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The Free Church Plenary Assembly: November 2010

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Introduction

Some of the reactions to the Finding of the recent Plenary Assembly have been disappointing, to say the least. In most of our congregations, fortunately, it's still business (or worship) as usual. But some brethren are resolved to challenge the authority of the Assembly and to agitate for its decision to be overturned. This augurs ill for our unity and, hence, for our usefulness. Another split would completely destroy our already fragile credibility.

This short paper is not proposed as a solution. It merely seeks to offer some background information which will help us, I hope, frame an appropriate response to those who are challenging the authority of our General Assembly.

The Barrier Act: the text

The text of the Barrier Act (adopted by the General Assembly in 1697) is as follows:

Act anent the Method of passing Acts of Assembly of general concern to the Church, and for preventing of Innovations.

The General Assembly, taking into their consideration the Overture and Act made in the last Assembly concerning innovations, and having heard the report of the several commissioners from Presbyteries to whom the consideration of the same was recommended in order to its being more ripely advised and determined in this Assembly; and considering the frequent practice of former Assemblies of this Church, and that it will mightily conduce to the exact obedience of the Acts of Assemblies, that General Assemblies be very deliberate in making of the same, and that the whole Church have a previous knowledge thereof, and their opinion be had therein, and for preventing any sudden alteration or innovation, or other prejudice to the Church, in either doctrine or worship, or discipline, or government thereof, now happily established; do, therefore, appoint, enact, and declare, that before any General Assembly of this Church shall pass any Acts, which are to be binding Rules and Constitutions to the Church, the same Acts be first proposed as overtures to the Assembly, and, being by them passed as such, be remitted to the consideration of the

several Presbyteries of this Church, and their opinions and consent reported by their commissioners to the next General Assembly following, who may then pass the same in Acts, if the more general opinion of the Church thus had agreed thereunto.

The Barrier Act: notes

1. The purpose of the Act was to prevent any sudden alteration or innovation in the doctrine, worship, government or discipline of the church. The following two points should be noted:
 - The Act applied only to Acts which were to be binding rules and constitutions to the church, as distinct from Acts which were to be purely administrative, executive or judicial.
 - “Sudden” was carefully defined. The Act was designed to prevent any one Assembly passing a binding rule of which the church as a whole had had no previous knowledge; and on which, therefore, the church as a whole had not had time to form an opinion. It would not apply to an Act of which the Church had ample prior notice and opportunity to deliberate.

2. Whether or not any particular finding of the General Assembly falls into the category of “sudden alteration or innovation” is for the General Assembly to decide. It is certainly not for Presbyteries and Sessions to decide; nor can it be referred to some “higher” court than the General Assembly (e.g., civil or European courts or some quasi-ecumenical body). The General Assembly is our Supreme Court, in whose judgement all of us are bound to acquiesce, subject to our right to dissent (which may include dissent with reasons). Once we have taken that step there is no further recourse.

The present fragmented state of Scottish Presbyterianism obscures this. The disaffected can now, for example, join the FPs or the FCC; or if they are even more thoroughly imbued with the schismatic mentality they can form a new denomination (consisting, perhaps, of only one congregation). When the Barrier Act was adopted any such courses would have been unthinkable. Christ had but one body, and the existence of “two bodies of Christ” side by side would have been an absurdity.

The real issue here is whether ministers are prepared to accept the judgements of the General Assembly, simply because it is the Supreme Court? Or do we accept its judgements only when we agree with them? Acquiescence in its judgements does not imply belief in the *infallibility* of the Assembly; only belief in its *finality*. We do not believe in the infallibility of our civil or criminal courts, but we are nevertheless bound to accept their decisions (e.g., Lady Paton is not infallible, but we regard her judgement as final).

What we are now seeing is a return to the mentality of the 1990s, when ministers refused to acknowledge the finality of the General Assembly and agitated for years to overturn decisions that had gone against them. This is a formula for anarchy. In fact, it IS anarchy.

3. Prior to the Plenary Assembly no one protested against the competency of the Assembly to deliberate on these issues and come to a formal and binding decision. All parties participated on the assumption that the Assembly was lawful, that the procedure was lawful and that the outcome would be binding. Only when the vote went against them did the minority begin to call everything in question. This contrasts with the action of the minority in 1883, when the Assembly deliberated on the question of instrumental music. Before the debate began, Dr Begg and his associates “protested” that the Assembly had no competence to introduce such a change in the form of worship. (The Assembly rightly ignored the Protest, and refrained from deposing the Protestors. But they did at least make their point, anarchical though their Protest was).
4. Scarcely any of the Acts on Public Worship passed by the Free Church were remitted to Presbyteries under the Barrier Act. The 1932 Act anent Requirement at Ordinations and Inductions wasn't; neither was the 1905 Act anent Public Worship; nor the 1872 Act sanctioning the publication of a hymn-book (this Act was not even listed among the Principal Acts by the Committee for Printing the Acts) ; nor the 1883 Act anent Instrumental Music . There were two reasons for this.
 - a. The measures introduced by these Acts were not innovations.
 - b. The proposals had not been sprung suddenly on the Assembly. On the contrary they had been introduced in Reports prepared by committees appointed by the Assembly;

these committees had deliberated at length (this was certainly the case in connection with the proposals to sanction hymns and instrumental music); and their reports had been previously printed and were in the hands of members.

It is something of a curiosity that the one Act which *was* sent down under the Barrier Act was the 1910 Act anent Public Worship. This Act, which deceitfully purports to reproduce the 1707 Act against Innovations in the Worship of God, is the most fundamental of all our post-1900 Acts on Worship. Does the fact that it was sent down under the Barrier Act mean that the Assembly was aware that the 1910 Act was itself an “alteration and innovation” in so far as for the first time in her history the church declared the use of “uninspired materials of praise” and the use of instrumental music to be productive of “evil effects”, and laid down that, in effect, exclusive psalmody was to be the binding rule?

5. In view of the nature and purpose of the Barrier Act and of the precedent set by previous Assembly Acts on worship, the recent Plenary Assembly was clearly acting within its powers when it decided not to remit its findings to presbyteries in terms of the Barrier Act. For the following reasons:
 - 5.1 The proposal to permit hymns and other scripture songs did not constitute an innovation. On the contrary, it was a return to the historic position of the Reformed Church in Scotland. As early as 1647 the Assembly had recommended the translating of scripture songs other than the Psalms, and similar instructions were given in 1648, 1706 and 1707 (the very same day, indeed, that the Assembly passed the Act against Innovations in the Worship of God). This is why in the run-up to the decision of the General Assembly of 1872 there was no discussion of the issue of principle, because there was no such issue. The Committee had been appointed not to deliberate on the question of principle (deemed to have been settled long since), but to prepare a Collection of Hymns and Paraphrases.
 - 5.2 The decision of the Plenary Assembly to permit instrumental music was neither an innovation nor a breach of the “constitution”.
 - It was not an innovation because when the House of Lords in 1904 declared us to be indeed the Free Church of Scotland, the use of both hymns and organs was permitted in public worship. No one then laid claim to the Trust Funds of the pre-1900 Church on the basis that “the late prevailing parties in our

judicatories” had breached the “constitution” by introducing hymns and instruments.

- It was not a breach of the “constitution”. The “constitution” (which always exists under the scrutiny of the Word of God, “the only rule to direct us”) is the Confession of Faith, the Formula and (with specific regard to worship) the Westminster Directory for Public Worship. As the Assembly of 1883 pointed out, “there is nothing ... in the Constitution and Law of this Church, to preclude the use of Instrumental Music in public worship *as an aid to vocal praise*” (italics mine, and I do plead with like-minded colleagues to pay attention to this phrase. The permission of instrumental music is for *accompaniment* only. This point is made equally clearly in the finding of the Plenary Assembly: “each Kirk Session shall have freedom whether to permit *musical accompaniment to the sung praise* in worship, or not.” Please don’t use instruments as independent, virtuoso means of worship, or entertainment). This remains the position so long as the Confession of Faith, the Formula and the Directory are indeed our constitution.

5.3 The decision of the Plenary Assembly was not sudden, denying commissioners time for mature reflection. On the contrary, the Church and the Assembly have been discussing these issues for years, providing abundant information and affording ample time to come to a deliberate opinion.

5.4 The Plenary Assembly was not an unrepresentative body, out of touch with general opinion in the Church. On the contrary, it could hardly have been more representative, consisting as it did of every minister in the Church, with an equal number of elders. In effect, every member of every presbytery was a commissioner, which means that the very people whose opinions would have been sought under the Barrier Act were the same as those who had already expressed an opinion.

In this connection, Rev David Meredith, Moderator of the last General Assembly, has drawn my attention to a statement in Forbes’s *Digest of Rules and Procedures of the Inferior Courts of the Free Church of Scotland* (p.118):

The Barrier Act was not applied to the Assemblies which convened at Edinburgh and Glasgow in May and October 1843, as they were not representative bodies, but consisted of the whole of the Presbyteries of the Church.

These precedents clearly justify the decision of the recent Plenary Assembly not to remit its Finding to Presbyteries in terms of the Barrier Act.

5.5 To have remitted the Finding in terms of the Barrier Act would have meant a further delay in settling a question which has unsettled the Church for long enough. The Assembly had a right to expect that their judgement would draw a line under things. It is not the Assembly's fault that some presbyters refused to submit to the judgement of the Assembly and even to call its authority into question.

6. The decision of the Plenary Assembly is provisional.

This is brought out in a point made by Sir Henry Moncrieff when he gave reasons for his Dissent from the Finding of the 1893 Assembly on the question of Instrumental Music: "it gives the mind of the present Assembly, and leaves the way open for another Assembly to express a different mind." This would be true even if the Act had been remitted under the Barrier Act, but it is obviously easier if it is merely a Class II Act. All Acts of Assembly are provisional. However:

- Since this was a decision of a *Plenary* Assembly, it should be repealed only by a subsequent Plenary.
- The Church must be extremely careful not to establish a culture where successive Assemblies routinely dismantle provisions made by their predecessors, especially their immediate predecessors.
- If a future Assembly is to have an opportunity to express itself as of a different mind, this opportunity must come to it in an orderly way, that is, by Overture from an inferior court; and any such Overture would have to argue that its crave is based on new evidence or information which was not available to the Assembly which made the decision.

7. By parity of reasoning, the 1932 Act was also provisional.

This Act, too, was merely an Act of Assembly, and a Class 2 Act at that, and in the language of Moncrieff it left the way open for another Assembly to express a different mind. The terrifying (I would almost say, demonic) thing about this Act was that it masqueraded not only as a Class 1 Act (presuming to lay down a binding constitutional rule), but as a divine oracle which could not be challenged. It stood above Scripture itself: all reflection on what the Bible taught on public worship had to

be conducted within the constraints of this Act. So, at least, some brethren argued. Strictly interpreted, you were supposed to have vowed never to challenge it, never to question it and never even to change your mind.

This is a status no mere Act of Assembly should ever have, and these are vows no minister should ever be asked to take. If the 2010 Act is in principle provisional, so was the 1932 one.

8. **Ministers ordained in accordance with the provisions of the 1932 Act are not under a new vow now that the Plenary Assembly has repealed this Act.** Their vow is still the same vow. “My vows” have not changed. I gave the vow I did on 5 November 1964, and nothing can change that.

There is now a new twist to this, however. Some are arguing that they cannot accept ordination or induction under the new vows since “the form of worship currently authorised” permits the use of hymns and instrumental music. This difficulty may require to be addressed (and Alex did provide for it in the first draft of his amendment). However, we should note that there was a similar difficulty under the 1932 form of ordination/induction. Brethren who believed in exclusive psalmody could not conscientiously take a vow which forbade only the use of “uninspired materials of praise” and did not exclude the use of the Paraphrases or of other (inspired) Scripture Songs. Yet they did take the vow, while at the same time refusing to take part in any Service at which a Paraphrase was sung (and bear in mind that what is now known as the Scottish Psalter [1560] was first introduced to the General Assembly as “the *Paraphrase* of the Psalms”).

9. The position of the Assembly Clerk.

It is argued that the Assembly defied the advice of the Assembly Clerk. No one respects or admires the current holder of that office more than I do, but it is no part of that office to *rule* on points of order; and certainly not to rule infallibly and authoritatively. A brief glance at the current edition of the *Practice* (p. 80) makes that plain. The Assembly Clerk has the same functions and responsibilities as the Clerks of other Church Courts. Ruling on points of order is the office of the Moderator, not the Clerk (though the Moderator

may consult the Clerk, and take his advice). I remember a moment at my very first Assembly in 1965 when the Principal Clerk, Professor Cameron, instinctively ruled on a point of order, and the Moderator, Rev James Fraser was on his feet in an instant to announce, “*I give rulings on points of order!*” Furthermore, the Assembly is not absolutely bound to accept even the Moderator’s ruling. Any member can appeal against the Moderator to the “house”. I did it myself once, unsuccessfully, to avoid a public relations disaster. I was never forgiven for it, but it was my right.

The Directory for the Public Worship of God

One of the curiosities of this whole debate has been the virtually total neglect of this Directory. Yet this is what was originally meant by “uniformity of worship, and of all public ordinances within this church, (to) be observed by all the said ministers and preachers” (Act of the Scottish Parliament, 1693). It was also the norm for “the purity of worship presently authorised and practised in this church”. The Directory was adopted by the General Assembly of 1645 and superseded the previous Common Order set forth in Knox’s Liturgy. In adopting it, the General Assembly directed that, “it be carefully and uniformly observed and practised by all the ministers and others within this kingdom whom it doth concern”. It was because ministers of Episcopalian sentiments were ignoring the Directory and using Laud’s Liturgy instead (complete with its “English Popish Ceremonies) that the General Assembly of 1707 passed its Act anent (episcopal) Innovations in Public Worship.

The Directory is still the only authorised Liturgy or Form of Worship in the Free Church. Yet it is regularly circumvented, even by those who interpret ordination vows most rigorously. Take the following examples:

- The *Directory* recommends the use of the Lord’s Prayer “in the prayers of the church” (Knox’s Liturgy had made a similar recommendation. It had also recommended the use of the Apostles Creed)
- The *Directory* recommends the use of a Lectionary: a chapter from both the Old and the New Testament to be read at each service: and “where the reading in either Testament endeth on one Lord’s Day, it is to begin the next.”
- The *Directory* directs that the burial of the dead be “without any ceremony”. Specifically, it forbids “praying, reading and singing” at the grave. Sixty years

ago, the issue of praying at the grave was hotly debated in the correspondence columns of the *Stornoway Gazette*.

- The Act of Assembly adopting the *Directory* contains a declaratory statement on the administration of the Lord's Supper indicating that despite the ambiguous language of the *Directory* it is a matter of fixed principle in the Kirk that communicants must come to the Table and receive the Sacrament *at* the table.

Any departure from these practices is an infringement of “the purity of worship presently authorised and practised in this church”.