
From a Colonial Chaplaincy to Responsible Governance: The Anglican Church of Australia and Its Ecclesiological Challenge

BRUCE KAYE¹

Adjunct Research Professor at the Centre for Public and Contextual Theology, Charles Sturt University, Canberra

Habits and institutions gradually emerged in earliest Christianity. They were soon enrolled in the Roman empire and subsequently into various forms of Christendom. The English Christendom lasted many centuries and in the period of empire planted the Anglican Church in Australia. This Christendom model was fractured decisively in New South Wales in the first half of the nineteenth century. The recent Royal Commission into abuse in institutions has brought to light serious abuse in the Church and associated it with a form of clericalism. The Commission identifies this issue but does not offer any analysis of its character or causes, which has the effect of diminishing the contribution that the Commission might have made to addressing the problem. A preliminary attempt is offered in this article.

Keywords: Australia, Anglican Church, clericalism, Royal Commission

INTRODUCTION

In recent years the law has intruded into the affairs of the churches in Australia in the form of the Royal Commission into Institutional Responses to Child Sexual Abuse and found them grievously wanting.² The Anglican Church of Australia has co-operated fully with the Commission and has responded to the recommendations it has made. 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 Synod's Standing Committee.³

The Commission raised important questions about clergy and bishops and made recommendations about those offices. But it failed to ask what it was about our institutional arrangements and practices that made it possible, if

- 1 This article is an edited version of the Third Sharwood Lecture in Church Law, Melbourne, 2020.
- 2 Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report*, 17 vols (2017), available at <<https://www.childabuseroyalcommission.gov.au/final-report>>, accessed 22 October 2020 (henceforth Royal Commission, *Final Report*). All references are to volume xvi.
- 3 There had been earlier ventures into professional development and standards. See G Blake, 'Child protection and the Anglican Church of Australia', (2006) 4:1 *Journal of Anglican Studies* 81–106.

not likely, that some members of these classes of people would 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.

ORIGINS AND FOUNDATIONS

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 rebuilt temple: it was to be a house of prayer, yet it would 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 and wife and children and brothers and sisters, yes, and even his own life, he cannot be my disciple' (Luke 14:26). Who were His own mother and father and family? They were not His kin but those who heard and responded to His message 'Repent, the kingdom of God is at hand' (Matthew 12:48, Mark 3:33–34; Luke 8:21). Jesus' call was both astonishing and absolute.

When Pilate puzzled as to what kind of leader Jesus was, he asked, in the only relevant terms to hand, 'Are you then a king?' Jesus said to him: 'My kingdom is not of this world, else would my disciples fight' (John 18:36–37). 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 they have seen this in directly chronological terms; at others they 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.

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 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 also lies behind the parallelism of the Lord's Prayer, 'Your kingdom come, your will be done, on earth as it is in heaven'.⁴

The moral character and purpose of this 'kingdom' is central to a foundational understanding of the condition of the Christian. It is how moral qualities such as compassion, kindness, humility, meekness, and patience are born.⁵ It is foundational to Paul's understanding of Christian life as living in a way that is appropriate to belonging to Christ,⁶ and it constitutes a measuring stick and a challenge to the design and operation of our church 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' 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.

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 origins of the faith. These habits and practices grew up locally and were shaped by the events through which the local churches were founded and the social context in which they had to live out their new faith.

4 S Pickard, *Seeking the Church: an introduction to ecclesiology* (London, 2012), pp 15–23.

5 See, for example, Colossians 3:12 or Galatians 5:22, and the otherworldly character of the Christian life in Ephesians 6:10–17. Alan Kreider neatly reviews the early (mostly pre-Nicene) writing of Christians on these virtues: A Kreider, *The Patient Ferment of the Early Church: the improbable rise of Christianity in the Roman empire* (Grand Rapids, MI, 2016).

6 This is the central theme in the argument in Romans (see especially Romans 6). See R Tannehill, *Dying and Rising with Christ: a study in Pauline theology* (Berlin, 1967); B Kaye, *The Argument of Romans with Special Reference to Chapter 6* (Austin, TX, 1979). See also the treatment of this theme in the Letter to Diognetus, chap 5: 'But, inhabiting Greek as well as barbarian cities, according as the lot of each of them 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' (translation from A Roberts, J Donaldson and A Cleveland Cox (eds), *Ante-Nicene Fathers* (Buffalo, 1885), rev and ed K Knight, <<http://www.newadvent.org/fathers/0101.htm>>, accessed 22 October 2020).

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 Christian communities so that those communities 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.

THE GREAT INCORPORATION INTO THE EMPIRE

The union of Church and world

In the early fourth century the emperor Constantine made the first move to colonise the Church with the agenda of the Roman empire.⁷ In so doing, he initiated what became one of the longest-running forms of Christianity, a Christendom: that is to say, a polity in which government is shared in some form or other between the ecclesiastical and the civil authorities and where that polity itself professes the Christian faith.⁸ 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 one but rather what F W Maitland called a 'jagged edge', and it moved from time to time.⁹ Following the Norman Conquest, William I allowed a distinct bishops' court to exist within the main royal court.¹⁰ It was a modest adjustment, but over time it grew into the extensive ecclesiastical courts of England. Thomas Becket's challenge to Henry II during his tenure as Archbishop of Canterbury (1162–1170) led to the privilege of clergy to be tried before an ecclesiastical court, although the royal court could always enter a case.¹¹ Despite these

7 H Drake, *Constantine and the Bishops: the politics of intolerance* (Baltimore, MD, 2000).

8 P Brown, *The Rise of Western Christendom: triumph and diversity, A.D. 200–1000* (Malden, MA, 2013); P Leithart, *Defending Constantine: the twilight of an empire and the dawn of Christendom* (Downers Grove, IL, 2010); J Herrin, *The Formation of Christendom* (Princeton, NJ, 1989); B Kaye, *The Rise and Fall of the English Christendom: theocracy, Christology, order and power* (London, 2018).

9 F Maitland, 'Canon law in England (continued)', (1896) 11:44 *English Historical Review* 641–672, at 645: '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.' Maitland also makes the point that 'from the twelfth [century] onwards there has been a good deal of ecclesiastical law that has not been enforced' (ibid).

10 Sometime between 1072 and 1076. See D Whitelock, M Brett and C Brooke, *Councils and Synods: with other documents relating to the English Church. 1, A.D. 871–1204* (Oxford, 1981), pp 620–624.

11 For the story of this episode in relation to the developing structure of English public institutions, see Kaye, *Rise and Fall of the English Christendom*. On the demise of clerical privilege, see K Mason, 'Clergy status in the age of the Royal Commission', Sharwood Lecture, Melbourne, 2018, pp 3–5, available at <<https://www.trinity.unimelb.edu.au/getattachment/theological-school/news-and>

differences along the way, 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 Philip 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 whatsoever.¹²

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 50 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.¹³ Thus did the great drama of the conflict between the kingdoms of Pilate and Jesus enter into the life blood of Anglicans in Australia.

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, with the Diocese of Australia divided by the creation of separate dioceses for 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 was created there.¹⁴

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

[media/Sharwood-Lectures-in-Church-Law/SHARWOOD-LECTURE-2018-\(1\).pdf.aspx?lang=en-AU](https://doi.org/10.1017/S0956618X20000666)>, accessed 22 October 2020.

- 12 F Watson and Australia Parliament Library Committee, *Historical Records of Australia* (Sydney, 1914), p 21.
- 13 The best biography of Broughton is still G Shaw, *Patriarch and Patriot: William Grant Broughton 1788–1853* (Melbourne, 1978). See also B Kaye, *Colonial Religion: conflict and change in Church and State* (Adelaide, 2020).
- 14 There is a considerable literature on this area. See, in particular, S Piggin and R Linder, *The Fountain of Public Prosperity: evangelical Christians in Australian history 1740–1914* (Clayton, Victoria, 2018).

number of issues of liturgy and clergy discipline, the status of clergy, Church governance, the canons of 1603–1604 and baptism.¹⁵ 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 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.¹⁶

The key questions the bishops asked themselves were how a diocese was to be governed; how clergy, let alone laity, were to be disciplined by the Church; and how the Church was 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.

The separated Church

In England the jurisdictional power of ecclesiastical courts had enjoyed the support of the broader context of English law and the two were still intimately intertwined.¹⁷ In the colonies this support quickly evaporated. In 1859 the Revd George King was affronted. He was the incumbent of St Andrew's 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 came 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

15 Charles Perry, Bishop of Melbourne, kept a diary of the conference discussion. It is now held in the archives of the Diocese of Melbourne.

16 William Tyrrell to Joshua Watson, 26 May 1852, University of Newcastle Library, Anglican Diocese of Newcastle archives, B6556.

17 G Best, *Temporal Pillars: Queen Anne's bounty, the Ecclesiastical Commissioners, and the Church of England* (Cambridge, 1964).

episcopal jurisdiction over clergy and a sharp demonstration of the new situation in which Anglicans were to order their Church life.¹⁸

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—a church in which an archbishop could be party to the condemnation of a man to be hung, drawn and quartered for holding dissenting opinions?¹⁹ 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.

THE ANGLICAN CHURCH OF AUSTRALIA

The constitution of the Anglican Church of Australia sets out in broad outline how governance would be effected.²⁰ More detailed matters are, of course, to be found in the dioceses.

Constitution of the Anglican Church of Australia

The Fundamental Declarations of the constitution make it clear that the Anglican Church of Australia 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 claim about Scripture echoes the conflicts with the papacy at the time of the Reformation, declaring that Scripture is the ‘ultimate rule’ and adequate for salvation, and excluding the role of tradition. This 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.

18 *Ex parte King* (1861) 2 Legge 1307.

19 The consonance of the understanding of power between royal concepts and the bishops is well illustrated by the comment of James I at the Hampton Court Conference of 1604: ‘no bishop, no king’.

20 ‘Constitution of the Anglican Church of Australia’, available at <<https://anglican.org.au/wp-content/uploads/2019/12/Constitution-update-011219-for-web.pdf>>, accessed 23 October 2020.

The extensive flexibility allowed in this constitution also highlights the conflictual context in which it was formulated during its 90-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, meaning 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 *Book of Common Prayer* and the 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, 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 Church since colonisation.²¹ 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. Incorporating 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 entitled ‘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. Succeeding chapters cover the role of synods, starting with the General Synod, followed by provincial synods, diocesan synods 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. The latter 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. The final chapter deals with when and how the constitution will come into operation. 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 laypeople, only to clergy and bishops.²²

21 Ibid, s 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.’

22 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.

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’.²³ 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.

The Church’s constitution sets out the basic characterisation of the faith of the Anglican Church of Australia, its organisational arrangements and how clergy and bishops are to be disciplined. But, 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. Here, the practices—the way we do things—shape the life of the Christian community and play a role in sustaining the purposes and values of the Church. In this context, the operation of these institutions changes and develops without involving any constitutionally or even synodically decided variations. How a bishop carries out his or her 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 dramatically alter how the ministry is conducted in a parish simply by the way he or she does things. Clergy 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. The recent Royal Commission investigation provides a valuable entry into discussing this issue.

AFTER THE ROYAL COMMISSION?

The Royal Commission: clericalism and the story of Church failures

The Royal Commission into Institutional Responses to Child Sexual Abuse handed over its 17-volume final report on 15 December 2017 after nearly five years of assiduous work. Volume 16 of the report contained a section on the

23 N Aroney, *The Constitution of a Federal Commonwealth: the making and meaning of the Australian constitution* (Cambridge, 2009).

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.²⁴ The broad details have been well rehearsed and do not need to be repeated here.

As we know, the Hayne Royal Commission showed that the working framework of financial advisers in the banks warranted examination in relation to the failures of the banks.²⁵ 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 should therefore be designed to promote in the community and 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. It should be a place where, in the words of the 1662 ordinal, the Church should be growing in the Christian faith so that there is no place for error in religion or viciousness of life. The way we conduct our community life is as important as (if not more important than) the programmes 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.²⁶ Among the contributing factors for such failures, both of abuse and of handling allegations, the Commission noted the following matters:

- 24 It is worth noting the dates of most abuse. Royal Commission, *Final Report*, xvi, p 581: '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).'
- 25 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, final report available at <<https://financialservices.royalcommission.gov.au/Pages/reports.html#final>>, accessed 23 October 2020.
- 26 Royal Commission, *Final Report*, xvi, p 584: '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 complaints 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. 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.' Of the clergy perpetrators, probably around 29 per cent occurred at a place of worship, that is in the parishes.

- i. The lack of a consistent national approach because of the loose federal character of the organisation of the Church;
- ii. Failure of leadership by diocesan bishops, for whom there was no oversight and accountability and no uniform approach to handling complaints about bishops;
- iii. Instances of conflicts of interest for bishops and senior clergy in dealing with complaints;
- iv. Some instances of a lay culture that supported perpetrators;
- v. Aspects of clericalism often associated with trust placed by the community in the Church;
- vi. Overly easy forgiveness for perpetrators without restitution;
- vii. Lack of supervision and support for clergy and others in ministry;²⁷ and
- viii. Cultural factors that led to failures in selection and screening of ordinands.²⁸

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

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.²⁹

It is noteworthy that these recommendations are basically addressed to helping individuals fulfil more appropriately their obligations as bishops and clergy.³⁰ In other words, the failures of the Church are due to individuals not

²⁷ Ibid, p 752.

²⁸ Ibid, 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.' The 'Study of reported child sexual abuse in the Anglican Church', 2009, refers to six issues, but a number of these issues contain secondary matters which I have separately identified.

²⁹ Royal Commission, *Final Report*, xvi, p 755.

³⁰ Furthermore, the recommendations are of a kind generally applied to 'profession standards' in other places such as bank corporations.

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?

Clericalism—a leftover from the Christendom divorce

The Royal Commission and institutional differences

This is an article 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.

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.³¹

The Commission sees clericalism as a ‘theological belief that clergy are different to the laity’.³² Furthermore, it is quite clear that our constitution and canons make a clear distinction between lay and clerical and episcopal, as Keith Mason demonstrated in his 2018 Sharwood Lecture.³³ Some parts of the Royal 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’. The Commission argues that it is the abuse of that power 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,

³¹ Royal Commission, *Final Report*, xvi, p 28, emphasis added.

³² *Ibid.*, p 33.

³³ Mason, ‘Clergy status’, p 10: ‘Whatever its essence, clerical status confers liturgical and other authority that is widely respected, unduly so according to the Royal Commission. Subject to licensing, it also offers portability across dioceses, across the world, and across denominations.’

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 simply a distinction but rather a distinction that is 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.³⁴

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'.³⁵ Clericalism grows through some widely accepted, or at least tolerated, attitudes and compliance. 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. What we are talking about here is a socially embedded phenomenon. It is the dynamics of the institutional context that need to be changed.

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. In time, those expectations 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 laypeople, and at the same time inhibiting 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, and more particularly its sources in the social dynamics of the Church community.

Unfortunately, the Royal Commission did not pursue this question of the social sources of clericalism and the issue is not represented in the

34 Royal Commission, *Final Report*, xvi, p 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'. 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'.

35 General David Morrison, who acknowledged it was first said by General David Hurley (now Governor General) when he was Chief of the Defence Force.

recommendations. This is a significant weakness in the Commission's report and a little more critical analysis of the problem is needed.

The social roots of clericalism

What then is this clericalism that grows within the borders of the constitution and canons? According to the theory of the existing arrangements, the oversight of the churches in a diocese 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; to put it another way, they are often quite isolated. The language of the services of ordination and of 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.

Laypeople 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.³⁶ 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.³⁷

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.³⁸ Central to his argument is the idea 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

³⁶ See Mason, 'Clergy status', p 8.

³⁷ R Blackford, *The Tyranny of Opinion: conformity and the future of liberalism* (London, 2019).

³⁸ A MacIntyre, *After Virtue: a study in moral theory* (Notre Dame, IN, 1984); A MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame, IN, 1988); A MacIntyre, *Three rival versions of moral enquiry: encyclopaedia, genealogy, and tradition* (Notre Dame, IN, 1990).

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.³⁹ MacIntyre helps us to see that the important elements in a virtue community are the practices that mark the life of that community.

Posing the question in these terms, we should ask in relation to the work of clergy and bishops what the practices are that provide the context of their work. Clearly, they differ from parish to parish and from 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 layperson? 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? A similar question could be posed for a bishop in relation to the diocesan council or the standing committee. These are small examples but I suspect that 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 trustworthy 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 trustworthy. Rather, we are concerned 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 from the demands of the politically powerful ecclesiastical office of the bishop on the other. Central 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, this tradition lost its justifying framework. As a consequence, something of an institutional vacuum developed, in which clergy tenure remained on the basis of

39 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, as 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.

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, principal among which are humility and patience.

CONCLUSION

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'. Discovering 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. But 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 the 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 and that it facilitated child abuse, though sadly it did not investigate the sources of that clericalism.

It is time to take this matter up where the Commission left off and to examine the institutional and practical sources of this kind of clericalism. It is a leftover 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 requires a significant change in the culture and arrangements of the Church and it will therefore be conflictual and uncomfortable for some, if not many. We will need respect for the good, patience with the hurt and a gentle persistence in changing our inadequate and unhelpful practices and institutions so that they better serve the purposes and values of Jesus' kingdom.