

# THE CHURCH OF ENGLAND AND THE EUROPEAN UNION: ESTABLISHMENT AND ECCLESIOLOGY

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This article is by way of extended reflection, ecclesiological but with sprinklings of both law and history, on two of the topics raised by Canon John Nurser at (1993) 3 Ecc. L.J. 103 which are of particular interest in my present situation: the effect of European Union on the Church of England, and the non-proselytisation policy of the Diocese in Europe.

## 1. THE POSSIBLE EFFECTS OF POLITICAL UNION

Canon Nurser rightly puts his finger on a crucial text: 'this realm of England is an empire', from the Preamble to the Ecclesiastical Appeals Act 1532. The 'nation state' thinking embodied in this assertion was indeed the death-knell of the older European idea, inherited from Roman times, under which Christendom was in a sense one, there could only be one (Holy Roman) Emperor, and the Western Church and the civil law knew no international boundaries. Modern Europeanism is in many ways a reversal of the 16th-century developments.

But one should not forget that 'the realm of England' ceased to be 'an empire' a very long time ago, with no noticeable effects on the national character of the English church. The Act of Union with Scotland 1701 merged England into a new national entity, with a guaranteed status for the English Church on one side of what became a purely internal boundary, but no role at all for it on the other. A century-and-a-half later, as political power in a new German federation moved inexorably from individual territories to the centre, it proved quite possible to agree that religion should remain a *Landesache* rather than becoming a *Reichssache*, leaving territorial princes' relations with their Protestant *Landeskirchen* quite unaltered.

The loss of national identity and a state link is not, therefore, by any means an automatic consequence of political union. If it comes, it will come for other reasons. German church lawyers are indeed exercised about the potential effects of European standardisation, but their reason is that the special treatment given to the churches under the German constitution has social and financial aspects going far beyond anything known in England (despite the absence of any one German state church), and falls into areas far more likely to attract the attention of European legislators (e.g. involvement of state authorities in the collection of church tax; exemption from many aspects of employment and discrimination law).

## 2. EUROPE AND ECCLESIOLOGY

The question of the Diocese of Europe does not depend on the hypothetical development of European union, and is, in my view, likely to come to the fore rather sooner. The 'European question' reflects in microcosm the tension between two ecclesiologies, which may be conveniently labelled the

concepts of the 'national' and the 'confessional' church. This is a factor that Anglicanism has always known, but Europe feels the effect much more as a diocese within the Church of England than it would if it belonged to any other Anglican province.

## 2.1 THE TWO ECCLESIOLOGIES IN ANGLICAN HISTORY

Put at its simplest, the tension derives from two different reasons why Christians, despite the generally acknowledged desirability of unity, belong to particular denominations, structurally independent of each other. The 'confessional' churchman will say – at least when pushed – 'my church is the *right* one; I find others wanting in some matter of order or doctrine which is so significant that I cannot surrender my church's autonomy in favour of joint government by members of any other church'. Under this heading comes not only the thinking which confines church membership to the adherents of a given statement of faith, be it the Confession of Augsburg or the Basis of the Inter-Varsity Fellowship, but also the thinking which marks our particular institutional or sacramental features, say communion with the See of Rome or possession of the threefold ministry, as 'catholic' or necessary marks of a church in the apostolic tradition.

The 'national' churchman by contrast will say 'my church is *the* church in this land' (place, territory – since the area in question need not be a political union). His arguments will probably depend on historical continuity and lawful authority, temporal as well as spiritual, and if he has a concept of the Church Universal it will be of an invisible church, a community of believers without institutional embodiment beyond that in the particular churches of which his is one. (Note the subtle distinction between Canon III of 1603, according to which the Church of England is 'a true and Apostolical church', and Canon A1 of 1964, according to which it *belongs to* 'the true and apostolic Church of Christ'.)

The national churchman will not deny that his church is also 'right', in the sense that it possesses the essentials of a Christian body: but he is not under the same pressure as the confessional churchman to say what these essentials are, since church membership is defined for him not by these but by residence or nationality. A national church can therefore afford to leave much greater scope for the individual conscience to decide on these things – compare the relatively limited adherence demanded in relation to the 39 Articles with the central standing of the Lutheran Confessional Documents – and the seeds of comprehensiveness are accordingly sown.

The Church of England has been (arguably since 597, but certainly since 1532) predominantly a national church. The two outlooks are not always in conflict – there is no clearer example of the confessional church (as here defined) than the Roman Catholic, yet the last monarch to use the style 'Supreme Head of the Church of England' was – admittedly by papal dispensation – Mary I.

Reconciliation was however impossible in 1690 when the Parliament of Scotland decided finally for presbyterian church government: for England's confessional churchmen (those at least who held William Laud's view of bishops), it was clear that their closest relations must be with the continuing Episcopalians, while the national churchmen had an equally clear duty to recognise the Church of Scotland. The statutory restrictions long applied to Scots Episcopalian clergy south of the Border testify to the predominance of the national church view at that time.

One could, if time permitted, take the history much further in detail, seeing how the national church idea prevented the English consecration of the

first American bishop, gave birth to the Church of England in Australia, India and South Africa, and later prevented the Lambeth Conferences from claiming any legislative power. The confessional church idea by contrast, already justifying the existence of the Scots Episcopalians, lay behind the foundation of protestant episcopal (or to use later terminology, 'Anglican') churches without reliance on state authority, and in some cases of rival bodies which (like the Church of the Province of South Africa ) outgrew their 'national' predecessor. Above all, 'confessional' church thinking lies behind the Lambeth Quadrilateral of 1888, which has played no small part in keeping this thinking uppermost in the world Anglicanism of today.

## 2.2 THE TWO ECCLESIOLOGIES TODAY

Enough has however been said to illustrate the two concepts and the potential tension between them; the main source of strain in world Anglicanism, the issues of provincial autonomy, can be traced back to the same dichotomy. But so far as their internal affairs are concerned, the Anglican provinces are not greatly troubled by the tension since the national church idea is today practically a dead letter. To this generation there exists one major exception – the Church of England.

England has its confessional churchmen too – one need only think of those who dispute the competence of General Synod in regard to the Priests (Ordination of Women) Measure 1993. But the world in which ecclesiastical lawyers move is very much still one of the national church: the royal and parliamentary supremacy; the coercive power of ecclesiastical law; the radically different legal status of other denominations; the perceived duty to serve the whole population; the potential church membership of the whole population (expressed in the duty to baptise and in the absence of any definition of 'member of the Church of England'); and rights enjoyed by the whole population in matters such as church marriage and burial, the election of churchwardens, and the *locus standi* of parishioners in faculty cases, all follow directly from this concept.

## 2.3 NATIONAL CHURCH OF THE CONTINENT

To return, then, to Europe. The establishment of chaplaincies on the Continent in the seventeenth century was undoubtedly, at least in Protestant areas like Hamburg, where no doubt was yet being cast on the 'catholicity' of the indigenous Lutheran church, an exercise of the national church principle. The indigenous church was the national church which the citizens of Hamburg should attend – but English traders were entitled to attend the church which their own King governed. (Even if the confessional principle might have suggested a different approach in catholic countries – that the Portuguese, for example, should be offered a godly alternative to their idolatrous rites – practical politics would have ruled this out.)

The surprising thing is that the Anglican diocese in Europe should today remain exclusively based on national church thinking, when even in the rest of the Canterbury province confessional thinking has gained so much ground. It is the more surprising when one considers that many of the practical consequences of national church status outlined in paragraph 2.2 above are by their nature not applicable to any part of the diocese except perhaps Gibraltar itself.

Yet the 'self-denying stance', of which Canon Nurser writes, finding its most practical expression in the diocesan monolingual services policy, cannot be explained in any other way. Confessional thinking would point either to an

organisational union of Anglican congregations with their indigenous neighbours, or (if some facet of Anglicanism was thought too important to put at risk in this way) to the holding of services in the local language to bring this important facet within reach of local people. Depending on the nature of the dominant local church, Anglicanism might on the one hand be thought to offer insights into spirituality and the 'incomparable liturgy' of which Canon Nurser speaks; on the other, a witness of wholeness in ministry, full lay participation, the place of reason and the freedom of the individual conscience.

#### 2.4 THE ECCLESIOLOGICAL ISSUE IN ANGLICAN/OLD CATHOLIC RELATIONS

In the European field, the tension between the ecclesiologies finds particularly vivid expression in the incomprehension of the Diocese in Europe on the part of the Old Catholic theologians. The Old Catholic Churches of Western Europe are divided from Rome by major doctrinal differences, but take the view that they would otherwise be happy to form part of a worldwide catholic communion in which the Holy See possessed at least some special authority. With a view to this hoped-for consummation, the German Old Catholics have refrained from designating any town as their cathedral city or attributing a named see to their Bishop. A clearer statement of confessional, as opposed to national church, thinking cannot be imagined.

Yet as we have seen, the logical consequence of confessional thinking is structural union with any neighbour church to which confessional objections cannot be raised; and in Germany, far from the structural union and common decision-making bodies which the Old Catholic Bishop sees as only logical, given the excellent understanding which he has with Anglicans in Britain, German Old Catholics and English Anglicans remain organisationally quite separate from one another. There is no doubt that structural union (certainly if it also brought in the American jurisdiction) would go a long way to enabling the 'problems of canon law' cited by Richter Dr Engelhardt in his letter at (1994) 3 Ecc. L.J. 193 to be tackled. At the root of this continued separation must lie, on the Diocese in Europe's side, no lack of goodwill but the national church principle.

Some might seek to distinguish the national church principle as such from a 'cultural' denominationalism. Language and values, it may be argued, are sufficient grounds for retaining autonomy, even without specially distinguishing features of church doctrine and order. This is Canon Nurser's 'deeply felt need for a routine of church life that is 'home'''. Certainly the cultural value gap exists – one need only consider how Britons have criticised the alleged laxity of European obscenity laws, or contrast European and British attitudes to corporal punishment. But where there is only a gap of cultures, that does not amount to a national church principle; it is doubtful whether continued structural separation can be justified.

The rift between Old Catholic and Roman Catholic in Poland was primarily a cultural one – the separatists accused Rome of inadequate concessions to the Polish identity – but in the absence of the doctrinal differences felt by Western Old Catholics, this division looks set fair to being healed in the near future. Those Anglicans in Europe for whom the national church principle is less compelling might also consider whether safeguards for their cultural identity might be found (one might look at the treatment of French Reformed congregations with the *Evangelische Kirche in Deutschland*) that would facilitate closer co-operation with the Old Catholic, Lusitanian and similar churches on an institutional basis.