

The meaning of catholicity with respect to
ordained ministry in the Anglican Communion:
An examination of the ecclesiology implicit in
the validity of orders debate

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ABSTRACT

This thesis explores one aspect of the ongoing validity of orders debate within the Anglican Communion. It asks why the Communion – or elements within the Communion – continues to regard the recognition of its Holy Orders by other Churches, and especially by the Roman Catholic Church, as important. The juridical category of validity is distinct from the ecclesial category of recognition, but only valid Holy Orders may be recognised, and the official Anglican position was that the nature of Holy Orders after the Reformation was unchanged from the catholic standard and therefore should be recognised by other elements of the universal church.

The understanding of ordination and the nature of Holy Orders differed somewhat between the Anglican Communion and the other major historical sections of the universal church – especially the Roman Catholic Church and the Orthodox Churches – despite a degree of continuity and consistency. It may even have differed within the Communion. But the formularies of the Anglican Church (and now the broader Anglican Communion) have long suggested that its Holy Orders are equally valid as those of these other parts of the universal church, regardless of whether they are recognised externally. The internal normative validity of Holy Orders could not be readily impugned in a Church which maintains episcopal ordination. But the question of the external recognition of this validity – and the definition of validity in this context – turned upon the emphasis one placed upon the importance of the Communion’s claim to catholicity, as part of the “One Holy Catholic and Apostolic Church”. The continued emphasis upon the universality of Holy Orders is the case study through which the wider catholicity of the Anglican Communion is explored.

The Reformation was a challenge to the universality of Holy Orders, but no clearly dissimilar (or indeed identifiable) Anglican theology of Holy Orders developed out of that period. The loss of recognition by Rome following the Reformation did not necessarily mean that Holy Orders were no longer valid. But the quest for recognition of Holy Orders by other parts of the universal church remained important because of the legal continuity which was asserted, and which, to some degree at least, was preserved.

In the late nineteenth century the validity of Anglican Holy Orders was definitively rejected by the Roman Catholic Church, largely on the grounds of the perceived loss of continuity of apostolic succession. This was despite protestations (especially by adherents of the Tractarian movement, but also by other elements in the wider Anglican Church) that Anglican Holy Orders were indeed valid catholic Holy Orders, and ought to be recognised as such. The Holy See could not, however, accord recognition to the Holy Orders of what it saw as a schismatic Church, or ecclesial community.

But it was arguably in the twentieth century – a time of widespread reconsideration of the nature and meaning of the universal ministry of the church – that the real differences between Anglican and Roman Catholic theology of Holy Orders emerged. As at the time of the Reformation differences were based on distinct understanding of catholicity and ecclesial authority as much as differences over the nature of Holy Orders. In the twentieth century the validity question was influenced less by legalism and a sense of continuity than by œcumenism (what might be called an external justification). Ultimately this distinction makes it increasingly difficult to see the Anglican Church as catholic with respect to Holy Orders, at least as these were formerly understood. By this time the test of validity is not so much the nature of Holy Orders per se, but rather the more practical questions œcumenism

raised, and especially in later years, the question of authority within Anglicanism.

The validity of Anglican Holy Orders remains important to both the evangelical and the Anglo-Catholic within the Anglican Communion, but for different reasons, because of their differing understandings of the ministry of the universal church.

With changing notions of Holy Orders, sacraments, and the nature of the universal church, the Holy Orders debate is still far from resolved. But perhaps the question has moved on from being a simple historical evaluation of technical continuity, intention and form, to a more difficult, but possibly ultimately more rewarding, question of the nature of the universal church. In particular, the acceptance of a common Anglican position on Holy Orders would be an important move towards a common understanding of the nature of the universal church, at a time when this is a key question facing Christianity.

DEDICATION

I respectfully dedicate this work to the Most Reverend Father in God, Rowan Douglas Williams, by Divine Providence Lord Archbishop of Canterbury, Primate of All England, and Metropolitan, and *primus inter pares* of the primates and metropolitans of the Anglican Communion.

This time is fraught with challenge to the universality of the church and particularly to the unity of the Anglican Communion. If this modest study can be on any assistance to His Grace, or to those who advise him, I will have been amply rewarded for the work which it involved.

In nomine Patris et Filii et Spiritus Sancti.

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TABLE OF CONTENTS

| | |
|---|------|
| THESIS CONSENT FORM | ii |
| ABSTRACT..... | iii |
| DEDICATION..... | vi |
| ACKNOWLEDGEMENTS..... | vii |
| TABLE OF CONTENTS..... | viii |
| ABBREVIATIONS | x |
| I – INTRODUCTION AND METHODOLOGY | 1 |
| Introduction | 1 |
| Catholicity | 4 |
| Orthodoxy and recognition of Creeds | 8 |
| Ecclesiology and law | 10 |
| Doctrine, law and authority | 12 |
| Authority in the Anglican Communion | 18 |
| The Nature of the Church and its Holy Orders | 23 |
| Methodology | 27 |
| II – THE REFORMATION AND THE ANGLICAN VIEW OF THE PRIESTHOOD..... | 32 |
| Introduction | 32 |
| The influence on the Church of the rigidity of mediæval legalism | 33 |
| Priesthood and the nature of the church | 40 |
| Implicit theology and “windows into men’s souls” | 49 |
| Conclusion | 60 |
| III – APOSTOLICAE CURAE AND THE ANGLICAN HOPES FOR RECOGNITION | 62 |
| Introduction | 62 |
| The growth of Tractarianism and historicism in Anglicanism .. | 64 |
| <i>Apostolicae Curae</i> | 66 |
| Saepius Officio and the reaction of the Anglican Church to the papal pronouncement | 69 |
| The years after <i>Apostolicae Curae</i> | 72 |
| Conclusion | 83 |
| IV – THE TWENTIETH CENTURY AND NEW CHALLENGES AND OPPORTUNITIES..... | 85 |

| | |
|--|-----|
| Introduction | 85 |
| Women in Holy Orders within Anglicanism | 87 |
| Œcumenism and Holy Orders | 98 |
| Anglican-Orthodox dialogue | 110 |
| Anglican-Lutheran dialogue | 114 |
| The continuation of œcumenical dialogue | 115 |
| Conclusion | 117 |
| CONCLUSION..... | 119 |
| BIBLIOGRAPHY..... | 127 |
| Books | 127 |
| Chapters in books | 137 |
| Constitutions and doctrinal documents | 138 |
| Reports | 139 |
| Articles | 141 |
| Theses and Dissertations | 143 |
| INDEX..... | 144 |

ABBREVIATIONS

| | |
|--------|--|
| c. | caput |
| C.A. | Court of Appeal |
| Ch. | Chancery Division, High Court |
| cl. | clause |
| Const. | Constitution of the Anglican Church in Aotearoa, New Zealand and Polynesia |
| Eng. | England |
| fols. | folios |
| Geo. | George |
| H.C. | High Court |
| Hen. | Henry |
| J. | Justice |
| L.C. | Lambeth Conference |
| M.A. | Master of Arts |
| Msgr. | Monsignor |
| N.Z. | New Zealand |
| No. | Number |
| p. | Page |
| P.C. | Privy Council |
| Res. | Resolution |
| Ress. | Resolutions |
| s. | Section |
| ss. | Sections |
| trans. | Translated |
| U.K. | United Kingdom |
| U.S. | United States |
| U.S.A. | United States |
| Vict. | Victoria |
| Vol. | Volume |

I – INTRODUCTION AND METHODOLOGY

Introduction

This Introduction and Methodology commences with an overview. This is for the purpose of providing a context for the thesis. It then outlines the structure of the thesis, and how chapters will proceed. Finally, it covers the methodology to be employed.

As a matter of ecclesiology (if not of doctrine) the Anglican Church¹ asserts that it is catholic, a part of the universal church² of Christ.³ So, using the question of the validity of Holy Orders⁴ as an illustration, we will here explore one aspect of the Anglican Communion's⁵ claimed catholicity, as that term is understood within the Anglican Church. This is to seek to explain why this claim has been regarded as important to the Anglican Church, or elements of the Church.

¹ “Anglican” here refers to the Church of England, as established at the time of the Reformation in England, and the Churches which derive from it and which maintain ecclesial or jurisdictional links with that Church.

² The “universal” church is more than the mediæval Church, or the modern Roman Catholic Church; it is the unity of the church of Christ.

³ “Church” (upper case initial) is generally used throughout this thesis where a particular denomination is intended, “church” (lower case) where the meaning is the community of faithful, at least those who acknowledge – or assert – an historical and theological link with the early Christian church.

⁴ Minor orders are not central to this discussion, since they do not have the same sacerdotal function as exercised by deacon, priest and bishop.

⁵ The term “Anglican Communion” is used in this thesis in preference to the term “Anglican Church”, which generally has a narrower meaning. It should be taken to include those Churches of the Anglican Rite which are (or were) in communion with the Archbishop of Canterbury, but not to suggest that it purports to be a distinct church outside the universal catholic church.

The theological understanding of ordination and the nature of Holy Orders appear to differ between the Anglican Communion and the major historical parts of the universal church – specifically the Roman Catholic Church and the Orthodox Churches – despite a degree of continuity and consistency. The reasoning (on the validity of Holy Orders) in Anglicanism is based upon the supposition that the Anglican Communion and its orders, are, in some sense, “catholic”. However the Roman Catholic, and Eastern Orthodox Churches and the Anglican Communion all have different understandings of the term “catholic” or the concept of catholicity.⁶ This also is reflected in their different attitudes to Holy Orders.

At one level validity is a technical matter, with the validity of Holy Orders determined solely by the applicable legal rules enacted by the appropriate juridical body of the Anglican Church. Recognition is a distinct, though related, concept. However implicit in the notion of catholicity, as an aspect of the universality of the church, is that the “validity” of Holy Orders will be recognised and acknowledged by other parts of the universal church. There are thus internal and external aspects to it.

This thesis assumes two readerships. To the readership of the Anglican Communion it argues for the acknowledgment by the Anglican Communion of a common Anglican position on Holy Orders, and hence of the nature of the church. This is derived from theology, law, and ecclesiology, and is consistent with the maintenance of a claimed catholicity of the universal church. Only if such a common position is agreed can there be real hope for œcumenical progress. To the readership

⁶ Avery Dulles, *The Catholicity of the Church* (1985). The later chapters consider the contemporary debate in the Roman Catholic Church; Appendix on meaning of “catholicity”.

of the Roman Catholic and Eastern Orthodox Churches, it argues that the continued debate on the validity of Anglican Holy Orders is of ongoing importance in the context of the wider œcumenical process.

Recognition of Holy Orders, by which is meant the recognition of the validity of the Holy Orders by other (recognised) parts of the universal church, could take the form of approval of co-celebration of the Eucharist, Mass, or Divine Service with Roman Catholic or Eastern Orthodox priests. It might equally involve the abandonment, by these Churches, of the requirement for re-ordination of former Anglican priests being received into the Churches. Both of these steps, profound as they are, imply more than simply recognition of validity. Formal validity presupposes a degree of theological catholicity.

There is a strong desire for recognition – and one which is not necessarily limited to the Anglican Communion alone⁷ – because of an enduring belief (despite the manifest disunity of the church) that Christ's church is one body. This belief alone is important, but it is even more important to work towards trying to achieve greater unity, or at least less disunity. This drove the leaders of the nineteenth century move for recognition, such as Halifax and Portal, as well as earlier Anglican theologians such as Hooker, and their more recent counterparts.

⁷ World Council of Churches, *Baptism, Eucharist and Ministry* (1982).

Catholicity

The term “catholicity” is used in a broad sense in this thesis.⁸ Gore, one of the leading Anglican theologians of the last century, described catholicism as

that way of regarding Christianity which would see in it not merely or primarily a doctrine of salvation to be apprehended by individuals, but the establishment of a visible society as the one divinely constituted love of the great salvation, held together not only by the inward Spirit, but also by certain manifest and external institutions.⁹

In Bishop Gore’s view catholicity thus belonged to a definable institution; it was institutional rather than merely doctrinal. In this view the Church of England was catholic, because it preserved the historic episcopate within an ecclesial body that traced its origins to the pre-Reformation universal church.¹⁰

The term catholic can refer more broadly to the notion that all Christians are part of one church, regardless of denominational divisions. This “universal” interpretation is often used to understand the phrase “One Holy Catholic and Apostolic Church” in the Nicene Creed, the

⁸ One of the earliest uses of the term “catholic” was by St. Ignatius, writing to the Church at Smyrna, that “wherever the *episcopus* appears, there let the congregation be, just as wherever Jesus Christ is, there is the Catholic Church”; cited in *The Catholicity of Protestantism* eds. Newton Flew and Rupert Davies (1950), p. 7.

⁹ Charles Gore, *Catholicism and Roman Catholicism* (1923), p. 1.

¹⁰ In general, apostolic succession is not simply the laying on of hands. It also involves elements of intention, and the preservation of a community of worship,

phrase “the catholic faith” in the Athanasian Creed, and “holy catholic church” in the Apostles’ Creed.¹¹

More narrowly – but still generously broad – catholicity can be used to refer to those Christian Churches which maintain that their episcopate can (at least notionally) be traced directly back to the Apostles, and that are therefore part of a broad catholic (or universal) body of believers.¹² This may be so, even though this episcopate may be one of credal or teaching continuity rather than one involving a formal succession of office and individual. This view was consistent with that expressed in an earlier era by the Anglican theologian Hooker,¹³ and also today reflected in contemporary doctrinal statements in the Anglican Communion. For instance, the 1920 Lambeth Conference describes the catholic church (meaning the Anglican Communion and similarly-constituted Churches, including the Roman Catholic Church) in the following terms:

We believe that God wills fellowship. By God’s own act, this fellowship was made in and through Jesus Christ, and its life is in his Spirit. We believe that it is God’s purpose to manifest this fellowship, so far as this world is concerned, in an outward, visible, and united society, holding one faith, having its own recognized officers, using God-given means of grace, and inspiring all its

as well as the authorisation of that community or those empowered to give authorisation.

¹¹ See, for instance, in *Catholicity* (1947), p. 9. That study was written by declared members of the Catholic wing of the Anglican Church; *The Catholicity of Protestantism* eds. Newton Flew and Rupert Davies (1950), p. 7. See also Colin Podmore (ed.), *Community, unity, communion* (1999).

¹² Generally, see Charles Gore, *The Church and the Ministry* (1886).

¹³ Richard Hooker, *Of the Laws of Ecclesiastical Polity* ed. Arthur McGrade (1989).

members to the world-wide service of the Kingdom of God. This is what we mean by the Catholic Church.¹⁴

Majority opinion among Anglican theologians – as seen, for instance, in the Lambeth Conference just cited – appears to hold that the apostolic church of the Creed corresponds to no single Christian denomination or Church. It is instead the aggregate of all Christians, regardless of denominational allegiance, who hold the faith of the Apostles (preserved in the New Testament) and who further the mission of the Apostles (making disciples, baptising and teaching).¹⁵

The Anglican Communion accepts a narrower understanding of catholicity, much as Gore expounded it. But this is broader than the teaching of the Roman Catholic Church. In some respects it thus occupies a middle way between allegiance to the Pope (as the western patriarch is generally known¹⁶), and protestant universality.

Most protestant¹⁷ denominations interpret “catholic” broadly, especially in its credal context, as meaning “universal”, that is, referring to the complete, world-wide church, as distinct from a particular institutional expression of church. But differing views of the nature of the

¹⁴ *Conference of Bishops of the Anglican Communion, The Lambeth Conferences, 1867-1930* (1948), p. 119 (hereafter referred to as “L.C.”).

¹⁵ Matthew 28.20.

¹⁶ On 22nd March 2006 the Pontifical Council for Promoting Christian Unity issued a communiqué stating that the title “western patriarch” or “patriarch of the west” was no longer to be used; “Clarification on Papal Title of Patriarch of the West”, Vatican Information Service, 060322 (480).

¹⁷ The term “protestant” in England, up to and including the time of the Caroline divines, was understood to include the designation of Catholic, and indeed to uphold it; Richard Dixon, *History of the Church of England* (1878-1910), vol. IV, p. 221; Henry Wace and Carl Buchheim, *The First Principles of the Reformation* (1883), pp. 32-4. It now tends to be used (at least in England, and countries in which the Anglican Church is present) in the more restricted sense

Church, and of ministry in the church, also have an influence upon understanding of the term “catholic”.¹⁸

Anglican theology maintains that the Anglican Church is catholic (a doctrinal and credal assertion), but acknowledges that the Church is divided as to the precise meaning of this. Essentially the Anglican Communion asserts that it is a part of the church, the body of Christ, because of its institutional continuity, and that it is not merely a denomination; it is not a church, but part of the church. The corollary of this is that it has always officially maintained that its Holy Orders were equally valid as those of any other part of the catholic church.

“Catholicity” is officially one of the four credal marks of the Anglican Communion.¹⁹ Catholicity refers to universality, conformity and continuity with the larger church. Holy Scripture, Creeds, dominical sacraments, and the threefold order of ordained ministries have been officially accepted by the Communion as norms for catholicity.²⁰ Jeopardising any of those norms puts at risk catholicity, and therefore the ecclesial unity of the Communion with the universal church. An action that may compromise the effective operation of the threefold ordained ministry, for instance, may therefore be seen to erode catholicity.²¹ But

of a Calvinist or Presbyterian-inspired theology. Lutheran usage also tends to restrict its meaning.

¹⁸ Thus, St. Vincent of Lérins, observed that catholicity was “*Quod ubique, quod semper, quod ab omnibus creditur*” (“That which has been believed everywhere, always and by all”) cannot be set aside without destroying the community itself; *The Commonitorium of Vincentius of Lerins* ed. Reginald Moxon (1915), vol. II, p. 3.

¹⁹ See *Eucharistic Presidency* (1997) 2.24ff, 3.26ff, 4.15. See also L.C. 1888, Res. 11.

²⁰ L.C. 1888, Res. 11. Archbishop McAdoo has written that the threefold ministry “is an appeal to Scripture, tradition and reason”; Henry McAdoo, *Anglicans and Tradition and the Ordination of Women* (1997), p. 15.

²¹ James McPherson, “Lay presidency by presbyteral delegation”, *Anglican Theological Review* 81(3) (1999): 413-28.

there are few essential elements and no separate Anglican identity beyond the description of it being “one, holy, catholic and apostolic”.²² Unity of Holy Orders is therefore of great importance not merely within the Communion, but externally also, as it is symbolically and practically central to the unity of the church.

Orthodoxy and recognition of Creeds

The approach of Churches to catholicity varies with the religious tradition. In its doctrinal statement and liturgical texts, the Orthodox Church strongly affirms that it holds the original Christian faith which was common to east and west during the first millennium of Christian history.²³ More particularly, it recognises the authority of the œcumenical councils at which east and west were together represented. These were the councils of Nicaea I (325), Constantinople I (381), Ephesus (431), Chalcedon (451), Constantinople II (553), Constantinople III (680), and Nicaea II (787).²⁴ This universality is reflected in the use of the Nicene Creed. The Roman Catholic Church also affirms that it conforms to the original and true faith.²⁵ It too accepts the doctrinal orthodoxy of the œcumenical councils, though in a qualified manner,²⁶ and recognises the validity of the Holy Orders of the Eastern Orthodox churches.

²² John Howe, *Highways and Hedges* (1985), pp. 28, 30-31.

²³ See, for example, *Code of Canons of the Eastern Churches* (1992), canon 7.

²⁴ See, for instance, Carl Joseph von Hefele, *History of the Christian Councils* trans. & ed. Henry Oxenham (1871-96); *Decrees of the Œcumenical Councils* ed. Norman Tanner (1990).

²⁵ *The Code of Canon Law* (1983), canon 204.

²⁶ *Ibid*, canon 341.

It may be relatively easy to assert doctrinal orthodoxy, but logically there should be some means of assessing such a claim. One early method was, and remains, the Creeds, which were adopted in response to the need to define the faith in the face of the growth of heresy.²⁷ The Nicene Creed is the most widely accepted and used brief statements of the Christian faith. It is accepted by Eastern Orthodox, Roman Catholic, Anglican, Lutheran, and Calvinist Churches, and by many other Christian denominations. Many groups that do not have a tradition of using it in their services nevertheless are officially committed to the doctrines it teaches. This Creed states that “I believe one Catholick and Apostolick Church”.²⁸ Both catholic and apostolic may refer to ideals yet these ideals should logically have some meaning, however uncertain. But it may be questioned whether the concept of a “One, Holy, Catholic, and Apostolic Church (as it is described in the Constitution of the Anglican Church in New Zealand)²⁹ can have any real meaning when the church has so many voices.

The process of recognition or reception of Holy Orders depends on the rules applied in individual jurisdictions. In the 1970 World Council of Churches study document *One in Christ*, by the Joint Theological Commission on “Catholicity and Apostolicity”, it was stated that genuine apostolic succession is not defined merely as the succession of ordination traceable to the apostles, but rather also depends on the conformity of word and life to the apostolic teaching.³⁰ Thus the recognition of the Holy Orders of other Churches would require not merely evaluation of

²⁷ Henry Chadwick, “The Chalcedonian Definition”, in *Heresy and Orthodoxy in the Early Church* (1991), ch. XVIII.

²⁸ The Augsburg Confession of the Lutheran Churches (1530) translates this as “one holy Christian church”; Article VII.

²⁹ Const. Preamble (New Zealand).

the respective manner and form of ordination, but also answering doctrinal and ecclesial questions. The nature of Holy Orders could not be separated from the broader questions of the nature of the church itself, and of sacraments.

Ecclesiology and law

The Church applies the theology expressed in the Creeds through its ecclesiology (as well as asserting conformity with the Creeds). The wider context of the Holy Orders debate centres around two issues; firstly the nature of the church as a body, and secondly the understanding of its sacraments.³¹ The church is a divine institution within a human world. Every church, although based on what its members believe to be divine revelation,³² is also a human institution.³³ As a human institution, with human frailties and divided and uncertain opinions and views, it inherently exhibits elements of compromise. Since the time of Emperor Constantine the Great,³⁴ and indeed long before that, it has had to respond to the demands and expectations of the secular world, while

³⁰ Joint Theological Commission on “Catholicity and Apostolicity” *One in Christ* (1970).

³¹ Henry Chadwick, “The Discussion about Anglican Orders in Modern Anglican Theology”, in Hans Küng (ed.), *Apostolic Succession* (1968), p. 141.

³² For an understanding of revelation as an ongoing dialogue between God and humanity, see; Karl Rahner, “The Development of Dogma”, *Theological Investigations* 4 (1961): 39-78, 48.

³³ James Coriden, *An Introduction to Canon Law* (1991), p. 3; The Archbishop of Canterbury, General Synod Presidential Address, 12th November 2001, Anglican Communion News Service, Lambeth Palace, ACNS 2767, 14th November 2001.

³⁴ See, generally, Thomas Elliott, *The Christianity of Constantine the Great* (1996).

preparing for the coming (and indeed ever-present, in a spiritual sense, though so far imperfectly-manifested) Kingdom of Christ. Nor is it always easy to reconcile these, at times conflicting, perspectives. Some system is required to regulate the structure of the church, and to set out, at least in broad terms, what its members believe, and for what it stands.

This is done through a system of laws which permeates (in some degree) the whole church, a system which was well-developed in pre-Biblical Israel.³⁵ The Christian church has inherited at least some elements of the form and characteristics, if not the substance, of this juridical system. In the Roman Catholic and Orthodox Churches, and the Anglican Church, as well as those denominations which sprang directly from those Churches and which retain a degree of catholicity and orthodoxy, these systems of laws are generally known as canon law.³⁶ Though this law is framed by humanity, it has its conceptual basis in the divine law, as revealed to the church over time. The church cannot rely purely on revelation and the undiluted authority of the *Bible*,³⁷ due to the uncertainty of the one and the occasional ambiguity of the other; these should be augmented by the ongoing efforts of the church to discover elements of the divine plan. The role of law in the church depends upon the specific tradition in which it is placed, and the respective importance accorded to tradition.

³⁵ Joseph Blenkinsopp, *Wisdom and law in the Old Testament* (1995).

³⁶ Though it must be observed that there are many different definitions of the term “canon law”.

³⁷ Though primitive Churches have attempted this, generally all have some interposition of institutional discipline and authority.

Doctrine, law and authority

In this section we will discuss how the ecclesiology of the Church also requires some means of definition and of enforcement, and how the different understanding of tradition has led to disagreement with respect to essential elements in Holy Orders. This section will introduce a discussion of the implications for the nature of Holy Orders of the particular nature of authority within the broader Anglican Communion.

Some Churches (especially protestant ones) place less emphasis upon the law, but few completely discount its importance as an aspect of the nature of the church as an institution. An element of discipline is required, or religion becomes purely a personal concern;³⁸ hence the Creeds' reference to the catholic and apostolic church.

The reasons for disparity in attitudes to the importance of law lie partly in differing understanding of free will, and of Church tradition versus Holy Scripture, as well as broader socio-cultural and historical factors. Justification by faith alone (*sola fide*) was an important theological belief which contributed to the Reformation.³⁹ If taken to extremes, it leaves no place for sacramental and liturgical worship, and leads to the more highly reformed protestant denominations.⁴⁰ Markedly

³⁸ A more protestant view was of personal belief and fellowship – the priesthood of all believers (which all accepted), but no further priesthood; Thomas Manson, *The Church's Ministry* (1948), pp. 84-5.

³⁹ Jean Calvin, *Institutes of the Christian Religion* ed. John McNeill, trans. Ford Lewis Battles (1960).

⁴⁰ This is because the focus is upon the individual's direct relationship with God, rather than being a corporate or Church-mediated relationship. The theological issue was, and is, that if justification is mediated by faith alone, then sacraments (and even the church itself) are not necessary to salvation. It follows that the "rites" of baptism and Eucharist are celebrated out of obedience to the scripturally attested "dominical command". This criterion reduces the number

different views of the meaning and role of tradition are seen in Roman Catholic, Orthodox and Anglican Churches, but also within the Anglican Communion itself.

This difference – both in contrast with the Roman Catholic position and also internally to the Anglican Communion – has especial importance with respect to ministry. Although the Anglican Communion states in its doctrinal documents that it is a part of the catholic church⁴¹ – that it is a national (a term which may encompass transnational, or intra-national Churches) Church in the universal church of God – yet its formal juridical strength – at least with respect to enforcement – is much less than that of the Roman Catholic Church. It is also much less centralised. Both of these aspects have a tendency to lead to a loss of doctrinal and liturgical coherence. However, conceptually it is perhaps closer to the position found in the Eastern Orthodox Church, where law plays an important but less central role than that which it plays in the Churches in communion with the See of Rome.⁴² The different

of sacraments to two – and Holy Orders are thus excluded (cf. Augustine’s arguments why sacraments are necessary to salvation; “*Ad Simplicianum*” from *Augustine*, trans. by John Burleigh, (1953)).

⁴¹ For instance, in its use of the Apostles’ Creed. See also, for an example of an additional national assertion, in the Church of England Constitution Act 1961 (Australia):

The one Holy Catholic and Apostolic Church of Christ as professed by the Church of Christ from primitive times and in particular as set forth in the creeds known as the Nicene Creed and the Apostles’ Creed.

The preamble to the Constitution of the Anglican Church in Aotearoa, New Zealand and Polynesia (1992) calls the Church “catholic and apostolic”.

⁴² As shown in the eastern notion of economy compared with the western concept of dispensation (the eastern churches in communion with Rome occupy a position broadly equivalent to the Latin Church, the *Codex Canonum Ecclesiarum Orientalium* (1990) being broadly analogous to the 1983 Latin *Code of Canon Law*); see Noel Cox, “Dispensation, Privileges, and the

understanding of tradition is particularly important with respect to doctrine.

Anglican ecclesiology, as expressed in the Act of Uniformity 1559,⁴³ recognises that General Councils may pronounce doctrine,⁴⁴ but is sceptical of the infallibility of any institution or council.⁴⁵ This does not mean that the Anglican Communion lacks its own means of defining doctrine. Whilst it has been observed that “the church can never invent or create doctrine, but it can define or declare them”,⁴⁶ the Constitution of the Anglican Church in New Zealand (as an example) provides that General Synod may “safeguard and develop its doctrine”.⁴⁷ The difficulty in determining what doctrine is, and what may or may not be changed by national synods, is a question which the Anglican Communion in general has not yet settled.⁴⁸ But the recent Windsor⁴⁹ and the Virginia Reports⁵⁰ have made significant steps towards this goal.⁵¹ It has been said that

Conferment of Graduate Status: With Special Reference to Lambeth Degrees”, *Journal of Law and Religion* 18(1) (2002-2003): 249-74; Emmanuel Amand de Mendieta, *Rome and Canterbury* (1962), p. 143.

⁴³ 1 Eliz. I c. 2 (Eng.).

⁴⁴ The Act of Uniformity 1559 (1 Eliz. I c. 2) (Eng.), which enshrined the Elizabethan Settlement, endorsed the first four œcumenical councils – Nicaea 325, Constantinople 381, Ephesus 431, and Chalcedon 451 – as the authorities by which heresy would be defined; Stephen Platten, *Augustine’s Legacy* (1997), p. 29.

⁴⁵ Edward Norman, “Authority in the Anglican Communion” (1998), p. 1; Article 21 of the *Thirty-Nine Articles of Religion*, enacted in 1562, and confirmed in 1571 by the Subscription (Thirty-Nine Articles) Act 1571 (13 Eliz. I c. 12) (Eng.).

⁴⁶ Norman, *ibid*; Peter Toon, *The Development of Doctrine in the Church* (1979).

⁴⁷ Const. Preamble (New Zealand). Cf. Article 21 of the *Thirty-Nine Articles of Religion*, enacted in 1562, and confirmed in 1571 by the Subscription (Thirty-Nine Articles) Act 1571 (13 Eliz. I c. 12) (Eng.), which declares that the Church has authority to declare what the Catholic faith is and always has been; see also Richard Hooker, *Of the Laws of Ecclesiastical Polity* ed. Arthur McGrade (1989), Book V, pp. viii, 2.

⁴⁸ Edward Norman, “Authority in the Anglican Communion” (1998), p. 1.

[a]s far as the taking of authoritative decisions is concerned there is clearly a vacuum at the centre, whether one chooses to evaluate it [this vacuum] positively or negatively”.⁵²

It is scarcely surprising that, as a consequence, it has been said that the Anglican Communion has an “economy of essential doctrine” and a “liberality covering non-fundamental” doctrine.⁵³

Unlike in the Roman Catholic Church, the question of authority within the Anglican Communion is one which was rarely directly addressed since the Reformation⁵⁴ – at least until the 1970s.⁵⁵ In part this was a consequence of the formal constitutional establishment of the Church of England in England (which we shall discuss in Chapter II), which allowed theological questions to be masked in secular legal forms,

⁴⁹ The Lambeth Commission on Communion, *The Windsor Report* (2004).

⁵⁰ By the Inter-Anglican Theological and Doctrinal Commission, in *The Official Report of the Lambeth Conference of 1998* (1999) “The Virginia Report”, pp. 56-63.

⁵¹ This has been done by advancing a structural/instrumentalist approach to issues of authority and unity; Ian Douglas, “Authority, Unity, and Mission in the Windsor Report”, *Anglican Theological Review* 87(4) (2005): 567-74. The Windsor Report recommended strengthening the connection between the churches of the Communion, by having each church ratify an “Anglican Covenant” that would, in part, commit them to consulting the wider Communion when making major decisions.

⁵² Robert Wright, “The Authority of Lambeth Conferences 1867-1988”, *Anglican and Episcopal History* 58(3) (1989): 278-290. It is also important to note that until 1964 the General Synod met only once every three years; Peter Lineham, “Government Support for the Churches in the Modern Era”, in Rex Ahdar and John Stenhouse (eds.), *God and Government* (2000), p. 45.

⁵³ Henry McAdoo, *Anglicans and Tradition and the Ordination of Women* (1997), p. 13.

⁵⁴ See however, Stephen Sykes (ed.), *Authority in the Anglican Communion* (1987), and also the limited discussion with respect to authority in the Anglican Communion which preceded and followed *Apostolicae Curae*.

⁵⁵ For several factors which contributed to the discussions about authority at the 1978 Lambeth Conference see Stephen Sykes, *The Integrity of Anglicanism* (1978).

or to be described only in the most general terms.⁵⁶ They were, for instance, generally drafted by secular lawyers.⁵⁷ As the 1922 Commission on Christian Doctrine reported

The authority of the church arises from its commission to preach the Gospel to all the world and the promises, accompanying that commission, that the Lord would always be with his disciples, and that the Holy Spirit would guide them into all the truth.⁵⁸

In this text there is no specific statement of the source of authority of the Church, or of how it is to be authoritatively interpreted – merely a hope that the Holy Spirit will prove a sure guide. The omission of a statement of the source of authority – beyond the commission from Jesus Christ and the promise that the Lord would be with them – is perhaps curious, given the centrality of teaching to the mission of the church,⁵⁹ and the claimed catholicity of the Anglican Communion. But this is perhaps not surprising, given the post-Reformation history of the Church of England, and its Erastian inheritance.⁶⁰ The Anglican concept of

⁵⁶ The formal legal authority was vested in the Crown-in-Parliament; e.g. Act of Supremacy 1534 (26 Hen. VIII c. 1) (Eng.); Act of Supremacy 1558 (1 Eliz. I c. 1) (Eng.); *Catholicity* (1947), p. 49.

⁵⁷ For the role of the common lawyers in the weakening of the canonists' vocation, see Noel Cox, "The Symbiosis of Secular and Spiritual Influences upon the Judiciary of the Anglican Church in New Zealand", *Deakin Law Review* 9(1) (2004): 145-82, and Noel Cox, "The Influence of the Common Law and the Decline of the Ecclesiastical Courts of the Church of England", *Rutgers Journal of Law and Religion* 3(1) (2001-2002): 1-45.

⁵⁸ Commission on Christian Doctrine appointed by the Archbishops of Canterbury and York in 1922, *Doctrine in the Church of England* (1938), p. 35.

⁵⁹ The teaching office of the church, or *magisterium*, is at the heart of its role; Edward Norman, "Authority in the Anglican Communion" (1998).

⁶⁰ Erastianism may be characterised generally as where the State has superiority in ecclesiastical affairs, and makes use of religion to further State policy; Leo Pfeffer, *Church, State and Freedom* (1953), pp. 28-62.

authority led to an emphasis upon process rather than on the juridical form.⁶¹ However, questions of the origins and nature of authority cannot go un-addressed, nor can they be expressed in vague and general terms without the risk of departing from theological truths,⁶² and eventually weakening the institutional body of the Church.

The Holy Spirit may not always prove a sure guide, when the church cannot clearly discern its guidance from human good intentions or even from the guile of the Evil One.⁶³ Calvin's critique was that the Roman Catholic Church had indeed fallen into error, and that it was Scripture inspired by the Holy Spirit which provided true revelation. This issue – of identifying true authority – becomes especially important when considering controversial or complex questions of ecclesiology or theology. These included the ordination of women to the priesthood, or the true nature of the historic episcopate.

St. Thomas Aquinas observed that there are two ways human law may be derived from the divine law. It may embody a deduction from principles contained in divine law, or it may be a more particular statement of those principles.⁶⁴ But it remains difficult to determine

⁶¹ Henry McAdoo, "Anglicanism and the Nature and Exercise of Authority in the Church", *New Divinity* 2 (1976): 87-88.

⁶² This includes the danger of moral and religious relativism, concerns about which was one of the motivating factors which led to the declaration of the Primates' Meeting at Canterbury in April 2002; Anglican News Service A.C.N.S. 2962, 17th April 2002, "Statement of Anglican Primates on the Doctrine of God", Report of the Meeting of Primates of the Anglican Communion: Appendix II, available at <<http://www.anglicancommunion.org/acns/articles/29/50/acns2960.htm>> (as at 30th August 2007).

⁶³ Though the Holy Spirit will not allow the whole church to fall into error. Kathleen Carrick Smith, *The Church and the churches* (1948), p. 36, observed that the Holy Spirit would not lead the churches astray on the question of the ministry for 1,500 years.

⁶⁴ St. Thomas Aquinas, *Summa theologiae* (1963), books I-II, pp. xcvi, 2.

precisely what these laws are.⁶⁵ There is a divergence of opinion as to how far a particular Church⁶⁶ is competent to alter or abolish laws and customs observed by the universal church.⁶⁷ Catholicity and apostolicity are potentially undermined by departing from norms accepted elsewhere in the universal church.

The source of authority in a Church is important, whether derived from differing understandings of tradition, or otherwise. In the Anglican Communion it is derived from a “default position” of what could be described as functional decentralisation.

Authority in the Anglican Communion

The decentralisation of authority in the Anglican Communion has been a source of both strength and weakness for the Communion. One of the strengths of the Anglican Communion is its flexibility and diversity, and the absence of a constricting (or inhibiting) centralised legal structure. But that can also be seen as its principal weakness. It may be that the weakness in conceptual authority is gradually being recognised, and it is apparent that interest in law is increasing in the Anglican Communion as

⁶⁵ This should perhaps be unsurprising; there was a vigorous and unresolved debate in the New Testament about the validity of the Old Testament law for Christians; Anthony Brash, “Ecclesiastical Law and the Law of God in Scripture”, *Ecclesiastical Law Journal* 5(22) (1998): 7, 8.

⁶⁶ The Anglican Church was seen as a national or particular church, see for instance, Article 34 of the *Thirty-Nine Articles of Religion*, enacted in 1562, and confirmed in 1571 by the Subscription (Thirty-Nine Articles) Act 1571 (13 Eliz. I c. 12) (Eng.).

⁶⁷ Hubert Box, *The Principles of Canon Law* (1949) 46, relying in part on Francisco Suarez, *Tractatus de legibus, ac Deo legislatore* (1679), pp. vii, xviii,

a whole.⁶⁸ The lack of a centralised juridical tradition, and the subsequent limitations upon liturgical, ecclesiological or arguably even doctrinal uniformity, perhaps presents the greatest challenge to unity in the Church. This is especially important when the Church is engaged in œcumenical dialogue. Prospects for reunion with the Roman Catholic Church – or with the Orthodox Church – are predicated upon a common Anglican doctrinal and ecclesial understanding. In theory this exists, for the Church asserts its catholicity, but this is hard to defend in the absence of Communion-wide uniformity, and some manifest departure from generally accepted norms.

The dispersed authority of the Anglican Communion is explored in Report IV of the 1948 Lambeth Conference,⁶⁹ in what Bishop Sykes calls “the most satisfactory public statement of the Anglican view of authority”.⁷⁰ It amounts, in the words of Canon Norman, addressing a later Lambeth Conference, to a

singularity and diversity dependent on modern concepts of representation and limited government, drawn from the practice of secular modern government.⁷¹

6; cf. Edward Bicknell, *A Theological Introduction to the Thirty-Nine Articles of the Church of England* (1955), pp. 379-83.

⁶⁸ There has been much recent work towards a systematic jurisprudence, notably including Norman Doe, *Canon Law in the Anglican Communion* (1998). An LL.M. in canon law – not exclusively Anglican – is also offered by Cardiff University.

⁶⁹ L.C. 1948, Report IV, “The Anglican Communion”.

⁷⁰ Stephen Sykes, *The Integrity of Anglicanism* (1978), p. ix.

⁷¹ Edward Norman, “Authority in the Anglican Communion” (1998); William Sachs, *The Transformation of Anglicanism* (1993), p. 2.

The 1948 Lambeth Conference Report on the Anglican Communion⁷² states that authority is both singular in that it derives from the mystery of the divine Trinity, and plural, in that it is distributed in numerous, organically related elements. Identifying elements in authority is an ongoing process of describing the data, ordering them, mediating and identifying them.⁷³ While descriptive of the nature of the Anglican Communion at mid-twentieth century, the Report did not afford clear guidance as to whether the loci of authority were the result of random evolution, or symptomatic of a more fundamental truth. This distinction is crucial when we consider that the validity of Holy Orders (as part of the catholic church) would appear to depend upon the maintenance of the historic episcopate, and the preservation of a liturgical and sacramental ministry of a particular form.

The 1978 Lambeth Conference requested the primates to institute a study of authority, its nature and exercise, within the Anglican Communion.⁷⁴ The single most important catalyst for this was the ordination of women to the priesthood in some provinces.⁷⁵ The Primates' Meeting at the Kanuga Conference Centre, North Carolina, 2nd-8th March 2001 resolved to explore the underlying principles of church

⁷² L.C. 1948, Report IV, "The Anglican Communion".

⁷³ Stephen Sykes, *The Integrity of Anglicanism* (1978), pp. 87-8.

⁷⁴ L.C. 1978, Res. 11:

The Conference advises member Churches not to take action regarding issues which are of concern to the whole Anglican Communion without consultation with a Lambeth Conference or with the episcopate through the Primates' Committee, and requests the Primates to institute a study of the nature of authority within the Anglican Communion.

⁷⁵ "The People of God and Ministry" L.C. 1978, pp. 76-7. Moral and religious relativism also provided a part of the catalyst.

authority.⁷⁶ There was to be further study of the doctrinal or canonical authority of the Church. In the following year, at the Primates' Meeting at Canterbury in April 2002,⁷⁷ the canon law common to the churches of the Anglican Communion (not expressly defined, and thus an uncertain element) was recognised as a fifth instrument of Anglican unity.⁷⁸ Whilst this is far from recognising a central source of authority within the Church, it does go some way towards a re-assertion of the important normative role of divine law. The absence of central authority was less a sign of lack of uniformity as an acknowledgement that the Anglican Church itself was not a doctrinally unique Church, but an integral part of the universal church. Perhaps unfortunately for the Anglican Communion, unlike the Latin Church, there is no single body of canons.⁷⁹ But there are common elements grounded in the *jus canonicum*. It should, according to the Kanuga Declaration of 2001,⁸⁰ be the aim of the Anglican Communion to identify these common elements and build upon them. Diversity and inclusivity are worthwhile, but not when the Church thereby begins to lose its cohesion. In the Roman Catholic

⁷⁶ Anglican Communion News Service A.C.N.S. 2410, 8th March 2001, 'A Pastoral Letter and Call to Prayer', available at <<http://www.anglicancommunion.org/acns/acnsarchive/acns2400/acns2410.htm>> (as at 30th August 2007).

⁷⁷ Anglican News Service A.C.N.S. 2962, 17th April 2002, "Statement of Anglican Primates on the Doctrine of God", Report of the Meeting of Primates of the Anglican Communion: Appendix II, available at <<http://www.anglicancommunion.org/acns/articles/29/50/acns2960.html>> (as at 30th August 2007).

⁷⁸ Ibid.

⁷⁹ Principally because there is no single source of executive, legislative, and judicial authority within the Anglican Communion. The Roman Catholic Church has separate bodies of canons for the (majority) Latin and (minority) eastern rites.

⁸⁰ Anglican Communion News Service A.C.N.S. 2410, 8th March 2001, "A Pastoral Letter and Call to Prayer", available at

Church tradition, backed by law, provides an element of uniformity. In the Anglican Communion this uniformity is weaker.

The recognition of the importance of canon law (and it is to be remembered that this was the ancient though evolving canon law, not simply a post-Reformation composition⁸¹) came at a time when the Anglican Communion as a whole, and the Church in New Zealand in particular, was reassessing its nature.⁸² This was particularly as a consequence of coming face to face with significant moral and cultural questions which directly challenged the received teaching of the Church. The Windsor Report⁸³ by the Archbishop of Canterbury's Commission was more about authority in the Church than the specific question of the consecration of practising homosexuals – indeed the latter was merely the impetus which led to the commissioning of the report.⁸⁴ While this Report concerned a matter not primarily of theology and validity, but rather of authority, it had theological repercussions, since authority included consideration of questions of the nature of the church.

A Church in which authority is characterised as “singularity and diversity dependent on modern concepts of representation and limited

<<http://www.anglicancommunion.org/acns/acnsarchive/acns2400/acns2410.htm>
l> (as at 30th August 2007).

⁸¹ See Sir John Nicholl (Dean of the Arches), in (1809) 2 Phillimore's Ecclesiastical Cases 276.

⁸² As for example in the controversy surrounding the nomination in 2003 of the Jeffrey John, a homosexual (though not, by his own admission, now physically active), as Bishop of Reading; Anglican News Service A.C.N.S. 3498, 6th July 2003, “Archbishop of Canterbury's response to Jeffrey John's withdrawal”, available at

<<http://www.anglicancommunion.org/acns/articles/34/75/acns3498.html>> (as at 30th August 2007).

⁸³ The Lambeth Commission on Communion, *The Windsor Report* (2004).

⁸⁴ See also the Virginia Report; *Official Report of the Lambeth Conference of 1998* (1999), “The Virginia Report”, pp. 56-63.

government, drawn from the practice of secular modern government⁸⁵ could be at risk of losing its historic place as part of the universal church. This is because contemporary social and political ideas are not necessarily consistent with attributes of catholicity found elsewhere in the universal church, and because authority in such a church is not clearly conceived as being derived solely from divine authority. It is also one reason why there has been such emphasis upon asserting the validity of Holy Orders in the eyes of the more “orthodox” Churches – though communion with Rome was not universally seen as the essential mark of validity of Holy Orders.⁸⁶

The Nature of the Church and its Holy Orders

The distance between the Roman Catholic Church and the Anglican Communion is over more than just what may be seen as a technical question of validity and recognition. Differing attitudes to the ordination of women – whether concerned with the role of the priest as acting *in persona Christi capitis*, or other questions of theological tradition or theology – are resolved by appeal to revelation. The ordination of practising homosexuals, which concerns moral judgement, is similarly resolved. The differences reflect a different attitude to tradition. But it is arguably the understanding of tradition and the meaning of catholicity that causes the question of the validity of Holy Orders to remain of vital importance in and to the Anglican Church. Differing attitudes to tradition

⁸⁵ Edward Norman, “Authority in the Anglican Communion” (1998), p. 1; See also William Sachs, *The Transformation of Anglicanism* (1993), p. 2.

⁸⁶ George Lewis, *The Papacy and Anglican Orders* (c.1955), p. 34; See also, generally, the essays in William Franklin (ed.), *Anglican Orders* (1996).

in the Anglican and Roman Catholic Churches is reflected in differences over the validity of Anglican Holy Orders.

Validity derives from the nature of Holy Orders, and not merely from jurisdictional questions, thus implying a theology of Holy Orders. Jurisdictional questions are a matter of authority, the nature of which also affects theology. This has been emphasised by the Orthodox Church.⁸⁷ The Roman Catholic Church has also raised the inadmissibility of women for ordination to doctrinal status, thus making it more clearly a theological issue.⁸⁸ The nature of the church is reflected in its theology and ecclesiology, and both are affected by attitudes to tradition.

Lack of jurisdictional authority does not necessarily invalidate Holy Orders. These may be valid even if irregular. The issue is whether their nature had changed, and thus, for Anglican Holy Orders, whether they remain valid despite the break with Rome. Apostolic succession means that bishops can, in principle, transmit Holy Orders (a theological matter, not one of jurisdiction). The key question thus becomes whether the nature of Anglican Holy Orders was different from the nature of those of the pre-Reformation Roman Catholic Church. However, Anglican theologians such as Cranmer would assert that post-Reformation Anglican Holy Orders were valid despite being different, as the pre-Reformation church had departed from true catholicity. Thus, in their view, Anglican Holy Orders reflected a return to a purer form of Holy Orders.

⁸⁷ Decree of the Orthodox Conference in Moscow in 1948 against Papism [sic] (9th-18th July 1948).

⁸⁸ Congregation for the Doctrine of the Faith, *Inter insigniores* (15th October 1976); *The Code of Canon Law* (1983), Canon 1024; Pope John Paul II, Apostolic Letter *Ordinatio Sacerdotalis* (22nd May 1994). See also Ida Raming, *The exclusion of women from the priesthood* (1976).

In the sixteenth century there was a considerable body of literature on the subject of the validity of Holy Orders. This widened into a flood in the seventeenth and eighteenth centuries.⁸⁹ The papal bull *Apostolicae Curae*,⁹⁰ in which in 1896 the Holy See rejected the validity of Anglican Holy Orders, stimulated more debate in the late nineteenth century. But, as Hughes has shown, examination of the underlying basis of the debate was rarer.⁹¹

While today the Holy Orders of the Anglican Communion are partially recognised by the Eastern Orthodox Churches, recognition by the Roman Catholic Church remains elusive. Arguments based on differing theologies have so far failed to draw the churches to union or a unified position on this point. It must be stressed again that validity and recognition are distinct questions. The search for “recognition” is motivated by a sincere desire (of those in the Anglican Communion who regard this as goal worth pursuing) to be recognised as a part of the universal church. This was to be by the central element of that church from which Anglicanism broke, but which the Anglican Communion has never discarded entirely. The Anglican Communion officially sees itself as catholic, as a part of the Church of Christ. Just as the historic ministry of three Holy Orders remains central to Roman Catholic ecclesiology, so the historic Holy Orders remain important in the Anglican Communion.⁹²

The nature of Holy Orders, and potentially their catholicity, both in the Anglican Communion and the Roman Catholic Church, has been challenged by new social and religious viewpoints, reflected, for

⁸⁹ For a review of some of this, see John Jay Hughes, *Absolutely Null and Utterly Void* (1968); John Jay Hughes, *Stewards of the Lord* (1970), p. 126.

⁹⁰ Pope Leo XIII, *Letters Apostolic of His Holiness Leo XIII ... concerning Anglican Orders dated: September 13, 1896* (1896).

⁹¹ John Jay Hughes, *Absolutely Null and Utterly Void* (1968), p. i.

⁹² See the 1888 Lambeth Quadrilateral; L.C. 1888, Res. 11.

example, by the ordination of women priests. The recognition of Anglican Holy Orders by the Roman Catholic Church must perhaps remain elusive while Anglicans experiment with the ordination of women and latterly of practising homosexuals. This will be at least until the Roman Catholic Church itself allows the ordination of women,⁹³ if it ever does so. The limited recognition of Anglican Holy Orders by the Orthodox Church⁹⁴ remains uncertain. But Roman recognition remains a key goal as part of a wider search for self-definition.

Although the Anglican Communion sees itself as equally a part of the universal church, it should not and does not ignore the centrality of the authority and history of the See of Rome – and the latter’s contemporary view of Anglican Holy Orders – especially as it too has undergone a series of reforms since the sixteenth century.⁹⁵

Perhaps more importantly, the Anglican Communion cannot ignore the influence of protestant thought and practice on its own liturgy and ecclesiology since the sixteenth century, and the effect this may have had on the nature of its Holy Orders. The desire for recognition is, at least in part, a desire for œcumenism. The Anglican Church wishes to be seen to be a part of the universal church. This desire seems to remain strong because of an enduring consciousness of having broken from the parent Church, and a sense of being an equal part of the universal church. The loss of a sense of identity or direction inevitably led to an increased emphasis (by Anglican theologians such as Hooker in the sixteenth century, and Dix in the twentieth) on catholicity. A desire to move beyond the tradition of the Church and look towards the unity of the

⁹³ Generally, see William Franklin (ed.), *Anglican Orders* (1996).

⁹⁴ As, by example, the requirement for the re-ordination of former Anglican priests received into the Orthodox Church.

universal church also contributed. Catholicity for the Anglican Communion remains consistent with Gore's definition and is primarily institutional.

Methodology

This thesis will explore the meaning of validity of Holy Orders in law, in ecclesiology, and in theology, and how this is understood in the Church. Validity is a legal concept as well as an ecclesiological concept, and both are derived from a theological perspective. It will do so with a view to seeking to understand why validity of Holy Orders remained an important matter of self-identify for the Anglican Communion.

This thesis is a discursive interpretative study seeking to identify the factors which have led to the emphasis which the Anglican Communion has placed upon proving the validity of its Holy Orders in the eyes particularly of the Roman Catholic Church. This thesis will establish the existence of this point. That is, it will be shown that the Anglican Communion as such seeks Roman Catholic recognition, despite disparate views.⁹⁶

The primary research question is why does the Anglican Communion continue to regard the recognition of its Holy Orders by other Churches, and especially by the Roman Catholic Church, as important? It is discursive in the sense of using several disciplines, law, ecclesiology, and theology.

⁹⁵ This is especially true since the reforms of the Roman Catholic Church which followed Vatican II.

⁹⁶ Such as in the Diocese of Sydney, Australia.

The thesis will proceed in three substantive chapters. Chapter II will consider in particular the development of Anglican theology and ecclesiology during the Reformation, and show how certain differences arose between the Anglican understanding of Holy Orders, and that of the broader church. The overall contribution of the chapter will be to show how Church tradition (as distinct from the Tradition of Christ⁹⁷) was largely influenced by legalism – which had major implications for the Anglican Church at the Reformation, and for this reason catholicity, as manifested in the validity of Holy Orders, remained important.

Chapter II will seek to show that, as the Church lost its previous central authority, so it turned to Holy Scripture for authority, as well as to a form of legalism which was native to the shores of England. Later, as the royal supremacy waned, and Roman Catholic and even antiquarian influences became increasingly important, there was a renewed identification with the universal church as personified by the Roman Catholic Church. This also coincided with the growth abroad of the Anglican Communion, which itself brought new issues with respect to the nature of authority within the Church.

Chapter III will consider the implications of the development of a spirit of proto-œcumenism in the nineteenth century. Attempts to gain papal endorsement of the validity of Anglican Holy Orders reflected an element of respect for tradition, law, and history. Such apparently superficial attitudes could not however mask more serious differences in doctrine, especially with respect to the nature of the sacrificial priesthood. The alleged lack of intention to create a sacrificial priesthood – as well as outward form – was the explanation for the papacy’s rejection of Anglican Holy Orders in *Apostolicae Curae* as “absolutely

⁹⁷ See Yves Congar, *Tradition and Traditions* trans. Michael Naseby and Thomas Rainborough (1966), and John Howe, *Highways and Hedges* (1985).

null and utterly void” (“*actas irritas prorsus fuisse et esse omninoque nullas*”).⁹⁸ Although the Anglican Communion – or rather more specifically at this time the Church of England – asserted that its Holy Orders were valid, the theology underlying them was apparently changed from pre-Reformation times. Arguably, unlike in the Roman Catholic Church, there was no consistency of theology underlying an understanding of Holy Orders.

This chapter (III) will focus, not upon the technical questions of form and intention which were the basis of *Apostolicae Curae*,⁹⁹ but rather upon the absence of a uniform Anglican understanding of Holy Orders in the nineteenth century, beyond an emphasis upon continuity with the pre-Reformation Holy Orders (an absence still masked by legalism, or an implicit theology), and the Holy See’s reaction to that implicit theology. We will explore why this meant that the recognition of its Holy Orders by other elements of the historic catholic church was seen to be important, not simply by the Tractarians, but by the wider leadership of the Church. By this time both Churches were in the process of reinterpreting their immediate past since the Reformation; *Apostolicae Curae* is itself arguably a re-reading by the Holy See of the doctrine of the Council of Trent.

Chapter IV will consider later developments. The twentieth century brought a number of important developments with respect to the attitude towards the validity of Anglican Holy Orders. On the one hand the Roman Catholic Church became more open to dialogue with other Churches. The Eastern Orthodox churches gave limited recognition to Anglican Holy Orders, and some Lutheran churches entered into various

⁹⁸ Pope Leo XIII, *Letters Apostolic of His Holiness Leo XIII ... concerning Anglican Orders dated: September 13, 1896* (1896).

⁹⁹ *Ibid.*

forms of inter-communion with the Anglican Communion.¹⁰⁰ The Anglican Church accorded recognition to Roman Catholic Holy Orders¹⁰¹ – but not those of protestant clergy ordained outside the historic episcopate.¹⁰²

Since 1662 at the latest, and probably from their foundation, the Anglican Churches have taken episcopal ordination as a necessary basis for “*communicatio in sacris*”.¹⁰³ At the 1920 Lambeth Conference episcopacy was reformulated as “a ministry acknowledged by every part of the Church as possessing not only the inward call of the spirit, but also the commission of Christ and the authority of the whole body”.¹⁰⁴

The validity of its own Holy Orders in the eyes of the Roman Catholic Church continues to be a matter of concern for the Anglican Communion. But this is not necessarily because of any belief that the Church lacks the authority to ordain and consecrate. It appears rather to be because of the notion that a national or particular church is part of the universal church, and that the ideal environment for the furtherance of Christ’s mission is through a universal ministry – and therefore one which is mutually recognised as valid.

¹⁰⁰ The Church of Sweden was recognised in stages between 1888 and 1954, and the Evangelical Lutheran Church of Finland was admitted in 1935; *Anglican-Lutheran International Conversations* (1973), p. 26. See also Standing Resolution Intercommunion, General Synod of the Anglican Church in Aotearoa, New Zealand and Polynesia; SRIC 11. Recognition of Bishops, Priests and Deacons from other certain Churches (2004).

¹⁰¹ According to the *Book of Common Prayer* (1550, revised 1552, 1662) those already ordained (under the Roman Catholic Latin pontifical) are on no account to be re-ordained; Henry Chadwick, “The Discussion about Anglican Orders in Modern Anglican Theology”, in Hans Küng (ed.), *Apostolic Succession* (1968), p. 143.

¹⁰² John Jay Hughes, *Absolutely Null and Utterly Void* (1968), pp. 126-7.

¹⁰³ *Anglican-Lutheran International Conversations* (1973), p. 26.

¹⁰⁴ L.C. 1920 “Appeal to all Christian People”.

Lack of a central authority within the Anglican Communion led to a focus upon the orthodoxy of the ordination of its own Holy Orders. But the Russian Orthodox synod might have been right when, in 1948, they concluded that the validity of Holy Orders was inseparable from broader questions of doctrine.¹⁰⁵ Differing theologies are more apparent now than in the nineteenth century, but the differences perhaps relate more to questions of authority than to the underlying nature of the priesthood or of the church. However the competing views each emphasise different parts of the church.

The debate over Anglican Holy Orders was an aspect of a broader debate on authority, validity and tradition. The acknowledgement (partial or full) of Anglican Holy Orders by some Churches, and the lack of it by the Roman Catholic Church, was in a sense merely a reflection of wider issues. Only valid Orders might be recognised; but even valid Holy Orders would only be recognised if the jurisdictions concerned chose to do so. The question is then a broader one of œcumenism, and of how one deals with inconsistency in the course of an argument that ultimately affirms consistency.

¹⁰⁵ A conference of the heads of the Orthodox Churches, held in Moscow in 1948, also passed resolutions criticising the World Council of Churches and the Roman Catholic Church; *Chrysostom*, Autumn 1974, p. 26.

II – THE REFORMATION AND THE ANGLICAN VIEW OF THE PRIESTHOOD

Introduction

The first substantive chapter will show that, as the Anglican Church lost its previous central authority, so it turned to Holy Scripture for authority, as well as to a form of legalism which was native to the shores of England. Later, as the royal supremacy waned, and Roman Catholic and antiquarian influences became increasingly important in some circles,¹ there was a renewed identification by clergy in the Anglican Church with the universal church as personified by the Roman Catholic Church. This also coincided with the growth abroad of the Anglican Communion. This development itself brought new issues with respect to the nature of authority within the Church.²

The nature of Holy Orders was one of the most important defining elements of the Reformation. The Reformation in England was accompanied by revolutionary changes which were constrained within, and guided by, this external structure, as well as by the hierarchy of the Church. The Anglican Church was purportedly the Church in England, so it inherited a profoundly important legacy of the mediæval Church (which was strongly episcopal in nature).³

¹ In society broadly, as well as in the church. The growth of formal ordination training in the Church of England in the nineteenth century may also be noted.

² Especially when Anglicans found themselves Churches “competing” with others in missionary fields.

³ James Spalding, *The Reformation of the Ecclesiastical Laws of England, 1552* (1992), pp. 1-57.

The mediæval church contributed to the form and nature of ordained ministry in the universal church. The middle ages were a time of growing legalism, and this was to have a profound effect upon the church, both on the Roman Catholic Church itself and on the post-Reformation Anglican Communion.⁴ The Middle Ages added flesh to the bare bones of revelation, the *Bible* and the witness of the early, apostolic, church.⁵

Anglican Church thinking with respect to Holy Orders was largely influenced by legalism – which in turn had major implications for the Anglican Church at the Reformation. This chapter will show why catholicity, as manifested in the validity of Holy Orders, remained important. This will be seen as a reflection of an unselfconscious catholicity, rather than a deliberate departure from the unity of the church.

The influence on the Church of the rigidity of mediæval legalism

This section will argue how Church tradition added a gloss to Holy Scripture, but that tradition was largely influenced by legalism. This latter had major implications for the Anglican Church at the Reformation. Indeed, one of the underlying reasons for the Reformation, and one which was especially strong in England, was the growing legalism of the Church in late pre-Reformation times. The influence of legalism was also

⁴ Ibid.

⁵ Indeed, tradition is always necessary to add to Holy Scripture, and it is the relationship between tradition and Scripture which presents one of the major differences between Anglicanism and Roman Catholicism (and Orthodoxy).

due to the contemporary strength of the common law, and the antithesis of the latter for the former.⁶

The Anglican Communion grew out of a deliberate rejection of a Church which had – in some eyes at least – become too legalistic,⁷ and too materialistic. It will be argued that the nature of Holy Orders was substantively unchanged despite the jurisdictional changes and changes to the ordinal. The validity of Holy Orders is as much a legal question as it is a theological and ecclesiological one. The desire to prove validity was influenced by a desire to show continuity of a legal heritage as much as a Christian one.

It is important to emphasise that the pre-Reformation history of the Anglican Church was that of the Roman Catholic Church – at least after the adoption of the Latin hierarchy⁸ – and that the legacy of the Church of England was principally that of Rome.⁹ The universal church as represented – if not embodied – by those national and particular Churches in communion with the See of Rome, was strongly juridical.

⁶ Noel Cox, “The Influence of the Common Law and the Decline of the Ecclesiastical Courts of the Church of England”, *Rutgers Journal of Law and Religion* 3(1) (2001-2002): 1-45.

⁷ In this respect it was appropriate that the Reformation in England was sparked by King Henry VIII’s matrimonial cause. See James Spalding, *The Reformation of the Ecclesiastical Laws of England, 1552* (1992), pp. 1-57.

⁸ After the Synod of Whitby (664). Full unification, and integration with the Church of Rome and the authority of the Pope was finally achieved at the councils of Hertford in 673 and Hatfield 680, under the diplomatic guidance of St. Theodore of Tarsus, a Greek monk who had been consecrated Archbishop of Canterbury by Pope Vitalian, and sent to England in 669; Michael Lapidge (ed.), *Archbishop Theodore* (1995); Catherine Cubitt, *Anglo-Saxon church councils c.650-c.850* (1995).

⁹ French historian Bruno Neveu, Directeur de la Maison Française d’Oxford, regarded the outward heritage of the Church of England as a revelation, a survival of a lost world; John Rogister, “Bruno Neveu”, *The Independent*, 14th April 2004.

This was so especially after the time of the great lawyer-popes,¹⁰ and this survived the break with Rome. This is irrespective of the Roman perspective of the nature of the break.

Despite St. Paul's warning against legalism,¹¹ the mediæval church was to become comparatively legalistic, a perhaps inevitable condition, given the wide reach of the (western) universal church and its centralisation. Even though the laws which regulated this bureaucracy were canon laws,¹² they were influenced by a desire to achieve a considerable degree of precision of definition, and to clarify authority for action (both bureaucratic rather than theological questions).¹³ A universal corpus of laws was recognised as existing even in post-Reformation times, even in nineteenth century English ecclesiastical cases.¹⁴ If

¹⁰ Brian Tierney, *Church law and constitutional thought in the Middle Ages* (1979).

¹¹ See Colossians 2.20-23:

²⁰ Wherefore if ye be dead with Christ from the rudiments of the world, why, as though living in the world, are ye subject to ordinances,

²¹ (Touch not; taste not; handle not;

²² Which all are to perish with the using;) after the commandments and doctrines of men?

²³ Which things have indeed a shew of wisdom in will worship, and humility, and neglecting of the body: not in any honour to the satisfying of the flesh.

¹² These were later subject to consolidation and reform in the Roman Catholic Church in 1917 and 1983.

¹³ The former was the cause of many rifts at the early church councils, and of schisms, including the Nestorian Schism between the Byzantine church of the West and the Assyrian Church of the East in the fifth century; William Wigram, *An introduction to the history of the Assyrian Church or the church of the Sassanid Persian Empire, 100-640 A.D.* (2004).

¹⁴ Noel Cox, "The Influence of the Common Law and the Decline of the Ecclesiastical Courts of the Church of England", *Rutgers Journal of Law and Religion* 3(1) (2001-2002): 1-45.

tradition was weakened in the search for a “purer” understanding of Holy Scripture, legalism also played an important role – and was itself one of the prime movers for the Reformation in England.¹⁵ This was perhaps partly a consequence of the comparative weakness of civil and canon law in England,¹⁶ and the strength of the common law – something which was distinctively English.

The Church of England was also catholic in the sense of sharing an historical legacy. The mediæval church contributed to the form and nature of the ministry. The universal church was not purely biblical; it was also partly mediæval in form and nature. The church grew from the days of the Founder into a complex and hierarchical structure. The Anglican Communion reflected this historic continuum, but was re-founded or revitalised in an overt act of reformation. The extent to which this was a theological (rather than jurisdictional) break is disputed. The branch theory (based on the premise that each of these three Communion, although now in schism, continued to hold the same fullness of the catholic faith, and morals, they shared during the period of the early “undivided Church”¹⁷) and other explanations of the nature of the Church always had their adherents within the Anglican Communion.

¹⁵ Sir John Baker, “Ecclesiastical Courts”, in *The Oxford History of the Laws of England* (2003), vol. VI 1483-1558, pp. 233-254.

¹⁶ For the development of this law see, for instance, James A. Brundage, *The profession and practice of mediæval canon law* (2004); John Gilchrist, *Canon law in the age of reform, 11th-12th centuries* (1993).

¹⁷ The branch theory was first proposed by William Palmer of Oxford in 1838 and was subsequently accepted by John Henry Newman, Edward Pusey, Frederick Faber, and others of the Oxford Movement in the nineteenth century; Sir William Palmer, *Treatise on the Church of Christ* (2nd ed., 1839). The theory was dismissed as long ago as 1842 by Cardinal Wiseman; Nicholas Cardinal Wiseman, *Essays on Various Subjects by His Eminence Cardinal Wiseman* (1876), vol. II, p. 306; See his essay, “The Anglican System”. It was not a strong theological or historical argument. See also Diarmaid MacCulloch, “The Myth of the English Reformation”, *History Today* 41(7) (1991): 28-35.

One of these was a Calvinist view critical of the formal ministry of a separate priesthood.¹⁸ The theological basis of the Church was both biblical authority and the historic teaching of the church. The authority of the *Bible* was always central, though it grew to be even more important for many post-Reformation churches,¹⁹ and was always fundamental to Christian ecclesiology. The Anglican Communion, as a part of the universal church, also inherited this historic legacy, and sought to emphasise its continued importance. Thus the Communion emphasised the historic continuity with the mediæval church in the west.²⁰

After the Reformation the canon law of the Church of England developed along distinct, though sometimes parallel, paths to that of the Roman Catholic Church.²¹ Constitutional developments necessitated the creation or codification of canons in the churches of the Anglican Communion overseas in the course of the eighteenth and nineteenth centuries, and in the British Isles itself in the nineteenth and twentieth

¹⁸ Jean Calvin, *Institutes of the Christian Religion* ed. John McNeill, trans. Ford Lewis Battles (1960).

¹⁹ See, for instance, John Reid, *The authority of scripture* (1957), and more modern writers such as John Howe, *Highways and Hedges* (1985).

²⁰ And also that of the east. For a liturgical illustration, the festival celebrating the thousandth anniversary of the birth of Edward, King and Confessor, founder of Westminster Abbey, 6th-13th October 2006, included a Festal Evensong sung by the combined choirs of Westminster Abbey and (Roman Catholic) Westminster Cathedral, with Cormac Cardinal Murphy-O'Connor, Archbishop of Westminster, as preacher (6th October 2006); and Sung Vespers according to the Orthodox Rite (10th October 2006).

²¹ See Gerald Bray, *The Anglican Canons, 1529-1947* (1998).

centuries.²² But these remained consistent with a long tradition. Only slowly did a distinct conceptual approach develop.²³

Because the Church was constituted by jurisdictional break, rather than being an artificial creation, the degree of continuity which existed – and which largely survives – was very considerable. This is reflected geographically, in all the parts of the world where the Church is located, and also is manifested in significant survival of the pre-Reformation legal infrastructure. This is clear in the way in which the legal structure of the Anglican Communion operates in the various provinces.²⁴

The laws which govern the Church may be found in several places, depending upon whether it is direct or indirect law. First, in formularies and doctrinal sources (the *Bible*, patristic writings, opinions of authors, pronouncements of Lambeth Conferences, liturgical formularies) – the latter of which have purely declaratory effect;²⁵ secondly, in the internal laws of the Church – its constitution and canons;²⁶ thirdly, the common law of the realm (and equivalent in non-realms); fourthly, the statute law

²² Irish Church Act 1869 (32 & 33 Vict. c. 42) (U.K.); Welsh Church Act 1914 (4 & 5 Geo. V c. 91) (U.K.); Suspensory Act 1914 (4 & 5 Geo. V c. 88) (U.K.); Welsh Church (Temporalities) Act 1919 (9 & 10 Geo. V c. 65) (U.K.).

²³ Generally, see Noel Cox, “The Influence of the Common Law and the Decline of the Ecclesiastical Courts of the Church of England”, *Rutgers Journal of Law and Religion* 3(1) (2001-2002): 1-45.

²⁴ See Norman Doe, *Canon Law in the Anglican Communion* (1998).

²⁵ At the start of the first Lambeth Conference in 1867 Archbishop Longley made it clear that the gathering was a conference and not a synod, and that its resolutions would be purely declaratory; Gillian Evans and Robert Wright (eds.), *The Anglican Tradition* (1991), p. 328. There was no question of it being a general council of the church.

²⁶ The rules of the church were early called “canons” to distinguish them from the secular laws of the Roman empire, the term being borrowed from the Greek *kanon* (κᾰνον) – reed or rod, meaning a measure or standard (as in Galatians 6.16 [“And as many as walk according to this rule, peace be on them, and mercy, and upon the Israel of God”] and Philippians 3.16 [“Nevertheless,

so far as it impinges on ecclesiastical governance; and fifthly, subordinate legislation, whether enacted by secular or church agency.²⁷

This multiplicity of sources, and reliance on secular as well as religious sources of law, is consistent with a long tradition – and by no means solely post-Reformation. At least until the middle of the nineteenth century the ecclesiastical law in England was not regarded as an isolated system, but as a part, albeit with its own particular rules, of a much greater system, and one which might be illuminated and assisted by works of canonists in other lands.²⁸ Both theology and history demonstrate the ecclesiological nature of canon law.²⁹ Canon law itself was vital to the determination of disputes within the church, the allocation of responsibilities, and the maintenance of doctrine and liturgy.³⁰

Mediaeval legalism provided both an element of continuity for the nascent Church of England after the Reformation, but had also contributed to the break with Rome. Formal laws, and the legal tradition of England – partly in tune with developments on the Continent, and

whereto we have already attained, let us walk by the same rule, let us mind the same thing”]; James Coriden, *An Introduction to Canon Law* (1991), p. 3.

²⁷ After Garth Moore, *An Introduction to English Canon Law* (1967), p. 8, as modified for New Zealand circumstances, by removal of a reference to measures (Acts of Parliament applicable to the Church of England).

²⁸ Eric Kemp, *An Introduction to Canon Law in the Church of England* (1957), p. 62. Bishop Kemp points to *Welde alias Aston v. Welde* (1731) 2 Lee 580; 161 E.R. 446, a case replete with references to canonical and civilian texts and commentaries, as illustrating this point. See also Richard Helmholz, *Canon Law and the Law of England* (1987).

²⁹ There have been signs in recent years of a revival in the study of ecclesiastical law in the Anglican tradition, including the establishment of the Ecclesiastical Law Society; see also Christopher Hill, “Education in Canon Law”, *Ecclesiastical Law Journal* 5(22) (1998): 46-8.

³⁰ This was entrusted to the special canon law courts, and specialist canon lawyers, the advocates and proctors; George Squibb, *Doctors’ Commons* (1977).

partly divergent (particularly in the growth of the common law) led to an emphasis upon external legal formalism. But this might also serve to mask inner theological and ecclesiological principles.

Priesthood and the nature of the church

Recent scholarship has established that in England the new Anglican view of the priesthood was influenced by the legalism prevalent in contemporary English society and government.³¹ While the Anglican Church lacked the richness of the juridical structure of the See of Rome, her legal heritage remained important – initially at least only the top tier of the Church was restructured, though the rest was later to be partially reformed.³² While the Reformation in England was juridical in nature, it was not, initially at least, inherently revolutionary except in its removal or repudiation of a higher tier of authority. The lower-level hierarchy remained – in many cases with relatively little immediate change.³³

In the sixteenth century the catholicity of Holy Orders was important to the new Anglican Church because the Church purported to be a lawful continuation of the catholic church in England. In the

³¹ Legalism influenced the new Anglican view of priesthood by the formal certainty of the law acting as a partial substitute for theological speculation. See, for instance, Leigh Axton Williams, “Apologia for the Canon Law”, *Anglican Theological Review* 85(1) (2003): 119-126.

³² Generally, see Owen Chadwick, *The Reformation* (1968); Sir Geoffrey Elton (ed.), *The Reformation, 1520-1599* (2nd ed., 1990). One way in which this change in attitudes and practices was reflected was in the oaths and covenants taken during the late sixteenth to the late seventeenth century; see Edward Vallance, *Revolutionary England and the national covenant* (2005).

³³ For the longer-term effects of the Reformation on the ecclesiastical laws see Noel Cox, “The Influence of the Common Law and the Decline of the Ecclesiastical Courts of the Church of England”, *Rutgers Journal of Law and Religion* 3(1) (2001-2002): 1-45.

nineteenth century it was important to the Church, the nature of the formal legal establishment of the Church aside, because of the Anglo-Catholic Tractarian influence upon Church ecclesiology, and to a revived interest in the institutional identity of the Church. By the twentieth century a major factor had become the œcumenism, which saw apostolic succession or universal ministry as an avenue (or several related avenues) to the unity of the church. In the twenty-first century we see an institutional focus tending to fracture, as differing theological and ecclesiological understandings of Holy Orders coalesced and diverged.³⁴ To evangelicals the focus may tend to be on (external) unity – the apostolic fellowship;³⁵ to Anglo-Catholics on (internal) continuity – the divinely constituted church.³⁶

While the outward form remained that of the historic ministry the inner spirit was less sure.³⁷ While trying to keep a catholic form, in many respects the Church became overtly and spiritually protestant,³⁸ and this included its conception of Holy Orders. “Protestants” could however claim to possess catholicity also – as indeed many did, though their understanding of catholicity differed markedly from that of the Roman Catholic Church. It became more than simply a “break with Rome” (a jurisdictional matter).³⁹ The question remained as to whether the ministry remained truly catholic, as judged by the criteria of the Roman Catholic

³⁴ As on the ordination of women.

³⁵ Thomas Manson, *The Church's Ministry* (1948), p. 5.

³⁶ *Ibid.*

³⁷ Queen Mary I for a short time restored the Roman authority to the Church in England. See Thomas Mayer, *Cardinal Pole in European context* (2000).

³⁸ Diarmaid MacCulloch, *The Later Reformation in England* (2000); Colin Pendrill, *The English Reformation* (2000). This was especially so under King Edward VI (and particularly in the ordinals of 1550 and 1552); Francis Aidan Gasquet, *Edward VI and the Book of common prayer* (2nd ed., 1891).

Church, the Anglican Church, or the church universal – if this indeed differed from the former. Although the mass was deliberately abolished during the Reformation, the nature of Holy Orders was ostensibly unchanged. But the narrower legalist approach overshadowed sacramental and sacrificial aspects of Holy Orders, and this tended to obscure theological questions which were largely left unanswered. Transubstantiation was abolished as a formal doctrine – but the nature of the consecrated bread and wine in the Eucharistic sacrament was left deliberately vague and uncertain.

Some divines argued for a new theology of priesthood (especially one influenced by the belief that the one essential element was Christ⁴⁰), and the Edward VI Ordinal reflected some aspects of a protestant liturgical form. However, subsequent changes to the Ordinal, finalised in the 1662 *Book of Common Prayer*, emphasised continuity with the historic pre-Reformation Holy Orders.⁴¹ The intention was to maintain continuity, and the outward form of the church (as reflecting an implicit theology⁴²), without opening a “window into men’s souls”; indeed the *Book of Common Prayer* was a main source of Anglican doctrine and ecclesiology which were not expressed in canon law.⁴³ Implicit theology is that which the contemporary interpreter shows is present in implicit

³⁹ As instituted by the Restraint of Appeals Act 1532 (24 Hen. VIII c. 12) (Eng.) and later legislation.

⁴⁰ Thomas Manson, *The Church’s Ministry* (1948) 33.

⁴¹ Henry Chadwick, “The Discussion about Anglican Orders in Modern Anglican Theology”, in Hans Küng (ed.), *Apostolic Succession* (1968), pp. 141-9.

⁴² Prosper of Aquitaine noted that “*Lex orandi statuat legem credendi*” (the rule or shape of the Church’s worship is the primary and fundamental and most important articulation and expression of the Church’s teaching and doctrine). Aidan Kavanagh views the liturgy as *theologia prima* and all other theological expressions as *theologia secunda*; Aidan Kavanagh, *On Liturgical Theology* (1984).

form in action, theology, law, and which he or she then makes explicit to the contemporary mind. The *Book of Common Prayer* however also gave the Church a *lex orandi* in which its *lex credendi* has been expressed in a liturgical phraseology.⁴⁴ Validity remained important, for the Church was the church of Christ, not a mere creation of mankind. But because of the origin of Anglicanism this validity remained a legal formalism masking an implicit theology of Holy Orders. But this theology was not necessarily dissimilar to the pre-Reformation theology.

The validity rather than the theology of Anglican Holy Orders was initially a matter of concern as the Reformation developed in England. Unlike in the other leading centres of reformed religious thought at this time, England was not a centre of systematic reformed theology. The bishops of King Henry VIII's House of Lords were no more uniform in their views than were the members of the laity – or the lower clergy. One unifying element was, however, the rejection of papal authority in favour of the royal supremacy imposed by Parliament. This was therefore legally unquestionable (at least in civil law), however theologically uncertain. But the King seems to have had no wish to place himself in the position of making religious judgments.⁴⁵ Partly for these reasons the preservation of legal form and formal continuity was especially important. As will be shown, apparently they were more important than implicit compliance with underlying theological doctrine. The validity of Holy Orders thus depended, for the fledgling Anglican Church, upon

⁴³ John Howe, *Highways and Hedges* (1985), p. 35.

⁴⁴ Emmanuel Amand de Mendieta, *Anglican Vision* (1971), p. 58.

⁴⁵ King Henry VIII exercised the ecclesiastical jurisdiction conferred by the Act of Supremacy 1534 (26 Hen. VIII c. 1) through his vicegerent, Thomas Cromwell; "From Edmund Bonner's commission as bishop of London, 1538", reprinted in Sir Geoffrey Elton, *The Tudor Constitution* (1982), pp. 367-8. King Edward VI exercised it through a Commission of Delegates (the Court of

strict compliance with legal form,⁴⁶ especially in the preservation of apostolic succession. Validity in law meant adherence to legal form.⁴⁷

Does this mean the victory of erastianism? Perhaps it does, in a limited sense, in the absence of any other clear source of authority. But this did not necessarily affect the nature of Holy Orders. Anglican divine Hooker wrote of the supernatural character of Holy Orders that

For in that they are Christ's ambassadors and His labourers, who should give them their commission but He whose most inward affairs they manage? Is not God alone the Father of spirits? Are not souls the purchase of Jesus Christ? What angel in heaven could have said to man as our Lord did unto Peter, "Feed My sheep; Preach; Baptize; Do this in remembrance of Me; Whose sins ye retain they are retained; and their offences in heaven pardoned, whose faults ye shall on earth forgive"? What think we? Are these terrestrial sounds, or else are they voices uttered out of the clouds above? – O wretched blindness, if we admire not so great power; more wretched if we conceive it aright and notwithstanding imagine that any but God can bestow it!⁴⁸

In Hooker's view ordination conveyed a definite gift of the Holy Spirit for a definite purpose; and it conferred on the recipient an indelible character. This was consistent with the view of mediæval and scholastic

Delegates), established under the Act of Submission of the Clergy 1533 (25 Hen. VIII c. 19).

⁴⁶ This use of the term is to be distinguished from "form" as understood in Roman Catholic sacramental theology. "Form" referred to the actual rite (words used, gestures etc), rather than the matter. Implicit in the form was a sacramental theology. The form was legally prescribed, but Roman Catholics would not identify form as firstly a legal form. Preservation of episcopal succession involved both matter and form, and could not be simply identified with the form of the rite as a legally-based form.

⁴⁷ The selection, election, consecration and installation of an Archbishop of Canterbury is remarkable for its strongly legalistic aspects.

⁴⁸ Richard Hooker, *Of the Laws of Ecclesiastical Polity* ed. Arthur McGrade (1989), Book V, pp. lxxvii, 1.

theologians from Peter Lombard onwards. It was no mere form prescribed by decency and long tradition, but the living instrument by which the living Christ still endued his ministers “with power from on high;” still proclaimed to them “As my Father hath sent me, even so send I you”.⁴⁹ The vocation of Holy Orders was the perpetuation on earth – in a humbler fashion – of the Messianic office of the ascended Lord. These doctrinal elements were reflected in the ordinal for the ordination of priests.⁵⁰

The *Book of Common Prayer* (which dates in most essential respects from 1559) claims, or rather assumes as a matter of course, the continuity of the Church of England with the (pre-Reformation) past, and also her unity in all that is essential with the universal church. The 13th Canon of 1604 states in the most definite manner that the purpose of Reformation was not to divide, or separate from the unity of the church:

So far was it from the purpose of the Church of England to forsake and reject the Churches of Italy, France, Spain, Germany, or any such like Churches, in all things which they held and practised, that it doth with reverence retain those ceremonies which doth neither endanger the Church of God, nor offend the minds of sober men; and only departed from them in those particular points wherein they were fallen both from themselves in their ancient integrity and from the Apostolic Churches, which were their first founders.⁵¹

A more fully developed theological justification for Anglican distinctiveness was begun by Thomas Cranmer, the Archbishop of

⁴⁹ John 20.21.

⁵⁰ See, for instance, the required reading of Matthew 9.13.

⁵¹ John V. Bullard (ed.), *Constitutions and Canons Ecclesiastical 1604* (1934).

Canterbury, and continued by others such as Hooker and Andrewes.⁵² During the short reign of King Edward VI, Henry VIII's son, Cranmer was able to move the Church of England significantly towards a more Calvinist position. The first *Book of Common Prayer* dates from this period (1549). This reform was reversed abruptly in the subsequent reign of Queen Mary (1553-58). Only under Queen Elizabeth I was the English Church established as a reformed catholic church – and even then the 1570 excommunication of the Queen by the Pope was not necessarily predicated upon any doubts as to the validity of Holy Orders;⁵³ though as we will see doubts were indeed expressed.

Nor were doubts necessarily confined to the papacy; Cranmer's largely Calvinist understanding of the role of priests (especially in a rejection of a sacrificial aspect) was opposed by many within the Church of England. Cranmer's reforms were brought to an end by the rise of the catholic party under Queen Mary I. There was considerable popular support for the restoration of catholicism – and not simply among the lower orders. The recent extension of Calvinist influence over the Church of England had alienated many churchmen and laymen alike. However it is difficult to determine exactly how much support there was for the

⁵² Andrewes famously wrote that: "One canon ... two testaments, three creeds, four general councils, five centuries and the series of fathers in that period, the three centuries that is before Constantine, and two after determine the boundary of our faith"; *The Works of Lancelot Andrewes* (1854) *Opuscula Quaedam Posthuma*, vol. 9, p. 91.

⁵³ George Lewis, *The Papacy and Anglican Orders* (c.1955), p. 8. Elizabethan bishops were summoned to the Council of Trent, suggesting that the papacy did not then have insurmountable doubts about the validity of the orders of the bishops, some of whom were consecrated according to the Cranmer ritual. Their views with respect to the recognition of their appointments (or of the orthodoxy of their doctrine), was a different matter. See, however, the Papal Bull *Praeclara Clarissimi* (20th June 1555); Michael Davies, *The Order of Melchisedech* (1979), pp. 154-5.

revival of Catholicism in Mary's reign. It is probably safest to concede that what support there was had a mixed character.⁵⁴

The Anglican theology of Holy Orders as expressed in the ordinal and the *Thirty-nine Articles of Religion*,⁵⁵ saw the mandate for Holy Orders being found principally in the *Bible*.

As a reformed yet catholic Church,⁵⁶ the Anglican Church sought to emphasise both biblical authority and historic precedent.⁵⁷ The sacramental priesthood, and episcopal leadership, were formed in the early centuries of the church, and were retained by the national Church of England. The Church differed in some respects from the Roman Catholic Church in its latitude towards the ministries of protestant denominations. This included the later (nineteenth century) limited acceptance of non-episcopal ministries in other national and particular churches and elsewhere, though not in its own communion.⁵⁸ Thus, while the Anglican doctrinal position was that episcopal ministry was essential to its own catholic view of the church, it did not maintain that this was necessarily a

⁵⁴ Jennifer Loach, "Mary Tudor and the re-Catholicisation of England", *History Today* 44(11) (November 1994): 16.

⁵⁵ *Thirty-Nine Articles of Religion* (1562, confirmed 1571 by the Subscription (Thirty-Nine Articles) Act 1571 (13 Eliz. I c. 12) (Eng.)).

⁵⁶ Continuity of ministry in the tradition of the universal church has been based, as a matter of theology as well as practice, upon the three-fold ministry, at least after the first few centuries of the church. Bishop Hanson, among many others, argues that while monarchical bishops emerged in the second century and became "universal and stereotyped central ministers in the church", "it is very difficult to defend the threefold structure of ministry" as of apostolic origins in the narrower sense; Richard Hanson, *Groundwork for Unity* (1971), pp. 32, 47-8. See also Hans von Campenhausen, *Ecclesiastical Authority and Spiritual Power in the Church of the First Three Centuries* trans. John Baker (1969); and Keenan Osborne, *Priesthood* (1989) for similar points.

⁵⁷ The maintenance of the apostolic succession was important because of Christ's promise that the "gates of hell" would not prevail against the church (Matthew 16.18); and his promise that he himself would be with the apostles to "the end of the age" (Matthew 28.20).

universal requirement, and that denominations might preserve a valid ministry even if episcopal succession were broken – provided ordination was episcopal.

Anglicanism was not based upon the theology of a Calvin or Luther, nor was it a systematic rejection of pre-Reformation theology or ecclesiology. In the years prior to the Reformation, English theologians could not afford to question the biblical origins of Holy Orders, for fear of undermining the Scriptural basis of Church authority. Even in later years they did not do so as freely as could those of the Roman Catholic Church, because the latter might always rely upon the over-arching authority of the *magisterium*⁵⁹ – though the authority of the latter was also subject to scrutiny. The Anglican Communion could merely rely on received knowledge and long Church tradition – though synods could, and did, make some changes. Radical changes would not only be surprising but might also be dangerous, and raise doubts about the authority of the Church.

Biblical authority was of fundamental importance to the Anglican Communion, but it was not enough alone and unguided. This authority had to be read in accordance with tradition, just as it was taught in the Roman Catholic Church. To this extent the criteria of the validity of Holy Orders of the Anglican Communion and the Roman Catholic Church were consistent. It was in the degree to which tradition, and the teaching of the church, affects our understanding of Holy Scripture, and the weight to be placed on traditions, that they began to differ.

The desire for overt and actual continuity seemed to stem from an urge to be seen as a reformed part of the universal church, and also from a tradition of legality and adherence to form which emphasised

⁵⁸ See the 1888 Lambeth Quadrilateral; L.C. 1888, Res. 11.

continuity and historic precedent. The Church of England was thus orthodox and catholic. But it did not place such a strong emphasis upon tradition as it had prior to the Reformation, with greater emphasis upon scriptural authority.

Implicit theology and “windows into men’s souls”

The Anglican Church was loath to institute its own central authority after it consciously rejected the final authority of the pope. It did so reluctantly, by parliamentary sanction.⁶⁰ The differing theological understandings of Holy Orders in the Anglican and Roman Catholic Churches were developed after the break with Rome, and inevitably reflected elements of the contemporary political and religious environment and thought. In the absence of a fully developed doctrine in the Anglican Church, authority came to be a substitute for a theology of the nature of Holy Orders.

We will not here consider how the understanding of Holy Orders in the Roman Catholic Church developed – what was important was what the early Anglican theologians thought it meant. The Anglican position was that the universal church is inherently capable of reform – to a qualified extent – without loss of catholicity. It would also be true (so the argument might proceed) that Anglicans were equally part of the universal church with the Roman Catholic Church, so that any liturgical or doctrinal changes made by any particular Church are equally valid as those made by Rome itself. Thus Anglicans should not be required to

⁵⁹ See Brian Tierney, *Origins of Papal Infallibility* (1972).

conform to the norms upheld by the See of Rome.⁶¹ Catholicity can be seen in the actions of the various parts of the universal church. But this argument appears to minimise the importance of the broader notion of catholicity as determined by the deliberations of the whole church,⁶² and the equally important question of jurisdictional authority. This latter may be taken to refer to biblical authority, and the institutional authority of the church. This is vested in the historic episcopate – or the presbyterate, and especially in the occupant of the See of Rome, as Vicar of Christ⁶³ – as well as legal authority derived from secular sources. There was no question of adopting the Calvinist *sola scriptura*.⁶⁴ As Gore later observed, “the Spirit in the society interprets the Spirit in the books”.⁶⁵

The circumstances of the break with Rome in the sixteenth century need not be considered in depth here. It is sufficient to observe that the contest with Rome began as one primarily of jurisdiction⁶⁶ – King Henry VIII died avowing himself a good Catholic.⁶⁷ But in England the break

⁶⁰ See, however, the Preface and Article 37 of the *Thirty-Nine Articles of Religion*, enacted in 1562, and confirmed in 1571 by the Subscription (Thirty-Nine Articles) Act 1571 (13 Eliz. I c. 12) (Eng.).

⁶¹ Stephen Sykes, “Catholicity and Authority in Anglican-Lutheran Relations”, in Stephen Sykes (ed.), *Authority in the Anglican Communion* (1987), pp. 264-83, 265.

⁶² See, for instance, Karel Blei, “The Church and the Churches: Reflections on the unity of the Church”, *Greek Orthodox Theological Review* 43(1-4) (1998): 503-20; John Garvey, “Gender and priesthood”, *Commonweal* 123(2) (26th January 1996): 7.

⁶³ “Christ’s true representative and substitute and the head of the whole Church” (*verus Christi vicarius totiusque Ecclesiae caput*).

⁶⁴ Emmanuel Amand de Mendieta, *Rome and Canterbury* (1962), p. 134.

⁶⁵ Charles Gore, *Roman Catholic Claims* (1920), p. 61.

⁶⁶ James Spalding, *The Reformation of the Ecclesiastical Laws of England, 1552* (1992), pp. 1-57.

⁶⁷ The much earlier Great Schism had also originally been concerned primarily with authority, and the validity of the Holy Orders of the eastern and western churches was rarely questioned in either camp.

with Rome was merely one step in the Reformation. The Church of England, while asserting its catholicity, was to become at least partially doctrinally Protestant. This was so in the sense that the *Thirty-Nine Articles* expressly reject certain key elements of then contemporary Roman Catholic dogma, and include Zwinglian expressions and manner of thought. This was less the result of government policy than a consequence of the decapitation of the Anglican Church (in the loss of papal control),⁶⁸ and contemporary religious and political feelings. With the loss of what was portrayed as the “heavy hand” of Rome⁶⁹ English prelates – and lesser clerics and laymen alike – felt able (and even impelled) to offer their own contributions to the further reform of the catholic church in England.⁷⁰

The removal of the papal authority necessitated a replacement, since the church was the Church of England – organised religion remained State-sponsored, as religion was not a matter which could be left entirely a matter for individual preference.⁷¹ The obvious choice, from a pragmatic perspective, was to simply replace the Pope with the King; though the natures of the two roles were dissimilar in many respects. Some contemporary prelates and most political leaders were generally able to persuade themselves that this was not necessarily such a radical change as it might at first appear. That the majority of the episcopate did not necessarily agree with this perspective may be seen in

⁶⁸ The Sovereign can only be seen as head of the Church of England (in England) in a narrow jurisdictional sense. See Norman Doe, *The Legal Framework of the Church of England* (1996)

⁶⁹ The reformers in England and elsewhere ignored from the outset the New Testament doctrine of the “universal” church as an inherent part of the Gospel, but its replacement was a pragmatic necessity; *Catholicity* (1947), p. 36.

⁷⁰ See Owen Chadwick, *The Reformation* (1968); Sir Geoffrey Elton (ed.), *The Reformation, 1520-1599* (2nd ed., 1990).

the numbers of vacant sees at times during the sixteenth century – though there were many reasons why a see might remain vacant (including an economic one; the Crown controlled the temporalities of a vacant see). Elizabeth I, in particular, also sought to avoid the unedifying spectre of a turbulent episcopacy arguing amongst themselves.⁷²

Although the role of the law (as the means through which the Church is regulated) may have been marginalised in the course of the century after the break with Rome, the Church retained the outward appearance of catholicity, particularly in its Holy Orders. Initially the historic episcopate was preserved in 1533 because it was only the formal legal jurisdiction of the Pope which was being removed.⁷³ By 1660 common law influences had meant that the universal (western) canon law was less relevant to the Anglican Church. But this did not affect the episcopate except insofar as legal continuity was now seen in common law terms. This should have strengthened the emphasis upon strict apostolic succession, as indeed it did. But at the same time the role of the priest and bishop had subtly changed. The theology of Holy Orders was not unaffected by the alterations in the *Book of Common Prayer* and Ordinals.

The preservation of the outward form of the episcopate in the Settlements of Queen Elizabeth I and Charles I King and Martyr was an important element.⁷⁴ But it left unanswered the question of whether these

⁷¹ Arthur Haddan, *Apostolic Succession in the Church of England* (1883), pp. 9-12.

⁷² William Haugaard, *Elizabeth and the English reformation* (1968).

⁷³ See the Ecclesiastical Appeals Act 1532 (24 Hen. VIII c. 12) (Eng.); Submission of the Clergy Act 1533 (25 Hen. VIII c. 19) (Eng.); Appointment of Bishops Act 1533 (25 Hen. VIII c. 20) (Eng.); Ecclesiastical Licences Act 1533 (25 Hen. VIII c. 21) (Eng.); Act of Supremacy 1534 (26 Hen. VIII c. 1) (Eng.).

⁷⁴ William Haugaard, *Elizabeth and the English reformation* (1968); Robert Rodes, *Law and Modernisation in the Church of England* (1991).

were valid Holy Orders. The question itself may rarely have been raised – indeed it was scarcely raised at all until the Anglican Church came into contact with other protestant and catholic denominations abroad during the course of the nineteenth century. Like the eastern Church after the Great Schism, questions of doctrine, including the validity of Holy Orders, generally only arose some time after the jurisdictional break occurred. King Henry VIII himself did not trust the orthodoxy of the bishops, and for this reason intervened in theological arguments – the *King's Book* (1543) was more Catholic than the *Bishop's Book* (1539).⁷⁵ Continuity may outwardly have been preserved, but the Roman Catholic Church did not have the same perspective as the Church of England.

The first documented rejection of the validity of Anglican Holy Orders by the *magisterium* in Rome was in 1555.⁷⁶ A papal bull of Paul IV, *Praeclara Clarissimi* (20th June 1555) specified that all clergy in the Church of England who had been ordained under any rite other than the Pontifical were to be re-ordained absolutely. It clarified the powers given to Cardinal Pole, who had been sent to England to regularise the religious position after Queen Mary came to the throne.⁷⁷ Cardinal Pole had previously hesitated between requiring them to be ordained *de novo* and absolutely, and requiring only those ceremonies prescribed by the rites of the Pontifical but which had been omitted from Cranmer's Ordinals of 1550 and 1552 to be conferred.⁷⁸

Later in the same year, in *Regimini Universalis* (30th October 1555), the Pope clarified the grounds for requiring unconditional re-

⁷⁵ Ibid, p. 5.

⁷⁶ Though the first official general denial of their validity by the Holy See was as late as 1685; George Lewis, *The Papacy and Anglican Orders* (c.1955), p. 12.

⁷⁷ Michael Davies, *The Order of Melchisedech* (1979), pp. 154-5.

⁷⁸ It is unclear how many were actually re-ordained.

ordination of clergymen ordained according to the rites of the reformed Church of England, by writing:

We declare that it is only those Bishops and Archbishops who were not ordained and consecrated in the form of the Church that can not be said to be duly and rightly ordained and therefore the person promoted by them to these orders have not received orders but ought and are bound to receive anew these said orders from the ordinary.⁷⁹

The question of validity of Holy Orders was first raised among Anglicans at about the same time, when Hooker argued (in the latter part of the century) that they were validly ordained. Concurrently the ordinal itself underwent reform. The question of apostolic succession was thus first raised among Anglicans and by the Roman Catholic Church approximately contemporaneously. The dispute focused on the validity or otherwise of the consecration of bishops according to the new Cranmer ritual. This could mean that there was common element of uncertainty.

The post-Reformation Church of England was not the result of a theological dispute per se – there was no Luther or Calvin, or Council of Trent, to show the way. Uniquely it is not established upon a confession of faith, apart from the ancient Creeds.⁸⁰ It was rather more the result of political expediency. Queen Elizabeth I herself was influenced by both the non-papal Catholicism of Henry VIII and the moderate Lutheranism of the Augsburg Confession,⁸¹ but perhaps most of all by a profound pragmatism. The Queen did not wish to impose unduly restrictive doctrine or liturgy. External conformity was sufficient for the stability of

⁷⁹ Ibid, p. 157.

⁸⁰ John Jay Hughes, *Absolutely Null and Utterly Void* (1968), p. 10.

⁸¹ George Tavard, *The Quest for Catholicity* (1963), p. 23.

the state.⁸² Some Anglican theologians tended to turn to continental reformers for guidance, others to the Catholic Fathers and ancient bishops, others still to the Renaissance learning.⁸³ The Queen was broadly content with this, provided the stability of the state wasn't imperilled.

There was thus no clearly defined "official" definition of Holy Orders, and a considerable degree of uncertainty and difference of opinion. Indeed, following the lead shown by both Henry VIII and Queen Elizabeth, this is scarcely surprising. The Anglican approach, as typified by Hooker, was to regard the truth as a mystery whose full understanding is beyond us, but which can be elucidated by the interplay of different minds seeking it from different angles.⁸⁴ As Brook notes, "the model they [Bacon, Cecil, and the Queen] had in view was a church Catholic but reformed, its historic roots unsevered, avoiding the errors of Rome ... and the excesses of Protestantism".⁸⁵

The champion of catholicity at this time (the mid- to late- sixteenth century) was Stephen Gardiner, Bishop of Winchester (1531-55).⁸⁶ For him catholicity was universality of belief, joined to consonancy with

⁸² *Catholicity* (1947), p. 49.

⁸³ What became known as Evangelist, Anglo-Catholic and Liberal respectively; *Catholicity* (1947), p. 49.

⁸⁴ *Catholicity* (1947), p. 49. See, for instance, Hooker's doctrine of the church; William Harrison, "Prudence and Custom: Revisiting Hooker on Authority", *Anglican Theological Review* 84(4) (2002): 897.

⁸⁵ Victor Brook, *A Life of Archbishop Parker* (1962), p. 334.

⁸⁶ He was thus in possession of his see before the break with Rome, and saw the early developments of the Reformation in England, from the Ecclesiastical Appeals Act 1532 (24 Hen. VIII c. 12) (Eng.) and the Submission of the Clergy Act 1533 (25 Hen. VIII c. 19) (Eng.), to the Canon Law Act 1543 (35 Hen. VIII c. 16) (Eng.) and Ecclesiastical Jurisdiction Act 1545 (37 Hen. VIII c. 17) (Eng.); as well as the return to Rome under Queen Mary; See of Rome Act 1554 (1 & 2 Philip & Mary c. 8) (Eng.).

Holy Scripture and the constant Church tradition.⁸⁷ Archbishop Cranmer's view of "true and Catholic" doctrine was different. For him doctrine was catholic if held by the early church (which he supposed to be better endowed by the Holy Spirit), even if in opposition to the present Church – and later he also placed some importance on the King's authority.⁸⁸

Archbishop Parker's *De Antiquitate Ecclesiae Britannicæ* (1572)⁸⁹ presented the Church as a revival of the ancient pure Christian faith practised in England before its "pollution at the hands of the Popes". Hooker similarly emphasised the venerable past of the Church in England, but that the priest had no necessary sacrificial role.⁹⁰ However, Hugh Latimer (Bishop of Worcester 1535-39, burnt 1555), maintained that the Christian ministry – not simply that of the Church of England – was not a sacrificing priesthood.⁹¹ It would also seem that bishops owed their continued existence to their historical origins, and the jurisdictional role they maintained.⁹² John Whitgift (Archbishop of Canterbury 1583-1604) observed that they derived from the presbyter not the *sacerdos*.⁹³ However, sacerdotal ideas, never entirely absent, were to be revived by

⁸⁷ George Tavard, *The Quest for Catholicity* (1963), pp. 5-8.

⁸⁸ *Ibid*, pp. 8, 14.

⁸⁹ Matthew Parker, *De Antiquitate Ecclesiae Britannicæ* (1572).

⁹⁰ Richard Hooker, *Of the Laws of Ecclesiastical Polity* ed. Arthur McGrade (1989), Book V, p. 78.

⁹¹ Roger Beckwith, *Priesthood and Sacraments* (1964), p. 23; Hugh Latimer, *Sermons and Remains* (1845), pp. 254-6, 264.

⁹² Drawing on Aquinas, from Trent to Vatican II the Roman Catholic Church recognised both a *potestas ordinis* and a *potestas jurisdictionis* of the bishop; Brian Tierney, *Origins of Papal Infallibility* (1972), pp. 82-86.

⁹³ *The Works of John Whitgift* ed. John Ayre (1851-1853), vol. 3, pp. 350ff; cf. John Jewel, *The Works of John Jewel* (1845-1850), vol. 4, pp. 911ff; William Fulke, *A defence of the sincere and true translations of the Holy Scriptures into the English tongue* (1843), pp. 240-77.

the seventeenth century Laudians,⁹⁴ and the *Book of Common Prayer* of 1662 reflected their renewed importance.⁹⁵

The Elizabethan State needed the Church, and great care was taken to secure the continuity of the Church of England, and to maintain episcopal government, and the rights of convocations to legislate in Church matters.⁹⁶ There were irregularities – particularly in the ministry of men not episcopally-ordained – but consistent efforts were made to exercise control through a consistent explicit theology, principally through the enforcement of the subscription to the *Thirty-nine Articles of Religion*.⁹⁷ The intention was to maintain continuity, and the outward form of the Anglican Church (what may be described as a form of implicit theology), without opening a “window into men’s souls”, as Elizabeth I expressed it. Outward conformity was sufficient for the peace of church and state. Thus the *Thirty-nine Articles* themselves might be interpreted broadly, as indeed they were by the more catholic clergy. Validity remained important, for the Church was the church of Christ, not a mere creation of mankind.

However, Protestant ideas became more pronounced as time passed. This was particularly noticeable in the ongoing reform of the *Prayer Book*. A Zwinglian expression can be seen in the *Prayer Book* of 1559: “take and eat this in remembrance that Christ died for thee, and feed on him in thy heart by faith by thanksgiving”. But this expression was added to the 1549 formula, approved by Gardiner, that “the Body of

⁹⁴ Roger Beckwith, *Priesthood and Sacraments* (1964), p. 24.

⁹⁵ Michael Ramsey, *The English Prayer Book 1549-1662* (1963).

⁹⁶ Beatrice Hamilton Thompson, “The Post-Reformation Episcopate in England: From the Reformation to the Restoration”, in Kenneth Kirk (ed.), *The Apostolic Ministry* (2nd ed., 1957), pp. 387-432.

⁹⁷ *Thirty-Nine Articles of Religion* (1562, confirmed 1571 by the Subscription (Thirty-Nine Articles) Act 1571 (13 Eliz. I c. 12) (Eng.)).

Our Lord Jesus Christ, which was given for thee, preserve thy body and soul unto everlasting life”⁹⁸ (in the tradition for communion to the sick and dying). This was thus outside the immediate context of the Mass. There was little doctrinal consistency – perhaps because there was no agreement which could lead to this. The authority of the authors was limited (so they could not impose uniformity except by trying to accommodate as many views as possible). But the tendency grew to define catholicity by reference to the episcopal structure.⁹⁹ The *Thirty-Nine Articles* of 1563 were a drastic revision of the much more Protestant *Articles* of 1553, notably in removing the Zwinglian doctrine of the Eucharist.¹⁰⁰

The emphasis was upon authority and – apart from a desire to preserve episcopal ordinations and apostolic succession to safeguard Christ’s promise – little thought was given to the nature of Holy Orders. Hooker reiterated the necessity of episcopacy;¹⁰¹ and Charles I King and Martyr died for it, as much as for anything more overtly political.¹⁰² But even here there was uncertainty as to whether episcopacy was a matter of jurisdiction or Holy Orders; Fulke, supported by Archbishop Bancroft, argued that there was a distinction.¹⁰³ The view that episcopacy differed

⁹⁸ George Tavad, *The Quest for Catholicity* (1963), p. 23.

⁹⁹ Ibid, p. 33; Richard Bancroft, *Dangerous Positions and Proceedings* (1593) and especially *Survey of the Pretended Holy Discipline* (1593); Hadrian Saravia, *Treatise on the Different Degrees of the Christian Priesthood* (1590).

¹⁰⁰ Henry Chadwick, “The Discussion about Anglican Orders in Modern Anglican Theology”, in Hans Küng (ed.), *Apostolic Succession* (1968), p. 142.

¹⁰¹ Richard Hooker, *Of the Laws of Ecclesiastical Polity* ed. Arthur McGrade (1989), Book III.

¹⁰² See Andrew Lacey, *The cult of King Charles the martyr* (2003).

¹⁰³ William Fulke, *A defence of the sincere and true translations of the Holy Scriptures into the English tongue* (1583); Richard Bancroft, *Survey of the Pretended Holy Discipline* (1593).

from priesthood in Holy Orders as much as in jurisdiction dominated,¹⁰⁴ at least among the catholic theologians of the Anglican Church.

The emphasis since the Reformation has been upon the Churches of the Anglican Communion as examples of national or particular churches. This is consistent with theology and practice in both east and west. But an over-emphasis upon national identity can lead to the churches being seen as *sui generis*, rather than as being in communion with one another.

With the significant – and much more recent – exception of the ordination of women priests, the ministry remains fairly soundly based on the historical episcopal model, with three Holy Orders of bishop, priest and deacon, and little affected by secular models. It is only occasionally, in their relation to their parishioners or to their ecclesiastical superiors, that the secular law has any significant impact upon the authority, responsibilities, or role of the ministry of the Church. Nor was there a theological genius such as Luther, Calvin or Zwingli to lay a ground plan for the Church – though Cranmer, Hooker, and a few others, were especially influential.¹⁰⁵

In official ordinals and doctrinal statements in the post-Reformation and Elizabethan period there was an implicit theology tending in a more protestant direction, motivated more by legal concerns than theological ones. Yet there was no such agreement among the authors of that period, whose views differed markedly. This dichotomy was a consequence of the legalism dominating the break with Rome, and the absence of a guiding theology, beyond an assertion that the Church was part of the “One Holy Catholic and Apostolic Church”. The result was not necessarily loss of theological catholicity and orthodoxy, but

¹⁰⁴ Hadrian Saravia, *Treatise on the Different Degrees of the Christian Priesthood* (1590).

¹⁰⁵ Emmanuel Amand de Mendieta, *Anglican Vision* (1971), p. 60.

rather uncertainty. This led, in large part, to the conflicts of the more overtly catholic Caroline divines.¹⁰⁶

Conclusion

Although some divines – such as Cranmer – had argued for a new theology of priesthood,¹⁰⁷ and although the Edward VI Ordinal reflected some aspects of a protestant liturgical form, subsequent changes to the Ordinal, finalised in the 1662 *Book of Common Prayer*, emphasised continuity with the historic pre-Reformation Holy Orders. The intention was to maintain continuity, and the outward form of the church (implicit theology), without opening a “window into men’s souls”. Validity remained important, for the Church was the church of Christ, not a mere creation of mankind. But because of the origin of the Anglicanism this validity remained a legal formalism apparently masking an implicit theology of Holy Orders.

The Church of England found itself on the Protestant side of the religious divide. But it included (according at least to the Evangelical perspective¹⁰⁸) “both those who looked primarily to the Continental reformers and those who looked rather to the ancient Fathers as the standard interpreters of the biblical Faith”.¹⁰⁹

¹⁰⁶ See Peter Nockles, *The Oxford Movement in Context* (1997) and Chapter III, “The growth of Tractarianism and historicism in Anglicanism”.

¹⁰⁷ Cranmer on theology of priesthood; Peter Brooks, *Thomas Cranmer’s Doctrine of the Eucharist* (1965).

¹⁰⁸ *The Catholicity of Protestantism* eds. Newton Flew and Rupert Davies (1950), p. 7.

¹⁰⁹ Report to the Archbishop of Canterbury, *The Fulness of Christ* (1950), pp. 52-3.

The loss of papal authority at the Reformation was accompanied by a rejection of one form of legalism, in favour of a renewed emphasis upon Holy Scripture, and a renewed legalism. Legalism, and especially formal legalism, became a substitute for the previous centrality of teaching of the Roman Catholic Church. This meant, with respect to the question of Holy Orders, that adherence to legal form remained important, even if the theology of the orders was less certain. By the nineteenth century a revival of historical interest – or historicism – renewed interest in the theology (as distinct from the legal formalism) of Holy Orders. This coincided, however, with a period during which the Holy See was less concerned with œcumenism than with the protection of the nascent hierarchy of the Church in England.

Overall, while the nature of the Reformation in England was legalistic, the heritage this leaves the modern Anglican Communion is significant. In the first place there is the lack of central authority – since Parliament cannot or will not legislate (and this is especially so outside England). Secondly, we see law as a substitute for theology. In part this reflects the absence of a doctrinal revolution, so it can be argued that this reinforces claims to catholicity of Holy Orders. This has been rendered more complex by the development of the Anglican Communion, further weakening the central authority of the Church.

The Reformation was insufficiently revolutionary to create a distinct theology of Holy Orders. This meant that the Anglican Church relied on pre-Reformation concepts of Holy Orders, despite signs otherwise of the abandonment, to a greater or lesser degree, of a sacrificing priesthood. The Anglican Church tried to be both catholic and reformed, through the lens of biblical authority. Subsequent reconsideration of the nature of Holy Orders, and of the universal church, mean that these questions remain alive today – but more certain.

III – APOSTOLICAE CURAE AND THE ANGLICAN HOPES FOR RECOGNITION

Introduction

The previous chapter has set the scene, showing that, as the Church lost its previous central authority, so it turned to Holy Scripture for authority, as well as to a form of legalism which was native to the shores of England. Later the royal supremacy waned, and Roman Catholic and antiquarian influences became increasingly important in some parts of the Anglican Church. There was a renewed identification with the universal church as personified by the Roman Catholic Church. This also coincided with the growth abroad of the Anglican Communion, a development of which itself brought new issues with respect to the nature of authority within the Church.

We now turn to the nineteenth century. Attempts to gain papal endorsement of the validity of Anglican Holy Orders in the nineteenth century reflected renewed respect for tradition, law, and history. Such apparently superficial attitudes could not necessarily mask more serious differences in doctrine, especially with respect to the nature of the sacrificial priesthood. It is worth noting that moves to gain papal recognition did not come from the leadership of the Church of England, but from leading Anglo-Catholics within the Church. As far as the leadership was concerned the Holy Orders of the Anglican Church were valid, and did not require explicit recognition from anyone outside the Church.

However despite internal interest – or indifference to Holy Orders within the Anglican Church – externally the attitude was similarly mixed.

Only valid Holy Orders might be recognised, and the Roman Catholic Church had a clear position with respect to orders. Illicit but valid orders might be created outside the jurisdiction of the *magisterium*; but validity required certain preconditions.

The alleged lack of intention to create a sacrificial priesthood – as well as outward deficiency of form – was the papal explanation for *Apostolicae Curae*'s rejection of Anglican Holy Orders in 1896 as “absolutely null and utterly void” (*actas irritas prorsus fuisse et esse omninoque nullas*).¹

This chapter does not focus upon the technical questions of form and intention which were the basis of *Apostolicae Curae*.² We will explore why the absence of a uniform Anglican theology of Holy Orders meant that the recognition of its Holy Orders by other elements of the historic catholic church was seen to be important, not simply by the Tractarians,³ but by the wider leadership of the Church. By this time both Churches were in the process of reinterpreting their immediate past since the Reformation. Tractarian-influenced thinking in the Church of England focused on an institutional continuity. Unfortunately (or perhaps fortunately, depending upon one's perspective) for Anglicanism the Vatican denied this because of what could be categorised as an equally legalistic analysis.

The Holy See's rejection of the implicit theology of Anglican Holy Orders – or at least the validity of these Holy Orders due to defects in form and intent in the sixteenth century ordinals – brought about a reaction from Anglicanism. This tended to be both defensive, in

¹ Pope Leo XIII, *Letters Apostolic of His Holiness Leo XIII ... concerning Anglican Orders dated: September 13, 1896* (1896).

² Ibid.

³ See Owen Chadwick, *The spirit of the Oxford movement* (1990).

historical justification, and also forward-looking in the tone of critical analysis which departed markedly from the scholasticism apparent in *Apostolicae Curae*.

We commence with setting the scene, bringing the position forward from the sixteenth century to the early to mid-nineteenth century.

The growth of Tractarianism and historicism in Anglicanism

Many leading Jacobean and Caroline divines of the earlier part of the seventeenth century attempted to define the catholic consciousness of the Anglican Church, in the face of what they saw as Roman Catholic proselytising and Puritan attacks.⁴ They did not doubt that the Anglican Church was catholic.⁵ Divines such as Archbishop John Bramhall espoused a theology which was very largely pre-Reformation in nature.⁶ The later Oxford Movement defined catholicity with more specificity, and more loudly, but they were not original.⁷ Where they differed from their predecessors was in their general espousal of a branch theory. This saw the Roman Catholic Church itself as schismatic,⁸ on the basis of New Testament understanding that there was only one church in each area.⁹ There was however an important link between the Caroline divines and the later Tractarians.¹⁰ The Caroline Divines systematized Anglican

⁴ George Tavard, *The Quest for Catholicity* (1963), pp. 44-6.

⁵ *Ibid*, pp. 47-8.

⁶ *Ibid*, p. 54.

⁷ *Ibid*, p. 77.

⁸ Sir William Palmer, *Treatise on the Church of Christ* (2nd ed., 1839), cf. William Nicholls, *Æcumenism and Catholicity* (1952), p. 86.

⁹ William Nicholls, *Æcumenism and Catholicity* (1952), p. 86.

¹⁰ Peter Nockles, *The Oxford Movement in Context* (1997).

theology in the seventeenth century. They are often thought to represent a kind of golden age for Anglican moral theology, because this was when the most extensive and systematic treatment of moral theology was produced, and there was considerable interest in providing a careful analysis of moral reasoning with the analysis of a wide range of “cases of conscience”.¹¹ But the catholic ethos of worship and liturgy held by Laud and his contemporaries was not compatible with the doctrine or worship of English Calvinists. Further, the Scottish Prayer Book controversy showed that they were even more antithetical to Scottish Calvinism.¹² The Tractarian controversy – though in a quite different social, theological and especially political context – reflected a similar tension.

Three hundred and fifty years after the Reformation the Anglican Communion and the Roman Catholic Church were once again in a position to compare their Holy Orders, due to converging developments, the pre-twentieth century œcumenism, Roman Catholic liberalism, and the Catholic movement in the Anglican Church. In the late nineteenth century there was hope expressed by many in the Anglican Communion that the Roman Catholic Church would finally grant recognition to its Holy Orders. These hopes coincided with the rapid growth of the Tractarian or Anglo-Catholic wing of the Anglican Communion, which itself drew strength from, and helped to foster, a “gothic revival” and renewed interest in, and appreciation of, the mediæval Christian heritage of Europe.¹³

¹¹ See Nicholas Tyacke, *Anti-Calvinists* (1987); Paul Grant Stanwood, “Contemporary and Patristic Borrowing in the Caroline Divines”, *Renaissance Quarterly* 23 (1970): 421–29.

¹² Owen Chadwick, *The Reformation* (1968), p. 228; Jardine Grisbrooke, “The Scottish Communion Rite of 1637”, in *Anglican Liturgies of the Seventeenth and Eighteenth Centuries* (1958), pp. 1-18, 165-82.

¹³ Nigel Yates, *Anglican ritualism in Victorian Britain* (1999); James White, *The Cambridge movement* (1962).

Both Abbe Fernand Portal¹⁴ and Viscount Halifax,¹⁵ the two men who did most to lead the moves which eventually led to *Apostolicae Curae*, saw the recognition of Holy Orders as only one stage in a process of rapprochement.¹⁶ Unfortunately the time may not have been right. Anglican Archbishop Edward Benson (of Canterbury) was suspicious, and Roman Catholic Archbishop Herbert Vaughan (of Westminster) actively hostile.¹⁷ In the event the papal pronouncement was, in the opinion of Roman Catholic commentator Hughes, the result of expediency.¹⁸ The Holy See was unwilling to be seen to do anything which might undermine the position of the newly established English Roman Catholic hierarchy.¹⁹ The ecclesiological arguments within the Commission which drafted *Apostolicae Curae* were divided over the validity of Anglican Holy Orders.

Apostolicae Curae

Pope Leo XIII declined to recognise the catholicity of Anglican Holy Orders. This was due to a perceived failure to preserve apostolic succession.²⁰ Fundamentally, as Newman observed in his 1872 note to

¹⁴ Hippolyte Hemmer, *Fernand Portal (1855-1926) apostle of unity* trans. & ed. Arthur T. Macmillan (1961).

¹⁵ John Lockhart, *Charles Lindley Viscount Halifax (1935-1936)*.

¹⁶ John Jay Hughes, *Absolutely Null and Utterly Void* (1968), p. 35.

¹⁷ *Ibid*, pp. 37-45.

¹⁸ *Ibid*, pp. 89-90.

¹⁹ *Ibid*.

²⁰ Pope Leo XIII, *Letters Apostolic of His Holiness Leo XIII ... concerning Anglican Orders dated: September 13, 1896* (1896).

his 1840 *Essay on the Catholicity of the Anglican Church*,²¹ “Anglicans believe that they belong to the true church because their Holy Orders are valid, while Catholics believe their Holy Orders are valid because they belong to the true church”.²² There remained an important difference of perception, if not indeed of substance.

Unfortunately for the Anglican Communion, its own conception of Holy Orders was not as certain or as catholic as might perhaps have been wished.²³ This contributed to the refusal of the Holy See to recognise them as valid.²⁴ The Church had asserted that it maintained episcopal government and apostolic succession – and indeed it was generally successful in so doing. But it was seen (by the officials of the Papal Curia who comprised the Commission which reviewed the status of Anglican Holy Orders²⁵) as deficient at a more fundamental level. This was its sacramental nature, which suffered because of the sixteenth century rejection of the Roman Catholic Mass in favour of a Protestant Holy Communion or Eucharist.²⁶ The centrality of the Eucharist was deliberately de-emphasised in the sixteenth century liturgy – though it underwent a revival in the nineteenth century, and was always liturgically important. But the Anglican liturgy of ordination was also said – by the Roman Catholic Church – to be defective.

²¹ Cited in William Nicholls, *Æcumenism and Catholicity* (1952), pp. 90-91.

²² John Henry Newman, *Essays and Sketches* ed. Charles Frederick Harrold (1948).

²³ Stephen Sykes, “‘To the intent that these Orders may be continued’: An Anglican theology of Holy Orders”, *Anglican Theological Review* 78(1) (1996): 48-63.

²⁴ Pope Leo XIII, *Letters Apostolic of His Holiness Leo XIII ... concerning Anglican Orders dated: September 13, 1896* (1896).

²⁵ See Christopher Hill and Edward Yarnold (eds.), *Anglican Orders* (1997).

²⁶ Francis Clark, *Anglican orders and the defect of intention* (1956).

The defect in form was the omission of the ordination formula, “Receive the Holy Ghost”, and lack of mention of the distinctive characteristic of the catholic priesthood; namely the power to consecrate the holy Eucharist and to offer the Eucharistic sacrifice.²⁷ This was based on an understanding of priesthood as a *sacra potestas* given by the ordination ceremony.

The defect in intention was inferred from this omission. By omitting to mention what was the distinctive characteristic of the catholic priesthood, the Ordinal was seen as embracing a different doctrine of Holy Orders from that of the Roman Catholic Church, whose Holy Orders had been handed down in unbroken succession from the apostles (or so it was believed). The omission from the Edwardine Ordinal of what was regarded as the distinctive characteristic of the Catholic priesthood gave to the Ordinal what Leo XIII called a native *indoles ac spiritus* – an innate nature and spirit – which was Protestant and not Catholic.²⁸ In *Apostolicae Curae* the Roman Catholic Church reiterated its contemporary understanding of Holy Orders – and of the immediate post-Reformation history of Anglican orders.

²⁷ The text reads:

But the words which until recently were commonly held by Anglicans to constitute the proper form of priestly ordination namely, “Receive the Holy Ghost,” certainly do not in the least definitely express the sacred Order of Priesthood (*sacerdotium*) or its grace and power, which is chiefly the power “of consecrating and of offering the true Body and Blood of the Lord” (Council of Trent, Sess. XXIII, de Sacr. Ord., Canon 1) in that sacrifice which is no “bare commemoration of the sacrifice offered on the Cross” (Ibid, Sess XXII., de Sacrif. Missae, Canon 3).

– Pope Leo XIII, *Letters Apostolic of His Holiness Leo XIII ... concerning Anglican Orders dated: September 13, 1896* (1896), para. 25.

²⁸ Ibid.

The theological reasons for Leo's decision (for the Commission's divisions meant that the Pope's personal view prevailed) were based on then contemporary Roman Catholic views of tradition. They were also strongly influenced by the scholasticism of the recent First Vatican Council (Vatican I). In this context they were not surprising, and were consistent with the Council of Trent. However, they also reflected the attitude of the Papacy facing the rise of modernism, and not yet influenced by the growth in theological historicism which this encouraged.

***Saepius Officio* and the reaction of the Anglican Church to the papal pronouncement**

The official reaction of the Anglican Church to *Apostolicae Curae* was swift. It is not hard to see why. The Anglican Communion, being composed of episcopal churches, did not reject the historic ministry of bishops, priests and deacons.²⁹ However, in spite of this, its relationship with the Roman Catholic Church had not been easy.³⁰ *Apostolicae Curae* challenged the claim that the Anglican rite “outwardly doth the work” (of ordination) on the grounds that the rite has been changed with the intention of “rejecting what the Church does, and what by the institution

²⁹ “It is evident unto all men diligently reading Holy Scripture and ancient Authors, that from the Apostles' time there have been these Orders of Ministers in Christ's Church; Bishops, Priests, and Deacons” – Preface to the Ordinal in the *Book of Common Prayer* (1662); *A New Zealand Prayer Book* (1989), p. 887.

³⁰ Although the Bull of Pope Leo XIII *Apostolicae Curae* constitutes the final papal condemnation of the validity of Anglican Orders, it was by no means the first. In 1555, Pope Paul IV issued a Bull entitled *Praeclara Clarissimi* which clarified the powers given to Cardinal Pole, sent to England to regularise the religious position after Queen Mary came to the throne; Michael Davies, *The Order of Melchisedech* (1979), pp. 154-5.

of Christ belongs to the nature of the Sacrament”.³¹ It thus struck at the heart of the sacerdotal ministry of the Anglican Church.³²

Saepius Officio, the official Anglican reply from the Archbishops of Canterbury and York, emphasised the Scriptural authority of the rite.³³ Although, for most Anglican priests, and even prelates, internal validity was enough, they generally also implicitly believed in the universality of the church. It was even asserted, separately, that Pope Leo was himself guilty of the heresy of Donatism³⁴ (where the effectiveness of the sacraments depends on the moral character of the minister³⁵).

In *Saepius Officio* the Archbishops argued that the 1550 and 1552 Ordinals are not as well developed as the 1662 ones, and therefore the judgement of the Holy See with respect to the former was not necessarily applicable to the latter. However the same could be said about the ordination rites of Hippolytus, Leo, Gelasius and Gregory as compared with the Tridentine rite. If an under-developed Ordinal leads to the invalidity of Anglican Orders, then under-developed Ordinals must have meant that Roman Orders too were invalid.

The *Book of Common Prayer* contains a strong sacrificial theology, in particular in the Preface to the 1550, 1552, 1559, and 1662 versions of the Ordinal. The main objection of the papacy to Anglican Holy Orders

³¹ Pope Leo XIII, *Letters Apostolic of His Holiness Leo XIII ... concerning Anglican Orders dated: September 13, 1896* (1896), p. 9.

³² Kenneth Kirk (ed.), *The Apostolic Ministry* (2nd ed., 1957).

³³ It would seem, however, in the light of subsequent research, that Scriptural authority for the three Holy Orders is not as “manifest” as was claimed; Everett Ferguson (ed.), *Church, ministry, and organization in the early church era* (1993).

³⁴ George Lewis, *The Papacy and Anglican Orders* (c.1955), p. 31. See John Jay Hughes, *Absolutely Null and Utterly Void* (1968), p. 128.

was the alleged deficiency of intention and of form.³⁶ In the case of deficiency of intention, the pope believed that the Anglican rites of ordination revealed an intention to create a priesthood different from the “sacrificing” priesthood of the Roman Catholic Church.³⁷ The strong sacrificial theology in the *Book of Common Prayer* was not discussed in *Apostolicae Curae*,³⁸ and thus may be subject to criticism for being historically unreliable.³⁹ However, there had indeed been, at times, a desire to remove all aspects of sacrifice from the role of the priest – though these had returned in the final form of the *Book of Common Prayer*.

The question was not whether the Anglican Church used the wording of the modern Roman Catholic Church, but whether the Anglican Church did in fact use the wording of the ancient Holy Catholic Church and that of the Orthodox Church. Study of the post-Trent Roman Catholic Ordinal and those used in the Roman Catholic Church in the early centuries showed that the early rites possessed only the essential, indispensable elements of episcopal ordination, at least according to

³⁵ *Nemo dat quod non habet* (“no one may pass on to another that which he himself does not possess”) raises an implicit theology of Holy Orders, with implications for both sides of the debate.

³⁶ William Frend, *The Donatist Church* (1971). See Pope Leo XIII, *Letters Apostolic of His Holiness Leo XIII ... concerning Anglican Orders dated: September 13, 1896* (1896). Nullity and voidness are distinct legal concepts, though usually conjoined.

³⁷ Hugh Montefiore, “Forward”, in William Franklin (ed.), *Anglican Orders* (1996), p. 4.

³⁸ See “*Saepius Officio*”, in William Franklin (ed.), *Anglican Orders* (1996) 138-49, and “*Saepius Officio* [excerpts]”, *Anglican Theological Review* 78(1) (1996): 138-49.

³⁹ John Jay Hughes, *Absolutely Null and Utterly Void* (1968).

proponents of the catholicity of Anglican Holy Orders.⁴⁰ The modern Roman Catholic Church had added items which were not part of the ancient liturgy, and were not part of the Ordinal in the Anglican and Orthodox Churches. This distinction was not, however, well understood by either side at the time of *Apostolicae Curae*.

Saepius Officio rebutted the papal claims and, asserting the “Branch Theory”, clearly saw English Catholicism as being under the jurisdiction of the ancient metropolitan sees of Canterbury and York.

From 1896 to the 1960s there was comparatively little Roman Catholic commentary on Anglican Holy Orders, given the definitive nature of *Apostolicae Curae*. Anglican and Roman Catholic positions changed little, until the growth of twentieth century œcumenism and the Second Vatican Council (Vatican II), 1962-65. The subject then saw renewed interest. We turn now to the contemporary discussion built upon post-Vatican II œcumenism.

The years after *Apostolicae Curae*

It is evident that both *Apostolicae Curae* and *Saepius Officio* show their age. *Apostolicae Curae* antedates certain significant ecclesiological developments and historical studies of ancient rites. Full Communion between the Church of England and Old Catholics (since 1932)⁴¹ and the

⁴⁰ Ronald Jasper, *Development of the Anglican Liturgy* (1989); Guy Mayfield, *Anglican Guide to Orthodox Liturgy* (1949); Colin Buchanan, *Bishop in Liturgy* (1988).

⁴¹ With the Old Catholic Church, the church has “unrestricted *communio in sacris*”; General Synod Standing Resolution 1974.

participation of Old Catholics in the consecration of Anglican bishops,⁴² are significant developments on the Anglican side. Vatican II and its rethinking of the priestly ministry within the whole People of God is a significant development on the Roman Catholic side. The Liturgical Movement,⁴³ with convergence of Eucharistic rites and ordinals, is a significant development on both sides. So too have been the remarkable convergences on Eucharist and ministry of the Anglican-Roman Catholic International Commission (ARCIC).

The ARCIC has since 1970 explored the meaning of episcopacy in an effort *inter alia* to move beyond the 1896 papal condemnation of Anglican Holy Orders.⁴⁴ The Holy See did not identify the ARCIC as stating its own position, hence the “Elucidations” from the ARCIC, because of the definitive place accorded to *Apostolicae Curae*. However, Hughes, amongst other Roman Catholic writers,⁴⁵ concluded that there were enough flaws in and ambiguity surrounding the pope’s apostolic letter that the question of the invalidity of Anglican Holy Orders merited re-examination.⁴⁶ Tavard also stated that

⁴² Since the Roman Catholic Church recognised the validity of the Holy Orders of the some Lutheran Churches, such as the Church of Sweden, the Evangelical Lutheran Church of Finland, and the Evangelical Lutheran Church of Latvia, an increasing number of Anglican bishops will have Holy Orders which are recognised by the Holy See.

⁴³ See Theodor Klauser, *A Short history of the Western Liturgy* trans. John Halliburton (1979).

⁴⁴ Anglican-Roman Catholic International Commission, *The Final Report, Windsor, September 1981* (1982), p. 45; Christopher Hill, “Anglican Orders: An Ecumenical Context”, in William Franklin (ed.), *Anglican Orders* (1996), p. 87.

⁴⁵ Hughes was himself a convert from the Anglican Church, and was conditionally ordained (rather than absolutely ordained) in Germany.

⁴⁶ John Jay Hughes, *Absolutely Null and Utterly Void* (1968); John Jay Hughes, *Stewards of the Lord* (1970).

I am personally convinced that Leo XIII's reasoning was flawed by several historical mistakes and by theological presuppositions that were inadequate yet hardly avoidable in the Neo-Scholasticism of the late 19th century.⁴⁷

Since 1896 liturgists have looked back together to antiquity for resources and Rome too has adapted Hippolytus for its renewed ordination rites. Even *Apostolicae Curae* itself was not the result of unanimous advice to the Pope: Abbe Louis Duchesne, on the word *sacerdos*, noted that: "sacerdos characterized neither a particular order nor even order in its generic sense but rather a function common to the two highest orders".⁴⁸ Thus, even though the Edwardine Ordinals might have meant *presbyterus* and not *sacerdos* when they use the English word "priest", this need mean no more than that Anglicans, like Roman Catholics, distinguish between the order of bishop (*episcopus*) and the order of priest (*presbyterus*). The Commission which advised Pope Leo XIII on *Apostolicae Curae* contained several members who were urging the pope to come to different conclusions. Half of the Commission members, unhappy with the condemnation of Anglican Holy Orders, disagreed sharply with what became its interpretation of the historical evidence.⁴⁹

However, the Roman Catholic Church did not unequivocally accept the pronouncements of the ARCIC, as can be seen in the "Commentary" of Joseph Cardinal Ratzinger. On 29th June 1998 Cardinal Ratzinger (then the Prefect of the Congregation for the Doctrine of the Faith, and

⁴⁷ George Tavard, *A Review of Anglican orders* (1990).

⁴⁸ The Latin translation of the Preface of the draft Ordinal of the Anglican-Methodist Unity Commission (see Anglican-Methodist Unity Commission, *Anglican-Methodist unity* (1968), pp. 36ff) speaks of *sacerdotium episcoporum et presbyterorum*. An explanation of this is in the Ordinal's commentary (p. 9).

later Pope Benedict XVI) issued a doctrinal commentary to accompany Pope John Paul II's apostolic letter *Ad Tuendam Fidem*,⁵⁰ which established penalties in canon law for failure to accept "definitive teaching." Ratzinger's commentary listed Leo XIII's *Apostolicae Curae*, declaring Anglican Holy Orders to be "absolutely null and utterly void," as one of the irreversible teachings to which Roman Catholics must give firm and definitive assent.⁵¹ These teachings are not understood by the church as revealed doctrines, but are rather those which the church's teaching authority finds to be so closely connected to God's revealed truth that belief in them is required in order to safeguard those revealed truths.⁵² Those who fail to give "firm and definitive assent," "will no longer be in full communion with the Catholic church".⁵³

This renewed rejection of Anglican Holy Orders (if it can be seen as being that) does not mean the end of the Anglo-Roman dialogue, but it

⁴⁹ John Jay Hughes, *Absolutely Null and Utterly Void* (1968); John Jay Hughes, *Stewards of the Lord* (1970).

⁵⁰ Apostolic Letter *Motu Proprio, Ad Tuendam Fidem* (18th May 1998).

⁵¹ Congregation for the Doctrine of the Faith, "Doctrinal Commentary on the Concluding Formula of the *Professio Fidei*" (29th June 1998).

⁵² Cardinal Ratzinger's statement followed a lengthy debate in the Roman Catholic Church about the (non-)ordination of women, which likewise was elevated to doctrinal status. This provided Cardinal Ratzinger with another reason not to recognise Anglican Holy Orders. Further, see Chapter IV.

⁵³ The text reads:

With regard to those truths connected to revelation by historical necessity and which are to be held definitively, but are not able to be declared as divinely revealed, the following examples can be given: the legitimacy of the election of the Supreme Pontiff or of the celebration of an œcumenical council, the canonizations of saints (*dogmatic facts*), the declaration of Pope Leo XIII in the Apostolic Letter *Apostolicae Curae* on the invalidity of Anglican ordinations.

may indicate that a more dogmatic attitude has been adopted by the Roman Catholic Church. This has been influenced by, among other things, the ordination of women in some provinces of the Anglican Communion. Some Anglican provinces have moved from the position they generally held at the time of *Apostolicae Curae* – and not necessarily towards a more sacramental or liturgical priesthood. The movement was rather otherwise, although they continue to assert the validity of their Holy Orders. This validity is explained as founded on the historic episcopal ministry, and preserved through a conscious and deliberate succession of sacramental ministry.⁵⁴

The growing liberalism of much theological discourse, from the early nineteenth century in particular, has added new theories about the origin and nature of the episcopacy,⁵⁵ as has a renewed interest in historical studies. The strong reaction of the Roman Catholic Church to the modernist crisis impelled many theologians into the study of history.⁵⁶ More importantly, the growth of historical theological studies during this time led to a whole new discussion and to revision – most importantly, at Vatican II. Many theologians denied that Christ intended to found any organisation to perpetuate His teachings.⁵⁷ The church,

– Congregation for the Doctrine of the Faith, “Doctrinal Commentary on the Concluding Formula of the *Professio Fidei*” (29th June 1998).

⁵⁴ See the Anglican-Roman Catholic International Commission, *The final report: Windsor, September 1981* (1982), pp. 29-93.

⁵⁵ See Kenneth Kirk (ed.), *The Apostolic Ministry* (2nd ed., 1957).

⁵⁶ Particularly Yves Congar, who was responsible for much of Vatican II, though he cannot be called a liberal in the sense of a rejection of tradition; Yves Congar, *Tradition and Traditions* trans. Michael Naseby and Thomas Rainborough (1966).

⁵⁷ This argument was found particularly in the reformed and Protestant churches. For a contemporary Roman Catholic see Francis Schüssler Fiorenza, *Foundational Theology* (1984).

therefore, was not founded by Christ,⁵⁸ but by the apostles or their successors, and the episcopal form of government is the fruit of a gradual evolution – and not the original form of the church as established by Christ.⁵⁹ This understanding of the formative centuries of the church saw the church as being composed of democratic or organic groups (rather than being primarily an organised hierarchical structure), which naturally imitated the organisation of other contemporary societies as they grew, and which gave direction to the college of presbyters, of whom one became president.⁶⁰

Criticism of episcopacy as the inherent leadership component of the church was not new in the nineteenth century, however. In the sixteenth century Calvin had condemned episcopacy as one of the worst corruptions which had crept into the church.⁶¹ Though this theory was not new even then – Arius had espoused it as early as the fourth century⁶² – the existence of the episcopacy was critical in the development of the church, at least until the Reformation.⁶³ Thereafter, whilst it did not

⁵⁸ Schüssler Fiorenza has a much more nuanced idea of Christ's intention to "found" a church, close to Rahner; Francis Schüssler Fiorenza, *Foundational Theology* (1984); Karl Rahner, "Reflections on foundations of the Christian faith", *Theology Digest* 28 (1980): 208-13.

⁵⁹ For a view of this period, see Gregory Dix, "The Ministry in the Early Church", in Kenneth Kirk (ed.), *The Apostolic Ministry* (2nd ed., 1957), pp. 183-304; and Hans von Campenhausen, *Ecclesiastical Authority and Spiritual Power in the Church of the First Three Centuries* trans. John Baker (1969).

⁶⁰ The varying understanding of these early years has also influenced the formation and structure of "schismatic or non-conforming" denominations, with episcopal (authority lodged with bishops), presbyteral (elders), or congregational (members of local congregations) models; Kenneth Kirk (ed.), *The Apostolic Ministry* (2nd ed., 1957).

⁶¹ Jean Calvin, *Institutes of the Christian Religion* ed. John McNeill, trans. Ford Lewis Battles (1960).

⁶² Richard Hooker, *Of the Laws of Ecclesiastical Polity* ed. Arthur McGrade (1989), Book VII.

⁶³ Kenneth Kirk (ed.), *The Apostolic Ministry* (2nd ed., 1957).

survive in all Protestant churches, it has remained of great importance in the on-going œcumenical movement, particularly between the Anglican Communion and the Roman Catholic Church.⁶⁴ In both of these latter churches the office of bishop in episcopal succession remained of fundamental importance.⁶⁵ In 1982 the Faith and Order Commission of the World Council of Churches called (in the Lima Report) on non-episcopal Churches to consider re-establishing episcopacy as a means to advance the unity of the church.⁶⁶

The Roman Catholic Church has recently reiterated its strict views on the episcopate. In the declaration *Dominus Iesus*, issued September 2000, it repeated the claim that any community which has not preserved the historic episcopate, is not a church in the proper sense.⁶⁷ There has been debate over two related issues which are in *Dominus Iesus*, the term “ecclesial community”, and the term “*subsistit*”. Both bear upon the recognition of other Churches. The Roman Catholic Church is the one Church of Jesus Christ. This seems to express a complete identity, which is why there was no Church outside the Roman Catholic community. However, the local Churches of the Eastern Church separated from Rome are authentic local Churches; the communities that sprang from the Reformation are constituted differently.

In the search for an acceptable œcumenical understanding and practice of episcopacy, it has been said that the relatively rigid Tractarian

⁶⁴ See William Franklin (ed.), *Anglican Orders* (1996).

⁶⁵ For example, in *The Code of Canon Law* (1983), Canon 204 s. 2: “This Church, established and ordered in this world as a society, subsists in the catholic Church, governed by the successor of Peter and the Bishops in communion with him”.

⁶⁶ World Council of Churches, *Baptism, Eucharist and Ministry* (1982).

⁶⁷ Congregation for the Doctrine of the Faith, *Dominus Iesus*” (2000), para. 17.

understanding of apostolic succession has been largely superseded.⁶⁸ The absolute necessity of episcopacy in the apostolic succession, understood as the very essence of the church, has been reconsidered. An emphasis on a historically provable unbroken chain of episcopal succession finds less favour today than it once did.⁶⁹ Indeed, Bishop Lightfoot, in mounting a defence of the historical claims of episcopacy, arguably undermined the traditional case for the apostolic origins of the episcopal office.⁷⁰ In more Calvinist theology continuity here is guaranteed and expressed not by way of succession from generation to generation and from individual to individual, but in and through the convocation of the church of one place, that is, through its Eucharistic structure. It is a continuity of communities and churches that constitute and express apostolic succession in this approach.⁷¹ We will now consider how contemporary attitudes to episcopal office also raise questions about the status of Holy Orders.

The search for consensus arguably weakens the claims to an historic episcopate as the basis for the catholicity of the Anglican Communion. While the Roman Catholic – and Orthodox Churches – may also reconsider the nature of the episcopate, a radical departure from a catholic perception increases risks. While the nineteenth century papal Commission concentrated much of its attention on the sixteenth century ordinals and consecration of bishops, Anglican practice has not remained unchanged since then – and neither has the Roman Catholic. Indeed,

⁶⁸ Christopher Hill, “Bishops: Anglican and Catholic”, in Norman Doe, Mark Hill and Robert Ombres (eds.), *English Canon Law* (1998), pp. 60-70.

⁶⁹ Compare Kenneth Kirk (ed.), *The Apostolic Ministry* (2nd ed., 1957) and John Zizioulas (ed.), *Studies in Personhood and the Church* (1985).

⁷⁰ Joseph Lightfoot, *St. Paul’s Epistle to the Philippians* (16th ed., 1908), “The Christian Ministry”. He was challenged by many commentators, most ably by Moberly and Bishop Gore; Robert Moberly, *Ministerial Priesthood* (1897); Charles Gore, *The Church and the Ministry* (1886).

⁷¹ John Zizioulas (ed.), *Studies in Personhood and the Church* (1985), p. 177.

these changes may have rendered much of the debate concerning *Apostolicae Curae* purely or primarily historical and academic in nature. This is because the context in which *Apostolicae Curae* was placed may not reflect modern understandings of Holy Orders or of the nature of the church on either side of the debate.

The theological principle of collegiality attaches to bishops collectively, that by virtue of their historic and apostolic ministry they share a collective responsibility for leadership in the particular church.⁷² On episcopal authority and synodical government the 1978 Lambeth Conference had this to say:

All authority comes from God and that which is given to the Church involves all the people of God in responsibility and obedience.⁷³

Neither bishop (nor synod) receives authority “by any succession independent of the Church”.⁷⁴ “The guardianship of the faith is a collegial responsibility of the episcopate.”⁷⁵ The authority of the bishop – and indeed the existence of his (or her) office – is primarily historical, and dependent upon the ancient custom of the Church. It bears little

⁷² L.C. 1968, Res. 55; L.C. 1978, Res. 13; L.C. 1988, Res. 8. This is because of biblical warrant, for example Luke 22.32:

But I have prayed for thee, that thy faith fail not: and when thou art converted, strengthen thy brethren.

It reflects the nature of the universal church as a communion of churches, or *communio ecclesiarum*.

⁷³ “The People of God and Ministry” L.C. 1978, pp. 76-7.

⁷⁴ Ibid, pp. 76-7.

⁷⁵ Ibid, pp. 76-7.

relation to secular equivalents.⁷⁶ The scope of authority of a bishop is also primarily based upon doctrinal and liturgical texts, rather than upon constitutional documents. Newman may have overstated the difference in the Anglican and Roman Catholic positions.

In New Zealand as elsewhere in the wider Anglican Communion, attempts are made to preserve the apostolic succession,⁷⁷ but the understanding of the nature of the latter is not necessarily the same as in the Roman Catholic Church⁷⁸ – nor, indeed, that of the Tractarians.⁷⁹ As an episcopally-led church, the Anglican Church in Aotearoa, New Zealand and Polynesia emphasises the role of the bishops as teachers and leaders. This is consistent with the Church’s claim to be apostolic and an inheritor of the Catholic tradition. Yet social and political changes have led to a decline in the relative role of the bishops – in particular their comparative proliferation since 1992,⁸⁰ and the temporary loss of the archbishop. Even the adoption of a three-way division into three Tikanga has not seriously undermined the role of the bishop, though it has presented some difficulties with respect to the traditional understanding of episcopal leadership and oversight within a diocese. The position of

⁷⁶ Except, perhaps, kings.

⁷⁷ Title G canon XIII.1.1. Title D canons, interpretation:

‘Bishop’ shall mean persons who are ordained according to the Ordination Liturgy of Bishops in the New Zealand Prayer Book/He Karakia Mihinare o Aotearoa or consecrated according to the Form and Manner of Consecrating Bishops in the *Book of Common Prayer* 1662, or the 1980 Ordinal, or persons who have been ordained or consecrated Bishop in other Provinces of the Anglican Communion and who are exercising episcopal ministry within this Church.

⁷⁸ William Franklin (ed.), *Anglican Orders* (1996).

⁷⁹ Christopher Hill, “Bishops: Anglican and Catholic”, in Norman Doe, Mark Hill and Robert Ombres (eds.), *English Canon Law* (1998), pp. 60-70.

the episcopacy remains, however, central to authority in the Church, both for its teaching and its leadership role. In this respect, secular legal notions have had little effect upon the Church.

The validity of Anglican Holy Orders is not independent of the attitude of the Holy See for several reasons. One is that the Anglican Communion sees itself as a part of the universal church, and the Holy See is seen as having a strong claim to primacy within the Church, if not actual pre-eminent authority. Secondly, the Anglican Communion was originally in communion with that See. But thirdly, and equally importantly, the Pope is one of the Patriarchs of the ancient Church, sharing leadership of the Church with the Œcumenical Patriarch in Constantinople, and having authority over the bishops of the west.⁸¹

But at the same time that the Church has sought to emphasise its continuity with the biblical and mediæval past, it has also been moved to adopt what would be seen by the Roman Catholic and Eastern Orthodox Churches as unacceptable innovations. It may be said that the absence of a common Anglican understanding of Holy Orders led to a use of a shallow concept of validity as a cure for more profound difficulties of identity and nature – a problem identified by Newman in the mid-to-late nineteenth century,⁸² and which still lingers.

⁸⁰ Through the separate Maori hierarchy.

⁸¹ Unless the branch theory of the Church is advocated; See Sir William Palmer, *Treatise on the Church of Christ* (2nd ed., 1839).

⁸² Cited in William Nicholls, *Œcumenism and Catholicity* (1952), pp. 90-91.

Conclusion

After the Reformation the Anglican Church officially saw itself theologically as catholic and reformed. But this meant that its catholicity depended upon a different perspective of tradition from that held by the Roman Catholic Church.

Attempts in the nineteenth century to gain papal endorsement of the validity of Anglican Holy Orders reflected an element of respect for tradition, law, and history. Such apparently superficial attitudes could not necessarily mask more serious differences in doctrine, especially with respect to the nature of the sacrificial priesthood. The alleged lack of intention to create a sacrificial priesthood – as well as outward form – was the papal explanation for *Apostolicae Curae*'s rejection of Anglican Holy Orders as “absolutely null and utterly void”. Although the Anglican Communion – or rather more specifically, at this time, the Church of England – asserted that its Holy Orders were valid, the ecclesiology underlying them was apparently changed from pre-Reformation times (as indeed possibly was that of the Roman Catholic Church post-Trent, or more probably post-Vatican II). However, unlike in the Roman Catholic Church, there was no consistency of the ecclesiology underlying Holy Orders.

This chapter focused upon the absence of a uniform Anglican understanding of Holy Orders in the nineteenth century beyond an emphasis upon continuity with the pre-Reformation Holy Orders (an absence still masked by legalism), rather than upon the technical questions of form and intention which were the basis of *Apostolicae Curae*. We considered reasons why this meant that the recognition of its Holy Orders by other elements of the historic catholic church was seen to

be important, not simply by the Tractarians, but by the wider leadership of the Church. By this time both Churches were in the process of reinterpreting their immediate past since the Reformation; *Apostolicae Curae* is itself a re-reading of the doctrine of the Council of Trent. Tractarian-influenced thinking in the Church of England focused on an institutional continuity, which unfortunately for it, the Vatican denied because of what might be described as an equally legalistic analysis.

The Holy See's rejection of the implicit theology of Anglican Holy Orders – or at least the validity of these orders due to defects in form and intent in the sixteenth century ordinals – brought about a reaction from Anglicanism. This tended to be both defensive, in historical justification, and also forward-looking in the tone of critical analysis which departed markedly from the scholasticism apparent in *Apostolicae Curae*. The theology disclosed in *Apostolicae Curae* and in *Saepius Officio* was not so very different – the differences reflected more differing approaches to historicism.

IV – THE TWENTIETH CENTURY AND NEW CHALLENGES AND OPPORTUNITIES

Introduction

The twentieth century brought together two trends in the Anglican Communion; the desire for recognition of its Holy Orders based on catholic notions of continuity of Holy Orders (what may be here termed an internal theology); and a broader conception of the church, which encouraged œcumenical objectives (an external theology). The same developments sometimes brought challenges to both aspects of the question, specifically the ordination of women to the priesthood, and the more recent ordination and consecration of practising homosexuals. The Anglican Communion itself was split, with some parts being more liturgically (if not doctrinally) sacerdotal, some quite otherwise.¹ Yet it has been said that, overall, the Anglican Communion was rather more catholic in liturgy and vestments and other outward signs than at any time since Queen Mary I.²

The external theology was generally of greater importance, due to the effects of the broader œcumenical movement.³ The Roman Catholic Church became more open to dialogue with other Churches. The Eastern Orthodox churches gave limited recognition to Anglican Holy Orders,

¹ High, low, broad, evangelical, charismatic, describe some of these attitudes. The Roman Catholic Church itself is not entirely uniform, but, unlike the Anglican Communion, officially enjoys uniformity rather than diversity.

² Generally, see Stanley Holbrooke-Jones, “The Triumph of Anglo-Catholicism Challenged”, *Churchman* 119(2) (2005): 159-78.

³ See, for instance, World Council of Churches, *Baptism, Eucharist and Ministry* (1982).

and Lutheran churches entered into various forms of inter-communion with the Anglican Communion.⁴ But the ordination of individuals contrary to traditional catholic teachings was both an œcumenical concern and an (internal) ecclesiological problem.

The Roman Catholic Church recognises the validity of the Holy Orders conferred according to a valid sacramental form where the consecrating bishop's orders are valid, regardless of whether this takes place within or outside of the Roman Catholic Church.⁵ Thus the Roman Catholic Church recognizes the validity of the episcopacy of Eastern Orthodox, Oriental Orthodox, Assyrian Church of the East, Old-Catholic, and Independent Catholic bishops, although these orders are considered illicit.⁶ Thus an increasing number of Anglican bishops will possess Holy Orders which are potentially recognisable by the Holy See.⁷

This chapter emphasises that the question of validity of Anglican Holy Orders is not one which can be answered by an appeal to history alone (or even primarily) – as *Apostolicae Curae* arguably sought to do in 1896. Nor can it be determined by recourse to legalism. Broader

⁴ See, for example, Standing Resolution Intercommunion, General Synod of the Anglican Church in Aotearoa, New Zealand and Polynesia; SRIC 11. Recognition of Bishops, Priests and Deacons from other certain Churches (2004).

⁵ Which itself rather contradicts Newman's argument.

⁶ Jaroslav Skira, "Ecclesiology in the International Orthodox-Catholic Œcumenical Dialogue", *The Greek Orthodox Theological Review* 41(4) (1996): 359-74; Ronald Roberson, "The Contemporary Relationship between the Catholic and Oriental Orthodox Churches", in National Conference of Catholic Bishops, *Oriental Orthodox/Roman Catholic Interchurch Marriages* (Washington, United States Catholic Conference, 1995), pp. 81-103; and Geevarghese Chediath, "The Pro Oriente Syriac Commission and Œcumenical Dialogue within the Assyrian Church of the East", *Christian Orient* 18(4) (1997): 175-84.

⁷ Generally the sacrament of ordination relates to ordination for ministry in a particular or local church. "Absolute" ordinations, which sever this tie, have

questions of doctrine arise. Anglican Holy Orders today may be different from those in 1896, in part through the growth of the Anglican Communion. Œcumenical ideals sought unity in the fragmented church of Christ, with the Anglican *via media* as a means to this end. It would appear to be partly for this reason (œcumenism) – as well as the continuing nineteenth century justification (historical continuity) – that the question of the validity of Anglican Holy Orders remains important.

This Chapter will proceed by looking at the development of œcumenism in the twentieth century, and the concurrent re-evaluation of the nature of Holy Orders. It then considers the changes in ordained ministry in the Anglican Communion.

Though a similar debate (over women in Holy Orders) has occurred within the Roman Catholic Church, the different nature of authority within that Church means that its internal theological position is different to that in the Anglican Communion. An appeal to a theology of ordained ministry, and fidelity to tradition, restrained (or inhibited) the Roman Catholic Church. The Anglican Communion was not similarly constrained.

Women in Holy Orders within Anglicanism

In one significant particular the Anglican Communion – at least in some provinces – has departed from tradition – and thus apparently placed an additional obstacle in the path of church unity. This is in the ordination of women as priests. Women were not unknown in clerical office – as deaconesses – but never as priests (and certainly not as bishops) until the

largely been regarded as problematic by theologians but accepted by the Holy See.

twentieth century.⁸ The debate continues within the Anglican Communion, the Roman Catholic Church, and the Orthodox Church, and positions and opinions remain divided.⁹

The Biblical origin of deaconesses is traditionally placed in Romans 16.1.¹⁰ They were recognised by the Councils of Nicaea (325) and Chalcedon (451).¹¹ The ordination of deaconesses resembled that of deacons, but conveyed no sacerdotal powers or authority.¹² They were an order of ministry, but not a Holy Order. This is a vital distinction which may be less apparent to those of a protestant background, with a weaker sacrificial tradition. The functions of the deaconesses were to assist at the baptism of women, to visit and minister to the needs of sick and afflicted women, to act as doorkeepers in church, and to conduct women to their seats.¹³ The deacons, in contrast, might perform any sacred office except that of consecrating the elements and pronouncing absolution.¹⁴

The order of deaconesses was never particularly widespread, and was condemned in the west by the Councils of Orange (441) and Epaene

⁸ Sara Butler, “The ordination of women: A new obstacle to the recognition of Anglican orders”, in William Franklin (ed.), *Anglican Orders* (1996), pp. 96-113. For the English position, see David McLean, “Women priests – the legal background”, *Ecclesiastical Law Journal* 1(5) (1989): 15.

⁹ See, for instance, Jacqueline Field-Bibb, *Women Toward Priesthood* (1991) and Manfred Hauke, *Women in the Priesthood?* trans. David Kipp (1988).

¹⁰ “I commend unto you Phebe our sister, which is a servant [δῆακονοσ] of the church which is at Cenchrea”.

¹¹ Council of Nicaea, canon 19 in *Corpus Iuris Canonici. Decretum*, Pars III, De Cone. Dist. III c. x; Council of Chalcedon, canon 15, in *Corpus Iuris Canonici*, Gratian’s *Decretum*, Pars II, Causa XXVII, Quaest. I, Canon xxij.

¹² Cecilia Robinson, *The Ministry of Deaconesses* (2nd ed., 1914), pp. 219-29; Jeannine Olsen, *One ministry many roles* (1992).

¹³ Vincent Emmanuel Hannon, *The Question of Women and the Priesthood* (1967), pp. 71-96.

¹⁴ As described in the ordination service of *The Book of Common Prayer* (1662) and *A New Zealand Prayer Book* (1989).

(517).¹⁵ It fell into abeyance in both east and west in the course of the middle ages.¹⁶

In modern times the order of deaconesses underwent a resurgence, due to new needs, and to changing perceptions of the role of women in society generally, and in the church particularly. In 1833 Lutheran Pastor Thomas Fliedner revived the order.¹⁷ In 1862 Miss Elizabeth Ferard was ordained – by the Bishop of London – as a deaconess in the Church of England.¹⁸ The order was recognised by the Lambeth Conference of 1897.¹⁹

Deaconesses were not female deacons, though Hong Kong had a woman deacon – as distinct from a deaconess – in the mid 1940s.²⁰ This was controversial,²¹ and was condemned by the 1948 Lambeth Conference.²² The resolution was strongly influenced by the Archbishop of Canterbury and York's Commission on the Ministry of Women, *Women in the Anglican Communion* (1935),²³ though that had found no conclusive biblical authority either for or against the ordination of women. But the historic church had never recognised the ordination of

¹⁵ Canons 26-28, in Carl Joseph von Hefele, *History of the Christian Councils* trans. & ed. Henry Oxenham (1871-96), vol. III, pp. 163-4; and canon 21, in Mary McKenna, *Women of the Church* (1967), p. 131. Generally, for the movement to ordain women, see John Wijngaards, *No women in Holy Orders?* (2002).

¹⁶ Vincent Emmanuel Hannon, *The Question of Women and the Priesthood* (1967), pp. 71-96.

¹⁷ Cecilia Robinson, *The Ministry of Deaconesses* (2nd ed., 1914).

¹⁸ *Ibid.*

¹⁹ L.C. 1897, Res. 11.

²⁰ In exceptional wartime conditions, Bishop Ronald Hall ordained Florence Li Tim Oi for ministry in the Portuguese colony of Macau.

²¹ Mrs Oi voluntarily ceased to exercise her ministry in 1946.

²² L.C. 1948, Res. 115.

women (except as deaconesses), and the Commission, and the Lambeth Conference, were unwilling to advocate a position which had hitherto not been advanced elsewhere in the wider church.²⁴

The ordination of women to the priesthood – with the sacerdotal authority which that implies – dates from more recent times. The ordination of women began in some Anglican provinces in the 1970s, with Hong Kong leading the way in 1971, followed by Canada in 1976,²⁵ the United States of America in 1977, and New Zealand also in the latter year.²⁶

So far as the Province of New Zealand was concerned, the Church did have the authority to ordain women priests. It followed that these priests enjoyed the full authority of priesthood. Any women bishops would also enjoy full authority (including authority to ordain other priests, male and female).²⁷ However this matter cannot be regarded as settled in other provinces.²⁸

²³ Archbishop of Canterbury and York's Commission on the Ministry of Women, *Women in the Anglican Communion* (1935).

²⁴ See, generally, Joan Morris, *Against nature and God* (1974).

²⁵ W.J. Hemmerick, "The ordination of women: Canada", *Ecclesiastical Law Journal* 2 (1991): 177.

²⁶ Perry Butler, "From Early Eighteenth Century to the Present Day", in Stephen Sykes and John Booty (eds.), *The Study of Anglicanism* (1988), pp. 30, 46-7. Geoffrey Haworth, *Anglican deaconesses in New Zealand* (1997). See also Glenys Lewis, *Kept by the Power* (1999).

²⁷ If the ordination of women had been found to be unlawful, but it had proceeded regardless in one or more dioceses, the province would have faced the prospect of schism, as occurred in South Africa in the 1870s over different issues; *Merriman v. Williams* (1882) 7 App. Cas. 484 (P.C.); see Anthony Ive, *A Candle Burns in Africa* (1992). In 1974 General Synod approved the ordination of women by one vote, subject to the confirmation of dioceses. In 1976 the ordination of women came into effect when six out of seven dioceses agreed. But the Bill had to lie on the table for a year to allow for an appeal. In 1977, on the 363rd day, an appeal was lodged and a Tribunal hearing took place in November 1977. This held that ordination was lawful, and in December 1977

The stated objections to the ordination of women as priests are based for the most part in ecclesiology rather than sacramental theology.²⁹ A 1988 declaration on the subject, signed by more than a hundred bishops from different parts of the Anglican Communion, states that

We do not consider that the Churches of the Anglican Communion have authority to change the historic tradition of the Church that the Christian ministerial priesthood is male.³⁰

According to this declaration, the ordination of women will impair “the wider unity of the Church” – that is, the developing œcumenical relations with Roman Catholic and Eastern Orthodox Churches, who have both expressed official concern at the ordination of women.³¹ It would deprive Anglicans of the “commonly accepted ministry” that is one of the few elements of cohesion in the midst of their prevailing diversity. In the view of a Roman Catholic cardinal it was not to be done without a “clear œcumenical consensus”.³²

the first five women were ordained as priests, three in Auckland and two in Waiapu; Charles Haskell, *Scripture and the ordination of women* (1979).

²⁸ W.J. Hankey, “Canon Law”, in Stephen Sykes and John Booty (eds.), *The Study of Anglicanism* (1988), p. 211.

²⁹ See Archbishop of Canterbury and York’s Commission on the Ministry of Women, *Women in the Anglican Communion* (1935).

³⁰ *Aambit*, *The Newsletter of the Association for Apostolic Ministry*, No. 3, July 1988.

³¹ Jan Willebrands, “Women Priests and Œcumenism”, *Origins* 5 (9th October 1975): 241, 243-4, at 243. See also Ida Raming, *The exclusion of women from the priesthood* (1976); Manfred Hauke, *Women in the Priesthood?* trans. David Kipp (1988).

³² See Joseph Bernardin, “Discouraging Unreasonable Hopes”, *Origins* 5 (16th October 1975): 257, 259-60.

Whether it is acceptable, œcumenically prudent, or theologically possible to validly ordain women as priests are questions which continue to be debated.³³ The general Anglican position may be summarised as follows. Holy Scripture and tradition presents no fundamental objection to the ordination of women.³⁴ By itself, the witness of the New Testament does not permit a clear settlement of the question. Tradition thus appears to be open to this development because the exclusion of women from the priestly ministry cannot be proved to be by “divine law”.³⁵

This position is not one which was reached without considerable uncertainty and perplexity,³⁶ not least in respect of the episcopal authority enjoyed by bishops consecrated by women bishops, or priests and deacons (and deaconesses) ordained by women bishops. After a fifty-year debate, the 1968 Lambeth Conference recognised that dissent would continue,³⁷ and although many provinces do now ordain women priests, their place in the Anglican Communion is still not settled. Notions of equality, equity and justice have not necessarily prevailed over the authority of church tradition, but have profoundly affected it.

³³ Perry Butler, “From Early Eighteenth Century to the Present Day”, in Stephen Sykes and John Booty (eds.), *The Study of Anglicanism* (1988), pp. 30, 47; Canon Law Society of America, *Canonical Implications of Ordaining Women to the Permanent Diaconate* (1995); Congregation for the Doctrine of the Faith: *Inter Insigniores* (15th October 1976); Pope John Paul II, Apostolic Letter *Ordinatio Sacerdotalis* (22nd May 1994); Pope John Paul II, Apostolic Letter *Mulieris Dignitatem* (15th August 1988).

³⁴ Archbishop of Canterbury and York’s Commission on the Ministry of Women, *Women in the Anglican Communion* (1935).

³⁵ Archbishop Runcie of Canterbury to Cardinal Willebrands, President of the Secretariat for Promoting Christian Unity, “Women’s Ordination and the Progress of Œcumenism”, *Origins* 16 (17th July 1986): 153, 155-60.

³⁶ Jacqueline Field-Bibb, *Women Toward Priesthood* (1991), pp. 67-75.

³⁷ Res. No. 34 in Lambeth Conference 1968: Resolutions and Reports (1968), p. 39.

The position of women priests and bishops in the Roman Catholic Church is clearer. The Pontifical Biblical Commission reviewed the attitude of the Roman Catholic Church to the ordination of women in 1976. In an internal report, which was, however, leaked to the press, the Commission concluded that, by itself, the New Testament did not provide a clear answer one way or the other.³⁸ The Congregation for the Doctrine of the Faith, in its “Declaration on the Question of the Admission of Women to the Ministerial Priesthood” (*Inter insigniores*), concluded however that biblical and sacramental theology did prohibit the ordination of women.³⁹ This was particularly so because women could not act “*in persona Christi*”; this was later refined to “*in persona Christi capitis*”.

Pope Paul VI, writing to Archbishop Frederick Coggan in 1975, reiterated that there were three very fundamental reasons why women could not be ordained as priests: the example recorded in the sacred Scriptures of Christ choosing his apostles only from among men; the constant practice of the church, which has imitated Christ in choosing only men; and [the Roman Catholic Church’s] living teaching authority which has consistently held that the exclusion of women from the priesthood is in accordance with God’s plan for His church.⁴⁰ The 1994 apostolic letter on priestly ordination, *Ordinatio sacerdotalis*, repeated, and intensified, the Roman Catholic position.⁴¹

³⁸ *Origins* 6 (1st July 1976): 92-6. See also *Origins* 6 (3rd February 1977): 517, 519-24; *Acta Apostolicae Sedis* 69 (1977): 98-116.

³⁹ *Origins* 6 (3rd February 1977): 517, 519-24; *Acta Apostolicae Sedis* 69 (1977): 98-116.

⁴⁰ “Letters Exchanged by Pope and Anglican Leader”, *Origins* 6 (12th August 1976): 129, 131-2.

⁴¹ “Apostolic letter on ordination and women”, *Origins* 24 (9th June 1994): 49, 51-2.

Although the two communions may have reviewed the same evidence, yet they come to quite different conclusions. Principally, this may be seen to have depended upon the differing perspective of the respective churches. The Anglican and the Roman Catholic views of tradition were markedly different. It might even be said that one allowed that which was not expressly prohibited, the other allowed only that which was expressly allowed.⁴² One fostered diversity, the other enjoined conformity.⁴³ Another view would be that one hoped for adherence, the other required compliance. Having promoted the issue to a question of doctrine, the Roman Catholic Church appeared to close the door forever to the recognition of Anglican Holy Orders.

Whilst the Constitution of the Church gives the Anglican Church in New Zealand legal authority to ordain women priests and deacons, and to consecrate women bishops, it is clear that this is not acceptable to all the elements of the Christian church as a whole, and was unequivocally in conflict with the official position of the official Roman Catholic Church and to the orthodox churches.⁴⁴ Therefore, whilst the internal authority of the Church to so act may appear clear, it is actually far from being so. National churches had both the (internal) authority to ordain women and no formal requirement to subject themselves to the authority of General Council, or even the Lambeth Conference. This highlights the uncertainty caused by an emphasis upon legal rather than theological authority.

⁴² See, generally, Sara Butler, "The ordination of women: A new obstacle to the recognition of Anglican orders", in William Franklin (ed.), *Anglican Orders* (1996), pp. 96-113.

⁴³ Anglican encouragement of diversity threatens the loose unity of the communion, see the controversy which met the proposed consecration of Jeffrey John, a homosexual, as Bishop of Reading; Ruth Gledhill and Helen Rumbelow, "Archbishops urge gay bishop to stand down", *The Times* (London), 24th June 2003.

⁴⁴ Which together comprise by far the greater part of world Christianity.

If the claims of the Anglican Church in New Zealand to being part of the universal church are to mean anything, it should be allowed that internal laws alone do not suffice to authorise significant changes to the doctrine or ecclesiology of the Church. The Anglican Communion, or the Christian church as a whole (perhaps in General Council), may have to determine that these changes are allowable. Anglican ecclesiology recognises that General Councils may pronounce doctrine,⁴⁵ but is sceptical of the infallibility of any institution or council.⁴⁶

The origins of these differing views of the same evidence can be traced, in part, to differing views of authority with the church. The reformed churches may also be more clearly influenced by humanist and contemporary notions of equal rights and equal opportunities than the Roman Catholic Church or the Orthodox Church, with its stronger adherence to tradition. There is perhaps less division of opinion on the role and function of a minister, once ordained – though even here the traditional Roman Catholic perception of the sacerdotal function of the priest must be contrasted with differing perceptions in some of the later churches.⁴⁷

There is little doubt that the Anglican review of Holy Orders during the twentieth century was well-intentioned. But current moves such as

⁴⁵ The Act of Uniformity 1559 (1 Eliz. I c. 2) (Eng.), which enshrined the Elizabethan Settlement, endorsed the first four œcumenical council –Nicaea 325, Constantinople 381, Ephesus 431, and Chalcedon 451 as the authorities by which heresy would be defined; Stephen Platten, *Augustine's Legacy* (1997), p. 29.

⁴⁶ Edward Norman, "Authority in the Anglican Communion" (1998); Article 21 of the *Thirty-Nine Articles of Religion*, enacted in 1562, and confirmed in 1571 by the Subscription (Thirty-Nine Articles) Act 1571 (13 Eliz. I c. 12) (Eng.).

⁴⁷ See Michael Davies, *The Order of Melchisedech* (1979); Thomas Torrance, *Royal Priesthood* (1993).

the proposed consecration of woman bishops in the Church of England,⁴⁸ and elsewhere in the Communion (and woman bishops have already been ordained in New Zealand, and most significantly, the United States of America, where the Presiding Bishop is the Most Reverend Katharine Jefferts Schori) raises significant obstacles to both œcumenism. More importantly, from the perspective of this thesis, it raises challenges to the catholicity of Anglican Holy Orders, though the counter argument here is that an understanding of the nature of Holy Orders is distinct from the question of who might be admitted to these Holy Orders.

The *Bible* may be unclear on whether women were or ever could be in Holy Orders, but church teaching (at least as understood by the Roman Catholic Church and the Eastern Orthodox Churches) was reasonably clear. The provinces of the Anglican Communion which have ordained women knew this, but chose to reinterpret Holy Scripture and church teaching in a new way for a new time. This was not necessarily any less valid. But it was not catholic in the wider sense of the term to consciously depart from long-established norms in the face of opposition – a rejection of consensus in favour of an assertion of authority to change. In contrast the Roman Catholic argument was that the Church does not consider herself authorised to ordain women (based on an assertion of lack of authority), and has no authority to confer priestly status upon women.⁴⁹

⁴⁸ The General Synod approved this in principle 11th November 2005.

⁴⁹ “Apostolic letter on ordination and women”, *Origins* 24 (9th June 1994): 49, 51-2. This has also unleashed a wide range of hitherto unexamined questions in the Roman Catholic theological world, particularly in Christian anthropology, for example, in asking in what sense are women *imago Dei*, or *imago Christi*.

Ironically this sort of exercise of legalism was one of the charges against the papacy at the time of the Reformation.⁵⁰ This internal justification for an ecclesiology of Holy Orders may be seen as masking a weakness of doctrine in Anglicanism such as the Protestant Reformers railed against in the then-contemporary Roman Catholic Church. Alternatively, rather than a weakness of authority, it could be seen as reflecting a difference of emphasis between man-made regulation and the Word of God. Both could be true, since the nature of Anglicanism emphasises the adherence to broad ecclesiological structures, as well as to the Word of God.

The ordination of women is paralleled at an international level in the more recent controversy over the election of the openly homosexual Gene Robinson by the diocese of New Hampshire.⁵¹ The legal right to elect and then consecrate such candidates for episcopal office existed under the Constitution and Canons of the Episcopal Church (the Episcopal Church of the United States of America). But there remained a debate over the theological issues involved – issues which led to the effective suspension of the Episcopal Church from full membership of the Anglican Communion.⁵²

⁵⁰ James Spalding, *The Reformation of the Ecclesiastical Laws of England, 1552* (1992), pp. 1-57.

⁵¹ James Solheim, Anglican Communion News Service, “Gene Robinson begins episcopate with call for inclusion”, 13th November 2003, available at <<http://www.anglicancommunion.org/acns/articles/36/50/acns3672.html>> (as at 30th August 2007).

⁵² The Primates’ Meeting voted to request the two churches to withdraw their delegates from the 2005 meeting of the Anglican Consultative Council, and the United States of America and Canada decided to attend the meeting but without exercising their right to vote. They have not been expelled or suspended, since there is no mechanism in this voluntary association to suspend or expel an independent province of the Communion. Since membership is based on a province’s communion with Canterbury, expulsion would require the Archbishop of Canterbury’s refusal to be in communion with the jurisdiction concerned.

Œcumenism and Holy Orders

If the story of the nineteenth century was the tale of lost opportunities, the twentieth century was even more so. A century after *Apostolicae Curae*, another comparison of Anglican Holy Orders with catholic counterparts elsewhere could well lead to an even more unequivocal rejection, despite the work of the Anglican-Roman Catholic International Commission (ARCIC). This would be due to the radical reappraisal of Holy Orders, and the nature of the church, in the twentieth century. Different conclusions have led to markedly dissimilar approaches to Holy Orders in the Anglican Communion, Roman Catholic Church and Orthodox Churches.

The twentieth century, though in many ways a time of trial for the Church of Christ, was also one marked by the spirit of œcumenism. Attempts were made to revive Anglican-Roman Catholic dialogue. But at the same time the Anglican Communion was itself in danger of a schism. This was in part a consequence of the inherent lack of a central authority within Anglicanism. The Communion had difficulty reconciling the consequences of the liberal ethos which had pervaded the Church. This was ironically at a time when the Church was in some respects more Catholic in outward appearance than at any time since the sixteenth century. Inter-communion in varying degrees was established with various denominations, including Lutherans, and most significantly, with the Eastern Orthodox patriarchs. But this coincided with reappraisal of Holy Orders and the nature of the church.

The Anglican Communion's view of the theology of Holy Orders, based as it was on a broader understanding of biblical authority, was less constrained by church teachings and traditions than other parts of the

universal church. This approach encouraged not merely the consideration of different forms of ministry, but permitted, and perhaps even encouraged, their creation.

The Roman Catholic Church and the Anglican Communion had both been in the process of re-assessing historic teachings with respect to the apostolic period. This had implications for episcopal authority, and this also resulted in greater emphasis on the notion of an ever-present Christ. The ministry remained both sacramental and liturgical, though its apostolicity might depend less on a provable line of episcopal succession than was formerly believed.

Roman Catholic scholars had reconsidered the New Testament evidence.⁵³ In 1970 Brown published the results of his examination of biblical evidence for the “unqualified idea that the bishops are the successors of the apostles”.⁵⁴ He concluded that, despite the limitations which he found, the affirmation that the episcopate was divinely established or established by Christ himself can be defended in the nuanced sense that the episcopate gradually emerged in a church that stemmed from Christ,⁵⁵ and that this emergence was guided by the Holy

⁵³ Stephen Sykes, “‘To the intent that these Orders may be continued’: An Anglican theology of Holy Orders”, *Anglican Theological Review* 78(1) (1996): 48-63.

⁵⁴ Raymond Brown, *Priest and Bishop, Biblical Reflections* (1970), p. 3.

⁵⁵ See Jesus’ command at the Last Supper in Luke 22.19 and 1 Corinthians 11.24:

And he took bread, and gave thanks, and brake it, and gave unto them, saying, This is my body which is given for you: this do in remembrance of me.

And when he had given thanks, he brake it, and said, Take, eat: this is my body, which is broken for you: this do in remembrance of me.

Spirit.⁵⁶ While Brown's starting point was to examine Roman Catholic teaching in the light of contemporary biblical scholarship, it has been said that he pursued a middle way. This was between a dogmatic conservatism that claimed too much for history and a liberal assertion that historical uncertainty undermines the teaching authority of the church.⁵⁷ This latter must ultimately be based largely on revelation and faith. Regardless of his approach, similar conclusions had already been reached by reformed and protestant Church scholars.

Brown represented a new breed of Roman Catholic scholars who use contemporary biblical methods and scholarship. But he was very clear that his conclusions could not be used to justify dogmatic teaching. The Pontifical Biblical Commission has similarly stated that, in terms of biblical scholarship alone, the question of ordination of women had to be declared unresolved.

Modern Anglican New Testament scholars tend to adopt a more cautious approach than the earlier Gore or Moberly,⁵⁸ who were writing at the time of *Apostolicae Curae*.⁵⁹ Moberly drew out the priesthood of

⁵⁶ Raymond Brown, *Priest and Bishop, Biblical Reflections* (1970), p. 3.

⁵⁷ Stephen Sykes, "'To the intent that these Orders may be continued': An Anglican theology of Holy Orders", *Anglican Theological Review* 78(1) (1996): 48-63.

⁵⁸ Robert Moberly, *Ministerial Priesthood* (1897); Charles Gore, *The Church and the Ministry* (1886). Cf. Stephen Sykes, "'To the intent that these Orders may be continued': An Anglican theology of Holy Orders", *Anglican Theological Review* 78(1) (1996): 48-63; Reginald Fuller, "The Ministry in the New Testament", in H.J. Ryan and J.R. Wright (eds.), *Episcopalians and Roman Catholics* (1972).

⁵⁹ See also Edwin Hatch, *The Theory of the Early Christian Churches* (1881). Archbishop Whately maintained that the absence of specific organisational details in the *Bible* could be interpreted as evidence of the Holy Spirit consciously withholding this, so as to allow a fluidity of structure; Richard Whately, *Apostolic Succession Considered* (1912), pp. 21-2.

the whole Body of the church as the context of ministerial priesthood,⁶⁰ and Gore emphasised the place of the laity,⁶¹ both based on biblical analysis. Fuller maintained the more widespread view that the New Testament evidence is pluriform in character.⁶² However, more recent critical exegesis and biblical studies including archaeology have revealed more of the context of New Testament ministry.⁶³

Hanson, in reviewing the evidence for biblical ministry, concluded that the evidence for bishops, priests and deacons – and for apostles – was unclear.⁶⁴ He was especially critical of the tendency to “try to trace in the primitive period the beginnings of such ministries as they know”.⁶⁵ He rejected the concept of a New Testament doctrine of ministry.⁶⁶ But he did acknowledge that the basic authority in New Testament times was

⁶⁰ Robert Moberly, *Ministerial Priesthood* (1897); Roger Beckwith, *Priesthood and Sacraments* (1964), p. 18.

⁶¹ Charles Gore (ed.), *Essays in aid of the Reform of the Church* (1898).

⁶² Reginald Fuller, “The Ministry in the New Testament”, in H.J. Ryan and J.R. Wright (eds.), *Episcopalians and Roman Catholics* (1972), p. 103.

⁶³ See, for instance, Nicholas Thomas Wright, *The resurrection of the son of God* (2003), and other works by Bishop Wright.

⁶⁴ Richard Hanson, *Groundwork for Unity* (1971), pp. 10-15. For later Anglican scholarship on the biblical foundations of unity see Douglas, Ian, “Authority, Unity, and Mission in the Windsor Report”, *Anglican Theological Review* 87(4) (2005): 567; for Roman Catholic see Francis Schüssler Fiorenza, *Foundational Theology* (1984); for Orthodox, see Karel Blei, “The Church and the Churches: Reflections on the unity of the Church”, *Greek Orthodox Theological Review* 43(1-4) (1998): 503.

⁶⁵ Hanson, *ibid.*, p. 21; see, for instance, Edwin Hatch, *The Theory of the Early Christian Church* (1881); Arnold Ehrhardt, *The Apostolic Succession* (1953); and Eduard Schweizer, *Church Order in the New Testament* (1961).

⁶⁶ Richard Hanson, *Groundwork for Unity* (1971), pp. 36-7; Relying on H. von Campenhausen, *Ecclesiastical Authority and Spiritual Power in the Church of the First Three Centuries* trans. John Baker (1969).

the apostolic ministry of the Word,⁶⁷ rather than a Tractarian-type apostolic succession of consecration.⁶⁸

The precise nature of the biblical origins of the authority of the church may be the subject of vigorous debate, but it is reasonably clear that there was some form of structured authority within each local church in apostolic times.⁶⁹ This can be seen in the lists of ministries, and in references to elders and overseers.⁷⁰ Indeed, uncertainty itself can lead to adherence to formalism, in the conscious following of a strict apostolic succession, as a sure way of conveying the historic authority of the church. As Bishop Kirk observed in the forward to his edited book of (catholic) essays, *The Apostolic Ministry* (1946):⁷¹

The doctrine that the ministry, as embodied in its highest exemplar, the episcopate, is ‘from above,’ endowed with grace and authority from on high, and not simply with delegated responsibilities entrusted to it by the contemporary Church, is found fully operative in the sub-apostolic period, and continues virtually unopposed to the days of Luther.

⁶⁷ Which, alone as a basis for apostolic succession, was insufficient for catholicity. Henri de Lubac rejected apostolicity of the spirit divorced from office; *The Splendor of the Church* trans. Michael Mason (1956), pp. 87-8.

⁶⁸ Relying on Anthony Hanson, *The Pioneer Ministry* (1961).

⁶⁹ See, e.g. Kenneth Kirk (ed.), *The Apostolic Ministry* (2nd ed., 1957).

⁷⁰ 1 Corinthians 12.28 (“And God hath set some in the church, first apostles, secondarily prophets, thirdly teachers, after that miracles, then gifts of healings, helps, governments, diversities of tongues”); Ephesians 4.11 (“And he gave some, apostles; and some, prophets; and some, evangelists; and some, pastors and teachers”); and Philippians 1.1 (“Paul and Timotheus, the servants of Jesus Christ, to all the saints in Christ Jesus which are at Philippi, with the bishops and deacons”) respectively; see James Coriden, *An Introduction to Canon Law* (1991), p. 4.

⁷¹ Kenneth Kirk (ed.), *The Apostolic Ministry* (2nd ed., 1957), p. v.

The family of Churches which comprise the Anglican Communion reflected the same inherent problem as did the Commonwealth of Nations, which its development in some ways mirrored.⁷² Diversity was impossible without tensions when no effective central authority existed.⁷³ The Roman Catholic Church, in this respect quite different, could be seen (simplistically perhaps) as a panacea. Some Anglicans turned to Rome for certainty. This could be seen as indicating that the Anglican Communion has already gone too far towards allowing liberalism to hold together as a communion. This is perhaps inevitable in an environment in which anything not expressly prohibited is tolerated, and much which is prohibited is allowed. However, the Tractarian movement in the nineteenth century led to many Anglican defections to the Roman Catholic Church, but the Church survived, and may even have been strengthened.

Some elements in the Anglican Communion were more sacerdotal, some otherwise. Evangelicals,⁷⁴ charismatics, and those of other persuasions threatened to bring the Church to a crisis, just as the growth of the ritualists in the nineteenth century brought tensions for the Church.⁷⁵ Anglo-Catholics emphasised continuity with the pre-Reformation Church, and its character as a spiritual society, and opposed

⁷² See William Sachs, *The Transformation of Anglicanism* (1993).

⁷³ For example, see the discussion of convergent/divergent themes in œcumenism; Robert Ombres, "Ecclesiology, Ecumenism and Canon Law", in Norman Doe, Mark Hill and Robert Ombres (eds.), *English Canon Law* (1998), p. 49.

⁷⁴ Taking their standard the *Prayer Book* and the *Thirty-Nine Articles*, particularly the supremacy of Holy Scripture and justification by faith; Report to the Archbishop of Canterbury, *The Fulness of Christ* (1950), pp. 52-3.

⁷⁵ See George Broderick and William Freemantle, *Ecclesiastical Cases* (1865), and reports of later cases, and Royal Commission on Ecclesiastical Discipline, *Report of the Royal Commission on Ecclesiastical Discipline* (1906).

Erastian views.⁷⁶ But developments, such as the support for lay presidency in the predominantly evangelical diocese of Sydney, New South Wales,⁷⁷ heightened tensions. The “mild and tolerant protestantism”⁷⁸ of the sixteenth century had given way to two main traditions by the mid-nineteenth century, the evangelical and Anglo-Catholic. The Anglican Church began with an evangelical, doctrinal emphasis and outwardly at least grew more catholic; the Church was never conceived as merely a framework or organisation, but as part of the universal church⁷⁹ – as the Ordinal stated, “receive the Holy Ghost, for the office and work of a Bishop in the Church of God”.

While the Anglican Communion was reappraising its own nature, external events were also playing a role. Pre-eminent amongst there was œcumenism. Between the World Wars this was characterised by the search for mutuality in mission with appreciation for divergences in belief and church structure, allowing for the possibility of episcopacy without apostolic succession.⁸⁰ Bishop Hill identifies some of the key issues or themes as such as provisional and eschatological understandings

⁷⁶ Report to the Archbishop of Canterbury, *The Fulness of Christ* (1950), pp. 53-4.

⁷⁷ James McPherson, “Lay presidency by presbyteral delegation”, *Anglican Theological Review* 81(3) (1999): 413-28; Linda Morris, “Sacrament no longer solely a priestly duty”; “Archbishop refuses to give assent despite two-to-one vote”, *Sydney Morning Herald*, 20th September 2004; *Anglican Journal* (December 1999), available at <<http://www.anglicanjournal.com/125/10/world01.html>> (as at 30th August 2007).

⁷⁸ Report to the Archbishop of Canterbury, *The Fulness of Christ* (1950), pp. 54-5.

⁷⁹ J. Armitage Robinson, *The Apostolic Succession* (1944), p. 5.

⁸⁰ William Sachs, *The Transformation of Anglicanism* (1993), pp. 292, 300. Hill suggests that as a results of *Apostolicae curae* Anglicans have placed disproportionate emphasis on unbroken apostolic succession in episcopal office; Christopher Hill, “Anglican Orders: An œcumenical context”, *Anglican Theological Review* 78(1) (1996): 87-95.

of church, diachronic and synchronic diversity as they relate to the quest for Christian unity, and biblical hermeneutics as it undergirds modern œcumenism.⁸¹

This œcumenical movement coincided with a renewal of the laws of the Roman Catholic Church. The twentieth century was a time of codification for the Roman Catholic Church. The Latin Church obtained first the 1917⁸² and then the much more fully revised 1983 Codes of Canon Law.⁸³ A Code of Canons for the Eastern Churches was granted in 1990 for the twenty-one eastern Churches in full communion with Rome.⁸⁴ The existence of different codes gives prominence to the plurality of constituent churches, and it also discourages mistaking the Latin Church for the universal catholic church.⁸⁵ The retrieval of a common and formative heritage means that the study of the shared canonical past, a part of the more general theological and ecclesiological heritage, is to be pursued for more than antiquarian or scholarly ends. The retrieval of a common memory contributes to shaping our present Christian identity.⁸⁶

This rediscovery of ancient beliefs and practices had an effect on the Roman Catholic Church, and beyond. The decree on œcumenism of Vatican II taught that those who believe in Christ and have been truly

⁸¹ Christopher Hill, “Anglican Orders: An œcumenical context”, *Anglican Theological Review* 78(1) (1996): 87-95.

⁸² *The 1917 or Pio-Benedictine Code of Canon Law* Edward Peters, Curator (2001).

⁸³ *The Code of Canon Law* (1983).

⁸⁴ *Code of Canons of the Eastern Churches* (1992).

⁸⁵ Robert Ombres, “Ecclesiology, Œcumenism and Canon Law”, in Norman Doe, Mark Hill and Robert Ombres (eds.), *English Canon Law* (1998), pp. 50-51.

⁸⁶ Robert Ombres, “Ecclesiology, Œcumenism and Canon Law”, in Norman Doe, Mark Hill and Robert Ombres (eds.), *English Canon Law* (1998), p. 52.

baptized are in some kind of communion with the Roman Catholic Church, even though this communion is imperfect.⁸⁷ The Roman Catholic Church asserts that catholicity can only subsist in reconciled diversity – a return to the jurisdiction of Rome, but with some differences of liturgy and other local practices allowed.⁸⁸

Vatican II reiterated the Council of Trent – and the Vatican I position – that “[t]he bishops have by divine institution taken the place of the apostles as pastors of the church, in such wise that whoever listens to them is listening to Christ and whoever despises them despises Christ and Him Who sent Christ”.⁸⁹ Further elaboration was provided as to the nature of Holy Orders.

In *Lumen Gentium* it is stated that “The fullness of the sacrament of Orders is conferred by episcopal consecration, that fullness, namely, which both in the liturgical tradition of the Church and in the language of the Fathers of the Church is called the high priesthood, the acme of the sacred ministry”.⁹⁰ This settled a controversy dating from the fourth century as to whether bishops were a distinct order. The effect was to remove the mediæval distinction between sacrament and jurisdiction, which had led many to argue that episcopal consecration was non-sacramental.⁹¹ This however was combined with the weakening of the

⁸⁷ “*Unitatis Redintegratio*”, in *Decrees of the Œcumenical Councils* ed. Norman Tanner (1990), vol. 2, p. 910; “Dogmatic Constitution on the Church” Vatican Council II *Lumen Gentium* (1964), p. 21.

⁸⁸ Avery Dulles, *The Catholicity of the Church* (1985).

⁸⁹ “Dogmatic Constitution on the Church” Vatican Council II *Lumen Gentium* (1964), and *Decree on the Pastoral Office of Bishops in the Church (Christus Dominus)* (1965), cited in Thomas Kocik, *Apostolic Succession in an Œcumenical Context* (1996), p. 62. Compare Leviticus 10.6.

⁹⁰ “Dogmatic Constitution on the Church” Vatican Council II *Lumen Gentium* (1964), p. 21.

⁹¹ Thomas Kocik, *Apostolic Succession in an Œcumenical Context* (1996), p. 62.

teaching role of the episcopate, and of the collegiality of the bishops; they were now in a greater degree subordinate to the infallible and overarching teaching authority of the Pope.

Pope Pius XII's Apostolic Constitution *Sacramentum Ordinis* of 1947 (now superseded by the "Introduction to the Rite of Ordination", 1973) proclaimed that the proper sacramental action, or "matter" in the consecration of bishops was the laying-on of hands by bishops, coupled with the prescribed form.⁹² Importantly, from the perspective of *Apostolicae Curae*'s rejection of Anglican Holy Orders on the basis of form and (implicit) intention, *Sacramentum Ordinis* made it clear that the delivery of instruments was not necessary for valid ordination; what counted was the laying-on of hands, and invocation of the Holy Spirit (with the requisite intention).

The 1970 World Council of Churches study document *One in Christ* stated that genuine apostolic succession is not defined as the succession of ordination traceable to the apostles, but rather also depends on the conformity of word and life to the apostolic teaching.⁹³ The Anglican-Roman Catholic International Commission I 1973 Report *Ministry and Ordination* included laying-on of hands, but also the invocation of the Holy Spirit, and the reception of the new bishop into the episcopal fellowship.⁹⁴

Vatican II recognised the "special place" which Anglicanism held, because the Church had always maintained the necessity of preserving

⁹² *Acta Apostolicae Sedis* vol. 40, pp. 5-7; Thomas Kocik, *Apostolic Succession in an Œcumenical Context* (1996), p. 62.

⁹³ Joint Theological Commission on "Catholicity and Apostolicity" *One in Christ* (1970).

⁹⁴ *Ministry and Ordination* in the Anglican-Roman Catholic International Commission, *The final report: Windsor, September 1981* (1982), pp. 29-39.

the continuity of apostolic succession, and its sacramentality.⁹⁵ Vatican II re-statement of the Roman Catholic Church's position on the maintenance of an historic episcopate and the recognition of the apostolic succession did not, however, allow the Church to recognise the validity of Anglican Holy Orders. *Apostolicae Curae* remained "definitive" teaching.⁹⁶

There have however been examples of the conditional ordination of former Anglican priests, but these have been justified on the grounds that the original ordination involved Old Catholic or others whose Holy Orders were recognised by the Roman Catholic Church.⁹⁷ Right Reverend Monsignor Charles Klyberg (former Bishop of Fulham) was ordained unconditionally to the diaconate and priesthood in 1996,⁹⁸ but with the insertion into the rite of a statement from the Decree on Ecumenism of Vatican II and a prayer for the fulfilment in the catholic priesthood of his former ministry. It is difficult therefore to come to any conclusions with respect to the contemporary attitude of the Roman Catholic Church to Anglican Holy Orders beyond the teaching of

⁹⁵ See *Ministry and Ordination: Elucidation* (1979) no 3 in the Anglican-Roman Catholic International Commission, *The final report: Windsor, September 1981* (1982), p. 42.

⁹⁶ Apostolic Letter *Motu Proprio, Ad Tuendam Fidem* (18th May 1998).

⁹⁷ These include (but are by no means confined to) the Reverend Fr. John Jay Hughes, in Germany (1954); and the Right Hon. and Right Reverend Monsignor Graham Leonard (1994; as the former Bishop of London he was the most senior Anglican divine to return to communion with Rome since the Reformation). This conditional ordination "takes account of the involvement, in some Anglican episcopal ordinations, of bishops of the Old Catholic Church of the Union of Utrecht who are validly ordained" (in accordance with the norms of Canon 845.2); "Statement of Cardinal Hume on the ordination of Anglican Bishop Leonard as a Roman Catholic Priest", in Graham Leonard and Basil Cardinal Hume, "Anglican Bishop becomes Roman Catholic Priest: Statement from Cardinal Hume", *Origins* 23 (1994): 46, 793f.

Apostolicae Curae, despite *Sacramentum Ordinis*, *Ministry and Ordination* – and *One in Christ*.

The œcumenical hope being expressed in the latter œcumenical documents, is not that one standardized canonical system will emerge from the reunion of Christians.⁹⁹ It is likely and desirable that each Christian denomination would retain some of its canonical traditions after reunion.¹⁰⁰ Canonists must therefore be comparatively minded.¹⁰¹ Ombres argues, from the Roman Catholic point of view, that canon law issuing from an œcumenically-minded ecclesiology will be both convergent and provisional.¹⁰² But there are difficulties inherent in any system which is based upon independent and equal churches, particularly when they are, like the Anglican Church in New Zealand is strongly influenced by socio-political factors.¹⁰³ The divergence threatens to overwhelm the convergence. Although the primary focus remained on the relationship with the Roman Catholic Church – as the parent Church of the Anglican Communion – other parts of the universal church remained important. This was particularly so in the context of the development of œcumenical dialogue during the twentieth century.

⁹⁸ As were the Reverend Conrad Meyer (formerly Bishop Suffragan of Dorchester and the Very Reverend Canon Richard Rutt (formerly Bishop of Leicester).

⁹⁹ Though it must be noted that there is a distinction between inter-communion and true unity of the universal church; Edward Norman, “Authority in the Anglican Communion” (1998).

¹⁰⁰ Robert Ombres, “Ecclesiology, Œcumenism and Canon Law”, in Norman Doe, Mark Hill and Robert Ombres (eds.), *English Canon Law* (1998), p. 54.

¹⁰¹ *Ibid*, p. 55.

¹⁰² Robert Ombres, “Ecclesiology, Œcumenism and Canon Law”, in Norman Doe, Mark Hill and Robert Ombres (eds.), *English Canon Law* (1998), p. 49.

Anglican-Orthodox dialogue

The intercommunion dialogue on the nature of the church and on *communicatio in sacris* has been conducted by the Anglican Communion both with specific Churches, especially the Lutheran, Methodist, Roman Catholic and Orthodox Churches, and also on a broader international scale, particularly through the forum of the World Council of Churches. To date only the former has led to any explicit statement of recognition; that from the last being much more ambiguous.

The catholicity of the Anglican Church could be measured by comparison with the doctrinal positions of both the Roman Catholic Church and Orthodox Church. After the condemnation of Anglican ordinations by Pope Leo XIII in 1896 many Anglicans hoped to counterbalance this by persuading the Orthodox Church to recognize the validity of their priesthood and episcopate.

In 1922 the Holy Synod of the Œcumenical Patriarch of Constantinople formally recognised the validity of Anglican Holy Orders,¹⁰⁴ as “having the same validity as those of the Roman, Old

¹⁰³ See Noel Cox, “An exploration of the basis of legal authority of the Anglican Church in New Zealand” (2005) Archbishop of Canterbury’s Examination in Theology (“Lambeth degree”) M.A. thesis.

¹⁰⁴ Holy Synod of the Œcumenical Patriarchate of Constantinople, *Encyclical on Anglican Orders*. The synod made the following four points:

1. That the ordination of Matthew Parker as Archbishop of Canterbury by four bishops is a fact established by history.
2. That in this and subsequent ordinations there are found in their fullness those orthodox and indispensable, visible and sensible elements of valid episcopal ordination – viz. the laying on of hands, the Epiclesis of the All-Holy Spirit and also the purpose to transmit the charisma of the Episcopal ministry.

Catholic, and Armenian Churches”. Some other Eastern Orthodox patriarchates later followed this example, at the request of Patriarch Meletios.¹⁰⁵ All responses were, however, clearly insisting that no non-Orthodox Holy Orders can be really valid without the reunion of the

3. That the orthodox theologians who have scientifically examined the question have almost unanimously come to the same conclusions and have declared themselves as accepting the validity of Anglican Orders.

4. That the practice in the Church affords no indication that the Orthodox Church has ever officially treated the validity of Anglican Orders as in doubt, in such a way as would point to the re-ordination of the Anglican clergy as required in the case of the union of the two Churches.

¹⁰⁵ Meletios, Ecumenical Patriarch of Constantinople, was *primus inter pares* of the Eastern Orthodox Church. For the letters see, for instance, the Archbishop of Cyprus’ Letter to the Patriarch of Constantinople on Anglican Orders 1923; the Letter of the Patriarch of Alexandria to the Archbishop of Canterbury on Anglican Orders, 1923; The Resolution of the Sacred Synod of the Orthodox Church of Romania on Anglican Orders, 1936; Hilaire Marot, “The Orthodox Churches and Anglican Orders”, in Hans Küng (ed.), *Apostolic Succession* (1968), pp. 150-60.

Cyril, Archbishop of Cyprus’ Letter to the Patriarch of Constantinople on Anglican Orders 1923, for example, reads (in part) as follows:

It being understood that the Apostolic Succession in the Anglican Church by the Sacrament of Order was not broken at the Consecration of the first Archbishop of this Church, Matthew Parker, and the visible signs being present in Orders among the Anglicans by which the grace of the Holy Spirit is supplied, which enables the ordinand for the functions of his particular order, there is no obstacle to the recognition by the Orthodox Church of the validity of Anglican Ordinations in the same way that the validity of the ordinations of the Roman, Old Catholic, and Armenian Church are recognized by her. Since clerics coming from these Churches into the bosom of the Orthodox Church are received without reordination we express our judgment that this should also hold in the case of Anglicans – excluding intercommunion (sacramental union), by which one might receive the sacraments indiscriminately at the hands of an Anglican, even one holding the Orthodox dogma, until the dogmatic unity of the two Churches, Orthodox and Anglican, is attained.

Churches;¹⁰⁶ intercommunion was denied. The Anglican Communion in its turn recognised as valid the ordination of Orthodox ministers.¹⁰⁷

However, since the Second World War no other Orthodox Church has recognised the validity of Anglican Holy Orders. Indeed, none of these Churches which had recognised their validity seem actually to have given practical effect to these acts of recognition. Anglican clergy entering Orthodoxy have always been re-ordained, whereas in the case of Roman Catholic clergy there is usually no such re-ordination.¹⁰⁸

In 1948 the Moscow Patriarchate, at a state-organised synod at Lvov, concluded that “The Orthodox Church cannot agree to recognize the rightness of Anglican teaching on the sacraments in general, and on the sacrament of Holy Orders in particular; and so it cannot recognize the validity of Anglican ordinations”.¹⁰⁹ This attitude may be seen to have parallels to that of Cardinal Newman: “Anglicans believe that they belong to the true church because their Holy Orders are valid, while

¹⁰⁶ Edward Hardy, (ed.), *Orthodox Statements on Anglican Orders* (1946).

¹⁰⁷ Guy Mayfield, *Anglican Guide to Orthodox Liturgy* (1949); Anglican Orthodox Joint Doctrinal Commission, *Anglo-Orthodox Dialogue* (1984); Hilaire Marot, “The Orthodox Churches and Anglican Orders”, in Hans Küng (ed.), *Apostolic Succession* (1968), pp. 150-60.

¹⁰⁸ According to Timothy Ware (Bishop Kallistos of Diokleia), Orthodox Churches were not trying to answer the question “Are Anglican Orders valid in themselves, here and now?” “They had in mind the rather different question ‘Supposing the Anglican communion were to reach full agreement in faith with the Orthodox, would it *then* be necessary to reordain Anglican clergy?’”

– Timothy Ware, *The Orthodox Church* (2nd ed., 1993).

¹⁰⁹ This was endorsed by representatives of the Churches of Alexandria, Antioch, Serbia, Bulgaria, Romania, Georgia, and Albania. The Russian Church in Exile, at the Karlovtsy Synod of 1935, had declared that Anglican clergy who become Orthodox must be re-ordained; Synod of the Russian Church in Exile: Karlovtsy Synod, 1935.

Catholics believe their Holy Orders are valid because they belong to the true church”.¹¹⁰

It is significant that, in this declaration, the Moscow Patriarchate declined to treat the question of valid Holy Orders in isolation, but insists on placing the issue within the context of the “total faith” of the Anglican Church.¹¹¹ This is consistent with the theology of the ordained ministry as expressed in the Ordinal and the *Thirty-Nine Articles of Religion*.¹¹² It is also notable that the declaration speaks of not accepting the teaching of the Anglican Church, and hence of not accepting the effectiveness of the ordination rite of that Church – thus the catholicity of the church depends upon tradition. The series of interlocking affirmations which the *Thirty-Nine Articles* contain imply that the ordained ministry cannot be separated from the gospel of salvation.¹¹³ As Bishop Sykes tells us:

[i]t is not merely what Jesus did historically which controls the trajectory of a true development. It is, rather, the soteriological (and thus Christological) heart of the gospel which provides us with criteria for inspecting the validity of developments within the pattern of ministries emanating “from the apostles’ time”.¹¹⁴

Sykes does not, however, attempt to identify these criteria with precision.

¹¹⁰ John Henry Newman, *Essays and Sketches* ed. Charles Frederick Harrold (1948).

¹¹¹ As well as a valid historic transmission the Eastern Orthodox and Oriental Orthodox Churches require that the episcopate maintain an orthodox doctrine for the preservation of the apostolic succession.

¹¹² *Thirty-Nine Articles of Religion* (1562, confirmed 1571 by the Subscription (Thirty-Nine Articles) Act 1571 (13 Eliz. I c. 12) (Eng.)).

¹¹³ Stephen Sykes, “‘To the intent that these Orders may be continued’: An Anglican theology of Holy Orders”, 78(1) *Anglican Theological Review* (1996): 48-63.

The agreed statement on Anglo-Orthodox dialogue¹¹⁵ devotes a large amount of space to the issue of catholicity. This is seen as actualised and given visible expression in the Eucharist, in a multiplicity of local churches each in communion with all other local churches. But genuine intercommunion remains elusive.

Anglican-Lutheran dialogue

The Lutheran Churches had a similar perspective to catholicity to that of the Anglican Communion. Article VII of the *Confessio Augustana* renders “one holy catholic church” as “one holy Christian church”.¹¹⁶ The Lutheran-Anglican dialogues reinforced the commonality of this understanding, as reflected in the negotiation of the Porvoo statements.¹¹⁷

The similar views of Lutherans and Anglicans has led to intercommunion with some of the Churches – though not all, partly because the nature of episcopal authority differs within the Lutheran churches.¹¹⁸ The 1993 Porvoo Statements between the Nordic and Baltic Lutheran Churches, and the Anglican churches in the United Kingdom

¹¹⁴ Ibid.

¹¹⁵ Anglican Orthodox Joint Doctrinal Commission, *Anglo-Orthodox Dialogue* (1984).

¹¹⁶ Edmund Schlink saw this as being “because the Church is already catholic in Christ, therefore it ought to be catholic”; *Oekumenicke Dogmatik* (1983), p. 588, cited in Stephen Sykes, “Catholicity and Authority in Anglican-Lutheran Relations”, in Stephen Sykes (ed.), *Authority in the Anglican Communion* (1987), pp. 264-83, 276.

¹¹⁷ *Anglican-Lutheran International Conversations* (1973); *Together in Mission and Ministry* (1993).

¹¹⁸ *Anglican-Lutheran International Conversations* (1973); *Together in Mission and Ministry* (1993).

and in Ireland,¹¹⁹ is the major result of this dialogue. This agreement was also important because of the new doctrine of apostolic succession which resulted from conversations between British and Irish Anglican churches and the Nordic and Baltic Lutheran churches. Continuity of episcopal ordination was emphasised less than the continuity of witness and worship of congregations in historic sees and churches¹²⁰ – a Protestant approach rather than the traditional catholic understanding. However, the Anglican participants in the Anglican-Lutheran international conversations 1970-73 reported that they “cannot foresee full integration of ministries (full communion) apart from the historic episcopate”.¹²¹

The continuation of œcumenical dialogue

Apart from dialogue with Lutheranism there has yet to be significant progress. Two general principles govern the union of an Anglican church and another church. First, the other church must be one which the Anglican Communion could eventually accept in full communion.¹²² Secondly, the ministration of a visiting non-episcopally ordained minister of the united church (a church in the process of admission to full communion) must not be regarded “as a bar to relations of full

¹¹⁹ “Porvoo Common Statement”, 18th November 1993; *Together in Mission and Ministry* (1993). The Anglican churches who signed Porvoo are the Church of England, Church of Ireland, Scottish Episcopal Church, and Church in Wales. The Lutheran churches are the Evangelical-Lutheran Church of Finland, Evangelical Lutheran Church of Iceland, Church of Norway, Church of Sweden, Estonian Evangelical-Lutheran Church, and the Evangelical-Lutheran Church of Lithuania. The Church of Denmark and the Evangelical-Lutheran Church of Latvia did not accept Porvoo.

¹²⁰ *Together in Mission and Ministry* (1993).

¹²¹ *Anglican-Lutheran International Conversations* (1973), Para. 87.

¹²² L.C. 1948, Res. 56.

communion between the United Church and the Churches of the Anglican Communion”. Lastly, the united church must be invited to membership of the Lambeth Conference.¹²³

In agreements for intercommunion, the churches each provide that they recognise the catholicity and independence of the other and they agree to admit members of the other communion “to participate in the sacraments”; at the same time, however, “inter-communion does not require the acceptance of all doctrinal opinion, sacramental devotion or liturgical characteristic of the other, but implies that each believes the other to hold all the essentials of the faith.¹²⁴ Short of constitutional union, relations between Anglican churches and other churches may be determined by means of a concordat,¹²⁵ and agreement,¹²⁶ or a covenant,¹²⁷ or other arrangement. Dialogue continues with a number of Churches, towards the goal of eventual intercommunion. It is in this context that the question of the validity of Anglican Holy Orders must be seen.

We now return to the question of authority (that is, authority to determine doctrine and theology). Divergence in authority in

¹²³ L.C. 1958, Res. 21; L.C. 1978, Res. 32; L.C. 1988, Res. 12. In 1888 the Lambeth Conference published what became known as the Lambeth Quadrilateral, which sets forth what the Anglican Communion regards as the basis upon which Christendom might be reunited; L.C. 1888, Res. 11.

¹²⁴ General Synod Standing Resolution 1952. With the Old Catholic Church, the church has “unrestricted *communio in sacris*”; General Synod Standing Resolution 1974. For intercommunion generally see also Alan Stephenson, *The First Lambeth Conference* (1967), especially ch. 12.

¹²⁵ See, for instance, the Concordat of Full Communion 1961, between the Mar Thoma Church and the (former) Anglican Church of India, Pakistan, Burma and Ceylon.

¹²⁶ See the Bonn Agreement 1931 between the Old Catholic Churches and the churches of the Anglican Communion.

¹²⁷ An example is that between the Church in Wales and certain Baptist Churches in Wales; Wales, Canon of 1974.

Communion may lead to differing theology of Holy Orders and so threaten the intra-communion validity of Holy Orders, quite apart from any questions of external recognition. The reaction to the Windsor Report and subsequent schismatic movements within the Anglican Communion may threaten future inter-communion and the mutual recognition of Holy Orders – though it remains unclear whether this has been elevated to a theological, rather than a practical question.

Conclusion

In the sixteenth century the Anglican Church was catholic and reformed; in the nineteenth century the Roman Catholic perspective was more hierarchical, formalistic, and order-based. By the late twentieth century œcumenism meant a partial return to sixteenth century ideas – in light of better historical methods and knowledge. But the conception of the nature of the Church and of Holy Orders was equally contentious, and now complicated by wider social concerns.

This chapter emphasised that the question of validity of Anglican Holy Orders is not one which can be answered by an appeal to history alone – as *Apostolicae Curae* sought to do in 1896 – nor to legalism, because broader questions of doctrine arise, and because Anglican Holy Orders today may be different from those in 1896, in part because of the growth of the Anglican Communion. Œcumenical ideals sought unity in the fragmented church of Christ, with the Anglican *via media* as a means to this end. It would appear to be partly for this reason (œcumenism) – as well as the continuing nineteenth century justification – that the question of the validity of Anglican Holy Orders remains important.

But the external and external theologies are in conflict; a desire to allow an understanding of apostolic succession acceptable to certain denominations with whom œcumenical talks are continuing increases the risk of rejection by Churches with a stronger adherence to the historic episcopate. Although the Anglican Communion was cautious in the 1940s union of the Churches in South India (which did not result in a Church which was automatically in full communion), it was perhaps less cautious when, more recently, it accepted women priests.

CONCLUSION

Differing ecclesiologies in the Anglican Communion and the older Churches were very apparent in the twentieth century, at a time when they were often concerned more with questions of authority than the theology of Holy Orders. Theological reforms led to changes in the nature of the Anglican Church which did not necessarily aid œcumenism.

The toleration of the wide doctrinal differences as exist within the Anglican Communion appears to constitute an absolute barrier between the Anglican and Roman Catholic Churches. Anglicanism regards ordination as a matter within the power of each national or particular church. The English Church, at its discretion, had chosen to retain the historic episcopate. But it did not necessarily refuse to recognise the ministries of those Churches which dispensed with bishops. While at least some of the Orthodox Churches recognised the validity of Anglican Holy Orders, as did the Old Catholics (with whom the Anglican Communion was in full communion from 1932), the continuance of this mutual recognition may be threatened by the recent Anglican tendency towards unorthodoxy.¹ Many in the Anglo-Catholic party would have no objection to the ordination of women priests, for instance, had it been in conjunction with the Roman Catholic and the Eastern Orthodox Churches. The significant issue for them concerns more the authority of the Synod to act alone, rather than the actual decision.²

¹ More than 100 years ago Newman feared that the Church of England would become so “radically liberalized ... as to become a simple enemy of the truth” cited in Bobby Jindal, “End of the Oxford Movement”, *This Rock* (January 1994), available at <http://www.catholic.com/thisrock/1994/9401fea2.asp> (as at 30th August 2007).

² *Ibid.*

The key research question asked in this thesis was “why does the Anglican Communion continue to regard the recognition of its Holy Orders by other Churches, and especially by the Roman Catholic Church, as important?” The answer to this seems to have several parts. First, because the Anglican Communion lacks a strong central authority it must rely on the inherent authority of Holy Scripture, the œcumenical councils and the uncertain authority of the Lambeth conferences. This authority is reflected in the Nicene Creed, and adherence to the notion of membership of a one holy catholic and apostolic church. Second, the need to maintain authority encourages a focus upon form, and especially Holy Orders. But this is more noticeable at a Communion-wide level, since synodical government within the provinces allow a degree of variation at sub-Communion level. The focus was upon the Roman Catholic Church because it was out of that Church that the Anglican Communion grew.

The internal rationale for the continued quest for recognition has become one based on a search for identity, but this question cannot be seen in isolation, in particular because of the world-wide growth in the Anglican Communion. In part this is a question of discipline versus theology. The Church can ordain because its rules allow this. This has led to an emphasis, in parts of the Communion, on social justice over catholicity. At the back of the ordination debate are theological arguments including the place and sources of doctrine (or authority within the church), and the social and anthropological role of women. Can local churches ordain whomsoever they choose? As a matter of jurisdiction this is arguably possible in the Communion; but it is by no means universally agreed inside or outside the Anglican Communion that this is so as a matter of theology. The validity of Holy Orders may be settled juridically by internal rules, but what is the source of those rules?

The place of doctrine, and the nature and form of the universal church, remains important.

An external rationale for the continued quest for recognition is based on œcumenism. This is a recognition that any future reunion of the church means the issue of the validity of Anglican Holy Orders cannot be simply swept away as immaterial or a purely historical or academic question.

The recognition of the validity of Anglican Holy Orders by the Roman Catholic Church is the ultimate prize of the Communion, not because it sees itself as subordinate to the See of Rome, but because it has always maintained that its Holy Orders were valid orders of the universal church. Yet without acknowledgement of this from the Roman Catholic Church there remained, for many, a sense of incompleteness.

It is not recognition by Rome that is sought (though this is the means to the end), but rather the recognition of the universality of Anglican Holy Orders. This is laudable, but it is difficult to conceive of success when the Anglican Communion redefines – through the widespread ordination of women to the priesthood – the nature of Holy Orders in defiance of the disagreement expressed in the principal eastern and western apostolic churches. It is not that there is necessarily anything unbiblical in ordaining women, though the question is clearer with respect to practising homosexuals. But Roman Catholic teaching is that it is contrary to catholic tradition. Orthodox Churches hold that an innovation of this sort – which strikes at the ecclesiological basis of the priesthood – needs the consensus of the universal church. It is not an innovation which any particular Church can introduce. Thus the question of the catholicity of the Holy Orders of the Anglican Communion now turns, not on a re-evaluation of *Apostolicae Curae*, but upon consideration of whether recent developments in Anglican ecclesiology

of Holy Orders is consistent with the catholic understanding of Holy Orders.

Bishop Hill suggests that, as a result of *Apostolicae curae*, Anglicans have placed disproportionate emphasis on unbroken apostolic succession in episcopal office.³ Yet the earlier 1888 Lambeth Quadrilateral includes the “historic episcopate, locally adapted in methods of administration to the varying needs of nations and peoples called of God into the unity of his Church”,⁴ as central to Anglicanism. The definition of historic episcopate, and whether this means unbroken apostolic succession, is indeed central to Anglican Holy Orders. It may be readily seen why it has been subject to so much attention. But it is probably correct that the debate needs to be wider than simply the question of the validity of Holy Orders, and instead include the nature, structure, function and authority of the ministry.⁵

The question of the validity of Anglican Holy Orders is part of the broader picture of Anglicanism. As a “*via media*” it is inevitable that some uncertainty exists, and that the Church face a struggle to reconcile itself to continuity when it is a discontinuous Church.

Emphasising authority, not episcopacy as traditionally understood, or Holy Orders, was a discernable Anglican trait. Indeed, asserting that denominations can make their own rules, when once the Anglican Church was seen as a purified branch of the catholic church, reflected a decline in a belief in catholicity. If general councils alone may pronounce doctrine, and all institutions of the church are fallible, the Church is in dangerous waters when it abandons consensus in favour of partisanship,

³ Christopher Hill, “Anglican Orders: An œcumenical context”, *Anglican Theological Review* 78(1) (1996): 87-95.

⁴ L.C. 1888, Res. 11.

⁵ Willem van de Pol, *Anglicanism in Œcumenical Perspective* (1965), p. 58.

and orthodoxy in favour of the merely “fashionable”. The Anglican Church was founded on a rejection of what were seen as the artificial accretions on the purer teachings of the *Bible*. But the irony is that the reformed Roman Catholic Church may now be closer to following a biblical ecclesiology of Holy Orders. Hope however may lie in the growth of what Oden has called paleo-orthodoxy, which seeks to restore classic Christian verities rather than focus on negotiating structures of organic unity.⁶

There remains an on-going conflict between orthodoxy and catholicity on the one hand, and œcumenism on the other. The divide appears wider than in the nineteenth century, and the path to certainty made crooked by the lack of central authority in Anglican. This is perhaps inevitable in a Church created largely out of the rejection of central authority, and not inspired by a new theology. But in the wider church of God the state of Holy Orders is also uncertain. Newman observed in his 1872 note to his 1840 *Essay on the Catholicity of the Anglican Church*,⁷ “Anglicans believe that they belong to the true church because their orders are valid, while Catholics believe their orders are valid because they belong to the true church”.⁸ But this also exposes a weakness in the Roman Catholic position, in an age wary of all forms of authority, in that assertions of validity based on the authority of the Church are not unassailable. Perhaps the view of the Russian Orthodox Church in 1948 is theologically more helpful, as recognising the unity of theology and Holy Orders.

⁶ Thomas Oden, *The Rebirth of Orthodoxy* (2003).

⁷ Cited in William Nicholls, *œcumenism and Catholicity* (1952), pp. 90-91.

⁸ John Henry Newman, *Essays and Sketches* ed. Charles Frederick Harrold (1948).

Theological arguments changed over time, due to changing circumstances. In the sixteenth century the Church was finding its feet – at once a rejection of jurisdiction, and later more actively reforming. Subsequently there was a rediscovery of catholicity, by the Caroline Divines, and still later by the Tractarians. These changes reflect not so much a changing theology of Holy Orders as a change in emphasis. This was within a Church both catholic and reformed, yet lacking the doctrinal *grundnorm* of Calvinism or Lutheranism to sustain a distinct theology of Holy Orders. Thus recognition was a key to the Anglican Church in seeking its own identity.

The Right Reverend Andrew Burnham, the (Anglo-Catholic) Bishop of Ebbsfleet,⁹ saw five principle factors working in favour of the recognition of Anglican Holy Orders by the Roman Catholic Church. These were Old Catholic involvement in Anglican ordinations; the liturgical and œcumenical movements; ARCIC; doubts raised by *Saepius Officio* and the newly available documents from members of Leo XIII's Commission; and pluralism and a new Anglican-Roman Catholic neighbourliness. However, opposed to these positive developments were the admission of women to the *sacerdotium*; lay presidency; and the new influence of evangelicals, liberalism, and a new doctrine of apostolic succession.¹⁰ It remains to be seen whether the latter or the former will prevail, but for the present *Apostolicae Curae* remains the official Roman Catholic position, and is unlikely to be superseded for some time.

One may here speculate the on the next steps in the debate. In the sixteenth century the Anglican Church tended to emphasise legal

⁹ Provincial Episcopal Visitor for the Province of Canterbury, appointed to visit parishes throughout the province who cannot in good conscience accept the ministry of bishops who have participated in the ordination of women.

¹⁰ Andrew Burnham, "The Centenary of *Apostolicae Curae*", *New Directions* 15 (August 1996).

continuity. In the nineteenth century it became more a question of historical continuity. By the twenty-first century the debate had become, under the influence of œcumenism and historicism, more focused upon a search for essential continuity. The current development of an Anglican Covenant¹¹ provides an opportunity for the Church to recognise the intrinsic importance of an apostolic and catholic priesthood, consistent with both the Church's own tradition as a catholic and reformed Church, and as an integral part of the universal church.¹² Thus, the development and adoption of a covenant would provide the first real opportunity since *Apostolicae Curae* for the Anglican Communion to re-assert its catholicity and orthodoxy, in a manner which satisfied both internal and external interests.

There is also an opportunity for the Holy See to re-evaluate the status of *Apostolicae Curae*, in the light of renewed œcumenism and historicism, and its own re-evaluation of the nature of Holy Orders. The doctrinal commentary to accompany Pope John Paul II's apostolic letter *Ad Tuendam Fidem* listed *Apostolicae Curae*, declaring Anglican Holy Orders to be "absolutely null and utterly void," as definitive teaching. Yet the precise meaning of *Apostolicae Curae* should be read in context. Roman Catholic understanding of Holy Orders and the nature of the church was re-assessed after Vatican II, and world-wide the Lima Report twenty years later was also important. It was a rejection of the Anglican

¹¹ *The Report of The Covenant Design Group meeting in Nassau, 15th-18th January 2007 under the chairmanship of the Most Revd Dr Drexel Gomez Archbishop of the West Indies* (2007).

¹² The Covenant Design Group, appointed by the Archbishop of Canterbury on behalf of the Primates of the Anglican Communion, and chaired by the Most Reverend Drexel Gomez, Archbishop of the West Indies, considered four major areas – the content of an Anglican Covenant; the process by which it would be received into the life of the Communion; the foundations on which a covenant might be built; and its methods of working.

ordinal at the time of the Reformation, and not inherently of Anglican Holy Orders for all time.

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INDEX

- Act of Uniformity 1559, 14, 95
Ad Tuendam Fidem, 75, 108, 125
 Anglican Church, iii, iv, vii, x, 1, 6, 9, 11, 13, 14, 16, 18, 28, 30, 32, 33, 40, 42, 43, 49, 51, 52, 53, 64, 65, 67, 71, 73, 81, 86, 94, 95, 110, 111, 113, 116, 122, 123, 132, 138, 142, 143
 Anglican Church in Aotearoa, New Zealand and Polynesia, x, 13, 30, 81, 86, 138
 Anglican Church in New Zealand, vii, 9, 14, 16, 94, 95, 109, 110, 143
 Anglican Communion, i, iii, v, vi, 1, 2, 3, 5, 6, 7, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 32, 33, 34, 36, 37, 38, 48, 50, 59, 62, 65, 67, 69, 78, 79, 81, 82, 83, 85, 86, 87, 89, 90, 91, 92, 95, 96, 97, 98, 99, 103, 109, 112, 114, 115, 116, 117, 118, 119, 120, 121, 134, 135, 137, 138, 140, 142
 Anglican Covenant, 15
 Anglican Rite, 1
 Anglican theologians, 3, 4, 6, 24, 26, 49, 55
 Anglicanism, v, 2, 15, 17, 19, 20, 23, 25, 33, 43, 48, 60, 63, 64, 66, 84, 87, 90, 91, 92, 97, 98, 103, 104, 107, 119, 122, 131, 134, 135, 142
 apostles, 5, 6, 9, 13, 47, 68, 69, 77, 93, 99, 101, 102, 106, 107, 113
 Apostles' Creed, 5, 13
 apostolic succession, iv, 9, 24, 41, 44, 47, 52, 54, 58, 66, 67, 79, 81, 102, 104, 107, 108, 113, 115, 118, 122
 Apostolic succession, 4
Apostolicae Curae, 15, 25, 29, 63, 64, 66, 68, 69, 71, 72, 75, 76, 80, 83, 84, 86, 98, 100, 107, 108, 109, 117, 121, 125, 131, 140
 apostolicity, 99, 102
 Aquinas, St. Thomas, 17, 127
 Arius, 77
 Ashford, Rev'd. Ron, vii
 Athanasian Creed, 5
 Augsburg Confession, 9, 54
 Augustine of Hippo, St., 13, 14, 95, 127, 134
 authority, iv, 8, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 26, 28, 30, 31, 32, 34, 35, 37, 40, 41, 43, 44, 47, 48, 49, 50, 51, 56, 58, 59, 62, 70, 75, 77, 80, 82, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 110, 114, 116, 119, 120, 122, 123, 134, 135, 143
 baptism, 12, 88
 Beattie, Hon. Sir David, vii
Book of Common Prayer, 30, 42, 45, 46, 57, 60, 69, 70, 81, 88, 138
 Calvin, Jean, 12, 17, 37, 48, 54, 59, 77, 128
 Calvinist, 7, 9, 37, 46, 50, 79
 canon law, 11, 19, 21, 22, 36, 37, 39, 42, 52, 75, 109, 128, 131, 134
 Canterbury, Archbishop of, vi, 1, 10, 22, 34, 44, 45, 56, 60, 89, 90, 91, 92, 103, 104, 110, 111, 140, 143
 catholicity, iii, iv, 1, 2, 4, 6, 7, 8, 11, 16, 19, 23, 24, 25, 26, 28, 33, 40, 41, 49, 51, 52, 55, 58, 64, 72, 79, 96, 102, 106, 110, 114, 116, 121, 122, 123
 Chalcedon, Council of (451), 8, 88
 Chalcedon, Council, Council (451), 14, 88, 95
 charismatics, 103
 Charles I, H.M. King and Martyr, 52, 58
 Church of England, 1, 4, 6, 15, 16, 19, 29, 32, 34, 35, 37, 39, 40, 45, 46, 47, 51, 52, 54, 56, 57, 60, 62, 63, 83, 84, 89, 96, 115, 119, 127, 129, 130, 131, 132, 134, 138, 140, 141
Code of Canon Law, 8, 13, 24, 78, 105, 136, 138
Codex Canonum Ecclesiarum Orientalium, 13
 Colossians 2.20-23, 35
 Commission on Christian Doctrine, 16, 140
 Commonwealth, 103

communio ecclesiarum, 80
 community of faithful, 1
 Congregation for the Doctrine of the Faith, 24, 74, 75, 76, 78, 92, 93, 138
 consecration, 22, 44, 54, 79, 85, 94, 96, 102, 106, 107
 Constantine, Emperor, 10, 46, 129
 Constantinople I, Council of (381), 8
 Constantinople III, Council of (680), 8
 Constantionople II, Council of (553), 8
 continuity, iii, iv, v, 2, 5, 7, 29, 34, 37, 38, 41, 42, 43, 45, 48, 52, 57, 60, 79, 82, 83, 85, 87, 103, 108, 115, 122
 Corinthians
 1
 12.28, 102
Corpus Iuris Canonici, 88, 139
 Council of Trent, 29, 46, 54, 63, 84, 106
 Court of Appeal, x
 deacon, 69, 88, 89, 92, 94, 101, 102, 133, 136
 deaconess, 87, 88, 90, 92, 131, 133
 Dean of the Arches, 22
 denomination, 1, 6, 7, 109
 dispensation, 13
 divine law, 11, 17, 21, 92, 134
 Divine Service. See Eucharist
 doctrine, 1, 4, 14, 15, 28, 31, 39, 42, 49, 51, 53, 54, 55, 56, 58, 62, 65, 68, 83, 84, 87, 95, 97, 101, 102, 113, 115, 116, 117, 122
 dominical command, 12
Dominus Iesus, 78, 139
 Eastern Orthodox Churches, 2
 ecclesiology, i, 2, 10, 12, 14, 17, 25, 26, 27, 37, 41, 48, 83, 91, 95, 97, 109, 121, 123
 Edward VI, H.M. King, 41, 42, 43, 46, 60, 130
 Elizabeth I, H.M. Queen, 46, 52, 54, 55
 Elizabethan Settlement, 14, 95
Encyclical on Anglican Orders, 110
 Epaene, Council of (517), 88
 Ephesians
 4.11, 102
 Ephesus, Council of (431), 8, 14, 95
 episcopate, 4, 5, 17, 20, 30, 50, 51, 52, 78, 79, 80, 97, 99, 102, 108, 110, 113, 115, 118, 119, 122
 Erastianism, 16, 104
 Eucharist, 3, 58, 60, 67, 78, 85, 128, 140
 Evangelicals, 103
 Fathers of the Church, 106
 Ferard, Elizabeth, 89
 Fliedner, Thomas, 89
 formularies, iii, 38
 Galatians
 6.16, 38
 General Council, 95
 General Synod, 10, 14, 15, 30, 86, 90, 96, 116, 138, 140
 Girdwood, Rev'd. Richard, vii
 Gore, Rt Rev'd. Charles, 4, 5, 6, 50, 79, 100, 101, 130
 Gospel. See Holy Scripture, See Holy Scripture
 Graham, Rt Hon. Sir Douglas, vii
 Hadlow, Rev'd. Canon Gerald, vii
 Halifax, Viscount, 3, 66, 132
 Henry VIII, H.M. King, 34, 43, 50, 53, 54, 55
 heresy, 9, 14, 95
 Hertford, Council of (673), 34
 High Court, x
 Holy Orders, iii, iv, v, 1, 2, 3, 7, 8, 9, 10, 12, 13, 20, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 52, 53, 54, 58, 59, 60, 62, 63, 65, 66, 67, 68, 70, 72, 73, 75, 79, 82, 83, 84, 85, 86, 87, 89, 95, 96, 97, 98, 99, 100, 107, 108, 110, 112, 113, 117, 119, 120, 121, 122, 123, 125, 136, 143
 Holy Scripture, 7, 12, 28, 32, 33, 36, 48, 56, 62, 69, 92, 96, 103, 120
 Holy See, iv, 13, 25, 26, 29, 34, 40, 50, 53, 55, 63, 66, 67, 73, 82, 84, 86, 121
 Holy Spirit, 16, 17, 44, 56, 100, 107, 110, 111
 homosexuals, ordination and consecration of practising, 22, 94, 97
 Hooker, Rev'd. Richard, 3, 5, 14, 26, 44, 46, 54, 55, 56, 58, 59, 77, 131, 142
 humanism, 95
in persona Christi capitis, 23
 infallibility, 14, 95, 135
 intention and form, v
Inter insigniores, 93
 Israel, 11, 38, 127
 John
 20.21, 45

Joint Theological Commission, 9, 10, 107, 140
jus canonicum, 21
 Justification by faith, 12
 Kanuga Primates' Meeting, 20, 21
 Keith, Rt Hon. Justice Sir Kenneth, vii
 Kingdom of Christ, 11
 Kingdom of God, 6
 Kirk, Rt Rev'd. Kenneth, 57, 70, 76, 77, 79, 102, 132, 137
 Lambeth Conference, x, 5, 6, 15, 19, 20, 22, 30, 38, 80, 89, 92, 116, 135, 139, 140, 142
 Leo XIII, Pope, 25, 29, 63, 66, 67, 68, 69, 70, 71, 74, 75, 110, 139, 140
 Lightfoot, Rt Rev'd. Joseph, 79, 132
 London, Bishop of, 89, 108
 Luke
 22.19, 99
 22.32, 80
Lumen Gentium, 106
 Luther, Martin, 48, 54, 59, 102, 136
 Lutheran, 7, 9, 29, 30, 50, 73, 86, 89, 110, 114, 115, 139
magisterium, 16, 48, 53, 63
 Mary I, H.M. Queen, 41, 46, 53, 55, 69, 85
 Mass. See Eucharist
 Matthew
 16.18, 47
 28.20, 6, 47
 9.13, 45
 McAdoo, Most Rev'd. Henry, 7, 15, 17, 132, 142
Merriman v. Williams (1882) 7 App. Cas. 484, 90
Ministeria quaedam, 139
 ministry, iv, v, vii, 7, 13, 17, 20, 25, 30, 33, 36, 37, 41, 47, 56, 57, 59, 67, 69, 70, 76, 80, 81, 87, 88, 89, 91, 92, 99, 101, 102, 106, 108, 110, 113, 122, 129, 133, 135
 Minor orders, 1
 Moberly, Rev'd. Robert, 79, 100, 101, 133
Mulieris Dignitatem, 92
 nature of the church, v, 2, 10, 12, 22, 110
 New Testament, 6, 18, 51, 64, 92, 93, 99, 100, 101, 134, 137
 Nicaea II, Council (787), 8
 Nicaea, Council of (325), 8, 14, 88, 95
 Nicene Creed, 4, 9, 13
 œcumenical councils, 8, 14, 120
 Œcumenical Patriarch, 82
 œcumenism, iv, 26, 28, 31, 41, 65, 72, 87, 96, 98, 103, 104, 105, 117, 123
 Old Catholics, 72, 108, 111, 116
 Old Testament, 11, 18, 127
 One Holy Catholic and Apostolic Church, iii, 4, 59
One in Christ, 9, 10, 107, 109, 140
 Orange, Council of (441), 88
Ordinatio sacerdotalis, 24, 92, 93, 139
 ordination, iii, 2, 3, 9, 17, 20, 23, 24, 26, 30, 31, 32, 41, 44, 48, 59, 67, 68, 71, 76, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 96, 107, 108, 110, 111, 112, 115, 119, 121, 130, 133, 142
 Orthodox Churches, iii, 2, 11, 25, 31, 72, 79, 82, 91, 96, 110, 111, 112, 113, 119, 121, 137
 orthodoxy, 8, 9, 11, 31, 53, 123
 Papal Curia, 67
 particular Church, 18, 121
 Patriarch, 6, 82, 110, 111
 Paul IV, Pope, 69
 Paul VI, Pope, 93, 139
 Philippians
 1.1, 102
 3.16, 38
 Pontifical Biblical Commission, 93
 Portal, Fernand, 3, 66, 131
Praeclara Clarissimi, 69
 Presbyterian, 7
 priest, 1, 3, 23, 26, 45, 52, 56, 59, 69, 87, 88, 90, 91, 92, 93, 94, 95, 101, 108, 118, 119, 142
 priesthood, 12, 17, 20, 24, 28, 31, 37, 40, 42, 47, 50, 56, 59, 60, 62, 63, 68, 71, 76, 83, 85, 90, 91, 93, 100, 106, 108, 110, 121, 134, 141
 priesthood of all believers, 12
 priestly status, 96
 Primates, 17, 20, 21
 Privy Council, x, 128
 Protestant, 12, 51, 57, 58, 60, 67, 68, 76, 78, 97, 115
 recognition, iii, iv, 3, 8, 9, 22, 25, 26, 27, 29, 62, 63, 65, 66, 83, 85, 88, 94, 108, 110, 111, 112, 117, 119, 120, 121
 Reeves, Rt Rev'd. and Hon. Sir Paul, vii
 Reformation, iii, iv, 1, 6, 12, 15, 16, 22, 24, 28, 29, 32, 33, 34, 35, 36, 37,

38, 39, 40, 41, 42, 43, 45, 48, 49, 50,
 51, 54, 55, 57, 59, 60, 64, 65, 68, 77,
 83, 97, 103, 108, 128, 129, 131, 132,
 133, 134, 135, 136
 revelation, 10, 17, 23, 33, 34, 75, 100
 ritualists. See Tractarians
 Roman Catholic Church, iii, iv, 1, 2, 5,
 6, 8, 13, 15, 17, 19, 21, 23, 24, 25,
 27, 28, 29, 30, 31, 32, 33, 34, 35, 37,
 41, 47, 48, 49, 54, 56, 62, 63, 64, 65,
 67, 68, 69, 71, 73, 76, 78, 81, 83, 85,
 86, 87, 93, 94, 95, 96, 97, 99, 103,
 105, 106, 108, 110, 120, 121, 123,
 133
 Russian Orthodox Church, 123
 sacerdotal function, 1, 95
 sacraments, v, 7, 10, 12, 13, 20, 42, 44,
 47, 67, 70, 76, 86, 91, 93, 99, 106,
 107, 111, 112, 116
Saepius Officio, 70, 71, 140
 salvation, 4, 13, 113
 Subscription (Thirty-Nine Articles) Act
 1571, 14, 18, 47, 50, 57, 95, 113,
 139
 Sykes, Rt Rev'd. Stephen, 15, 19, 20,
 50, 67, 90, 91, 92, 99, 100, 113, 114,
 135, 137, 143
 teaching, church, 75, 76, 86, 98, 99,
 123
 Theodore of Tarsus, St., 34
 theology, iv, 1, 2, 7, 10, 17, 22, 23, 24,
 27, 29, 39, 42, 43, 44, 47, 48, 49, 57,
 59, 60, 63, 64, 67, 70, 79, 84, 85, 87,
 91, 93, 98, 99, 100, 113, 116, 119,
 122, 123, 133, 143
Thirty-Nine Articles of Religion, 14,
 18, 47, 50, 57, 95, 113, 139
 Tractarians, iv, 41, 63, 65, 78, 84, 102
 tradition, 7, 8, 9, 12, 13, 14, 18, 19, 23,
 26, 28, 31, 33, 36, 38, 39, 45, 47, 48,
 56, 62, 81, 83, 87, 91, 92, 94, 95,
 106, 121, 134, 135
 Trent, Council of (1545-63), 71, 83
 Trinity, 20
 unity, vi, 1, 3, 5, 7, 15, 19, 21, 26, 33,
 41, 45, 50, 66, 87, 91, 94, 101, 109,
 111, 117, 122, 123, 131, 134, 137,
 141
 universal church, iii, 1, 3, 7, 13, 18, 23,
 25, 26, 27, 28, 30, 32, 34, 35, 36, 47,
 48, 49, 62, 80, 82, 95, 109, 121
 universality, iii, iv, vi, 2, 6, 7, 8, 55,
 121
 validity, i, iii, iv, v, 1, 2, 3, 8, 18, 20,
 22, 23, 25, 27, 28, 29, 30, 31, 33, 34,
 43, 46, 48, 50, 53, 54, 60, 62, 63, 69,
 73, 76, 82, 83, 84, 86, 108, 110, 111,
 112, 113, 117, 119, 121, 122
 Vatican I, 106
 Vatican II, 27, 56, 72, 76, 83, 106, 107,
 108
 Vincent of Lérins, St., 7
 Virginia Report, 15, 22
 Vitalian, Pope, 34
 Whitby, Synod of (664), 34
 Williams, Rowan, Archbishop of
 Canterbury, vi
 Windsor Report, 14
 Word of God, 97
 World Council of Churches, 3, 9, 31,
 78, 85, 107, 110, 140