Church and State: The Contribution of Church History to Evangelical Models for Public Theology

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SUMMARY

Patrick Miller's excellent little book discusses the implications of the first commandment for our understanding of the relationship between politics and religion. He examines the axiomatic importance of this call to undivided devotion to the Lord and then goes on to examine two of the main challenges to such commitment—the economic god and the god of political order. Miller then goes on to discuss the positive implications of the first commandment, looking in particular at Deuteronomy's expansion of this law which focuses on love for and fear of the Lord.

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ZUSAMMENFASSUNG

Patrick Millers hervorragendes Buch diskutiert die Implikationen des ersten Gebots für unser Verständnis der Beziehung zwischen Politik und Religion. Er untersucht die axiomatische Wichtigkeit dieses Rufs zur ungeteilten Devotion des Herrn und untersucht darauf aufbauend zwei der Hauptherausforderungen solch einer Hingabe – der ökonomische „Gott" und der „Gott" der politischen Ordnung. Danach diskutiert Miller die positiven Implikationen des ersten Gebots, indem er sich besonders die Ausdehnung dieses Gebots in Deuteronomium ansieht, die sich auf die Liebe zu Gott und die Furcht Gottes fokussiert.

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RÉSUMÉ

Patrick Miller nous livre un excellent petit ouvrage dans lequel il traite des implications du premier commandement quant au rapport entre la politique et la religion. Il commente cet appel à une dévotion sans partage au Seigneur. Puis il considère deux idoles concurrentes qui réclament l'allégeance humaine : le dieu économie et le dieu ordre politique. Miller aborde ensuite les implications positives du premier commandement, en s'intéressant particulièrement au développement de cette loi dans le Deutéronome, en termes d'amour et de crainte du Seigneur.

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1. Introduction

The argument of this paper is that the Christian church has a right to a place in the public square. The argument is based on a particular theological understanding of the relationship between church and state and is illustrated historically by the situation of the Church of Scotland. Various problems will be addressed concerning the establishment and maintenance of this relationship between church and state and some conclusions drawn for us as Europeans.

2. Four Models of Church-State Relations

The relationship between church and state has always been a difficult question, not least since the Reformation, with the fragmentation of the Christian church into numerous denominations, congregations, fellowships, sects, cults and groups. In the history of the Christian church, however, there have essentially been four views held concerning the relationship between church and state. First, the view that the state should control the church; second, the view that the church should control the state; third, the view that there should be a separa-

tion of church and state; and fourth, the view that church and state should be in some mutually-binding relationship. Let us examine each of these in turn.

i. State controls Church

The best way to illustrate this first model is by using the example of the Church of England. Both England and Scotland were partially controlled by foreign powers at the beginning of the sixteenth century, England by Spain and Scotland by France. Various alliances were formed because of these relationships, one of the most significant of which was the marriage of Arthur, Prince of Wales to Catherine of Aragon, the daughter of Ferdinand and Isabella of Spain. Sadly, the marriage lasted less than a year and Catherine was left a widow. Henry VIII wanted to marry his brother's widow and eventually persuaded Pope Julius II to permit this. There was considerable opposition to this marriage, not least from the Archbishop of Canterbury but Henry went ahead. The failure to produce a male heir led Henry to ask the Pope to annul the marriage, belatedly appearing to accept the Archbishop's opinion that it had never truly been a legal marriage in the first place. The Pope refused, in part at least because of the influence upon him of Emperor Charles V, Catherine's nephew. In 1529 Henry called a parliament and set about the Reformation of the Church, his main objective being that he, and not the Pope, would be the head of the Church of England, thus guaranteeing the Church's complicity in his intended divorce. In 1531 Henry forced the clergy to accept this position and from that point on the Church of England has never been able to make decisions for itself without royal approval. Parliament endorsed this and also passed other significant Acts, including one which prevented appeals to Rome. Henry did not find it easy to force through these changes and there was considerable opposition but ultimately he made acceptance of the Acts of the 'Reformation Parliament', as it was called, a test of loyalty to the Crown. A.D. Innes comments,

> This Submission of the clergy was a real act of surrender. There never had been, indeed, any practical power of promulgating constitutions which could override the ordinary law; but short of that the Church had claimed and exercised the right of enforcing her spiritual or quasi-spiritual legislation without submitting it to the approbation of any temporal authority. That right was now wiped out.[1]

Henry wanted a Reformation in which small changes were made to the theology and liturgy of the church, the main change being that the king was recognized as head, or 'Supreme Governor', of the church. Under Edward VI, however, the Reformation was carried forward in a much more positive way, with significant theological advances, but all of that was lost when Mary, daughter of Henry and Catherine of Aragon, came to the throne and reinstituted the papal supremacy. When finally Elizabeth I came to power, the Reformation was established on a permanent basis. The Elizabethan Settlement of 1559 established Protestantism in England but, as the Puritans were to protest, that Reformation was incomplete in comparison to what had been achieved in Germany in Switzerland and in France. One matter, however, was not in doubt. In 1559 the papal supremacy was completely overthrown and was replaced once again with the Royal supremacy.

The situation established in 1559 is, in almost every respect, precisely as it is today. The monarch has supremacy over the Church of England and all legislation related to the Church must have royal approval. Even with the establishment of a constitutional monarchy, the situation remains that the state controls the Church with the monarch as the Supreme Governor of the Church. The Church of England cannot change its constitution without an Act of Parliament and its bishops and other leaders are appointed by the monarch, based on recommendations from the Crown Appointments Commission, which reports directly to the Prime Minister. In practice, of course, as distinct from Act of Parliament, the Church of England enjoys a large degree of autonomy and many of the constitutional procedures are more formal than material.

ii. Church controls State

During much of the medieval period, the increasing power of the Catholic Church meant that the Church often had significant influence over monarchs and states. Indeed, for considerable periods, the Holy Roman Empire was largely under the control of the Pope. One example of the way in which the Pope tried to control nation states is found in the later Reformation period.

The Act of Uniformity, passed in 1559, whereby all citizens were to recognise the monarch as Supreme Governor of the Church of England, was

not universally accepted. Many Catholics refused to change their allegiance from the Pope to the Queen and their refusal led to their being called 'Recusants'. They demanded the freedom to worship in the old ways and rejected the Prayer Book which had been imposed. This led to persecution and even martyrdom for many. Indeed, it was not until the passing of the Catholic Emancipation Act in 1829 that most of the anti-Catholic legislation was finally lifted. It is, of course, still the case today that a Roman Catholic cannot be the monarch of the United Kingdom.

This whole persecution was compounded when Mary Queen of Scots, in 1568, left Scotland and fled to England where she had some claim to the English throne. Many of the Recusants saw Mary as the one to restore the papal supremacy and Catholic worship and liturgy and so supported her claims to the throne. This led to a revolt, which began in the north of England in 1569 and which was brutally suppressed.

What is of interest to us in this present argument, however, is the response of the Pope to these circumstances. In fact, he issued a Bull called Regnans in Excelsis in which he excommunicated Queen Elizabeth, deposed her from the throne and declared that none of her subjects henceforth owed her any allegiance. Clearly, then, the pope believed that the church could exercise control over nation states and that the rulers of nations must be subject to Rome. This view that the church should control the state is less evident today, although the fact that the Vatican is an independent state must be considered a symptom of this viewpoint.

iii. Separation of Church and State

At the Reformation, as well as the magisterial Reformers there were, of course, other leaders and factions. The most significant of these was the Anabaptist movement. This movement, comprising many individuals and groups, shared some common views, not least concerning the relation between church and state. They argued for the separation of church and state. Further, it was argued that Christians should have no involvement in the state. This was spelled out later in terms of a refusal to vote or participate in any political system and a refusal to bear arms on behalf of the State.

In the main Anabaptist confession, *The Confession of Schleitheim*, drawn up by Michael Sattler in 1527, there is a strong emphasis on separation.[2] There are seven articles in the confession and Article IV is on 'Separation':

> We have been united concerning the separation that shall take place from the evil and the wickedness which the devil has planted in the world, simply in this; that we have no fellowship with them, and do not run with them in the confusion of their abominations. So it is; since all who have not entered into the obedience of faith and have not united themselves with God so that they will to do His will, are a great abomination before God, therefore nothing else can or really will grow or spring forth from them than abominable things. Now there is nothing else in the world and all creation than good or evil, believing and unbelieving, darkness and light, the world and those who are [come] out of the world, God's temple and idols. Christ and Belial, and none will have part with the other.[3]

This could be interpreted as meaning simply that Christians must not have fellowship with unbelievers but the implications for separation from state government are spelled out in Article VI on 'The Sword', where we are told that Christians ought not to serve as magistrates, the following being part of that argument:

> Lastly, one can see in the following points that it does not befit a Christian to be a magistrate: the rule of the government is according to the flesh, that of the Christians according to the spirit. Their houses and dwelling remain in this world, that of the Christians is in heaven. Their citizenship is in this world, that of the Christians is in heaven (Phil. 3:20). The weapons of their battle and warfare are carnal and only against the flesh, but the weapons of Christians are spiritual, against the fortification of the devil. The worldly are armed with steel and iron, but Christians are armed with the armor of God, with truth, righteousness, peace, faith, salvation, and with the Word of God. In sum: as Christ our Head is minded, so also must be minded the members of the body of Christ through Him, so that there be no division in the body, through which it would be destroyed. Since then Christ is as is written of Him, so must His members also be the same, so that His body may remain whole and unified for its own advancement and upbuilding. For any kingdom which is divided within itself will be destroyed (Mt. 12:25).[4]

A slightly more measured statement is to be found in the 1963 Mennonite *Brief Statement of Faith*, where we read in Article 19: 'We believe that the state is ordained of God to maintain order in

society, and that Christians should honor rulers, be subject to authorities, witness to the state, and pray for governments.'[5] Similarly, in the 1995 Mennonite Confession of Faith, where the position is spelled out in much more detail, especially in Article 23 'The Church's Relation to Government and Society':

> The church is the spiritual, social, and political body that gives its allegiance to God alone. As citizens of God's kingdom, we trust in the power of God's love for our defense. The church knows no geographical boundaries and needs no violence for its protection. The only Christian nation is the church of Jesus Christ, made up of people from every tribe and nation, called to witness to God's glory.
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> In contrast to the church, governing authorities of the world have been instituted by God for maintaining order in societies. Such governments and other human institutions as servants of God are called to act justly and provide order. But like all such institutions, nations tend to demand total allegiance. They then become idolatrous and rebellious against the will of God. Even at its best, a government cannot act completely according to the justice of God because no nation, except the church, confesses Christ's rule as its foundation.
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> As Christians we are to respect those in authority and to pray for all people, including those in government, that they also may be saved and come to the knowledge of the truth. We may participate in government or other institutions of society only in ways that do not violate the love and holiness taught by Christ and do not compromise our loyalty to Christ. We witness to the nations by being that "city on a hill" which demonstrates the way of Christ. We also witness by being ambassadors for Christ, calling the nations (and all persons and institutions) to move toward justice, peace, and compassion for all people. In so doing, we seek the welfare of the city to which God has sent us.[6]

In the commentary which accompanies this confession, the position is clarified even further:

> Before the fourth century, about the time of the Roman emperor Constantine, most Christians thought of themselves as God's nation, made up of both Jewish and Gentile believers, living among the nations, yet strangers among them (1 Pet. 2:11-17; Heb. 11:13-16. When Christianity became the state religion, the emperor came to be seen as the protector of the faith (even by violence). Church membership was no longer voluntary. Mission efforts were primarily directed toward people outside the empire. Even now, in places where Christianity is no longer the state religion, the government is often seen as the defender of religion, and the church is expected to support government policies.
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> We believe that Christ is Lord over all of life. Church and state are separate and often competing structures vying for our loyalty. We understand that governments can preserve order and that we owe honor to people in government. But our "fear" belongs to God alone (1 Pet. 2:17). When the demands of the government conflict with the demands of Christ, Christians are to "obey God rather than any human authority" (Acts 5:29).[7]

Although the various churches which can trace their ancestry to Anabaptism are relatively few today, arguments for the separation of Church and State are much more common, largely because of the adoption of this position by the government of the USA. Religion may not be taught in the State schools and any overt expression of Christianity is forbidden in federal buildings, witness the recent case where former Alabama Chief Justice Roy Moore was forced to remove his monument of the Ten Commandments from his courtroom.

It seems clear that the founding fathers of America did not have this scenario in mind. Their great concern, following the experience of the Pilgrim Fathers and the New England Puritans, was to prevent government interference in the religious life of the people. They were concerned to avoid the situation they had left in England, whereby the church was controlled by the state and Christians were not free to reform the church according to Scripture as they interpreted it. It was certainly not their intention that schools should be prohibited from holding services of worship or teaching children about God.

More recently, however, Christians have begun to fight back against the increasing anti-religious attitude which has been fostered by Supreme Court interpretations of the *Constitution*. The Rev Dr D. James Kennedy, PCA Minister in Florida, is heading up an organisation called 'The Center for Reclaiming America', which is working to overturn the atheistic interpretation of the Constitution.[8] One example of the work of the Center concerns the recent decision of the Ninth Circuit Court of

Appeals that the Pledge of Allegiance 'One Nation Under God' is a violation of the US Constitution because it constitutes an 'establishment of religion'. The Center has now amassed just short of quarter of a million signatories to protest this matter, which is now in the hands of the Supreme Court.

Dr Kennedy is not alone in his efforts. The Rev Dr Peter A. Lillback, Presbyterian minister and theologian, has set up 'The Providence Forum'. The mission of the Forum, *inter alia*, is to 're-instill and promote a Judeo-Christian worldview within our culture.'[9] Dr Lillback has also written a short book on religious liberty which supports the arguments presented by the Forum.[10] Yet another Christian organisation which exists to campaign on the church and state issue, is the 'Alliance Defense Fund'.[11] In one of their pamphlets, they explain something of the history of the church/state controversy:

> The term "separation of church and state" was first used by Thomas Jefferson in a letter to the Danbury Baptists in 1801, when he responded to their concerns about state involvement in religion. Jefferson's letter had nothing to say about limiting public religious expression, but dealt with *government's interference* in the public expression of faith.[12]
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> It was U.S. Supreme Court Justice Hugo Black who first inserted the term "separation of church and state" into American jurisprudence in his majority opinion of *Everson v. Board of Education* (1947). He wrote: "The First Amendment has erected a wall between church and state. The wall must be kept high and impregnable. We could not approve the slightest breach."...
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> The First Amendment states: "Congress shall make no law respecting an establishment of religion; or prohibiting the free exercise thereof; or abridging the freedom of speech, or the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." No mention is made of a "wall between church and state."[13]

If we take all of the arguments of these various organisations together, it would seem that the way in which the Supreme Court has interpreted the US Constitution is out of step with what these groups believe to be the true intent of those who originally framed it. Some Christian lawyers have been more specific and have argued that the current situation has come about because of a failure to read the *US Constitution* in the light of the *Declaration of Independence*.[14]

No matter what the outcome of these current battles may be, it does seem to me that the decision in principle to opt for a model which argues for the separation of church and state, for whatever good reason, was bound to lead to many of the difficulties currently being encountered. The New England Puritans may have intended to preserve their freedom to worship without state interference but their position was not well grounded theologically and not well worded legally. In the hands of those who are antagonistic to biblical Christianity it was almost inevitable that it would be used to marginalise and isolate Christianity and to remove it from the public square.

iv. Church and State in Relationship

The fourth model of church-state relationship argues for a relationship in which there is mutual recognition and responsibility. This has taken various forms over the centuries. The classic example is the relationship between church and state as established by Constantine. When in 324AD Constantine became supreme Caesar over both halves of the Roman Empire, he moved fairly quickly to ensure a united church in a united empire. He was instrumental in seeking to bring theological harmony to the seriously divided church by instigating and chairing the Council of Nicaea. More significantly, however, he moved to Christianise the empire, effectively creating what we now call 'Christendom'.[15] In giving freedom, protection and recognition to the church, Constantine greatly advanced its standing and made mission and evangelism much safer and easier. By declaring the empire to be Christian, however, he faced two problems. First, the risk of nominalism; and second, the creation of a somewhat unstable relationship between church and state which was always in danger of transmogrifying into model one or model two above.

Another understanding of how church and state could be in relationship was formulated by Martin Luther by means of his 'two kingdoms' doctrine.[16] This argument recognises that there is both a 'kingdom of God' and a 'kingdom of the world'. Each has a purpose under God but those purposes must be achieved separately.

> Thus did Luther simultaneously vindicate civil rule as a Christian work against the Anabaptist rejection of it *and* repudiate the direct interference of secular authority with, or on behalf of, Christian freedom... The key to Luther's

> independent course was his insight that every Christian exists in both realms and is subject to both regimes, so that his inward dispositions and outward actions are structured by this dual membership.[17]

Luther's position, however, was somewhat unstable, both theologically and politically, largely because of his insistence on the separation of powers, although he still maintained that both are ordained of God. Its instability is underlined by the fact that the Anabaptists, as we have seen, developed it in such a way as to argue for separation between the kingdoms, whereas Melanchthon developed it in such a way that it became very similar to the Anglican view, as later developed by Hooker.

3. Calvin's Views on Church and State

John Calvin took up Luther's notion of the 'two kingdoms' but developed it differently. He agreed that church and state were both established by God but he did not agree with Luther's way of defining the relationship. Calvin wanted to insist that the 'two kingdoms' owed duties and responsibilities to one another and that one of those was the state's duty to recognise, protect and guarantee the liberty of the church. Calvin established, then, a more refined version of model four, one in which the relationship between church and state was more clearly established, based on a much more solid theological foundation. This was the position which was established in a preliminary way by Calvin in Geneva and more significantly by Knox in Scotland.

The remainder of this paper will consist in an exposition and defence of this particular view of church and state. My argument is that this model provides the real and proper basis for a public theology, for the Christian Church's right to a place in the public square.

In the first edition of the *Institutes*, Calvin set out his basic position.[18] There were only six chapters in that 1536 edition and it was in the last chapter that Calvin dealt with issues of church and state. The chapter covers 'Christian Freedom, Ecclesiastical Power, and Political Administration'.[19] It is the third section of this chapter which deals with the nature and functions of civil government.[20] It is interesting to note that Calvin, who had originally studied law, held to some of the views expressed in this chapter before becoming a theologian. As Battles writes,

> Throughout this essay on the civil government, there are strong echoes of the *Seneca Commentary*.... Unquestionably Calvin is here reworking from this new evangelical Christian vantage point the whole classical teaching on the monarch.[21]

The most striking feature of the section on civil government concerns the status of the magistrate as the one who executes justice and rules over the people. Calvin says that those who hold this office 'have a mandate from God, having been invested with divine authority, and are wholly God's representatives, in a manner, acting as his vicegerents.'[22] He goes on to speak in quite elevated terms, saying that the work of the magistrate is a 'holy ministry'[23] and concludes that 'no one ought to doubt that civil authority is a calling, not only holy and lawful before God, but also the most sacred and by far the most honourable of all callings in the whole life of mortal men.'[24] Later he insists that those who hold the office of magistrate have 'a jurisdiction bestowed by God', that they are to be recognised as 'ministers and representatives of God' and that no-one should 'regard magistrates only as a necessary kind of evil'.[25]

The position spelled out here in the 1536 edition of the *Institutes* directed Calvin's actions in relation to the civil rulers during his first residency in Geneva. It was after his banishment from Geneva, however, that his thought begins to mature and deepen, as represented by later editions of the *Institutes*. It has been argued that the failure of his first period in Geneva, not least because of the relationship between the Reformed church and the city authorities, led him to further thought. More particularly, it has been argued that the time he spent in Strasbourg with Martin Bucer was an important key to further development.[26]

In the final edition of the Institutes, Calvin's teaching on this subject continues to centre around his understanding of the 'two kingdoms', although the section on freedom (3/19) became separated from the section on civil government (4/20). This is how he expresses the argument:

> Therefore, lest this prove a stumbling-block to any, let us observe that in man government is twofold: the one spiritual, by which the conscience is trained to piety and divine worship; the other civil, by which the individual is instructed in those duties which, as men and citizens, we are bold to perform... To these two forms are

> commonly given the not inappropriate names of spiritual and temporal jurisdiction... Now, these two, as we have divided them, are always to be viewed apart from each other. When the one is considered, we should call off our minds, and not allow them to think of the other. For there exists in man a kind of two worlds, over which different kings and different laws can preside.[27]

In the final chapter of the final edition of the *Institutes*, Calvin underlines and expands upon what he had said in 1536.[28] Civil government is vital and is ordained by God for the well ordering of society. The magistrates are appointed by God and are to be obeyed, even sinful ones. They exercise divine authority and their authority extends to both tables of the law. They must punish evildoers and this includes the right to bear the sword.

Calvin's developed understanding of the relation between church and state has been widely influential. Indeed, it has been argued that the very establishment of democracy can be directly traced to the influence of Calvin's political thought.[29] In the 19th century Calvin's views were taken up and developed by the notable Dutch Calvinist Abraham Kuyper (1837-1920).[30] In turn, Kuyper influenced other leading figures like Herman Dooyeweerd (1894–1977).[31] In the 20th century and on into the 21st, Calvin's views on church and state have continued to be discussed and analysed, not least by those in the 'reconstructionist' or theonomic school.[32]

It was, however, in Scotland, under the direction of John Knox, that a model of church/state relationship was developed which most closely followed Calvin's political theology.

4. Church and State in Reformed Scotland

The Reformation in Scotland, unlike that in England, was a Reformation from the bottom up rather than the top down. As we have already seen, the Reformation in England (at least in its earliest phase under Henry VIII) was imposed upon the people by the monarch for his own purposes. The people of Scotland, however, fought for Reformation until the monarch, very reluctantly, gave in to their demands. There was no question of the monarch being the head (or even supreme governor) of the Church. John Knox, in his various writings, spelled out the Calvinistic version of the 'two kingdoms' model. For example, in 1558, having been condemned and burned in effigy, Knox wrote *The Appellation from the Sentence Pronounced by the Bishops and Clergy: Addressed to the Nobility and Estates of Scotland*.[33] What Knox says here about magistrates echoes very closely what we have already seen in Calvin, with the added insistence that it was the duty of lesser magistrates to oppose the rule of their superiors, if these acted contrary to God's law (by implication this included sovereigns).[34] Knox's position was also spelled out through his involvement in writing both *The Scots Confession* and the *First Book of Discipline*. The underlying argument of the Appellation, and of these other documents, confirms that Knox's general position on the relationship between Church and State is the same as that of Calvin.[35]

It was John Knox's successor, Andrew Melville, who further developed and refined the position articulated and defended by Calvin and Knox. His position was spelled out and became famous in an encounter with King James VI of Scotland.[36] Melville is said to have grasped James' sleeve, called him 'God's sillie vassal' and told him that there were two kings and two kingdoms in Scotland, in one of which (Christ's kingdom) James was 'not a king, nor a Lord, nor a head but a member'![37] Melville's attitude to the king and his views on church and state led to much conflict and Melville was finally imprisoned in the Tower of London for five years. It was, nevertheless, this 'two kingdoms' view, as clarified by Melville, which became the recognised legal position in Scotland, being known as the 'establishment principle'.

When the General Assembly of the Church of Scotland adopted the *Westminster Confession of Faith* in 1647, it made specific mention, in the Adopting Act, of the second article of chapter xxxi (on Synods and Councils), which gave magistrates the right to call synods. The Assembly argued that 'the Assembly understandeth some parts of the second article of the thirty-one chapter only of kirks not settled, or constituted in point of government'.[38] That is to say, it could understand why countries which did not have an established Reformed church might require such an article – it was not necessary in Scotland![39] It is also interesting that when the Presbyterian Church in the USA, in its Adopting Act of 1729, affirmed the *Westminster Confession of Faith*, it specifically disavowed sections of chapters xx (Of Christian Liberty and Liberty of Conscience) and xxiii (Of the Civil Magistrate) because of its position on the separation of church and state.[40]

It was not until the re-establishment of Presbyte-

rianism in Scotland in 1690, after years of struggle against attempts to impose episcopacy, that an Act of Parliament was passed affirming the decision to adopt the Westminster Confession of Faith. This was the *Act Ratifying the Confession of Faith, and Settling the Presbyterian Church Government*. Interestingly, although that Act guaranteed the continuing establishment of the Church of Scotland, some have interpreted it as being 'Erastian', namely, that the Church's right to independence and spiritual freedom from the State was granted by the State, rather than being an inherent right.[41]

During the political, theological and ecclesiastical debates surrounding the Disruption in the nineteenth century, the whole question of establishment became a crucial issue.[42] On the one hand, the Free Church of Scotland which was formed in 1843 out of the Disruption continued to hold to the establishment principle, even while leaving the establishment for reasons of spiritual freedom. On the other hand, when the Free Church wanted to join with the United Presbyterians at the turn of the century, this principle became something of a stumbling block. Later still, during the first thirty years of the twentieth century, a time of unprecedented reunion of the various churches, this debate over the establishment principle was crucial to the successful completion of the negotiations for union.[43] Finally, however:

> The 1921 settlement of the Church of Scotland's constitution made possible the negotiation of the 1929 union with the United Free Church. The settlement was expressed in the Articles Declaratory prepared by the Established Church between 1914 and 1919 in a number of drafts and it was effected by the very brief Church of Scotland Act 1921 to which the Articles were appended.[44]

As Dr Marjorie MacLean has demonstrated, this placed,

> the Church of Scotland in a new constitutional situation, by recovering the Melvillian version of the theory of separate kingdoms, expressing it in the modern state-like language of spheres and realms, and leaving the legal implications of it to unfold in due course. The chief of those implications was the recognition that the Act represented the first breach in the sovereignty of the United Kingdom parliament.

One aspect of this 'two kingdoms' situation is that there is no appeal to the civil courts from the General Assembly of the Church of Scotland, which is regarded as the supreme court of the Church. Several years ago, there was a striking example of the effect of this in the notable case of a Church of Scotland minister who was removed from his position. Believing that the Church had acted wrongly, the minister sought a judicial review of the decision in the civil courts.[45] This was turned down on the grounds of the Church of Scotland's status in relation to the State. As Dr MacLean notes, 'since the 1921 Act recognised the pre-existing powers of the Church as inherent and uncreated by Parliament or any human authority, the Court of Session disclaimed jurisdiction.'[46]

This situation leaves the Church of Scotland in a unique situation, in terms of modern church/state relations. It is not controlled by the state, as is the Church of England; it does not itself seek to control the state nor to have any authority beyond the sphere of its own life and ministry, as the Roman Catholic Church has sometimes attempted; and it is not separated from the state as in the somewhat unhappy situation in the USA. In short, the Church of Scotland is in a situation where its constitutional position affords it entire control over its own doctrine, worship, government and discipline, together with the protection of the state, yet without any interference by the state. All of this is built on the 'two kingdoms' theological premise: that both church and state are established by God, are answerable to God and owe duties and responsibilities to one another.

In the period since the Reformation, or at least since the Act of 1690 when Presbyterianism was re-established, this relationship between Church and State, the establishment principle, has worked very well. It is interesting to note that most of the Presbyterian denominations in Scotland (with the notable exception of the United Free Church of Scotland) also advocate the establishment principle, even having withdrawn from the Church of Scotland. Naturally, the establishment principle is maintained by a careful balance of measures, such as the appointment of a 'Lord High Commissioner' by the Queen to the General Assembly. The General Assembly welcomes the Lord High Commissioner and his guests (usually including several cabinet ministers and Scottish Executive ministers). It also instructs a committee to write a 'loyal letter' to the monarch, conveying the greetings and best wishes of the Assembly but, at the same time, it affirms its independence from monarchical or state interference.

5. Modern Problems

The Church of Scotland faces at least four problems in seeking to maintain the establishment principle and its unique position in relation to the British state. The first of these concerns the interpretation and function of the 1921 Act, which supports and maintains the establishment principle. Dr MacLean, in her dissertation, argues that there are certain weaknesses in the Act which leave it open to misinterpretation or ultimate collapse. She describes the weaknesses thus,

> First, the intrinsically flawed nature of the 1921 Act and the way it has been applied in subsequent Court of Session actions imply that the state's 'grant' of spiritual independence is not final and unconditional, that the freedom of the Church is contingent on its own behaviour, and that its constitutional position is more precarious than it likes to believe. Second, the sovereignty in the civil sphere is not simple or monolithic, but fragmented, developing and complex. A spiritual jurisdiction that depends on what is effectively a treaty with a power that is no longer the only relevant secular authority is an eroding jurisdiction that has no answers to some of the modern questions being asked of it. Third, the contemporary fashion for individual human rights does not yet give privileges to the Church because it would have difficulty asserting its legal competence to be treated as a bearer of rights. The undeniable little spheres of human sovereignty produced in this model provide new partners in the co-ordination of authority and legal responsibility.
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> The 1921 settlement survives, at least in theory, but it has lost the foundation of the understanding of Church-state relations on which it was built.

Dr MacLean then sets out to establish new 'theological, legal and constitutional foundations' for the 21st century. Among other suggestions, she argues that we need a new theological understanding of freedom, we need to make certain changes to the Articles Declaratory and we need to specify more precisely what legislation was repealed when Parliament adopted the 1921 Act. Even with these changes, she is not confident that the Church of Scotland can maintain its constitutional position.

The second problem concerns the pluralistic and multi-ethnic culture which now exists in Scotland, particularly in the cities. How is it possible to maintain that Christianity, far less the very specific denomination called the Church of Scotland, should have rights and privileges in a nation where Christians attending worship are in a small (albeit significant) minority? Professor David Fergusson, of the School of Divinity in the University of Edinburgh, has recently addressed this issue.[47] After analysing the Reformational context for the traditional Scottish view of church and state and having noted the dramatic changes which have taken place in civil society since the Reformation, he concludes,

> In the western context of dechristianization, where does this leave us? It is time to recognise that models of establishment derived from early modern Geneva and Scotland have to be abandoned. We can no longer assume nor aspire towards co-extensive membership of church and civil society, and shifting patterns of establishment in western Europe confirm this. In this limited respect, the secularization thesis which recognises the differentiation of civil and religious spheres must be accepted. The separation of the state, the market economy, and science from the influence of religious institutions is an undeniable feature of modernity. Yet, this entails neither the decline of religion nor its confinement to a private or sectarian sphere.[48]

This might initially seem like a counsel of despair. Given the rising tide of pluralism and the modern secular mentality, we must simply give up on the theology of the 'two kingdoms'. This is, however, not Fergusson's last word on the subject. Instead, he wants to reinterpret certain key affirmations in the traditional Reformed view, namely, the importance of the state, the fact that public service is a calling from God, that Christians are called upon to be involved as salt and light in the transformation of society and so on. Towards these ends, he calls for,

> the maintenance of a distinct Christian subculture that nurtures and equips individuals for authentic service at a time of increasing moral fragmentation and confusion. While there may no longer be an organic unity between church and secular society, the Reformed vision of social transformation and critical support for the state is still relevant. It continues to offer a badly needed perspective in its intent to make common cause in search of a positive social contribution, in a hopeful though sober vision of political possibilities, in the affirmation of public service, and in the dignity of political office which, though frequently demeaned, remains a gift and calling

of God.[49]

The third and related problem concerns the interpretation and implementation of the European Union Charter on Human Rights. There is a danger that this will change the situation vis-à-vis the Church of Scotland, since it could be argued that any limitation of the sovereignty of the state in favour of a group of Christians (albeit the national, established Church) is discriminatory and damaging to the human rights of those who are neither Christians nor Presbyterians. It is interesting to speculate on what attitude would have been taken to the Logan case referred to above, had it been referred to the European Court of Human Rights. One encouraging sign in this matter, however, is the reassurances which were given to a group of senior churchmen from a range of Scottish denominations when they met with judges from the European Court of Human Rights in Strasbourg in 2001. They were told that just as individuals had rights, so too did bodies (such as churches) and it was not the intention of the court to interfere in issues relating to the churches.

The fourth problem and perhaps ultimately the most serious, concerns the Church of Scotland's own self-identification. This view of Church and State which has been outlined above and which has been established in Scotland for almost 450 years, is neither properly understood nor valued by most of the members of the Kirk. Writing some time ago in *Life & Work*, the monthly magazine of the Church of Scotland, I addressed the changing situation in our understanding of Christianity as public religion. Let me quote from that article:

> I was listening to the radio a few days ago and heard a woman making sarcastic and derogatory remarks about the Prime Minister. Was it because of some political decision he had made, or perhaps because of some failure in an important matter of state? No, it was because he had dared to mention his faith and his relationship with God. 'We like our religion to be kept private in this country' the woman trumpeted and went on to make it very clear that politicians (and everyone else) should keep their religious views to themselves and should not bring them into public life. This is a fairly common opinion today, one which regards religion as a matter of personal devotion, a private communion between an individual and God. Those who take this view argue that one's faith should never be spoken of publicly, since it has no bearing on public issues and will in any case probably cause embarrassment!

In the article I went on to demonstrate that this view is of relatively recent origin and stands in marked contrast to the position adopted in the Church of Scotland from the time of the Reformation onwards. It does seem to me, however, that we are in danger of throwing away this heritage, not least because of ignorance. Most members (perhaps even most ministers) in the Church of Scotland would struggle to articulate the precise relationship between church and state. Many would happily dispense with it rather than seeing it as an inspired piece of theology! Indeed, many would consider the whole argument to be somewhat arcane, of minor interest to historians perhaps but of no real interest or consequence for the Kirk today.

6. Conclusion

Where then do we go from here? It seems to me that we must establish whether or not the doctrine of the 'two kingdoms', as spelled out successively by Calvin, Knox and Melville, is the best way to understand and interpret Scripture. If it is, then we must continue to argue for such a model, even in the face of a secular world which rejects our presuppositions. After all, there is every reason to believe that Knox held to his position on church and state even during the time when Mary Queen of Scots was reigning in Scotland and the Catholic Queen Mary was reigning in England. He understood his objectives even when they must have seemed quite impossible. If something is soundly based biblically and theologically then we must seek to put it into practice, whatever stands against us.

Furthermore, it seems to me that we must look at this matter in a European context. It is clear that the nation states which make up the European Union will have a future which is much more integrated, even if not fully united. What will be the relationship between the European Union and the Christian church? Discussions leading to the new constitution for the European Union, including the debate as to whether or not there should be any mention of God, point up the difficulties. We cannot allow these questions to go begging; we must discuss them and reach our own conclusions before seeking to influence others across the continent.

This paper has sought to present a theological case and an historical example to support a particular

understanding of the relationship between church and state as the basis for a public theology, that is, for the right of the Christian church to speak and to be heard in the public square. If we reject the 'two kingdoms' model of church/state relations, which was established within Reformed theology and has been evidenced by the situation historically in Scotland, then wherein lies the theological basis for our public theology? What right do we have to speak to the nations, apart from the right which is bestowed upon us by the one who created both church and nations, and to whom both are answerable?

We ought not to be fighting for a small place in the public square, it is ours by right.

Notes

1 *Cranmer and the English Reformation* (Edinburgh: T & T Clark, 1900) 62.
2 The copyright to the English version of the Schleitheim Text is held by Herald Press, Scottdale, PA 15683. It is also available on the web at: http://members.iquest.net/~jswartz/schleitheim/
3 Idem.
4 Idem.
5 http://www.bibleviews.com/BriefSE.html
6 http://www.mennolink.org/doc/cof/art.23.html
7 idem.
8 http://www.reclaimamerica.org/
9 http://www.providenceforum.org
10 *Proclaim Liberty* (Bryn Mawr, PA: The Providence Forum, 2001).
11 http://www.telladf.org
12 http://www.telladf.org
13 *The Truth about Separation of Church and State*
14 I am grateful to Mr Robert C. Cannada, former Chairman of the Board of Reformed Theological Seminary in Jackson, Mississippi, for this insight.
15 For an argument in favour of the notion of Christendom see Oliver O'Donovan *The Desire of the Nations: Rediscovering the Roots of Political Theology* (Cambridge: Cambridge University Press, 1996). For a critique of O'Donovan's position see Craig Bartholomew, Jonathan Chaplin, Robert Sonmg and Al Wolters (eds) *A Royal Priesthood? The Use of the Bible Ethically and Politically: A Dialogue with Oliver O'Donovan* Scripture and Hermeneutics series (Grand Rapids: Zondervan, 2002).
16 For an exposition of Luther's position, together with extracts from Luther's writings, see Oliver O'Donovan and Joan Lockwood O'Donovan (eds) *From Irenaeus to Grotius: A Sourcebook in Christian Political Thought* (Grand Rapids: Eerdmans, 1999) 581-608.
17 Ibid, 582-583.
18 Translated and annotated by Ford Lewis Battles (Grand Rapids: Eerdmans, 1986).
19 Ibid, 176ff..
20 Ibid, 207ff..
21 Ibid, lix.
22 Ibid, 209.
23 Ibid, 210.
24 Ibid, 209.
25 Ibid, 220.
26 O. O'Donovan and J.L. O'Donovan (eds) *From Irenaeus to Grotius*, 663.
27 *Institutes* 3/19/15.
28 *Institutes* 4/20.
29 Douglas F. Kelly *The Emergence of Liberty in the Modern World: The Influence of Calvin on Five Governments from the 16th through 18th Centuries* (Phillipsburg: Presbyterian & Reformed, 1992).
30 A. Kuyper *Lectures on Calvinism* (Grand Rapids: Eerdmans, 1931). See especially chapter three 'Calvinism and Politics'.
31 Herman Dooyeweerd *A New Critique of Theoretical Thought* Vol. I-IV (Ontario: Paideia Press, 1975); Herman Dooyeweerd *Roots of Western culture; Pagan, Secular and Christian options* (Toronto: Wedge Publishing Company, 1979).
32 See, for example, R.J. Rushdoony *The Institutes of Biblical Law* (Nutley, NJ: Presbyterian & Reformed, 1973); G.L. Bahnsen *Theonomy in Christian Ethics: Expanded Edition with Replies to Critics* (Phillipsburg: Presbyterian & Reformed, 1984; G.L. Bahnsen *No Other Standard* (Tyler, TX: Institute for Christian Economics, 1991).
33 *Selected Writings of John Knox: Public Epistles, Treatises and Expositions to the Year 1559* (Dallas: Presbyterian Heritage Publications, 1995) 471-532.
34 Ibid, 488,489.
35 It may be, however, that Knox's constant references to the way in which God governed Israel, leave him liable to the charge of seeking to establish a theocracy. This charge was also laid against Calvin but may be successfully rebutted: see R.C. Gamble Calvin's *Thought on Economic and Social Issues and the Relationship of Church and State* Articles on Calvin and Calvinism vol.11 (New York & London: Garland Publishing, 1992).
36 J.H.S. Burleigh *A Church History of Scotland* (London: Oxford University Press, 1960) 204-205.
37 Ibid, 204.
38 J. Ligon Duncan III 'Owning The Confession: Subscription in the Scottish Presbyterian Tradition' in David W. Hall (ed) *The Practice of Confessional Subscription* (Lanham, ML: University Press of America, 1995) 81.
39 In the Confessional statement we see the influence of Samuel Rutherford whose *Lex Rex* was hugely influential, not least in relation to arguments over the legitimacy of the execution of Charles I.

40 George W. Knight 'Subscription to the Westminster Confession of Faith and Catechisms' D.W. Hall, op cit., 121.

41 I am grateful to the Rev Dr Marjorie MacLean, Depute Principal Clerk of the General Assembly of the Church of Scotland, for making available to me the relevant chapters of her PhD dissertation, not least the section in which she quotes this argument from A.I. Dunlop: M.A. MacLean The Crown *Rights of the Redeemer: A Reformed Approach to Sovereignty for the National Church in the 21st Century* (PhD Thesis, University of Edinburgh, 2004) 107.

42 Ibid, chapter 3.

43 Ibid, chapters 3 and 4. See also D.M. Murray *Freedom to Reform: The 'Articles Declaratory' of the Church of Scotland 1921* (Edinburgh: T & T Clark, 1993); D.M. Murray *Rebuilding the Kirk: Presbyterian Reunion in Scotland 1909-1929* (Edinburgh: Scottish Academic Press, 2000).

44 Ibid, 104.

45 Logan v. Presbytery of Dumbarton (1995 SLT 1228).

46 MacLean, 123.

47 David Fergusson, 'Church, State, and Civil Society in the Reformed Tradition' in Wallace M. Alston Jr. & Michael Welker (eds.), *Reformed Theology: Identity and Ecumenicity* (Grand Rapids: Eerdmans, 2003) 111-126

48 Ibid, 125.

49 Ibid, 125-126.