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It is truly the case that we live in interesting times, not just for the global human community, but also for Anglicans who seek to fulfil their vocation in that global community. There are crises in abundance and the Anglican Communion has not been exempt from this experience, nor should it expect to be. Yet crisis management takes a lot of energy and resources, and it also creates a quite particular tension for those involved. As they struggle to deal with the immediately present it is very easy for the longer term, the far horizon, to fade from view. This is true not just in the eschatological sense, but in the ordinary sense of losing sight of the longer-term issues that a historical tradition such as Anglicanism both inherits and is in the process of creating.

The present crises arise from the synodical action of a diocese in Canada and the General Convention in the United States of America. These matters have affected not just global relations in the Communion, but they have also deeply engaged the church communities in those two countries. It is not part of the vocation of the *Journal of Anglican Studies* to comment on these immediate crises, but it is our role to engage with the longer-term underlying issues. Indeed, so to engage is itself a contribution to the immediate. It is in that spirit that I have taken a particular step in contributing an article to this issue of the Journal. It is included through the usual processes as an article on power, order and plurality.

This issue of the Journal also contains two groups of articles which similarly relate to the matters currently before us. Philip Thomas re-examines the agreement between Seabury and the Scottish bishops. That Seabury was ordained a bishop in Scotland is well known. What Philip Thomas draws out is the nature of the agreement that went with that ordination. Ephraim Radner, writing from within the Episcopal Church of the United States of America also reaches back to post-revolutionary eighteenth-century America with his example of Samuel Johnson, in
order to develop an argument about anti-pluralism in Anglicanism. Robert Withycombe also deals with the question of continuity with England. Just a decade after the founding of the Commonwealth of Australia, Australian Anglicans asked themselves, and some English lawyers, if the Church of England in Australia was in fact still legally part of the Church of England. Americans clearly perceived that after the revolutionary war they were in a new and legally independent situation. Australians, even with a new Commonwealth constitution, were not so clear, and it seemed to their advisers that they were not legally separated from the Church of England. The two examples show up how diverse are the relations between the various parts of the Anglican Communion. That diversity is part of the furniture in the present troubles.

The second group of articles concerns the working of authority in the nineteenth and early twentieth centuries. Timothy Yates brings his well-established reputation as a missiologist to bear on the hitherto inadequately examined question of the use and meaning of ‘missionary bishop’. Josiah Idowu-Fearon reminds us of the history and challenges of engaging with Islam in the largest province in the Communion, Nigeria.

Legal matters stand to the fore in the comprehensive article by Norman Doe in our occasional series on church–state relations in different parts of the Communion.

Our focus on these longer view matters are offered as part of our commitment to the study of the Anglican tradition. They are also offered as a contribution to the present stress of crisis management. We wish the Commission set up by the Archbishop of Canterbury every blessing in their work and pray for imagination and vision in what they do.
Unity and Concord: An Early Anglican ‘Communion’

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ABSTRACT

The Anglican Communion did not come into being solely as a geographical extension of the Church of England. An agreement between episcopalian churches in Scotland and America in the eighteenth century represents a significant point in the development of Communion (koinonia) for Anglican ecclesiology. This essay traces the circumstances and the content of the agreement as an example of the way in which Anglicans have come, and are coming, to reconceive the way in which they participate in a global fellowship within the universal church of Jesus Christ.

Introduction

The origin of the Anglican Communion, and indeed use of the term ‘Anglicanism’, is generally traced to the emergence of independent churches in British colonies during the mid-nineteenth century, and the events which led to the first Lambeth Conference of Anglican bishops in 1867.1 Perhaps an earlier union between what was once called ‘the Catholic remainder of the antient Church of Scotland, and the now rising Church in the State of Connecticut’ should also be recollected, especially at a time when ecumenical discussion is paying renewed attention to the concept of ‘communion’ and Anglicans, who have used the term for nearly two centuries, are being forced to re-examine exactly what it is that sustains their relationships as a worldwide fellowship of churches.2


2. Ecumenical thinking stems from the report of the 5th WCC Faith and Order Conference, On the Way to Fuller Koinonia (Geneva: WCC, 1994). Anglicans have successfully utilized the notion in various bilateral unity initiatives (e.g. the Porvoo
It is not that the occurrence which took place in Aberdeen during the closing weeks of 1784 has been forgotten. The way in which Samuel Seabury was nominated by the clergy of Connecticut to be their bishop, how the Archbishop of Canterbury, John Moore, found it impossible, under the terms of English law, to consecrate someone who was unable to swear allegiance to the king’s majesty, and how Seabury then turned to the bishops of the Scottish Episcopal Church for his orders is widely known. Liturgical scholars recognize how the Scottish Prayer Book, through its influence in America, has been a primary source of Anglican liturgical material. What does bear re-examination, however, is the understanding of the church and its unity which the various participants brought to the occasion, and the mechanisms which were developed to establish that understanding in reality.

**Searching for Communion**

New situations call for new remedies and some fresh initiative was certainly overdue at the time Seabury began his adventures. The situation of American Anglicans at the end of the War of Independence was desolate. Their identification with the recently abolished power of the English crown meant that they had lost both their practical means of support and any credibility they may have built up in the eyes of the new nation. In retrospect it is clear that the position of the Church of England was scarcely less desperate. Its position had been maintained by virtual submission to the interests of the British state and any notion of concern for churches outside those political boundaries was incomprehensible to its leaders. If the American church was to survive the loss of most of its buildings, clergy and revenues, it needed to establish the

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independence of its own leadership. In particular, it needed an episcopate able to demonstrate that such leadership was exercised as part of a ministry within the universal church. For the English church to help it would itself have to rediscover a fresh sense of apostolic calling and universal responsibility. That was the twin dilemma that Seabury had to face.

His was not the only solution being contemplated. While Seabury was in England awaiting Moore’s final decision, John Wesley sought to resolve the same difficulty by ‘setting apart’ Thomas Coke as superintendent of Methodist work in America, a decision which (against Wesley’s advice) led to the formation of the Methodist Episcopal Church and provoked the severance of Methodist-Anglican identity; evangelical clergy in the new nation were willing to merge their orders with the Moravians in order to establish solidarity with a wider Christian community; Seabury was in correspondence with a group of American ordinands who were contemplating the idea of obtaining apostolic succession in their ministry from one of the Scandinavian churches.

The most influential suggestion, however, came from William White, Rector of Christ’s Church, Philadelphia, and the only remaining episcopalian clergyman in the region. He was from a well-to-do local family whose patriotic efforts during the war led to his appointment as Chaplain to the first Continental Congress after independence was achieved. In the summer of 1782 he had published a pamphlet, The Case of the Episcopal Churches in the United States Considered, which looked for ‘a church government that should contain the constituent principles of the church of England, and yet be(ing) independent of foreign jurisdiction or influence, would remove that anxiety which at present hangs heavy on the minds of many sincere persons’. He believed that irrespective of the outcome of the war, Great Britain would refuse to acknowledge American sovereignty and therefore any immediate introduction of episcopacy from England was unlikely. As an interim measure he suggested a democratic system of state and national conventions to unite Episcopalians. A small supervisory group of clergy, while not technically bishops, could be given the right to administer ‘intermediate ordinations’ along the lines of the emergency baptism already acknowledged in the Prayer Book. Eventually, White expected, England would have to acknowledge the independence of the American nation and at that time any defect in American orders could be made good by the formal consecration of the supervisors and, in turn, conditional ordination of other clergy from the

episcopal succession of the English church. Events rendered such an expedient unnecessary although White’s hopes for a federal church government were fulfilled when the first General Convention of the Protestant Episcopal Church met under his presidency in September 1785.

The proposal was to stimulate another, more traditional, response however. The anxiety, which White had tried to remove from the minds of ‘sincere persons’ had to do with the proper autonomy of the American church from foreign jurisdiction or control. In the northern states concern was concentrated on the appropriate way for the local church to be integrated within the universal history and constitution of the holy catholic church. In the spring of 1783 ten of the fourteen clergy remaining in Connecticut met to discuss ‘the Philadelphia Plan’ and it was this gathering which nominated Seabury to be their bishop. They communicated their decision to clergy in New York, indicated their readiness to acknowledge Seabury’s authority when he was consecrated, and even gained a statement from the state legislature to the effect that as by law all Christian churches existed in a state of equality there, no objection could be raised to the Episcopalians organizing themselves according to their preferred polity. By 7 July Seabury was in London with the request that he be made a bishop.

Another factor in the sequence of events which followed was the way in which the Scottish Episcopal Church had been effectively lost to English consciousness for 150 years! After the reformation north of the border, episcopacy had been reinstated in Scotland in 1610, and further consecrations for the Scottish church took place in England at the time of the Restoration.5 However, when the Scottish bishops refused to transfer their allegiance from the last of the Stuarts, James VII/II, to William of Orange, the Episcopal Church entered a period of severe persecution which increased as the years passed by. The Jacobite rising of 1745 brought penal measures to bear on Episcopalians whose worship and organization was rendered illegal. Scottish Episcopalians, such as sur-

5. The way in which Richard Bancroft, at the request of the General Assembly, consecrated three Scottish bishops could have been an interesting precedent for White’s proposal, should it have come to effect. Since 1572 they had been titular bishops, acting in a supervisory role but without being consecrated or episcopally ordained. The Laudians were uncertain about this procedure and that was one of the reasons for further Scottish bishops to be made in 1661. The per saltum ordinations (lit. ‘at a leap’—when all three episcopal orders were conveyed at once without the usual ‘interstices’) were considered as a possible route to ‘Home Reunion’ by the 1908 Lambeth Conference Unity Committee (The Five Lambeth Conferences [London: SPCK, 1920], p. 432).
vived, kept their English connections with the non-Jurors: the Church of England’s contacts were with the ‘qualified congregations’ whose clergy had been ordained in England or Ireland, used the English services, prayed for the House of Hanover, and did not recognize the authority of the Scottish bishops. Pressured by English legislation on the one hand and Scottish Presbyterianism on the other, the Episcopalian virtually disappeared underground, but their continued existence at least gave notice that Anglican tradition could survive without support from the state or national history, but solely upon the claims of its faith and order.

When it came to the point, Seabury did not overlook those claims. There is evidence that the possibility of turning to the Scots for episcopal orders had been discussed before he left America, and certainly George Berkeley, son of the famous philosopher, had made contact with Scottish churchmen about that possibility before Seabury had even arrived in London. Bishop Berkeley had spent three years as a young man in Newport, Rhode Island, seeking to establish a missionary college there and his affection for the Americans had carried over to his son. But the most obvious reason for Seabury to contact John Skinner, bishop of Aberdeen, when all his negotiations with the Archbishop of Canterbury came to nothing, was that he had himself studied medicine in Edinburgh before his ordination and knew something of the church situation there. Whatever the circumstances, on 14 November 1784, Samuel Seabury was consecrated by four Scottish bishops to convey, as they put it, ‘the blessings of a free, valid and purely Ecclesiastical Episcopacy’ to the church in the United States.

Establishing Concord

The next day the Scottish bishops composed a Letter of Commendation for Seabury to take back to America, and he agreed with them a Concordate ‘to establish a bond of peace, and holy Communion’ between their two churches.6 This document was to be significant for the way in which

the American church came to define its own character, but it also displays a remarkable fore-shadowing of the way in which other Anglican churches would come to organize themselves by way of ‘consensual compact’ and define their relationship to each other in terms of ‘a fellowship of national churches’. It presents a formative example for dealing with the question of Anglican identity. Agreement was expressed on seven points.

(1) Both churches were united upon the scriptural foundations of the faith. In the terminology of their times, ‘They agree in thankfully receiving, and humbly and heartily embracing the whole Doctrine of the Gospel, as revealed and set forth in the holy Scriptures; and it is their earnest and united Desire to maintain the Analogy of the common Faith, once delivered to the Saints …’.

(2) Next there was agreement on the spiritual nature of the church and the necessity of properly defined roles for bishops, clergy and laity. In both Scotland and America the fear of prelacy loomed large and while neither church was in a position, even if it were so inclined, to impose that sort of model on the episcopate, both wished to be sure that bishops could not be seen as the creation of the state or even merely by the will of the church. Bishops are the chief ministers under Christ of a spiritual society, ‘whose exercise of their sacred Office being independent of all Lay powers, it follows of consequence, that their spiritual Authority, and Jurisdiction cannot be affected by any Lay-Deprivation’.

(3) The third article made the sacramental reciprocity that was to exist between the churches quite clear. Furthermore it also pointed out some obligations incurred along with this fraternal relationship. Members of both churches may freely and safely communicate with each other ‘when their Occasions call them from one Country to the other’. However, when in Scotland Americans should take care ‘not to hold communion in sacred Offices with those persons, who under pretence of Ordination by an English, or Irish Bishop, do or shall take upon them to officiate as Clergymen in any part of the national Church of Scotland, and whom the Scottish Bishops cannot help looking upon as schismatical Intruders…’. This may sound an extraordinary provision and reflect an incredible situation (for at the time the Scots were technically ‘in communion’ with only two English congregations—successors of the non-jurors—in Newcastle and London, and a house meeting in Bath), but it at least demonstrates how in a fraternity of churches each partner accepts the concerns not to mention the limitations of the others. More positively it can be taken to indicate that the mere possession of episcopal ordination was not on its own sufficient grounds for communion. Participation in the common life, worship and discipline of a particular
Christian community was necessary too. Episcopacy is for the ordering of the church, not just its legitimation.

(4) A common life requires a degree of common worship and discipline, such as ‘is consistent with different Circumstances and Customs of Nations’. This is a remarkable recognition of the contextualizing of liturgy. Continuity and change, unity and diversity all have their part in expressing the life of a Christian community. Divergence as a result of cultural or political differences would be restrained by ‘the firm intention to observe such prudent Generality in their public Prayers … as shall appear most agreeable to Apostolic Rules, and the practice of the primitive Church’.

(5) At the heart of this shared liturgical tradition lay the celebration of the holy communion, and the emphasis given to this among the seven articles justifies its quotation in full.

As the celebration on the holy Eucharist, or the Administration of the Sacrament of the Body and Blood of Christ, is the principal Bond of Union among Christians, as well as the most Solemn Act of Worship in the Christian Church, the Bishops aforesaid agree in desiring that there may be as little Variance here as possible. And tho’ the Scottish Bishops are very far from prescribing to their brethren in this matter, they cannot help ardently wishing that Bishop Seabury would endeavour all he can consistently with peace and prudence, to make the Celebration of this venerable Mystery conformable to the most primitive Doctrine and practice in that respect: which is the pattern the Church of Scotland has copied after in her Communion Office, and which it has been the wish of some of the most eminent Divines of the Church of England, that she had more closely followed, than she seems to have done since she gave up her first reformed Liturgy used in the Reign of King Edward VI, between which and the form used in the Church of Scotland there is no Difference in any point, which the primitive Church reckoned essential to the right Ministration of the holy Eucharist. In this capital Article therefore of the Eucharistic Service, in which the Scottish Bishops so earnestly wish for as much Unity as possible, Bishop Seabury also agreed to take a serious View of the Communion Office recommended by them, and if found agreeable to the genuine Standards of Antiquity, to give his sanction to it, and by gentle methods of Argument and persuasion, to endeavour, as they have done, to introduce it by degrees into practice without the Compulsion of Authority on the one side, or the prejudice of former Custom on the other.

This too is a remarkable statement for its times, and one which prefigured the future development of Anglican ecclesiology. Not only did it give a centrality to eucharistic theology long before its importance was generally recognized in the Church of England, it also lays the claim that in some respects the Scottish church bore the Anglican tradition of eucharistic worship more accurately than did its southern counterpart.
It is not necessary now to investigate that claim, except by noting how closely the course of contemporary English liturgical revision which culminated in the *Alternative Service Book* of 1980 and *Common Worship* in 2000 has replicated the pattern of the Scottish books of 1637 and 1764. In saying that, however, it is even more fitting to note the way in which the Scottish bishops made their assertion. While being confident of the liturgical inheritance they had to confer, they offered it not as a matter of prescription or compulsion, but in a common subjection to the standards of antiquity and the example of the early church. Authority in such matters was not imposed by way of a demand for uniformity of practice, but by argument and persuasion, gradually, and consistent with principles of prudence and peace. This too was an attitude quite alien to the experience of the Church of England at the time, but a foretaste of the pattern of authority developed—in its better moments, and there have been a few of them—within the Anglican Communion.

(6) Intercommunion was not just a matter of legal provision. ‘It is hereby agreed and resolved … that a brotherly fellowship be henceforth maintained between the Episcopal Churches in Scotland and Connecticut, and such mutual Intercourse in Ecclesiastical correspondence carried on, when Opportunity offers, or necessity requires as may tend to the Support, and Edification of both Churches’. The terminology looks towards the ‘brotherly counsel and encouragement’ of the first Lambeth Conference, not to mention more recent development of structures for inter-Anglican consultation, and the opportunities of the Internet!

(7) The final article expresses the sincerity of the author’s intention, and the hope that they will be judged simply by how far they promote ‘the Cause of Truth, and the common Salvation’.

*Achieving Unity*

The fact that Seabury had been made a bishop was only the first step towards the achievement of a clear episcopal order in the new church. In 1787, when the English parliament, realizing that it was overtaken by events, had passed enabling legislation to permit White and Samuel Provoost from New York to be consecrated in Lambeth Palace Chapel, the situation could be said to have worsened not improved. At that point the American church had two episcopates: one Scottish in origin, High Church and Tory, the other English, Latitudinarian and patriotic to the cause of the newly formed United States. The differences were not just theological. The fact that Seabury had been chaplain to British forces during the war for independence was something that Provoost, a chaplain to the patriots at the time, found difficult to forget. But in the end it
was theological agreement that was needed. For White and the churches in the south episcopacy was the coping stone which set off the democratic edifice of the church, and the outline Constitution that had been drawn up under his chairmanship reflected his populist sentiments. By contrast, Seabury and his supporters saw the office as the foundation stone of the church and resisted an understanding of the church that gave no distinct role to its bishops. They were also more conservative, and in matters of doctrine, discipline and worship sought a clearer identification with the traditions received from the Church of England—in which they received incidental support from the consecrating bishops at Lambeth. Eventually in 1789, after much correspondence and patient diplomacy, the Constitution was formalized. Seabury allowed lay representation but gained a distinct voice (although at that time no absolute veto) for bishops on vital issues. The Athanasian Creed was not included in the Prayer Book, but other more radical revisions were dropped, and Seabury was true to his word by insisting on the significance of the Scottish concordat and its implications for the liturgy. The formal union was made personal when the Convention requested Seabury to join the other bishops in consecrating further nominees to the episcopate, and although this did not actually take place until 1792, it sealed the formation of the Protestant Episcopal Church of the United States of America.

It was a remarkable achievement: ‘an historical church reorganized on new federal principles, with constitutional episcopate preserved by democratic elections in place of the monarchical episcopate continued by royal appointment, and a constitutional and canonical structure fully preserving the continuity of the historic episcopate and conciliar principle of the Catholic church without sacrificing its rich Protestant heritage and religious freedom’. This represented, both in terms of the inward transformation of the American church and the relationships established with the Scottish and English churches from which it was drawn, the beginnings of global Anglicanism as we have known it. It will not do to be too pompous about this. Canon Herklots pointed out the historic irony of Seabury, who had closed his church during the war because he could not pray publically for the King, being consecrated by Jacobite bishops who would not pray for the king at all. The irony was doubled when White and Provoost, defenders of democracy and repub-

7. The new Prayer Book included the prayers of Oblation and Invocation in the form and structure of the Scottish book, which had in turn taken them from the English Prayer Book of 1549.
licanism were made bishops in Lambeth Palace, the very centre of what they saw as prelatical tyranny. And those familiar with the old line (from the days before the Church Commissioners’ fall from grace) that what holds the Church of England together is the Clergy Pension Fund, may be amused to reflect that the discussions which led to the eventual unification of the American episcopate began at meetings of the Corporation for the Relief of the Widows and Orphans of the Clergy, the only representative national body which the American church at that time possessed!

It is only fair also to note eventual enlargement of the Church of England’s catholicity. A theological undergirding for that enlargement would have to wait for another half-century, and by then it was the experience of Anglicans in distant places that pressed the issue upon English consciousness. Before that, though, there was the experience of Anglicans closer at hand. In 1788, while the links with America were still fresh, the last Stuart claimant to the throne of the United Kingdom died, thus removing the cause of the Scottish episcopalian offence. The penal codes were withdrawn, and at the synod of Laurencekirk in 1804 the Scottish church, by then reduced to four bishops and about 40 clergy, adopted the Thirty-nine Articles as its confession. Most of the English clergy in Scotland immediately acknowledged the authority of the Primas, thereby uniting the ‘qualified’ with the indigenous ministries. By the beginning of the nineteenth century, and at the start of the great period of missionary and colonial expansion by the English-speaking churches, it could be said that the ‘communion’ formed between the Scottish and American churches had also been joined by the Church of England.

**Truth, Unity and Concord**

While it is possible to make light of the rather impromptu circumstances under which the American episcopate was created, it nonetheless raises important issues about the development and maintenance of communion between Anglican churches, and what insight they might contribute to the wider fellowship of the ecumenical movement. It is important in considering this to complete the quotation taken as the main title of this essay: the prayer of the church for ‘a spirit of truth, unity and concord’.

The question of communion and intercommunion between churches should not be reduced just to pragmatic arrangements and diplomatic accommodation between divergent groups of Christians, as often appears to be the case in contemporary discussions. If the relationship of Christian people is an expression of the reality of God, as the classic saying from the High Priestly prayer puts it (Jn 17.5), then it must be
expressed in terms of the truth of the gospel. This is not the point to embark on an examination of what that might mean, but the events that have been traced perhaps indicate three aspects of what could be involved.10

(1) Terms of communion between churches involve a number of factors. For reasons that we cannot explore now, Anglicans have frequently given the impression that for them communion is simply a question of whether or not the churches concerned possess the historic episcopate. Episcopacy, however it is interpreted, exists as a witness to the continuity and trustworthiness of the gospel. It does not stand, of itself, as a kind of ecclesiastical totem pole guarding the virility and well-being of a denominational tribe. On the strictest reading of the tradition the existence of bishops is a necessary but not a sufficient indicator of Anglican identity. The fact that American Anglicans existed for nearly two centuries with the closest bishop 3000 miles away, suggests that other readings are at least possible. What the concordat between the Scottish and American churches indicates is that sharing in episcopal orders also implies holding a common faith in the gospel; willingness to recognize each other’s respective jurisdiction and independence; a pattern of worship which is plainly recognizable between one church and another despite cultural differences; eucharistic sharing; and, perhaps what is easily overlooked and yet a component in all the rest, ‘mutual intercourse in Ecclesiastical correspondence’ — that is, the will to confer and collaborate in order to sustain a common vision and vocation. Intercommunion is not a sacramental life-line thrown from one church to another as much as it is a network of faith and practice upon which different churches can develop their calling to unity and mission.

(2) Communion between churches will always be incomplete. The somewhat ad hoc arrangements by which relationships were cemented in the eighteenth century meant that some anomalies were inevitable. Even after the American Constitution was finalized and the linkage of the Scottish-American and American-English churches had been recognized, the Scottish and English churches remained in separation. Later, when that division had been healed, a further restriction to full communion remained. The legislation that had allowed the consecration in the

10. The subject is a prominent theme traced by Paul Avis, Anglicanism and the Christian Church (Edinburgh: T. & T. Clark, 1989), where a historic Anglican debate leads to the conclusion: ‘Baptism is the fundamental sacrament of Christianity … Baptism constitutes the ground of our unity … We do not deny one another’s baptism; therefore we cannot deny our mutual status in Christ … We seek to be in communion with those who are already in communion with our Lord’ (p. 311).
Lambeth Palace Chapel of White and Provoost, and three years later also that of James Madison, included the following exception:

no Person or Persons consecrated to the Office of Bishop in the Manner aforesaid, not any Person or Persons admitted to the Order of Deacon or Priest by any Bishop or Bishops so consecrated, or by the Successor or Successors of any Bishop or Bishops so consecrated, shall be thereby enabled to exercise his or their respective Office or Offices within His Majesty’s Dominions.

At the present time Anglicans are facing the fact that since the inclusion of women in the priesthood and episcopate in several provinces, then at least as far as the interchangeability of ministries is concerned, their sense of communion is impaired. Differences over issues of human sexuality have meant that some Anglican churches have felt obliged to withdraw their fellowship from others. That all represents a loss, but not an irreparable one. If communion is really a reflection of the being of God in Trinity, and offers a foretaste of the rule of his Kingdom, then almost inevitably the Church’s appropriation of that gift will be incomplete. The Eames Commission on women in the episcopate took that realization seriously. It insisted that all church structures are penultimate. Unity between Christians is always provisional. Communion between churches is by definition and to some degree impaired, restricted or partial. While the current situation in the Anglican Communion must be acknowledged as failure, it is also worth recalling that Anglicans have been in this situation before, and to look forward in hope.

(3) Structures of unity should always make possible a fuller communion. The restrictions imposed by the Church of England on American clergy were only gradually relaxed. When Bishop Hobart, a successor to Provoost in New York, made a celebrated visit to Europe in 1825 he was amused to find that the Pope permitted him to preach in Rome but the Archbishop of Canterbury would not offer the same freedom in England. The eventual achievement of genuine reciprocity was a result of the meetings (and ‘Ecclesiastical correspondence’) which culminated in the first Lambeth conference, and the development of Anglican self-consciousness which accompanied it.11 What is significant here is that such bonds of union as had been forged were sufficiently strong to allow this development to take place. If the present situation is at all comparable, it is important that members of the Anglican Communion use those elements

11. This was expressed legally in the Colonial Clergy Act of 1874, which made clear that the right to minister in the Church of England was determined by the organization and discipline of that church, not the nationality or the source of ordination of overseas Anglican ministers.
of common life which they can enjoy to keep talking to each other. Where it has been pastorally necessary to create systems of extended episcopal oversight, alternative chapters and synods, or even continuing churches, then the question is whether these are intended as structures to maintain unity, or barricades which will perpetuate division.

The Anglican tradition, from its beginnings, has known what it is to live with the transitoriness of history. The formation of the Anglican Communion gives evidence that it is possible to make substantial progress towards unity even in that condition. If Anglicans have anything to offer the ecumenical enterprise today it will be as they are enabled to harmonize a communion in faith which they already possess, with a hope for greater wholeness yet to be achieved in the future—and by Christian love, hold together their differences in the meantime.
The Theological Accoutrements of Anti-Pluralism:
The Confused Fate of American Episcopalianism

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ABSTRACT

This article examines the theological and ecclesial tensions that resulted from transplanting the established episcopalian polity and vision of the Church of England within the context of an evolving religious pluralism in America. The theological integralism of Anglican self-understanding as a result was forced to adjust itself in different and still uncomfortable ways within American Episcopalianism, and subsequent limitations on and inner conflicts within Anglican life in the United States (and beyond) are tied in part to these still unresolved tensions.

Introduction

The current struggles within the American Episcopal Church have properly been seen in light of major social developments within American Christianity and culture in general. More recently, a global context for these tensions has begun to be sketched historically and sociologically, even while American Anglicanism has found itself at the center of a growing international storm, theologically and ecclesiologically. While the continuities between the dynamics of Anglican life in America and the rest of American society, or between the Episcopal Church and the rest of Anglicanism, have been constructively stressed in many of these studies, the peculiar footing, theologically and socially, of American

1. Cf. Richard Hutcheson, Jr and Peggy Shriver, The Divided Church: Moving Liberals and Conservatives from Diatribe to Dialogue (Downers Grove, IL: InterVarsity Press, 1999), ch. 3, ‘Sociological Help in Understanding the Splits’; while dated, the material cited here is still helpful.

Episcopalianism has often not received the attention it deserves, sometimes leading to mistaken judgments both from within and from outside the denomination as to the character of the Church’s health or disease. The present essay represents a limited attempt at outlining one aspect of the Episcopal Church in the USA’s (hereafter ECUSA) strange and uncertain location within its larger nation and communion, and suggests that the contested character of her identity at present stands as a rooted but highly peculiar element of her original constitution, still seeking resolution. It is peculiar because it is tied to a unique confluence of motive principle and social location whose basic incongruity is only now becoming apparent through the political fracturing of her common life and of her relations with other Anglican churches.

My main argument is this: many of the consciously assumed theological forms of American Episcopalianism derive from a broad anti-pluralist principle, which I identify as the ‘High Church’ principle. This principle, although of significant foundational influence, has never been consciously embraced by the American church and is not one that, in any case, the Church’s formal organization within an accepted denominational context has in fact rendered largely incoherent (if it was not in fact already so from the start). Episcopalians have been struggling with this incoherence in one fashion or another from their church’s birth; but only in the last few decades, with the collapse of the soothing veil of Protestant civic religion, has the incoherence actually demanded deliberate response. If US Episcopalians are in a kind of institutional crisis, it is also one that can be seen as an unprecedented moment of potential self-awareness.

The Character of High Church Pluralism and Anti-pluralism

Let us begin by defining some terms. By ‘High Church’, I refer to a limited set of eighteenth-century attitudes, shared by a relatively disparate, but bounded group of Anglican thinkers. Their viewpoints were informed by late seventeenth-century defenders of the re-established Church of England. But the creative vision of High Church Anglicans was actually rooted in their own minority sense of beleaguered ortho-

3. Although its major focus is on a later era, Peter B. Nockles’ The Oxford Movement in Context: Anglican High Churchmanship 1760–1857 (Cambridge: Cambridge University Press, 1997) contains a good bibliography on relevant material. For background on the American scene, and a discussion of the nineteenth century in particular, see Bruce Mullin, Episcopal Vision/American Reality: High Church Theology and Social Thought in Evangelical America (New Haven: Yale University Press, 1986).
doxy, honed amid the theological ferment of the early and mid eighteenth century. This was the period when, in the wake of the defeat of Bishop Francis Atterbury’s party in 1717, the Church of England’s convocation was prorogued (suspended) for what would be in effect almost 150 years. It was an astonishing phenomenon, brought on in order to suppress a condemnation in the Lower House of the liberal Bishop Benjamin Hoadly. High Church Anglicans were not really a party in the Church, since after 1717 their numbers were rarely granted preferments and positions of power. Furthermore, their frequently suspected connections with the politically disastrous views of the Non-Jurors and Jacobites marginalized their influence. They were more a scattered group of scholarly and homiletic agitators, most lower clergy, who fought a rearguard action against English society’s (and the Church of England’s) evolving embrace of sectarian toleration. Familiar names from among High Church writers are those of William Law (in his early work), Joseph Butler, George Horne, William Jones, and later in the century, Samuel Horsley.

There is more to be said about this below. At this point I want to stress what I shall call the High Church commitment to ‘anti-pluralism’. And here I need to specify a number of different meanings that will be attached to the term, but that must nonetheless be distinguished if we are to make some sense of the fate of High Church principles in the American context. In this regard, I will note three different referents for the concept of anti-pluralism.

Christian anti-pluralism can first be identified as a sociological category referring to visible forms of community. A social anti-pluralist in this case is one who is committed to a unified visible structure of Christian common life within a given society. Such social anti-pluralism, from a Christian context, has often been linked to the advocacy of some form of catholic (small ‘c’) polity (as in Sweden), but not always (as in Scotland). In any case, when pressed, Christian social anti-pluralism is epitomized in the phenomenon of ecclesial establishment within a society — one civil society, one church. Richard Hooker gave a vigorous defense of this when he argued that, in a society that happens to be Christian, it is appropriate that the magistracy (and King) enforce a common ecclesial existence.\(^4\) Social pluralism in a Christian context has, by contrast, accepted or sometimes encouraged visible political distinctions among Christian communities. Such pluralism is epitomized in the phenomenon of affirmed or positive denominationalism. In the context of the eighteenth century,

\(^4\) This argument forms the major focus of Book VIII of Hooker’s *Of the Laws of Ecclesiastical Polity*. See especially ch. 4.
High Church Anglicans were (to use a word always in search of a proper referent) ‘anti-disestablishmentarians’ with respect to the Church of England. They did not want the Church of England made optional to the populace. They were, in other words, social anti-pluralists.

Anti-pluralism and pluralism can also refer to attitudes towards intra-communal composition, that is, what individual religious communities within a given society might look like in their membership. Intra-communal anti-pluralists, in this sense, favor homogeneous local church communities, composed of a single kind of person—racially, politically, even theologically; pluralists, by contrast, favor individual communities of diversity. Often, as part of the maintenance of such homogeneity, forms of interaction are regimented and regulated, as opposed to being primarily discretionary and charitable. So, although High Church Anglicans were social anti-pluralists, they were also, by and large, intra-communal pluralists, as indeed are most ‘catholics’ (especially those of a conscious Augustinian outlook in the West); for they wanted their churches to be composed of every subgroup in society. This distinction is important to note, given that the developing context of American denominationalism fed off (and continues to feed off) particular icons of ‘pluralism’ that are often in practice justifications for socially homogeneous sectarianism.

But anti-pluralism can also be located in the epistemological (and by extension the narrowly theological) sphere. Where only one truth is affirmed, and only a narrow range of legitimate approaches to apprehending and articulating this truth is allowed, one has an anti-pluralist outlook. Epistemological pluralists, by contrast, affirm many possible truths, or many truths in fact, and practically speaking they affirm many legitimate avenues to their apprehension. High Church Anglicans were epistemological anti-pluralists. By contrast, American religious society within much of what would become ‘mainline’ Christianity (including episcopalianism) would move in the self-consciously pluralist epistemological direction, feeding off of the ‘Latitudinarian’ root of Whig religious politics that found such fertile ground in the Colonies.

When I speak of ‘High-Church anti-pluralism’, then, I will be referring to those High-Church commitments that opposed denominationalism (while generally favoring establishment), as well as those commitments that affirmed a single and unified divine truth and its articulate expression; but no more than this. For with respect to intra-communal composition and communicative practice, High Church Anglicans were, according to their own principles, more likely to be pluralists than not. Further, we need to distinguish between the anti-pluralist thrust of the High Church movement, and the particular forms of life this orientation adopted—especially the episcopacy and the Prayer Book. These may
Finally, I need to stress that the distinctions between these terms and their multiple levels of reference are necessary to draw, however confusing they may seem. It is just because the terms themselves have been and continue to be used in a variety of ways by religious apologists and polemicists even in our own day, often drawing on historical resonances that have nonetheless changed substance, that basic commitments in religious purpose among American Episcopalians (as among others) continue to be plagued by misconception and incoherence.

**The American Example of Samuel Johnson**

Now I shall turn to the first of my two issues: in what way did High Church anti-pluralism define American Episcopalianism, and what are the forms of this definition? To tackle this question adequately, a careful historical and conceptual argument would need to be mounted, which the present essay does not allow. Instead, I will simply outline a typical example of High Church anti-pluralism’s genesis and form within the American context, and then try to test the example, however sketchily, against the wider canvass of Anglican High Church experience. Only after doing this, can we turn to my second question, which asks how this anti-pluralist definition of the Episcopal Church has set in motion a theological dynamic that now requires some serious response.

The example I shall examine is an unfamiliar one. This is the so-called ‘father of New England Episcopalianism’, the eighteenth-century Connecticut divine Samuel Johnson. Johnson received a good bit of scholarly interest in the 1970s, when several studies were published and some major dissertations were written on him.5 His attraction for researchers at that time lay primarily in the way he exemplified a previously unacknowledged strand of New England religiosity, the complexities of whose Puritan character had suddenly been opened up in the burgeoning field of intellectual and social history of the period. Johnson’s Anglicanism and its definitive role in more specifically episcopal theology and practice have remained under-appreciated, however. Furthermore, his writings, a large portion of which were published in four volumes in the early

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part of the century, remain hard to find. To this day, Johnson is remembered primarily as the founding president of King’s College in New York, reopened as Columbia College (now University) in 1784, and one can still find him cited in footnotes as a leader of the then notorious ‘Yale apostasy’, in 1722. This latter episode occurred when several tutors of the young college in New Haven, with Johnson in the lead, renounced their Congregationalist orders, and affiliated themselves with the ‘established’ Church of England. Johnson’s intellectual and clerical career in fact represents the transplantation of English High Church principles into the active self-understanding of American Anglicanism.

Johnson was born in 1696, in Guilford, into a family with at least one respected Puritan minister to its name. As an apparently precocious and instinctively studious child, he was early oriented towards the ministry, and at the age of 14 was sent to study at what turned out to be the beginnings of Yale College, then located in Saybrook, Connecticut. As he recounts in his own *Autobiography*, which he wrote shortly before his death in 1772, it was the advent of a large library of books from England, containing a number of Anglican treatises, that proved the occasion for Johnson’s intellectual disaffection with the Dissenting culture of which he was a part. By the time Johnson was ordained and installed at the church in West Haven, in 1720, he had already imbibed a good bit of Restoration Anglican theology, and entered his new ministry with an enthusiasm tempered by increased doubts as to the structure of the church of which he was taking charge.

If anything, the experience of leading a congregation only sealed these doubts, as he found himself in the midst of a form of common life whose worship and internal interactions fostered, as he saw it, the worst aspects of divisive human pride. Along with a dislike for the vagaries of *ex tempore* worship, conducive to individual enthusiasms as he believed, Johnson wrote that ‘the congregational form of church government tended too much to conceit and self-sufficiency and to endless feuds, censoriousness and uncharitableness while the discipline was often on mere human frailties and made a means to revenge little private quarrels and issued in great animosities and often in virulent separations’. Through his reading, which he pursued with several other prominent teachers at Yale, he came to ‘understand the nature of the episcopal government of the church’ and ‘to see the reasonableness and great advantage of it and indeed the superior excellency of the government of

England’.7 Contact with a local Anglican missionary only strengthened him in these views. And in September, 1722, at Yale’s Commencement, the trustees of the school asked Johnson and six other tutors and ministers to answer rumors they had heard as to their waverings religious orthodoxy. It was at this meeting that Johnson made the notorious declaration that he viewed his Presbyterian orders as invalid. When it became public, a storm of controversy broke out that involved the Assembly of the colony and entangled even the religious establishment in Boston.

Later that year, Johnson resigned his charge in West Haven and along with two of his ‘apostate’ colleagues, one of whom had been the rector of Yale College, Timothy Cutler, he embarked for England, where he was ordained a priest by the Bishop of Norwich, and enlisted as a missionary in the Connecticut colony by the Society for the Propagation of the Gospel (SPG). While there, he busily devoured every aspect of English culture he encountered. One of his companions having died on the way, Johnson returned to America the following year, and began a long ministry at Christ Church in Stratford, Connecticut. From this station, he trained a number of young men for the Anglican ministry, including Samuel Seabury, wrote a number of treatises, and engaged in a long correspondence with many learned men in the colonies, such as Benjamin Franklin, and abroad, including Bishop George Berkeley.8

Even more importantly, Johnson became the spokesperson, through his informal and formal correspondence with the SPG and the English episcopal hierarchy, for the granting of a local bishop to the American colonies. This last was a cause in which he was to fail, although his arguments and vigorous leadership in pursuing it, laid the groundwork for the establishment of an independent Anglican episcopacy following the Revolution.

Finally, in 1754, Johnson left his parish to take charge of the new school in New York, King’s College, implementing a curriculum built around his own philosophical textbook (the first published in America), and attempting to get the new venture off the ground. Much of this period, however, until his resignation in 1762, was ravaged by the effects of successive outbreaks of smallpox, forcing his frequent and extended exile from the city. During this time, his youngest son died in England.

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shortly after receiving episcopal ordination, while the smallpox claimed both the mother of his children and a second wife he later married. Worn and distraught, Johnson spent the last ten years of his life in retirement in Stratford, Connecticut.

Johnson’s theological attitudes remained fairly consistent from his early years at Yale until his death, despite being elaborated successively according to several philosophical schemes, including those of Berkeley and John Hutchinson. In their particulars, some of his ideas no doubt arose out of the tradition of William Ames’ Puritan Platonism in which he was originally trained. But it was the discovery of the arguments of Anglican restorationism that brought a coherent ecclesiological shape to his reflections, and that ultimately gave them an unmistakable High Church stamp. In 1733, for instance, Johnson published the first in a series of three public ‘Letters to his dissenting parishioners’. The first represented an analytical defense of Anglican principles, and constituted a plea to his non-Anglican neighbors to put aside the scurrilous misinformation with which the Church of England was being tainted, and to ‘fly into her bosom, as into the ark, and not be contented a day out of our communion’. In this letter Johnson conveniently lists the elements that mark Anglican Superiority, and they are ones he repeats elsewhere throughout his life. A quick review of his ten points reveals little of surprise, except the degree to which some of them still inform our contemporary notions of Episcopalian identity.

In the first place, Johnson affirms the pneumatically legitimated and apostolically inaugurated ecclesial ordering of episcopacy. ‘In casting off this order of bishops’, he writes to his dissenting neighbors, ‘you seem to me to have rejected an ordinance of God, and might as well have cast off any other of his instructions that you do retain’. Second, Dissenters have neglected the passive obedience to civil authority demanded especially by the apostle Paul. For in rejecting a church established by King and Parliament, assuming that such a church is fundamentally sound in the faith, they have transgressed a basic Christian duty. Third, and related to this, such separation in its very enactment, must therefore constitute ‘schism’: ‘it is clear to me that you have broken the peace of the Body of Christ, by needless divisions’. The tone is somber and weighty.

The next six points deal with issues of worship. Among the most important is the fact that Dissenting churches do not demand the regular and ordered reading of Scripture in public worship, as an integral part

10. Schneider and Schneider, Samuel Johnson, III, p. 29.
of their common life; instead, ‘[you] jostle out the reading of God’s holy word’ through ‘[your] conceited’ promotion of ‘what you call your gifts’.\(^{11}\) This is tied to Johnson’s rejection of \textit{ex tempore} prayer. Anglican worship is rightly defined by formalized and prescribed prayer, much of which is composed of the very words of Scripture, whereby ‘we offer up our address to God unanimously, with the unity of the Spirit, in the bond of peace, [lifting] up holy hands without wrath or doubting’. Such prayer, composed predominantly of psalmic elements, is further embodied in a comprehensive gestural framework—kneeling, and the like—which submits, if only symbolically, the whole of the gathered people’s lives to a unified self-offering. In rejecting such formal prayer, Dissenting churches have dispensed altogether with the very means by which congregations enact the unifying work of the Spirit’s disclosure of the truth.

Only with the tenth and final point does Johnson broach a specifically doctrinal issue: the Anglican rejection of the Dissenting teaching concerning God’s reproving decree. This is because the teaching is both unscriptural and unconducive to the expenditure of communally advantageous energies.

If there is an underlying motif to this catalogue of traditional debating points against the Puritans, long familiar from sixteenth-century controversialists like Whitgift, it is the theme of what can be called ‘integralism’. ‘Integralism’ refers to that subsuming motive for some grand and unifying choreography of Christian experience and knowledge.\(^{12}\) In this light, Johnson’s points can be organized under two related headings. The first is that of political integralism, as it touches upon both ecclesial and civil order: the church is to be unified under the bishop, and this ordering is to be brought into unity with the legitimate form of the state. This unified order of church and state, of course, represents the very definition of Episcopal establishment. It is held up as a bulwark against anarchy and the divisive sins of human pride, conceit and self-sufficiency, and it stands as an emblematic human institution reflective of the divine unity and singular sovereignty of God. Further, it functions on the basis of and as a school for love, in mutual subjection (a very Augustinian perspective on enforced catholicity).

Along with political integralism, Johnson’s vision of Anglican virtue is governed also by an epistemological integralism, which sees both the Scriptures, but also—and this is a distinctively Anglican assertion—the

\(^{11}\) Schneider and Schneider, \textit{Samuel Johnson}, III, p. 30.

\(^{12}\) The term here is used broadly, and is to be distinguished from those historically particular movements from within nineteenth-century Continental and (with a different twist) American Roman Catholicism.
practice of scripturally enacted worship as the comprehensive disclosure and enforcer of divine truth. As the Scriptures in their breadth are displayed—hence the emphasis on the lectionary—and as their contents are formally enacted in a unified popular worship, the very Spirit of God works its revelatory mission, informing the gathered Christian people as the historical Body of Christ. This point cannot be overstressed, because while it is evident that liturgical concerns predominate in Johnson’s list, they are not simply the marks of a peculiar sensibility about worship. Rather, the specifically liturgical concerns are all ordered and justified according to this larger integralist principle of forming one people according to one truth in one place for one purpose. Johnson’s liturgical concerns, then, are but the analytic and experiential flip-side of Episcopal establishment, and its more socially explicit integralist purpose. And, of course, here is one of the crucial areas in which modern episcopal habits and commitments to what we now call peculiarly Anglican ‘styles’ of liturgical prayer sit awkwardly with their original theological rationale. Anglican worship and Episcopal establishment go together.

The anti-pluralistic foundations to these forms of integralism ought to be apparent. While Johnson never openly questioned the legal protections granted non-Anglican churches in the colonies, he repeatedly implied that an established Church of England in America would provide a far safer avenue of salvation for the inhabitants. It was the fact that Johnson addressed his Dissenting neighbors as his ‘parishioners’ that deeply rankled many of them. And his frequent references to Dissenting ‘disobedience’ to the ordinances of God, openly designated as ‘schism’, left little doubt in anyone’s mind that the very virtue of Anglicanism, as Johnson presented it, was its inner drive towards a visibly encompassing, that is anti-pluralist, religious comprehension of human life. The unity of the church and civil society was to be a reflection of the unity of God, both in his formal glory and in his historical sovereignty; and the orchestrated uniformity of scripturally parsed corporate prayer was to be the informing expression of this human manifestation of God’s character. From this perspective, the drive for the episcopacy, the primitivist explication of the Church’s structural consistency over time, and finally the constant press for a society of mutual subjection, within and without the church—all of which was characteristic of Johnson’s long and varied ministry—all derived from a rooted religious vision that could not theologically countenance the existence of denominational pluralism, however much its reality was inescapable within the colonies. If the presence of ‘sects’ was to be tolerated, it was only out of the very obedience to civil law that itself founded the unity of the true church.
Johnson’s ‘conversion’ to Anglicanism, we must note, was made before he had come into contact with High Church writers in particular. His broad integralism is no different than the basic outlook of the Elizabethan Settlement’s apologists, like Hooker. It was only later, after his visit to England, that he consciously adapted many of the High Churchmen’s more pungently aimed attitudes to his own teaching. But his vision was congruent with theirs from the start, in large measure because the colonial context in which he attempted to articulate an Anglican vision was a developed parallel to the political situation out of which the High Church movement in England itself arose. And here we can begin to test Johnson’s perspective as to its typical character. Is it not the case that Johnson’s attitude to social pluralism was born of the same confrontation between integralist vision and advancing religious toleration that characterized late seventeenth- and early eighteenth-century English theology? The horror of the Civil War had given new life to the Anglican defense of establishment after the Restoration; but the very desire for peace among religious factions at the same time contributed to a contradictory movement of thought in defense of tolerated pluralism. Spurred by the events surrounding the Revolution of 1688, the pluralistic impulse was epitomized in the publication of Locke’s *Letters on Toleration*, and in his redefinition of the Church—and inevitably of the plurality of diverse Churches—as voluntary associations founded on the uncoerced choice of individual conscience.

The High Church movement was a conscious reaction to the official adoption of the Lockean pluralist position, a position embodied in the provocative polemics of Bishop Benjamin Hoadly, and enacted in the slow removal of civil liabilities that had been placed on Dissenters after the Restoration in 1660. But it was not simply social pluralism that the High Churchmen attacked. They did so only because, from their perspective, the theologically informed integralism of their vision seemed profoundly threatened by the unrestricted rise of religious communal diversity. High Church theologians were by no means the only divines to resist the writings of anti-Trinitarians and Deists in the course of the eighteenth-century, but they offered the most comprehensive vision for such orthodox responses. Their arguments became tied to a rich recovery of mysticism, in the case of people like William Law and the Scottish Episcopalians, of figural hermeneutics, in the case of the so-called Hutchinsonians like George Horne and William Jones, and of historical ecclesiology as a scholarly discipline. And while not all High Churchmen were Tories—for example Archbishop Potter in the mid eighteenth century—most were. And it was almost a natural judgment to aver, as William Jones did in 1776, that England lost the American colonies to
rebellion and religious anarchy because the Church of England had failed to send a bishop to the Anglicans of the New World.\(^\text{13}\) This was certainly a judgment that Johnson, had he lived, would have seconded.

In fact, Samuel Johnson himself embraced the theological and epistemological ideas of High Church writers when they did become known to him. He did so with a relish and dedication that has marred his intellectual stature in the eyes of some contemporary scholars.\(^\text{14}\) Johnson fastened, for instance, upon the (retrospectively) outlandish elements of Hutchinsonian natural science, which tried to overturn the Newtonian theories of force with a strange mechanistic Trinitarian cabalism.\(^\text{15}\) These enthusiasms, however, were tied to the larger integralist vision of the High Church perspective, whose unified and emblematic universe of coordinated archetypes and scripturally encoded symbols was all of a single piece. Later Tractarians were not off the mark when they perceived the connection between Patristic and High Church metaphysics, despite the latter’s use as a basis for the oddities of Hutchinsonian physical science. For both the Fathers and the eighteenth-century High Churchmen, as Keble for one observed, affirmed a vision of the created universe as a grand gallery of scriptural symbols, each of which referred to the other in Christ. And the Church’s organized life, each felt, provided the unifying visible witness to this encompassing Christic design.

**The Dilemma of Episcopalian Theological Anti-Pluralism**

Prying out the episcopacy and the liturgical forms from this single piece, and resetting them within the context of a denominationally pluralist society, as the American Church did in its Constitution after Independence, is exactly what placed Episcopalianism upon a problematic foundation. Johnson’s protégé, Samuel Seabury, was instrumental in this process, insisting on the maintenance of an apostolically ordered episcopacy as the basis for the church’s polity, and adamant in the American church’s adoption of an integralist Prayer Book. We need not rehearse a well-known episode in American Anglicanism’s history here, but we should note that, in pressing his points with the American Church’s first convention, Seabury remained motivated by the same socially anti-

\(^{13}\) Address to the British Government (1776).

\(^{14}\) His interest in Berkeley’s immaterialism, while shared with others, was in part tied to his integralist orientation. (Scholars of Berkeley’s own religious views have only begun to reflect on the connections between his metaphysics and his hermeneutics and ecclesiology.)

\(^{15}\) For references, see Ephraim Radner, *The End of the Church* (Grand Rapids, MI: Eerdmans, 1998), pp. 102-103.

pluralist sentiments as had his mentor. However, the Anglican compromisers at the convention, coming from the middle Atlantic states and the south were already moving in an accepted social matrix that had gone beyond the High Church New England outlook. Social religious pluralism was affirmed by, for instance, William White, more or less on the same basis as Locke. The question the Episcopal Church’s formation elicited, then, became one of justifying the Anglican ecclesial community’s formal existence in itself within such an environment: to what end are bishops and prayer books ordered in a religiously non-integrated society?

No completely satisfactory answer has ever been given to this question, not least because religious pluralism, especially of an intra-Christian kind, has never been given a fundamental theological justification. And the potential of such a justification requires just the kind of ‘providentialism’ that has been scrupulously exiled from American mainline theological discourse. But although not really ‘satisfactory’, the working answer provided by someone like White has deeply colored, and confused, the self-understanding of Episcopalianism as it has faced the ebb and flow of denominational restructuring within American society. That working answer, according to White, lies within the context of ‘taste’, of the predilections individuals and groups hold for certain forms of worship and ecclesial ordering.16 For White, it was the political and moral demand for continued provision and enjoyment of the Anglican milieu, as experienced over decades by American colonists, that justified the organization of a continued and independent Anglican entity within the new United States. And this principle of entitled ‘ecclesial hedonism’ (understood in a philosophically strict sense) has both fueled American Episcopalianism’s evolving redefinition within the grip of religious consumerism (itself slave of socio-cultural fragmentations), and the transformation of High Church integralist ecclesial forms into marketable ‘accoutrements’ to be gathered, applied, and discarded as a kind of clothing.

In any case, a schematic rendering of the subsequent history of the Episcopal Church, according to these terms, might go like this: First, High Church Episcopalianists, some of whom appropriated Tractarian notions to their outlook in the nineteenth century, struggled to reconcile

16. See William White, The Case of the Episcopal Churches in the United States Considered (Philadelphia: David Claypoole, 1782). White’s seminal discussion of what an Episcopal Church in America might be, somehow still part of ‘the communion’ represented by the Church of England and its traditions, is fascinating and confused: the mixtures of commitment to ‘conformity’ and ‘latitude’, forms and freedoms, are hard to sort out. The discussion of taste in worship and polity can be found in the Preface and ch. 2, among others.
their committed social anti-pluralism to a denominationally diverse culture. This tended to move in an increasingly sectarian direction, as the ‘Anglican way’ was gradually elevated to the explicit level of the ‘way of salvation’, between corrupt Papistry and deluded Protestantism. One could live among diversity with a socially integralist vision if one was willing to damn the world. In someone like Henry Hobart, the sectarian aspect of this approach was mitigated somewhat, providing a bridge by which High Church forms could be appropriated in a more liberal way, although, as with Johnson, the underlying anti-pluralist premise remained clearly stated. Broad Church Episcopalians, by contrast, moved more easily within what became a relatively stable culture of civic Protestantism, where differences in denomination could be reduced to matters of social origin and educated taste (cf. William White above). Further, the merging of late eighteenth-century Deistic theology with low-churchmanship gave rise to developing strands of modern liberal religion, informed by its own integralist moral vision of a universal ethic expressed in the teaching figure of Jesus. Third, and finally, American evangelicalism acted as a peculiar embrace of pluralism, putting a twist on Locke’s own Christianity of the lowest-common-doctrinal-denominator enshrined in the individual conscience. The fluid substratum of this evangelical devotional orientation acted, in many regions of the country, as an environment with respect to which Episcopalian commitment could flow in and out according to individual circumstance.

What all three movements in the church—high church, liberal and evangelical—experienced in common was a shift of New American Anglicanism’s original social anti-pluralism into the intra-communal sphere. Each group adapted integralism to its American pluralistic context in its own way: High Church Episcopalians, by stubbornly attempting to maintain a broadly integralist vision; Broad Church liberals, by transferring that vision into a more limited ethical mode; or Evangelicals, by limiting it to a subsuming, though simple conversionistic epistemology. But all the while each group also sought to maintain the forms of theological integralism—episcopacy and scripturally integrative formal liturgy—that had proved the accoutrements of American Anglicanism’s original anti-pluralism. Within the religiously pluralist context of the United States, this was possible only by acquiescing to the freely associative aspects of denominational life itself, thereby submitting to the homogeneity of individual congregational communities driven by the dynamics, generally, of class, ethnic and professional identities and comforts. The Episcopal Church by and large today (and despite exceptions) remains what it has been for 200 years: the agglomerated preserve of like-originated, like-educated, like-remunerated individuals.
Far from projecting original meanings into later and evolved contexts, I see these original meanings as being consistently and intrinsically implicated in the evolution of ECUSA’s various self-understandings. The basic anti-pluralism that informed the High Church justification of American episcopacy and liturgical ordering, while it could not embrace the full political integralism of its origins, shifted its expression into other areas of religious concern. This did not allow for a completely logical maintenance of the integralist forms of High Church Anglicanism—episcopacy and scripturally regulated formal liturgy. But variously shifting the anti-pluralist motive at least eased the retention of these forms, so long as they were left socially undisturbed by the reality of political pluralism. What characterizes the last 30 years by contrast is the collapse of that shared culture of civic Protestantism that for so long allowed denominational entities to exist in an amiable social isolation from each other. A consumerized religious culture now marks the breadth of denominational existence, and having enveloped first evangelicalism it now marches through the cohorts of liberal and traditionalist American Christianity with an equal voraciousness. To use the jargon, the ‘hegemonic’ character of this advance, already unconsciously and almost prophetically noted in White’s original vision, has now even subsumed eighteenth-century religious pluralism and begun to transform it into the kind of endless self-projecting ingestions of fabricated religious simulacra described by sociologists like Baudrillard.

And in this context even the integralist forms of Anglicanism can be observed as gradually disintegrating and vanishing, both politically and epistemologically. Ironically, at a time when the episcopacy has achieved a certain ecumenical common value, its office and exercise has become subject in the Episcopal Church to an undeliberated devaluation. Concretely, we can see evangelicals, traditionalists, and liberals all inching towards de facto arrangements of polity that contradict the integrative unifying and teaching character of the office. I refer here to explicit proposals and conditional strategies for setting up parallel or alternative jurisdictions, reducing the bishop to local presbyter, and so on. In a more general way, we can note the widespread lack of interest, positive or negative, among the majority of Episcopalians in the ‘Call to Common Mission’ arrangements with ELCA Lutherans, not to mention the less defined, but widespread cynicism and disdain for episcopal leadership overall. Perhaps less obvious, but more profound, is the slow erosion evident in the commitment to a scripturally integrative formal worship, which has been gradually undermining the church’s adhesion to the broadly formational epistemology long associated with Anglican liturgy. Evidences of this are to be found particularly among charismatic and
revisionist approaches to liturgical practice and reform. One might add that the anti-intellectualism long associated with—and only recently decried within—evangelical circles has caught up with other parties in the church, embodied especially in the rejection of an integralist historical vision of the church’s existence—there is very little that Episcopalians actually feel can be learned from the past of their Anglican origins and continuing communal ties. 17 ‘Autonomy’ is first an intellectual commitment, even before it embodies a form of political existence; hence the almost impossible task non-American Anglicans face in convincing their ECUSA brothers and sisters to take seriously the limiting parameters, theological and ecclesiastical, ‘communion’ places upon local decision-making.

The Challenges of Social Pluralism

The final unmasking and acknowledgment of Christian social pluralism over the last three decades, therefore, presents denominations, and Episcopalianism as a kind of exemplar, with enormous challenges. They are, furthermore, challenges that will be faced with increasing force within non-Western Christian contexts— including Anglican ones—if and as the kinds of social transformations brought about by education, urbanization, and now networks of global communication take place along lines and with consequences similar to those experienced over the past two centuries in Western nations. Despite the sense among some that the recent tremendous growth of the Christian Church outside of the West represents a ‘passing of the torch’ to more conservative religious forces and outlooks, it is probable that conflicts between competing integralisms and pluralisms will envelop this part of world Christianity as well.

In the long term, the religious challenges caused by the social rejection of integralism will need to be met, I think, only through some kind of gigantic ecumenical transformation of denominational existence itself. What that could be today is no clearer than it was in 1929, when H. Richard Niebuhr ended his classic work on ‘the social sources of denominationalism’ with the vaguely blunt plea that churches ‘lose their lives’ in order to find ‘the Kingdom of God’. 18 It is hard to know what this might mean, however stirring and unsettling it sounds. And

17. Many of the anti-intellectual elements described in Mark Noll’s The Scandal of the Evangelical Mind (Grand Rapids, MI: Eerdmans, 1995) can be easily extracted from contemporary episcopal attitudes and practice mutatis mutandis.
whether the contemporary disintegration of the experiment of international Anglican ‘Communion’ is a part of such a hope’s unfolding, or a resistance to it, is impossible to say. At the moment, though, theological questions about the church are at the least being placed in a clearer light, though in different ways for each denomination.

Thus, in the short term, as one preparatory element for this larger ecumenical transformation, there is a need for the Episcopal Church to address anew elements of its own anti-pluralist theological accoutrements within this clarified context. Let me conclude with two limited suggestions in this regard. Together they touch on avenues of inquiry that are perhaps indicated by the socio-conceptual condition of the church, as outlined above. They may also contribute in an indirect way, if pursued, to the easing of those adversarial tensions so prominent within our midst, constructively informing the self-identity of the undefined center. In general, we might hope that the self-understanding of American Episcopalianism at the present time would be well served if theological reflection responded in a more deliberate and consistent way to the issues involved in the historical displacement of our denomination’s anti-pluralist character. We ought, in other words, to search for ways in which to frame some of the more basic integralist commitments of the church’s common life so that they can remain coherent with the social pluralism that defines our larger ecclesial location. Such reflection, however, would differ depending on the direction of anti-pluralist displacement one’s attitudes have suffered; but beyond that difference, it should be commonly characterized by what Álisdair MacIntyre has called the need that self-sustaining communities have to assimilate their experienced crises of self-knowledge into their own self-explanations.19

The first suggestion, then, is that evangelicals and liberals both need to direct their inquiries towards those integralist areas of Anglicanism to which they have least attended in their attachment to social pluralism, that is, to the areas of social and epistemological formation, or, in theologically systematic terms, to ecclesiology. The High Church concerns with the communally formative aspects of authority, cultural identity, shared patterns of inquiry, generational coherence, and the rest—all of this stands in need of careful scrutiny as social pluralism, for these groups, goes in search of communal justification. So-called post-liberal thought has been a useful jumping off place here, but it is not yet clear whether it offers the means yet to escape the intra-communal anti-pluralism that plagues all parties of the church, evangelicals and liberals

But within the Anglican context, something like an extended revisitation of the controversy between F.D. Maurice and Henry Mansel over the nature of revelation and human community is the kind of thing that could be helpful.

Orthodox traditionalists, secondly and by contrast, seem called to examine the ways in which an integralist social epistemology, which they have never given up, can be enacted within a communally pluralist situation. Here the challenge is to rethink their theories of truth and of providential history in such a way as to account for and even make room for the social pluralist context in which the church is inextricably embedded. Recent theologies of contestation, for example by Wolfhart Pannenberg and Stephen Sykes (via the philosopher Gallie), may have some relevance here, but that remains to be seen. This is work that has barely begun, as self-conscious orthodoxy goes in search of pluralism.

None of this is a question of ‘dialogue’ between adversarial parties. It is rather a matter of each party going about the business of reconstructing their respective narratives in such a way, in Macintyre’s terms, as to appropriate into their self-descriptions a critical awareness of the epistemological crises in which they in fact find themselves, given the historical location of their common life. The Episcopal Church was formed out of an amalgam of goals and supporting theological attitudes. Episcopalians are still sorting it all out; but it is a Christian responsibility to do so in a way that takes seriously and analytically the historical reconfiguration of this amalgam, and that does not dismiss it as irretrievably uninteresting in the light of what some group or other has determined to be a temporally attainable ecclesial ideal. The fact is that most members of the church do not live with an ideal. And the time has come (if it is not too late) for the idealists on the edges—that is, priests, bishops and theological intellectuals—to provide them with a rationale for the concrete reality of a particular form of common life that has never been comfortable in America, and that the world’s Anglican partners may need to view still with a critical and engaged patience.

Anglicans and Islam in Nigeria: Anglicans Encountering Difference
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ABSTRACT

Nigeria is the most populous nation in Africa. It is also divided on religious grounds with a predominantly Muslim north and a mainly Christian south. Christians make up the majority of the population (52.6 per cent) compared with Muslims (41 per cent). The 17 million Anglicans are the second largest Christian group. With its large and religiously divided population Nigeria is one of the main countries in Africa, and the world, where large numbers of Muslims and Christians live and interact together. In today’s world where the ‘Christian’ West and the Islamic world are becoming increasingly polarized, the history of Anglican/Muslim relations in Nigeria provides a key case study with important implications for Anglicans all over the world.

Introduction

With a population of over 120 million coming from some 490 different ethnic groups Nigeria is Africa’s most populous country. Ethnically the country used to be divided into three distinct regions: a Hausa/Fulani Muslim north, a Yoruba Muslim/Christian south-west and an Ibo Christian south-east. In recent years, however, religious, rather than ethnic, differences have come to constitute the major fault lines which are shaping the country’s future. Religiously some 41 per cent of Nigerians are Muslim, 52.61 per cent Christians and 5.99 per cent African Traditional worshippers. The country can be divided into an Islamic North (90 per cent Muslim) a divided Middle Belt (43–45 per cent Muslim, 47–48 per cent Christian) and a Christian South (75 per cent Christian).1 With

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history of Anglican/Muslim relations in Nigeria provides a key case
study with important implications for Anglicans all over the world.

Islam in Nigeria

Islam began to arrive in West Africa from the eleventh to the fourteenth
centuries, brought south along the trade routes through the Sahara by
North African Arab and Berber traders. A series of African Islamic
kingdoms and sultanates began to emerge in West Africa. The first of
these to have an impact on the development of Islam in Nigeria, from
the eleventh century, was the kingdom of Kanem, a mixed Berber, Arab
and African empire centred around Lake Chad. In the fourteenth cen-
tury the centre of gravity of the empire shifted to Borno in the north-east
of what is today Nigeria. During its long reign the Kanuri people of the
region became closely associated with a specifically Borno-centred
Islamic tradition.

Further west were the independent cities of Hausaland, principally
Kano, Katsina and Zaria. From the mid fifteenth century most of their
ruling elites were Muslims, though a majority of the population remained
animists. Kano in particular became a major centre for Islam, forming as
it did the main entry point or terminus of the Saharan trade routes into
the region.2 For many years Kano came under the dominance of Borno
until 1513 when it was conquered and held for a time by another Islamic
kingdom, that of Songhai, based on the upper Niger in modern Mali,
before that kingdom itself broke up in the early seventeenth century.

From the late eighteenth century a period of Islamic revivalism and
expansion began in West Africa triggered by the strong influence of the
Qadiriyyah and Tijaniyyah Sufi traditions. Influenced by radical Qadiriyyah
Sufi ideology Usman dan Fodio, the most celebrated figure of Nigerian
Islamic history, unleashed an ethnic Fulani jihad from Sokoto in 1804
aiming to enforce strictly Islamic law (Shari’ah) and to restore the pure
orthodox Islam of Muhammad and his companions. The leaders of Hausa-
land and other Muslim communities in the region were considered to
have allowed Islam to become too compromised and corrupted by tradi-
tional African animist practices. Kano and the other cities of Hausaland

2. Even today Kano is Nigeria’s third largest city and the real heartland of
the Islamist movement in the country.
fell to the new Fulani Sufi empire of the Sultan of Sokoto. The Fulani empire thrived throughout the nineteenth century, stretching even further south to conquer the non-Muslim ethnic Yoruba kingdom of Oyo. In 1903, however, the British overwhelmed the Fulani empire, sacking both Sokoto and Kano, as well as the separate kingdom of Borno, and the whole region fell to British colonial control.

Today the overwhelming majority of Muslims in Nigeria are Sunnis and followers of the Malikite school of Islamic law (Shari‘ah). Islam in Nigeria, as in much of Western Africa, is distinctly African in flavour, having absorbed many traditional animist customs and practices including strong ritualistic and mystical elements. The historic Qadiriyah and Tijaniyah Sufi orders continue to be influential among Muslims in the country. However, these traditions are increasingly being challenged by more extreme Islamic movements from the Middle East and South Asia, such as Wahhabism, which are growing in influence.

The Anglican Church in Nigeria

The first Anglican Christians to arrive in modern Nigeria were freed slaves from Sierra Leone who began to settle in the region during the nineteenth century. In 1842 they were followed by British missionaries as the Church Mission Society formally began to operate in the region. Under British colonial rule in the first half of the twentieth century the Anglican Church was of course further established and expanded. Following the Second World War the Church of the Province of West Africa was formed with dioceses in the British colonial territories of Nigeria, Ghana, Gambia and Sierra Leone. In 1979 the sixteen dioceses in Nigeria were formally constituted and inaugurated as a separate province within the Anglican Communion under the name of the Church of Nigeria (Anglican Communion).

Since independence in 1960 the Anglican Church has continued to grow dramatically. Today there are over 17 million Anglican Christians in Nigeria, the largest Anglican Church of any country in the world, including Britain. In 2002 the Church of Nigeria had grown into 78 different dioceses grouped under ten different provinces. Most members of the Church of Nigeria live in the predominantly Christian south of the country, although there are still significant numbers residing in the north and middle belt regions. The Church of Nigeria is the second largest Christian denomination in the country after the Roman Catholic Church. It is also a major member of the Christian Association of Nigeria (CAN) the primary ecumenical body in the country which provides a collective voice for Christians in Nigeria.
Anglican/Muslim Relations in Modern Nigeria

It is an often-repeated criticism that when the British departed Nigeria in 1960 they left behind them an artificial nation of their own creation, indeed the very term ‘Nigeria’ was invented by the British in 1914. British colonial rule had brought together large and ethnically diverse Muslim, Christian and animist communities, with little in common, and bound their futures together in a national entity, which, from the very start, was riddled with ethnic and religious pressures that have plagued the country ever since independence. In the particular context of Muslim/Christian relations, although there have been long periods of successful co-existence, and millions of Muslims and Anglicans continue to live together in peace, the overwhelming dynamic has been one of Islamic political expansion and dominance that has led to tension and conflict in which tens of thousands have been killed.

When the British destroyed the Fulani Islamic empire in the early twentieth century, in classic colonial style, they maintained the Sultan of Sokoto, and the system of emirates that the Fulani had established across north and middle belt Nigeria, and used them to govern the region from a distance. Thus a system was maintained by which Fulani emirates were used to govern a mainly Hausa people, although the distinction between these two ethnic groups would come to be less and less significant with time. Animist and Christian communities in the north and middle belt regions were also placed under the authority of the emirs, leading to a degree of exploitation and corresponding resentment that still continues today. At least in the early period of their rule the British largely ruled northern Nigeria from a distance and as a consequence the local emirs were a much more visible sign of authority for most northern Muslims. Thus a tradition of unbroken Islamic rule was maintained in the history, culture and mindset of the north, which would have massive implications for Nigeria after independence. Even today millions of northerners continue to regard it as only natural and right that political authority should be in Muslim hands.

The tradition of Islamic political dominance continued throughout the colonial period even while the authority of the emirs was slowly undermined through the establishment of regional and provincial governments. After independence in 1960 political power in Nigeria continued to rest largely in the hands of the Muslim Hausa/Fulani politicians and generals of the north. This northern Muslim clique have dominated

3. The Sultan of Sokoto is still regarded by Nigerian Muslims as their traditional leader and supreme spiritual authority.
political life in Nigeria for 35 of the 43 years since independence. All but two of Nigeria’s heads of state since independence have been Muslims. Conversely, economic wealth is mainly centred on the oil producing south (oil accounting for 90 per cent of the country’s wealth), which has created further tension.

It is widely felt among southern Christians and animists that the Hausa/Fulani Muslim generals, governors, politicians and businessmen, the Muslim establishment (sometimes referred to loosely as the ‘State Islam’ movement) who have held power in the north since the decline of the emirs, have used their political dominance to advance the position and status of Islam in the country. The delicate ethno-religious balance which makes up Nigeria has meant that Anglicans and other southern Christians are extremely wary of anything they perceive as being creeping ‘Islamization’ which they understandably fear will lead to the erosion of their position in society and the absorption of their communities as minorities within an Islamic Nigerian state. In the years since independence in 1960 they have seen ample evidence of this process in action.

The establishment of an advisory board on Islamic affairs by President Shagari was seen as an example of this, as was Nigeria’s joining the Organization of the Islamic Conference (OIC). In 1976 proposals to create a Federal Shar’iat Court of Appeal (recognizing the authority of Shari’ah at a national level) and in 1990 President Babangida’s cabinet reshuffle (which appeared to sideline Christians) were both greeted with dismay by Christians. In incidents such as these Christians have seen the creeping Islamization of Nigeria taking place through the slow influence of the State Islam movement to establish Islam more firmly in Nigeria’s national life. Leaders of the Church of Nigeria and the Christian Association of Nigeria have for years striven against such perceived advances of Islam and have debated and argued with their proponents.

As early as 1982, but particularly since 1987, tensions between Muslims and Christians began to spill over into frequent and previously unprecedented inter-communal riots and conflict. In 1987 clashes between Muslim and Christian students which began at Kafanchan College of Education, Kaduna State, spread to Katsina, Kano and Zaria, among other areas. Since that time tens of thousands of people have been killed, thousands more injured and hundreds of homes, churches and mosques burnt down in inter-ethnic riots in cities such as Kano, Kaduna and Bauchi across the north and middle belt states. The riots have had various triggers: the preaching of evangelical Christian leaders, the sale of non-halal meat, the teaching of Christian religious knowledge in schools among others. Since 11 September 2001 at least one riot has been caused by pro-Osama bin Laden and anti-American demonstrators. It is esti-
mated that more than 10,000 people have been killed in such devastating sectarian clashes in the last four years alone.

The overwhelming majority, if not all, of these riots were begun by Muslims. However, Christians have not responded peacefully and more often than not they have, understandably, responded with force to protect their communities. With a few exceptions, the bishops and clergy of the Church of Nigeria have consistently taught Anglicans that they should rely upon the police and army for their protection and not resort to violence and taking the law into their own hands in the face of such provocation. However, it has not always been easy to control angry Christian youths. Referring to Jesus’ teaching to ‘turn the other cheek’ when faced with violence many young Anglicans in Nigeria sometimes speak of a ‘third cheek’ by which they mean that having been struck on first one cheek then another by Islamic violence without responding they have no third cheek and can now legitimately strike back when they are attacked again. Although theologically very suspect, the concept does give a clear indication of the mindset of the Anglican community in Nigeria which feels itself, rightly or wrongly, to be under threat from creeping Islamization and an expansionist Muslim North.

The Expansion of Shari’ah

When President Olusegun Obasanjo, a Baptist Christian of the Yoruba tribe, came to power on 29 May 1999, not only did this mark a return to democracy after 16 years of military dictatorship, it also disenfranchised the traditional northern Muslim clique from their position of power. Five months later, in a move which is now widely recognized as being a political retaliation by this faction, Governor Ahmed Sani Yerima of Zamfara state in north Nigeria, announced that it was adopting full Shari’ah law for criminal as well as personal and family law. In January 2000 it formally did so. In the months that followed 11 other northern and middle belt states followed suit: Sokoto, Jigawa, Niger, Yobe, Katsina, Borno, Bauchi, Kano, Kebbi and Gombe.

Despite promises that Shari’ah would be applied to Muslims only Christians and animists were outraged. Their fears that the Shari’ah would inevitably be imposed on them and as a result their rights would be eroded have proved well founded. In many states alcohol has been banned outright, while mixed sex schools and mixed sex public transport have been banned for Muslims, Christians and animists. More seriously it has been reported in Kano that Muslim youths have harassed non-Muslims, particularly women in the streets for failing to conform to Shari’ah dress codes.
Across the 12 Shari’ah states semi-official Hizbah groups are being set up as a kind of Shari’ah police force (reminiscent of the kind of religious police operating in Saudi Arabia and Iran) to ensure that Islamic law is enforced. More alarmingly, independent Shari’ah vigilante groups such as the Independent Shari’ah Implementation Committee in Kano have taken it upon themselves to enforce the Shari’ah. Such groups do not seem to draw much distinction as to whether they are enforcing Shari’ah on Muslims, or on the 3 per cent of the population of north Nigeria who are not. In one case in Kano, the Daula Hotel has banned Christians from holding church services on its premises after being intimidated by a series of raids from Shari’ah vigilantes.

Christians have seen dozens of their churches burnt down or demolished in Kano and Jigawa states since Shari’ah was enforced. Some 75 per cent of churches in Kano have now been scheduled for demolition by the state government. Ostensibly this is because they do not have official registration. However, Christians point out that this is because Kano’s Islamic State Government has consistently refused to grant churches registration despite a legal requirement for them to do so. They also stress that hundreds of mosques in Kano also have no official registration but they have not been similarly scheduled for destruction.

At an institutional level the introduction of full Shari’ah law has resulted in the creation of a series of new official Islamic bodies at a state level. Official Shari’ah Implementation Committees, Islamic Affairs Departments and Shari’ah Advisory Committees now exist across north Nigeria. In such institutions Christians see further evidence of the strong promotion of Islam at the expense of other faiths being carried out by the State Islam movement. Since June 2002 Kebbi State Government has been funding the construction of mosques and payment of imams as part of a moral crusade in the state. It is also funding two official departments for Dawah (mission) and Shari’ah which come under the Special Adviser on Shari’ah for promoting and propagating Islam in the state. Similarly in Borno the state government funds the building of mosques and Islamic Preaching Boards from public money which it does not do for Christians and churches. Other such examples can be found across north Nigeria.

The tensions created by the advance of Shari’ah have led to a series of violent riots and disturbances in several cities across Nigeria. Most notable were riots in February and May 2000 in Kaduna in which between 1200 and 2000 people were killed. More than any other issue in recent years the implementation of full Shari’ah law has done more to exasperate tensions between Muslims and Christians. The issue has also put enormous strain upon the country’s constitutional make up and
federal system. President Obasanjo’s Federal Government, though clearly opposed to the issue in principle, and coming under a lot of pressure as a result of a series of cases where individuals have been sentenced to death by stoning for alleged adultery which has appalled the liberal sensitivities of the Western world, cannot intervene to overturn the changes that have been made without risking civil war and the possible secession of the Muslim north.

Having now become more or less firmly established in all the Muslim-majority states of the north and middle belt the Muslim activists in the south of the country are now calling for Shari’ah law to be applied for Muslims in the south as well. In Oyo State an Independent Shari’ah Implementation Panel has been set up by the state branch of the Supreme Council for Shari’ah. Having no official legal authority the panel works by Muslims voluntarily submitting themselves to its authority. Similar initiatives are underway in other parts of the south, raising the prospects of further Shari’ah vigilantism and the intimidating of southern Muslims by extremists to submit themselves to the rulings of these bodies.

**Orchestrated Campaign**

The Shari’ah enforcement campaign has clearly demonstrated that Nigeria’s traditional northern Muslim political elite have a clear agenda to expand the influence of Islam and to gradually Islamize Nigeria, turning it into a full-blown Islamic state. Furthermore, it is clear that they are not alone in this objective but are being resourced and supported by Islamic nations and organizations outside Nigeria. Representatives from Saudi Arabia, Sudan, Syria and even the Palestinian Authority were present at the ceremony which marked the inauguration of full Islamic law in Zamfara State in January 2000. In the technical application of Shari’ah law advice and support has been requested and received from Islamic scholars and jurists from different countries in the Islamic world. In particular new Nigerian Shari’ah judges are being trained in Sudan. The leaders of Nigeria’s Islamist movement are said to have met with officials from Sudan’s Islamic regime during the early 1990s. Together with Libya, Sudan is one of the key countries responsible for propagating extreme conservative Islam in Africa and it has clearly and deeply been involved in supporting the Islamization of Nigeria.

In common with other poor Islamic countries across the developing world Nigeria has received huge funding from the Middle Eastern and particularly the Gulf States for mosques, Islamic organizations, schools and development programmes. Such oil wealth has been used by the Gulf State to propagate and promote their own hard line version of
orthodox conservative Islam in poor Islamic countries all over the world and has had an enormous destabilizing influence in radicalizing previously more moderate Muslim populations. Nervous Nigerian authorities have also faced difficulties from visiting Middle Eastern and Pakistani scholars and preachers who have also been propagating militant Islamist ideologies, and several Pakistanis in particular have been forcibly ejected from the country.

Nigerian police say that dozens of Pakistanis have been involved in the religious riots that have plagued the country since the 1980s. An ongoing series of clashes between Hausa Muslim settlers and indigenous Christian ethnic groups in Plateau State began in Jos in September 2001. This sporadic conflict has claimed hundreds of lives and continues to this day. In both this and other conflicts Christians have been attacked by armed Islamic militants who have come not only from across north Nigeria but also from Sudan, Chad, Niger and even Cameroon. Such Islamic warriors are coming across the borders, perhaps with the deliberate contrivance of Muslim political authorities in the north, and travelling down through the Islamic north to wage a jihad against the Christians and animists in Nigeria in order to further Islam and establish Shari’ah. Nigerian Islamic militants are being taken to Sudan in particular to receive military training.

For most Muslims in north Nigeria, as in many other parts of the Islamic world, Osama bin Laden has become a hero and posters of him can be found in many parts of the north. While there has until recently been little indication of any direct involvement of al-Qaeda in Nigeria, there are an increasing number of extremist Muslims in the country who share the same militant jihadist ideology. It is very significant that in his speech released in February 2003 Osama bin Laden included a reference to Nigeria; he encouraged the Muslims of north Nigeria to rise up and fight to establish an Islamic regime in the country.

Another example of the orchestrated nature of both the campaign for Shari’ah law and the outbreaks of Islamist violence in Nigeria can be seen in the November 2002 riots in Kaduna in which 400 people were tragically killed. The trigger for these riots has been identified as being an article which appeared in This Day newspaper. In discussing the controversy surrounding the holding of the Miss World contest in Nigeria the paper joked that Muhammad would probably have married one of the contestants. Politicians in Nigeria and the media in the West largely agreed that the riots were an inevitable, spontaneous and understandable result from enraged Muslims.

However, this conclusion ignores strong evidence that the violence was not a simple spontaneous emotional reaction but was coordinated
and planned by extremist leaders in the Muslim community for their own political and religious motives. The violence began five days after the article had been published. Even then it occurred only after local mosques began calling for action against This Day newspaper. Some of the Muslim youths involved are reported to have been mobilized through text messages sent out to their phones alerting them to the article. The Christians who were targeted by the rioters in Kaduna had nothing whatsoever to do with either the article in This Day or the Miss World contest. Furthermore the Miss World contest was not in fact scheduled to take place in the Muslim north, but in Abuja. In any case the Miss Nigeria contest has taken place for years, often hosted in different parts of north Nigeria without ever prompting such violence.

Bishop Ben Kwashi of Jos was one of the bishops who denounced the violence as deliberately planned and orchestrated for political and religious reasons. The Muslim leaders behind the violence seemed to have had in this case a very clear objective. Because Christians and Muslims are roughly equal in numbers in Kaduna, Governor Alhaji Ahmed Mohammed has resisted the demands for full Shari’ah, unlike the other Shari’ah states in the north and middle belt, and has instead allowed for a more limited expansion applying it only in Muslim-majority areas, better fitting the state’s composition. This has infuriated Islamic religious leaders who want to see him removed. During the riots, Muslim anger against abuse, slogans and songs were chanted and shouted against Governor Alhaji Ahmed, and his election posters were defaced, stripped from walls and burnt on bonfires outside Government House.

It is now increasingly apparent that the article in This Day merely provided Muslim community leaders with the excuse they needed to press forward their own religious and political agenda. Significantly, the very leaders who have been implicated in stirring up the violence had only three months earlier signed an agreement with local Christian leaders sponsored by the Church of England committing themselves to work towards peace and reconciliation between Muslims and Christians in Kaduna. The riots in Kaduna in November 2002 are a clear indication that both the drive for full Shari’ah law and many of the outbreaks of religious violence in north Nigeria are being orchestrated, planned, directed and manipulated by Muslim religious and political leaders as part of a clear agenda gradually to Islamize the country. The riots are also an indication of how the factions pushing forward this agenda are prepared to wilfully ignore the democratic process and even their own agreements and turn to violent means whenever they feel that these will better serve their purpose.
The Future of Anglican/Muslim Relations in Nigeria

In considering the context of Anglican/Muslim relations in Nigeria, which have been coloured by a northern Islamic expansionist agenda, it should again be stressed that of course for the vast majority of Muslims in north Nigeria such concerns are not paramount in their lives. Like most people in the world, particularly the developing world, their lives are much more focused around the daily concerns of work, shelter and food. Grand religious and political matters do not loom so large and they are happy to live in peace with their neighbours. However, that is not to say that they would not be happy to see a more Islamic Nigeria or that, given Nigeria’s particular ethnic/religious make up, they are not very conscious of themselves as a distinct group in some sense in competition with others. As such they may well be happy to support the gradual Islamization of the country without being practically involved, in much the same way as it could be said that there was popular support for the French or Russian revolutions even though only a tiny fraction of the populations of those countries were actively involved in either.

In looking to the future it is optimistic but naive to imagine that an increasingly radicalized north can be induced to change its agenda in order to aspire to a more tolerant and secularized pluralist, rather than Islamic, Nigeria. Anglicans and other Christians, as well as animists, the Federal Government and believers in secular, multicultural democracy are therefore faced with a clear choice. They can either stand up to the creeping process of Islamization and inevitably provoke tension and conflict as a result, or they can capitulate and accept the Islamization of their country and their own reduction in status to that of minorities and second-class citizens as a result.

Some analysts even talk in terms of possible fragmentation and civil war. Increasingly many are drawing comparisons with Sudan where successive Arab Islamic extremist regimes in the north sought to impose Islamization, Arabization and Shari‘ah law on the Christian and animist black African people of the south. These tensions have led to two decades of war in which 2 million people have died and 4.5 million have become refugees. This conflict has devastated the communities in the south of the country, which numerous experienced UN observers commonly describe as literally the worst place in the world.

At this most difficult and uncertain time in Nigeria’s history the challenges for the Anglican Church have never been greater. Anglican leaders must navigate a difficult course using every means at their disposal to fight against Islamic expansionist policies in the media and the public
arena, and defend their own community, while at the same time seeking to restrain Christian youths from retaliating with violence and preventing further polarization between Muslims and Christians. They must hold open links with Nigeria’s Muslim community seeking to live alongside one another and work together for peace wherever possible, while at the same time not being blind to the ways in which advantage can sometimes be taken of such hospitable overtures.

In achieving some of these, the Church has set up a Department for Ecumenical and Inter-faith Relations at its Provincial office in Abuja with a full-time secretary. Seminars and workshops are regularly organized nationally for leaders who go back to educate leaders at the parish, deanery and archdeaconry levels. The Department is also working with other denominations and para-Church organizations like the Programme for Christian-Muslim Relations in Africa (PROCMURA). In order to make its priests relevant, the Church is reworking the syllabus for the teaching of Islam and Christian-Muslim relations in its Theological Colleges. This is to make the subjects relevant and the students prepared for the pluralistic country Nigeria is becoming.

It is at this point that the participation of the worldwide Anglican Communion is of such significance. While the questions in other parts of the world may be different in their particulars, the underlying issues of how Anglicans engage with Islam and how in this context they formulate and define a pattern of civic and political life which enables both peace and justice for all, is a common and shared profound challenge. In the coming months and years Anglican leaders in Nigeria will need the dedicated prayers and support of the worldwide Anglican Communion if they are successfully to navigate such stormy waters, care for the Church and help maintain peace, freedom and national unity.
The Idea of a ‘Missionary Bishop’ in the Spread of the Anglican Communion in the Nineteenth Century

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ABSTRACT

In the 1830s, among those associated with the Tractarian revival in England and also among certain figures in the (then) Protestant Episcopal Church of the United States (PECUSA), the idea of the ‘missionary bishop’ was propagated, which presented the bishop as a pioneer evangelist as the apostles were understood to be in New Testament times and saw the planting of the Church as necessarily including a bishop from the beginning for the ‘full integrity’ of the Church to be present. This view of the bishop as the ‘foundation stone’ was not held by the Evangelicals of the Church Missionary Society (CMS), who saw the bishop by contrast as the ‘crown’ or coping stone of the young churches. Two main protagonists were the High Churchman, Samuel Wilberforce, Bishop of Oxford, and the honorary secretary and missionary strategist, Henry Venn. The party, led by C.F. Mackenzie as Bishop and mounted by the Universities’ Mission to Central Africa (UMCA) in 1861 to the tribes near Lake Nyassa, was the outworking of this Tractarian ideal.

The scholarly Swedish church historian and bishop, Yngve Brilioth, in his independent assessment of the Oxford Movement, *The Anglican Revival*, wrote of the Tractarians’ view of episcopacy: ‘one must ask whether at any time in the history of the church the office of bishop has been so immoderately exalted to the clouds as in these early tracts’. An offshoot of this concentration on episcopacy was the ideal of the ‘missionary bishop’. In the 1830s, as is well known, John Keble and others had been greatly disturbed by a reformed parliament, since 1829 open to Jews and Dissenters, laying (as they saw it) unholy hands on the episcopate, specifically reducing the number of bishops in Ireland by

parliamentary statute. To the Tractarians (and to the vast number of Anglicans today) it was clear that the authority of bishops lay, not in their legislative relationship to the Crown of England, but in their relationship to the Church and its Head through their consecration. Against a background of Erastianism, Newman and others then exalted the episcopate and its apostolic succession in a development which, for Newman from the later vantage point of the Apologia pro Vita Sua, stemmed from Keble’s sermon on ‘National Apostasy’ of 1833. The episcopate was of divine origin and bishops were the successor of the apostles, without whom the church could not flourish. Newman, who wrote many of the early Tracts, set out his views in Tract 33 ‘Primitive Episcopacy’.

The obvious historical example to hand in the 1830s of how the deprivation of bishops could adversely affect the church was the case of the Episcopal Church of the United States. To the Tractarians it was plain that the failure to provide bishops for the American Church in the seventeenth and eighteenth centuries (Samuel Seabury, the first American bishop, was not consecrated until 1784) was directly related to that church’s weakness. In the process of writing his History of the Protestant Episcopal Church of the United States of 1844, Samuel Wilberforce came upon the idea of the ‘missionary bishop’. He wrote about it to John Henry Newman as a primitive ideal of the early church, which the contemporary church had lost. Newman replied: ‘your letter of this morning opens a very interesting subject. Doubtless the only right way of missionary-izing is by bishops and the agitation must be good’ (12 May 1837). To Newman it raised the intriguing possibility of proving to the world that bishops could be put down in territories not administered by the Crown of England and beyond the reach of parliament: could not, for example, Daniel Wilson, Bishop of Calcutta, consecrate bishops for areas of India where this condition obtained, and so clearly demonstrate that Episcopal authority lay in their consecration and owed nothing to the State?2

The background to Samuel Wilberforce’s explorations of the idea in America may have lain in addresses by G.W. Doane, who had been consecrated Bishop of New Jersey in 1832. During the 1830s Doane preached on two occasions at other consecrations, the addresses being published. In 1834, at the consecration of James Harvey Otey for the diocese of Tennessee, Doane gave a very high status to the bishop’s office as ‘equally essential to salvation’ as word and sacraments. The

bishop is an ‘evangelist … this the church bishop is eminently to be … the proper title of his office, Apostle (one sent), a missionary, the missionary … of his diocese’. His sermon at the consecration of Jackson Kemper as Bishop of Missouri and Indiana in 1835 had the title of ‘The Missionary Bishop’. According to Doane’s understanding, the bishop is ‘sent forth by the Church … going before to organise the Church, not waiting till the Church has been partially organised—a leader, not a follower’. This picture of the pioneer missionary bishop as the foundation stone of the church’s missionary work proved highly attractive to PECUSA (as it then was) and Tractarians alike: the General Convention of the American Church of 1835 declared that there should be missionary bishops for the whole world and the clergy should be a missionary body. For Samuel Wilberforce and those influenced by the Oxford Movement, the idea was compelling enough to issue eventually in the consecration of Bishop Mackenzie to the Zambezi mission of the UMCA (Universities’ Mission to Central Africa) in the 1860s by another Tractarian in Robert Gray of Cape Town, who, like Newman, disliked the legislative framework of the English constitution in relation to episcopacy. The sequel to the Mackenzie mission has been classically described by Owen Chadwick in Mackenzie’s Grave.

The idea of the episcopal pioneer in missionary activity was not without its critics. The Church Missionary Society (CMS) had been active in pioneering missionary work in such places as Sierra Leone, India and Maori New Zealand. In the late 1830s there had been a steady attempt to relate the voluntary society of CMS more closely to the episcopal framework at home and in the colonies, for which policy a rationale had been produced in the appendix to the 39th report of the CMS. This document reflected the mind of the missionary strategist, Henry Venn, who became honorary secretary of the society (effectively chief executive) in 1841. The CMS had shown a genuine desire for an extension of the episcopate in the colonies by, for example, subscribing towards the financing of a bishop for New Zealand, for which G.A. Selwyn was appointed in the same year of 1841. Nevertheless, support for the colonial bishops in Sierra Leone and New Zealand and the attempt to relate the CMS to the expanding episcopate did not lead CMS, and in particular Henry Venn, to agreement with the idea of the ‘missionary bishop’ as proposed by the Tractarians. An alternative version of church history was provided, for

example, by Hugh Stowell, Anglican Evangelical leader and preacher of
the CMS Annual Sermon of 1841, when reflecting on Selwyn’s appointment:

the apostles did not, in the outset, map out the Heathen World into skele-
ton dioceses and plant a bishop at Crete, at Ephesus, at Antioch—no, but
they themselves, first of all, went everywhere preaching the word … then
multitudes had been gathered from among the Heathen, then pastors had
been set over the infant churches … and when these pastors themselves
needed chief shepherds, then at length, when a fixed episcopacy was
required and when the Apostles, hitherto itinerating Bishops of the Universal
Church, were about to enter into their rest, they instituted and added
Diocesan Episcopacy, to consolidate, perpetuate and govern the Church;
and Timothy was appointed to Ephesus, Titus to Crete and Ignatius to
Antioch … thus it has been in our modern missionary progress. The
Society did not tarry … till haply there might be a bishop set over the wild
Western Isle of New Zealand … the island began to wear a general aspect
of Christianization; the Episcopate was now called for, to give order and
perpetuity to the work and lo! As the result of our labours, a Bishop has
been consecrated to the fair Western See. [Episcopacy] ought not to antici-
pate but to follow evangelisation … it is when a country has been evangel-
ised that episcopate comes in, to crown and consummate the work.6

In addition to their reading of church history, there was the additional
anxiety for the leaders of CMS that they should ensure some constitu-
tional checks and balances on the powers of colonial and missionary
bishops. As Max Warren, twentieth-century successor to Henry Venn at
CMS, wrote of his predecessor:

mid-nineteenth century attempts to export the religious establishment of
Britain, provided him [Venn] with many opportunities, which he gladly
seized, of prosecuting the missionary task of the society, yet he watched
the extension of the episcopate overseas with a jealous eye lest, in enthu-
siasm for that extension, the proper constitutional checks on prelacy were
lost to view.7

This meant for Venn, in direct opposition to the Tractarians, that the
Crown/State input to the colonial and missionary episcopate had the
supreme merit of welding the new bishops into the legal framework,
including such ultimate recourse as legal appeal on ecclesiastical ques-
tions to the Privy Council and its judicial committee. Legal redress
would be available if bishops misused their powers. Selwyn, who was
aware of the dangers of episcopal autocracy in the colonies, addressed
these issues by becoming a pioneer of synodical government in New

7. C. Warren Max Alexander and H. Venn, To Apply the Gospel: Selections from the
Zealand, so giving a voice to the laity and involving the bishop in shared governance. Venn, in common with A.C. Tait, Bishop of London and Archbishop of Canterbury, continued to see the legal establishment as the safeguard. Church-State men like Venn and Tait saw no difficulty either in resorting to the legal means provided by the so-called Jerusalem Bishopric Act of 1841 as a way of providing bishops for territories beyond those administered by the Crown. This act was regarded by Newman, W.E. Gladstone and others as thoroughly objectionable: not only did it root the bishop’s authority in a legislative act of the Crown but, by arrangement with Prussia, Lutherans without the apostolic succession were to have their turn in the bishopric, for Newman a cause of deep offence and a precipitating factor in his departure for the Church of Rome. For the next 30 years, however, it was to this act that the CMS turned, supported by Tait, of whom his biographers wrote:

> eager as he had always been in the missionary cause, [he] was so impressed with the importance of maintaining the Royal Supremacy as a bond of union and even in some sense a guarantee of orthodoxy among the scattered Colonial Churches that he repeatedly urged caution in accepting the bold proposals of Bishop Gray of Cape Town and others.8

Gray, like the Tractarians, was impatient of the legal apparatus of the home country being applied to the church in South Africa and a series of cases made the Church of the Province a testing ground for the relationship of the colonial churches to establishment.

To aid the expansion of the episcopate in the developing empire a Colonial Bishoprics Fund had been set up to put the needs of the wider church in front of the public. A meeting of this body in 1853 displayed the different understandings of the episcopate held by CMS and those who espoused the ‘missionary bishop’ ideal. Lord Chichester, then president of the CMS, plainly agreed that an Episcopal Church needed bishops wherever it had been planted. Samuel Wilberforce, however, took the opportunity to argue for a different view of the bishop from this, where he was viewed as head or administrator of a church already planted. Wilberforce claimed that both Scripture and tradition taught that a mission should always be led by a bishop *ab initio*, a view of the bishop as a fellow pioneer ‘in toil foremost to undergo it; in danger the boldest to face it; in self-denial setting an example of endurance’.9

Wilberforce was the mover of a Missionary Bishops Bill in the House of

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Lords when he was Bishop of Oxford, which aimed to provide an alternative source of legal authority to the Jerusalem Bishops Act of 1841, so objectionable to Newman and others, whereby bishops would be able to consecrate at large. Sir James Stephen, Henry Venn’s brother-in-law (and grandfather of Virginia Woolf the novelist), a highly influential civil servant in all colonial affairs, was among evangelicals who objected to the Bill and wrote of it:

the professed object of the bill is to enable English prelates to consecrate British subjects to act as bishops in any foreign or heathen country. But this is not the real and true object because 5th Vict. cap. 6 [the Jerusalem Bishopric Act] has already given them the powers they profess to want, only combined with an oath which affirms the Queen’s supremacy. They wish to establish an English episcopate which should not acknowledge the Queen’s Supremacy.

Stephen’s criticism aroused Samuel Wilberforce’s wrath. He wrote to Stephen:

is it not somewhat as if one said of you, Sir J. Stephen is the brother-in-law of Henry Venn. Henry Venn is the autocrat of the Church Missionary Society. He fears that missionary bishops would supersedes Church missionary committees and his own secret power. He would therefore prevent an English mission being headed by a Bishop and he has called in Sir J. Stephen to his aid to help by calumnious insinuations to defeat the bill. I should have opposed Mr Venn and his brother-in-law if they had openly stated their purpose; but when they endeavour to accomplish it by the arts of the special pleader, I will oppose them more strongly than ever. I am sure that you would feel keenly the injustice and uncharitableness of any one imputing such conduct or such motives to you … I cannot but believe that the time will come when you at least will look with no satisfaction on the share you have had in preventing the Church of England when she decided to send her highest ministers to spread the gospel of Christ amongst the heathen, from obtaining the power needful for doing so.10

In fact, the Bill was defeated in the House of Commons.

Various developments in the next decade of the 1860s showed that the old understanding, shared for example by a bishop like W.G. Broughton in Australia, which assumed that the legal establishment operating in England would be exported wholesale to the colonies, was to prove an historical anachronism. So, in 1863 Robert Gray was to defy the advice of the Crown lawyers that the consecration of Bishop Mackenzie for his work in the Zambezi areas should take place outside Crown territory: Gray was in fact consecrated in Cape Town cathedral, asserting his right

as a bishop in the church irrespective of colonial legalities. In the same year, however, Gray was given a sharp reminder that he still had to reckon with the Crown lawyers: Colenso, consecrated in 1853 and ‘deposed’ by Gray for heresy in 1863, appealed to the Judicial Committee of the Privy Council and his appeal was upheld in 1865, on the basis of his Letters Patent from the Crown pre-dating the archbishop’s. In New Zealand, however, Selwyn and the other bishops had surrendered their Letters Patent in 1865, on the grounds that New Zealand now had its own independent colonial legislature. Meanwhile, both Bishop Mackenzie and Bishop Patteson (for Melanesia) had been consecrated for their missionary roles without recourse to the Crown and its lawyers.

Independent action by bishops like Selwyn and Gray, however, did not change CMS attitudes to the issues. In 1864 the celebrated case of Samuel Crowther’s consecration as the first black Anglican bishop of the communion was given legal effect through the Jerusalem Bishopric Act. As Professor Ajayi has written in his excellent study on *Christian Missions in Nigeria*:

> Venn’s suggestion that Crowther might be a ‘missionary bishop’ is a little odd. A bishop as the head of a missionary party, as distinct from the head of a native clergy, was a High Church idea that Venn specifically attacked. Venn used the term ‘missionary bishop’ to mean an Anglican bishop in non-British territory—sometimes called a ‘Jerusalem’ bishop, as distinct from the diocesan at home or the colonial bishop on British territory overseas.11

In fact, as the same writer points out, Venn caused Crowther to be in just the position which he decried, because there was as yet no native church formed on the Niger and so no call for confirmations and ordinations according to the CMS’s functional view of the bishop’s role.

Nevertheless, Mackenzie and Crowther represented the contrast of the two approaches, one consecrated without Crown authorization and the other under the Jerusalem Act. Both High Churchmen and Evangelicals used the phrase about ‘planting the church in the full integrity of its system’. To the Tractarians this meant having bishops present from the start, representing the church’s order and life at its fullest, even if in microcosmic form. So, Professor Chadwick wrote in *Mackenzie’s Grave*: ‘the aim of sending the bishop before the flock was gathered was to plant “the church in its integrity”, to convert not by the distribution of a Bible but by gathering the heathen into a Christian community with a sacramental life’.12 He emphasizes, as has been done here, the importance of

the American precedent to the Tractarians: never again should a church be starved of bishops. The CMS, in the case of Crowther and still later in the case of W.A. Russell in North China in the 1870s, still stuck to the Jerusalem Act. In China, much as Venn might have liked to have a ‘Chinese Crowther’ for what was known as the ‘native church’, a church which already existed as it did not on the Niger, he needed what he called a ‘missionary bishop’, as distinct from the colonial bishop of Victoria (Hong Kong), a bishop outside Crown territory and as near to his ideal as he could get in that Russell was a Chinese-speaking leader, if not a ‘native’. As Venn’s biographer wrote:

the law allows a discretion as to their converts being placed under a bishop so consecrated … the Committee (of CMS) must add that they conceive that the proper sphere of a missionary bishop consecrated under the Jerusalem Act is the Native Church when it is sufficiently advanced to require a resident bishop. Under this Act, the Society took the first step in the important branch of the extension of the native episcopacy by promoting the consecration of the native minister Dr. Samuel Crowther for the Mission on the Niger.13

CMS had sent a memorandum as early as 1866 to Archbishop Longley indicating that they wanted the same legal route for North China ‘as in the case of Crowther’14 and Venn had demurred at the suggestion of making Russell a suffragan to Hong Kong: to him this was to make him a colonial bishop or at best an inconvenient half-way house to what Venn called a missionary bishop, the term being used differently from Wilberforce’s pioneer evangelist.

There is no doubt that the CMS–Venn–Tait view of the episcopate related to the Crown and legal establishment became a historical anachronism in the twentieth century. At least two points need to be made in reflection. First, although Venn’s use of the legal system to guard against episcopal autocracy became outdated as a method, the problem he sought to address remained a real one. Max Warren’s papers have yet to be researched, having been protected by the confidentiality rule imposed by the CMS, but they are likely to reveal his considerable anxieties over the exercise of episcopacy in the younger churches of the Commonwealth as he knew them: a handwritten memorandum in the possession

of the present writer, written as a response to research on Venn, revealed this as an on-going preoccupation for the general secretary of the CMS.

Secondly, the kind of contrast made by Owen Chadwick between a concern for orders, liturgy and sacraments over against the teaching of the Bible in missionary work can be greatly overdone in comparing the approach of Mackenzie and the UMCA with the CMS. The evangelicals of CMS did look to bishops to oversee the church’s life and when they used the phrase ‘planting the church in the full integrity of its system’ the episcopate was included. They were supportive too of an Anglicanism which was sacramental and well ordered, looking to develop a ‘native’ clergy to baptize, preside at the Eucharist and teach the Bible, all of which was also true of UMCA, and held in common with Wilberforce, G.A. Selwyn and others of their persuasion. The division came over the role of the bishop. Venn and others like him continued to see the bishop in primarily pastoral terms (and Venn drew a sharp distinction between the pastor and the evangelist), with the care of the clergy and the oversight of the church as the predominant role. Venn regarded the mission on the Zambezi as ‘a dangerous experiment in the case of Bishop Mackenzie’.15

In the case of Crowther, Venn departed from his own strict rationale. Crowther was (as Roland Allen was to call him) a CMS agent in episcopal orders. For Venn, the gain of having an African bishop outweighed the loss of a strictly coherent ideology: in his Church in Africa, Bishop Bengt Sundkler has vindicated his decision: ‘this appointment was one of the most far-sighted ecclesiastical decisions in African Church History’.16

Strictly this article deals with the nineteenth-century idea but ideas are never so neatly confined. According to Dr Gavin White, whose work on the idea of the missionary bishop remains of permanent value, the idea remained influential in the American church long after the 1830s:

the whole idea of the missionary bishop was becoming the accepted thing as the missionary bishops themselves proved so highly successful. And it had been demonstrated that even in America a church could be Episcopal ... the idea of the missionary bishop never died entirely ... even today [he is writing in the 1960s] it is accepted without question in missionary circles of the American church that a new mission should always be headed by a bishop.17

White held that the ideas did not just originate with G.W. Doane, as the Scandinavian scholar Hans Cnattingius had argued, but that Newman, Pusey and Froude had developed their own ideas independently. Nevertheless, through Samuel Wilberforce the Americans may have influenced the Church of England for ‘he was the man that mattered’.

If the idea has retained its force in the United States in the twentieth century, there has also been a further resurgence of it in recognizable form reaching into the twenty-first century. In Nigeria, at the time of White’s research in the 1960s, the number of Anglicans was estimated at 900,000. In the 1990s, the Anglican Church of Nigeria decided to respond to the Decade of Evangelism by establishing a number of new dioceses, not least in the Muslim north of the country. Fifteen such new dioceses were named. The rationale was spelled out for the communion in the Anglican Cycle of Prayer of 2002: ‘the Decade of Evangelism prompted a daring and forceful act in the Province of Nigeria: the sending of thirteen newly commissioned missionary bishops into the country’s Muslim dominated and hostile north, an area previously neglected by the church’, which is explained here correctly as stemming from Lugard’s colonial policy of trying to keep the peace with Muslims: this ‘proclaimed all territory from Lokoja north “blocked to the Gospel” … that all changed in January 1990. The church “unblocked” the Gospel by consecrating eight bishops and sending them off to pre-drawn dioceses. They are paid by parishes in the capital city, Lagos. The venture has been very successful in every diocese but in some the progress has been phenomenal’. Numbers of Anglicans in Nigeria are now calculated to be 11 million and much of this considerable increase, it is claimed, has resulted from this policy in the last decade of the twentieth century, where bishops have been consecrated with few clergy or congregations to oversee but with exceptional growth resulting. An Anglican priest, invited to teach in a Nigerian theological college in 2002, coming from outside the country, has confirmed the claims made for remarkable growth by this method, a strategy based on a form of ‘missionary bishops’ not so dissimilar to the nineteenth-century idea.

Imperial Nexus and National Anglican Identity: The Australian 1911–12 Legal Nexus Opinions Revisited

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ABSTRACT

The legal Opinion of eminent English Counsel on the legal nexus of the Australian Anglican colonial dioceses to their Mother Church in England was delivered on 20 June 1911. It provoked a decade of debate in diocesan, provincial and national synods that revealed how leading Australian Anglicans identified themselves before and after World War One. Great diversity appears among the responses of bishops, clergy and laity. Both enthusiasm for change and wariness of it were confined to no one region or diocese. Lay understandings and participation in these debates, along with churchmanship anxieties and long traditions of colonial diocesan independence, were among important factors that governed the Australian Anglicans’ long march towards constitutional autonomy in 1962. Lambeth archives, printed Synod Reports, Australian secular and religious press reports are quarried to reconstruct these images of a diverse and uncertain pre-1921 Australian Anglican identity.

The legal Opinion sought in June 1910 from eminent English Counsel on the legal relationship of the Australian Anglican colonial dioceses to their Mother Church in England was delivered on 20 June 1911. It, and a similar Australian Opinion on 12 April 1912, provoked public debates that revealed how leading Australian Anglicans identified themselves before World War One.1

1. These debates have been examined in broader context by John Davis, Australian Anglicans and their Constitution (Canberra: Acorn Press, 1993), especially in ch. 2. Ruth Frappell’s ‘Imperial Fervour and Anglican Loyalty, 1901–29’, ch. 4 in B. Kaye (ed.), Anglicanism in Australia (Melbourne: Melbourne University Press, 2002), summarizes it (pp. 89-90). More helpful to this article was ch. 13 of A.P. Kidd’s unpublished PhD University of Queensland dissertation on ‘The Brisbane Episcopate of St
These Opinions on legal nexus marked an early milestone in a quest to form an autonomous national Australian Anglican (or ‘Church of England’) Constitution, an objective that was not achieved until 1 January 1962. These debates show how a growing determination to remedy, albeit in differing ways, the weaknesses perceived in Anglican constitutional structures before 1914, was retarded, and the processes of constitutional reform were protracted, not only by complex legal difficulties arising from inherited structures, but also by the wide variety of opinion and attitudes to reform and identity among Australian laity and clergy. It is on this variety of response that this article will concentrate.

These responses to the Legal Nexus Opinions show how far the newly federated Australians’ sense of distinctive national identity in the years before World War One was not separatist but strongly and increasingly imperial. Most Anglicans ardently pledged their loyalty and adherence to their Motherland, and prayed regularly for its King. This was especially true of leading laity whose synodical votes so shaped the Australian search for greater Anglican Church autonomy. A wide diversity appears among senior clergy and senior lay leaders of both ‘conservative’ or more ‘progressive’ opinion within Anglican Church provinces (commensurate with colonial states) on matters of religious identity and on how that identity was best sustained.

Clouds of war gathering in Europe fed community unease. So did internal church anxiety, at least in more Erastian and anti-clerical minds, over the powers claimed and exercised by their bishops, powers exceeding those enjoyed by their fellow bishops in England. Some Protestants’ anxiety over the objectives of those clerical beneficiaries of the Anglo-Catholic revival who called for colonial Prayer Book reform exacerbated this, and diminished mutual trust, not least in their bishops’ use of any contested *Ius Liturgicum* or inherent power to modify their dioceses’ liturgy.

How free were the Australian colonial diocesan and provincial synods to adapt the immigrant religious practices of their Home Church to the exigencies of their Australian environment—supposing they wished to do so? Seeking greater colonial autonomy seemed incongruous for those dioceses largely dependent on the Home Church for funds and clergy. It also risked undermining the legal basis on which they held precious property and other endowments in the Australian states. Church property disputes in Scotland and South Africa were not forgotten.

Clair Donaldson, 1904–1921’, which excellently delineates Donaldson’s role and its ecclesial context. This article will examine more fully what these debates reveal about Australian Anglicanism.
What was their legal situation? The process of seeking and obtaining an authoritative legal opinion in England and Australia was protracted. The 1905 General Synod agreed (following a request from the Sydney synod and in the context of debates on relieving clergy of the rubrical requirement to recite the Athanasian Creed on 13 days a year) that the three Archbishops of Melbourne, Brisbane and Sydney and the Bishop of Perth constitute a committee:

To consider what is the legal nexus of the various dioceses in Australia and Tasmania with the Church of England in England; to obtain legal opinion in the Commonwealth and in England; to consult with the Archbishop of Canterbury, and to report to the respective bishops in Australia and Tasmania.

Their Primate, Archbishop W.S. Smith, had already learnt caution in dealing with Canterbury. He had in 1894 negotiated with E.W. Benson, (Archbishop of Canterbury, 1883–96) on the necessity for oaths of loyalty to be sworn to Canterbury by colonial metropolitans. Benson believed them to be the constitutional nexus of home and colonial churches. Benson rebuked those colonial metropolitans who unilaterally adopted the title of ‘Archbishop’ before the Lambeth Conference had set up a process of due recognition. To Benson’s assertion of his patriarchal authority, Smith had responded defensively:

I have no inclination, or wish, to be ‘precipitate’ in the difficult questions which the Colonial status and development necessarily raise as to the ecclesiastical relation with ‘the Mother See’, and as to ‘the nexus contemplated by [English] Statute law’.

Accordingly, Smith had not adopted the title of Archbishop (as the metropolitan bishop of Sydney) until July 1897 after the Lambeth Conference approved his doing so.

In May 1906 Smith conferred with the new Archbishop, Randall Davidson (1903–28) first, on obtaining legal opinion on the legal nexus of the home and Australian ‘Church of England’, and secondly, on how far the autonomy of the Church in the Colonies was ‘an ideal to be sought for’; what amount of centralization in England was desirable, and what should be ‘the range and nature of our independent legislation’ in Australian synods. Davidson required a formal and documented appli-
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cation before arranging any legal opinion. On autonomy Davidson was also cautious:

Some ‘centralisation’ in England for decision on important points, and for prevention of too wide divergence in liturgical and ritual custom is desirable. The Archbishop of Canterbury himself could not, and should not, be sole Referee. But some development of the ‘Committee of Reference’ principle might be agreed upon by the next Lambeth Conference. ‘Autonomy’ in the Colonial Church is an ideal to be gradually worked out, but there should be some check on too hasty or too wide divergence from the Mother Church.7

Davidson disclaimed patriarchal authority, explaining to Melbourne’s Archbishop, H.L. Clarke, how impossible it was for him to speak officially about ‘the exact character of the nexus’ between the Home Church and those in the colonies. It was a subject ‘complex and difficult in the extreme’; and they were ‘without precise precedent ether in Church Law or in Church History’. He needed a formal legally drafted case to act on, but observed: ‘I did not gather from the Primate that this was what was desired’.8 Was their ageing Primate another sheet-anchor on progress in constitutional reform of Australia’s colonial church structures?

In 1908 wider and earlier discussion about the ‘Organisation of the Anglican Communion’ became the substance of ‘Report No. X’ of the 1908 Lambeth Conference. That Report asserted ‘the general principle of the autonomy of national churches within the Anglican Communion, believing that national churches will give their best contribution to the life of the Church Universal if allowed to grow up freely in their own soil, and to develop under local conditions’.9 Yet were all Australian Anglicans so willing to acclimatize and prefer a ‘national church’ identity above what, by Australian colonial history and tradition, had been a very diocesan one?

When the General Synod next met in October 1910 John Charles Wright (newly elected as Sydney’s Archbishop, and later as Anglican Primate and so Chairman of General Synod) astutely warned them against ‘reckless haste’ in transforming a General Synod of the Church of England dioceses in Australia and Tasmania into one for a ‘Church of Australia’, without protecting and recognizing their diocesan distinc-


tives. National identity proved an uncertain basis of action. A later motion (from Bishops Goldsmith of Bunbury and Stretch of Newcastle) to adopt an Australian name for their Church and to assert its distinct national identity was opposed by the Archbishop of Melbourne, and voted out by the representative laity.10

Nevertheless, in June 1910, Archbishop Wright had, as their new Primate, duly submitted a Case for Counsel to Davidson for the Opinion of Counsel that Davidson would choose. By March 1911 the three counsel were chosen and their fees agreed upon.11 On 20 June 1911 the counsel gave their Opinion. It considered the Anglican colonial dioceses in Australia and Tasmania to be very closely tied to the Home Church. They were, indeed, regarded as an integral part of it. The Opinion’s ‘gist’ was:

Partly by Constitution and by effect of consensual agreement and partly by Act of local legislature, the Church of England in Australia has bound itself to be governed by the law of the Church of England as declared in England, and to hold its property for those purposes. But local legislatures can alter this.12

The later Opinion of two Commonwealth counsel drew a very similar conclusion.13

How did Australian Anglican Church leaders, and their provincial and diocesan synods, respond? Letters from Australian bishops in Lambeth archives reveal diverse episcopal responses. Archbishop Wright was, like Davidson, anxious to keep Anglican unity, and to counter an endemic colonial centrifugalism—as he confessed to Davidson late in 1910:

If I may speak personally, it seems to me from what I have seen of the various Dioceses in Australia that our final constitutional settlement will be best obtained by leaving a large amount of liberty to each diocese on minor points, such for instance as Ritual. We can never get over the fact that we started here with a large Diocesan independence.

He also expected larger dioceses, like Sydney and Melbourne, to be given commensurate voting power in any reformed General Synod.14

His response to Davidson on receiving the Opinion in September 1911 was even more candid. He and other bishops he knew thought ‘there is

11. Davidson Papers, Vol. 236, pp. 150-60. Those chosen as counsel were the Rt Hon. Arthur Cohen, KC, Lord Robert Cecil, KC and Mr A.B. Kempe.
13. Dated 15 April 1912. The two eminent Australian counsel were Adrian Knox and J. Musgrave Harvey. Texts of the Case and the two Opinions were published in _General Synod Report_ 1916, Appendix 1, pp. 57-86.
every reason why change should be slow here’. Several of them were ‘glad that the difficulties in the way of constitutional alteration are so great’.

Australia stands to lose much by hasty and ill-considered grasping at quasi-independence of the Church as regards freedom to enact, nor is there at present any demand for such independent action on the part of the laymen of the Church generally, so far as I read the signs of the times. The desire for independence is voiced by the Young Guard, who are possessed by a wish for ritual liberty at any cost, and who are apt to let prepossessions blind them to the factors that make or mar the influence of the Church in the Commonwealth.

He was, therefore, unwilling to barter their esteemed heritage for ‘the temporary satisfaction of certain hotheads’. Again he argued that any plenary powers for General Synod must be ‘on the basis of provincial or probably diocesan liberty’. He expected unity to flow more from sympathetic trust than from compulsory powers of legislation ‘that might easily cause split—or anaemia’. The property disputes in South Africa he considered ‘a warning in the eyes of so many of us’. Davidson replied to his letter: ‘I think I am in complete agreement with you’.15

Archbishops of Canterbury had already perceived problems in unilateral provincial activity. Benson rebuked the Canadian provinces for their metropolitans’ adoption of the title of ‘Archbishop’ in 1893–94 without the Lambeth Conference’s recognition or endorsement. He told South African and Australian provincials in 1894 not to follow their example.16

Davidson had faced in 1905 the eccentricity of Dunedin’s aged Archbishop Neville exhibited towards himself, the Bishop of London and other New Zealand bishops. Restraints had proved tenuous. He confided to Donaldson in Brisbane:

The Primate of New Zealand seems to be moving towards an even more active and vociferous repudiation of any nexus with the home Church except the most shadowy. And if (as seems not to be unlikely) he now acts in a way directly contrary to all home advice and conventional rule and relies upon his Primatial position as enabling him even to defy his own Bishops, and to denounce Lambeth, and London, and SPG, we have no check or hold whatever upon him.17

15. Wright to Davidson, 14 August 1911, 12 September 1911; Davidson to Wright, 14 October 1911, Davidson Papers, Vol. 236, pp. 182, 184, 185.
16. See Benson Papers, Vol. 133, pp. 41, 44, 55-60 (28 August 1894); Vol. 142, p. 91 (1 April 1895).
Davidson’s response to Wright in July 1911 was sympathetic:

At first sight it is certainly disappointing, as it seems to circumscribe narrowly your powers of action, or even to render action almost impossible... But I think that with friendly cooperation on the part of the Provincial legislatures, a great deal might properly be done.

He was also cautious: he urged Wright to seek general powers for the provincial synods (and not specific changes) from the legislatures, since ‘the Church of England at home has I think reaped great advantage from her inability to alter Rubrics, etc., lightly’. The Australian Church needed ‘some steadying central influence (possibly the approval of the Primate or the General Synod)’ to prevent ‘vagaries’ in provincial reforming initiatives.\(^\text{18}\) In this way he was encouraging the quest for autonomy based on a reformed General Synod that St Clair Donaldson had espoused.

St Clair Donaldson (Archbishop of Brisbane since 1905) was, among the Australian bishops, the most earnest advocate for greater autonomy. A commanding personality, he was greatly respected at Lambeth as a leader and informant.\(^\text{19}\) He might have been elected as the Australian Primate but lost to Archbishop Wright of Sydney by eleven episcopal votes to ten.\(^\text{20}\)

In October 1905, after the Australian bishops had discussed the Home Church nexus, Donaldson told Davidson that his ‘true objective’ was ‘an independent Church of Australia and Tasmania’ and not ‘the Church of England \textit{in} Australia’. Just as the secular Commonwealth government had gained ‘a large freedom and independence trusting in the ties of blood and loyalty to keep the nexus close’, he thought a similar independence for the Church would ‘aid our healthy development in accordance with our environment’. He had met strong opposition, however. The Bishops of Bendigo (H.A. Langley) and Gippsland (A.W. Pain) and ‘the Sydney party’ clung ‘tenaciously to the Privy Council, fearing the growth of Romanising tendencies’. But faced with serious legal difficulties over retaining access to property Donaldson expected very slow progress.

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18. Davidson to Wright, Primate, 14 July 1911, 4 August 1911, Davidson Papers, Vol. 236, pp. 175-79.
19. ‘My friend ... a man of singular capacity, devotion and attractiveness’ as Davidson described him to Sir Henry Rawson, 2 May 1906, Davidson Papers, Vol. 121, p. 261; ‘Oh! Thank God Donaldson is out there... We must make these great Churches independent—but it requires care’. Bishop H.H. Montgomery [Secretary, SPG] to Davidson, 1 December 1905, Davidson Papers, Vol. 236, pp. 20-21.
Davidson’s counsel for him was also: ‘Festina Lente’.21

St Clair Donaldson’s arguments in Australian synods were (given different emphases in different periods) first, the ‘national principle’ that the standard unit of Anglicanism was the nation (above province or diocese) and that this national identity of Anglican churches was recognized, especially, in Article 34.22 He then argued that national autonomy was necessary for the Anglican Church to adapt for survival in Australia. No separation was intended. The experiences of other national Anglican churches, such as Ireland, Scotland and South Africa, had proved that autonomy in no way led to schism between members of the Anglican Communion. He also argued that the Home Church itself wanted them to proceed to greater autonomy as an Anglican Church of Australia ‘within the great empire of the Church’.23

The Queensland Provincial Synod, unlike that in New South Wales and Victoria, held power over its constituent diocesan synods. A draft Bill to grant the Queensland Provincial Synod greater autonomy was prepared after 1909 for presentation to its diocesan synods. Donaldson hoped it might provide a model for other Australian provincial and diocesan synods to adopt. He was then holding little hope of collective action through the General Synod as then constituted.24

When put to the Brisbane diocesan synod in June 1912, the Bill was rejected by the laity — 63:17.

One in three clergy also opposed it. What were the grounds of their objection? Paramount was the fear of losing their ‘Church of England’ identity and the religious and social status it gave. Their disquiet feared that the cry of ‘nationality’ might go too far: ‘it might damage the empire as well as hurt the Church’. Were they really an independent nation? (As Canon Osborn later asserted: ‘We do not live in little England, we live in greater England, and are part of a great empire. We are not yet an independent nation’.)25 They feared that such adaptive laws would

23. Address to Provincial Synod, 12 October 1909, Brisbane Courier, 13 October 1909, p. 5.
24. Donaldson to Davidson, 10 June 1912, Davidson Papers, Vol. 176, pp. 80-81.
25. Canon Osborn (Brisbane), Brisbane Anglican Church Congress Report, p. 141. Editorials in the Brisbane Courier, 6 June 1912, p. 6 commended the laymen for ‘strengthening the religious and civil bonds of the Empire’ and again on 7 June, urged the Anglicans against taking unilateral Queensland action but to promote the church
create a sectarian separation from Mother Church and Motherland. Besides, it was not the best time (amid gathering clouds of war) to desert the Motherland. Many laity and clergy were far from convinced, anyway, that the proposed reforms were then necessary.26

Donaldson quickly reported this outcome to Davidson, seeking reassurance. His objective of ‘an autonomous Church of Australia within the Anglican Communion’ remained, but he now wanted it achieved through a reformed General Synod rather than risk diverse provincial initiatives — ‘we must at all costs wait for General Synod’.27 Despite their ‘solid opposition’, the laymen he thought were not ‘homogeneous’. A conservative nucleus wanted to remain as Church of England dioceses in Australia and with no legal separation from the Privy Council. A larger section were gripped by political bias: since pursuing a national policy, whether in church or state, was ‘largely identified out here with the Labour [sic] Party’. An equally large section mistakenly thought they were opposing separate provincial action. What most disquieted Donaldson was less the complexity of the issue and the ignorance of the laity about it than ‘the alienation of our laymen, which was very apparent in the debate, from the national Australian sentiment’. What or whom then did these laity represent? He elaborated: ‘Everyone out here knows that the national self-consciousness is extremely strong and sensitive in young Australia, yet we heard stubborn old Englishmen in Synod maintaining that we are not a nation, and do not need a national Church’.28

Davidson’s reply commended ‘a process of quiet, deliberate, and slow-footed action’ taken ultimately by the whole Australian Church and not unilaterally by dioceses or provinces, and regretted that these Australian Church laity, like those in South Africa, failed to see the practical difficulties facing colonial church government and the need for some larger agreed elasticity. He reassured Donaldson: ‘I am entirely with you in the arguments you have used, and in the conclusions to which they lead you’.29

Accordingly in the following September the Queensland Provincial Synod unanimously passed a ‘Relief Bill’ which asked their General Synod to act:

parallel to a centralized imperial institutional unity such as Lord Milner had been advocating. The hour had surely come to strengthen imperial unity.

26. These Brisbane Diocesan Synod debates are reported in the Brisbane Courier, 5 June 1912, pp. 5-6; 6 June, pp. 7-8; and 7 June, pp. 7-8.
27. Donaldson to Davidson, 10 June 1912, Davidson Papers, Vol. 176, pp. 80-81.
28. Donaldson to Davidson, 10 June 1912, Davidson Papers, Vol. 176, p. 82.

(IV.3) to seek legal opinion as to the methods by which the Church of England in Australia and Tasmania can be organised effectively as an autonomous Church in full communion with the Church of England [and]

(V) to obtain power to legislate effectively upon certain defined matters for the well-ordering of the whole Australian Church, including a provision reserving the authority for Prayer Book Revision to the Australian Church as a whole, without reference of such legislation to the various Dioceses for confirmation.30

G.H. Frodsham, soon to retire as Bishop of North Queensland, had urged the necessity for securing freedom from the Church of England. He envisioned an Australian church which under the Spirit’s guidance would follow the doctrine and teaching of the English Church while exercising freedom to make and administer laws that would effectively curb their current legal anarchy and adapt them to the Australian environment. They had been tied to a system of law increasingly ‘inapplicable to Australian needs’. He warned: ‘So long as the Church in Australia is hampered in its development it can never hope to be more than an exotic—it can easily degenerate into an anachronism’.31

Other Australian synods addressed the Opinions and autonomy. In Melbourne, Archbishop H.L. Clarke believed the very complexity of the issues they faced in 1912 required extreme caution.

He told Davidson that although ‘the agitation for a complete repeal of any legal nexus binding our Church in Australia to the Church in England is proceeding very briskly in certain states’, none of the five bishops in Victoria wanted separation from the Church in England, and a joint vote of his provincial clergy and laity had rejected it 37:15. He preferred plenary powers for provincial synods.32 (In May 1912 the Victorian Provincial Synod had agreed to ask the General Synod to ‘consider the advisability and practicality’ of the church in Australia securing power ‘to adapt the liturgy and discipline of the Church of England to the varied needs of Australia’, but with the proviso ‘that no step be taken that will destroy the nexus between the church in England

30. G. Frodsham (Bishop of North Queensland, Townsville) to Davidson, 19 September 1912, Davidson Papers, Vol. 176, pp. 103-104.
and the church in Australia’. Two out of the five bishops voted against the motion. Laity and clergy had voted for the proviso 37:15.33

Clarke’s presidential address to his October 1912 Melbourne Diocesan Synod dealt mainly with the vexed question of severance from the Church of England’. His arguments were forceful—but very conservative. Severance meant going further than the Commonwealth had done. It was imprudent ingratitude to the English Church that supplied them with clergy and funds. It was risky: in effecting change they faced ‘some of the gravest constitutional questions’. Inevitably progress would be slow. ‘No one desired to see schism or disintegration. The ideal must be the maintenance of the one Church throughout Australia’. Reform was unwarranted by any restrictions the Home Church had hitherto placed on their actions. He considered the Australian Church ‘unprepared for absolute and unconditional self-government’, and saw the push coming from impatient ‘Australian born and trained clergy and laity’. First they needed ‘a more complete union among themselves’ of which the Book of Common Prayer was ‘the only real bond’.34 Archbishop Wright of Sydney (see below) thought similarly.

Dean Stephen of Melbourne, however, regarded the legal bond as an undesirable fetter. He would keep the links of tradition, doctrine and loyalty but restore the authority of church law by Australian adaptation and reform. The Australian Church was no longer an infant: ‘the mother church was willing to welcome her daughter churches fit to sit, not at her feet, but at her side’. Canons Hart and Hughes and the Hon. L.E. Groom agreed.35 Mr F.A. Moule thought the proposal unnecessary, unpatriotic, and ‘the present was not a time for loosening any of the bonds of empire’. The Revd H.T. Langley feared severance of the legal nexus would bring narrowing and litigating division, as in South Africa. ‘Australia is far from being an independent nation, and until she was a nation it was idle to talk of having a national church’. (Canon Hart challenged this as he thought young Australia would ‘not be content with a church that was governed outside Australia’.) Canon Hindley, however, sought strength through enhancing imperial structures. Imperial patriotism and churchmanship fears all played their role. After five hours of debate the Dean’s motion that permanent retention of legal nexus was undesirable was lost; the Melbourne clergy voted 45:42 against it, but the laity 83:21.36 Bishop J.D. Langley of Bendigo had already told his Synod to oppose

34. The Presidential Address was reported in *The Age*, 1 October 1912, p. 8.
reform and preserve the existing nexus, while in Wangaratta, Bishop T.H. Armstrong favoured a self-governing Australian Church but wanted a reformed General Synod to preserve its unity. His Synod ‘almost unanimously’ agreed to seek legislative autonomy ‘as an independent national branch of the Catholic Church’.38

In Western Australia, Bishop Riley of Perth (made ‘Archbishop’ in 1914) was an outspoken and impatient advocate of autonomy and of an Australian Anglican national identity. He regarded the present situation as anomalous. They were slaves to laws they had no voice in making. To exercise autonomy, however, they had first to be a united national church, one that no longer allowed its dioceses to reject the determinations of its General Synod whose early reform was, therefore, imperative, and had too long been postponed. Problems of finding an Appellate Tribunal and of accommodating churchmanship differences he considered surmountable. Persisting in provincial isolation was suicidal. He threatened (in his 1913 Brisbane Anglican Church Congress address) to form a Western Australian Province and to proceed (albeit sadly) with other willing dioceses to seek an autonomous General Synod.

Those who refuse to admit that Australia is to all intents and purposes a Nation, with a right, according to the preaching of the Church of England to a National Church, cannot complain if we, for instance, in the West rescind every Determination of General Synod—and form a Province of our own, and ask other Provinces to join in a General Synod.

This is no idle threat. It will be the only thing to do—and I, at all events, shall be prepared to do it.40

Adelaide’s 1912 Synod with one dissentient declared ‘its unswerving loyalty to the Church of England and its steadfast desire to remain in communion with her’ while also affirming the principle outlined in Article 34 ‘that the Church of England in Australia should have full power to legislate for itself’ and, being an extra-provincial diocese, sought reform of the General Synod as a plenary national body.41

Within the NSW Province, Goulburn’s Vicar-General, Archdeacon Bartlett, complained to his 1911 Synod of the growing desire ‘to rob us, in Australia, of the title—the Church of England—and to narrow our

38. The Church Standard, 23 August 1912, pp. 10-11.
39. He was applauded in The Church Standard editorial, 11 October 1912, p. 1 as ‘a stalwart patriot, and a firm advocate of a United Australia, in Church as in State’.
40. Brisbane Anglican Church Congress Report, 1913, pp. 142-52 (at p. 152).
41. Their debate on the Nexus is reported in The Church Standard, 13 September 1912, p. 12.
horizon by calling it the Church of Australia’. As they already enjoyed greater freedom than the Church in England had, what more, he asked, did they need?42 In Bathurst, Bishop G.M. Long wanted a national legal nexus that bound all Australian Anglicans into greater unity under a reformed General Synod, while retaining a spiritual nexus with the Church in England. His Synod’s motion that steps be taken to secure an autonomy similar to that ‘of our sister churches in Scotland, Ireland, South Africa and America’ was carried by 37 votes to 22.43

Archbishop Wright told his 1912 New South Wales Provincial Synod that provinces and their dioceses, and not the nation, were the ancient and preferable unit of church government, citing in support the provincial and nexus-retaining modes of government of the Anglican Churches in Canada and New Zealand. South Africa’s Anglican Church alone had claimed the right to determine autonomously its faith and doctrine. So Wright urged caution. Let them establish why they needed to alter their present provincial and diocesan constitutions: ‘in what dangerous respect does our present Constitution restrict our reasonable liberty?’ The need to shorten services, he thought, was a cause too trivial to justify ‘revolutionary legislation’. Besides, they needed to draft and agree on the new laws and new structures before discarding the old.44

The Sydney Diocesan Synod of 1911 and 1912 did not debate autonomy nor the nexus. Addressing his 1913 Synod, Archbishop Wright was more overtly opposed to rapid change. Their plight was not as ‘perilous’; they were not ‘slaves’ to English law but lived under limitations they had themselves imposed. Therefore ‘the claim for self-government of the Church and autonomy is a misnomer’. Their choice lay in exchanging existing self-imposed limitations for ‘other limitations’. He defined as their ‘nexus’ (apart from common history, tradition and sentiment) ‘the Prayer Book and Formularies’ which Australian Anglicans had themselves freely embodied in all their church constitutions. Modifying that nexus meant changing that Prayer Book and its rubrics. ‘That is a power that might involve more than we wished if we appropriated it without strict limitation’. The Prayer Book was their guarantee of Catholicity and their Magna Carta of liberty. They needed to be wary: the General Synod was not yet ready as an instrument of reform. Here Wright’s Primatial concerns may have surfaced, wishing to preserve against premature

42. Address to Synod, 22 November 1911, Goulburn Diocesan Synod Reports, 1911, p. 29.
43. The Church Standard, 13 September 1912, pp. 2-3.
44. NSW Provincial Synod Report, 1912, pp. 25-30; text also in The Church Standard, 16 August 1912, pp. 4-5.
haste his Church’s unity and coherence through its existing inherited structures, and to respect the conservatism—but also to educate the ignorance—of many of its clergy and laity.\textsuperscript{45} Not surprisingly a draft Synod resolution—‘that the future welfare of the Church in Australia depends upon her becoming autonomous’—was shelved by proceeding to the next business.\textsuperscript{46}

The onset of the Great War and its pastoral preoccupations deferred this contested quest for a unified exercise of legislative autonomy by Australian Anglicans. When a full General Synod met in 1916\textsuperscript{47} their war-time imperial fervour led them unanimously to support the ‘Yes’ option in the Government’s imminent Conscription referendum. Despite this imperial mindset, Donaldson successfully moved the appointment of a large committee (21 clergy and 11 laymen):

To consider whether the existing legal position of the Church in Australia, and its relationship to the Church in England and to the Anglican Communion, as declared in the Opinion of the Counsel upon the ‘Nexus Question’ is satisfactory as a permanent basis for Church fellowship within Australia and for corporate fellowship with the Church in England and with other branches of the Church Catholic in communion with the Church in England.

Should the committee think the present position ‘not permanently satisfactory’ they were to make a detailed report on the steps needed to make ‘a basis of fellowship’ operate effectively throughout the dioceses of the Commonwealth.\textsuperscript{48}

Not until the General Synod met in 1921 did the quest for greater Anglican constitutional autonomy regain momentum, leaving debates over legal nexus for a long march towards an acceptable Australian national Church constitution. Diverse Anglican self-identity and churchmanship unease persisted. The 1916 committee’s \textit{Report} (and its minority \textit{Annexure}) well identified the issues that were to shape Australian Anglican autonomy debates in the coming four decades.\textsuperscript{49}

\textsuperscript{45.} \textit{The Church Standard}, 4 October 1912, p. 4; 3 October 1913, pp. 9-10. There is no press report of any ‘nexus’ or autonomy discussion in Sydney’s 1911 Synod.

\textsuperscript{46.} \textit{The Church Standard}, 10 October 1913, p. 10. The arrival of the Australian Fleet in Sydney Harbour would reinforce the message of immediate imperial naval dependence, \textit{SMH}, 3 October 1913, pp. 5-6.

\textsuperscript{47.} Those who met in General Synod in October 1915 considered themselves ‘only a fragment of the whole synod’ and effectively transacted no major business. \textit{General Synod Report 1915}, pp. 14-15.

\textsuperscript{48.} \textit{General Synod Report 1916}, pp. 36-37.

\textsuperscript{49.} See ‘Report of the Committee to enquire into the Basis of the Church Constitution in Australia’ (Appendix 10) \textit{General Synod Report 1921}, pp. 128-41.
Some broader reflections on these 1911–21 debates on the Opinions on legal nexus follow. International context (e.g., the imminent war in Europe, the growing international arms race, the importance of the British navy for the defence and economic survival of the Australian Commonwealth) is reflected in fervour in celebrating Empire Day, George V’s coronation and, not surprisingly, in the Australian Anglican synods’ desire to stand close by Britain. Thus the German Kaiser’s pugnacious ambitions (and the jealousy and pride of other nations) fed the anxieties during this period that shaped Australian Anglicans’ constitutional development.

An age and country-of-origin factor emerged in the nexus debates as young native-born Australians were said (by Donaldson, for example) to desire greater national autonomy. Yet many of those most earnest for that autonomy were British-born, such as the Bishops Donaldson, Frodsham, Montgomery and Riley. Prominent Australian-born laymen like Lyttleton Groom (a Federal Minister but not a Labor Party supporter) urged a national not regional focus. Whether migrant British Anglican laymen may have been more conservative, and why, warrants further examination, therefore. Birthplace alone is no sufficient explanation. Were lay synodsmen (wherever born) elected for their known loyalty to Britain or affinity to her cultural values? Or were they elected for their wealth (and freedom to attend synods) or out of respect for their social status?

More profit might lie in noting other regional factors for seeking autonomy: the urgent need for humane adaptation which widespread rural and sub-tropical dioceses faced in contrast to the reforming conservatism tolerable in metropolitan dioceses. Or did smaller dioceses see strength in a larger whole, while larger (mainly metropolitan) dioceses were more jealous of their powers to control their affairs in greater self-sufficiency?

The focus in constitutional debates on the Anglicans’ Book of Common Prayer derived from its traditional role as an instrument of Anglican unity and uniformity, and as a new worldwide symbol of their spiritual nexus. According to both Opinions, however, any reform of it would, on passage through the British Parliament, become the legal Prayer Book in any Australian Church of England diocese, but the liturgical requirements it imposed would have been drafted without any formal Australian or other colonial or dominion contributions! That offended and exasperated many clergy and drove them towards severing the legal nexus and securing an Australian national church autonomy.

50. St Clair Donaldson, however, though born in London, was the third son of Sir Stuart Alexander Donaldson, who had been NSW Premier; and his mother had been born Amelia Cowper.
Preserving the universal use of one Anglican Prayer Book became on the other hand an imperial argument for retaining the nexus. Furthermore, some (like Archbishop Wright) believed that, until the General Synod had plenary powers, any provincial adaptation of the Prayer Book, like those in the USA and the disestablished Church of Ireland, would lack wisdom and comprehensiveness, and prove divisive.\textsuperscript{51} Preserving the Prayer Book helped to foster Australian Anglican coherence. Hilliard argues that most Australian Anglicans concerned to emphasize their Catholicity were then still ‘Prayer Book’ men, even though they wanted a Prayer Book revised to allow more Catholic expression.\textsuperscript{52}

Reforming that Prayer Book was a prospect that inevitably stimulated churchmanship controversies that were not confined to any one diocese or province. Stress inevitably aroused by adapting the requirements of a seventeenth-century English Prayer Book to Australian requirements was accentuated by partisan publicity imputing improper motives to concurrent attempts to reform that Prayer Book in England. Finding an alternative appellate tribunal to the maligned Judicial Committee of the Privy Council had the same effect in later debates. Both fed the mutual mistrust among Australian churchmen that fostered that recourse to diocesanism (or centrifugalism) that was so greatly to frustrate General Synod reform. Inter-metropolitan controversy had emerged even in interpreting the Opinions.\textsuperscript{53}

Some regarded the Privy Council as a source of fettering English church law yet, as the Hon. R.J. Lucas argued, the Judicial Committee of the Privy Council — so far as it acted as a court of final appeal for Anglican churches overseas — was a civil court, dealing with church temporalities only:

Neither the Privy Council nor any other Civil Court has any jurisdiction to deal with ecclesiastical law pure and simple. It is only when a question of the temporalities, which alone gives the Court jurisdiction, is involved, that the Civil Courts have any jurisdiction, and then only so far as the question of ecclesiastical law applicable to the decision of the issue involved becomes not only necessary but absolutely unavoidable. The same would apply to matters arising from any denomination. Self-government would not alter this position.\textsuperscript{54}

\textsuperscript{53} See correspondence from H. Minton Taylor, J.S. Hart and F. de Witt Batty in \textit{The Church Standard}, 5 July 1912, pp. 1, 5; 12 July 1912, pp. 6-7; 19 July 1912, p. 6.
\textsuperscript{54} \textit{Brisbane Anglican Church Congress Report 1913}, pp. 126-36. R.J. Lucas was a politician and member of the Tasmanian Synod.
This was exactly the point that Archbishop Davidson of Canterbury was constantly making in his letters to Australian bishops. Davidson’s insistence that Anglican Churches in self-governing colonies no longer had any access to the Judicial Committee of the Privy Council as a Court of Appeal in ecclesiastical cases but only in civil suits was not widely understood at this time.\textsuperscript{55}

The Legal Opinions accelerated the search for other national instruments of Anglican coherence and reform. The General Synod increasingly became the focus, therefore, as the most desirable instrument for effecting and coordinating constitutional reform and for the future exercise of autonomy. Reforming the General Synod was thus a necessary prerequisite to achieving autonomy.

Not all agreed on this necessity. Moves in 1905 by the General Synod to give itself more powers to legislate on defined national matters, such as marriage and divorce, were opposed because they jeopardized the liberty of provincial and diocesan synods, and because the representation upon it of numerically larger metropolitan dioceses was so inequitably small. While this initiative was ruled out of order by the Primate, Archbishop W.S. Smith, another very similar motion was soon introduced by Bishop Riley of Perth, and passed.\textsuperscript{56} Following the Opinions, however, an increasing number of churchmen regarded the reform of the General Synod as the best way ahead. This marked a new milestone in the Australian Church’s constitutional journey. Through the General Synod the vexed issue of an acceptable Appellate Tribunal was also to be pursued.

The Primate became another potential instrument of coherence. His role at and between General Synod meetings was seen as vital for forming an Australian national ‘Church of England’ identity. This had been perceived earlier amid episcopal and leading laity’s despair about Archbishop Smith of Sydney’s bland personality and limp exercise of his primatial role. This dissatisfaction was one factor that led to the Primacy being opened to occupants of other sees, and to H.H. Montgomery’s applause for Bishop Kennion of Adelaide’s role in giving Australian Anglicans some inspiring national episcopal leadership.\textsuperscript{57}

\textsuperscript{55} See, for example, Davidson to Donaldson, 5 August 1912, Davidson Papers, Vol. 176, pp. 98-09.

\textsuperscript{56} 12 October 1905. See debates recorded in \textit{SMH}, 5 October, 7 October, p. 14; 10 October, p. 6; 12 October p. 10, and 13 October, p. 5.

\textsuperscript{57} See, for example, H.H. Montgomery (Hobart) to A.W. Thorold (Bishop of Rochester) 23 March 1890, Benson Papers, Vol. 92, pp. 123-24; Montgomery to Davidson, 15 August 1891, Davidson Papers, Vol. 29, pp. 320-25; 5 October 1891, Davidson Papers, Vol. 33, pp. 1-4; 14 July 1892, pp. 7-9; 5 February 1897, Davidson
The search for national instruments after 1921 also devalued the emerging powers of provincial synods, but it revalued the diocesan synods especially as fortresses of competing metropolitan centres each jealous for control of its own affairs and assets, and for its inherited independence.

Those Anglican laity elected to synods were emerging as largely a very conservative force and constraint on the bishops’ and senior clergy’s enthusiasm for reform. They were less distressed by the alleged anachronism (or bias) of English church laws than were some of their clergy (young and old). Nor were they professionally required to adapt English-derived church regulations to novel Australian environments. Lay sentiment for keeping close links with ‘Home’ and its religion were very strong, and many heard their bishops’ call for greater autonomy as suicidal schism and sectarian separation. (And were there also social status issues?) These prominent laymen constantly reaffirmed their wish to remain members of England’s Church and her worldwide empire. They sought no other independent identity and voted against any sniff of seeming severance.

Another factor warranting greater study in the historiography of this period is, therefore, the role played by the opinions of laymen, whose colonial incorporation in synodical government occurred so much earlier than in England. Their opinions remain a relatively unexplored part of Australian Anglican historiography, and not least in these formative early decades of the twentieth century. Anglican historiography has traditionally focused on bishops. Such Anglican Church archives as exist generally foster this. Yet one can never assume that Anglican bishops reflect the views of their laity. They are more likely to be wanting to change them!

Admittedly records of lay identity and opinion are not so accessible or well-preserved as those of their bishops (as this very paper shows). More excavation is warranted. One might well explore the political and social status, aspirations and origin of those laymen who attended these synods, and ask how representative of the Anglican laity they were. Lay contributions to the debates on the legal nexus, and in the subsequent Papers, Vol. 50, pp. 220-21; and Montgomery’s call in his presidential address to the Hobart Church Congress for united action for the whole Anglican Church in Australia (Hobart Church Congress Report, 1894, p. 13), and echoed by Dean J.F. Stretch of Newcastle (pp. 56-58) and the Bishop of Goulburn (W. Chalmers): ‘May the General Synod of our own Australian “nation” or “country” take its legitimate place and exercise its legitimate powers’ (pp. 60-61). Sir Harry Rawson, the NSW Governor, complained too, wanting Archbishop Smith recalled (see the letters in Davidson Papers, Vol. 121, pp. 258-61 [1906]).
decades’ quest for constitutional autonomy, would vindicate their importance for any full understanding of Australian Anglicans’ constitutional history.

It is important, finally, to recognize how widespread was the diversity of Anglican debate on autonomy before 1921. Criticism of this quest for greater autonomy was confined to no one diocese or province, neither was their obverse determination to stay as closely linked as possible to the ‘Mother Church’. Likewise zeal for a national church structure, and for gaining greater freedom as a national church to adapt, acclimatize, progress and survive in Australian circumstances, knew no diocesan boundaries nor regional limits. The unhealed wounds of later constitutional disappointments and churchmanship-driven controversies (and their distinctive interpretations of the past) should not be allowed to obscure this recognition of the wide pre-1921 diversity and uncertainty among Australian Anglican clergy and laity about their identity and destiny.
Power, Order and Plurality: 
Getting Together in the Anglican Communion

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ABSTRACT

The present situation of global Anglicanism sharply highlights issues of plurality which have been created in part by the nature of the tradition and also by the history of its expansion. Plurality and difference inevitably call for some account of this in relation to the tradition. Recent work has often focused on koinonia as a way of dealing with the relationships involved in the church community. But many of our problems arise from an absence of a capacity to require actions of others. A better way into this precisely institutional question is through Richard Hooker’s discussion of power and order. Such a consideration leads to the need to develop more effective adjacent connections, and thus to a regionalizing of the communion.

Introduction

The problem I want to address here is institutional in character, that is, it has to do with how order works in the present circumstances of the Anglican Communion. By ‘order’ I mean the regularity of our ways of relating and the shape and reliability of the institutional expectations we have of each other. In institutional terms they are about what Richard Hooker called power, that is, the ability to require actions of others.

This question arises from the interaction of the historical tradition of Anglicanism and some current global realities. The relevant realities for this question are twofold. First, that Anglican churches are primarily local. Their inherited religious tradition privileges regional enculturation and they exist as subsets of nations within different cultures and institutional frameworks. Secondly, these churches have different polities and institutional assumptions and thus different patterns of expectations. The range of expectations and assumed jurisdictional power given to similarly named elements in institutional arrangements in different
Anglican churches is a particularly confusing part of this reality. For example, the jurisdictional power of national or General Synods differs around the globe, even though the title is often the same. The role and expectations of a bishop, or an archbishop are significantly different as between say Nigeria and England. Even within one national church they can be quite different as between say Sydney and Melbourne within the Anglican Church of Australia. I am not referring here to current theological dispositions or to the dominance of any particular political faction, but rather to the institutional framework which defines the role of the archbishop. These differences can very easily confuse both local and international conversations.

So the reality is that while the common historical tradition seems to imply an expectation of connection there is actual and significant diversity in terms of institutional and cultural patterns. This way of portraying the matter highlights the very important question of what kind of status or authority the shared historical tradition might have for Anglicans around the globe. For the present purposes I am assuming that there is some sense in which we want to sustain some Anglican connection among the various Anglican churches.

In this context the challenges are principally two. First, how to give a theological account of this plurality which the tradition itself has in significant ways created. This account will need to go beyond explanations of the origins of these differences. It will need to show how the theological tradition of Anglicanism can relate to those issues. Secondly, to provide a theologically relevant account of the power which might operate in a global inter-national sphere.

At one level we are dealing with a question of agency. How do we effectively require certain actions from others, either individually or as a group? The changing semantic reach of some of the terms used in this debate in Anglicanism can be confusing. The ancient distinction between potestas as inner power to express and autoritas as accepted influence to respond to, appears at various points in the history. The late twentieth

1. In Sydney the Archbishop is chair of the Synod and of the Standing Committee. The Standing Committee has the powers of the synod in between meetings of the Synod. The Standing Committee has the power here. In Melbourne the archbishop presides at the Synod. He chairs an Archbishop in Council which has little power and is fundamentally a consultative body to advise the archbishop on any matter on which he cares to consult them. The archbishop is the authority here and is a complete institutional entity in himself.

2. I have explored some reasons for the value of Anglicanism within the broader spectrum of Christianity in Reinventing Anglicanism: A Vision of Confidence, Community and Engagement in Anglican Christianity (Adelaide: Openbook, 2003).
century witnessed a debate among Anglicans over the ordination of women. It came at a time of more apparent globalization and a not unnatural quest for new global Anglican institutions. This debate was in large part conducted in terms of authority. Authority tended to be used in relation to generally agreed persuasive institutions. In that sense it looked like classical autoritas with some institutional coercion on the edges of the semantic field.

One can see this in the presidential address of Robert Runcie at the 1988 Lambeth Conference, an address which in many ways focused attention on these matters. Runcie began by drawing attention to the presence of organizational arrangements to deal with problems at the diocesan and provincial level, but ‘we have few for those which exist within the Communion as a whole’. He argued that any organizations must be contingent and have the marks of temporariness about them. He claimed that we needed a world Communion because:

Anglicans believe in the One Holy Catholic and Apostolic Church of the Creed. I believe we do because we live in one world created and redeemed by God. I believe we do because it is only by being in communion together that diversity and difference have value. Without relationship difference divides.

Stephen Sykes was a major contributor to this debate, arguing in his later writings for an authority which genuinely arises from the community. W.L. Sachs has shown that any simple extension of institutional patterns from the English experience of establishment leads into a dead end in which there is no effective basis for institutional authority.

Authority has a long history in theological discourse in relation to such institutions as the canon of Scripture, ministerial order and the sacraments. In modern times the ecclesiological avenue from Barth to Ratzinger is broad, much traversed and passes many well-known places, such as the village of Kung and the house of Volf. The Anglican conversation has its own range and has often been linked to political discourse because of the English tradition of church/state relations.

When we come to the ecclesiological questions of the Anglican Communion, however, it seems to me that we need another way into this nest of

4. The Archbishop of Canterbury’s Opening Address, p. 16.

questions. In recent times two linguistic images have been laid upon the table, koinonia and ‘instruments’. The koinonia language was important in Vatican II.\(^7\) It has had a significant role in ecumenical conversation and has come into the domestic Anglican conversation from that arena. The ‘instruments’ language originated in the first Eames report as a way of trying to put some institutional markers within the koinonia field. The advantage of the instruments language has been that it can be used to label things for which particular individuals or groups want to claim priority. However, it is essentially a placarding strategy and as such facilitates the glossing over of more fundamental ecclesiological issues. It leaves unanswered the question, whose instruments, which ecclesiology? This is not a strategy for long-term substantial conversation across the underlying differences among Anglicans, and as a consequence cannot be seriously regarded as a helpful strategy for engaging with the inner dynamics of the Anglican tradition or the fundamental ecclesiological issues facing global Anglicanism.

Like a number of other documents in recent ecclesiological discussion, the Virginia Report made use of the theme of koinonia. I am conscious of the value of this theme in recent theological debate\(^8\) but I seriously doubt whether, in the matter of order and institutionality in the Anglican Communion, it carries sufficient heuristic relevance. One of the problems with the Virginia Report is the connection between the quite specific institutional suggestions of the last chapter and the theological discussion of the preceding chapters, in effect, how the report moves from a consideration of koinonia and a Trinitarian analogy to issues of institutionality.\(^9\)

Koinonia is a relational concept and relations will always be a priority in a global communion. However, the particular controversies of the last decade have been in their precise presentation issues of institutionality. They have referred to decisions made by national churches or dioceses through their well-established organizational arrangements. In general the Communion response has been in relational terms combined with a tendency to use recently created groupings of symbolically distinguished


people. But the relationship approach does not deal adequately with the organizational demands upon office holders. In the context of the Gene Robinson affair in late 2003 the institutional obligations of Bishop Frank Griswold to the Episcopal Church in the USA (ECUSA) must inevitably be more powerful than any amount of pressure from others outside ECUSA, no matter how distinguished or numerous. Such a process can only ever be one of personal influence. This process runs the risk of appearing to involve expectations that an office holder will decline to fulfil the obligations of their office, while encouraging them to retain that office. Insofar as it does this, it creates expectations which are of doubtful morality.

The weakness in the connection between the theological argument of the Virginia Report and the institutional recommendations of the final chapter is worked out in this process. It appears in the public arena as ineffectual because the two languages do not have adequate resonance. We need another way into this question. I propose that Hooker’s treatment of power as the capacity to require action of others may be a better way forward. The rest of this article will therefore look at Hooker’s treatment of power under two headings—power and order, and plurality and catholicity—in order to explore what might be said about plurality and power particularly in regard to institutionality in the Anglican Communion.10

Hooker on Power

Richard Hooker is widely recognized as a significant Anglican theologian.11 He faced the problem of trying to interpret the situation of a Christian nation in which the church was coextensive with the nation. So his principal challenge was how to interpret the royal supremacy in


England in a theologically satisfactory way. It was not a straightforward challenge. But he was also faced with the situation of different nations having different national Christian polities and practices. He thus also faced the issue of catholicity for the world of his day, that is Christian Europe. How did he conceive of that catholicity and how did he try to deal with it?

These are issues which in one sense move in the opposite direction to the issues facing Anglicans today. We have multiple traditions of Christianity within secular nations, or in some cases in Muslim or Hindu nations. For us the Christian nation is not a category in considering catholicity. Underlying Hooker’s approach to both these questions was a conception of power which seems to me to point to a theological approach which sheds some light on our situation.

**Power and Order**

The principal material on power is in Book 8 of the *Lawes*, though there are other passages which touch on this issue, not least the Introduction and Book I on law and also Book 6. However, it is in Book 8 that Hooker comes to the issue directly. We should note that the new Dublin MSS used in the Folger Edition change the prominence given to aspects of the exposition in this book. In brief the effect is to show that the correct arrangement of the chapters gives more prominence to chapter 2 than was the case in, say, the Keble edition, and also that the Old Testament material is, in Stephen McGrade’s terms, corroborative rather than probative.\(^{12}\) The argument proper begins in chapter 2 with an extraordinarily compact statement of the argument. So much so that I quote it at length.

Without order there is no living in publique societie, because the want thereof is the mother of confusion, wherupon division of necessitie followeth, and out of division inevitable destruction. The Apostle therefore giving instruction to publique societies requireth that all thinges be orderely done. Order can have no place in thinges unless it be setled amongst the person that shall by of fi

mentation of many, the lowest be knitt to the highest by that which being interjacent may cause each to cleave unto the other and so all to continue one. This order of thinges and persons in publique societies is the worke of polite and the proper instrument thereof in every degree is power, power being that abilitie which we have of our selves to receive from others for performance of any action. If the action which we are to perform be conversant about matter of meer religion, the power of performing it is then spirituall. And if that power be such as hath not any other to overule it, we terme it dominion or power supreme, so far as the bounds thereof do extend.13

Hooker sets his notion of power within a framework of order in society. No society exists without order and order implies different degrees of power according to the place in the social order of those exercising that power. Thus, for Hooker, power is dependent on social order.

That social order is itself based upon the agreement of the ‘multitude’ comprising the society. Every multitude has power over itself, and even hereditary kings hold their power in dependency on the whole. In chapter 3 Hooker goes on to develop his argument with a series of five questions as to how power is held. His questions and answers are, in summary form, as follows:

2. After what sort? In dependence on the whole body politic.
5. According to what example? The example of Israel is used and differences with the Christian Church noted together with the differences among Christian nations.

This broad conception of power was the basis of the qualifications which Hooker placed on the royal supremacy: the ultimate power in England and operating over all members of the nation. Within this framework three very signifiant qualifications are placed on the royal supremacy. First, it is qualified by the universal and supreme soveraignty of God. The mandate of the royal supremacy comes from God through men, that is, through the ‘multitude’ which has power over itself. Also Christ’s lordship is limitless in respect to the world and mankind whereas that of the crown is limited to the nation in which the crown is held. Further, the crown exercises a lordship which deals only with externals whereas Christ’s lordship works inwardly by grace in the individual and in the church.

Secondly, the royal supremacy is qualified in relation to law. This emphasis has precedent in English political theory,14 even though it might not immediately spring to mind in the actual operation of Tudor politics. It looks more likely the case that Hooker is describing somewhat more what he wishes than what was actually the case—what we might today call ‘performative discourse’.

Thirdly, the royal supremacy is qualified in relation to the community. This qualification is consonant with Hooker’s views on consensus15 and the contractarian aspect of his understanding of society. He gives a place for an inclusive parliament on the grounds that it would be unjust for one part of the community to make laws for the rest. Not only the foundation but also the exercise of the royal supremacy is dependent on those other parts of the order of society.

What all of this shows is that Hooker understands the royal supremacy within a framework of society and order which itself is dependent on the authority of ‘the multitude’ to govern its own affairs. Furthermore, this authority is an authority from God mediated through mortals. In this context power is thus a matter of exercising that capacity given by the place a person occupies in the order of society. The order itself gains strength as the adjacent parts ‘cleave’ together.16

This is a very particular conception of society and its unity. It is shaped by a graduated order that yields power for those who inhabit the order because the order itself derives its potency by it being the creature of the multitude and serving the multitude’s coherent life. It is notable


16. See Hooker, Works. The text is famously quoted in the Bull Unam Sanctam of Boniface VIII, though there it is used to justify papal superiority over the secular [Philip the Fair of France] ‘For, according to the Blessed Dionysius, it is a law of the divinity that the lowest things reach the highest place by intermediaries. Then, according to the order of the universe, all things are not led back to order equally and immediately, but the lowest by the intermediary, and the inferior by the superior. Hence we must recognize the more clearly that spiritual power surpasses in dignity and in nobility any temporal power whatever, as spiritual things surpass the temporal’. See David Luscombe, ‘The “Lex Divinitatis” in the Bull “Unam Sanctam” of Pope Boniface VIII’, in C.N.L. Brooke, D.H. Luscombe, G.H. Martin and D. Owen (eds.), Church and Government in the Middle Ages: Essays Presented to C.R. Cheney on his 70th Birthday (Cambridge: Cambridge University Press, 1976), pp. 205-21. Hooker, on the other hand, uses the text, whose authenticity he seems not to question, to argue for the coherence of the whole.
also that Hooker envisages a hierarchy of order which is relatively flat. Institutional distance is the enemy of community.

**Plurality and Catholicity**

Plurality occurs in Hooker’s account principally in the context of the qualifications that are placed on the royal supremacy in relation to the church in Book 8.3. He argues that the power of the sword was not given in early times to the church because Christians were won by ‘persuasive means’ in order to build up the church in hostile kingdoms. Thus the commission for discipline, the power of the ‘keys’, was appropriate to these circumstances; that is to say, it was ‘peaceable and quiet’ and was a ‘spiritual regiment’. Later, however, when whole kingdoms were made Christian, the power of the sword was available and in that circumstance Hooker asks, ‘what forbiddeth the church to enjoy the benefits of both’.17

This spread of Christianity to all kingdoms meant that no one king could hold the spiritual sovereignty over all, nor could one pastor be overall, since that would create great ‘inconveniencie’ in terms of the sovereignty of the kings in their lands. Rather, he argues, a national law for spiritual matters should apply in each nation. This model he claims will contain sufficient unity even under several dominions without the inconveniency of ‘Nimrod’, that is the bishop of Rome.18 This discussion makes clear the prominent place Hooker assigns to the unique sovereignty of the nation. But if the nation is sovereign what happens to the identity of the church across national boundaries?

Hooker recognizes that in his time there was no uniformity of church law between the different national churches. His strategy is that until the Christian world is driven by ‘peaceable conversation’ to some kind of general law, every church should follow its own arrangements. This is the same kind of language he used in relation to discipline in the early times of the church when it was located in hostile kingdoms.

In this discussion Hooker is clearly focused on the position of Christian kingdoms. The diversity he considers is thus a diversity between nations. In that situation he is clearly content for there to be differences, even substantial differences, but he gives priority to the integrity of the nation. Because of this he is against any notion of a Christian emperor who might have church jurisdiction across national borders, or a universal pastor such as the bishop of Rome.

Catholicity thus becomes a matter of relations between Christian nations. Clearly there is no detailed agreement about polity and doctrine, so

17. *Lawes* 8.3.3-4 (Folger edn, III, pp. 353-54).
Hooker sets out the authorities—Scripture and the first four councils—by which the doctrines and polities of national churches are to be shaped. It is the church functioning as a ‘multitude’ in each nation that formulates the particulars of doctrine and polity.

**So What?**
Where does this excursion into the sixteenth century lead us? Does it help us in the present circumstances of the Anglican Communion? I think it may help in directing our attention to a number of issues in the present which are likely to be significant in the medium- and long-term future shape of the relations between Anglicans around the world.

**Conclusions from Hooker**
Let me first summarize the points from Hooker which I think can assist us in the present circumstances.

**A Multitude**
- A ‘multitude’ has power over its affairs and needs order to exist. That order is by agreement of the multitude and dependent for its activities on the ongoing cooperation of the multitude.
- Order gains its working effect by the ‘cleaving’ of adjacent parts in the order.
- Power, that is the capacity to require actions from others, derives from position in that order.

**A Christian Nation**
- The nation is the fundamental and complete jurisdictional entity for Hooker.

**A National Church**
- This ecclesiastical power is framed by church law. That law has been developed by the tradition of consensus in the church. The primary appeal is to the New Testament and the first four Councils.
- This ecclesiastical power is expressed through processes which are analogous to the processes of the ‘multitude’ in England; that is, the High Court of Parliament, Clergy in Convocation.
- Within the Christian nation the ‘sword’ is available to support the power of the keys of the church.

**A Universal Christian Church**
- There is another sense of power which refers to the rule of Christ which is universal and touches the inner spirit of people as well as the external form of the world.
b. This spiritual power applies to the conscience by gentle persuasion and was the basis of discipline in the early church.
c. Plurality between Christian nations is dealt with by a strategy of working on the general and broadly agreed, a core, and sustaining liberaly on particulars.
d. Christian nations engage in this according to a spiritual power which appeals to the conscience by means of ‘peaceable conversation’.

Getting Together in Global Anglicanism

In contrast with the sixteenth-century world of Richard Hooker there are a number of things which appear to me to be salient in any configuration of the present context of our challenge.

The Nation

a. The nation is still an important jurisdiction but not an absolute one as it was for Hooker.
b. There are also international orders with different types of power. The United Nations, the European Union and the International Courts represent a form of international jurisdictions or aggregated sovereignty.
c. There are specific nation to nation agreements and treaties like free trade areas, fishing agreements which can involve many or few nations.
d. There are also cross-national trajectories which exercise a form of jurisdiction within their arenas, such as multinational corporations. In the end such corporations have to be registered in at least one national jurisdiction to secure their assets.
e. There are regulatory regimes, for example in financial accounting standards, domain names for the internet and the operation of the internet generally. These are not the result of nation to nation agreements, but derive their power from the necessities of global economic activity.
f. There is no state sovereign to enforce church law directly. The ‘sword’ is not available directly, though it is indirectly. For example, churches which are incorporated or operate on trusts to hold their property or assets, can use the power of the legal jurisdiction to secure the terms of their incorporation or their trust deed.
National Uniformity

a. National uniformity of religion has given way to plurality of religion and of Christian churches in the same territory. There are clearly some exceptions to this where there is a Muslim state, but no Christian examples which exclude other religions.

Global Christianity

a. The global has moved beyond Christian Europe to the whole world, a world which is not Christian in any complete institutional sense.

These are significant differences but they do not represent a total contrast. The ‘sword’ appears in a different form and in different locations and the plurality is differently construed and raises different questions about how we understand catholicity. The global picture is much more complicated, even ‘messy’, and that inevitably means that institutional arrangements, meaning order, will be more complex and the nature of power more nuanced and variegated.

It is striking that the present arrangements in global Anglicanism suffer in comparison with this analysis of Hooker. The only so-called ‘instrument’ which has been clearly agreed to by the constituent parts of the Communion is the Anglican Consultative Council. The Lambeth Conference began as a meeting of colleagues to share common problems and has never gained nor formally sought more local ecclesial agreement for itself than that. The Primates’ meeting was a ‘spin off’ from the conference. The Archbishop of Canterbury is clearly a position of significant historical respect, enhanced by the quality of its incumbents. Most churches are in communion with the Archbishop of Canterbury, though some are in communion with the Church of England. A number make this communion conditional on continuing consistency with their own constitutional commitments.

One of the most striking absences is any arrangement for serious adjacent connection. How can there be vitality arising from adjacent connection if there are no arrangements for adjacent contact? The absence of any significant regional frameworks positively hinders connection and thus unity in the Communion. Public media exchanges usually have the effect of consolidating divisions.

A number of things are highlighted by this excursion into sixteenth-century Anglican theology. The way in which the Anglican tradition might actually help us is shown to be far from unambiguous, but by no means impossible. We can elevate some of the monuments of the English

reformation, as indeed many Anglican national church constitutions do. But that step is itself a debatable canonization in the light of the longer history of the tradition. Even accepting such a privileging leaves many questions unanswered. The texts themselves present many interpretative problems, especially on the issue of power and constitutionality which are currently before us. Article 37, which affirms the royal supremacy, is only one of the most obvious examples. The institutional assumptions of sixteenth- and seventeenth-century politics are embedded throughout the texts. Setting these particular texts in a wider frame of reference may ease the interpretative questions, but that only heightens the question of how an ongoing historical tradition carries argumentative force in novel situations. Clearly there will be some discrimination in the interpretation of the tradition and in the evaluation of its various parts, but that is a necessary part of the way in which such traditions work.  

Anglicanism has consistently set itself against any institutional absolutism of the Roman type. In fact it has generally been resistant to any absolutisms. The desperate attempts of people like Hooker to reinterpret Tudor pretension is evidence for this. Newman’s departure to Rome reflects the same thing. That we have such difficulty construing effective authority which is not Leviathan-like, reflects upon our theological difficulties and also the overwhelming cultural currents sweeping us along to new absolutes and emerging tyrannies. Finding ways to make the tradition work for us is crucial to any attempt to address the current institutional question with any theological integrity.  

The sixteenth-century mirror also highlights some profound questions about the meaning and expression of catholicity. The sixteenth century could not escape this question. The more the Christian nation was elevated, the more the meaning and mechanics of catholicity were changed and challenged. The issue was not more or less crucial that it had been in the argument of both William I and Edward IV with the Pope. Was catholic fellowship dependent on jurisdictional submission? William and Edward thought not, while they readily honoured the Pope as leading pastor.  

But modernity has made the sixteenth-century debates seem trivial. Our sense of catholicity in Christianity now has vastly more sub-traditions to encompass. From the very beginning Christianity has sponsored sub-traditions, tributaries in the broader Christian tradition. Modernity has multiplied the sub-traditions and has made the Constantinian model of one universal church structure both practically impossible and intellectually unimaginable.

What is true in Christianity at large is true within the sub-traditions, especially those of any size or with any significant history. Anglicanism certainly is one such sub-tradition of Christianity, as is Roman Catholicism, the various Orthodox families and the Lutheran and Reformed traditions.

Catholicity within a sub-tradition must speak in some sense to the connectedness of the sub-tradition, just as the sub-tradition must speak in some sense of connectedness in the broader tradition of Christianity. The issue of catholicity in Anglicanism therefore becomes a question about the connectedness which sustains the coherence of the tradition. The standard issues of diachronic connection with apostolic Christianity and contemporary connection with fellow Anglicans appear here. The appeal to the historical tradition of Anglican faith and practice is the Anglican avenue to the apostles and the redemptive incarnation of God in Jesus of Nazareth. Sustaining the contemporary connection has the same purpose as that sense of catholicity has always had; to facilitate the mutual inter-dependence and service which both encourages faith and sustains the vitality and integrity of the faith, in this case the Anglican form of Christian faith.

It is at this point that *koinonia* has so much to offer for it points to our belonging to each other in Christ. It points us directly to our relationship to Christ which constitutes us as Christians. It is our communion with Christ that creates and moderates our communion with others.

But the sustaining of catholicity in a continuing tradition calls for more than just connectedness. Here Hooker has a lot to teach us. This community of Anglicans—this ‘multitude’—cannot sustain its life without order, order which is created by and serves the ‘multitude’ which is the Christian community. Without such an agreed order there can be no power to require actions of others.

Hooker’s argument points to issues of power, adjacent connection, discipline and plurality. In reviewing the present situation in the Anglican Communion it is important to recognize that on different horizons different kinds of connections are not only possible, but are called for. The kind of order which exists in a parish serves different particular purposes from that in a diocese, a province, a national church or in the global Anglican Communion. This graduated distinction becomes more apparent, and more accessible when we approach the question through the window opened up by some appropriation of Hooker’s conception of power and order.

Such an appropriation would involve a significant reallocation of global concentration. It would involve giving priority to developing adjacent connections. In Hooker’s analysis the foundation of the order is the agreement of the multitude. But the maintenance of the order and
thus the vitality of the power of the order derives from the strength of the adjacent connections. One of the serious problems in the Anglican Communion, and one of the reasons there is such a notable lack of power, is the absence of adjacent connections. It is a long way institutionally from province or national church to the global. In structural terms we should look at regionalizing the communion in order to facilitate adjacent connections. Such institutional arrangements would help to facilitate interaction between natural neighbours and in most cases would provide real opportunities for cross-dispositional engagement. The development of such adjacent connections would serve both aspects of the question, relationships and constitutional order. The cultivation of adjacent connection through regionalization would facilitate deeper relationships between member churches because it would enable a wider cross-section of the church community to be involved. Such a strategy would also enable the growth of order on the basis of real agreement in the community of a kind which is significantly absent in the present arrangements.
A new form of cartographer is emerging. Road maps for peace are painstakingly pieced together. Political realities make the drawings tenuous. There are mountains of prejudice to be climbed, valleys of cynicism to be traversed, paths yield first a promise of what can be achieved and, then, the cul de sac, the breeding ground of despair. For every fragile bridge crossed in meaningful dialogue there are walls erected—tangible signs of alienation.

In a world stalked by terror, road maps are meant to be a creative mechanism by which hostility may give way to peaceful co-existence. The ability of road maps to produce positive outcomes is limited. Suspicion abounds as each group sees the road map offering an unfair benefit to the other.

Power brokers condemn the exercise as an imposition denying the identity of the traveller and the integrity of the landscape.

The Anglican Communion provides an interesting topography for cartographers. Scottish theologian Elizabeth Templeton suggests that ‘both internally and in relation to other evolving Christian life forms Anglicans are conspicuously unclassifiable—a kind of ecclesiastical duck billed platypus robustly mammal and vigorously egg laying’. It is a microcosm of the paradoxes that exist in our human community. Differences in understanding of the formative aspects of belief, including the scriptural texts, create a kaleidoscope of theological, liturgical, ideological and ecclesiastical expressions, each with a claim to uniqueness. The growth of the Anglican Communion outside the Anglo-Saxon world has added a variety of national, cultural and linguistic accents to this vibrant milieu.
Religious cartographers have sought to define the Anglican Communion in geo-economic terms—Global North and South—or through the lens of historical conflict giving birth to Evangelicals, Catholics, Liberals, charismatic and others. Some portray the contours by moral colourings: absolute/relative; fundamental/conservative, right, moderate and Liberal/left wing.

Recent events in the Anglican Communion have been described as seismic, causing the earth itself to move creating vast chasms. A commission has been appointed to the unenviable task of creating a road map.

The age old tension between revealed and natural theology is bound to surface in the Commission. Some will perceive truth as primarily a body of doctrine to be applied to the lives of believers. Others will see truth as an experience of God, personal and communal, which comes to be articulated in doctrine. While having much in common these perceptions of truth have jostled with each other in Anglicanism as every generation seeks to respond to new questions and challenges.

Fundamental differences in understanding the nature of truth allow for two contrasting realities. One identifies the church as those whose membership is determined by adherence to a body of doctrine. The other maintains that the primary integrity of the church is the communion created through the experience of Christ among believers that allows for doctrinal truth to be explored.

Will the Commission be required to define the boundaries of tolerance and orthodoxy? Will it outline ways to negotiate the pitfalls that hinder co-existence? Will the road map that emerges be ‘a line in the sand’ or will it encourage deeper encounter with God and with each other?

The journey the Commission embarks on is one that all theologians in the Anglican Communion must engage in. A deep searching in the variegated tradition of Anglicanism may uncover ways in determining orthodox belief while sustaining unity.

Theologians have a distinct responsibility to point all believers beyond different perceptions of truth to our common interdependence on God’s grace and our need of each other.

Richard Hooker in his *Sermon on Pride* observes this unifying interdependence ‘God hath created nothing simply for itself; but each thing in all things, and of everything each part in each other have such interest, that in the whole world nothing is found whereunto anything created can say, “I need thee not”’.

The task of the theologian is to address this volatile context. The biblical narrative, the history of the church, the creeds, the sacraments, the worshipping life of the community, the responses made to the challenges of the day provide a rich framework to identify the landscape.
What types of conversation must we engage in to assist in the creation of a road map as encouraged in the Bible?

Long before Copernicus determined the shape of the earth, Ptolemy of the Ancient Greek world had given thought to what was to become the road maps of the world. Interestingly, his map concluded with Taprobane—the island we now call Sri Lanka—the space below he referred to as *Terra Incognita*—the land of the unidentified, the unknown ones—the anonymous.

Perhaps there is a clue for theologians in the cruciform road map drawn by the divine revelation which bridges the fundamental differences in approaches to truth. Maybe the present stalemate in our cartography is that we have failed to see the church as a sign of hope for the fragmented world we inhabit.

The Anglican Communion with its claim to ‘provisional identity’ in the divine scheme of salvation may be called to engage in a process that enables travellers to converse rather than to become absorbed in the task of drawing a definite road map. We may find that in that conversation is the ground to conversion, to holiness, to being made whole ourselves and to offer hope to the anonymous ones of the world.

But God, who is rich in mercy, out of the great love with which he loved us even when we were dead through our trespasses, made us alive together with Christ—by grace you have been saved—and raised us up with him and seated us with him in the heavenly places in Christ Jesus, so that in the ages to come he might show the immeasurable riches of his grace in kindness toward us in Christ Jesus (Eph. 2.4-7).
Series on Church and State

The Church in Wales and the State: A Juridical Perspective

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ABSTRACT

In 1536 Wales (Cymru) and England were formally united by an Act of Union of the English Parliament. At the English Reformation, the established Church of England possessed four dioceses in Wales, part of the Canterbury Province. In 1920 Parliament disestablished the Church of England in Wales. The Welsh Church Act 1914 terminated the royal supremacy and appointment of bishops, the coercive jurisdiction of the church courts, and pre-1920 ecclesiastical law, applicable to the Church of England, ceased to exist as part of public law in Wales. The statute freed the Church in Wales (Yr Eglwys yng Nghymru) to establish its own domestic system of government and law, the latter located in its Constitution, pre-1920 ecclesiastical law (which still applies to the church unless altered by it), elements of the 1603 Canons Ecclesiastical and even pre-Reformation Roman canon law. The Church in Wales is also subject to State law, including that of the National Assembly for Wales. Indeed, civil laws on marriage and burial apply to the church, surviving as vestiges of establishment. Under civil law, the domestic law of the church, a voluntary association, binds its members as a matter of contract enforceable, in prescribed circumstances, in State courts.

Introduction

The Church in Wales is an autonomous province of the worldwide Anglican Communion, its civil legal foundation following the disestablishment of the Church of England in Wales by Parliament in 1920. The Church in Wales is regulated by two categories of law: the law of the Church and the law of the State, Wales and England having been united by the English Parliament in the Act of Union 1536. The internal law of the Church, the product of continuous historical development, theolo-
gical reflection and practical action, expresses, in a concrete way, ideas the Church has about its own nature, identity, mission, standards and organization. As applied ecclesiology, the law of the Church is found in instruments created by the Church for itself since disestablishment, and in a host of earlier sources inherited at disestablishment.

Like other major institutions in society, the Church in Wales also lives in the wider legal environment of the external law of the State. While its religious freedom, and that of its members, are protected by the Human Rights Act 1998, the Church functions within a wide range of State laws, including Westminster statute, the common law, the law of the National Assembly for Wales, and, increasingly, the law of the European Union. Whereas the current establishment of the Church of England, with the monarch as legal head, means that, in England, many of its institutions enjoy status in public law, its law is part of the law of the land, and the incidents of establishment include the royal appointment of bishops and membership of bishops in the House of Lords, the Church in Wales is a voluntary association (like other non-established religious organizations in the UK), broadly separate from the State, its internal law generally not having the status of public law but instead existing as the terms of a contract entered into by the members of the church. These two entities, of church law and of civil law, provide a convenient focus for the sometimes ambiguous relationship between the Church in Wales and the State.

**Historical Outline of Church Law in Wales**

Like the contemporary Church in Wales, its ancient history traceable to the beginnings of Christianity in the British Isles (which pre-date the arrival of Augustine), the law of the Church is the product of almost two thousand years of continuity and change.

**The Origin and Development of Church Law in Wales**

The formation and use of standards and norms in the ecclesial communities of New Testament times sought to enable, guide and order the life of the Christian faithful. In the post-apostolic era, the early Councils systematized these in the form of canons, designed in both practical and idealistic ways to serve the purposes of the Church, and, in so doing,
elucidating the identity of the church itself. This formative period, along with the subsequent inception in the Western Church of a centralized system of papal government, generated a complex of regulatory instruments, operating in concert with local ecclesiastical customs, to which was soon attached the title _canon law_, partly through the pervasive influence of Roman law, and partly through the development of the notion of the Church as an institution. From the mid twelfth century the canon law was subjected to systematic organization and application throughout the Western Church.³

It was from the mediaeval period that the four Welsh dioceses of Bangor, Llandaff, St David’s and St Asaph came under the jurisdictional control of Canterbury and, progressively, of Rome.⁴ Alongside local law, the Welsh Church was regulated by Roman canon law, sometimes the subject of study by Welsh canonists of international standing, until the Reformation.⁵ The Henrician legislation of the 1530s terminated papal jurisdiction and resulted in the establishment of the Church of England, its formal and legal connection with the State effected through the royal supremacy. However, by parliamentary statute, Roman canon law was to continue to apply unless it was contrary to the laws of the realm. The Canons Ecclesiastical 1603/4 were promulgated by the Convocations of York and of Canterbury, the membership of which included bishops and clergy from the Welsh dioceses. It was by these canons, along with those elements of Roman canon law which survived the Reformation, and the decisions of the church courts that the institutional church was regulated. In addition, particularly in the nineteenth century and as a feature of establishment, Acts of Parliament represented a significant source of law applicable to the Church of England in Wales.⁶


⁶ For a historical overview, see P. Jones, _The Governance of the Church in Wales_ (Cardiff: Greenfach, 2000), pp. 1-8.

Church and State: Law and Disestablishment

The readjustment of Church–State relations throughout Europe in the nineteenth century saw in 1870 the disestablishment of the Church of Ireland, the dissolution of its constitutional union with the Church of England, in 1917 promulgation in the Roman Catholic Church of its Codex Iuris Canonici (replaced in 1983), in 1919 the foundation in the Church of England of a new legislature, the Church Assembly, and the enactment of the Church of Scotland Act 1921. This period also marked the legal foundation of the modern institutional Church in Wales. Through the Welsh Church Act 1914, Parliament effected the disestablishment of the four dioceses of the Church of England in Wales. Enacted in 1914, implementation of the statute was postponed, due to the First World War, until 31 March 1920, the date of disestablishment. Until that time, ‘the Church of England and the Church of Wales were one body established by law’.

The Welsh Church Act 1914 has two basic purposes. It deals with the constitutional effects of disestablishment on the relations between Church and State, the legal severance of the Welsh dioceses from the Church of England, and the reconstitution of the Welsh Church on a new legal basis. The statute also provides for the disendowment of the four Welsh dioceses, and the distribution of funds arising from disendowment, including the partial re-endowment of the Church in Wales. On the day of disestablishment, the Church of England, so far as it extended to and existed in Wales and Monmouthshire, ceased to be ‘established by law’. Terminating the royal supremacy for the purposes of the Church in Wales, the Welsh Church Act 1914 provided that no person was to be appointed or nominated by the monarch or by any person, by virtue of any existing right of patronage, to any ecclesiastical office in the Church in Wales; every cathedral and ecclesiastical corporation (sole and aggregate) was dissolved; bishops of the Welsh dioceses ceased to be members of the House of Lords; bishops and clergy ceased to be members

7. It was enacted without the consent of the House of Lords by means of the procedure contained in the Parliament Act 1911, and received royal assent on 18 September 1914.
8. The date was fixed by the Welsh Church (Temporalities) Act 1919, s. 2.
9. Re Clergy Orphan Corporation Trusts [1933] 1 Ch 267 per Farwell J.
11. Welsh Church Act 1914, s. 1.
12. See, however, P. Jones, Governance, p. 68, for the argument that ‘all churches in Britain, not just the Church of England, are subject to the royal supremacy’.

of and represented in the Convocation of Canterbury; but bishops and clergy were no longer disqualified from election to the House of Commons.\textsuperscript{13} The University of Wales, the National Library of Wales, and Welsh local authorities were notable beneficiaries of the disendowment provisions of the statute, a process administered by the Welsh Church Commission.\textsuperscript{14}

The Welsh Church Act 1914 provides that, as from the date of disestablishment, ‘the ecclesiastical law of the Church in Wales shall cease to exist as law’ for the Welsh Church.\textsuperscript{15} Previously, the ecclesiastical law,\textsuperscript{16} applicable to the Church of England in Wales, had formed part of the law of the State, being the law of the established church.\textsuperscript{17} However, this ecclesiastical law (found in both State and Church-made law) did not lose all its authority for the Welsh Church. The Welsh Church Act 1914 prescribes that pre-1920 ecclesiastical law is to continue to apply to the Church in Wales as the terms of a contract to which the members of the Church are party. In so doing the statute ensures the continuity of the canonical tradition, as well as of the fundamentals of faith and order. The statute provides that, as from the date of disestablishment, pre-1920 ecclesiastical law, previously applicable to the Church of England, and the pre-1920 articles, doctrines, rites, rules, discipline and ordinances of the Church of England, are to continue to apply to the Church in Wales. These pre-1920 sources continue to bind the church as if its members had agreed to be bound by them. However, under the statute, they continue to apply unless and until modified or altered by the Church in Wales.\textsuperscript{18}

At the same time, the Welsh Church Act 1914 provides for the Church’s power of self-governance. Nothing in any Act of Parliament, law or custom is to prevent the bishops, clergy and laity of the church from holding synods or electing representatives to these, nor from framing in such manner as they think fit ‘constitutions and regulations for the general management and good government of the Church in

\begin{itemize}
  \item 13. Welsh Church Act 1914, ss. 1, 2 and 3(5).
  \item 14. Welsh Church Act 1914, Part II; see Brown, ‘The Disestablishment ’, pp. 252-54.
  \item 15. Welsh Church Act 1914, s. 3(1).
  \item 16. See below for definitions of ecclesiastical law.
  \item 17. \textit{Mackonochie v. Lord Penzance} (1881) 6 App Cas 424 at 446 per Lord Blackburn.
  \item 18. Welsh Church Act 1914, s. 3(2): As from the date of disestablishment, ‘the then existing ecclesiastical law and the then existing articles, doctrines, rites, rules, discipline, and ordinances of the Church of England shall, with and subject to such modification or alteration, if any, as after the passing of this Act may be duly made therein, according to the constitution and regulations for the time being of the Church in Wales, be binding on the members for the time being of the Church in Wales in the same manner as if they had mutually agreed to be so bound’.
\end{itemize}
Wales’ and for its property and affairs.\textsuperscript{19} The power to make (by means of a constitution and regulations) alterations and modifications in the inherited ecclesiastical law, includes the power to alter and modify such law so far as it is embodied in any Act of Parliament forming part of pre-1920 ecclesiastical law.\textsuperscript{20} While the church was empowered to establish church courts, such courts cannot exercise coercive jurisdiction.\textsuperscript{21} The current Constitution, an organic document which has been amended and added to from time to time since, originated in the work of a lay and clerical Convention held in Cardiff in 1917,\textsuperscript{22} and is the product of influences from other Anglican legal systems, notably of the church in England and Ireland.\textsuperscript{23}

\textit{The Legal Nature and Position of the Church}

The legal nature and position of the Church in Wales may be approached from two perspectives: the ecclesiastical and the secular.

\textbf{The Ecclesiastical Perspective}

According to the teaching of the Church in Wales, the church universal is ‘the family of God and the Body of Christ’, it is ‘One, Holy, Catholic and Apostolic’, and its members enter it by baptism. The mission of the Church is ‘to be the instrument of God in restoring all people to unity with God and each other in Christ’. The Church carries out this mission, through the ministry of all its members, in prayer and worship, in proclaiming the Gospel and ‘in promoting justice, peace and love in all the

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  \item \textsuperscript{19} Welsh Church Act 1914, s. 13(1).
  \item \textsuperscript{20} Welsh Church Act 1914, s. 3(4): this provides for a power to alter or modify the pre-1920 ecclesiastical law as embodied in the Church Discipline Act 1840, the Public Worship Regulation Act 1874, the Clergy Discipline Act 1892, the Ecclesiastical Dilapidations Acts 1871 and 1872, ‘or any other Act of Parliament’; see now Const. XI.47 (discussed below) for the current list of statutes which the church has disapplied since disestablishment.
  \item \textsuperscript{21} Welsh Church Act 1914, s. 3(3).
  \item \textsuperscript{22} See \textit{Official Report of the Proceedings of the Convention of the Church in Wales} (Cardiff: Western Mail, 1917); the basic structures were approved by the Governing Body at its first meeting on 8 January 1918; see generally R. Brown, ‘What of the Church in Wales?’, \textit{Ecclesiastical Law Journal} 3 (1993), p. 20.
\end{itemize}
world’. The visible church of Christ is ‘a congregation of faithful men, in which the pure Word of God is preached, and the sacraments duly administered according to Christ’s ordinance in all those things that of necessity are requisite to the same’. The Church in Wales defines itself as ‘the ancient Church of this land, catholic and reformed’, proclaiming and maintaining ‘the doctrine and ministry of the One, Holy, Catholic and Apostolic Church’. In turn, the law of the Church in Wales acknowledges that the church belongs ‘to the One, Holy, Catholic and Apostolic Church of Jesus Christ and truly participating in the apostolic mission of the whole people of God’. In the church ‘the Word of God is authentically preached’, ‘the sacraments of baptism and the eucharist are duly administered’, and the apostolic faith is genuinely confessed. The calling of the Church in Wales is ‘to nurture men and women in the faith of Jesus Christ and to aid them to grow in the fellowship of the Holy Spirit’. It is usually the case in other Anglican churches that such definitions are contained in the constitutional law of the church.

In a wider ecclesiastical context, the Church in Wales is also a member of the Anglican Communion, ‘a fellowship, within the One Holy Catholic and Apostolic Church, of those duly constituted dioceses, provinces and regional Churches in communion with the See of Canterbury’. Unlike some Anglican churches which are national (their territory coincident with that of a State), united or extra-provincial, but in common with

25. Thirty-Nine Articles of Religion, Art. 19; the Articles of Religion enjoy authority as an official source of doctrine in the Church in Wales.
27. Can. 28-9-1995: the Church in Wales, in this canon (designed to implement the Porvoo Declaration), indirectly claims these features for itself—the statements appear in the First Schedule to the Porvoo Declaration; see also Can. 27-4-2000 (a canon to implement the Reuilly Agreement).
29. Constitution, Prefatory Note.
30. See, e.g., New Zealand, Constitution and Canons (1995), Preamble: ‘the Church is the body of which Christ is the head’; ‘the Church (a) is One because it is one body, under one head, Jesus Christ; (b) is Holy because the Holy Spirit dwells in its members and guides it in mission; (c) is Catholic because it seeks to proclaim the whole faith to all people to the end of time and (d) is Apostolic because it professes the faith of the apostles and is sent to carry Christ’s mission to all the world’.
31. Lambeth Conference 1930, Resolution 49; for the Church in Wales, ‘The Anglican Communion is a family of Churches within the Catholic Church of Christ, maintaining apostolic doctrine and order and in full communion with one another and with the See of Canterbury’ (BCP, p. 692).
many, the Church in Wales is a particular church, organized on the basis of a province, today consisting of six dioceses. In short, the Church in Wales is an autonomous, self-governing church, ‘a fellowship of dioceses within the Holy Catholic Church, constituted as a Province of the Anglican Communion’.

The Secular Perspective
The law of the State contains five different ideas about the nature and position of the Church in Wales. First, in civil law, a ‘church’ is the aggregate of the individual members of a religious body or a quasi-corporate institution carrying on the religious work of the denomination whose name it bears. Secondly, the Church in Wales is sometimes classified as a disestablished church. This is not technically the case, however. The legal foundation of the contemporary institutional Church in Wales was the result of the Welsh Church Act 1914. The effect of this

34. ACC-4, 1979: a province is ‘a self-governing Church composed of several dioceses operating under a common Constitution and having one supreme legislative body’. See Jones, *Governance*, p. 31: the province of the Church in Wales was neither created by the Welsh Church Act 1914, nor by the Constitution, but by a declaration of the Archbishop of Canterbury, Randall Davidson, on 10 February 1920, ‘the last act of English ecclesiastical law to bind the Church in Wales’.
35. The dioceses existing at disestablishment were St David’s, Llandaff, St Asaph, and Bangor; the creation of two new dioceses followed: Monmouth (1921) and Swansea and Brecon (1923).
36. Const., Prefatory Note.
37. See Re Barnes, *Simpson v. Barnes* (1922) [1930] 2 Ch 80 and *Re Schoales, Schoales v. Schoales* [1930] 2 Ch 75. See also *Free Church of Scotland (General Assembly) v. Lord Overtoun* [1904] AC 515, in which the House of Lords defines a church as an associated body of Christian believers, having a common interpretation of its source of belief, and acknowledging its collective belief thereby establishing their membership of it; for a discussion of this case, see Jones, *Governance*, pp. 44-49.
38. *Representative Body of the Church in Wales v. Tithe Redemption Commission and Others* [1944] 1 All ER 710 at p. 711: Viscount Simon speaks of ‘the disestablishment and partial disendowment of the Church in Wales’ and of ‘the Representative Body which represented the disestablished Church’; see also p. 718, per Lord Porter, who speaks of the ‘disestablished Church of Wales’; see also *Wallbank and Wallbank v. PCC of Aston Cantlow and Wilmote with Billesley* (2001) CA Case No: A3/20000/0644.
statute was the partial disestablishment of the Church of England on 31 March 1920. It was the Church of England, not the Church in Wales, that was disestablished.\(^40\) As the Welsh Church Act itself provides, this was ‘An Act to terminate the establishment of the Church of England in Wales and Monmouthshire’.\(^41\) Moreover, insofar as the contemporary institutional Church in Wales was founded in direct consequence of a legislative act of the civil power, and given the notorious difficulties which exist in defining establishment,\(^42\) there is modest judicial support for the view that the Church in Wales is a re-established church.\(^43\) Indeed, three notable vestiges of establishment remain today: the duty of clergy of the Church in Wales to solemnize the marriages of parishioners; the right of parishioners to burial in the churchyard,\(^44\) and the appointment of clergy of the Church in Wales as prison chaplains.\(^45\) The same arrangements operate in England with respect to the established Church of England.\(^46\) These and other incidents of establishment may suggest the view that the Church in Wales is a quasi-established church, being treated for these purposes as if it were established.\(^47\)

Thirdly, the law of the State treats the Church in Wales as a consensual society classified in law, like other non-established religious organiza-

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40. *Re MacManaway* [1951] AC 161 at p. 165, *arguendo*: ‘the Welsh Church Act, 1914, did not disestablish the Welsh Church, but only disestablished the Church of England in so far as it then existed in Wales’.

41. Welsh Church Act 1914, long title; see, however, s. 1: ‘the Church of England, so far as it extends to and exists in Wales and Monmouthshire (in this Act referred to as the Church in Wales), shall cease to be established by law’.


43. *Powell v. Representative Body of the Church in Wales* [1957] 1 All ER 400 at p. 403 *per* Wynn-Parry J: the object of the 1914 statute was ‘to re-establish the Church in Wales on a contractual basis’. Through the Welsh Church Act 1914 (being the formal *legal* parent of the Church in Wales), the State provides the church with a statutory contract (consisting initially of pre-1920 ecclesiastical law), and with the statutory power to make its own constitution and regulations; the statute also provides for the power to alter and modify Acts of Parliament which formed part of the statutory contract provided for the Church by the State (ss. 3(4), 13).


tions, as an unincorporated voluntary association whose members are organized and bound together as a matter of private contract. Since disestablishment in 1920, the Church in Wales has been recognized by the courts of the State as having existed as ‘a voluntary organisation of individuals, held together by no more than the contract implied by such mutuality’. Consequently, ‘the Church in Wales is a body whose legal authority arises from consensual submission to its jurisdiction’; the church has ‘no statutory (de facto or de iure) governmental function’, but is, rather, ‘analogous to other religious bodies which are not established as part of the State’. Like other religious voluntary associations, the Church in Wales is a consensual religious community, operating its own largely self-regulatory system of governance, distinct from the State and its institutions. Similarly, being an unincorporated association, the Church has no separate legal identity; it is not treated as a juridic person and cannot sue or be sued, though institutions within it may enjoy legal personality or identity in secular law.

Fourthly, being in civil law a consensual body, the Church in Wales may enjoy the status of a voluntary organization for the purposes of dealings with the National Assembly for Wales. The Government of Wales Act 1998 provides a mechanism to enable relevant voluntary


49. *Powell v. Representative Body of the Church in Wales* [1957] 1 All ER 400 at p. 403; for criticism of the applicability of the contract idea, see Jones, *Governance*, pp. 51-52: this suggests that ‘the notion of the Church in Wales as based on a contract...is flawed ...because a church exists on the basis of shared religious belief’, not contract; ‘It would be better to speak of the governance of the Church in Wales as based on consensus rather than contract’.

50. *R v. The Dean and Chapter of St Paul’s Cathedral and the Church in Wales, ex parte Williamson* (1998) 5 ELJ 129 per Sedley J.

51. *R v. The Provincial Court of the Church in Wales, ex parte Reverend Clifford Williams* (1999) 5 ELJ 217 per Latham J.

52. *Re Clergy Orphan Corporation Trusts* [1933] 1 Ch 267 per Farwell J: the Church in Wales is organized ‘as a matter of agreement between those persons who are members of that body’.

53. *R v. Chief Rabbi of the United Hebrew Congregations of Great Britain and the Commonwealth, ex parte Wachmann* [1992] WLR 1036: for State court intervention, the test is that of ‘government interest’: ‘to attract the court’s supervisory jurisdiction there must not be merely a public but potentially governmental interest in the decision making power in question’.


55. The Representative Body, for example, is incorporated by royal charter; and the Governing Body is recognized as an ‘appropriate authority’ for the purposes of the Sharing of Church Buildings Act 1969 (Sched. 2).
organizations to be consulted by the Assembly in the exercise of its functions. Relevant voluntary organizations are defined as those bodies whose activities are carried out otherwise than for profit and directly or indirectly benefit the whole or part of Wales.\textsuperscript{56} Finally, while the matter has as yet not received judicial consideration, the Church in Wales may be classified as a religious organization, its members enjoying freedom of religion under the European Convention on Human Rights,\textsuperscript{57} for the purposes of the Human Rights Act 1998.\textsuperscript{58} As a general principle, it is unlawful for any public authority, including the National Assembly for Wales,\textsuperscript{59} in carrying out its functions, to act in a way which is incompatible with Convention rights, such as the right of freedom of religion.\textsuperscript{60}

\textit{State Law Applicable to the Church}

The law of the State applicable to the Church in Wales is found in primary legislation—statutes enacted by the Sovereign in Parliament, which may be addressed to the Church indirectly or directly;\textsuperscript{61} secondary legislation—such as that made or deemed to be made by the National

\textsuperscript{56}. Government of Wales Act 1998, s. 114. The assembly is under a duty to make a scheme setting out how it proposes ‘to promote the interests of relevant voluntary organisations’. Whether the Church in Wales is a voluntary organization, and therefore eligible for membership of a scheme, would be for the Assembly to decide. The scheme must specify how the Assembly proposes to consult relevant voluntary organizations about the exercise of its functions affecting, or of concern to, those organizations. Provision exists to keep the scheme under review, to remake and revise it, and to publish it. The Assembly must consult such organizations as it considers appropriate before making, remaking or revising the scheme.

\textsuperscript{57}. ECHR, Art. 9: (1) ‘Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance;’ (2) ‘Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others’.

\textsuperscript{58}. Human Rights Act 1998, s. 13: ‘If a court’s determination of any question arising under this Act might affect the exercise by a religious organisation (itself or its members collectively) of the Convention right to freedom of conscience, thought and religion, it must have particular regard to the importance of that right’; in this section ‘court’ includes a tribunal.

\textsuperscript{59}. Government of Wales Act 1998, ss. 107, 153(2).

\textsuperscript{60}. Human Rights Act 1998, s. 6: acts include omissions.

\textsuperscript{61}. For direct applicability see, e.g., the Welsh Church (Burial Grounds) Act 1945; for indirect applicability see, e.g., Ecclesiastical Courts Jurisdiction Act 1860.
Assembly for Wales (for instance in relation to the ecclesiastical exemp-
tion enjoyed by the Church in Wales with respect to its places of worship
under secular planning law);62 European law;63 and the decisions of the
courts of the State, that is, decisions on the meaning of legislation and in
the common law.

Secular Legal Standards and the Church
The following may be offered to illustrate the diversity of matters in the
life and activities of the Church in Wales which are or may be subject to
State law. First, there are secular standards with which the Church must
comply; for example, computerized or paper-based files containing infor-
mation on the members of the Church in Wales, or others, are subject to
State law on data protection—any church person or organization which
processes or handles personal data must do so in accordance with a set
of statutory principles, though keeping records solely for staff adminis-
tration or to maintain membership or support for the organization may
be exempt.64 Secondly, the State may impose obligatory standards which
the Church implements by its own domestic regime: for instance, it is
unlawful for the Church, as a service provider, to discriminate against
disabled people in the facilities it offers,65 and the Church in Wales has
instituted a policy and guidance to meet the prohibition.66 Thirdly, the
State has permissive arrangements which the Church may adopt
voluntarily, such as the provincial scheme to implement the principles

62. Under the Government of Wales Act 1998, the Assembly is competent to
exercise all those ministerial functions, which touch the Church in Wales, including
the making of secondary legislation, contained in Acts of Parliament listed in Transfer
of Functions Orders, and under Acts passed since devolution. Secondary legislation
directly or indirectly affecting the Church in Wales which has already been made
under statutory powers will continue to apply to the Church as the law of the Assem-
bly, unless and until altered by it: see, e.g., the Ecclesiastical Exemption (Listed
Buildings and Conservation Areas) Order 1994, SI 1994/1771, made under the
Planning (Listed Buildings and Conservation Areas) Act 1990. The Church in Wales
is party to the Laws Committee of CYTUN (Churches Together in Wales) a function
of which is ‘to review the effect of legislation on faith communities in Wales’ enacted
by the National Assembly.


64. Data Protection Act 1998 which gives effect to the requirements of Directive


66. A Disability Strategy for the Church in Wales, Report of the Standing Commit-
tee of Governing Body (April 2002), esp. Appendix III.
of the Children Act 1989 concerning child protection. 67 Fourthly, the State may provide facilities, consisting of both rights and duties, which the church may choose to utilize to further its mission, such as State provision on spiritual care and chaplaincies in hospitals, 68 freedom to administer church schools in accordance with the tenets of the Church in Wales, 69 the use of church sharing agreements to enable ecumenical partnership, 70 protection of public order at the time of divine service, 71 or the opportunity for its clergy to enjoy the protection of civil employment law. 72

Finally, the courts of the Church. The Welsh Church Act 1914 confers on the Church in Wales the right to establish its own ecclesiastical courts, but these are forbidden to exercise coercive jurisdiction. 73 Submission to their jurisdiction is voluntary, and compliance with their decisions is effected by means of declarations made by prescribed classes of ecclesiastical person. 74 Several principles of pre-1920 ecclesiastical law continue to apply to the courts and tribunal of the Church in Wales. 75 However, whether the State courts may enforce these standards depends on the subject in issue: in disciplinary cases, the High Court has declined to exercise jurisdiction over the Provincial Court of the Church on the basis that the latter was a domestic (or private) body (whereas the courts

68. The State has made provision with respect to the appointment of chaplains, staff pay and conditions of service, worship facilities at hospitals, and record-keeping; see Doe, The Law of the Church in Wales, pp. 189-91.
71. Ecclesiastical Courts Jurisdiction Act 1860: this makes it a crime to disturb acts of public worship.
72. Currently, clergy are not classified as employees, and so have no recourse to the civil industrial tribunals in cases of unfair or unlawful dismissal. For recent government proposals, however, see S. Calvert and C. Hart, ‘EU Employment Law and Religious Organisations’, Law and Justice 148 (2002), pp. 4-20.
73. Welsh Church Act 1914, s. 3(3).
74. See, e.g., for clergy, Const. VII.66: clergy undertake ‘to accept, submit to, and carry out any sentence…of any Court or the Tribunal of the Church in Wales’.
75. For example, they must be satisfied about their competence under church law to determine a matter; they must not exceed their jurisdiction; they must not determine a matter in accordance with rules which are contrary to the common law. See, respectively, R v. Twiss (1869) LR 4 407; Blunt v. Harwood (1838) 8 Ad & El 610; Tey v. Cox (1613) 2 Brownl 35.
of the Church of England are subject to judicial review); and yet, failure by a Church court to comply with the domestic church law in a property matter, is subject to the supervision of the State courts, as would be a Church court decision in breach of rights under civil law.

The Vestiges of Establishment

There are several key areas of ecclesiastical law which have survived disestablishment and still apply to the Church in Wales as part of the public law of the State, as they do currently to the established Church of England. First, the right to marriage in the parish church. The law of the State provides that nothing in the Welsh Church Act 1914 or the Welsh Church (Temporalities) Act 1919 affects ‘the law with respect to marriages in Wales and Monmouthshire’, or ‘the right of bishops of the Church in Wales to license churches for the solemnisation of marriages’. As a result, pre-1920 ecclesiastical law on marriage continues to apply to the Church in Wales as the law of the land, as does the current general marriage law of the State, under which marriage is treated as a human right. In State law, in Wales ‘every resident of a parish is entitled to marry in his/her parish church’, whether they are members of the church or not. Consequently, ‘[t]he incumbent or priest-in-charge has a duty to solemnize the marriage of parishioners on request (or to provide an assistant curate to do so), and is guilty of neglect of duty if he/she refuses (for which disciplinary proceedings may be taken in the ecclesiastical courts)’. The right to marry in the parish church has been recognized by Parliament, by the secular courts, and by pre-1920

76. R v. Provincial Court of the Church in Wales, ex parte Reverend Clifford Williams (1998) CO/2880/98. Disciplinary matters are now dealt with by a new Disciplinary Tribunal (with appeal to the Provincial Court).

77. Forbes v. Eden (1867) LR 1 Sc & Div 568; indeed, the Welsh Church Act 1914, s. 3(2) domestic church law ‘shall be capable of being enforced in the temporal courts in relation to any property’ held on behalf of the church.

78. These are the so-called vestiges of establishment: see Watkin, ‘The Vestiges of Establishment’, p. 110.

79. Welsh Church (Temporalities) Act 1919, s. 6.

80. Marriage Act 1949, s. 78(2): ‘Any reference in this Act to the Church of England shall, unless the context otherwise requires, be construed as including a reference to the Church in Wales’.


83. Anglican Marriage in England and Wales, 6.1.

84. See, e.g. Matrimonial Causes Act 1965, s. 8.

85. Davis v. Black (1841) 1 QB 900.
decisions of the ecclesiastical courts.\(^86\) However, clergy have no duty to solemnize the marriages where one of the parties is divorced or has a surviving former spouse.\(^87\) No special protection is given by State law to clergy with regard to marriage of the unbaptized.\(^88\)

Secondly, the right to burial in the parish burial ground. The law of burial applicable to the Church in Wales is to be found in both State-made and Church-made law. According to pre-1920 ecclesiastical law: ‘No Minister shall refuse or delay…to bury any corpse that is brought to the Church or Churchyard, convenient warning being given thereof before, in such manner and form as is prescribed’ by the rites of the church.\(^89\) Only parishioners are entitled, as of right, to be buried in the parish’s burial ground.\(^90\) Except so far as rights are preserved by the Welsh Church (Burial Grounds) Act 1945, no discrimination may be made by the church between the burial of a member of the Church in Wales and that of other persons.\(^91\) The right of parishioners to burial in the parish burial ground is one recognized and protected at common law.\(^92\) The Welsh Church (Burial Grounds) Act 1945 provided for the transfer and maintenance of burial grounds to the Representative Body of the Church in Wales, which may make rules relating to burial provided they have been approved by the National Assembly for Wales.\(^93\)

Thirdly, prisons. Every prison in Wales must have a chaplain, and if large enough, may also have an assistant chaplain. Both the chaplain and, if there is one, assistant chaplain must by civil law be a cleric of the Church in Wales.\(^94\) Appointment belongs to the secretary of state, and prior to appointment, notice of the nomination of a chaplain or assistant chaplain must be given to the diocesan bishop within a month of nomin-
ation. The chaplain or assistant may officiate only under the authority of a licence from the bishop of the diocese in which the prison is situated. The functions of the Church in Wales chaplain are governed by State secondary legislation, and include duties to visit prisoners and to provide divine service for prisoners.

The Forms of Domestic Church Regulation

The internal or domestic law of the Church in Wales is found in a host of regulatory instruments which fall into two broad categories: the constitution of the Church in Wales; and pre-1920 ecclesiastical law. Each source is, in turn, composed of several forms of ecclesiastical regulation. In most Anglican churches, the law is to be found, simply, in a constitution and a code of canons. In addition to the formal law, the Church has extra-constitutional legislation, and quasi-legislation; these are not considered here.

The Constitution

The constitution of the Church in Wales, made in pursuance of a power recognized expressly by State law, is a legal text in both Welsh and English which applies throughout the province. The constitution is composed of chapters (and further chapters), ‘all canons of the Church in Wales’, and ‘all rules and regulations made from time to time by or under the authority or with the consent of the Governing Body’. The

95. Prison Act 1952, s.9.
97. The domestic law of the church sometimes distinguishes between the ‘received’ ecclesiastical law, and the ‘enacted’ ecclesiastical law, the received being that which was inherited at disestablishment, and the enacted that which has since been made by the church; see, e.g., the Scheme of the Cathedral Church of Llandaff, II.1; see also below.
98. The Constitution most commonly consists of fundamental declarations and principles: see, e.g., the Church of the Province of Southern Africa, Constitution and Canons (1994). Others simply have a code of canons: see, e.g., Scottish Episcopal Church, Code of Canons (1996). The canons of the Church of Ireland are incorporated in the Constitution (The Constitution of the Church of Ireland, Ch. IX). The law of the Church of England includes Measures (enacted by General Synod and approved by Parliament), and canons (made by General Synod and assented to by the Monarch).
100. See above for the Welsh Church Act 1914, s. 13.
101. Const., I.1(1)(a)-(d); the English and Welsh versions of the Constitution have ‘equal validity’ (I.1(2)), though, for ‘the purpose of interpretation and for the resolution of any ambiguity, the English version shall be the definitive text’ (I.1(3)).
Governing Body is the provincial legislature, and is treated by the civil courts as an institution of private law. The Governing Body is empowered ‘to add to, alter, amend, or abrogate any of the provisions of the Constitution’. The power to create *chapters* (or *further chapters*) is vested in the Governing Body, their enactment, and alterations and additions to them, being effected in practice by means of the making of a canon. The *canons* of the Church in Wales are made, repealed and amended by the Governing Body, acting in accordance with bill procedure. On promulgation by the President of the Governing Body, a canon becomes ‘a law of the Church in Wales’. *Rules* and *regulations* may be made by the Governing Body, which may also authorize or consent to their creation by others, such as the Representative Body (the provincial trustee). Regulations may operate under the authority of a canon, but it is assumed that they cannot repeal or amend those elements of the constitution which may be repealed or amended only by bill procedure. It has been argued that the Welsh Church Act 1914 imposes a duty in civil law on the Governing Body to legislate in accordance with the substantive and procedural requirements prescribed by the constitution, and that civil judicial review would lie in the event of failure to do so.

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103. Const., II.43; see also II.33(1): the Governing Body may make constitutions and regulations for ‘the general management and good government of the Church’; this is declaratory of the Welsh Church Act 1914, s.13(1).

104. Const., I.1(a) and (b).

105. See *Wallbank and Wallbank v. PCC of Aston Cantlow* (2001) unreported, per Sedley LJ: ‘The term canon law is properly applied to the law made by the churches for the regulation of legal matters within their competence’.

106. Const. II.42(2).

107. Const. I.1(1)(d); the terms are not defined, and the constitution seems to provide no procedure for their creation, alteration or repeal. See, e.g., the Hardship Regulations, made by the Governing Body to alleviate hardship arising from the promulgation of the canon enabling women to be ordained as priests.

108. See, e.g., Rules made under the Welsh Church (Burial Grounds) Act 1945, s. 4(2).

109. See, e.g., Regulations (relating to payments to incapacitated incumbents) made under Can. 21-4-82 as amended by the Incapacitated Incumbents (Amendment) Canon 1985 (they are found in the First Schedule to the canon).

110. See Chancel Repair Regulations: these regulations also describe the provisions in them as ‘rules’; r. 11: ‘Nothing in these rules shall affect the provisions of Chapter III of the Constitution’.

111. Jones, *Governance*, p. 54: the argument is based on s. 3(2), Welsh Church Act 1914: see above n. 18.
While the constitution does not include them in its formal list of sources,\textsuperscript{112} the following are considered to be included in the constitutional law of the church. \textit{Schemes} made by the Governing Body,\textsuperscript{113} and by the Representative Body,\textsuperscript{114} are treated as a matter of ecclesiastical convention as part of the constitution. \textit{Motions} and \textit{resolutions} may be passed by the Governing Body, in accordance with prescribed procedures, and the latter may effect temporary amendments to the constitution.\textsuperscript{115}

Liturgical \textit{rules}, \textit{rubrics} and \textit{general directions} are forms of ecclesiastical regulation: ‘The law of worship of the Church in Wales is contained in the Book of Common Prayer’ (1984),\textsuperscript{116} itself authorized by the Governing Body by means of canon and, therefore, having constitutional authority. Finally, \textit{ecclesiastical custom}, or long-standing and continuous usage, though a minor source of regulation, has been recognized by the constitution as having binding authority.\textsuperscript{117}

\textit{Pre-1920 Ecclesiastical Law}

Although the ecclesiastical law, applicable to the Church of England prior to its disestablishment, has ceased to exist for the Welsh Church as the law of the land,\textsuperscript{118} it continues to apply to the Church in Wales as part of the Church’s statutory contract; and sometimes the domestic law of the Church distinguishes between the received and the enacted ecclesiastical law.\textsuperscript{119} Its application is by virtue of the Welsh Church Act 1914, and it is operative unless and until altered or modified by the Church in Wales.\textsuperscript{120} With the exception of those parliamentary statutes, and other elements of pre-1920 ecclesiastical law, which the Church in

\quad \textsuperscript{112} The following instruments are not explicitly listed in Const. I.1(1) (for which see above).

\quad \textsuperscript{113} The six Cathedral Schemes are included in Volume II of the Constitution.

\quad \textsuperscript{114} The Maintenance of Ministry Scheme, consisting of ‘Regulations prescribed by the Representative Body’, is included in Volume II of the Constitution.

\quad \textsuperscript{115} Const. II.34 and 35.

\quad \textsuperscript{116} \textit{BCP}, p. v.

\quad \textsuperscript{117} See, e.g., Const. VI.17(1),(2); cathedral schemes too preserve the customs of cathedrals if they are not inconsistent with the terms of those schemes and, sometimes, under cathedral schemes, cathedral clergy are obliged ‘faithfully to observe all the Customs of the cathedral’. See also \textit{Ridsdale v. Clifton} (1876) 1 PD 316 at p. 331: ‘Usage, for a long series of years, in ecclesiastical custom especially, is entitled to the greatest respect; it has every presumption in its favour; but it cannot prevail against positive law, though, where doubt exists, it might turn the balance’.

\quad \textsuperscript{118} With the exception of rights to prison chaplains, marriage, burial: see above.

\quad \textsuperscript{119} See, e.g., Scheme for the Cathedral Church of St Davids, II.1: the governance of the cathedral is ‘subject always to the ecclesiastical law received or enacted by the Governing Body of the Church in Wales’.

\quad \textsuperscript{120} Welsh Church Act 1914, s. 3(2); see also above.
Wales has disapplied since disestablishment, the constitution provides that the ‘ecclesiastical law as existing in England’, at the date of disestablishment, ‘shall be binding on the members (including any body of members) of the Church in Wales’. This pre-1920 ecclesiastical law must be ‘applied to the determination of any question or dispute’ between the members of the church, ‘in so far as it does not conflict with anything contained in the Constitution’; the church’s post-1920 constitutional law prevails over pre-1920 ecclesiastical law. However, while pre-1920 ecclesiastical law continues to bind the members of the church (unless altered by the church), the courts of the Church in Wales are ‘not to be bound by any decision of the English Courts in relation to matters of faith, discipline or ceremonial’. The post-1920 law of the Church of England forms no part of the law of the Church in Wales.

The Welsh Church Act 1914 does not define the expression ‘ecclesiastical law’. However, a variety of definitions appear in judicial decisions—some are wide, others narrow: ‘[t]he term “ecclesiastical law”… means the law relating to any matter concerning the Church of England administered and enforced in any court’, temporal or ecclesiastical; alternatively, it is ‘the law administered by ecclesiastical courts and persons’, in the Church of England, ‘and not by the temporal courts’.

121. Const. XI.47 lists the following disapplied statutes: the Clergy Ordination Act 1804; the Church Discipline Act 1840; the Ecclesiastical Commissioners Act 1840; the Clerical Subscription Act 1865; the Clerical Disabilities Act 1870; the Colonial Clergy Act 1874; the Public Worship Regulation Act 1874; the Sales of Glebe Lands Act 1888; the Clergy Discipline Act 1892; the Beneﬁces Act 1898; the Plurals Acts and the Incumbents Resignation Acts.

122. Const. XI.47. Moreover, it does not apply if in conflict with anything contained ‘in any special contract as to glebe [land] between the Representative Body and an Incumbent’ (Const. XI.47).

123. Const. XI.47.

124. The point is well made in Jones, Governance, pp. 29-30.

125. While canon law is commonly understood as the law which churches create for themselves (see n. 126 below), ecclesiastical law is understood as the law of the State applicable to churches. As will be apparent from the discussions in this article, however, these definitions may not readily be applied to the Church in Wales. See also A.T. Denning, ‘The Meaning of “Ecclesiastical Law”’, LQR 60 (1944), p. 235; in the House of Lords in Representative Body of the Church in Wales v. Tithe Redemption Commission [1944] 1 All ER 710 at p. 720, Lord Simonds considered, for the purpose of that case, that it was not ‘necessary to determine the exact scope of that “ecclesiastical law of the Church in Wales” which by sect. 3 of the Act is to cease to exist as law’.

126. AG v. Dean and Chapter of Ripon Cathedral [1945] Ch 239; this was cited in Wallbank and Wallbank v. PCC of Aston Cantlow (2001) unreported Court of Appeal case per Sedley LJ: ‘Ecclesiastical law is a portmanteau term which embraces not only the canon law but both secular legislation and common law relating to the church’.
Some definitions appear to be contradictory. On the one hand, ‘The ecclesiastical law of England... is part of the general law of England — of the common law — in that wider sense which embraces all the ancient and approved customs of England which form law’. On the other hand, ‘ecclesiastical law’ has been distinguished from the common law. For practical purposes, therefore, the ecclesiastical law enjoying continuing authority in the Church in Wales, encompasses all law, consistent with the constitution of the church, which was before disestablishment applicable to the Church of England in Wales, whether it was created by the State or by the English Church, and whether it was enforceable in the courts of the State or in those of the Church.

Consequently, sources of pre-1920 ecclesiastical law which continue to bind the members of the church, to the extent that they do not conflict with the constitution or have not been disappered or abrogated since disestablishment, include: Acts of Parliament; judicial decisions of the ecclesiastical and secular courts; the Canons Ecclesiastical of 1603/4; and the pre-Reformation Roman canon law, provided it is consistent

127. Mackonochie v. Lord Penzance (1881) 6 AC 424 at p. 446 per Lord Blackburn; see also R v. Millis (1844) 10 Cl & Fin 534 at p. 678: ‘the general canon law’, which is ‘no doubt the basis’ of ecclesiastical law, has been ‘modified and altered from time to time by the ecclesiastical constitutions of our archbishops and bishops, and by the legislature of the realm, and...has been known from early times by the distinguished title of the King’s Ecclesiastical Law’.

128. Representative Body of the Church in Wales v. Tithe Commission [1944] 1 All ER 710 at p. 713: Viscount Simon distinguishes ecclesiastical law from ‘the common custom of England’ (i.e. the common law); compare Evers v. Owen’s Case (1627) Godb 431: ‘There is a common law ecclesiastical, as well as our common law, jus commune ecclesiasticum, as well as jus commune laicum’.

129. Kemp v. Wickes (1809) 3 Phillim 264 at p. 276 per Sir John Nicholl: ‘The law of the Church of England and its history are to be deduced from the ancient general canon law, from the particular constitutions made in this country to regulate the English church, from our own canons, from the rubric, and from any acts of parliament that may have been passed on the subject; and the whole may be illustrated also by the writings of eminent persons’.

130. See, e.g., the Sacrament Act 1547.

131. See, e.g., Argar v. Holdsworth (1758) 2 Lee 515 (concerning the right to marry in the parish church). However, the courts of the Church in Wales ‘are not bound by any decision of the English Courts in relation to matters of faith, discipline or ceremonial’ (Const. XI.47).

with the royal prerogative, the laws, statutes and customs of the realm and has been incorporated as custom (through recognition and continuous usage) into the ecclesiastical law.\footnote{133} Moreover, the principles and maxims of canon law, rooted in the canonical tradition, also contribute to the law of the Church in Wales. These may be understood as overarching all individual canonical systems, expressing the church’s underlying values and traditions, distinctive by virtue of their theological content, and giving meaning and coherence to hosts of individual rules.\footnote{134} Finally, in accordance with canonical tradition, the learned works of pre-disestablishment jurists are of continuing persuasive authority.\footnote{135}

**The Authority and Enforceability of Church Law**

Regulation in the church is seen by many as restrictive and coercive: ecclesiastical life ought to be governed by the Holy Spirit, the faithful living under grace rather than under a series of humanly made commands and prohibitions.\footnote{136} Yet, the purpose of law in the church is the same today as it was in the early church: to facilitate and to order the life of the people of God. Thus, for the Church in Wales: ‘[t]he Constitution...’

\footnote{133}{Submission of the Clergy Act 1533, s. 3; \textit{R v. Millis} (1844) 10 Cl & Fin 534; \textit{Bishop of Exeter v. Marshall} (1868) LR 3 HL 17 at pp. 53-56: according to a ‘rule of practice’, to be operative as custom, it must have been ‘continued and uniformly recognised and acted upon by the bishops of the Anglican Church since the Reformation’; \textit{Bryant v. Foot} (1867) LR 2 QB 161: custom must have operated from time immemorial.}

\footnote{134}{See N. Doe, ‘The Principles of Canon Law: A Focus of Legal Unity in Anglican-Roman Catholic Relations’, \textit{Ecclesiastical Law Journal} 5 (1999), pp. 221-40; some Anglican churches refer to these in their constitutions and canons: see, e.g., the Province of Southern Africa, \textit{Constitution and Canons} (1994), Can. 50: ‘if any question should arise as to the interpretation of the Canons or Laws of this Church, or of any part thereof, the interpretation shall be governed by the general principles of Canon Law thereto applicable’; see also the \textit{Code of Canon Law} (1983) of the Roman Catholic Church (c. 19).}

\footnote{135}{See \textit{Kemp v. Wickes} (1809) 3 Phillim 264 at p. 276 \textit{per} Sir John Nicholl: ecclesiastical law may be ‘illustrated also by the writings of eminent persons’; see, e.g., R. Phillimore, \textit{The Ecclesiastical Law of the Church of England} (2 vols.; London: Sweet & Maxwell, 2nd edn, 1895).}

which regulates the Church in Wales exists to serve the sacramental integrity and good order of the Church and to assist its mission and its witness to the Lord Jesus Christ; however, church law is also used to effect order, as '[e]very society, ecclesial or secular, requires its own rules for the regulation of its affairs'. Both the Church in Wales and the State provide mechanisms for, and limitations upon, the enforcement of the domestic church law.

**Compliance with Law within the Church**

The provincial law of the Church in Wales employs three devices to ensure compliance with its domestic law. First, the constitution specifies the binding effect of particular instruments. The overriding principle is that: 'The Constitution shall be binding on all office-holders in the Church in Wales, all clerics and deaconesses in receipt of a pension from the Representative Body and all persons whose names are entered on the electoral roll of any parish in Wales'. Accordingly, chapters, further chapters, canons and all rules and regulations made under the authority or with the consent of the Governing Body are binding on these ecclesiastical classes. The constitution also provides specifically for the binding effect of the canons of the Church in Wales, and the pre-1920 ecclesiastical law. The same applies to other forms of law in the church, made under powers conferred by the constitution, such as resolutions of the Diocesan Conference, which are binding in the diocese. Moreover, prescribed church bodies are obliged to comply with directions of superior ecclesiastical authorities. The binding effect of ecclesiastical quasi-legislation is more problematic, however.

137. Const., Prefatory Note.
138. Const., Prefatory Note.
139. Const. I.2.
140. Const. I.1(1).
141. Const. II.42(2): promulgation canons are ‘binding on all the members’ of the church.
142. Const. XI.47: pre-1920 ecclesiastical law ‘shall be binding on the members (including any body of members) of the Church in Wales’.
143. Const. IV.33.
144. See, e.g. Const. VI.22(3)(c): a parochial church council must implement any provision made by the Diocesan Conference.
146. See, e.g. Const. VI.21: ‘Any dispute arising out of this section, or otherwise connected with the inventory, shall be referred to the Archdeacon, whose decision shall be final’.
Secondly, compliance is effected by means of declarations. Clergy must make a written ‘declaration and undertaking’, ‘to be bound by the Constitution, and to accept, submit to and carry out any sentence or judgment...[of] the Archbishop, a Diocesan Bishop or any Court or the Tribunal of the Church in Wales’. \(^{147}\) Clergy must also make ‘the declaration of canonical obedience to the Bishop’, to obey lawful and honest episcopal directions. \(^{148}\) Churchwardens must agree to ‘faithfully and diligently perform the duties of Churchwarden’ and ‘to accept and obey any decision of the Bishop or of the Diocesan Chancellor as to any right at any time to hold the office of Churchwarden’. \(^{149}\) Those whose names are entered on an electoral roll must make a declaration ‘to accept and be bound by the Constitution of the Church in Wales’. \(^{150}\)

Thirdly, compliance is effected by means of arrangements for their enforcement. Mechanisms for enforcement depend on the nature of the non-compliance and the status of the body or person to whom the law or direction is addressed. The normal method to enforce compliance by clergy and lay office-holders is through an executive order of a bishop. Failure by clergy or lay office-holders to comply with the law of the Church in Wales may result, in serious cases, in disciplinary or judicial proceedings in the church; the same applies to clerical breaches of the declaration of canonical obedience. \(^{151}\)

The constitution prescribes a variety of sanctions in the event of non-compliance with its provisions. \(^{152}\) Most sanctions are administered as a result of legal process within the church. Some are directed to the individual: for example, every member of the Church in Wales must attend and give evidence, when duly summoned, at any trial or investigation held under the authority of the constitution; if any member wilfully and without sufficient cause neglects or refuses to do so, any office held by that person may be declared vacant. \(^{153}\) Sanctions may also be directed to a group: for instance, the Diocesan Board of Finance with the approval of the bishop is empowered to place on a defaulter’s list a parish which ‘culpably neglects to meet its financial obligations’. \(^{154}\) Other sanctions

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147. Const. VII.66; the effect of the declaration has been recognized in civil law: *R v. Provincial Court of the Church in Wales, ex parte Williams* (1999) 5 ELJ 217.
148. Const. VII.66.
149. Const. VI.18.
150. Const. VI.3.
151. That is, the duty on clergy to comply with the lawful directions of their bishop.
153. Const. XI.39(3).
154. Const. IV.18.
may involve process in civil law: an incumbent is responsible for the results of any negligence and for wilful damage done to the parsonage and, if repairs are not carried out to the satisfaction of the Parsonage Board, the Representative Body may sue in debt.155 Similar arrangements are employed in all Anglican churches.156

**Enforceability in Civil Law**

The principal effect of secular ideas about the legal nature and position of the Church in Wales, as an unincorporated voluntary association, is that the domestic law of the church has the status in civil law of a contract entered into by the members of the church. Pre-1920 ecclesiastical law, while it ceases to exist as the law of the land, together with post-1920 modifications or alterations to it (duly made according to the constitution and regulations of the church), have the status of a statutory contract. Under the Welsh Church Act 1914, which presents the matter in quasi-contractual terms, these are ‘binding on the members for the time being of the Church in Wales in the same manner as if they had mutually agreed to be so bound’.157 Also, new post-1920 law of the church (not being modifications or alterations to the pre-1920 ecclesiastical law), in accordance with well-settled principles of civil law, has the status of the terms of a contract recognized as such at common law. An Anglican church, ‘in places where there is no Church established by law, is in the same situation with any religious body—in no better, but in no worse position: and the members may adopt, as the members of any other communion may adopt, rules for enforcing discipline within their body which will be binding on those who expressly or by implication have assented to them’.158

Consequently, the domestic law of the Church in Wales, its canonical contract, is enforceable in the civil courts, in certain circumstances, as a matter of private law.159 However, normally secular courts do not take

156. See Doe, *Canon Law in the Anglican Communion*, ch. 3.
157. Welsh Church Act 1914, s. 3(2); see also *Welsh Church Commissioners v. Representative Body of the Church in Wales and Tithe Redemption Commission* [1940] 3 All ER 1 at p. 6: with regard to a property matter, Greene MR speaks of the ‘quasi-contractual obligation enforceable in the temporal courts’.
158. *Long v. Bishop of Cape Town* (1863) 1 Moo NS 411; see also *Davies v. Presbyterian Church of Wales* [1986] 1 WLR 323 (per Lord Templeman): ‘The church is thus an unincorporated body of persons who agree to bear witness to the same religious faith and to practise the same doctrinal principles by means of the organisation and in the manner set forth in the constitutional deed’.
159. However, the Welsh Church (Burial Grounds) Act 1945 Rules, made by the Representative Body in pursuance of s. 4(2) of the 1945 Act, as State approved
cognizance of domestic church law, and they are generally reluctant to intervene in ecclesiastical disputes. Under the Welsh Church Act 1914, pre-1920 ecclesiastical law and post-1920 modifications or alterations to it are ‘capable of being enforced in the temporal courts in relation to any property…held on behalf of the…Church and its members’.  

The same applies to new post-1920 domestic law of the church (not being modifications or alterations to the pre-1920 ecclesiastical law) dealing with property; at common law, it has been decided that ‘[t]he law imposes upon [a] church a duty to administer its property in accordance with the provisions of the book of rules’ of that church.  

Moreover, in non-property cases, the domestic law of a church may be enforced in the civil courts when breaches of it within the church result in the violation of a right or interest under civil law. Similarly, if the application of the domestic law of a church results in breach of the civil law, the secular court may intervene; in a case concerning the Scottish Episcopal Church it was held that: ‘A Court of Law will not intervene with the rules of a voluntary association unless to protect some civil right or interest which is said to be infringed by their operation’. As a result, the domestic law of the Church in Wales is inferior to the law of the State: ‘the Church in Wales remains bound by the secular law of England and Wales’. However, were a court of the State to entertain a challenge to the domestic law of the church, on the basis that it violates the civil law, the secondary legislation, have status in the public law of the State and are enforceable as such.

160. Welsh Church Act 1914, s. 3(2): the pre-1920 ecclesiastical law with modifications and alterations effected after the passing of the Act, duly made according to the constitution and regulations of the church, ‘shall be capable of being enforced in the temporal courts in relation to any property which by virtue of this Act is held on behalf of the said Church or any members thereof, in the same manner and to the same extent as if such property had been expressly assured upon trust to be held on behalf of persons who should be so bound’.


162. See the Scottish case of Rt Revd Dilworth v. (First) Lovat Highland Estates and (Second) Trustees for St Benedict’s Abbey, Fort Augustus (1999) unreported: in addition, the courts may intervene when non-compliance with domestic church law results in loss of reputation or some other civil wrong; see also generally Buckley v. Cahal Daly [1990] NIJB 8.


164. Const., Prefatory Note: especially regarding such matters as the ownership and management of property, the solemnisation of marriage and rights of burial in its churchyards’.

165. In R v. Dean and Chapter of St Paul’s Cathedral and the Church in Wales, ex parte Williamson (1998) 5 ELJ 129: a challenge, to the decision of the Church in Wales to
court must have particular regard to the importance of the right of freedom of religion. In such a case, it would be unlawful for a State court, being a public authority, to fail to have regard to this right, or to act in a way which is otherwise incompatible with this or other European Convention rights.

Conclusion

The relationship between the Church in Wales and the State is ambiguous. On the one hand, the disestablishment of the Church of England in Wales in 1920 led to the institution of the Church in Wales as an organization fundamentally divorced from the State, free to exercise real self-determination in its mission to the Welsh nation. Ecclesiastically, the Church in Wales is an autonomous province of the Anglican Communion, with its own system of law and government, distinct from that of the Church of England. In terms of civil polity, the Church in Wales is like any other religious organization in the UK, separate from the State—a private voluntary association organized on the basis of consensual compact. On the other hand, however, it may loosely be classified as a quasi-established church (but not a disestablished church, though this is often the perception): the foundation of the institutional Church in Wales is the result of direct State legislative activity, effected by means of a statutory contract created by the State, and recognized as having a statutory power of self-governance. Like other religious organizations it is subject to State law in relation to a host of its activities, and increasingly finds the need to work in partnership with the National Assembly for Wales. Above all, it is a quasi-established church in so far as the State continues to assign to it, by law, public functions, rights and duties, notably in marriage, burial, prison chaplaincies, and church schools.

ordain women as priests, was dismissed on the basis that the applicant, a vexatious litigant under the Supreme Court Act 1981, s. 42, lacked locus standi.

Book Reviews


*A Global Ministry* is the second and concluding volume of the authorized biography of John Stott, following on from *John Stott: The Making of a Leader* by the same author. It covers the second 40 years of Stott’s life, from the 1960s onwards, chronicling in great detail the various and exceptional contributions that Stott has made to the life of the Church of England as an ordained minister. As a guiding star in the evangelical tradition both in Great Britain and beyond, this biography also serves as something of a history of evangelicalism in the second half of the twentieth century. Indeed, at times it reads more as history than biography and in doing so exposes us to the life of Stott through what is perhaps a too narrow viewpoint. We read much, for instance, of the admiration of him by other evangelicals across the globe; very little of non-evangelical perspectives of his life, either positive or negative, and almost nothing of perspectives informed by non-church influenced worldviews.

From whatever viewpoint, however, it is surely difficult not to be inspired by this man. The sheer breadth and depth of his involvement in matters of Christian faith and the Church is astonishing. It includes the chairing of numerous national and international bodies; writing across a number of genres; promoting accessibility of Christian literature to clergy both in England and internationally; overseeing the development of All Souls in London; and generally raising the profile and intellectual standing of evangelical Christianity around the world. Added to this is a more than notable measure of deep humility, warmth, generosity and spiritual discipline remarked upon by all who have known him. In particular, Stott’s passion for the social and spiritual needs of people outside of his own culture speak of a person who has the courage to look over the walls of his own experience and discover new worlds of God’s activity. As a reader in the potential of one person to effect vast changes, this biography will engage people from across the spectrum of the Christian faith and beyond.

Those wishing to explore in more depth how the values and beliefs of a person such as John Stott are shaped will perhaps be disappointed. Although references are made to the many debates both within evangelical Christianity and between it and other traditions (including such issues as church and state, pentecostalism, faith and culture), such references more often focus on the people Stott interacted with, and conferences attended, than with Stott’s personal struggle with the issue at hand. More frustratingly, such events as the death of his mother and sisters (one after an overdose) or his transitions in ministry, are given scanty treatment, as though they were minor interruptions that did little to change him. Clearly aware of this lack, Dudley-Smith makes use of Stott’s passion for ornithology to bring some lightness to his
features, and, in the final chapter, begins to paint a richer and more human portrait of Stott, but in such a lengthy and exhaustive biography it is too little and too late.

This is a very readable and informative biography of a man who has had a major influence on evangelical Christianity for many years. While it will mostly appeal to those with a similar outlook, or those influenced by Stott’s writings and addresses, it will also be of use to anybody with an interest in twentieth-century church history, mission, preaching, or the international context of Christianity. Dudley-Smith, clearly a friend and admirer of Stott, has given us a generous insight into this significant person. We may have to wait yet for a deeper analysis of Stott’s life.

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How to review a dictionary, or a one-volume encyclopaedia, as this book might better be described? Not by reading the whole thing, cover to cover, I decided, but by dipping in—partly at random, and partly where I felt I might already know a little about the subject under discussion and could compare what the Dictionary says with other sources of information. And I was almost never disappointed in what there was to find.

The Dictionary of Eastern Christianity, or DEC as the editors request it be abbreviated, is a comprehensive collection of short articles on just about everything you ever wanted to know or are ever likely to ask about Eastern Christianity. The only theme I would have expected to see treated, but could not find, was something on the Messalians. Everything else I looked for was there, treated in an easily accessible way, with details of further reading for those who want to know more. More than 50 contributors, all expert in their fields, write on several hundred alphabetically listed themes. Each article contains careful cross-referencing to other major subject areas.

The last 50 pages consist of a very useful index of names and subjects, which the reader will need in the case of some of the more obscure areas of enquiry. If you wanted to find out about the Molokans, for example, you would need to look them up in the index, which would then direct you to the more general heading ‘Russian sects’. The treatment of particular traditional styles of icon and church architecture are helpfully illustrated with line drawings. DEC comes with a preface by Bishop Kallistos Ware, and two editorial introductions, one offering a rationale for the volume, the other a practical guide to its use.

This dictionary is an essential addition to the reference section of any theological library, or indeed any general-interest public library, especially in a country like Australia with its prominent and fast-growing Eastern Orthodox communities. It could be usefully consulted by anyone from the secondary student exploring the local neighbourhood’s religious dimensions, to the postgraduate scholar or teacher who needs detailed information on a point of doctrine or the historical divergence between East and West. Anyone with a particular fascination for the Christian communities of

This book is a tonic for preachers. Those of us who love preaching and value it highly, and those who listen with expectation, will be both stimulated and encouraged. Preaching has taken a frontal assault in recent years, especially from those who say that television has so changed our listening habits that preaching is no longer viable in its received forms. Dr Mitchell argues carefully against this judgment. However, his central thesis is that the model for preaching is not television, but radio, and it is at recent approaches to radio broadcasting we should be looking for analysis and fresh direction. He takes the survival of radio as a positive sign.

Dr Mitchell was formerly a BBC World Service producer; he now lectures in Communication and Theology at Edinburgh University. He draws extensively on his own experience as a broadcaster both in the UK and the USA. Central to his discussion are several case studies of fine religious broadcasters—the war-time Radio Padre (Ronald Selby Smith), the ‘Radio Academic’ C.S. Lewis (there is an interesting aside on the ‘secular’ Alistair Cooke), the contemporary Angela Tilby and Rabbi Lionel Blue; and of a range of American examples, including some highly individual styles, from which Mitchell draws fruitful lessons, positive and negative.

Most clergy are rank amateurs in this context, but signposts can be observed for contemporary homiletic practice. ‘Eloquence is visual, not verbal today’, says Mitchell, therefore the modern preacher needs to pay attention to images, to mood and emotion, and avoid abstract concepts. It is the skill of ‘visually speaking’. The words are to be used in a more vivid manner, more conversationally (but not chatty), as spoken, not read from a text: we need a ‘transformation in orality’ in our preaching. He gives a fascinating illustration from MTV’s music videos, with their fast-changing images, the use of flash-backs, of old footage, of surprising contrasts, of humour, all this while a single voice projects its message. Mitchell is not writing about entertainment, nor even infotainment, but about communicating the depth and demand of the Gospel in contemporary cultural forms. His final advice for preachers is in four words: ‘listen, picture, translate, edit’. Preaching today involves wisdom and discipline, not of an entirely new kind, but with a new attention to how we speak the eternal Gospel to modern hearers.

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