

# Free Presbyterian Church ‘Statement of Differences’ (2019) – A Response

(The 2021 General Assembly commended the following Response to the attention of the wider Church.)

## 1. Introduction

In 2019 the Free Presbyterian Church of Scotland (FPCS) issued a revised form of its *Statement of Differences* with other Presbyterian Churches in Scotland. This was originally published in 1933 and updated to 1962, although an earlier *Statement of Differences* was approved by the FPCS Synod in 1917 in the context of disputes with the post-1900 Free Church of Scotland (FCS). The present response is a genuine effort to clarify some issues, correct misrepresentations or misunderstandings within the Statement in regard to the Free Church of Scotland (Continuing) (FCSC) and to clear the way for better understanding and relations between the FPCS and the FCSC that there may be a strengthening of the things most surely believed among us.

## 2. The undivided Free Church of Scotland 1900-2000

1. In relation to the Free Church (post-1900) it is stated that it “owes its being, as presently constituted, only to the 1900 union.” This assertion is contrary to fact. The continuing post-Union Free Church argued successfully for constitutional continuity with the Church of 1843. The Free Church continuing men of 1900 did not go into the union. It was the majority which took leave of the FCS. The minority held to earlier protests in relation to the 1863-1873 union moves and the permitted changes in worship in 1872 (non-canonical song) and 1883 (instrumental music). These protests, incidentally, were also approved by the Free Church ministers who subsequently formed the FPCS in 1893.

2. Criticism is also directed towards the FCS about, (a) denial that the Papacy is the man of sin; (b) assertion that God is passible; and (c) that six-day creation is denied, by some or many within its borders. It is acknowledged that this is very likely a supportable statement, both in regard to the pre-2000 Free Church and those under that name today, though not the FCSC. But these things could also be said of many in the pre-1892 FCS right back to Thomas Chalmers and Hugh Miller. In which case, whilst the FPCS argue: ‘We were never in the Declaratory Act Free Church’ (a debatable statement actually), it can nonetheless be said of their supporters in 1893 that they had been in a Church in which at least (a) and (c), and possibly also (b), were maintained by many, not to speak of being in a Church in which hymn-singing and instrumental music were approved for use in public worship services.

3. These issues involve dishonesty and indiscipline, as opposed to changes to the Constitution of the Church. The question arises – and it also arises, as we shall see, in connection with the issues involved in the Declaratory Act – Why should people leave a Church in which the constitution reflected in the Standards, Questions and Formulae remain unchanged, albeit they are maybe thought to be observed in the breach by some or even many? In that case often it is the majority that is in the wrong and putting itself essentially outside the Church. It is then the duty of the minority to assert strenuously, maintain and defend the constitutional position of the Church by all lawful means, including protesting, and only when the majority deny the minority this aspect of their Ordination vow is the minority then forced into separation. Thus, the constitution is defended, the unity of the Church is preserved and any forced separation is the fault and responsibility of the errant majority when it imposes unconstitutional decisions upon the dissenting minority. This was the motive of the Constitutionalists after 1892 and led to the Free Church Case of 1904-5. Indeed, the Disruption Free Church was born out of imposition, as is made clear by the Claim, Declaration and Protest of 1842 and the Protest of 1843. As it

happened, in the event, the question of what to do if that case had been lost did not arise. Historically and legally speaking, the identity and rights of the continuing FCS were, satisfactorily established.

4. Criticism is implied of those Constitutionlists (who later continued the FCS in 1900) regarding what sort of Church they would have been in if there had been no union in 1900. By the same token it may be said that if there had been no Declaratory Act, there would have been no FPCS. This would have resulted in those who adhered to the FPCS remaining in a Church where there was the open toleration of higher criticism and hymns and musical instruments, as well as other defections from the Constitutional and Confessional position of the Church.

5. It has been suggested that the 1900 FCS men could not fulfil their Ordination vows and remain in the Free Church after the passing of the Declaratory Act. However, it must be noted that the Declaratory Act was not retrospective legislation, and all office-bearers admitted to office before it was passed remained under their pre-existing vows. For those admitted after the passing of this *ultra vires* Act, they could, according to its terms, seek relief from certain unspecified commitments. However, the Constitutionlists, when examining such men as were seeking relief under the Act, in terms of their own vows, were not able to afford the relief that was sought as it was still their duty, as hitherto, to assert, maintain and defend the doctrine, worship, government and discipline of the Church. The Questions and Formula remained unchanged since 1846 and had to be administered by them in such a way that could not take into consideration the Act or any relief purportedly granted therein. Thus, they were able, and it was their duty, to fulfil their Ordination vows.

6. In the Court case involving the claims of the minority against the majority of the FCS which went into the union of 1900, there were three main claims in the minority's case, something consistently maintained since 1892:

(1) By entering the Union, the majority had abandoned the Establishment Principle – concerning the formal responsibility of the state to support the true Christian faith – which was an essential part of the Church's identity and constitution;

(2) By passing the Declaratory Act of 1892 the Free Church departed from the doctrine of the Westminster Confession, which was also essential to the Church's constitution; and,

(3) By passing the Declaratory Act of 1892 and altering the Church's Questions and Formula by the Union of 1900 they made a fundamental alteration in the Church's relation to the creed and therefore no longer could carry out the original purposes of the Trust.<sup>1</sup>

In the civil court the minority initially struggled, but eventually succeeded in affirming its right to identity in civil law as the FCS, as over against the majority which had shifted its position from the original constitution of the FCS (which itself claimed continuity with the Church of Scotland). It was the view of the Constitutionlists who were vindicated by the 1904-05 Court case that those who formed the FPCS had acted prematurely in leaving the FCS in 1893. They remained in it, doggedly fighting for their claim to being faithful to the original position of the FCS over the majority who was essentially abandoning it. All along it was their claim that the Declaratory Act was *ultra vires* and that therefore they were never under it. It should also be noted that they claimed that the use of the Barrier Act in this instance was *ultra vires* and therefore could not legitimise the Declaratory Act. In any case the clear repudiation of the Declaratory Act and other offensive legislation by protest on the part of the Constitutionlists, and in the continuing FCS after the case was settled, resulted in the original FCS position and constitution being maintained, and the Church's position on purity of worship was reinforced in 1910. However one may read history, it is simply inaccurate to say, as the Statement does, that the present Free Church of Scotland came into separate existence in 1900. The majority left to be part of another church body of a different hue. The minority continued as the Free Church.

7. It goes without saying that the post-2000 FCS (not the FCSC) did renege on the position of the post- 1900 FCS to the extent of the changes introduced by its Act on Worship in 2010. This clearly distanced the post-2000 FCS from both the FCSC and the FPCS in that particular fundamental of the Church's historic witness.

### **3. With reference to the Free Church of Scotland (Continuing)**

1. The FCSC makes a clear claim to continuity with the Free Church of 1843. It adheres to the same documents in precisely the same way as the Disruption Church, as codified in Acts of 1846 and 1851. Before the Union of 1900 by which the majority of the FCS went out of the FCS, the same formal subscription obtained as from 1846. The legislation of the Declaratory Act in 1892 was presumed to be covered by protest by those who subsequently formed the FPCS; otherwise, it would be more true of them than of the 1900 FCS men, that they were under the Declaratory Act, at least for that year up to May 1893, or until formal establishment of the FPCS as an organised entity.<sup>2</sup> If the Declaratory Act of 1892 was applicable legislation, as the FPCS claim, they should have separated in 1892. The idea of waiting for a formal opportunity to repeal the Act is a rather weak argument given that, according to their own theory of Protest, they would have been under the Declaratory Act for that year, and if they were relying on dissent or protest for that year, they were doing no more than what the Constitutionlists did right through to 1900.

2. The FPCS acknowledges that the FCSC constitutionally was the same as the FCS in 2000. It therefore maintained the same position constitutionally as the FCS of 1900 and 1843. The FPCS criticisms of the FCSC have therefore already been addressed, though the FPCS do not comment on the claim of the reconstitution document that the 'separated brethren' of the FCSC observed the constitution "more faithfully" than the FCS, which acted to libel and suspend the ministers (who subsequently adhered to the FCSC) on what were considered to be specious and unconstitutional grounds. There is no indication on the part of the FPCS that they grasp all that was involved in the division. It was not a secession on the part of the FCSC.

3. The FPCS seem content, specifically, to refer to the FCSC's adherence to a 'right of continued protest' principle, which they characterize as allowing "parties to defy decisions of the supreme court indefinitely without danger of discipline." This characterisation is incorrect, as is made clear in Act IX 1851 Act & Declaration anent the Publication of the Subordinate Standards, and of other Authoritative Documents of this Church. This Act makes it plain that it is only matters of constitutional importance that are involved in continued protest. It states, *inter alia*, "The abuses to which we refer regarded matters of vital import, such as the toleration of heresy and immorality; the tyrannical exercise of Church power over brethren, with the unjust denial of the right of protest for the exoneration of individual consciences but the Church itself from which they seceded, was found willing – though always, blessed be God! with a protesting minority in her courts".<sup>3</sup> The statement that the 'right of continued protest' was 'adopted' by the FCSC is therefore incorrect; it was inherited. However, the matter of 'protest' – invariably considered to be 'continuing' in the nature of the case – is simply a form of dissent. Historically it has been considered a strong dissent with constitutional implications, though it has to be said that forms of dissent are not explicitly defined in Church law. There are various dissents – simple, with reasons, protests and memorials – which have frequently been tabled and recorded in ecclesiastical matters. In the case of protests, formal written protests were frequently tabled in the late 19th century Free Church, on the understanding that those adhering to the protests strongly dissented from decisions of Church courts and would only resile from the protest when the matter protested against was satisfactorily addressed. That was the case in the matter of the union issue in the 1860s and the latter issues of hymns and the Declaratory legislation, and later discussions on union between the Free Church of Scotland (FCS) and the United Presbyterian Church of Scotland (UPCS) in the 1890s. This was all very common in the FCS and did not involve the protesters either (1) in leaving the denomination, unless they wished to secede; or, (2) in being open to disciplinary action simply for protesting, and continuing to do so. It appears

that the FPCS view of Protest is clearly at odds with Free Church history.

4. No office-bearer is entitled to defy decisions made by the Supreme Court of the Church, except when such decisions would cause the office-bearer to sin or to break his Ordination vow. Further, judicial decisions of the Courts in disciplinary cases must be respected. In the pre-2000 situation men sought transparency in disciplinary matters involving a prominent minister of the church. *The Practice, 4th Edition revised 1886 ChV, Part III, 2.10 (cf 8th Edition 1995 ChV, Part IV 2.8)* states: “It has been established by long practice that no judicial process of a serious kind can be carried out against a minister or Probationer, except by the use of what is called a Libel.” However, in the case of the minister to which reference has been made, no Libel was ever received, adjudged relevant or served by a Court of the Church. Thus, it is clear that no judicial process was ever carried out. At the same time, other Members and Office-bearers were publicly accused of conspiracy to pervert the course of justice, which laid an obligation on all Office-bearers in terms of the 9th Commandment to establish the innocence of the innocent and the guilt of the guilty. This would have involved a proper investigation of the issues – something which the majority refused to do and which left the minority with an obligation to continue protesting.

#### **4. In relation to the Free Presbyterian Church of Scotland**

Neither the fact of the separation of the men who formed the FPCS in 1893, nor their consciences or conscientiousness in that regard, are questioned. They acted according to their light and convictions. That itself has never been an issue with the FCS (or FCSC). There was a difference of opinion – different reactions to serious issues they were trying to oppose and rectify. It is therefore unfair and emotive for the FPCS to maintain that “The Free Church Constitutionals regarded the step taken by the Free Presbyterians in 1893 as a blunder.” *Prima facie* it did seem “schismatic”, though such a ‘stigma’ was and is not helpful. At any rate they were at the very least ‘Separatists’. The Constitutionals would have liked the support of the Free Presbyterians, as the Free Presbyterians no doubt would have liked the support of the Free Church Constitutionals. The matter of adherence to the subordinate standards was explained by the post-1900 FCS simply as a matter of fact. Thus, the Act of 1846 governing the Questions and Formula was not altered in 1892 nor subsequently, up to the union of 1900. There was no innuendo intended vis-à-vis the FPCS brethren. It quite simply was not a comment on their actions, but simply a statement of fact. Of course, it was uncomfortable that an ambiguity was introduced into that whole question (without changing the original Questions & Formula), especially after 1894. But the Constitutionals were trying to save the historical identity of the FCS to which they had been committed, by valiantly attempting to resist formal changes in that area of confessional subscription. Thus, they remained where they were and, thus, they argued successfully in the law courts as alluded to above.

The tragedy here is that once the matter of the status of the subordinate standards was re-established post- 1900, and the matters of purity of worship reasserted and restored, the FPCS did not enter into discussions with the FCS (post-1905 at least) to see if differences might be ironed out, fellowship re-established and even union contemplated. That, really, was a scriptural duty, and it does not reflect well on the FPCS that they resisted such a thing. One is bound to say that it has patently not been in the interests of the Reformed faith and practice that congregations of the FPCS and FCS were subsequently to be found in many, if not most, rural communities in the Highlands. It might be said that this has been a hindrance to a united front on Reformed doctrine and practice which has always been desirable and which seems, in the light of our present situation, to be supremely sensible as well as desirable.

#### **5. Doctrinal Differences and Differences in Practice**

There are many things in the doctrinal statement – Section II of the *Statement of Differences* – which provide an admirable summary of the Reformed faith and practice. Section III of the Statement covers ‘Differences in Practice’. Again, there are many issues raised in Section III

which commend themselves as fair and sensible to Bible believers, though not all will agree with every point made. At this point we desist from specific comments on this part of the 'Statement', except to say, in general, that care requires to be exercised whenever a Church makes formal statements and declarations about practice, to ensure that they are justifiable from Scripture and the Standards of the Church.

## 6. A Challenge

Whatever the FPCS believes genuinely to be serious deficiencies in other Scottish Presbyterian denominations, we are bound to encourage them to give serious thought and expression to what they have in common with other denominations, not least with those who are constitutionally close to them, recognising that such bodies can learn from one another, under the guidance of the Word of God.

It is good both to recognise other true Christians and have a concern to share and even co-operate with them in the promotion of the true gospel and maintenance of the historic Reformed faith and practice, which is frankly weakened by fragmentation among conservative churches. We would therefore encourage the FPCS to be open at the very least to some discussions and fellowship with the FCSC, to seek to establish better relations and even co-operation in areas in which we have a large measure of agreement on constitutional and doctrinal matters and practices.

1. K. R. Ross, *Church and State*, 47. On the detail of the Law Case see *The Free Church of Scotland Appeals* (Edited by Robert Low Orr), Edinburgh, 1904. This is the 'Authorised Report' of the Case. For a summary of the Appellants' case see pages 88 and 89 of the Report.

2. *Deed of Separation*, signed 14th August, 1893. (See the *History of the Free Presbyterian Church of Scotland 1893-1970*, p. 358.)

3. *The Catechism on the Principles and Constitution of the Free Church of Scotland* published by authority of the Publications Committee of the General Assembly in December 1845, and subsequently endorsed by the General Assembly itself in 1847, states:

Q. 205 *How did the evangelical and true Presbyterian minority act, when the dominant party thus enforced lay patronage in its most obnoxious forms?*

Ans. They maintained the attitude of a protesting body within the Establishment.

Q. 206 *Why did they not leave the Establishment?*

Ans. Because they considered they had grounds to stand upon constitutional principles and statutory conditions, which could not be altered by the actings of a corrupt majority of its office-bearers.