion, except the motion to allow parties to use either mode or posture at worship they pleased; also that Mr. Johnston when asked to retract the statements of his circular and express his regret for what he had done, refused to do so.

The following extract from the minutes, will shew the further proceedings of this *third* meeting (26th April.)

"Mr. Johnston having admitted issuing and circulating the circular in question, and its averments having been proved to be untrue, by the unanimous testimony of the Session, as well as by the minutes of the Session, and the language and insinuations of said circular appearing on its very face to be unchristian, Mr. HUNTER moved, seconded by Mr. GRAHAM:

"That it having been clearly demonstrated to the Session, that the conduct of James Johnston, one of their number, has been most reprehensible in publishing grievous and calumnious mistatements, and in grossly insulting the Moderator and members of Session, and the Session having dealt with him privately as a brother, and endeavored by the most kindly means to induce him to retract, and he having refused to do so, in presence of the Session assembled, and still persisting in such refusal, although knowing that every member of the Session disapproved of his conduct, that this Session do now depose him from the eldership of St. Andrew Church, Montreal."

"The mover and seconder of the foregoing motion having consented to suspend it for a few moments: It was then moved by Mr. MORRIS, seconded by Mr. HUNTER, inasmuch as Mr. Johnston has been charged *to-night*, with publishing and circulating a printed circular, and distributing the same amongst the members of St. Andrew's Church Congregation, as well as amongst people not belonging to said Church, said circular containing misrepresentations and false statements, and unchristian averments and insinuations, and said circular being issued contrary to the rule of the Session, and said Mr. Johnston having admitted the issuing, publishing and circulating of said circular, and having been called upon *to-night* by the Moderator and Members of Session, to retract the statements contained in said circular, and to express regret for his conduct and his said action, and having refused to do so, that this Session do now again give said Mr. Johnston an opportunity to express regret for his said conduct, and he is now asked as a Brother to withdraw the said circular and statements, and to express regret for his said conduct." Which motion being put to the meeting was carried unanimously.

"Then the Moderator asked Mr. Johnston whether he had anything to say in answer to the said motion, and to the averments therein contained, where upon Mr. Johnston gave the following reply in writing: "

"The report was not voted on nor passed unanimously."

"Said circular did not contain either false statements or misrepresentations."

"And Mr. Johnston has not been furnished with any written and formal accusation though repeatedly asked for."

"Signed,"

"J. JOHNSTON."

"And he also verbally refused to express regret and withdraw said circular and statements as he was then requested to do."

This meeting of the Session was adjourned to the 29th of April.

On the 27th day of April the following document, being in fact a copy of the motion passed on the 26th, was left with the Appellant by the Session Clerk. It is the only citation, summons, or act of accusation, ever received by him in the matter, and, if it was meant to be a citation, summons, or accusation so as to form the basis of a judgment of deposition against the Appellant, he submits to the Presbytery, that it was wholly irregular and insufficient, and whether the judgment appealed from, based on such a document is not a pure nullity. It is as follows:

"At a meeting of Kirk Session of St. Andrew's Church, Montreal, held on Wednesday evening the 26th April 1871.

Inter alia.

" Moved by Mr. MORRIS, seconded by Mr. HUNTER :

" Inasmuch as Mr. Johnston has been charged with publishing and circulating a printed circular and distributing the same amongst the members of St. Andrew's Church Congregation, as well as amongst people not belonging to said Church, said circular containing misrepresentations and false statements and unchristian averments, and insinuations, and said circular being issued contrary to the rule of the Session, and said Mr. Johnston having admitted the issuing, publishing and circulating of said circular, and having been called upon to-night by the Moderator and Members of Session to retract the statements contained in said circular, and to express regret for his conduct and said action, and having refused to do so, that this Session do now again give said Mr. Johnston an opportunity to express regret for his said conduct, and he is now asked as a brother to withdraw the said circular and statements, and to express regret for his conduct."

" A true extract.

" Signed,

" J. S. HUNTER, S. C."

At the adjourned meeting of the 29th April, the Appellant handed in to the Session the following answer to the document so served on him, which answer is entered at length in the minutes, as well as the circular signed by him and above referred to, the publication of which was admitted by the Appellant. Whether the Appellant was bound to answer may be questionable, but the Appellant answered in order to avoid the appearance of contumacy, and to notify the Session formally of the grounds upon which the Appellant justified his publication of the circular, and called attention to the irregular proceedings of the Session :

To Mr. J. S. HUNTER,

Session Clerk of ST. ANDREW'S CHURCH.

Sir,

" In answer to the extract delivered to me of the proceedings of the Session of the St. Andrew's Church of the 26th instant, I beg to state, that the circular signed by me was published and circulated among the members and Pew-Holders of the Church, as the best and only way of speedily informing them of the real state of the facts as to the changes in the mode of worship, and after the publication and circulation of a PRINTED CIRCULAR on the PART of the MODERATOR. This report, by the minutes, would appear to have been adopted by the Session, while, as matter of fact, it was never adopted, and was never proposed for adoption."

" I also desired to call attention to the statement in the report as to the Moderator having reported the large number (stated as 60) of the opponents, who after his visit were held as willing to acquiesce, in what is called the majority, and to bring forward the figures which I believed and still claim to be substantially correct, and to shew, that, taking the whole number of members, and seat holders in the Church, there was not a majority, but only a minority of the whole who had signified their acquiescence in the change. The circulation of such a printed statement I considered necessary to a full knowledge of the facts, and I append hereto the printed circular itself, which I wish recorded as being the best answer to, and my protest against the minutes of the proceedings of the 26th instant, handed me in which my

circular is characterized as 'containing mis-representations and false statements and unchristian averments and insinuations.'

"This language I consider wholly unwarrantable and even calumnious; the circular published by me contains no such false or unchristian statements or averments, and I believed them to be in all respects true and proper, and necessary to be known by the Congregation, and I still do so, and therefore cannot retract them, but demand a proper enquiry as to whether the statements of my circular were not true and moderate, as well as necessary, or whether they are such, as mentioned in the Document just delivered, and signed by the Clerk of the Session."

"As to the rule of the Session passed the other day, I am not aware of its precise terms, but I suppose it cannot be held fairly to apply to my circular, intended for the information of the members of the Church and Congregation and which I could not communicate in time in any other way. The Rule was new, and was opposed by me, and although far from desiring to infringe the authority or wishes of the Session, I considered it but right and proper to state the facts as I understood them, and to do so in a proper way, when changes were being pressed through in a way I could not sanction, and which I had a right to oppose, even if in the minority."

I am yours respectfully,

(Signed,) JAS. JOHNSTON.

The Rule of session referred to above was passed on the 15th instant. See Minutes, Montreal, 29th April, 1871.

The proceedings of the Session, after the entry of the Appellant's answer, will be seen by following extracts from the copy of minutes furnished to Appellant.

"Which" (answer), "being read by the clerk, was considered by the Session as *unsatisfactory*, and Mr. Johnston, having been entreated and requested in the most patient and forbearing manner, by more than one member of the Session, to reconsider his answer and written statement, but declining to do so, and expressing a determination to persist in the course he had adopted, Mr. Hunter, pressed his motion of expulsion, which after some discussion, with the approval of the seconder, and the concurrence of the meeting he consented to withdraw."

Then follows the proceeding of suspension delivered to the Appellant some days after.

(COPY OF JUDGMENT APPEALED FROM)

Vestry St. Andrew's Church.

Montreal, Saturday, 29th April, 1871.

"An adjourned meeting of the Kirk Session in connection with this church was held this day, and being constituted.

INTER ALIA:

"It was moved by Mr. Reekie, and seconded by Mr. Brodie, and resolved.

That inasmuch as Mr. Johnston has again been asked to express regret for his conduct in issuing and circulating a circular amongst the members of St. Andrew's Church, containing misrepresentations and untrue statements, that this Session, unwilling to proceed to severer mea-

sure, now express their disapproval of Mr. Johnston's conduct, and do hereby suspend him from exercising the office of, or officiating as, Elder for the space of six months."

A true extract from the minutes.

(Signed),

Montreal, 6th May, 1871.

J. S. HUNTER.
Session Clerk.

On the 6th May, 1871, the Appellant caused to be served upon the Session Clerk, a notice of his intention to appeal to the Presbytery from the judgment so rendered, and of his grounds or reasons of appeal. In this notice the Appellant recapitulates to some extent the facts mentioned in this Petition, refers to the form of the complaint or document served on him,—the publication of alleged misrepresentations, false statements and unchristian arguments and insinuations—the demand that he should retract the circular, and express his regret—and also alludes to the written answer put in, and to the Judgment rendered and copied above. Reference may be had if necessary to the original notice—but the following extracts will show, in general terms, the grounds or reasons of appeal as notified to the Session.

Extract from notice of reasons of Appeal.

"That the said James Johnston then and there expressed his dissatisfaction with said Judgment as being unwarranted and unjust, and intends formally to appeal from the said proceedings and from the said Judgment, and alleges the said judgment, as well as the said Minute or complaint of the twenty-sixth day of April, and all the proceedings of the said Session on and subsequent to said Twenty-sixth day of April as irregular and unjust, and contrary to the law and practice of the Church—that the same ought to be so declared, and the said Judgment set aside for the following among other reasons, which the Appellant will urge before said Presbytery."

"Because the said Session had no power or authority under the laws and practice of the church, to render the said Judgment so complained of, supposing even a proper and formal complaint or citation had been made, and evidence properly taken thereon by said session."

"Because in this case, the complaint or minute of the twenty-sixth day of April was and is wholly insufficient to support, or be the basis of such a judgment, and was and is vague and indefinite in form and was not accompanied with any proper citation or notice—and moreover by its terms prejudged the acts of the now Appellant, and called upon him to retract the said circular and statements, and to express regret as if said statements had been in fact, or had been proved and adjudged to be, false and unchristian."

"Because in so far as respects the publication of the said circular by the said James Johnston, the Appellant was justified in so publishing and circulating the same among the members and pew holders of the Church, and because there was no evidence or admission as to its circulation among people not belonging to the Church, as alleged in said complaint."

"Because if the said complaint or minute was intended to charge the now Appellant simply with publishing and circulating a printed circular contrary to the rule of the Session it was irregular and improper and (as is alleged in said answer even calumnious) to join in said complaint charges of such misrepresentations, false statements and unchristian averments and insinuations."

"Because if by said complaint or minute it was intended to make a substantive and direct charge against the said James Johnston of printing and circulating misrepresentations,

and false statements, and unchristian averments, and insinuations, in said circular, the same should have been enumerated or pointed out, but were not enumerated or pointed out, and an opportunity given to said James Johnston to prove the truth of the allegations in said circular, which opportunity, although asked for in said answer, was not given, nor any evidence given or taken in respect thereto, nor was there anything to justify the said judgment of said Session."

"Because as well from the proceedings of said meeting of the twenty-sixth day of April, as by the terms of the said complaint and judgment and the proceedings in the said matter had, it appears, and was in fact true, as the said James Johnston alleges, that the said proceedings were irregular, and were taken hastily, and without regard to the rights of the said James Johnston as being entitled to urge and establish in evidence the objections by him taken against the proceedings, had to establish the consent of the members and Pow Holders of the Church, to the changes and alterations proposed in the mode of worship in the said Church; and because the said proceedings were illjudged, hasty, and were injurious, and unfounded, and apparently tended to convict the said James Johnston of having printed and circulated as well among the Church and Congregation, as among other people not belonging to the Church, misrepresentations and false statements, and unchristian averments, and insinuations without proof thereof, without detail of any specific points so alleged to be false, and without an opportunity having been given to said James Johnston to show either the truth of the said circular, or to contradict the allegations so made in the said complaint or minute of the said twenty-sixth day of April last."

"Because if the allegations of said complaint as made in respect to said misrepresentations and false statements, are to be held as established by the said judgment, the said James Johnston, by the said proceedings and judgment has been, and is charged and condemned in respect of matters which completely destroy his character, and influence as an Elder in said Church without an opportunity of exculpating himself, or specification even of the alleged misrepresentations and false statements."

"Because in other respects the said judgment was and is wholly contrary to, and beyond the powers vested in the said Session: and because the said judgment and all the proceedings upon which it was based, were and are irregular and unsupported by proof, and are moreover highly injurious to the said James Johnston, and the said James Johnston is therefore compelled from regard to his own character, and to prevent further injury, not to submit to said judgment but to notify his reasons for appeal therefrom, all which is done wholly irrespective of the merits of the proposed changes in the mode of worship, or the *right* of the *Moderator* to ask the Session by his report to set aside the formal dissent handed in by sixty of the members, by the statement in the report, in respect of their consent to the proposed changes; and without reference to proceedings had in case the judgment so rendered be set aside."

The Appellant adheres to these reasons and respectfully submits them to the judgment of the Presbytery, as well as all the facts connected with the case, so far as they now appear of record. Indeed he might content himself with the general reasons of appeal copied above, were it not that some more amplified statement of these reasons may tend to justify more fully the conduct of the Appellant, and to show the dangerous assumption of power into which the Session was led.

AS TO THE POWERS OF KIRK SESSION IN MATTERS OF DISCIPLINE. The Ap

pellant refers only on this head, to Mr. Hill's Manual of "The Practice in the several Judicatories of the Church of Scotland," at pages 1 and 13, and to the acts and proceedings of the Church, at the Session of the Synod held at Hamilton in 1869, especially Book III of "*the Polity of the Church*," Chapter, 1. Although this book does not from these proceedings appear to have been put in force, even as an interim act, and the Appellant is not aware what proceedings may have been had as to this book subsequent to the then meeting of the Synod. The rules there laid down are, and, of necessity, must be, general in their terms, and it is unnecessary for the purpose of the present appeal, to attempt to lay down an exhaustive and strictly accurate definition or enumeration of the powers of the Session, as determined by the recognized standards, and long practice of the church, or of the precise acts which would justify the suspension of an Elder from his office.

In so far as the present appeal is concerned, it may be sufficient for the Appellant respectfully to submit to the Court, that the conduct of the Appellant has not been such, as under the laws and practice of the Church, to give any jurisdiction to the Kirk Session to take cognizance of the case, or to pronounce the judgment appealed from; and that nothing appears in the Record of the cause to shew anything done or omitted by the Appellant contrary to the Word of God, or the universal custom of the Church, or the confession, or catechisms recognized, nor any offence public or private injurious to individuals, or unbecoming his position as Elder, as is required by the authorities referred to, and to which Appellant refers the Presbytery.

AS TO THE MODE OF PROCEEDING ADOPTED BY THE SESSION, AND THE PRECISE OFFENSE CHARGED OR INTENDED TO BE CHARGED.—It will be seen from the proceedings quoted and from the minutes of the Session to which the Appellant makes reference, and which he prays may be produced in full for the information of the Presbytery so far as they bear on the case, that there was no accusation against the Appellant served on him which any person undertook to make good, no *fama clamosa* or public scandal calling for the action of the Session as prosecutor. No citation calling him to answer on a day named, no specification of what constituted the false statements, misrepresentations and unchristian averments, and insinuations in, the circular; no examination of evidence; no proof of any kind adduced, and no admission except of the fact of publication of the circular, and this coupled with the express denial of the alleged false statements, etc., and an earnest application for an investigation.

In all these respects, it is submitted, the proceedings were irregular, and so radically defective as to render the Judgment a nullity.

But in addition to this, the Appellant affirms that there is still a doubt whether it was the intention of the Session simply to charge him with a breach of the so called "Rule" of Session of the 15th April, by the publication of the circular; or whether the gist of the charge lay in publishing and circulating a circular containing *false statements, unchristian averments, &c.* On either supposition, the Appellant submits, that the proceedings were strikingly irregular and unwarranted and should be vacated by the Presbytery, if for no other reason than that the "Rule" referred to was not a rule which purported to enact, or could legally be followed by, a suspension from office for a breach of it. It is not sufficient to say for answer that if there is doubt as to the charge, there is none as to the judgment, which may have gone on one or both of the suppositions referred to:

The effect upon the character of the Appellant as an Elder and Member of the Church, and his duty as to submitting to, or appealing from the judgment, would be very different on the one supposition from what it would be on the other. If he is suspended for violating a rule simply by the publication of circulars, or of any circular, then his suspension might be held to be simply caused by the breach of a strict rule which might be considered simply as a rule of convenience, but still a rule which must be enforced. In case of infringement of such a rule, no great moral blame could be attached to him, certainly nothing like that which attaches to him now when he may be looked upon (and as the Appellant believes and as he has great reason to believe, he is looked upon) as if he had been proved guilty, that is to say, found and adjudged guilty, after a fair trial, of publishing a circular containing false statements, and unchristian averments, and insinuations.

It is the duty of the Appellant, as he believes, to try and relieve himself from the consequences of the judgment, and he therefore desires to submit to the Presbytery as a Court of Appeal such considerations as may tend to shew he was not guilty of a breach of any "Rule" which was legally in force, or which could warrant his suspension from his office, nor of the greater moral guilt which a just and fair investigation, trial and condemnation, for publishing and circulating false statements, &c., would carry with it.

The rule has already been quoted, it is in these terms:

"That this Session expresses its disapproval of any one member unauthorized by the session, addressing the members of the congregation on business of the church by circulars or letters."

"This would seem to point to a disapproval of circulars or letters already published, and by implication only to include future circulars or letters. The circular in question it is admitted was not published at the date of the "rule". But assuming the applicability of the rule to circulars or letters, or even to one circular or one letter, by one, or more than one member of the Session, and assuming that there were appended to it words tending to shew the intention of the Session to treat a breach of the rule as matter of discipline by adding words such as, "on pain of subjecting a member so addressing the congregation to discipline" "to expulsion" "or suspension from office." Assuming it in fact to have been intended as an imperative order or rule of the Session with a penalty or punishment for its contravention clearly pointed out as a warning to an offending member—questions would still arise—Is such order valid? Is it not wholly beyond the powers and jurisdiction of the Kirk Session to try a member or punish him for a breach of it? The answer to these questions seems clear from the standards of the Church, from the opinions of authoritative and acknowledged writers and commentators on Church law—"Nothing is admitted" (says Hill, page 13) "as the ground of a process for censure but what has been declared censurable by the word of God, or some act or universal custom of this national church, agreeable thereto."

The article in the Polity of this Church already referred to, if not adopted as yet as positive, binding law is yet in conformity with the general practice and usage and may be quoted in support of older writers. "An offence the object of discipline, is anything in the principles or practice of a member of the Church which is contrary to the word of God, the confession of Faith and the Catechisms of the Westminster Assembly. Hence, nothing is to be regarded as just cause of discipline which cannot be shewn to be condemned by Scripture or by the es-

"tablished regulations and practice of the Church, founded on Scripture; or unless involving those evils which discipline is intended to prevent." Book III, ch. 1, sec. 2, p. 44.

But on general principles, it would seem to be beyond the scope of an "Inferior Court" such as a Kirk Session, with jurisdiction over only one church, with powers restricted and defined by the general law of the Church, to create by its own solo action, an offence unknown to the general law of the Church and affix punishment and inflict it too by Judgment such as that now complained of. The practically large, and most important, powers of the Session would seem properly to be confined, (as to matters of discipline) to enforcing discipline and dealing with offenders against known and established laws, laws laid down and recognized by the standards of the Church as drawn from the law of God, and sanctioned by the general recognition of the highest courts and confessions of the Church.

Indeed, to hold that in this particular case, the Session acted legally in declaring that addressing circulars or letters was an offence subjecting a member to discipline, or acted wisely in enforcing such rule would go far to sanction, as a principle, that each session on of itself, not only enact rules for its own members or its own church, irrespective of the general law of the church, but can do so against the plain letter of the Rules adopted by *Synod* or *General Assembly*, and that thus there might be offences created varying in each Presbytery, and in each Church, in each Presbytery; offences created one day, and punished or repealed the next, at the discretion of a Kirk Session if there is nothing general, uniform, and sanctioned by the Church—characterizing and enumerating offences to be dealt with by Inferior Courts.

The appellant would therefore respectfully urge, that if the words quoted were intended as a "rule" subjecting a member to suspension, simply from the fact, admitted by the appellant of the publication of the circular in question, without regard to the truth or falsehood of the matter contained in it, the rule, in this sense, is beyond the jurisdiction of the Session, and is an attempt to constitute an offence unknown to the laws of the Church, and its enforcement is therefore manifestly illegal.

If the other supposition is adopted,—that it is not the simple breach of the rule that constitutes the offence,—not the mere publication or "addressing of circulars" or a circular addressed to the congregation, but addressing and publishing a circular containing *false statements, and unchristian averments and insinuations*,—then the law of the Church should have been followed in this case, as in every other. There should have been a proper citation, an accusation promoted by some one affected or injured by the offence, as laid down in the authorities referred to, for such a case as this cannot be considered to be a *public scandal or fama clamorosa* as understood by the law of the church, which the session itself might originate and carry on of its own proper motion. Nor was it enough to complain of the circular in general terms, but such and such words (enumerating them) should have been set up as containing a false statement or unchristian averment, or an unchristian insinuation, and if these words related to matters of fact and to matters admitting of verification by proof, by sworn testimony, and if the charges of false statements, &c., were denied, then the rules of the Church, as well as the plainest principles of justice required that there should have been such proof brought against the accused, or at the very least an opportunity allowed him to bring what evidence he could to support any statements of fact stigmatized as false.

It has already been seen, that the appellant complained in writing during the sitting of the Session at the very time the so called charge was brought up, that he had not been furnished with any "written and formal accusation though repeatedly asked for." In his written

answer to the document served upon him on the twenty-seventh of April, the appellant expressly denied the false statements; declared any statements made by him in his said circular to be true, and demanded a proper enquiry whether the statements of the circular were not only true, but moderate and necessary, or whether they were such as mentioned in the document delivered to him.

No evidence however was taken on either side; the fact of publication alone was admitted, and not the alleged circulation amongst people not belonging to the Church referred to in the beginning of the minute of the 26th April.

The course of the proceedings, points, in many parts, to the conclusion that the members of the session treated this admission, as in itself a sufficient admission of guilt, and held that the falsity of the statements etc., needed no proof.

Indeed the document served on the appellant on the 27th April (after the meeting of the 26th) seems to point the same way. It in effect says: "Inasmuch as Mr. Johnston has been charged with issuing, publishing and circulating a printed circular containing false statements, &c, and having admitted this, and having been called upon to retract and express regret, &c., and having refused to do so, the session do now again give Mr. Johnston an opportunity to retract and express regret, &c."

If the Session held the simple infringement of the "rule" against addressing circulars a sufficient cause of discipline such language as that cited is intelligible. As containing an accusation to be met by a defence, to be examined into and tried by evidence, the language appears wholly unsuitable and is certainly not in accordance with the usual forms. So in the minutes of the 26th April, it is said Mr. Johnston having admitted the issuing and circulating the circular and its averments *having been proved* to be untrue by the unanimous testimony of the Session, as well as by the minutes of the Session and the language and insinuations of said circular appearing on its very face to be unchristian. Mr. Hunter moved, &c., that the Session do now depose, &c.

Assuming this to be the language of a preamble to the resolution (which resolution, strangely enough, refers to grievous and calumnious mis-statements, as well as gross insults to the Moderator and members of the Session,) the Session cannot be considered as adopting or justifying it, but it confirms what the official document served on the Appellant on the 27th April, also indicates, viz: that the Appellant was not cited to answer an accusation and to submit to trial and proof in the usual way, but was called upon to retract and express regret, or to submit to the consequences.

The Appellant respectfully submits to the Presbytery by this appeal, that such an alternative is not consistent with the law or practice of *Presbyterian Courts*.

Whilst the Appellant earnestly denies the alleged false statements, etc., said to be contained in the circular, and solicits a full examination into the truth of the matters of fact set up in it, (if such proof can be gone into in any way consistent with the laws and practice of the Courts of the Church), he fears that the Presbytery as a Court of Appeal, may find difficulty in entering into such proof, there being no witnesses heard on either side in the Court below. He desires nevertheless, under the indulgence of the Presbytery, to indicate briefly the principal matters of fact referred to in the circular which may, by possibility, be those characterized as *false, &c.*

And first, as to whether the report of the Moderator was actually *put to the Session and adopted*, or was *not voted on, nor adopted*, as insisted on by Appellant.

This is a matter of little real interest, because the reception and adoption of the report would not carry with it a vote or decision either for or against the proposed changes, but it would test the accuracy of the minutes, and shew, as Appellant believes, that there was error in inserting in the minutes of the 15th of April, that the report *was adopted*, as there is in the omission to state in the minutes of the same date, that the motion to the effect that parties should adopt the changes, or adhere to the previous postures, was passed *unanimously*, since in fact the Appellant opposed it. By the minutes of the 2nd April, it does not appear that the motion to request the opinion of the Congregation as to the changes, *was put to the meeting or carried* with but one dissenting voice. This last error appears in the certified copy of the minute signed by the Session Clerk, and delivered to the Appellant. Nor was there any entry in the minute book itself, when examined by appellant in July, as to this motion having been *so put and carried*.

This statement in the circular, as to the report not being put or voted on by the Session may be, and probably is one of the statements stigmatized as *false*, and the Appellant had an interest in proving its truth even although the point was of little moment in itself, and although such proof would contradict the minutes.

The Appellant is prepared to state, and does state, as his firm belief and conviction, then and now, that the motion to receive and adopt the report was not put to the Session, nor voted upon. He therefore could neither retract the statement, nor express regret for having made it, without an investigation and proof. If proof had been adduced, it might have convinced the Appellant he was in error on the point, but Appellant believes it would have shown the error to have been in the minutes.

Another question of fact referred to in the circular was the actual number who voted against, or for the changes, or were indifferent. The Moderator's report was based on the number of answers sent in by the congregation, and made the minority opposed but small. The Appellant basing his view upon the total numbers of *tickets issued* which he put at about 480, came to the conclusion that the number which could really be considered as "opposed" was 258, and the number "agreeable" as 222.

The Appellant may have been wrong in his figures, or in the conclusions drawn from them, although he then considered and still considers his statement correct, but it was only fair that the figures and matters of fact should at least have been examined into—before punishing Appellant for publishing false statements.

But an examination would have brought out, what it is very important to know, namely, how many Church members, how many pew holders, and how many of the Trustees, or officers of the Church voted one way, and how many the other way—and knowing how many had voted each way, how many officers, and Trustees of the Church and who they were, and what heads of families voted or failed to vote there would have been fair *data* from which to judge how the proposed changes were looked upon by those whose opinions were entitled to most weight. See note in Appendix.

No record of this is to be found on the minutes, and a change of such importance is made, and what is more is acted upon, without there being any motion or resolution of the Session to that effect, or sanctioning a change except the resolution of the 15th April leaving the whole matter *an open question* by the terms of the resolution quoted above "that the Session do con-

"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

and its arguments considered as "unsatisfactory" by the Session as his written answer to the document served on him was declared unsatisfactory. But to characterize the circular as containing false statements, &c., without enquiry and proof, to depose the Appellant without specification of charges of what portions of the circular were held as false or unchristian, and without enquiry by the ordinary rules of the Church and on a regular charge and proof;— and to enter upon the minutes, such remarks as will be found there, appears to the Appellant to be contrary to the rules of the Church and to the practice of its Courts in matters of discipline. He is satisfied, however, that the body of the Session were led into the course adopted, from no inimical views to the Appellant, and with no desire to do him injustice, but he is obliged to treat the proceedings of the Session, as the proceedings of a Court, and not to enter upon details of the statements and conduct of individuals composing and to a large extent controlling the Court.

The Appellant believed, and therefore stated in the circular "that to stand at prayer was and now is the rule of our Church," and he therefore opposed the changes, and did so honestly and openly, and declined to retract or express regret for statements he made, and persisted in claiming an inquiry whether his statements were false, or unchristian. The present appeal is to test the regularity and justice of the proceedings and of the judgment of suspension. Directly it may affect only the Appellant, but to him it is of importance to submit to a higher Court questions of much personal interest to him, affecting so gravely his position as a member of Session, and of the Church.

But there is a much graver question indirectly raised by this appeal, and submitted to the consideration of the Presbytery, a question which must sooner or later be formally decided by the higher courts of the Church, viz: Whether under the law of the church as it stands at present, it is legal for a Kirk Session, to introduce or sanction such changes in the mode of worship as those referred to. This question the appellant submits to the Presbytery for such action thereon as it may see fit to adopt, with a view to the settlement of it as respects the St. Andrew's Church in the first instance, and for the guidance of Kirk Sessions generally.

If there exist now, a uniform, settled, mode of worship, sanctioned and recognized by the law of the Church and followed for ages by Presbyterians as a body, it is obvious that it would be destructive of uniformity to permit individual Kirk Sessions to deviate from this mode by a simple resolution, even if supported by a majority of the Church and Congregation not to speak of a majority only of votes "given in" as in St. Andrew's Church. The established mode ought to be followed until a change has been approved by the Superior Courts of the Church. Otherwise it is not easy to see to what length changes may be carried, if any one Session has power to make them as may seem best to itself.

One Session may be content with changes of posture such as are left open by the resolution of the Kirk Session of St. Andrew's referred to. Another Session may think that a liturgy is quite as desirable in order to attract men of culture and education into the Church. A third Session may introduce candles on the altar, or Church vestments, unknown in the present practice of the Church. Each Session might vote for such changes as seemed desirable to itself, and thus by degrees ignore, or set aside, the practice of the Church and the control of the Church Courts, whilst all the time professing to adhere to Presbyterian Standards and Polity. In a small Kirk Session it would only be necessary to vote the conduct of the minority in opposing the change unsatisfactory, and the deposition of one or two members might leave a clear major-

rity if not to vote for the change, at least to acquiesce in it, to avoid consequences, or for sake of conformity.

In addition to the general considerations thus submitted there is another argument against the legality of the powers assumed by the Kirk Session of St. Andrews as to the changes referred to, drawn from the Statute of the Province passed in 1849 (12 Vict., chap. 154) and from the amending act of 1857 (20 Vict., chap. 191) in connection with the *By Laws* passed at the meeting of Trustees of the Church held on the 31 Dec. 1850 and adjourned to the 11 March 1851.

By the former of these Acts (section 1) the Rev. Alexander Mathieson and other persons named, and their successors for ever are created a body, politic in name and in deed, by the name and style of *The Minister and Trustees of St. Andrew's Church, Montreal*, with power to sue and be sued in all Courts, and contracting and being contracted with, relative to the funds of the Corporation and the purposes for which the Corporation was constituted, with power to make "such *By Laws, Rules, and Regulations* as shall not be contrary to the Constitution and laws of this Province, or to the provisions of this Act, or to the Constitution of the Church of Scotland as in that part of the United Kingdom of Great Britain and Ireland "called Scotland, now by Law established."

By the second section it is enacted, that on sale of the Church property, the proceeds shall be "solely applicable to the maintenance of the public worship of God according to the form of the Established Church of Scotland" or to schools in connection with the said Church.

The first article of the *By laws* is in the following terms:

"The Church and Congregation now in connection with the established Church of Scotland and adhering to the Standards thereof, declare that they shall continue to adhere to the said Standards and maintain the form of worship and Government of said Church.

Article 5, provides for the selection of a minister and his acceptance "and having received his acceptance the same, together with the presentation, shall be laid before the Presbytery of the Bounds, in order that the presentee may be invested with full powers as a Minister of said Church according to the laws and practice of the established Church of Scotland."

Article 18. This Church shall be under the ecclesiastical jurisdiction of the Synod of the Presbyterian Church of Canada, in connection with the established Church of Scotland, as sanctioned by the declaratory enactment of the General Assembly of the Church of Scotland, passed on the 24th May, 1833. It being understood that no act or declaration of said Synod shall contravene article 1 of these *By Laws*, and the Act of Incorporation of this Church."

Article 21. Every person, whether proprietor, pew holder, sitter, or member of this Church shall before they can be competent to elect, or be elected to any office, or to have any share in the Management of this Church subscribe these *By laws*.

Assuming these *By laws* to have been legally made, and to be unrepealed, they have the force of law, and by their terms, as well as from the tenor and object of the Statutes, it is clear that St. Andrew's Church is connected with the Established Church of Scotland in such manner as to be subject to its constitution, its standards and its practice, and is bound to continue to adhere to them, and to maintain the form of worship and government of that church including its mode of enforcing church discipline. The constitution, the laws, the standards and the practice of the established church of Scotland together with the statutes, and the *By laws* referred to, form the law of ST. ANDREW'S CHURCH, under which its property is held, and its temporal and spiritual matters conducted.

The Appellant as, will be seen from the Minutes, referred to these By Laws on the meeting of the 26th April but without effect. And it appeared that the By-Laws had not been signed by the Minister, nor by most of the Session, notwithstanding the positive terms of Article 21.—But it is submitted that this neglect does not nullify the Statutes or By Laws, nor can any action of the Session do so.

If the changes left open by the resolution of the Session would, (if carried into effect) amount to a change in the form, or mode of worship of the Established Church of Scotland, it is not within the Jurisdiction of the Session to sanction or render legal such changes.

Indeed under Article 18th of the by laws it would seem to be matter for the gravest doubt whether an Act of the Synod of the Established Church of Scotland itself, could validly alter or contravene the terms of the first Article of the By-Laws.

The Appellant submits this more general question to the wisdom of the Presbytery, and craves such action, as may define and settle the jurisdiction and powers of the Kirk Session of St. Andrew's as to the changes referred to, changes which the Appellant considered it his clear right and duty to oppose, and which he respectfully submits, the record will show he did oppose, by fair and legitimate means, without success it is true, but without falsehood, or misrepresentation, or unchristian averments and insinuations and without shrinking from the consequences, so strongly hinted at, in case he failed to retract or express regret for the circular.

The Appellant in conclusion, respectfully lays before the Presbytery the foregoing statement of his case as sufficiently indicating the points in respect to which he considers he is entitled to complain of the proceedings of the Session.

To these proceedings he begs the earnest attention of the Court as establishing the following points:

That the verbal statement of the Moderator recorded in the minutes of the 26th April as to the object of calling the meeting was erroneously treated by the Session as a charge and as on a charge too not requiring specification.

That this charge was virtually decided adversely to the Appellant on the very day on which it was made, by the passing of the resolution of the 26th of April.

From the verbal statement of the Moderator, as recorded in the minutes, the circular is said to contain "misstatements and mis-representations." In the Resolution it is said: Mr. Johnston is charged to night with publishing a circular "containing false statements and "unchristian averments, and insinuations." shewing the necessity of a precise and definite written charge, and the danger of converting a verbal statement as to the object of meeting into a charge so different in terms and effect as given in the Resolution, from what it appears in the minutes.

That when served with the Resolution on the 27th April, the Appellant on the 29th April notified the Session by an answer respectful in its terms, that he denied the false statements &c., and demanded an investigation as to whether they were true or false.

That this was also refused, and was followed on the 29th by the answer being simply declared "unsatisfactory" and by the suspension of the Appellant from his office as if he had been fairly tried and found guilty, according to the law and practice of the Church. The judgment by its terms indicate plainly that in the opinion of the Session "severer measures" might well have been adopted, referring probably to the first motion to depose Appellant from Eldership.

The Appellant submits to the Presbytery, not so much whether the punishment was too lenient or too severe, but whether the Session acted regularly, and within its jurisdiction in, rendering

any judgment against the Appellant, or whether it was led into an usurpation of authority which the Presbytery cannot legally sanction.

He at this hour is unable to determine what were the precise false statements, or unchristian averments, and insinuations in the circular for which he is suspended. He finds no specification in the charge, and none in the judgment, and he has been forced even in this his petition in Appeal, to grope about in the dark, to argue as if every statement as to matter of fact might not be one of those qualified or false, or as a misrepresentation or an unchristian averment.

But such a judgment, even if rendered on a charge clearly and specifically made, in a regular and formal act of accusation declaring what statements were false and what unchristian, would still (as appellant submits) have been beyond the Jurisdiction of the Court, and against Justice, if rendered without evidence;—and doubly so, when there is no legitimate accuser, no public scandal calling on the session to prosecute, and no formal written citation, and the judgment is based on an irregular resolution calling simply for the withdrawal of alleged false statements, and an expression of regret for publishing them.

It may be added here, that notwithstanding the notice given of an Appeal, the Session has proceeded as if no appeal had been taken, by not giving the Appellant notice of meetings of Session subsequent to the notice; thereby treating the judgment as legal and final, and this contrary to the uniform rule in such cases, that an appeal is suspensive of the judgment appealed from, and although the Appellant was entitled to the exercise of all his rights until the appeal has been finally determined by the Superior Courts.

Your petitioner therefore prays, that the Presbytery, as a Court of Appeal, taking into consideration the premises, do by its judgment, adjudge and declare the said Appeal well founded and maintain the same;—that the proceedings and judgments of the said Session of St. Andrew's Church, be declared to have been contrary to the laws and practice of the Church and beyond the jurisdiction and powers of the Session, and the Statutes and By-Laws relating to said St. Andrew's Church;—that the judgment rendered on the 29th April last, be declared to have been rendered on no legal citation, accusation or summons, and without opportunity of adducing testimony having been allowed to the now Appellant, altho' specifically prayed for;—that the said judgment and proceedings be vacated and set aside; and further prays that the said Session be ordered to insert on its minutes a copy of the judgment to be rendered by this Court;—and further and subsidiarily prays that this Court do, by its judgment, declare that in proceeding to the said changes in the mode of worship in the said St. Andrew's Church, the said Session contravened the law of the Church and its recognized Standards and Practice, and also said Statutes and By-Laws, and that it be enjoined against any longer sanctioning the said changes in the mode of worship in said Church, the Appellant reserving his right to such further conclusions and proceedings as may be allowed by the law and practice of the Church Courts.

JAMES JOHNSTON.

Montreal, July, 1871.

APPENDIX.

MODERATOR'S REPORT

TO THE

Congregation of St. Andrew's Church.

At a Meeting of Kirk Session, held yesterday, *inter alia*, the following Report and Resolution were submitted:—

“ With reference to the Resolution of the immediately preceding meeting in which the means of obtaining the sense of the Congregation as to the propriety of changing the mode of Public Worship to standing at singing, and kneeling at prayer, was left with the Moderator, Rev. Mr. Lang reported as follows:—

With the view of carrying out the Session's Resolution of the 2nd instant, I addressed a circular, on the 5th instant, to all the Members and Seat-holders, and enclosed a card which they were invited to fill in with the word “agreeable,” or “indifferent,” or “opposed,” according to their feelings in the matter, and to deposit, on Sunday the 9th instant, in closed boxes, placed at the two great doors of the Church. At the close of the Evening Service of that Sunday, I opened the boxes in presence, as witnesses, of those Elders who happened to be on duty in the Vestry, and found that the cards returned showed the following result:—

“ Agreeable ” to both changes of posture	- - - -	190
“ ” to standing at singing only	- - - -	3
“ Indifferent,”	- - - -	21
“ Opposed,”	- - - -	71

In all - - - - 285

In consequence, however, of the defective postal arrangements in the city, I deemed it only fair, in order to give full opportunity for the expression of Congregational opinion, to intimate on Sunday forenoon from the pulpit, that I would receive cards up till Wednesday from those who had not yet got their circulars. In this way, there fall to be added to the numbers result to stand thus:—

“ Agreeable ” to both changes of posture,	- - - -	218
“ ” to standing at singing only	- - - -	4
“ Indifferent,”	- - - -	22
“ Opposed,”	- - - -	86

In all - - - - 330

The minority being so comparatively small, it seemed to me desirable, before reporting to

the session, to ascertain to what extent those Members and Seat-holders who composed it might be willing to acquiesce in the finding of the majority. I accordingly waited on as many of those who had returned the answer "opposed" as the time at my disposal permitted, and, out of 72 I found

Willing to acquiesce,	- - - -	60
Unwilling	" - - - -	12
		—72
Leaving to be accounted for	- - - -	14

From this statement, it would appear that, even supposing the half of those 14 whom I have not been able to see as still of the same mind, only 19 out of 330 are really opposed to the changes in the mode of public worship.

It was then moved by Mr. Morris, seconded by Mr. Ewing, and unanimously resolved:—

"That inasmuch as the majority of the votes given in were "agreeable" to altering the mode of public worship from sitting to standing at singing, and from standing to kneeling at prayer, that the Session do consent to parties adopting the proposed alterations, or the position heretofore used and observed."

[This Report was copied in Mr. Johnston's circular, with the exception of the last two paragraphs.]

THEN FOLLOWS MR. JOHNSTON'S CIRCULAR COMPLAINED OF:

At a Meeting of Session held on Saturday, the 15th instant, at which the above circular was presented for approval; It was moved by Mr. John L. Morris, seconded by Mr. Joseph Hickson, that the Report be received and adopted,—that is the report given above.

At this stage, the further progress of the Report was opposed for the reason, among others, that the sealed boxes containing the voting cards were opened by the Moderator, before any Meeting of Session had been called; by this means the Moderator found out who had given in "opposed" cards, and then called upon those, to try and induce them to change their vote; also, the latter part of the report and the result as shewn by the placing of the figures being altogether too unfair to find any support (after asking the Congregation for their honest and independent opinion by "voting cards,") beyond the mover and seconder;—the report was withdrawn, without the motion for its reception or adoption being voted on.

The Report after being rejected by the Session should never again have appeared, but contrary to a Rule of Session made only on Saturday last, the Moderator, by Circular, publishes his rejected Report on Sabbath morning, and that unfair document is now before the public.

The voting cards next occupied the attention of the Session.

Voting cards issued in all about	- - - -	480
Voting cards, returned opposed	- - - -	86
" " indifferent	- - - -	22
" " not returned	- - - -	150
Considered as opposed	- - - -	258
Agreeable	- - - -	222

It will be observed that the following resolution is ingeniously worded, to convey the im-

pression, that a majority of the Congregation was in favour of a change of posture, while in fact a majority was against it, as is shewn from the figures.

It was then moved by Mr. Morris, seconded by Mr. Ewing, and unanimously resolved:—

“That inasmuch as the majority of the votes *GIVEN IN* were “agreeable” to altering the mode of public worship from sitting to standing at singing, and from standing to kneeling at prayer, that the Session do consent to parties adopting the proposed alterations, or the position heretofore used and observed.”

The object of this Circular is to correct statements made, as to the result of the voting of the Congregation on the proposed change of posture during the Worship in St. Andrew's Church, and to show that these Statements were far from being correct. To stand at Prayer was, and is now, the rule of our Church, the above resolution merely relaxes this rule in the case of those who wish to kneel. It was declared, on a recent occasion, by the Moderator of the Session, Rev. Gavin Lang, that to sit at prayer was MOST UNSEEMLY.—Judge for yourselves, be MEN. With these remarks, I am content to leave the matter in the hands of the Congregation.

(Signed) JAMES JOHNSTON.

N. B.—Sealed Boxes, not “Closed Boxes,” was the language of the Pastoral.

NOTE.—The votes of the Elders as ascertained on the evening of Sunday, 9th April, when the sealed boxes were opened, were as follows:

AGREEABLE.

JAMES S. HUNTER,		JAMES MITCHELL,
JOSEPH HICKSON,		JOHN I. MORRIS.

OPPOSED.

WM. EWING,		JAMES DRUMMOND,
GEORGE GRAHAM,		JAS. JOHNSTON,

JAMES R. REEKIE, opposed to kneeling at prayer though not opposed to standing at singing.

Indifferent.—MUNGO RAMSAY,

No votes from JAMES BURNS, or HUGH BRODIE.

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of posture, while in

unanimously resolved:—
"able" to altering the
to kneeling at prayer,
the position heretofore

the result of the
ship in St. Andrew's
stand at Prayer was,
in the case of those
of the Session, Rev.
ourselves, be MEN.
Congregation.

JAMES JOHNSTON.

al.

Sunday, 9th April,

standing at singing.

