

Further notes on Jurisdiction DRAFT

1. It has frequently been asserted that the Traditional Anglican Communion attempts to continue the work which was begun in the ARCIC discussions. So nobody should be surprised if the TAC Bishops show theological consistency with the ARCIC statements, granted that they are not fundamental documents for TAC (or Rome), and that, perhaps, circumstances have changed since they were agreed. It is therefore useful to study the 1976 ARCIC statement "Authority in the Church". The Anglican participants included first rate historical scholars such as Henry Chadwick; they were not all notorious papalists, as might have been alleged of the Anglican participants in the earlier "Malines" conversations.
2. The argument in the ARCIC statement is not dissimilar to that in my first paper. Authority is of Christ by the Spirit. It is assumed that authority should work through the bishops, as the practical successors of the apostles. In some sense a local church gathered round its bishop is complete. But not without its fellow-churches. "The authoritative action and proclamation of the people of God to the world therefore are not simply the responsibilities of each church acting separately, but of all the local churches together" (para. 8). This has from earliest days involved various form of regional or ecumenical council, and their "decrees are to be received by the local churches as expressing the mind of the Church" (para. 9).
3. "Early in the history of the Church a function of oversight of the other bishops in their regions was assigned to bishops of prominent sees" (para. 10). This may be only practical wisdom, but where practical wisdom is manifest, the work of the Spirit is not lacking. When the bishop of a principal see "perceives a serious deficiency in the life or mission of one of the churches he is bound, if necessary, to call the local bishop's attention to it and to offer assistance" (para. 11). "It is his duty to assist the bishops to promote in their churches right teaching, holiness of life, brotherly unity, and the Church's mission to the world" (para.11). This is true unity at work; it will be seen at once how trivial mere intercommunion, that false goal, is in comparison.
4. It is within this context that the office of the Pope has to be approached. Even the decree "Pastor aeternus" of the First Vatican Council (of which more later) is in fact very restrained both on jurisdiction (in which it is careful to preserve the effective office of the local bishop) and on infallibility (in respect of which far less was defined than the ultramontanists (the extremists) wanted, and far less use of the power has been made than they envisaged). The Second Vatican Council added much to the context of the relationship. ARCIC summarises: "The teaching of these councils shows that communion with the bishop of Rome does not imply submission to an authority which would stifle the distinctive features of the local churches. The purpose of this episcopal function of the bishop of Rome is to promote christian fellowship in faithfulness to the teaching of the apostles" (para.12).
5. The preservation of the faith has likewise always been secured through the same system of councils and the work of the principle sees. It is a matter of history that the see of Rome has had a role in confirming conciliar decisions (para. 17), and that the bishop of Rome has exercised his own initiative in controversies. Both Rome and Anglicanism believe that the Church can and sometimes must make authoritative judgements (see Article 20).

6. In practice, major Councils are rare, and the work of the major sees is consequently important. In the West, the only such see to have existed is Rome. Just occasionally, and on the basis of the personal ability of a particular bishop, other Western sees were important (Ambrose at Milan, Augustine at Hippo). But in the circumstances which now exist, when all the other major sees in the world have disappeared or decayed, it is only Rome which is left able to speak for the Church (as having theological knowledge and practical ability to communicate without fear of the secular authorities). “The primacy accorded to a bishop implies that, after consulting his fellow bishops, he may speak in their name and express their mind” (para. 20). “A primate exercises his ministry not in isolation but in collegial association with his brother bishops. His intervention in the affairs of a local church should not be made in such a way as to usurp the responsibility of its bishop” (para. 21 – the last sentence closely echoes *Pastor aeternus*!)
7. “The only see which makes any claim to universal primacy and which has exercised and still exercises such *episkope* is the see of Rome, the city where Peter and Paul died. It seems appropriate that in any future union a universal primacy such as has been described should be held by that see” (para. 23). “What we have written here amounts to a consensus on authority in the Church and, in particular, on the basic principles of primacy” (para. 24). Now this may be surprising, but that is what the text says. Of course it is open to Anglicans to repudiate ARCIC, but that has not been the TAC stance hitherto, rather the contrary. I hope that, unlike Lambeth, we do not praise ARCIC and then think and act inconsistently.
8. The ARCIC statement did not however end at this point. The rest of para. 24 studies the more difficult issues of infallibility and “universal immediate jurisdiction” (pedantic note – not immediate not ordinary – but I think the meaning is the same). These of course take us back to Vatican I. Now “*Pastor aeternus*” is a remarkable document by modern standards. It is short, clear, scriptural, and (in spite of its reputation) restrained. ARCIC is rather dismissive of the scriptural promises to Peter (Matthew 16.18, Luke 22.31, John 21.15-7) which it recites, but I think it right to suggest that these texts do exist, were intended by the evangelists to be important, are reflected in the authority which Peter exercised in the Church, and are better given respect than, as is the protestant practice, evaded. I think *Pastor aeternus* makes a reasonable case that scripture shows authority, including the individual focus of that authority, was to exist in the Church and to be perpetuated after the deaths of the apostles. This is the case made in the first sections of *Pastor aeternus*.
9. What follows is the third section of *Pastor aeternus*, the Vatican I decree concerning jurisdiction. Later we must consider in what way it is still authoritative in the Church of Rome. I presume most readers do not want the Latin, although that is the authoritative text. I have deliberately quoted the entire section (other than the references and the concluding anathema, which do not introduce any additional argumentation) without interposed comment, in the hope that it can be judged as a whole. I would advise that the document should not be condemned for a bombastic style, a vice common to most churches.

On the power and character of the primacy of the Roman Pontiff

1. And so, supported by the clear witness of Holy Scripture, and adhering to the manifest and explicit decrees both of our predecessors the Roman Pontiffs and of general councils, we promulgate anew the definition of the ecumenical Council of Florence, which must be believed by all faithful Christians, namely that the Apostolic See and the Roman Pontiff hold a world-wide primacy, and that the Roman Pontiff is the successor of blessed Peter, the prince of the apostles, true vicar of Christ, head of the whole Church and father and teacher of all Christian people. To him, in blessed Peter, full power has been given by our lord Jesus Christ to tend, rule and govern the universal Church. All this is to be found in the acts of the ecumenical councils and the sacred canons.

2. Wherefore we teach and declare that, by divine ordinance, the Roman Church possesses a pre-eminence of ordinary power over every other Church, and that this jurisdictional power of the Roman Pontiff is both episcopal and immediate. Both clergy and faithful, of whatever rite and dignity, both singly and collectively, are bound to submit to this power by the duty of hierarchical subordination and true obedience, and this not only in matters concerning faith and morals, but also in those which regard the discipline and government of the Church throughout the world.
3. In this way, by unity with the Roman Pontiff in communion and in profession of the same faith, the Church of Christ becomes one flock under one Supreme Shepherd.
4. This is the teaching of the Catholic truth, and no one can depart from it without endangering his faith and salvation.
5. This power of the Supreme Pontiff by no means detracts from that ordinary and immediate power of episcopal jurisdiction, by which bishops, who have succeeded to the place of the apostles by appointment of the Holy Spirit, tend and govern individually the particular flocks which have been assigned to them. On the contrary, this power of theirs is asserted, supported and defended by the Supreme and Universal Pastor; for St. Gregory the Great says: "My honour is the honour of the whole Church. My honour is the steadfast strength of my brethren. Then do I receive true honour, when it is denied to none of those to whom honour is due."
6. Furthermore, it follows from that supreme power which the Roman Pontiff has in governing the whole Church, that he has the right, in the performance of this office of his, to communicate freely with the pastors and flocks of the entire Church, so that they may be taught and guided by him in the way of salvation.
7. And therefore we condemn and reject the opinions of those who hold that this communication of the Supreme Head with pastors and flocks may be lawfully obstructed; or that it should be dependent on the civil power, which leads them to maintain that what is determined by the Apostolic See or by its authority concerning the government of the Church, has no force or effect unless it is confirmed by the agreement of the civil authority.
8. Since the Roman Pontiff, by the divine right of the apostolic primacy, governs the whole Church, we likewise teach and declare that he is the supreme judge of the faithful, and that in all cases which fall under ecclesiastical jurisdiction recourse may be had to his judgement. The sentence of the Apostolic See (than which there is no higher authority) is not subject to revision by anyone, nor may anyone lawfully pass judgement thereupon. And so they stray from the genuine path of truth who maintain that it is lawful to appeal from the judgements of the Roman pontiffs to an ecumenical council as if this were an authority superior to the Roman Pontiff. [end of citation]
9. Pastor aeternus is a historical document. Clauses 6 and 7 were vital assertions in their time. Indeed, the reassertion of the independence of the church from state control was providential. Fortunately it is only in England that there is the temptation for Anglicans to desire "Establishment", which means the right of secular authorities to determine church teaching and practice and to make all senior appointments. But many Orthodox and protestant bodies (excluding professed "nonconformists") succumbed to this temptation. In theory one can have spiritual independence from the state without papal jurisdiction. But there is a long practical history in the West which suggests that they stand or fall together.

10. Clause 2 cannot be taken in isolation from clause 5. Both are equally important. Historically, both protestant (including Anglican) and much Catholic discussion is not of the text as it was passed but as the ultramontanists (those who were more Catholic than the Pope) wished it had been formulated. Much Anglican discussion completely ignored jurisdiction (apart from endeavouring to demonstrate the legitimacy of their own) and simply indulged in fantasies about infallibility “the Vatican fact-factory going full blast” (Austin Farrer).
11. The idea of making a council superior to the pope condemned in clause 8 had been tried and failed. The idea is better than the experience. All ancient councils (even the undoubted ecumenical councils) have been subject to state interference and also marred by ecclesiastical factionalism of the worst kind. There was much wrong with Vatican I, to be sure, but no more than usual. The pressures on the bishops at Vatican II were more subtle, certainly, but could equally be used to cast doubt on its decisions. We have witnessed the farcical manipulations which prevented anything happening at Lambeth 2008. So comparatively simple a process and outcome as the “Jerusalem Declaration” from GAFCON is rare (and how much do we know about the internal processes of that council?)
12. Vatican I was never properly finished. Though the text of *Pastor aeternus* is not lacking in balancing clauses, there should have been a much more developed theory of the episcopate. This accidental defect has now been remedied. We do not have to engage with *Pastor aeternus* in isolation, but as it has been given a further context by Vatican II, and indeed further reflected on since, not least in the Catechism (which is of course subsequent to ARCIC). We may also add that we have approaching 140 years of practical experience of the potential for immediate jurisdiction in action. The Papacy is not forever “interfering” in the most trivial matters. (The testimony of Cardinal Mercier in the Malines conversations is pertinent here.)
13. The underlying issue has to be faced – can there be a useful primacy unless it has power? And can we confine ourselves to a jurisdiction which has no wider function than to preserve a rather accidental past? We have seen the impotent primacy of Canterbury, and we reject it as a model. The same would have to be said, sadly, of the Ecumenical Patriarch. We may find the extreme juridical tone of *Pastor aeternus* distasteful, but is there a middle course available (not ultimately, but now)? Are we in effect using distaste as an excuse to remove unity from the agenda? But that is contrary to the TAC constitution and, much more important, the declared will of Christ for his Church.
14. ARCIC itself concluded “The claim that the Pope possesses universal immediate jurisdiction, the limits of which are not clearly specified, is a source of anxiety to Anglicans who fear that the way is thus open to its illegitimate or uncontrolled use. Nevertheless, the First Vatican Council intended that the papal primacy should be exercised only to maintain and never to erode the structures of the local churches. The Roman Catholic Church is today seeking to replace the juridical outlook of the nineteenth century by a more pastoral understanding of authority in the Church.” (para. 24d).
15. The text of the Catechism is evidence of this. I think it is better for the individual to study it for himself rather than through my eyes. It may suffice to say that the Catechism is largely built on *Lumen Gentium* (Vatican II). Vatican I is not once quoted, according to the index of citations. I suggest that our bishops, and indeed ourselves, are entitled to give more attention to this current and recent teaching than to older documents.

16. Of course, the response to the papal claims may not be just distaste. There are Christians who believe that any earthly authority detracts from the primacy of Christ. This does not merely negate the papacy but also episcopacy. There are Christians who want to have episcopacy without the apostolic powers of the greater sees, but this is probably historically untenable. Neither stance has anything to do with Anglicanism. There may still be Christians who believe in state churches. Let them, so far as England is concerned, accept women priests (and eventually bishops) using Common Worship.
17. There are of course many Anglicans who are now turning towards GAFCON. This is a more coherent stance, since the Jerusalem Declaration understands the need for authority and discipline and is more serious about making it work than Lambeth. It will be interesting to see how quickly it develops into a system of leading sees. Indeed, some would say that is precisely what it already is. The difference as to authority in the Church between GAFCON and the Papacy is not actually huge. Both assume that all major issues of faith and morals were settled long ago, and that the task of church leaders is in that sense defensive. Neither believes that leaders can authoritatively create new truths, only declare and enforce existing truth. Now that is not to pretend that they entirely agree on the content of faith and morals. Nor is it to deny that some declarations are more creative than others. Nor is it to deny that there can be new issues (the Jerusalem Declaration was explicit on both AIDS and global warming) which require some response from the teaching authority even though they may not involve any fundamentally new theology, only new application. Jurisdiction and authority are not solely about preserving a past.
18. In order to preserve Anglicanism it is necessary to change it. There never was and certainly is not a perfect state of Anglicanism – or even of the Church of England – which can be perpetuated. That said, we have had bitter experience of inappropriate change. And the smaller the organisation, the greater the risk of unbalanced exercise of jurisdiction. TAC is the least bad arrangement that we could have made, but it is not the ultimate form of the Church. We need the protection of the wider body.
19. A partial retraction: my reference at the start of the first paper to the 39 Articles and specifically to “jurisdiction in this realm of England” may not be fully apposite. It is possible that the reference is solely to *civil* jurisdiction, since that is what the rest of the Article is about. This became relevant when the Pope declared that Elisabeth I was incapable of being sovereign because she was illegitimate (as Henry VIII had also believed) and that therefore she was not entitled (either under English law or the general law of nations) to the obedience of her subjects. That Article is not about *spiritual* jurisdiction, which is discussed in other Articles.

20. The following clause from the TAC constitution should be considered very carefully by all its members.

13.3 Upon the Primate, with the advice and consent of the College of Bishops, we also devolve specific responsibility for entering into and initiating such conversations with Bishops of other orthodox communities within the One, Holy Catholic and Apostolic Church as may promote that Unity which is Christ's will for His Church.

21. Surely this is exactly what has been done so far, and indeed it has been done in the right way. The Primate has indeed acted, as he was in duty bound to do, and has done so with the advice and consent of the Bishops. That is the procedure which the Constitution of TAC requires. It would be a breach of the constitution for the Primate and Bishops to take unity off the agenda. It would be a miserable discharge of the constitutional responsibility if the Primate were merely to talk to other continuing Anglicans. There is no suggestion in the Constitution that consultation is required *at the stage of conversations*. Consultation becomes relevant when and if there is a definite proposal, something which can be accepted or rejected by TAC.

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