

## **COMMON LAW: a fifth instrument of unity?**

This is just a question. I am not a canon lawyer, and the IATDC has not formally discussed the reports produced by the provincial legal advisers or the idea taken up by the Primates Meeting in 2002 of exploring whether canon law might constitute a fifth instrument of unity for the Communion. Interestingly, at the point when the Commission contemplated discussing the linkage between law and doctrine, it was discouraged from doing so. So the question raised is a personal one – reflecting at most only informal conversations among members of the IATDC – but it does also indicate the Commissions desire to take cognisance of this discussion in its own deliberations.

For myself, there is no reluctance to see canon law contributing to a deeper understanding of Anglican identity. I contributed a paper to the first Primates' Meetings (1981) making just that point, and offered research towards the preparation of a document on provincial constitutions tabled at ACC-8 (1990). On those occasions at least, it was felt that such a discussion was premature. The time for it to be taken up again has now plainly come.

My question then is not whether but where, theologically, that discussion should take place?

First there is the dissimilarity between what Mark Hill, editor of *The Ecclesiastical Law Journal*, calls the 'amorphous' nature of the four existing instruments, and the 'definable solidity' of the ostensible fifth. More is involved than a simple contrast between bodies made up of people with a body of law. Legal formulae will also require people to codify, interpret, enforce (presumably?), and in the interests of justice as well as peace, provide the possibility of appeal and review. Whether the churches of the Anglican Communion, with a well known history of antipathy to processes of jurisdiction, the creation of tribunals and appellate panels, will be ready to contemplate together such an 'instrumentality' is at least open to doubt.

More significant is the question about whether a theological comparison is possible at all. As has been argued elsewhere (*Tuning up the Instruments of Unity*) the existing instruments function interdependently, to combine charisms appropriate to the personal, collegial and communal dimensions of the church. Is it yet clear how law can provide an addition to this process? The answer to that question is not prejudged. Hooker's "laws are matters of principal consequence" can be conjoined with Gregory Cameron's equally judicious observation that canon law is "applied ecclesiology", but it remains to be shown how the linkage is to be made. I believe a number of members of the IATDC would want to see how the *consequential* nature of canon law is derived, and how an *application* from first principles is to be drawn. It seems that discussion of the relationship of doctrine and law should also be opened afresh.

Finally and most significantly perhaps is the gospel issue – noted by Tom Wright – that the people who make up the four instruments as we now know them, are all specifically upheld and prayed for by the church, that they might discern and declare the leading of the Spirit. This is not to suggest that lawyers do not need our prayers – there are too many of them in my family for me to think that! But it is plainly the case that all those who take part in the formal discussions of the Anglican Communion – from the Archbishop of Canterbury, to the Primates, the bishops at Lambeth, all the way up (sic) to the clergy and laity who join some of them at the ACC – are people who have been recognised, equipped, tested, and authorised to meet together and speak to and for member churches of the global Anglican fellowship. That must count for something.

Let us not though, to the marriage of true canonical minds, admit impediment. Along with questions about whether canon law easily fits into the category of an additional instrument of unity I would like to propose, tentatively though firmly, that canon law (and canon lawyers) might contribute best to the business of sustaining a common Anglican identity and mission, if included as a fifth element in the Lambeth Quadrilateral!

The Quadrilateral – Scripture, creeds, the dominical sacraments, the historic episcopate – have taken on the role of providing an essential framework for identifying what Anglicans see as the characteristics of full, visible unity within the holy catholic Church. As such they must also point to under-girding foundations, the markers and sources for Anglican ecclesiological identity. Unfortunately they do not of themselves define what Anglican identity is. The Quadrilateral offers necessary but not sufficient features for defining what Anglicanism is, and where its vocation lies.

Could it be that the common law of the Anglican churches might act as a kind of supplement (thus avoiding the historical as well as logical *non sequitur* of speaking about a fifth element) to the Lambeth Quadrilateral? In this way it might add a note of Anglican particularity to claims that provinces of the Communion, individually and collectively, participate in the universal reality of the church of God ... with all those in every place (who) call upon the name of our Lord Jesus Christ, both their Lord and ours (I Cor 1.2).

Furthermore, incorporating the work of canonists into a dialogue which involves biblical scholars, theologians, liturgy experts and specialists in the faith and order of the historic church, may help Anglicanism to thread its way through its current controversies and towards a deeper understanding of its own identity and vocation.

I am not a canon lawyer, but in the continuing task of engagement with scripture, tradition/experience, and reason/conscience, I believe that there is likely to be an important brief for the lawyers in charting Anglicanism's future.

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