

Church Establishment in an Independent Scotland

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The Establishment Principle in Scotland

The Establishment Principle is founded on Christ's headship, as taught in such places as Ephesians 1.2 and expounded in Chapter 23 of *The Westminster Confession of Faith*, and also in *The Form of Church Government*. In essence the doctrine teaches that Church and state are both institutions of God, both alike answerable to Christ, and each owes to the other due recognition, support and respect.

If at first, Church and state saw themselves as adversaries, this changed in the fourth century when Constantine recognised Christianity as the official religion of the Roman Empire. Although from that time Church and state began to collaborate, the Church asserted its supremacy over the state, as when Pope Leo III crowned Charlemagne as Holy Roman Emperor in 800AD.

In Reformation England the balance was different. The claim of papal supremacy was repudiated by Henry VIII who established the Church of England as the state Church, with himself the Supreme Head. The Church's constitutional privileges and responsibilities were carefully defined in law. This was only to be expected where the titular Head of the Church was the nation's chief lawmaker and the break with Rome had been accomplished by law, rather than through a popular movement.

Scotland's Reformation was different. It was not initiated by the monarch, but was a popular revolt against royal deference to papal supremacy. From its beginnings Scotland's Reformed Church asserted its freedom from state interference in the determination of its own government, practice and doctrine, but did not compromise its position as the national Church, calling on the magistrate to "maintain true religion and to suppress all idolatry and superstition".¹

¹ Scots Confession, chapter 23 (1560)

In 1560 the Reformation Scottish Parliament accepted the *Scots Confession*, establishing the jurisdiction of the Kirk. The Parliament of 1567 affirmed the legality of the Acts of 1560 by passing the Church Jurisdiction Act which “declares that there is no other [Kirk]...established within this Realm”.² Whilst a Coronation Oath bound the sovereign ‘to maintain the true Kirk and ... the true worship of God.’³

In 1596 the Scottish doctrine of the relationship of Church and state was vividly articulated in a famous altercation between Andrew Melville and James VI, during which Melville asserted: "there are two kings and two kingdoms in Scotland: there is king James, the head of the commonwealth; and there is Christ Jesus, the king of the Church, whose subject James the Sixth is, and of whose kingdom he is not a king, not a lord, not a head, but a member."⁴

In the seventeenth century, Rutherford defended the establishment principle as a social covenant between Church and state. The *Westminster Confession of Faith* and *The Form of Church Government*, affirming Church establishment, was approved by the Church of Scotland in 1647. In 1690, following a period of repression, the claim of the Stuart monarchs to jurisdiction over the Church was repudiated as inconsistent with Presbyterian polity.⁵

At the Union of 1707 the Presbyterian government of the Church of Scotland was made integral to the British Constitution by the Act of Accession and the Coronation Oath. Lord Murray has argued that what happened in 1707 was nothing less than the re-establishment of both the Church of England and the Church of Scotland *through* the Union.⁶ At the same time the Kirk's hegemony was broken by official toleration of episcopacy and the reintroduction of patronage.

² Church Jurisdiction Act 1567 <http://www.legislation.gov.uk/aosp/1567/12/paragraph/p1>, accessed 12 February 2014. For a fuller discussion of the significance of this legislation see P. Carnegie Simpson, *The Church and the State* (London: James Clark & Co., 1929)

³ J. H. S. Burleigh, *A Church History of Scotland*, (Oxford: Oxford University Press, 1960), p.191. Coronation Oath Act 1567 <http://www.legislation.gov.uk/aosp/1567/8/paragraph/p1> accessed 12 February 2014.

⁴ Cf. Thomas M'Crie, *The Life of Andrew Melville* (Edinburgh: William Blackwood, 1819), vol.2, p.66.

⁵ Cf. Church of Scotland General Assembly, Act XIX, 1842: Claim Declaration and Protest, anent the Encroachments of the Court of Session.

⁶ Ronald King Murray, 'The Constitutional Position of the Church of Scotland' in *Public Law*, (1958), pp.158. Emphasis mine.

The Churches Scotland Act 1905, affirmed the establishment of the Church of Scotland and the Church of Scotland Act 1921 skilfully clarified the established status of the Kirk.⁷

Lord Mackay of Clashfean defines the current status of Church/state relations: “the relationship of the State to the Church of Scotland is one of recognition with a degree of support. As Professor Frank Lyall has said, ‘All that establishment means is that the civil authority has recognised the Church’s self-imposed task to bring the ordinances of religion to all Scotland, and looks to the Church on suitable ceremonial occasions.’”⁸

What are the duties of the Established Church? In 1877 these were described as: “the protection of the Sabbath, the promotion of scriptural education in the public schools, the conservation of the purity of the Scriptures, and the sacredness of the law of marriage.”⁹ Today, this scope is greatly diminished: legislation has broken the back of a national recognition of the Sabbath; the state has monopolised education; the free market has removed ecclesiastical oversight from Bible production; and the institution of marriage has succumbed to demands from the gay rights lobby.

The Established Church has a prophetic function: articulating God’s Word to the nation, setting out duties to God and to neighbour, and calling the people to faith. It also has a priestly ministry of intercession for rulers, all in positions of influence, and for all citizens. Its practical ministry springs from these twin responsibilities.

Although, compared to former times, the duties of the Established Church have been reduced, the Kirk today is ill placed to fulfil them. The effects of liberalism and secularism have been demoralising, robbing the Church of Scotland of the nerve to fulfil its duties. Prof. David F. Wright has predicted that the Kirk “will decline to enter the

⁷ “By this remarkable statute the UK Parliament has admitted the legislative sovereignty which the General Assembly has always claimed in the ecclesiastical sphere... This power of ecclesiastical legislation is a very real mark of freedom, but not at all a mark of disestablishment. For what established church could ask for a greater measure of state association than to share with the civil authority the legislative power of the state?” Ronald King Murray, *op. cit.*, pp. 160-1

⁸ Lord Mackay of Clashfean, “Does Establishment have a Future?”

<http://www.theosthinktank.co.uk/comment/2013/05/13/does-establishment-have-a-future>

⁹ William Balfour, *The Establishment Principle Defended*, (Edinburgh: Johnstone and Hunter, 1873), p.v.

lists against the mocking taunts of the irreverent... Accommodation is the order of the day.”¹⁰ There is a sense of foreboding hanging over the Kirk, a fear that the haemorrhaging of its ministers and members will lead to its demise.¹¹ Today the establishment principal totters precariously between a secular government that wants rid of it and a supine Kirk unable or unwilling to exercise it.

The Establishment Principle in the Free Church of Scotland

The name, Free Church of Scotland, not only asserts freedom from state interference but also that it is ‘Church of Scotland’. This has been well stated by Alexander Thomson of Banchory:

Her very name implied nationality and connexion with the historical Church of Scotland. She arose, not as a sectarian denomination... She was conscious of being, what she called herself, the Church of Scotland, Free... The principle of national establishment of religion ... was her avowed principle, and could not be surrendered by her without becoming a new church and forfeiting her name.¹²

Properly understood the Disruption was not a schism, it was a protest. Many of the Disruption fathers anticipated a temporary separation from the National Church. Chalmers forcefully made the point:

Though we quit the Establishment, we go out on the Establishment principle; we quit a vitiated Establishment but would rejoice in returning to a pure one. We are advocates for a national recognition of religion – and we are not voluntaries.

At its inception the Free Church continued to adhere to the *Westminster Confession of Faith* and the *Form of Church Government*.¹³ Unsurprisingly, Free Church theologians ably defended the establishment principle.¹⁴ To this day, every Free Church office bearer promises adherence to the establishment principle.

¹⁰ Harry Reid, *Outside Verdict: An Old Kirk in a New Scotland* (Edinburgh: St Andrew Press, 2002), p.206.

¹¹ Cf. Callum G. Brown *The Death of Christian Britain* (London: Routledge, 2001), p.4.

¹² George Smeaton, *Memoirs of Alexander Thomson of Banchory* (Edinburgh: Edmonston & Douglas, 1869), p. 289

¹³ The only proviso was the passing of an Act by the 1846 General Assembly repudiating any interpretation of the Confession which would deny the civil rights of freedom of conscience and liberty of judgement. Cf. Act XII, 1846.

¹⁴ Cf. e.g. Thomas Chalmers *Lectures on the Establishment and Extension of National Churches*, (Glasgow: William Collins, 1838); William Cunningham, *Historical Theology* (Banner of Truth Trust, 1960); James Bannerman, *The Church of Christ*, (Edinburgh: Banner of Truth Trust, 1960); James Gibson, *The Church in Relation to the State* (Edinburgh: Johnstone and Hunter, 1872); Alexander Stewart and J. Kennedy Cameron, *The Free Church of Scotland, 1843-1910: A Vindication* (Edin-

The annual visit to the General Assembly by the Lord High Commissioner is symbolic of the Crown's recognition of the Free Church's loyalty to the establishment principle, just as the Assembly's *Loyal and Dutiful Address* articulates the Church's loyalty to the Crown.

After a century or more of enervating Presbyterian infighting, the currently ambiguous position of the Kirk and its failure to be a clear Christian voice has enabled the Free Church to recover confidence in addressing the nation, gaining its ear and catching its eye. This has been effective.¹⁵ Journalist Kevin McKenna : “[The Free Church of Scotland] ... is an eternal rebuke to the world of excess, greed and unfettered consumerism and to the adherents of the other Christian faiths who, each day, feel compelled to make little compromises with an unbelieving world just to have a quiet and easy life.”¹⁶

Yet even as the Free Church slowly recovers confidence in the public square, the establishment principle is exposed to jeopardy as never before, not this time by church strife, but by a overweening secular state.

The Establishment Principle in an Independent Scotland

There are two issues we must shortly consider: the first is the defence of the establishment principle in a secular society, and the second is its application by a Church that is not recognised as the National Church. But before we do so, let's note the present context and try to anticipate what may prevail in an independent Scotland.

On entering the Scottish Parliament a visitor who has seen the Palace of Westminster cannot fail to detect a contrast between the two buildings far greater than the disparity

burgh: William Hodge and Company, 1910), J. Kennedy Cameron, *Scottish Church Union of 1900: Reminiscences and Reflections* (Inverness: Northern Counties Newspaper and Publishing and Printing Company, 1923); J. Kennedy Cameron, *The Clerkship of the General Assembly of the Free Church of Scotland* (Inverness: Northern Chronicle, 1938); Neil A Macleod, 'Church and State' in ed. Donald Macleod, *Hold Fast Your Confession: Studies in Church Principles* (Edinburgh, Knox Press, 1978).

¹⁵ The appointment of a press officer has greatly assisted the Church to gain the ear of the nation, and have some influence in the area of public policy. In addition, Free Church ministers, such as Donald Macleod and David Robertson, have been effective in presenting a Free Church perspective in the media.

¹⁶ Kevin McKenna 'Let us Cherish and Praise the Free Church of Scotland' in *The Observer*, 24 February, 2013.

between their respective architectural styles of Post-modernism and Gothic Revival. The Edinburgh Parliament is starkly devoid of Christian art, decoration or symbolism. Through these visual representations the Westminster Parliament bears testimony to the Christian heritage which underpins the United Kingdom's democratic, social and moral values, even if it has to be conceded that at present they are honoured more in the breach than the observation.

In Holyrood the lack of Christian symbolism speaks eloquently. There is a cultural tension between the United Kingdom with its Christian roots and the modern Scottish Parliament as a bastion of secularism. Steve Bruce, Professor of Sociology at Aberdeen University, has criticised the Holyrood Parliament for failing to accord "social honour" to its own distinctive religious tradition of Presbyterianism.¹⁷ In the Scottish Parliament the Christian religion is granted the barest minimum input possible, and that only on a rigorously enforced inclusivist basis.

In the decade following its founding the Scottish Parliament has enacted, or is planning to enact, legislation further divorcing Scotland from its Christian heritage. The judiciary has been secularised, the Christian understanding of marriage repudiated, the integrity of the family endangered, and Christianity's historical place in the education of Scotland's children further diminished.¹⁸

On one hand, the Scottish Nationalist administration acts as if there were no establishment principle and no National Church, but on the other, blandly asserts in its so-called White Paper that in an independent Scotland no changes are proposed "to the legal status of any religion or of Scotland's churches".¹⁹ This is disingenuous, because in an independent Scotland change is inevitable. Abandon the Union and you cut the

¹⁷ Harry Reid, op. cit. p.205

¹⁸ The rationale for the secularisation of the judiciary is set out in: *Judicial Appointment: An Inclusive Approach* (1999). The Marriage and Civil Partnership (Scotland) Bill was passed by the Parliament on 4 February 2014. The Children and Young People (Scotland) Bill, is currently at stage 3, and is to be debated 19 February, 2014. Margo MacDonald's Assisted Suicide (Scotland) Bill is currently at stage 1.

¹⁹ *Scotland's Future: Your Guide to an Independent Scotland*, (Edinburgh: The Scottish Government, 2013) p.564. In this document's 10 chapters, 650 pages and 170,000 words it says nothing about the role of the National Church. The word 'church' is only found five times, three of which are irrelevant to this discussion. Only on page 564 is the SNP's single proposal for the churches is set out, where it says, "We propose no change to the legal status of any religion or of Scotland's churches."

nation adrift from the establishment principle's legal basis in the UK's Act of Accession and Coronation Oath.

Of course, this need not necessarily be the case. In theory, Scottish legislation in an independent Scotland could be enacted to clarify and safeguard the establishment principle, and perhaps one day it might happen. But not only is this not anticipated in the White Paper, it simply will not happen because of the Scottish Government's commitment to the most exaggerated form of diversity and equality legislation. The SNP's stated policy on religion is neutrality and pluralism. A party document demolishes the establishment principle by stating that the Constitution "should be neutral and silent on matters of religion, restricting itself to provide the institutional structures and procedures which guarantee freedom for all in a pluralist, open, and democratic society".²⁰ Despite the fact that the 2001 census reports that a majority of the Scottish people still consider themselves Christian, in an independent Scotland, as a matter of public policy, and for the first time since the Reformation, Christianity will be deprived of state recognition as Scotland's national religion.

Thankfully, the Christian possess a vote and with that vote can bring judgement upon those whom he thinks have ceased to care, ceased to listen, and ceased to submit to the higher sovereign power.

The Role of the Free Church in an Independent Scotland

That brings us to ask what impact independence may have on the Free Church, its adherence to the establishment principle and its national mission.

First of all, it is much to be hoped that the Free Church will resist any attempt made by independents either to pass a Declaratory Act releasing its ministers from adherence to chapter 23 of the *Westminster Confession*, or rewrite the chapter separating Church and state, along the lines of American revisions. The Free Church does not hold the establishment principle as an irrelevant and nostalgic relic of a bygone day, or because it has grandiose aspirations to be the established Church itself, expect perhaps by eventual reunion with a reformed Church of Scotland. It holds the doctrine

²⁰ W. Elliot Bulmer *Religion and State in a Scottish Constitution: Secularism, Pluralism and Neutrality* (2010) <http://constitutionalcommission.org/blog/?p=185>

because it understands it to be biblical, a part of its Scottish Reformed heritage, and as integral to its confessional obligations. Even in a constitutionally secular independent Scotland, there would be no need to abandon a doctrine that for 500 years has served the nation well.

Secondly, due to the present nature of the Kirk and the expected policies of a secular government, the Free Church of Scotland as the nation's largest confessional Presbyterian Church, may well find itself called upon to be the guardian and custodian of the establishment principle, defending it theologically and promoting it practically. Within the scope of its resources, there is nothing to stop the Free Church from acting as a national Church in sustaining congregations, church planting and evangelism, speaking with a prophetic voice, by intercession, and demonstrating care and compassion for the nation.

Are we to believe that Scotland will forever remain as impervious to the Gospel as it currently is? Such thinking is short-sighted, and betrays a woeful ignorance of history, but even worse, it is unbelieving. Scotland's history is replete with periodic revivals, where the Church and the nation, after decades in the doldrums, have been reinvigorated by the Spirit of God and responded to the Gospel. Faith believes in an unchanging God able to do the same again in our own day. Until that day dawns, the establishment principle should find safekeeping in the Free Church.

In the meantime the Church will need to refresh its memory of some basic tenets concerning serving God and our nation through the establishment principle.

First, the Church's relationship to the state is essentially religious because both are institutions of God (I Peter 2.13) and exist for his glory. In other words, taking our place on the public square, under the lordship of Jesus Christ, is not a distraction from spiritual ministry, but a true extension of it.

Secondly, the Church's is to teach that the citizen's normal relationship to the state is one of deference, not confrontation (Rom. 13. 1ff. I Peter 2.13), publicly according it due honour, submitting to lawful authority, paying taxes, and supporting the rule of

law, and not out of fear but for conscience sake (Rom 13.1; Titus 3.1). This is the will of God and effectively silences those who suspect the Church of being subversive.

Thirdly, the Church's relationship to the state finds expression in the priestly function of intercessory prayer. Prayer is to be made *for* (n.b. not, *against*) 'kings and all who are in high positions' (1 Tim. 2.2). Its public prayers should express gratitude for the many benefits and services we enjoy, and intercede for all trying to meet the demands of public office.

Fourthly, the Church both serves and reforms the state when its members hold and exercise public and political office and so seek to maintain public religion, justice, and peace.

Fifthly, the Church is to exercise a prophetic function, challenging government policy and public opinion alike by boldly setting before the nation the moral claims of the Law and the saving truth of the Gospel, reminding the state of its accountability as the servant of God, teaching that the highest good is found in the grace and will of God, and calling the nation to faith in Christ.

Sixthly, the Church is to proclaim and demonstrate the justice of God. If the Church cannot itself provide the necessary services, it has a duty to ameliorate the negative influences of a godless welfare state by mobilising its members to work in the charitable and private sector and the public service.