



TRINITY COLLEGE  
THE UNIVERSITY OF MELBOURNE

# FROM A COLONIAL CHAPLAINCY TO RESPONSIBLE GOVERNANCE: THE ANGLICAN CHURCH OF AUSTRALIA AND ITS ECCLESIOLOGICAL CHALLENGE

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## Introduction

It is a great privilege to be invited to give this, the third Robin Sharwood Lecture, and I am very grateful to those responsible for establishing the lectureship and for extending their kind invitation to me. Robin was a very distinguished lawyer, academic, College Warden and churchman. I first met him during the 1980s but more often in the 1990s when I was General Secretary of the Anglican Church of Australia. Here I met a generous and encouraging spirit who displayed the admirable virtues of the Sermon on the Mount. A fine churchman keen to see how law and canon law could be deployed in the service of the church.

In recent years the law has intruded into the affairs of the church in the form of the Royal Commission into Institutional Responses to Child Sexual Abuse and found the church grievously wanting.<sup>1</sup> The Anglican Church has cooperated fully and has responded to the recommendations made by this Commission. I note also that the first major General Synod step in this area occurred in 2004 long before the Royal Commission was established and further that this move was taken on the initiative of some lay members of the Standing Committee.<sup>2</sup>

The Commission raised important questions about clergy and bishops and made recommendations about those offices. But the Commission failed to ask what it was about our institutional arrangements and practices that made it possible, if not likely, that some members of these classes of people could so badly fail in their responsibilities. Before we can answer this question, we need to take a brief look at the earliest Christians in order to remind ourselves about the nature of Christian faith in the earliest generations and the place of church in that experience.

## A: Origins and Foundations

### 1. The Christian condition

When Jesus began calling people to follow him, he spoke to some in gentle and deceptively simple terms, 'come and I will make you fishers of men'. When they were dispirited and reflected on all they had given up to be his disciples he encouraged them with the assurance that they would inherit great treasure in heaven. He spoke in extravagant language about the recently re-built temple. It is to be a house of prayer, yet it will be destroyed. He accepted the central Jewish institution of the family in one place but denied it any higher significance in another. 'If any one comes to me and does not hate his own father and mother

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<sup>1</sup> The report of the Royal Commission is available online at <https://www.childabuseroyalcommission.gov.au>  
In this paper references are indicated by RC. Throughout the volume referred to is 16

<sup>2</sup> There had been earlier ventures into professional development and standards. See G Blake, 'Child Protection and the Anglican Church of Australia', *Journal of Anglican Studies* 4.1 (2006), (81-106)

and wife and children and brothers and sisters, yes, and even his own life, he cannot be my disciple.<sup>3</sup> Who were his mother and father and family – they were not his kin but those who heard and responded to his message.<sup>4</sup> ‘Repent, the kingdom of God is at hand’. Jesus call was both astonishing and absolute.

When Pilate puzzled as to what kind of leader Jesus was, in the only relevant terms at hand, he asked, ‘Are you then a king?’ Jesus replied ‘My kingdom is not of this world, else would my disciples fight’.<sup>5</sup>

This is the ‘eschatological’ perspective common in the New Testament documents. Things in the here and now are temporary and christians look forward to a final and ultimate transformation. Sometimes christians have seen this in directly chronological terms, others have been less confident about the value of time as a category to give an account of the unfolding universe and choose to speak of transcendence. The crucial point is that christians are people whose lives are fundamentally driven not by the here and now but by their belonging to Jesus understood as the Christ the Son of the living God, the one in whom we see the face of God.

## 2. Christian communities

This truth, however formulated, lies at the heart of the christian faith but its real bite comes not in the vision of the future or of detachment but rather in what it implies for how we as christians live in the here and now. The whole corpus of Paul’s letters is taken up with this challenge. The Philippians’ citizenship is in heaven and that enables them to live in the present in a way that is shaped by that citizenship. The moral content of this eschatology is the key to almost everything Paul wrote and it is what lies behind the Sermon on the Mount and gives it its cutting edge. It lies behind the parallelism of the Lord’s Prayer, ‘Your kingdom come//your will be done on earth as it is in heaven.’<sup>6</sup>

The moral character and purpose of this “kingdom” is central to a foundational understanding of the condition of the christian. It was how moral qualities such as compassion, kindness, humility, meekness, and patience were born.<sup>7</sup> It is foundational to Paul’s understanding of christian life as living in a way that is appropriate to belonging to Christ<sup>8</sup> and it constitutes a challenge to the design and operation of our church

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<sup>3</sup> Luke 14.26

<sup>4</sup> Matthew 12.48, Mark 3.33f, Luke 8.21

<sup>5</sup> John 18.36ff.,

<sup>6</sup> Stephen K. Pickard, *Seeking the church: an introduction to ecclesiology* (London: SCM Press, 2012) 15-23

<sup>7</sup> See for example Col 3.12 or Gal 5.22 and the other worldly character of the christian life in Eph 6.10ff. Alan Kreider neatly reviews the early (mostly ante Nicene) writing of christians on these virtues, Alan Kreider, *The patient ferment of the early church: the improbable rise of Christianity in the Roman Empire* (2016).

<sup>8</sup> This is the central theme in the argument in Romans, see especially Romans 6. See Robert C. Tannehill, *Dying and rising with Christ. A study in Pauline Theology* (Berlin: Töpelmann, Beiheft zur Zeitschrift für die neutestamentliche Wissenschaft und die Kunde der Älteren Kirche, 1967). BN Kaye, *The Argument of Romans with Special Reference to Chapter 6* (Austin: Schola Press, 1979) See also the treatment of this theme in the Letter to Diognetus chpt 5, ‘But, inhabiting Greek as well as barbarian cities, according as the lot of each of them

institutions.

The disciples of Jesus may belong to a kingdom not of this world, but Jesus found himself subject to Pilate's world and paid the price allowed by Pilate. Pilate's action nicely illustrates how Jesus's disciples are not to fight, even though they still face the force and power of Pilate's kingdom. This tension has haunted the whole of christian history and affects the way we think about the institutions and practices of our church life.

### **3. Inevitable institutions**

The challenge of being a christian community at any given time is to live this truth and to manifest and sustain its values. This challenge is particularly acute with the coming of new converts, new generations, and changing locations and cultures. The New Testament documents are full of conflicts, frustrations and failures in this process.

In the early years of Christianity, we can see the inevitable emergence of habits and practices to sustain some appropriate continuity with the foundational origins of the faith. These habits and practices grew up locally and were shaped by the events through which the local church was founded and the social context in which they had to live out their new faith.

What we call institutions became an inevitable and necessary feature of the early generations of Christians and again they grew up locally and in different ways. Such institutions were always contingent. They had no absolute significance save that of sustaining the life of the christian communities so that they were shaped by the values and qualities of Jesus' kingdom.

In later centuries the 'institutional church' has faced the constant and subversive temptation to be a kingdom of this world even while holding to historically recognisably christian practices and beliefs. Negotiating this tension is the key underlying strand in the story of Christianity.

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has determined, and following the customs of the natives in respect to clothing, food, and the rest of their ordinary conduct, they display to us their wonderful and confessedly striking method of life. They dwell in their own countries, but simply as sojourners. As citizens, they share in all things with others, and yet endure all things as if foreigners. Every foreign land is to them as their native country, and every land of their birth as a land of strangers.' New Advent accessed 24 02 2020 . Translated by Alexander Roberts and James Donaldson. From *Ante-Nicene Fathers*, Vol. 1. Edited by Alexander Roberts, James Donaldson, and A. Cleveland Coxe. (Buffalo, NY: Christian Literature Publishing Co., 1885.) Revised and edited for New Advent by Kevin Knight. <<http://www.newadvent.org/fathers/0101.htm>>. Probably late second century <http://www.newadvent.org/fathers/0101.htm>

## B. The Great Incorporation into the Empire

### 4. The Union of Church and the World

In the early fourth century the emperor Constantine made the first move to colonise the churches into the agenda of the Empire.<sup>9</sup> In so doing he initiated what became one of the longest running forms of Christianity, a Christendom.<sup>10</sup> That is to say a polity in which government is shared in some form or other between the ecclesiastical and the civil authority and where that polity itself professes the christian faith. In different forms this model ran almost universally for over a millennium.

In the English Christendom the line between lay and clerical power was not a straight line but rather what FW Maitland called a ‘jagged edge’,<sup>11</sup> and it moved from time to time. Following the Norman Conquest, William I allowed a distinct Bishops’ Court to exist within the main royal court.<sup>12</sup> It was a modest adjustment. Over time it grew into the extensive ecclesiastical courts in England. Becket’s (1162-70) challenge to Henry II led to the privilege of clergy to be tried before an ecclesiastical court although the Royal Court could always enter a case.<sup>13</sup>

Despite these differences along the way the lay supremacy always prevailed in the English Christendom.

On 28 January 1788 on the shores of the harbour in Gadigal country in the bay called Waran, Arthur Phillip stood before a motley group of convicts and others and affirmed his allegiance and loyalty to King George III of England. Then in his third oath he declared his allegiance to the kingdom in the terms of its religion.

I, Arthur Phillip, do declare that I do believe that there is not any Transubstantiation in the Sacrament of the Lord’s Supper or in the Elements of Bread and Wine at or after the Consecration thereof by any person

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- 9 H. A. Drake, *Constantine and the bishops: the politics of intolerance* (Baltimore, MD: Johns Hopkins University Press, Ancient society and history, 2000)
- 10 Peter Brown, *The Rise of Western Christendom : triumph and diversity, A.D. 200-1000* (Malden, MA: Wiley-Blackwell, 10th anniversary rev., *The making of Europe*, 2013), Peter J. Leithart, *Defending Constantine : the twilight of an empire and the dawn of Christendom* (Downers Grove, Ill.: IVP Academic, 2010) Judith Herrin, *The formation of Christendom* (Princeton, N.J.: Princeton University Press, 1st Princeton paperback print., with revisions and ill., Princeton paperbacks, 1989), Bruce Kaye, *The Rise and Fall of the English Christendom. Theocracy, Christology, Order and Power* London: Routledge, Routledge Contemporary Ecclesiology, 2018)
- 11 ‘So ragged, so unscientific was the frontier which at any given moment and in any given country divided the territory of secular from the territory of ecclesiastical law that the ground could be lost and won by insensible degrees.’ He also makes the point that ‘from the twelfth century onwards there has been a good deal of ecclesiastical law that has not been enforced’. Maitland, Frederic William, ‘Canon Law in England (Continued)’, *The English Historical Review* 11.44 (1896), (641–72).
- 12 Some time between 1072 and 1076. Text is in D Whitelock, M. Brett and C. N. L. Brooke, *Councils & synods : with other documents relating to the English Church. 1, A.D.871-1204* (Oxford: Clarendon, 1981) 620-624
- 13 For the story of this episode in relation to the developing structure of English public institutions see Bruce Kaye, *The Rise and Fall of the English Christendom. Theocracy, Christology, Order and Power* (London: Routledge, Routledge Contemporary Ecclesiology, 2018). On the demise of clerical privilege see Keith Mason, Sharwood Lecture 2018. *Clergy Status in the Age of the Royal Commission*, 3-5

whatsoever.<sup>14</sup>

The English Christendom had arrived in Waran with its special amalgam of lay and clerical elements. The religion of the kingdom, and thus of the colony, was that of the Church of England.

The marriage of church and state that came to the land of the Gadigal was the late eighteenth century version of the English Christendom. It had already begun to fray in England and in the next fifty years in the colony a great divorce occurred. The chief initiator of these proceedings was Governor Richard Bourke who was opposed by the Church of England bishop, William Grant Broughton.<sup>15</sup>

Thus, did the great drama of the conflict between the kingdoms of Pilate and Jesus enter into the life blood of Anglicans in Australia.

## 5. Dividing the Union

Between 1838 and 1853 great changes were made in the political and ecclesiastical arrangements in the colony. Elected representative government came and new colonies of Tasmania, Victoria and South Australia were created.

New dioceses were created by the imperial government in 1847. The diocese of Australia was divided by the creation of Melbourne, Adelaide and Newcastle. In 1842 Tasmania had been made a diocese in the same year that New Zealand came under British rule and a diocese created there.<sup>16</sup>

In 1850 Broughton, as Metropolitan, called the bishops of these dioceses to a conference in Sydney to review their problems and prospects. They discussed a number of issues of liturgy and clergy discipline, the status of clergy, church governance, the canons of 1603-4 and baptism.<sup>17</sup>

William Tyrrell, the Bishop of Newcastle, summed up the post-conference situation in a letter to Joshua Watson on 26 May 1852.

In addition to the great difficulty of keeping dioceses under different governments acting together, the real

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<sup>14</sup> Frederick Watson and Australia. Parliament. Library Committee., *Historical records of Australia* (Sydney: Library Committee of the Commonwealth Parliament, (1914) 21

<sup>15</sup> The best biography of Broughton is still GP Shaw, *Patriarch and Patriot, William Grant Broughton 1788-1853* (Melbourne: Melbourne University Press, 1978). See also *Colonial Religion. Conflict and Change in Church and State*, (ATF Theology, Adelaide) 2020.

<sup>16</sup> There is a considerable literature on this area. See two recent additions Stuart Piggin, Robert D. Linder and Sean Scalmer, *The fountain of public prosperity : evangelical christians in Australian history 1740 - 1914* (Clayton, Victoria: Monash University Publishing, Australian history (Monash University Publishing), 2018) and Kaye Bruce, *Colonial Religion. Conflict and Change in Church and State* (Adelaide: ATF Theology, Scholars Collection, 2020).

<sup>17</sup> Charles Perry, Bishop of Melbourne, kept a Diary of the conference discussion. It is now held in the archives of the Diocese of Melbourne.

circumstances of the six dioceses, their wants and means, are so essentially different that it would seem to me unwise and unreasonable to expect from them any great uniformity of enactment or union of action. New Zealand with its native population, Tasmania with its convict population, Adelaide without any government support and Melbourne with its wish for isolation cannot be expected to have the same wants and wishes, to require the same laws and regulation as Sydney and Newcastle, united under the same government and receiving the same government aid for religious and educational purposes.<sup>18</sup>

The key questions the bishops asked themselves were how was a diocese to be governed, how were clergy, let alone laity, to be disciplined by the church and how was the church to be sustained over generations - a question that implied legal identity and ownership of property. These issues of power and authority arose precisely because of the vacuum created by the collapse in the colony of the structures of the English Christendom.

## 6. The Separated Church

In England the jurisdictional power of ecclesiastical courts had enjoyed the support of the broader context of English law. They were still intimately intertwined.<sup>19</sup> In the colonies this support quickly evaporated. In 1859 the Revd George King was affronted. He was the incumbent of St Andrews church in Sydney and he had not been made Dean when the church was turned into a cathedral. He locked bishop Barker out of the church when the bishop had come to conduct a confirmation from which King had been excluded. Barker summoned him to an ecclesiastical court, but when King appealed to the civil court Barker was defeated on the grounds that his ecclesiastical court had no jurisdiction in the colony. Judge Dickinson advised the bishop that he would have been better off seeking action in the civil court against King under the laws of trespass. It was a galling demonstration of the difficulties of episcopal jurisdiction over clergy and a sharp demonstration of the new situation in which Anglicans were to order their church life.<sup>20</sup>

However, there was also the more difficult problem of the change in values and purposes in the church from what had been tacit in the Christendom model. Christendom had been such a long running tradition, especially in England. Where in this new so called “free” moment was there to be the pervasive acting out of the early christian virtues of, for example, humility, or patience in the institutional life and practices of the church. What was to be done with imperial notions of authority and power that had become part of the working assumptions of the christendom church.<sup>21</sup>

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<sup>18</sup> Collection, Anglican Diocese of Newcastle [B6556], University of Newcastle Library, Tyrrell to Watson, 26 May 1852.

<sup>19</sup> Geoffrey Best, *Temporal pillars : Queen Anne's bounty, the Ecclesiastical Commissioners, and the Church of England* (Cambridge: Cambridge University Press, 1964)

<sup>20</sup> Legge, *ex parte King*, vol ii, 1307.

<sup>21</sup> The consonance of the understanding of power between royal concepts and the bishops is well illustrated by the comment of James VI and I at the Hampton Court Conference ‘no bishop no king’.

More analytical excavation was needed than simply making more convenient organisational arrangements in the life of the Anglican Church of Australia on the basis of the old patterns.

## **C. The Anglican Church of Australia**

The constitution of the Anglican Church of Australia sets out in broad outline how governance would be effected. More detailed matters are of course to be found in the dioceses.

### **7. Anglican Church of Australia Constitution <sup>22</sup>**

The Fundamental Declarations make it clear that the ACA is part of mainstream Christianity holding the faith going back to Jesus and the apostles. It receives all the canonical scriptures as ‘the ultimate rule and standard of faith given by inspiration of God and containing all things necessary for salvation.’ It will ever obey the commands of Christ, teach his doctrine and administer his sacraments, uphold his discipline and preserve the three orders of bishops priests and deacons. The claims about scripture echo the conflicts with the Papacy at the time of the Reformation. The claims for scripture are of ultimacy and of adequacy for salvation. This formulation excludes the tradition upheld by the papacy at the time. It is not a claim that scripture alone has authority. The processes of the Book of Common Prayer, canon law and the role of Roman legal principles in canon law, to say nothing of the other instruments of decision making that were in operation at the time would make such an exclusive claim unintelligible.

The extensive flexibility allowed in this constitution also highlights the conflictual context in which it was formulated during its ninety-year gestation. It lays down the minimal constitutional requirements designed to create a limited but adequate framework for the church community to function. A wider area of agreement was not possible, which of course meant that more was left to the dioceses.

The constitution lays out an English pedigree. The Ruling Principles state that the church retains and approves the doctrine and principles as embodied in the BCP and Ordinal. On the other hand, the General Synod has plenary authority, at its own discretion, to make statements on all the essential elements of the church including beliefs and practices and rules of discipline.

The constitution also says that nothing in it prevents the sixteenth century literary monuments in the Ruling Principles being interpreted in the light of the long history of English Christianity or the experience of the

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<sup>22</sup> The constitution is available on the web site of the General Synod Office of the Anglican Church of Australia.

church since colonisation.<sup>23</sup> Rightly understanding the principles embedded in these documents means seeing them as particular statements in a particular time and place, part of a longer history. Embedding this historical principle in the constitution makes it clear that this church is part of the long narrative of English history and the continuing history of Australia.

Part II is concerned with the Government of the Church. The first chapter adopts the ancient custom of having a bishop with a diocese thus making it clear that the church is fundamentally a church made up of dioceses. It then goes on to deal with the role of synods starting with the General Synod (chapters IV - VI) Provincial Synods (VII), Diocesan Synods (VIII) and a concluding chapter on the Tribunals that operate in these levels for the discipline of the clergy and bishops.

There is a chapter establishing the Corporate Trustees of the Church and a chapter on how the constitution may be altered. This is a very significant chapter because it indicates priorities for continuity in the constitution. The harder it is to change a section the more important the constitution regards those parts.<sup>24</sup>

Lay members of the church are fully involved in the operation of the synod and tribunal structures but it is noteworthy that no element of the jurisdictional instruments in the constitution apply to lay people. They apply only to clergy and bishops.<sup>25</sup>

Essentially the constitution creates a federal union of independent dioceses. The federal character of this constitution may be highlighted by comparing it with the Australian Constitution which established a Commonwealth of Australia. That constitution required a balance between a House of Representatives elected directly by all the citizens of the Commonwealth and a separate Senate of state representatives. It is what Nicholas Aroney calls a Federal Commonwealth.<sup>26</sup> Under this constitution there is such a thing as a Commonwealth of Australia that embraces all citizens individually. There is no similar conception of a “commonwealth of individual Anglicans” embedded in the constitution of the Anglican Church of Australia. The Anglican Church of Australia in this constitution is a federation of independent dioceses.

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<sup>23</sup> Section 72 Where any question arises as to the faith ritual ceremonial or discipline of this Church or as to the authorities powers rights and duties of bishops priests and deacons of this Church, or of any officer or member thereof, nothing in this Constitution shall prevent reference being made to the history of the Church of England in England to the same extent as such reference might have been made for the purposes of the Church of England in the dioceses of Australia and Tasmania immediately before the day on which this Constitution takes effect.

<sup>24</sup> The final chapter deals with when and how the constitution will come into operation.

<sup>25</sup> The jurisdictional elements in this constitution are thus aimed at securing an ‘ordered ministry’ that will serve the purposes outlined in the Fundamental Declarations and guided by the Ruling Principles. More generally one might say that the ordained are there to serve the purposes for which the institutions of the church are established as set out in the Fundamental Declarations and Ruling Principles.

<sup>26</sup> Nicholas Aroney, *The constitution of a federal commonwealth: the making and meaning of the Australian constitution* (Cambridge, UK; New York: Cambridge University Press, 2009).

But, of course, as is often the case with institutions the underlying purpose and moral values implied in the design of the institution or of the claimed historical pedigree of the community involved, do not always inform what actually happens. The press of other considerations can elide them. Formally agreed institutions cannot cover everything that happens in a community such as a local church. But the practices, the way we do things, do shape the life of the christian community and play a role in sustaining the purposes and values of the church.<sup>27</sup> In a local community those practices can significantly shape the life of that community. The recent Royal Commission provides a valuable entry into this question.

## **D. After the Royal Commission ?**

### **8. Royal Commission. Clericalism and the story of church failures**

The Royal Commission into Institutional Responses to Child Sexual Abuse handed over its seventeen-volume final report on 15 December 2017 after nearly five years of assiduous work. Volume 16 of the final report contained a section on the Anglican Church running to 241 pages, though reference is also made to the Anglican church in other more general sections. As we all know the proceedings of the Commission and the report make for terrible reading for the churches generally including Anglicans.<sup>28</sup> The broad details have been well rehearsed and do not need to be repeated here.

As we know, the Hayne Royal Commission<sup>29</sup> showed that the working framework of financial advisers in the banks warranted examination in relation to the failures of the banks. So, too it seems to me that the framework within which church officers work needs to be looked at in the light of the failures revealed by the Royal Commission.

What then should we look for in these working arrangements in the church? They are certainly not neutral or merely practical because the very participation in such practices shapes our character and the character of our church community. The practices therefore should be designed to promote in the community and

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<sup>27</sup> In this context, however, the operation of these institutions change and develop without involving any constitutional or even synodical decided variations. How a bishop carries out their duties rightly changes to adapt to different challenges and circumstances. But they together with clergy and church officers generally can also exercise their ministry in a way that does not necessarily conform to the christian values and purposes for which the institutions were designed. A parish priest can alter dramatically how the ministry is conducted in a parish simply by the way they do things. They can accrue to themselves initiatives and power which they can use to serve their own agendas and even interests. The same challenges can occur in the case of bishops.

<sup>28</sup> It is worth noting the dates of most abuse. "The Anglican Church complaints data showed that 74 per cent of complaints made to Anglican Church dioceses involved alleged child sexual abuse that commenced in the period from 1950 to 1989 inclusive. The largest proportion of first-alleged incidents of child sexual abuse occurred in the 1970s (226 complaints, or 25 per cent of all complaints with known dates). RC 16 p. 581.

<sup>29</sup> Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

its office holders deep and growing christian character. The way we do business in the church should be making the community, including its office holders, more manifestly christian. A place where, In the words of the 1662 Ordinal the church should be growing in christian and faith so that there is no place for error in religion or viciousness of life. The way we conduct our community life is as, if not more, important than the programs or projects we pursue.

The crucial issues identified by the Royal Commission are about trust and power, what they call ‘positional power’ and its abuse.<sup>30</sup>

Among the contributing factors for such failures, both of abuse and handling allegations, the Commission noted the following matters:<sup>31</sup>

1. The lack of a consistent national approach because of the loose federal character of the organisation of the church.
2. Failure of leadership by diocesan bishops for whom there was no oversight and accountability and no uniform approach to handling complaints about bishops.
3. Instances of conflicts of interest for bishops and senior clergy in dealing with complaints
4. Some instances of a lay culture that supported perpetrators
5. Aspects of clericalism often associated with trust placed by the community in the church
6. Too easy forgiveness for perpetrators without restitution
7. Lack of supervision and support for clergy and others in ministry <sup>32</sup>
8. Cultural factors that led to failures in selection and screening of ordinands

The final recommendations addressed to the Anglican Church in the Commission’s Report all deal with professional development, supervision and performance appraisal.

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<sup>30</sup> The Anglican Church complaints data showed that of alleged perpetrators identified in complaints of child sexual abuse, 50 per cent were lay people and 43 per cent were ordained clergy (the religious status in respect of the other 7 per cent was unknown). Many of these referred to abuse in schools with mainly lay staff, which probably accounts for the large proportion of lay perpetrators. Historically, Anglican schools have had a high proportion of lay teachers relative to other schools affiliated with religious organisations. The Anglican Church complaints data showed that of all complaints regarding non-residential Anglican schools, 8 per cent involved alleged perpetrators who were ordained clergy and 86 per cent involved lay people.<sup>208</sup> For residential schools operated by the Anglican Church, 21 per cent of complaints involved ordained clergy as the alleged perpetrator and 69 per cent involved lay people. RC vol 16 p.584. Of the clergy perpetrators probably around 29% occurred at a place of worship, that is in the parishes.

<sup>31</sup> RC vol 16 p. 33. See also p. 532 ‘We also heard evidence that suggested that a culture of clericalism in the Anglican Church may have discouraged survivors and others from reporting sexual abuse, including reporting to police.’ See also Study of Reported Child Sexual Abuse in the Anglican Church, 2009. The report refers to six issues, but a number of their issues contain secondary matters which I have separately identified.

<sup>32</sup> RC 16. 752.

**Recommendation 16.5**

The Anglican Church of Australia should develop and each diocese should implement mandatory national standards to ensure that all people in religious or pastoral ministry (bishops, clergy, religious and lay personnel):

- a. undertake mandatory, regular professional development, compulsory components being professional responsibility and boundaries, ethics in ministry and child safety
- b. undertake mandatory professional/pastoral supervision
- c. undergo regular performance appraisals.<sup>33</sup>

It is noteworthy that these recommendations are basically addressed to helping individuals fulfil more appropriately their obligations as bishops and clergy.<sup>34</sup> In other words the failures of the church are due to individuals not doing what they should have done. That of course is true but surely not enough. What made it possible for these things to be done.

**9. Clericalism – a left over from the Christendom divorce**

**a) The Royal Commission and institutional differences**

This is a paper concerned with the institutional character of the Anglican Church of Australia. I draw attention to the work of the Royal Commission as a way into an institutional question. It is also a question, I think, that derives from our unsatisfactory response to the end of the Christendom era to which I referred earlier in this paper.

The Royal Commission put clericalism at the heart of the problem.

In several of the religious institutions we examined, the central factor, underpinning and linked to all other factors, was the status of people in religious ministry. We repeatedly heard that the status of people in religious ministry, described in some contexts as ‘clericalism’, contributed to the occurrence of child sexual abuse in religious institutions, as well as to inadequate institutional responses.<sup>35</sup>

The Commission sees clericalism as a ‘theological belief that clergy are different to the laity.’<sup>36</sup> Furthermore it is quite clear that our constitution and canons make a clear distinction between lay and clerical and episcopal as Keith Mason made clear in his Sharwood Lecture of 2018.<sup>37</sup> Some parts of the Royal

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<sup>33</sup> RC 16, 755.

<sup>34</sup> Furthermore, the recommendations are of a kind generally applied to ‘profession standards’ in other places such as bank corporations.

<sup>35</sup> RC 16. 28.

<sup>36</sup> RC 33.

<sup>37</sup> ‘Whatever its essence, clerical status confers liturgical and other authority that is widely respected, unduly so

Commission report suggest that the difference of function or role described in the constitution and canons actually has some personal character attached to it. They allude to the idea of indelibility of orders.

The issue is that ordination brings with it professional privileges of personal engagement with members of the church. Those privileges give to the clergy what the Commission calls ‘positional power’. It is the abuse of that power they say, that facilitates moral failure, in this case the abuse of children, though of course also potentially of any member of the church.

The kind of distinction described here is in some respects similar to the distinction given to lawyers and doctors. These professions have strong ethical codes together with supervisory and enforcement arrangements. The final recommendations of the royal Commission echo some elements of these arrangements.

However, the church community is a different social environment for the work of the clergy. They work directly within and for a community, a very present community, rather than with individual clients. The object of their work is not just the individual in the community but the character of the community itself. It is not surprising that in the church clericalism generally has a somewhat wider semantic field from that represented in the Commission’s report. Clericalism does not connote just a distinction but also a distinction not favourably regarded.

In their extended discussion of clericalism, the Commission reported on some solutions that had been put forward during their public hearings. These included greater transparency and more women in senior clerical positions. Both these suggestions point to the problem as one of social interconnections. Sadly, the Commission did not follow up these suggestions in their final report.<sup>38</sup>

Clericalism flourishes in a community. As an Australian General once famously said in relation to sexual abuse in the armed forces, ‘what you walk past you accept’<sup>39</sup>. Clericalism grows in some widely accepted, or at least tolerated, attitudes and compliance. Similarly, no amount of complaining or talking by an individual is likely to make much impact on established clericalism. Nor indeed is personal mentoring or professional development likely to be strong enough to make an enduring change. In any case what we are talking about here is a socially embedded phenomenon. The dynamics of the institutional context need to be changed.

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according to the Royal Commission. Subject to licensing, it also offers portability across dioceses, across the world, and across denominations.’ Keith Mason, *Clergy Status* 10.

<sup>38</sup> RC 16. 738. They also refer to *Faithfulness in Service* and *Safe Ministry Training Benchmarks* from General Synod which refers to ‘positional power within ministry [and] non ministry settings.’<sup>38</sup> In doing so I presume they mean to imply that the matter is being addressed. The 2009 report to General Synod makes no reference to ‘positional power’.<sup>38</sup>

<sup>39</sup> The general was David Morrison, but he acknowledged it was first said by General David Hurley (now Governor General) when he was Chief of the Defence Force.

In some aspects of this social context church officers, including clergy and bishops, can find themselves subject to expectations from others that are hard to resist. Those expectations in time have the effect of being consolidated and becoming the accepted framework for the life of the community even though they may not be represented in the laws and canons. This is one of the dynamics of institutional change and of clericalism.

Any institutional design should have the effect of protecting people from unreasonable expectations whether they are clergy or lay people and also at the same time inhibit impulses to seek inappropriate power in community relations.

So mere difference is not enough to address the problem. Rather the clericalism we are concerned with here is the exploitation for personal purposes of that difference in the life of an ongoing proximate community. That is what I am concerned with here and more particularly its sources in the social dynamics of the church community.

Unfortunately, the Commission did not pursue this question of the social sources of this clericalism and the issue is not represented in the recommendations. This is a significant weakness in the Commission's report and a little more critical analysis of this problem is needed.

#### **b) The social roots of clericalism**

What then is this clericalism that grows within the borders of the constitution and canons.

The oversight of the churches in a diocese, according to the theory of the existing arrangements is the responsibility of the bishop. That oversight has long been exercised mostly indirectly because we make so many other demands on the time and energy of bishops. In many cases that means that the parish clergy are left with a great deal of freedom in the way they exercise their ministry, or to put it another way they are often quite isolated. The language of the services of ordination and of an institution of a minister to a parish speak of the clergy as servants of the church community. Nonetheless, in the absence of institutional frameworks and strong practices in the parish, they are able to take initiatives and extend their responsibilities so that they find themselves with power and control somewhat at odds with the language of these services.

Lay people often come to think of the parish as belonging to the rector. It is the cleric's parish with the implication that the incumbent is a kind of executive chair of a group to be organised to achieve the rector's plans. This tendency is facilitated by the decline in the idea of a bordered parish and where freedom of choice about church participation is made easy by the motor car and the consequent emergence of eclectic

forms of parish community.<sup>40</sup> That tendency of choosing a church by reference to the incumbent only serves to facilitate the drift of power to the clergy, especially in our modern populist culture marked by what Russell Blackford calls ‘the tyranny of opinion’. It consolidates the flourishing of communities of a particular opinion.<sup>41</sup>

Alasdair MacIntyre in his monumental three volumes on virtues, tradition and practices teased out a combination of philosophical and practical issues to do with how communities are sustained with moral content over generations.<sup>42</sup> Central to his argument is that continuous communities exist with a set of practices that contain within them a learning of the virtues. The things that are habitually done in a community provide the context in which virtues are learned and sustained. This means that a form of culture emerges in such communities that is an expression of these virtues and also sustains them.

Theologians have been quick to see the relevance of this argument for our understanding of churches. A church is a community existing over time in which there are habitual practices that both express and shape the moral character of christian discipleship. The really significant aspect of MacIntyre’s work is that he engages with the question of agency. People change and develop virtuous lives by engaging in practices. It is implicitly a critique of the idea that knowledge, or cognition, itself, will lead to moral change or sustain the moral life.<sup>43</sup> MacIntyre helps us to see that the important elements in a virtue community are the practices that mark the life of the community.

Posing the question in these terms we should ask in relation to the work of clergy and bishops what are the practices that provide the context of their work. Clearly, they differ from parish to parish and diocese to diocese. But we need to look at what actually happens not what we think in generalised terms should happen. For example, in a parish what difference would, or does it make to the operating assumptions if the incumbent does not chair the vestry or parish council, but this is done by an elected lay person. If the incumbent were required to report to each meeting, just as others in the meeting who have specific responsibilities, might that inculcate the idea that the life of the parish was a community responsibility. Or

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<sup>40</sup> See Keith Mason, *Clergy Status*. 8.

<sup>41</sup> Russell Blackford, *The tyranny of opinion: conformity and the future of liberalism* (London; New York: Bloomsbury Academic, Think now series, 2019) .

<sup>42</sup> Alasdair C. MacIntyre, *Three rival versions of moral enquiry : encyclopedia, genealogy, and tradition : being Gifford lectures delivered in the University of Edinburgh in 1988* (Notre Dame, Ind.: University of Notre Dame Press, 1990), Alasdair C. MacIntyre, *Whose justice? Which rationality?* (Notre Dame, Ind.: University of Notre Dame Press, 1988), Alasdair C. MacIntyre, *After virtue : a study in moral theory* (Notre Dame, Ind.: University of Notre Dame Press, 2nd, 1984).

<sup>43</sup> There is an obvious qualification to this. The church is a community that derives its existence from the initiative of God in Christ. There is a Stephen Neill once put it ‘a divine dimension’. We might say in relation to the earliest christians that the church exists as a part of the Kingdom of Jesus that is not of this world and is called to live according to the virtues or values of that kingdom. As such any practices or institutions are subject to this fundamental reality. The institutions are not absolute but contingent on this greater truth of the kingdom of Jesus.

similarly for a bishop in relation to the diocesan council, or Standing Committee.

These are small examples, but I suspect they might prove to be of some significance in forming the culture of the community involved and would more naturally lead to more transparency. They might be a place to start.

Clearly good and trustable occupants of these two offices, bishops and parish incumbents, can and are very likely to make any legal arrangement work well so that christian character is formed in the community. But we are not concerned here with the good and trustable. We are concerned here with the weak and malleable, or in a worst-case scenario the insecure and authoritarian, who can be led to enhance their positional power in a framework that does not sufficiently discourage or inhibit that.

I think that the problem has emerged in part from the dissolution of Christendom. Long standing traditions protected the clergy from the overweening power of lay patrons on the one hand and on the other the demands of the politically powerful ecclesiastical office of the bishop. Key to the resolution of these tensions in the christendoms in Europe was the tradition of parson's freehold. As the structures and customs of the Christendom model disappeared the tradition of clergy freehold lost its justifying framework. As a consequence, there continued something of an institutional vacuum in which clergy tenure remained on the basis of a variety of new legitimations which tended to serve a variety of quasi political theological dispositions.

The actual circumstances are different but the same issues apply to bishops. Everyone in the church community should be respected, including bishops, and the office that we have given them should be honoured. But deference is a very ambiguous gift for the recipient unless it is framed within a set of community expectations that facilitate and reinforce the values and purposes that accord with the character of Jesus' Kingdom, principle amongst which are humility and patience.

## **SO WHAT ?**

If we want to know what the christian life is, then we need to resort to the foundational "eschatological" picture of the christian condition in the New Testament documents and the moral and behavioural qualities that are appropriate in that "kingdom of Jesus that is not of this world". To discover what that character looks like in twenty-first century Australia, is the task of the church community and those who serve it. The institutional apparatus laid out in the constitution and canons exists to support this task. What happens in church goes beyond the constitution and canons. It includes the way we do business in the parish, or the diocese or the General Synod. How the parish council operates is as important in its sphere as how any

diocesan synod or general synod conducts its business, in many respects more important.

My argument here is that for Anglicans in our present circumstances the shape and conduct of our institutions should be rigorously subjected to the purpose of fostering the christian character of the members of the church and of the communities to which they belong. In an increasingly distinct and unsympathetic cultural environment that christian character is what will enable Anglicans to discern their vocation in their daily lives and have the courage to witness to the Christ we profess. The Royal Commission found our institutions wanting. On several occasions it referred to the influence of our own brand of clericalism as a facilitator of child abuse, though sadly they did not investigate its sources.

It is time to take this matter up where the Commission left it and to examine the institutional and practical sources of this kind of clericalism. It is a left-over piece of our becoming a responsible church securing our own internal integrity instead of depending on the protection or the assumptions of the now dead and buried christendom phase in our church.

There are personal issues involved in such a proposal. It involves a significant change in the culture and arrangements of our church and it will therefore be conflictual and uncomfortable for some, if not many. We will need respect for the good, patient with the hurt and patient gentle persistence in changing our inadequate and unhelpful practices and institutions so that they better serve the purposes and values of Jesus kingdom.