



Understanding our present – anticipating our future

Finlay Macdonald

This article is based on a presentation given to a Reformation anniversary conference organised by the Presbytery of Ayr on 30 October 2010. The theme of the conference was “History, Heritage and Hope of a Reforming Church”. The speakers were Dr Harry Reid whose topic was “History and heritage – reviewing our past and understanding our present” and Dr Finlay Macdonald whose theme was “Understanding our present – anticipating our future”.

My remit is: “Understanding our present – anticipating our future”. I believe that, if we are properly to understand the present we need to understand something of our history; so I begin with some brief further historical context and reflection. One of the first things the seventeen-year-old learns when he or she gets a provisional driving licence is that before pulling away from the kerb you look in your rear-view mirror to see what is coming from behind. Similarly as we seek to understand the present and anticipate the future we need to know what is coming from behind.

One of the things I miss since retiring as Principal Clerk is the view from my former office on the fourth floor at the back of 121 George Street. It’s a splendid view across Edinburgh’s New Town to the Forth and the hills of Fife beyond. But if the literal view from the window is magnificent, the view of the Church from the Principal Clerk’s desk is also a fascinating one – the Church in all its breadth and depth. Daily meetings, correspondence, e-mails, phone calls cover the whole spectrum of the Church’s work at local, national and international levels. And all this takes place in a room whose walls are lined by bookcases housing General Assembly records going back

over the centuries. Against this background it is difficult not to see the issues of the day in a broader historical context.

While 1560 marked the adoption of the Reformation by the Scottish Parliament, it was some time before the new pattern of church life established itself. In the immediate aftermath the reformed church was structured around three courts – Kirk Session, Synod and General Assembly. It was not until the *Second Book of Discipline* in the 1580s that Presbyteries evolved out of ‘the Exercise’ – the regular gathering of local ministers for prayer and bible study. Also in the early years the reformed church had an office of Superintendent – ministers who exercised a supervisory, episcopal function over large areas of the country. That office died out as Presbyteries became established.

The first century or so after the Reformation was marked by a high level of tension between Kirk and Crown – John Knox and Mary, Queen of Scots; Andrew Melville and James VI. The Stewart kings favoured episcopacy over presbytery and throughout the seventeenth century both parties had periods of ascendancy. These were the years of the Covenanters and were marked by decades of bitter conflict. Indeed one of my predecessors as Principal Clerk, Archibald Johnston of Warriston, Clerk to the turbulent 1638 Glasgow Assembly and ultra-Presbyterian, was executed. Finally in 1690, following the Revolution Settlement, the government of the Kirk became Presbyterian; but had the bishops supported King William and not, rashly, declared their loyalty to the exiled James VII, things might have turned out differently. Twenty years later a separate Scottish Episcopal Church came into being and continues to this day as a legitimate heir of the Scottish Reformation.

The eighteenth century also had its controversies and troubles. There were the splits of 1733 and 1761 which gave rise respectively to the Secession Church under Ebenezer Erskine, and the Relief Church associated primarily with the name of Thomas Gillespie. The underlying issues had to do largely with spiritual independence and the freedom of congregations to choose their own ministers. Then there was the Burgess Oath controversy of the 1740s which split the Seceders into Burgher and Anti-Burgher factions over a requirement that burghesses in certain cities take an oath formally acknowledging

‘the true religion professed within this realm’. This was also the age of the Enlightenment which in turn brought new controversies. Some embraced new ideas and began to question doctrines such as predestination, while others held fast to the traditional orthodoxies. So there were further splits into ‘New’ and ‘Auld Licht’ factions resulting in New and Auld Licht Burghers, and New and Auld Licht Anti-Burghers. Within the Established Church the New Light challenges led to the categorisation of churchmen as Moderates and Evangelicals.

By the mid-nineteenth century many of these divisions had been either healed or forgotten. In 1820 the New Light factions of Burgher and Anti-Burgher formed a United Secession Church. In 1847 the Relief Church joined with this to form the United Presbyterian Church. In 1839 the Auld Licht Burghers came back into the Established Church. For sake of completeness we may note that the Auld Licht Anti-Burghers continued as the Original Secession Church until joining with the Church of Scotland in 1958. However, these various unions were to be offset by the Disruption of 1843.

The beginning of the twentieth century saw the union of United Presbyterians and the overwhelming majority of the Free Church to form the United Free Church, and in 1929 the last major Presbyterian reunion took place with the majority of the United Free Church joining with the Church of Scotland. The basis of that union was a constitutional settlement set out in a series of Articles Declaratory of the Constitution of the Church of Scotland in Matters Spiritual. Once adopted by both churches, these articles formed a Schedule to an Act of Parliament, the Church of Scotland Act 1921. They assert the united Church’s spiritual independence and affirm its role as *a (note the indefinite article) national Church* (again, note the term ‘national’ rather than ‘established’). The 2010 General Assembly reaffirmed this aspect of our ecclesiology on the report of a Special Commission set up to reassess the Third Article Declaratory’s commitment to maintaining a territorial ministry.

This has been a very broad sweep but already we can see emerging themes which still play out in the life of the Church today. I mention three in particular: church and state; Old Light-New Light issues; and church government.



Church and state

Various matters under this heading crossed my desk during my time as Principal Clerk and these are ongoing. They have to do with the scope of the Church's independent spiritual jurisdiction in light of human rights legislation and the impact of European anti-discrimination directives. The four areas in which this jurisdiction is acknowledged in the Articles Declaratory are worship, government, doctrine and discipline. With regard to the last of these we brought in new legislation covering ministerial discipline in 2001, superseding the old 1935 Act anent Trial by Libel. That earlier legislation had effectively put the presbytery in the position of prosecutor, judge and jury and needed to be replaced. The current legislation system leaves the presbytery with the role of initial investigation but passes on to the Presbyterial Commission, a five-member tribunal chaired by a practising lawyer, the actual hearing and disposal of the case. Inducted parish ministers continue to be holders of an office, as distinct from employees; whereas those who exercise other ministries are now employees of the Ministries Council with all the protection of employment law. The House of Lords held in the Helen Percy case that, as an Associate Minister, she was entitled to the protection of civil sex discrimination legislation, though her substantive claim that she had suffered such discrimination was never tested in the courts. A question, therefore, which may arise in the future, is whether all ministers might welcome the protection of civil employment law. Related to that is the question of whether the Church itself might find it more straightforward to have all those who work for it treated in this way and so be relieved of the need to maintain its own jurisdiction in this area. In recent years the Church has put in place new legislation affording protection from bullying and discrimination; but such legislation already exists in our civil law. Why not just use that? This is a complex and contentious area and I am not arguing one way or the other, simply flagging up something that might arise in the future. Marjory MacLean deals with these issues in some depth and detail in her 2007 Chalmers Lectures, published in 2009 by Saint Andrew Press under the title *The Crown Rights of the Redeemer: The Spiritual Freedom of the Church of Scotland* (see especially chapter 4). The largely consolidating Equality

Act which became law at the beginning of October further highlights these issues.

Another area where developing civil legislation is impacting on the Church is Charity Law. A number of high-profile scandals led the Scottish Parliament to establish the Office of the Scottish Charity Regulator (OSCR), and, as Scotland's largest charity, the Church is not exempt from the requirement to comply. We do, of course, have the option of ceasing to be a charity, but in 2009 that would have cost us just over £11 million in lost Gift Aid. In addition there are other financial benefits in being a charity. These include Capital Gains Tax exemption, Council Tax relief, lower VAT on fuel and Inheritance Tax relief. We do, though, qualify as a Designated Religious Charity with certain powers of self-regulation – in particular an exemption from a power OSCR has to remove charity trustees. However, we have to be able to demonstrate that we have robust internal procedures in place if we are to retain this status. Here again we find ourselves walking something of a tightrope. There are those who see this new charity regime as an unwelcome and unnecessary incursion by the state into the life of the Church. On the other hand there are those who will argue that, if we are benefiting from charitable status then we should be prepared to comply – more than that, that we should have nothing to fear, for should our administration and accountability not be above reproach?

I highlight these two areas under the general heading of Church and state and, taking the historical perspective, we can perhaps see these contemporary matters as just the latest in a whole range of issues which have arisen over the centuries where boundaries between Church and state have been challenged, defended, negotiated and sometimes re-drawn. In earlier times the issues concerned the power to call General Assemblies, the right to choose a minister, the requirement to take a civil oath, the right to determine how the church should be governed. Today the issues assume new forms – charity governance, employment law, anti-discrimination law – and our challenge is to address these issues, defending what is essential to the life of the Church while always prepared to evaluate our practices and procedures in the light of the highest standards of the Gospel.



Old Light-New Light

The concept of ‘New Light’ is thought to derive from the Delfshaven address of John Robinson, pastor to the Pilgrim Fathers, in which he declared: ‘for I am very confident the Lord hath more truth and light yet to break forth out of His holy word.’ In eighteenth-century Scotland the term referred largely to the inability of many Presbyterians to accept every word of the Westminster Confession. As noted, those who had left the Established Church divided into Old and New Light factions, while in the Established Church the Moderate and Evangelical party groupings formed. The Moderates tended to embrace new ideas emerging from the Scottish Enlightenment, reassessing the Confession in light of these ideas; the Evangelicals were more cautious, more thirled to the Confession. As the eighteenth century was followed by the nineteenth new controversies arose. Foreign missions led people to question a doctrine which implied that those who had never heard the Gospel were damned to all eternity, and, later in the century the rise of biblical criticism led to huge controversies over the interpretation of Scripture and the echoes (indeed more than echoes) of such controversies remain with us today.

Within the past half-century the Church of Scotland has found itself caught up in a number of Old Light-New Light controversies. In 1959 the General Assembly approved legislation which authorised ministers to solemnise marriages where one (or both) parties was a divorcee with a surviving former spouse. The fact that the legislation allowed an opt-out for ministers whose conscience would not allow them to conduct such ceremonies indicates that that the matter was controversial.

The following decade saw the opening up of the eldership and then the ministry to women. The question had been a live one in the early years following the 1929 union but in the 1960s the change was finally made, though, again, not without controversy. Indeed we know it is still an issue for some and, interestingly, while the Divorce and Re-marriage legislation specifically protected ministerial conscience, no equivalent provision was made in the legislation which declared women eligible for ordination on the same terms and conditions as men. This raises an interesting potential interaction of ecclesiastical

and civil law, namely, that the Church, having unequivocally stated its position on women's eligibility for ordination, it is unlikely that those who assert their right to deny that eligibility could rely on the the Church's independent spiritual jurisdiction were such discrimination to be challenged in the civil courts.

And then there is the issue which is highly current – the question of ministry and same-sex relationships. In the spirit of the moratorium I say no more on this matter as we await the deliberations of Lord Hodge's Special Commission. The only point I make is that I find it helpful to see this matter as the latest in a long line of issues which can be categorised as 'Old Light-New Light' and where, by definition, a broad church contains different opinions and the holders of these opinions believe genuinely and sincerely that their views are in accordance with the teaching of Christ and the Word of God as contained in Scripture. At the same time I recognise that there are those for whom this is of a completely different order from anything with which the Church has had to deal in the past.



Church government

We noted that in the 130 years following 1560 the reformed Church of Scotland went through periods of Presbyterian and episcopal church government. Not until 1690 was the Kirk finally settled as Presbyterian and, after 300 and more years that position seems pretty well settled. A so-called 'Bishops Report' created huge controversy in the 1950s, and more recently the General Assembly gave a very clear 'thumbs down' to the proposals of SCIFU (the Scottish Church Initiative for Union) which included the Scottish Episcopal Church. At the same time the Church, while confirming its commitment to Presbyterian polity, has expressed less than total satisfaction with the way the system works and in 2008 the General Assembly remitted to the Panel on Review and Reform the task of bringing a new presbytery structure for the consideration of the General Assembly of 2010. This year's Assembly granted the Panel's request for an extension of time in addressing this remit. There is resistance, as there was a decade ago when I was Secretary to an earlier group charged with this remit. The fact is that we find it difficult to agree on the precise role of the

presbytery and how it should function. This is a deeper question than size and number of Presbyteries but, as I reflect on it, I find myself concluding that there is a significant gap in our organisation and that concerns leadership. Our sister national church south of the border will confidently describe itself as having synodical government and episcopal leadership. We have Presbyterian government, but where do we locate leadership and how does it relate to our structure?

One of the questions Moderators of the General Assembly are most frequently asked is: ‘Why only for a year?’ The question is usually followed by a supplementary such as: ‘What can you achieve in a year?’ or ‘What impact can you make in a year?’ The cynic might suggest that that is precisely why it’s only for a year. We don’t want individuals cutting loose, getting above themselves and setting out to make an impact. But, undoubtedly, we lose out by not giving the holders of our highest office a decent period to achieve some kind of public profile and establish personal relationships with other church and national leaders.

Of course, it’s not that simple. In October 2001 I had an article on this subject published in *Life and Work*. I argued that if we were to extend the moderatorial office to (say) five years we would need to look at the underlying structure of the Church and give the Moderator a real leadership role. At present the office is largely honorary, representative and ceremonial, with powers of influence but with no real role in determining policy at any level. I also argued that were such a change to be made at national level it should also be made at the regional level with presbytery moderators being given a decent period of time to establish a leadership role and matching profile within their own areas. No doubt the instinctive reaction to such a proposal from many within the Kirk would be ‘bishops by another name’, but, as previously noted, in the years immediately following the Reformation there was an office of Superintendent Minister and that was, in part a response to a shortage of ministers to cover the ground. Does that sound familiar? A report of a Special Commission to this year’s General Assembly persuaded the Assembly to stand by its commitment to a territorial ministry but made clear that such a ministry would need to be exercised in a variety of ways, with

increasing reliance on local non-ministerial church leadership. The long-defunct office of Superintendent could be extremely supportive in such a context.

Here is a question to consider. The conscientious parish minister is expected to exercise leadership in the congregation and aspire to some kind of local profile within the parish. When things are not going well this may result in the minister losing sleep through worrying about how to tackle this or that issue. Here is the question: Who loses sleep over the effective functioning of the presbytery? If the answer is ‘no-one’ then that is because it is no-one’s particular responsibility and that suggests a lack of leadership. My remit today is to anticipate the future and in accepting that invitation I am suggesting that if the Church of Scotland is to have an authentic voice locally and nationally then it needs to address the issue of leadership. In his book, *Outside Verdict*, Harry Reid argued for a single spokesperson for the Church. But I suggest the issue goes beyond that. The reason cardinals and archbishops gain profile and recognition is not because they are spokespersons but because they are leaders. And what our current arrangements clearly inhibit is the authoritative expression of a mainstream Reformed Christian voice over a period of years through recognised Church of Scotland leaders at both national and local level. Over my years as Principal Clerk I received many letters and comments asking why the Church was not speaking out on this or that issue. In most cases the Church had made some comment through a Committee Convener or the Moderator but it had either been given minimal coverage or was not picked up at all. Part of the problem was certainly a media agenda which was looking for a headline such as ‘Kirk condemns ...’. If our comment did not suit the agenda then it was ignored. However, we cannot simply blame the media. I believe we still have work to do in this area ourselves.



Concluding Remarks

Understanding the present – anticipating the future. While I have approached this theme largely on the basis of things which particularly crossed my desk as Principal Clerk, I am well aware of other issues

which I believe will require attention in the future. I simply list these in no particular order of priority:

- The question of how we re-engage with the people of Scotland, not least young people and our wider society. The 2001 census showed some 40% (2.1 million) of Scots claiming some kind of affiliation with the Kirk. What will next year's census reveal and how low will the proportion have to fall before the term 'national church' starts to become really problematic?
- Issues of ecumenism and inter-faith relations and the role we can play with sister churches and other faith communities in fostering spiritual values and supporting individuals and communities through these difficult economic times.
- The development and implementation of a sensible buildings policy covering churches, halls and manses which meets today's and tomorrow's needs.
- The creation of robust presbytery plans and a deployment of the Church's human and financial resources in ways which reflect a good stewardship of both.
- A reassessment of the Church's relationship to the Westminster Confession of Faith. This was adopted by the General Assembly of 1647, with some qualifications concerning the role of the civil magistrate and remains our Principal Subordinate Standard after Scripture, albeit hedged about with even more qualifications and Declaratory Acts. We came very close in 1974 to redefining the Confession as an Historic Statement of the Reformed Faith, yet twice within the past four years attempts to revisit the matter have been rejected by the General Assembly.
- The way the Barrier Act works. Throughout this Reformation anniversary year we have been reminded of the principle of *ecclesia reformata semper reformanda*. Is there, though, a risk that this Act dating from 1697 seeks consensus on change at the price of hindering reform? 20 votes against an Overture in a small presbytery will cancel out 200 favourable votes in a large presbytery. Some might find such a weighting disproportionate. The Assembly can ignore an affirmative presbytery vote but is bound by a negative one. Why this difference? How much real

consideration do Presbyteries give to Overtures, as distinct from just rubber-stamping the view of the committee which brings a recommendation? There is evidence of neighbouring Presbyteries voting in completely opposed ways when there is no apparent sociological or ecclesiastical reason for doing so. And could we soon be heading for a situation where the Assembly, having consistently called for presbytery reform, finds that very reform blocked by a self-preserving vote of Presbyteries as presently constituted? I fully support the need for a consultative mechanism but I venture to suggest that we could improve on what we have. A more positive name such as the Reform Consultation Act might be a start.¹

Each one of these areas could warrant a conference in its own right. However, given the time constraints, I have focussed in some detail on a cluster of issues which have been particularly close to my role as Principal Clerk, namely church-state relations, church government and the need to look to our history, particularly when that has been divisive. My prayer is that as we go forward we learn from that history and find ourselves enabled to say: 'We have been here before and we have survived.'

Note

- ¹ I have written more fully on this in the December 2010 issue of *Life and Work*.