

SUPPLEMENT TO CHAPTER I

THE DEACONS' COURT: ITS CONSTITUTION, POWERS AND FUNCTIONS

PART I: *Constitution*

The New Testament warrants a distinction between the office of Elder on the one hand, and Deacon on the other. Whereas Elders are charged with the general and spiritual oversight of congregations, and in the case of those we designate “ministers”, labour in word and doctrine, the Deacons’ specific function relates to the temporal concerns of the Church. Though it is allowed that deacons may discharge their functions without having elders present at their meetings there are two considerations which underlie the accepted practice of minister and elders being in membership of the Deacons’ Court. These are:

- (1) The securing of maximum consultation between elders and deacons for the better total management of the congregation.
- (2) Many congregations cannot supply from their own membership a sufficient number of Deacons to function separately from the eldership. Act VII, 1846, therefore states “that it be competent for elders to be employed as deacons when a sufficient number of deacons cannot be had”.

Though a degree of spiritual maturity is requisite for either office, the difference in function between elder and deacon implies that a man having the gifts needed for the diaconate may not thereby qualify to be an elder. Nor does fitness for the eldership require previous experience as a deacon.

The meeting of deacons is referred to as the Deacons’ Court but this does not imply that this court is part of the legislative structure of the Church. In the Presbyterian system that structure comprises Kirk Sessions, Presbyteries, Synods, and General Assembly. The Deacons’ Court is essentially a Board of Management and administration having the bounds of its authority prescribed by Church law. So long therefore as the Deacons’ Court acts within its mandate its decisions are regarded as final, and no dissent and complaint is competent. A simple dissent is, however, competent.

In the application of the general principles stated the following rules of practice have emerged.

The Practice of the Free Church of Scotland

1. ***Election of Deacons and Duration of Office:*** Deacons are elected on the initiative of the Kirk Session by the communicant members of the congregation, honouring the same principles and following the same procedures as noted in the case of the election of elders. They hold office for life and remain members of the Deacons' Court until they cease to be members of the congregation, or their resignations are accepted, or they are held and declared to have resigned through long absence from meetings of the Court, or they have been deposed.

2. ***Deacons: change of congregation:*** A deacon who removes from one congregation to another can be admitted to the Deacons' Court of his new congregation only after due election by the communicant membership of his new congregation.

3. ***Frequency of meetings:*** The frequency of meetings of the Deacons' Court is determined by the volume of business to be transacted but regular meetings at, for instance, monthly intervals are desirable. The ordinary business of the Deacons' Court may not be transacted on the Lord's Day.

4. ***Convening of Meeting:*** The Deacons' Court is convened by intimation from the pulpit or by personal notice to the members, provided a reasonable time for attendance is allowed. The Court is called by authority of the minister (Assembly Proceedings 1865, page 151), or at the written request of any three members addressed to the minister or the clerk of the Deacons' Court if the congregation is vacant.

5. A Deacons' Court may not meet at the same time as the Presbytery or Synod of the bounds.

6. ***Chairman of Meeting:*** If present, the minister of the congregation presides at meetings of the Deacons' Court. But the court is allowed to meet in the absence of the minister provided it is called as noted above. In such cases the court appoints its chairman from among those present.

7. ***Quorum:*** Three members form the quorum of a Deacons' Court.

8. ***Powers of Chairman:*** The Chairman may introduce any business to the Deacons' Court, and may address them regarding it. He has only a casting vote.

9. ***Treasurer(s) and Clerk:*** The Deacons' Court are required to appoint one or more Treasurers and a Clerk.

10. ***Congregational Accounts:*** The congregational treasurer acts under the direction of the Deacons' Court and is required to keep accurate ledgers of funds received and payments made. The accounts should be audited annually by competent persons appointed by the Deacons' Court. The ledger of receipts and payments must be submitted annually to the Presbytery for attestation. Guidelines for treasurers will be included in the supplement to this volume.

The Deacons' Court

11. ***Freewill Offerings:*** In many cases it is also found convenient to appoint a treasurer with responsibility to oversee the operation of the freewill offering system in the congregation. He should keep a register of all contributors and of the amounts given by each. He should be able also to supply deed of covenant forms and relevant information, to those desirous of having them and whose contributions and tax situation render this appropriate. The freewill offering treasurer should regularly report to the congregational treasurer and the Deacons' Court.

12. ***Duties of Clerk:*** The Clerk of the Deacons' Court is required to keep a separate Record for the Minutes of its procedure, and to take charge of such of its papers, books, and documents as are not intrusted to the custody of a Treasurer.

13. ***Order of Business:*** Every meeting of Deacons' Court is both opened and closed with prayer. The Minute must always bear at the outset that the Deacons' Court was *constituted*, and at the end that the meeting was closed with prayer. No Minute is valid without the mention of these particulars. No extract can be received which does not bear that the Deacons' Court was constituted, and which is not certified by the Clerk as having been extracted by him from the Records of the Court.

14. Before proceeding to other business, the Deacons' Court ought, at each meeting, to hear the Minutes of last sederunt read, and the judgment of the Deacons' Court, either approving of the Minutes or correcting them, ought to be recorded. That judgment refers only to correctness of the Minutes as a true account, and not to the merits of the business transacted.

15. ***Nature of Meetings:*** The meetings of Deacons' Court are not usually open to the public, or the Congregation; but the Deacons' Court may hold open meetings if they see special cause.

PART II: POWERS AND FUNCTIONS OF DEACONS' COURTS

1. ***General powers of Court:*** The Deacons' Court has the responsibility of discharging the material and financial business of the congregation. Though properties owned by the congregation are held by trustees duly elected (as will be noted later) their management and ongoing maintenance are in the care of the Deacons' Court. This court is also responsible for ingathering funds from the congregation and for the distribution of these and other funds accruing to them, among the projects for which they have been provided. Certain sums may be assigned at the discretion of the Deacons' Court in accordance with Acts of Assembly and the direction of Presbytery and Synod. Though not as relevant today as formerly, Act VII, 1846, reserves to the Deacons' Court the

The Practice of the Free Church of Scotland

duty of making provision for the poor of the congregation and for the education of the children of the poor.

2. The functions of the Deacons' Court may be more particularly outlined as follows:

2.1 *No Power of Discipline:* Being essentially a board of management the Deacons' Court does not exercise disciplinary functions even over its own members, this being within the competence of the Kirk Session by whose authority members are admitted, suspended, or deposed and to whom resignations should be addressed. It is the duty of the Kirk Session to inform the Deacons' Court of any changes in its membership and the extracts of minutes giving this information must be engrossed in the minutes of the Deacons' Court and its Roll revised accordingly.

2.2 *Congregational Property:* Though responsible for the management, repair and maintenance of all congregational properties and charged to raise funds for these purposes, the Deacons' Court are not entitled to grant the use of buildings for any purpose, without the consent of the Minister. Nor can it withhold the use of buildings for meetings of a strictly religious, ecclesiastical or charitable nature sanctioned by the minister. It is, however, within their competence to make such charge for these uses as will defray costs falling on the congregation. The minister's sanction notwithstanding, the Deacons' Court's approval must be given before buildings can be used for any purpose which is not of a strictly religious, ecclesiastical or charitable nature.

2.3 *Church Officer and Fee to Precentor:* If it is deemed necessary or desirable to employ a Beadle or Church Officer for the week to week management, cleaning and good upkeep of properties, it is the duty of the Deacons' Court to do this and to determine terms of employment and payment. If a fee is paid to the precentor, this is fixed by the Deacons' Court but the court does not appoint the precentor, this being a function of the minister after due consultation with the Kirk Session.

2.4 All collections intimated from the pulpit should be authorised by either the Deacons' Court or the Kirk Session.

2.5 Methods of raising funds for the maintenance of buildings are determined by the Deacons' Court. The old system of charging seat rents has fallen into decline and appears no longer acceptable.

2.6 *Methods of Collecting Funds:* It is the duty of the Deacons' Court to inform the congregation, and especially new arrivals, of the methods by which contributions to their various funds are ingathered. If the main method be by weekly freewill offering the Deacons' Court arranges for the distribution of the requisite envelopes. If house to house collections are appointed the Deacons' Court specifies districts, appoints collectors and furnishes them with the required

The Deacons' Court

books.

2.7 *Relationship with General Treasurer:* The Deacons' Court informs the Church's General Treasurer of all relevant data respecting funds likely to be available to it so as to negotiate with the relevant central Committee with regard to the congregation's contribution to central funds. It is recommended that, when agreement has been reached regarding the amount to be remitted, the Deacons' Court authorise their treasurer to send at least one-twelfth of this sum each month to the General Treasurer.

2.8 If a congregational Association for the support of any special project be formed with the approval of the Kirk Session and Deacons' Court, the Association should appoint a treasurer who will be responsible to the Deacons' Court for the transmission of funds collected to the specified project.

2.9 *Local Expenses:* Expenses incurred by the minister or, in the case of a vacancy, the interim-moderator, in the course of discharging pastoral care of the congregation should be met by the Deacons' Court. The General Assembly requires annual review of the amounts paid, "so that as far as possible pastoral expenses are not met from the personal income of the minister" (Act XV, 1983).

In consolidated charges having a plurality of Deacons' Courts an agreement should be duly minuted in the relevant records of the proportion of expenses to be met by each. In the case of a vacancy this agreement should be arranged by the Interim-Moderator prior to a settlement.

2.10 *Ministerial Supplement:* In a special category of congregations (designated Group I) a supplement may be paid to the minister in addition to expenses. Group I congregations are defined as those contributing to central funds an amount equal to the minister's stipend plus a full share or more of the additional costs needed to meet the Church's general expenditure. This sum is calculated annually by the central Finance Committee. Where supplements are paid, they must be matched £1 for £1 in additional contribution to the central funds. The total supplement may not exceed 1/2 of the equal dividend. If payment of supplement results in increase of the National Insurance being paid by the General Treasurer, this increase must be refunded to him by the congregational treasurer.

2.11 *Contributions for other purposes:* If when agreed amounts to central funds, minister's expenses and supplement (if competent) have been paid, a surplus of unassigned funds remains it is the duty of the Deacons' Court to apply the surplus in fitting proportions to religious, ecclesiastical or benevolent objects.

2.12 The Deacons' Court are responsible for instructing each member as to the general duties of Deacons and as to particular assignments made to individuals.

The Practice of the Free Church of Scotland

2.13 ***Order of Business:*** The order of business is in general like that of the Kirk Session though the matters considered are different. At regular meetings, whether monthly or at longer intervals, the level of funds ingathered to meet obligations to central funds should have priority.

2.14 ***Records:*** The Deacons' Court must ensure that the record of its proceedings is properly maintained by the clerk, and that all account books are duly maintained by the treasurer(s).

2.15 ***Petition against Deacons' Court:*** Any member of a Congregation or of the Kirk Session may petition the Presbytery against the procedure of the Deacons' Court on the grounds that it has exceeded its powers or disregarded Acts of Assembly. It is competent also for the Presbytery to find that the Deacons' Court has exceeded its power or disregarded the Acts, upon the periodical examination of the Record. The Presbytery may, in either of these cases, require the procedure to be altered, or censure the Deacons' Court, according to the nature of the case. The Deacons' Court may appeal to the Superior Courts; so also may the petitioners against the Deacons' Court's procedure, if the Presbytery reject their Petition.

2.16 ***Extracts:*** The Deacons' Court is bound to furnish Extracts to parties concerned in its procedure, in the same manner as the Kirk Session.

2.17 ***Review of Records:*** The minute book of the Deacons' Court and duly audited treasurer's accounts must be submitted for review by Presbytery.

2.18 ***Congregational Meeting:*** After attestation by the Presbytery of the Record and Treasurer's account, a Congregational Meeting should be held, when the Deacons' Court shall present a report of their proceedings for the preceding year, give such information and explanation as may be asked for, and receive any suggestions which may be offered by the members of the Congregation for the consideration of the Court, with reference to the future distribution of the funds; the said Congregational Meeting shall be convened by intimation from the pulpit, and the Minister, if present, shall preside.

2.19 Meetings of the Congregation which do not require the Kirk Session's authority should be duly minuted and the minutes engrossed in the Record of the Deacons' Court.

3. ***Model Trust Deed:*** Most congregational properties are held in terms of a trust deed modelled on one drawn up in the 19th century relating to St. George's Free Church, Edinburgh. The essential feature of this is to ensure that ownership of the property will always be retained by the congregation of the Free Church of Scotland. Should a section, even a majority, of the congregation defect from the Free Church of Scotland they would lose right of ownership of the properties.

With this safeguard the rights of ownership belong to the local congregation and are vested in elected trustees. Should the congregation wish to dispose of

The Deacons' Court

properties held in terms of the Model Trust Deed, a Petition embodying that resolution and supported by the courts and membership of the congregation and by the Presbytery must be addressed to the General Assembly. If disposal of property is with a view to replacement the petition may be addressed to the Commission of Assembly.

The Committee which deals with applications for loans/grants for the upkeep of buildings deals more generously with applications relating to properties held in terms of the Model Trust Deed, than with others.

4. **Local Trustees:** Property belonging to a congregation must be held in the names of trustees elected by the congregation. For property held in terms of the Model Trust Deed only persons whose names appear on the Communion Roll of the congregation as duly attested by Presbytery have the right to vote in such an election. A congregational meeting to elect trustees must be intimated from the pulpit after the forenoon service and the intimation must specify the reason for which the meeting is called. At least ten days' notice of such a meeting must be given.

The duties of local trustees are to hold properties in trust and sign necessary documents connected with ownership or sale, when duly authorised. Duties of day to day management belong to the Deacons' Court.

APPENDIX: FINANCE COMMITTEES

1. When a congregation lacks a suitable number of male communicants who are fit and willing to act as Deacons and it is deemed inexpedient to have assessors from some distance managing the congregation's temporal affairs, recourse may be had to the appointment of a local Finance Committee. It is recognised that this is a temporary arrangement which should cease when a Deacons' Court can be duly elected, and that appointment to a finance committee does not imply holding office in the Church.

2. The Kirk Session should recommend to the congregation the membership of the finance committee on a year to year basis.

3. The Committee should conduct its business following the same procedural rules as apply to Deacons' Courts and in the enjoyment of the same immunity so long as they keep within the Church's regulations (Act XXX, 1976).