

REPORT OF THE ECUMENICAL RELATIONS COMMITTEE

GENERAL ASSEMBLY 2005

Despite significant changes in personnel and a marked reduction in numerical strength the Committee has sought to pick up and advance the wide-ranging concerns and commitments of its predecessor, and to do so in a way which is faithful to that open and positive attitude to the ecumenical dimension of the Church's witness which has been reflected in previous reports. Within the limited human and material resources available it has not always been possible for the Committee to take advantage of the invitations extended to the Church to be personally represented at all major ecumenical events but at local and national level the extent of the Church's contribution remains a source of satisfaction and encouragement to the Committee

JOINT WORKING GROUP WITH THE CHURCH OF SCOTLAND

Following the joint report to last year's Assemblies, the Joint Working Group has continued to explore areas where the two denominations can work more closely together. Discussion has taken place between those involved in the selection and training of ministers and a number of fruitful meetings have been held. As the United Free Church seeks to develop its pastoral and counselling services to ministers contact has been made with the Church of Scotland's Board of Ministry. Closer relations continue to grow between local congregations in various parts of the country, while the local ecumenical partnerships in Canonbie and Westray have been progressing well.

The Working Group now invites both denominations to discuss the text of a proposed covenant between the two denominations together with two significant background papers. It is hoped that the documents will be discussed at every level of church life. It is the hope of the Group that wherever Church of Scotland and United Free Church congregations are close to each other joint discussion will take place. Members of the Group are willing to assist in the discussion. The Working Group seeks responses from Presbyteries and Kirk Sessions by 31st December 2005, with the intention that the covenant be brought to the General Assemblies of 2006 for approval.

Details of the proposed Covenant together with other supporting documents are contained in Appendix 1 to this report.

ACTION OF CHURCHES TOGETHER IN SCOTLAND (ACTS)

The Committee has continued to participate fully in the work of ACTS and is most grateful to those who have responded so positively to its invitation to serve on a wide variety of Networks, Committees and Associated Ecumenical Groups. Changes in the Church's Committee structures has resulted in several changes in representation and the welcome introduction of some who have not previously had the opportunity to become involved in ecumenical activities.

Scottish Churches House

Over the past year there has been growing concern over the financial viability of the House and its consequent dependence upon substantial assistance from the ACTS' budget. At the instigation of the Forum a seminar was convened earlier this year whose purpose was to focus "on the future of Scottish Churches House, its sustainable financial viability, and its agreed ethos." Discussion focused on the relationship of the House and its activities to ACTS and the extent to which each is dependent on the other for the effectiveness of its work. A small group has been formed to examine the current situation and to bring forward recommendations on future policy.

National Sponsoring Body for Scotland

The official launch of this new body took place at Dunblane in October. Its stated object is to provide those involved in Local Ecumenical Partnerships with opportunities to share their experience and to act as a resource for the guidance and support of churches contemplating the possibility of entering into such an arrangement. Membership of the National Sponsoring Body itself will consist of Church-appointed leaders and will hopefully include representatives from Churches not currently members of ACTS. As part of its remit the NSB will be responsible for organising an annual Local Ecumenical Partnership Gathering under the auspices of ACTS with a view to giving those involved in LEPs at local, regional and national levels regular opportunities to meet and reflect together on areas of mutual interest and concern.

The first of these events is scheduled to take place in Livingston on 26th/27th November, 2005 when the keynote speaker will be the Rev. Dr. Mary Cotes, Ecumenical Moderator, Milton Keynes.

CAIRS - Churches' Agency for Inter-Faith Relations in Scotland

In view of present budgetary restraints, the Committee felt unable to respond to the Agency's request to contribute to the financing of an Education Officer for an initial three year period. Sufficient funding has now been obtained to make a part-time appointment and the Agency is to be commended for its perseverance in face of a disappointing response from the Churches to its initial appeal.

Scottish Ecumenical Gathering

Plans for a one day event in June 2006 on the theme 'Seeds of Hope' are well in hand. Whether or not such an event might be followed up with a second Scottish Ecumenical Assembly has been remitted back to the planning group for further consideration.

CHURCHES TOGETHER IN BRITAIN AND IRELAND (CTBI)

Like many other religious bodies CTBI for financial and other reasons is currently engaged in a major re-assessment of its role and structure as an ecumenical instrument, and, in particular, is reviewing its relationship to the four nationally based instruments (ACTS and its counterparts in England, Wales and Ireland). Various possible models emerged in the course of discussion when the Assembly met in February and will form the basis of future discussions at the Church Representatives' Meeting later this year. The preferred model will aim to meet the need for greater integration among the existing national ecumenical instruments, greater flexibility of operation, and longer term financial sustainability. The outcome of these deliberations will have important implications for ACTS and the future shape and direction of ecumenical activity across Britain and Ireland.

WORLD ALLIANCE OF REFORMED CHURCHES (WARC)

It was a matter for regret that the Church could not be represented at the 24th General Council which met at Accra, Ghana from 30th July to 1st August 2004. The Alliance (formerly the World Presbyterian Alliance) works hard to preserve a sense of identity and 'family' amongst more than 200 Churches in over 100 countries which belong to the Reformed tradition (many of which, like our own, are small in comparison with other traditions) and to highlight the particular contribution that tradition can make to the world Church. Exploring the claim that 'life in all its fullness is God's offer to all' in an environment so intimately associated with the slave trade proved for many to be a particularly poignant experience as is reflected in these challenging sentiments of the formal message: "Confessing our faith and giving our lives to the Lordship of Jesus

Christ requires our opposition to all that denies the fullness of life to all those in our world so loved by God."

It was a matter for satisfaction that three representatives from the United Free Church were able to confer with members of the Alliance's European Committee when they visited Scotland later in the year.

WORLD COUNCIL OF CHURCHES (WCC)

The Committee was pleased to learn that, despite a reduced membership, the United Free Church would still be entitled to send one delegate to the 9th Assembly of the Council to be held in Porto Alegre, Brazil from 14th to 23rd February, 2006. After careful consideration it was reluctantly agreed, in the light of the costs involved, not to take up the offer of a place on this occasion. It was noted that two delegates from the Church of Scotland and one from the Scottish Episcopal Church would be attending and it was agreed to explore how best we might benefit from their experience.

VISITS TO OTHER CHURCHES

The Committee wishes to acknowledge the visits undertaken by the Moderator of the General Assembly to the Assemblies of the Baptist Union, Church of Scotland and the Synod of the Methodist Church. Rev A D Scrimgeour represented the Church at the Synod of the Scottish Episcopal Church and Rev J A M McFie represented the denomination at the Assembly of the United Reformed Church with Rev J C Allan attending the United Reformed Church Synod of Scotland.

In the name of the Committee

A DOUGLAS SCRIMGEOUR	Convener
ANDREW McMILLAN	Vice-convener
JOHN O FULTON	Secretary

Appendix 1

**Joint Working Group of
the Church of Scotland and the United Free Church of Scotland**

Discussion Paper on Proposed Covenant

1. Letter from the Joint Conveners

Dear Friends,

The story of the Presbyterian Church in Scotland sadly has been too often a story of division. Certainly there have been unions as well as splits but usually these have resulted in dissenting minorities opting out of union leading to the creation of more rather than fewer denominations.

It is now more than 75 years since the union between the Church of Scotland and the United Free Church in 1929. The years since have, in general, produced little more than cordiality between the Church of Scotland and the 'continuing' United Free Church. Now we are ready to move on from that and it has been good to be part of a process that allows us to move from politeness into partnership.

The process in which we have been engaged has been enjoyable and worthwhile but until now restricted to a fairly small number of people. The Joint Working Group has agreed a proposed Covenant between the two Churches which we hope will be discussed at all levels in both denominations. This provides an opportunity for a much wider involvement in the task of working together for closer unity, remembering Christ's prayer that His disciples might 'be one'. We hope that as you discuss the proposed Covenant in Kirk Session, Presbytery and church committees you will think about ways the partnership may be developed in your area of work. If it will assist with your discussions members of the working party would be willing to meet with you.

We believe this could mark an important milestone in the history of the church in Scotland, not only for our two churches, but as a contribution to closer relationships in the wider Christian community. We hope that you, like us, will enjoy the process of working together in partnership.

Yours sincerely,
Colin Brown
Erik Cramb
Joint Conveners.

2. Introduction

In 2002, the General Assemblies of both the Church of Scotland and the United Free Church of Scotland, independently of one another, made decisions which led to an initial, informal meeting taking place between representatives of the two Churches.

The General Assembly of the Church of Scotland agreed a paragraph 'instructing the Ecumenical Relations Committee to make contact with other Presbyterian Churches in Scotland to discuss the things that are currently concerning and enthusing us'.

Following discussion at the General Assembly of the United Free Church an approach was made to the Church of Scotland seeking an informal meeting with a view to 'exploring how

together we might more effectively fulfill our common concern to serve the Christian good of Scotland'.

This led to two representatives of the Church of Scotland, Rev Erik Cramb and Rev Sheilagh M Kesting, Convener and Secretary respectively of the Ecumenical Relations Committee, meeting with three representatives of the United Free Church, Rev A Douglas Scrimgeour, Convener, Committee on Business and Administration, Rev John C Allan, Senior Principal Clerk, and Rev John O Fulton, General Secretary.

This initial meeting was clear that the discussions were not about organic union but about exploring ways of developing greater cooperation both locally and nationally. A second meeting was held when it was agreed there were sufficient areas of real cooperation and potential cooperation to justify the setting up of a small joint working group

As a result, in 2003, both General Assemblies agreed 'to appoint five people to serve on a Committee with a similar number from the United Free Church/ Church of Scotland to explore the issues detailed in the report and to report to the General Assembly of 2004'.

This Joint Working Group met with an agenda based on the report to the 2003 General Assemblies:

- areas of local support
- areas of national support
- questions of identity
- reconciliation of memories and a common commitment.

The report to the General Assemblies of 2004 indicated that progress was being made in a number of these areas and that there was evidence of growing cooperation locally. Noting that 2004 was the 75th anniversary of the 1929 union, the report stated that 'the Working Group has therefore begun to look at how this moment can be grasped so that the fruits of local cooperation can be harvested for a covenant between the two denominations'.

3. Proposed Covenant

Following the 2004 Assemblies, the Working Group has met on a number of occasions. The group has continued to receive reports on the cooperation taking place at Canonbie and Westray and has also become aware of a number of other places where the possibility of closer cooperation is being explored. Nationally there have been discussions between representatives of several Boards and Committees of the two Churches regarding possible areas of cooperation.

Much of the time of the Working Group has been taken up with preparing the proposed Covenant between the Church of Scotland and the United Free Church of Scotland. As the draft Covenant makes clear, it has been prepared 'on the basis of our common history, our shared faith and our membership of the Reformed family of churches, bound together by our Presbyterian heritage'. This means that our two Churches already have a great deal in common. Recognition is given to 'the issues of principle which meant that not all of the United Free Church was able to enter the union with the Church of Scotland in 1929'. However it is now felt that the time is right 'to resolve from here on to seek ever closer unity for the sake of the Gospel and of greater effectiveness in mission'.

The motivation behind the proposed Covenant and the issues raised in this paper is that desire for 'ever closer unity' so that we may serve Christ more effectively in Scotland today. The cooperation being proposed between the Church of Scotland and the United Free Church of Scotland is not intended in any way to detract from cooperation between our two Churches and other Churches in Scotland. As with all cooperation of this kind, there is scope for a great variety of ways of working together which takes account of local situations. Often cooperation gradually develops as congregations get to know one another and explore ways of working together.

It is recognised that the Church of Scotland has over 1,220 congregations whereas the United Free Church has only 65 congregations. This means that in many areas there will be no United Free congregation with which cooperation is possible. However where there are neighbouring congregations then the Covenant does include several commitments 'in the belief that God is calling our two churches to a closer relationship with one another'.

The Covenant also includes various commitments about cooperation at national level in a number of important areas.

The General Assemblies of 2006 will be asked to make a final decision on the Covenant. Prior to that it is being presented for consultation. The Covenant is commended for discussion in Presbyteries and Kirk Sessions with responses requested by 31st December. In places where there are congregations of both the Church of Scotland and United Free Church of Scotland, the Working Group would encourage Kirk Sessions to consider meeting together to discuss the Covenant and how it might be worked out in their local situation.

Following the consultation period, the Joint Working Group will review the Covenant in the light of the responses received before bringing it to the General Assemblies of 2006 for approval.

**Proposed Covenant
between
The Church of Scotland
and
The United Free Church of Scotland**

By the grace of God, we, the Church of Scotland and the United Free Church of Scotland make the following Covenant on the basis of our common history, our shared faith and our membership of the Reformed family of churches, bound together by our Presbyterian heritage. Once belonging together in one church, we acknowledge that over the centuries we have become a divided family. We recognise the issues of principle which meant that not all of the United Free Church was able to enter the union with the Church of Scotland in 1929. For 75 years we have continued to travel different paths. This significant anniversary in 2004 has allowed us the opportunity of reassessing the way in which we relate to each other, to seek the healing of memories and to resolve from here on to seek ever closer unity for the sake of the Gospel and of greater effectiveness in mission. We do this within the wider ecumenical commitment we share to seek ways of closer co-operation with other churches in Scotland and beyond.

We acknowledge before God and one another our persistent failure to give sufficient priority to the healing of our differences and the complacency that has left us as churches, and the witness we give to the people of Scotland, weakened.

We rejoice that closer co-operation between local congregations, including the signing of a local covenant in Westray and a Basis of Association in Canonbie, has encouraged a greater desire for an ever closer relationship between our two denominations.

This covenant gives space for people to move closer together at their own pace and as need arises. It is understood that the intimacy of a smaller denomination is attractive to some; that there is a fear of absorption wherever a congregation is larger than its neighbour; that some have chosen membership in one church having become disaffected members in the other. It is also recognised that belonging to a larger church can lead to an overlooking or undervaluing of the gifts brought by others. These feelings need to be put alongside those of people who see the need to put the past behind, and who, at local level, have begun to show the way ahead.

AFFIRMATIONS

Believing in one God, Father, Son and Holy Spirit:

1. We affirm that as churches in the one family of Reformed Churches, linked by our Presbyterian heritage, the time has come for us to put the divisions of the past behind us and to seek to journey onwards as companions on the way to ever closer unity.
2. We affirm that we share a common faith and calling, and that such differing emphases as may exist between our respective traditions are not sufficient to impede our progress on that journey
3. We affirm that the leadership and example of recent locally inspired initiatives in co-operation provide the ethos for a closer unity between our two churches.

4. We affirm that our common weakness and vulnerability confront us with our need of each other.
5. We affirm our desire to make best use of our resources, both human and material, for the sake of effective witness to the Gospel in our nation and world.
6. We affirm our willingness to embrace structures that will enable our work to be done together.
7. We reaffirm our mutual recognition of each other's ministries, including the Ministry of Word and Sacrament.

COMMITMENTS

Therefore, in the belief that God is calling our two churches to a closer relationship with one another:

1. We commit ourselves to take up the ethos of co-operation by working for the ever closer unity that has been demonstrated already in local congregations in different parts of Scotland.
2. We commit ourselves to encourage the creative use of buildings for mission in local communities.
3. We commit ourselves to encourage, where appropriate, local congregations to consider linking with neighbours in their own community rather than within our own denominations across community boundaries.
4. We commit ourselves to encourage local congregations to enter local covenants as a means of moving towards an ever deeper sharing of resources for mission and service to the community.
5. We commit ourselves to strengthen the opportunities for joint training for all aspects of ministry.
6. We commit ourselves to the development of life in all its fullness for the people of our nation and world and, therefore, to a future that demands ways of working together more closely in mission, in ministry among children and young people, on issues of church and society, and in relations with ecumenical agencies.
7. We commit ourselves to a process of biennial review so that the journey together can continue to progress in step with developments in local congregations.

Suggested Points for Discussion

Historical Background

It would be interesting to look at what happened in your area in 1929, identifying:

- a. congregations of the United Free Church which entered into the union with the Church of Scotland.
- b. congregations which remained within the United Free Church.
- c. New congregations of the United Free Church which came into being at that time and subsequently.

There may be people who have memories or materials from that time which reflect something of the mood of that period.

Affirmations

Consider the relevance of the various affirmations for your local congregation and area. Have you any suggested changes to the affirmations?

Commitment 1

Take time to reflect on cooperation which is already taking place in your area between congregations of different denominations.

What cooperation has there been between congregations of the Church of Scotland and the United Free Church of Scotland? How might this cooperation be developed?

If there has not been such cooperation, is there scope to initiate it?

Commitment 2

Identify what buildings in your area belong to congregations of the Church of Scotland or of the United Free Church of Scotland. In what ways might cooperation enable better use to be made of these resources?

Commitment 3

In view of the desire of both denominations to make the best use of their ministers, consider what possibilities there might be for neighbouring congregations of the Church of Scotland and United Free Church of Scotland to find an arrangement which makes better use of ordained ministers.

Commitment 4

Identify what mission and service is being carried out in your community at present by congregations of the Church of Scotland and United Free Church of Scotland. In what ways might cooperation enable existing work to be carried out more effectively and/ or new work to be developed?

Commitments

- a. Are there additional commitments you would like to see included?
- b. Are there changes you would like to the proposed commitments?

Consultation

Responses are invited from both Kirk Sessions and Presbyteries. They should be sent by 31st December 2005 to:

Ecumenical Relations Committee
United Free Church of Scotland
11 Newton Place
Glasgow
G3 7PR

Tel: 0141 332 3435
Email: office@ufcos.org.uk

Further copies of this paper are available on request.

Background Papers

a. Historical Paper from the Church of Scotland

The 1921 Settlement and the 1929 Union

M A MacLean

Introduction

The process of preparing for the Union of the Church of Scotland and the United Free Church was begun in 1908-09 with decisions by the General Assemblies of both Churches,ⁱ and culminated in the Union Assembly of October 1929.ⁱⁱ This paper sketches some of the challenges faced by the Church of Scotland's negotiating committee ('Hundred') as it tried to keep the prospect of union alive through that long process.ⁱⁱⁱ The paper is written as a contribution to the current conversations taking place between the Church of Scotland and the United Free Church, the latter being the successors in polity of those who did not enter the 1929 Union but remained as the United Free Church (Continuing), later known again as the United Free Church. The key question for those conversations would appear to be: what is the current state of those aspects of the life of the Church of Scotland that were insuperably objectionable to the United Free minority in the 1920s? The questions for the United Free Church today might be: in hindsight, do those principled objections stand scrutiny, and in today's context, are they still relevant and still problematic? I do not presume to answer them conclusively, but what follows may assist those who have that responsibility.

The paper falls into three sections. The first describes the process by which the relationship of Church and state was determined within the Church of Scotland, so that the most obvious obstacle to union was dismantled before the Basis and Plan of Union began to be negotiated. The second analyses the concept of 'Establishment' and discusses the extent to which the united Church might be described as an Established Church in 1929 or today. The third section identifies a number of problematic issues that had to be overcome in the later union negotiations; they are identified here because some of them exercise legal minds in the Church of Scotland even today, as – *semper reformanda* – it still develops its practices and procedures.

The 1921 Settlement and the Articles Declaratory

The Claim of Right of 1842 and the Disruption of 1843^{iv} were protests against the interference of the civil courts into matters that many argued were beyond the jurisdiction of the civil magistrate. Such an argument implies three things. First, there exists a jurisdiction that belongs to the Church and not to civil law. Second, the extent of that area of independent authority can be identified and the boundary of it can therefore be determined. Third, it should be the responsibility and privilege of the Church to recognise the spiritual matters that belong within its own jurisdiction and are subject to no civil review.

The most difficult problem facing those who were trying to re-unite the Churches related to the third of these implications. Both Churches were committed to the Reformed idea of the religious duty of the civil magistrate against the background of the essential freedom of religion, but the United Free Church retained the fear of an actual lack of spiritual independence that their constituent denominations had complained of in the nineteenth century. The solution would have to protect what both sides agreed was essential but re-assure the United Free Church in respect of its concerns. Any model that implied the continuing subordination of the Church to the state was unacceptable, but any transfer of those powers from the state to the Church, even irrevocably, still implied that the powers had originally belonged to the state, which failed to remove the philosophical difficulty. Furthermore, the Church of Scotland could imagine change coming only through legislative

authorisation, but the United Free Church wanted to achieve it through autonomous action; each for reasons of ecclesiological principle. What was needed was the removal, without any implication of conveyance, of the state's control of the Church of Scotland, and the retention of some spiritual function in the civil magistrate short of sovereign authority over the Church.

At the 1911 Assembly of the Church of Scotland John White articulated the idea that the powers at issue could not have been originally conferred by parliament on the Church, since they were inherent within the Church, and all that the state could possibly give was protection of them.^v They were not new rights, but they had effectively been submerged throughout the long period since the Reformation, and had been removed altogether by the decisions in the pre-Disruption cases.^{vi} The United Free Church found this a helpful way forward, and the conceptual trick was bolstered by a linguistic device offered by the Procurator, Christopher Johnston.^{vii} He distinguished two meanings of the word 'grant', one expressing the sense of conveyance or transfer, the other expressing the sense of acknowledging a truth or proposition. He suggested that the latter meaning was intended in the Act of 1567 recognising the Scottish Reformation. That Act responded to a petition of the General Assembly craving:

'that too this our Kirk be grantit and by the present parliament conformit sic freedom, privilege, jurisdiction and authority as justly appertain to the true Kirk and immaculate spouse of Jesus Christ'.

He suggested that the function of parliament in the process that was unfolding was to 'grant' the Church of Scotland her powers in the latter sense only. This implicitly meant that the civil power was to concede all that the non-Intrusionists had claimed in the pre-Disruption cases, and implicitly to admit that some past exercise of the civil power had been illegitimate. The Church acquired a self-understanding as an entirely independent, sufficient authority in matters of doctrine, worship etc: it was recognised as a separate but equal authority with the nation state, as if it were a little state in its own small dominion.

The clever thinking of White and Johnston was used in the preparation of a Memorandum, which comprised a collection of propositions and an early draft preamble for the Bill that was to become the Church of Scotland Act 1921. The Memorandum was presented successfully to both Churches' Assemblies in 1912, and the resolution of the constitutional hurdle was within sight.^{viii} The 1921 Act and the Articles Declaratory (especially Article IV) enshrined in legal provision the resolution that had been reached, a provision pursued by the Church of Scotland with the approval – but not the active participation – of the United Free Church. The Act was devised so that it would not take effect (by Order in Council) until the Church of Scotland had approved the Articles using the procedure of the Barrier Act. This took place in 1926, once other elements of the preparations for union (most notably the resolution of the question of property and endowments) had been addressed.

Clearly, then, the Act and Articles existed in order to facilitate the Union, and they were not fully enacted until the prospect of that event was beyond much doubt. Less clear is whether these measures would have been adopted in any case by the Church of Scotland, i.e. in the event that union had not been reached. The new constitution clarified the relationship of Church and state, defined the form of spiritual independence and affirmed theologically the source of the Church's freedom of action. It can only be imagined that it would have been seen as a missed opportunity and a major waste of effort if the Articles had never taken effect, even in different circumstances.^{ix}

Establishment?

The reader may have spotted that the section above on the 1921 settlement does not contain reference to the Establishment of the Church of Scotland. Treating the subject of the spiritual jurisdiction as separate from the subject of Church Establishment is contentious; it highlights precisely the difficulty that members of the United Free minority had with the constitutional position of the Church of Scotland after 1921, because they believed the two concepts could not be separated. They feared that the mischief of state control would remain a possibility within an Established denomination, a contention not shared by supporters of Establishment. The underlying

question was this: was it possible for the Church of Scotland to be the established Church in Scotland without it being subject to unacceptable state control? If Establishment without compromise of sovereignty was possible, it might have been possible to retain the openly Established nature of the Church even through the Union – the United Free Church would have had nothing to fear. If Establishment was inconceivable without an element of civil control of religion, then the entanglement of the two elements meant both would have to be dismantled before any union could be contemplated.

Before an answer is offered to that key question, it is important to note that this would be a most puzzling question to someone in the Church of England. There the relationship between the national Church and Parliament remains one whereby the civil legislature has some interest in ecclesiastical affairs. The system of patronage, too, remains in place, whereas in Scotland it was abolished by Act of Parliament in 1874. English Establishment relates to the governance of the Church nationally and locally. Scottish ‘Establishment’, on the other hand, connotes nothing more than the duty of the civil magistrate to protect the Church and its polity, and to conduct secular affairs in ways that promote the Church’s interests – both Luther and Calvin provide authority for this kind of principle.^x Therefore the connection between Establishment and state control is in Scotland not a definitional one or a logical one, but the debate (from before the Disruption of 1843 until after the Union of 1929) was whether it was an *actual* connection.

The supporters of Establishment, who found nothing alarming in it, could look for support to such unlikely authorities as Thomas Chalmers himself, who before the Disruption said:

‘We have no other communication with the State than that of being maintained by it...’^{xi}

However, the distinction between maintenance and control was not insisted on by the negotiators in the 1910s, and the process of preparing the Articles Declaratory was in part a process of removing the language of Establishment from the national Church.

United Free Church opponents of the Union, led by James Barr,^{xiii} had two layers of objection. Not only were they unconvinced that state control could be lost without a loss of Established status, but they were also far from convinced that the events they witnessed in the 1910s and 1920s did constitute a dismantling of Establishment. The change of language in the Articles did not necessarily effect a change of the reality signified by the words, they suspected.

They were probably half-right. They were right that the 1921 Act is not a disestablishing measure in any more than a linguistic way. However, in common with later commentators,^{xiii} they invested too much in a single legal instrument. The substantial elements of the Establishment of the Church in Scotland had been removed (or were soon to be) in a variety of other parliamentary measures, and the listing of these is no doubt a matter for scholarly debate. It might arguably include the Toleration Act of 1712, the Church Patronage (Scotland) Act 1874 and the Church of Scotland (Property and Endowments) Act 1925. It is possible to use these measures to demonstrate the almost total disestablishment of the Church of Scotland over quite a long period of time.

There is one piece of civil law that appears to constitute the support of the civil magistrate for the Church of Scotland: the Oath of Accession taken by every monarch since the Union of 1707:

‘I, Elizabeth the Second by the Grace of God of Great Britain, Ireland, and the British Dominions beyond the Seas Queen, Defender of the Faith, do faithfully promise and swear that I shall inviolably maintain and preserve the Settlement of the true Protestant Religion as established by the Laws made in Scotland in prosecution of the Claim of Right and particularly by an Act for securing the Protestant Religion and Presbyterian Church Government and by the Acts passed in the Parliament of both Kingdoms for the Union of the two Kingdoms, together with the Government, Worship, Rights and Privileges of the Church of Scotland. So help me God.’

The delicacy, controversy and difficulty of dismantling the Union settlement of 1707 makes it unlikely that the Oath can easily be dispensed with;^{xiv} the current monarch affirms it with genuine enthusiasm each year;^{xv} and nothing in the Oath has thwarted the cause of ecumenical engagement.^{xvi} It is difficult to see quite how the Oath would enable inappropriate interference in the spiritual freedoms of the Church.

The other remaining aspects of Establishment lie in what might be described as the ‘ceremonial’, as opposed to the substantial, parts of the constitution. These are things like the presence of the Lord High Commissioner at the General Assembly, the staffing of the Ecclesiastical Division of the Royal Household in Scotland by Church of Scotland ministers, the tendency for the national Church to take the lead in organising national celebrations and commemorations, and so on. None of these could be suspected as conduits of state control of religion, and so none of them are central to this discussion.

To conclude this section, those elements of Establishment that might have appeared to be conveyances for civil control of spiritual matters were removed before the Union of 1929. Too much, perhaps, was made by the United Free minority of the inadequacies of the 1921 settlement as a disestablishing measure, because insufficient distinction was made between the support of religion, on the one hand, and the freedoms of the Church on the other. Perhaps with the passage of 75 years since the Union, and the changes in the Church and society during those years, it is easier now to be re-assured that the concept of Establishment really has no purchase on the national Church, and certainly is no Trojan horse of state control.

Problematic Issues pre-1929

The next few paragraphs pick out some of the other pre-Union issues described by Douglas Murray in the later chapters of his *Rebuilding the Kirk: Presbyterian Reunion in Scotland 1909-1929*. They are probably concrete instances of a bigger and more amorphous difficulty, the bringing together of ministers, congregations and parishes whose recent history had been defined by competition and disagreement. Overcoming personal suspicions is the human story of the Union; it was begun in the close co-operation of the two denominations during the Great War, and it was completed over time throughout the Church and within its colleges.^{xvii}

Amongst the technical issues that have proved tenacious ever since 1929, four remain current today. Two of these relate to practices the United Free Church sacrificed, and another two are tensions unresolved to this day.

Firstly, the United Free practice of involving elders in the laying on of hands in the ordination of ministers was abandoned at the Union. The Church of Scotland has, however, resurrected the practice within the last two or three years and it is now assumed in the regulation of ordinations contained in Act VIII 2003 anent Vacancy Procedure. This year’s General Assembly will by further legislation tidy up the situation, complicated by the recent introduction of the ordination of members of the Diaconate.

Secondly, the United Free Church majority accepted the Church of Scotland practice of keeping retired ministers within the membership of the superior courts, the reverse of their own custom. The last few years have seen clarification of the exact extent of court membership for various categories of ministers, especially those serving in non-parochial types of ministry. As financial pressures force stringent measures on the size and cost of the Church’s governance, it might be anticipated that the question of retired ministers’ involvement will soon become an issue once again. In these first two respects, the United Free Church position may have come to prevail, albeit over three or four generations.

Thirdly, the Union failed to homogenise the forms of temporal governance within congregations. Since the same problem had been inherited from the 1900 Union of the United Presbyterian Church and the Free Church, the situation post-1929 was that a congregation might have its financial and property affairs regulated by the Kirk Session,^{xviii} a Deacons’ Court or a Committee of Management. The introduction in the early 1960s of the Congregational Board as an intended standard (‘model’)

form of constitution on which all could agree did not succeed. It was too little different from the Deacons' Courts for those to have any motivation to transfer; but it was too different from the U.P. constitution (where local property is not vested in the General Trustees) for those congregations to have the slightest desire to compromise what they tend to insist is their interest in remaining on the old constitution. All four forms accordingly remain.

Finally, the method of selecting new elders for ordination has never been unified since 1929, and congregations variously use congregational election, signed lists and Kirk Session co-option.^{xix} The guidelines issued a few months ago by the Board of Practice and Procedure indicate a preference for the methods that involve consultation with the congregation – the legacy of the United Free tradition – but the Board senses that this is an area where principle and feeling are likely to run high, and so no attempt at standardisation has yet been made.

Conclusion

It is for our colleagues in the United Free Church to decide whether the fears of their predecessors who resisted the 1929 Union have proved well founded. This paper has argued three things. 1) The separation of Church from state regulation in the Articles Declaratory achieved all that a free and voluntarist position could require. 2) The causal connection between Establishment and lack of spiritual independence remains unconvincing. 3) The failure of the 1921 Act to provide a disestablishment event is not contested, but the Church is nevertheless otherwise disestablished to the extent necessary to allay the old fears.

The Church of Scotland can cheerfully concede, however, that the legacy of the United Free Church is still highly visible, especially in the Church's governance and in its attitude to resources and stewardship. There are many respects in which co-operative or over-lapping working (in Local Ecumenical Projects, for example) should not prove too difficult to organise between the two systems.

From these arguments, then, it does not seem that the United Free Church of today has reasons from history or from its current polity to find closer engagement with the Church of Scotland to be philosophically or technically problematic. Its continuing distinctiveness as a separate denomination and tradition is a matter of principled decision; but one, it seems, that cannot now have much to do with the events of 1921 or of 1929

J.R. Fleming, *A History of the Church in Scotland* (Edinburgh: T+T Clark, 1933) chapter IV gives a description of the very early stages of consideration of union.

The historical treatments of this era are principally: D.M. Murray, *Freedom to Reform: The 'Articles Declaratory' of the Church of Scotland 1921* (The Chalmers Lectures of 1991) (Edinburgh: T+T Clark, 1993); D.M. Murray, *Rebuilding the Kirk: Presbyterian Reunion in Scotland 1909-1929* (Edinburgh: Scottish Academic Press, 2000); R. Sjolinder, *Presbyterian Reunion in Scotland 1907-1921: Its Background and Development* (Edinburgh: T+T Clark, 1962); D.M. Thomson, "'Unrestricted Conference?': Myth and Reality in Scottish Ecumenism' in S.J. Brown and G. Newlands, eds, *Scottish Christianity in the Modern World: essays in honour of A C Cheyne* (Edinburgh: T+T Clark, 2000)

It does not address the internal theological debates that were conducted amongst different factions within the Established Church, especially over the doctrinal content of the First Article Declaratory and its proper extent and authority.

See generally S.J. Brown, *Thomas Chalmers and the Godly Commonwealth in Scotland* (Oxford: OUP, 1982) and A.C. Cheyne, *The Ten Years' Conflict and the Disruption: An Overview* (Edinburgh: Scottish Academic Press, 1993)

A. Muir, *John White* (London: Hodder and Stoughton, 1958) p. 123

Ibid, p. 153

C. Johnston, 'Church Union in Scotland', *Quarterly Review* 223 (1920) 205-225

Murray, *Rebuilding the Kirk* p. 58

For a sustained critique of the intellectual foundation of the Articles (especially IV and VI), their inherent weaknesses and their subsequent unravelling through the course of twentieth-century case law, my thesis *The Crown Rights of the Redeemer: A Reformed Approach to Sovereignty for the National Church in the 21st Century* should be available later this year in Edinburgh University Library (New College).

See D.B. Forrester, 'The Political Teaching of Luther, Calvin, and Hooker' in Strauss, L. and Cropsey, J, *History of Political Philosophy* (Chicago: Rand, McNally and co, 1963)

H. Watt, *Thomas Chalmers and the Disruption* (Edinburgh: Thomas Nelson, 1943), p. 108

These objections are articulated in, for example, Barr, J., *The Scottish Church Question*, London: James Clarke, 1920 and his *The United Free Church of Scotland*, London: Allenson and Co, 1934

C.R. Munro, 'Does Scotland have an Established Church?', *Ecclesiastical Law Journal*, 20, 639-645 makes this mistake, in my view.

This is the opinion of Lord Hogg of Cumbernauld, a former Lord High Commissioner, shared in conversation with me in Spring 2002.

The story is told of the Queen's original swearing of the Oath at her accession, when she spontaneously added 'This I gladly do.'

Expert opinion varies on the implications for the monarch if the SCIFU process had gone further than it did in 2003. It is likely, however, that the sovereign could not have been forced by continuing minority either to refuse royal assent to any relevant parliamentary measures or to align herself with such a minority. Some machinery might have had to be invented to ensure that the Queen was not forced to resist the will of the very Church whose self-determination the Oath is designed to protect.

For an illustration, see *Aberdeen Divinity Bulletin* no. 2 October 1957

These congregations are often called *quoad omnia*, as if that refers to the Kirk Session's monopoly over spiritual and temporal affairs within the congregation. These congregations, usually very ancient parish churches, would once have had authority *quoad omnia* i.e. over the congregation but also over such temporal parish affairs as education and poor relief. The tag has transferred to an entirely domestic, Church usage, and it is perhaps wise that Church law has within the last year adopted instead the style 'Unitary Constitution' for this situation.

Act X, 1932

b. Historical Paper from United Free Church of Scotland

1929 - As the Continuers saw it

Rev A D Scrimgeour

Introduction

October 1929 was for many a major watershed in the religious life of Scotland. It marked the successful outcome of a long and, at times, tortuous gestation period which had begun over 30 years previously in the wake of the earlier Presbyterian reunion of 1900 which had resulted in the creation of the United Free Church of Scotland. This latest union had now brought together the two largest Presbyterian churches in Scotland and was hailed enthusiastically in the secular press as 'the greatest act in the religious life of Scotland for over 300 years.' Sadly, despite the unrelenting efforts of its principal architects the proposals, as had happened in 1900, failed to gain universal approval, and so was born the United Free Church (Continuing).

The case for and against union had been hotly debated up and down the land, and the discussions and decisions of Kirk Sessions and Presbyteries had received widespread publicity in both the local and national press. It would be unrealistic to assume that these discussions were always directed towards those major issues of principle that were to be at the heart of the national debate or that the decisions reached on either side of the divide were necessarily the outcome of profound theological reflection. As always, many non-theological factors relating to local circumstances, personal loyalties, past experiences, and deeply-rooted suspicions and prejudices inevitably played their part in the decision-making process and influenced its final outcome which, with some notable exceptions, was overwhelmingly supportive of the proposed union.

Whatever may have been the case in the local situation, those who emerged as the leaders of the minority cause and assumed responsibility for articulating the reasons for its stance were not opposed to union as such. Many of them had lived through the events of 1900 and enjoyed the benefits of that union and the vibrant church it had created. They also had bitter memories of the painful consequences which had resulted from the failure to bring the Free Church in its entirety into that union. Consequently the decision not to enter this even greater union which its promoters confidently claimed would be for the Christian good of Scotland was not to be taken lightly, not least because, at the personal level, as one correspondent poignantly expressed it, it would involve separation from 'brethren beloved so painful and even heart-breaking.' Nevertheless, despite the concessions contained in the Articles Declaratory of the Constitution of the Church of Scotland in Matters Spiritual of 1921 - concessions which were specifically designed to smooth the path towards a future union with the United Free Church - there were those who were persuaded that they did not go far enough and that a union on that basis would be at a price, and it was a price they felt unable to pay. In response to an urgent plea from a highly respected and much loved colleague to reconsider his position, a leading figure in the United Free Church Association (see note 1) wrote that if he were to enter a church that was resting on the negation of 'spiritual independence', 'religious equality' and 'voluntaryism' principles which are described not as peripheral but as 'entering into the soul of a spiritual church' - he could not 'look the members of other churches outside in the face.' No one doubted the passionate sincerity with which he held his views but, as events were to prove, only a minority of his former colleagues felt constrained to share them.

Nevertheless these principles of autonomy, equality and voluntaryism enunciated with such passionate conviction on the eve of the union have effectively been the guiding

principles of the United Free Church over, the past 75 years and, as such, merit some further elucidation.

Autonomy

The issue of the church's autonomy or spiritual independence had long been seen as a potential barrier to any future union, and, as previously indicated, it was the issue which had been addressed and, in the eyes of many, resolved by the 1921 Articles Declaratory. According to these Articles the church was to retain that special relationship with the state which belonged to its position as a church by law established while at the same time preserving the freedom to order its spiritual affairs as it saw fit without fear of interference from the civil authority. But not all were satisfied that the Articles Declaratory had gone far enough. For some the freedom claimed for the church was significantly limited by the requirement that such modification to the Articles the church might subsequently wish to make should always be consistent with 'the provisions of the first Article' adherence to which, as interpreted by the church, is described as 'essential to its continuity and corporate life'. Others, much less concerned by the minutiae of ecclesiastical legislation and debate remained unconvinced that any formal link between church and state, however tenuous, was in the best interests of the cause it represented, and that such vestigial evidence of the establishment principle as the office of the Lord High Commissioner to the General Assembly merely confirmed their suspicions that the united church would continue to enjoy the special status that that link had previously conferred upon the pre-union Auld Kirk.

Equality

If the church's formal link with the civil authority was perceived as posing a potential threat to its independence or autonomy, it was also seen as infringing the principle of equality - the principle that no one church should be singled out for special recognition by virtue of its statutory connection with the civil authority. Such official recognition was perceived to confer upon such a church a unique status that was denied to all other branches of the church. While it was recognised that establishment did not necessarily set out to be discriminatory, its effect was often divisive in practice and contributed to the development of attitudes which would render future cooperation more difficult. If, as has been suggested, establishment within the Scottish context means 'nothing more than the duty of the civil magistrate to protect the church and its polity and to conduct secular affairs in ways that support the church's interests' past conflicts may indeed prove to have been much ado about nothing. But does that special relationship of church and state enshrined in legal statute mean that the civil authorities have a particular responsibility to support that church's interests in a way and to an extent that is not shared by other churches ?

Voluntaryism

The other major issue which persuaded the minority of the United Free Church to distance itself from the union of 1929 was related to their contention that the church should be maintained by the freewill offerings of its people and should eschew in particular such funding as might be available from public sources. While various sources of public funding were identified as benefits enjoyed exclusively by the established church, the strongest opposition of the Voluntaryist lobby was directed against the teinds or land-charge levied on heritors towards the payment of stipend. Much was made of the injustice of a system which exacted payment from all irrespective of their religious affiliation or none for the maintenance of the ministry of a particular branch of the church. More positively, however, the remarkable increase in Christian liberality

which had become such a marked feature of the non-established Presbyterian churches had persuaded them that it was not only financially rewarding but spiritually beneficial for the membership of the church to assume full financial responsibility for its work and witness.

Conclusion

Scottish society and the churches operating within it have moved on over these past 75 years. Not surprisingly, some of the issues which were so fiercely contested in the past are no longer seen to be as relevant as they once were and it would be unrealistic to assume that all who have found a spiritual home within the United Free Church today are as committed to the principles which caused an earlier generation such painful heart-searching. Its current membership includes many who have not grown up within its ranks and whose loyalty is first and foremost to the local congregation to which they have been attracted and within which they have felt able to offer their service and exercise their spiritual gifts. But as a denomination, despite its smallness and the frustrating limitations which that has imposed on the scope and variety of its witness, the United Free Church has sought:

- to adhere to its reformed, presbyterian and evangelical heritage while cherishing a spirit of brotherhood towards all the faithful followers of Christ.
- to bear its witness to the Gospel at home and abroad within the context of the one, holy, catholic and apostolic church, and to support and, wherever possible, actively participate in major ecumenical bodies and initiatives at local, national and international levels.
- to preserve and enhance the office of the eldership, and to be faithful to the belief of its founding fathers that all offices, including that of the ordained ministry, should be open to all members in full communion.

In the light of its historic testimony and current practice, the United Free Church as presently constituted, itself the product of several successful unions in the past, cannot but give serious consideration to any initiative which seeks to promote the well-being of the church and the effectiveness of its witness to the Scotland of tomorrow.

Note 1:

The United Free Church Association was formed in 1919 following the submission that year of the draft Articles Declaratory to the General Assembly of the Church of Scotland. It constituted a pressure group within the United Free Church consisting of those who were opposed to any proposed union that might be construed as a form of civil establishment. Opposition within the Church of Scotland similarly led to the emergence of the National Church Defence Association, a pressure group opposed to any significant weakening of the church's historic link with the state.

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