

The Court itself consisted of seven judges. Three had to be bishops and four were to be lay people with significant legal qualifications and experience (not dissimilar from the Court of Ecclesiastical Causes Reserved). The question is rightly raised in the book as to whether such an adjudicatory panel is appropriate in doctrinal matters, and whether an adversarial legal process is best suited to determining such issues. However, that raises the whole issue of what alternative adjudicatory process would be better suited to make a doctrinal determination. Furlong suggests that it needs a two stage process: first an exploration of the doctrinal issues and, only if this indicates an outside-of-boundary situation, a more legal process to determine the appropriate outcome.

At a time when both the Church of England and the Anglican Communion are facing issues relating to doctrine and the boundaries of orthodoxy, this book provides an interesting trigger for reflection. It has little to offer in terms of theology to the interested enquirer, as the positions asserted are not worked through nor developed. Nor does it offer anything particularly new or original. But for those interested in the issues over which adjudication is required, and the processes by which this might be achieved, there is enough here to raise the relevant issues, albeit in a particular and discrete context. So it is a book worth borrowing from the library to this end, but there is insufficient to warrant purchase.

And how did it end? Well, Furlong was not eventually 'Tried for Heresy'. He saw the way the wind was blowing and resigned his preferment.

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CONSECRATED WOMEN: A CONTRIBUTION TO THE WOMEN BISHOPS DEBATE edited by JONATHAN BAKER, Forward in Faith, Canterbury Press, 2004, xi +291 pp (Paperback £14.99) ISBN 1-85311-509-6

In 2002 George Carey, then Archbishop of Canterbury, suggested that Forward in Faith should produce a report on women in the episcopate parallel to the House of Bishops' report on the same subject (now published as *Women Bishops in the Church of England*). Forward in Faith, therefore, set up two working parties - one theological, the other legal. Two years and 291 pages later they have produced *Consecrated Women*.

Part One – the theological section of this substantive document – provides a traditional Anglo-Catholic argument against women bishops – 'the argument of *sacramental symbolism*'. Part Two sets out proposals for a Third Province and includes a draft Measure for the General Synod of the Church of England. Part Three contains some interesting papers submitted to the Working Parties.

So what are the arguments in Part One? There are, of course, many. Fundamentally, however, it argues ‘that the male gender is a necessary condition of the particular manner in which the bishop (and the priest) represent God to the people, continuing the Lord’s work as Bridegroom of his Church’ (p 78). It considers this argument ‘powerful – indeed decisive’.

On the other hand, it majors on ‘the classical understanding of the office and work of the bishop as focus of unity, high priest, fount of Order and of the other sacraments of the Church, chief celebrant at the Eucharist, and chief pastor in his diocese’ (p 96). In that context ‘the crucial question which now confronts the Church of England’, it believes, is this: ‘can an episcopate which no longer conforms to one of the identifying marks of the historic order of bishops – its maleness – continue to be a sign of continuity, of apostolicity, of fidelity and unity?’ (p 97). It says, ‘No!’

The difficulty, however, with the report’s high understanding of episcopacy is threefold.

One, it rejects the classical understanding of episcopacy, namely that a bishop *is* a presbyter as held by Aquinas, by the Council of Trent, and by the Anglican Dean Field in the 17th century who wrote: ‘that wherein a bishop excelleth a presbyter is not a distinct power or order, but an eminence and dignity only’. This was a view also held among the early fathers. But Part One rejects the words of Chrysostom to Jerome that “‘bishops” are superior to “presbyters” only in the power of ordination and in this respect alone have they advantage over presbyters’ (p 72). It believes that the presbyterate and the episcopate are ‘distinct in origin’ (p 72n).

Two, this high understanding of episcopacy seems not to be the view of the Anglican 1662 Ordinal. The Preface to that Ordinal is careful to say, ambiguously, not ‘three orders’ but ‘*these* orders’. Also in the 1662 Consecration Service great weight is put on the teaching office of the bishop. In 1662 the new opening collect defines ‘feeding the flock’ not sacramentally but as bishops ‘diligently preach thy Word, and duly administer the godly discipline thereof’.

Three, this understanding seems to contradict traditional Anglican thinking on ‘faith’ and ‘order’. This thinking agrees with the working party that one of the most notable features of the English Reformation was to retain episcopacy (p 74), but it also agrees with Hooker’s comment that ‘matters of faith and, in general, matters necessary unto salvation are of a different nature from ceremonies, order and the kind of church government’ (Bk III.ii.2). Many believe that this issue of women bishops is not a ‘matter of faith’ nor a matter ‘necessary unto salvation’ but it is a matter of ‘creation’. Let me explain.

A major problem for the western Church has been its feminization. The Church is too often seen as mostly for women. This contrasts with Judaism and Islam where men predominate. Nor is this just a modern phenomenon. It goes back at least to Bernard and the bridal mysticism of the 12th century. The female bride of Christ was then seen less as the Church and more as the individual; and men began to see femininity rather than masculinity as symbolizing a right personal attitude before God. This consciousness is still with us.

In the light of such feminization it would have been helpful if Part One had discussed more fully the theology of 'male headship'. For whatever the exegesis of 1 Corinthians 11.3 ('the head of every man is Christ etc') and of 1 Timothy 2.12-13 ('I do not permit a woman to teach or to have authority over a man ... for Adam was formed first') it cannot be denied that both appeal beyond this 'day of salvation' – the one to the divine Trinity, the other to the created order. This is a *prima facie* problem for women bishops.

Part Two of the report – *Women Bishops: The Way Forward for the Church* – comes from the legal working party. This is a model of clarity and an important document. It takes up a comment of Rowan Williams, a supporter of women in the episcopate, when he says: 'a lot of people who still identify themselves as Anglicans will not want to be in the kind of structural relationship they are now in' (p 104).

The preferred new structure for the working party is that of a Third Province which it shows is perfectly possible in terms of English law and Anglican tradition. It scotches the mantra that there can never be overlapping jurisdictions. In Part Three Andrew Burnham in his paper 'The Work of Provincial Episcopal Visitors' comments that 'Anglicanism is more relentlessly territorial in a Nicaean kind of way than the modern Roman Catholic Church, with its overlapping Eastern and Western Rites and "personal prelatures"' (p 205).

There is, indeed, currently a bondage to the ancient canons of order that is contrary to Anglican tradition. Canon A 5 of the Church of England commits the Church of England to the Councils of the Church that are consonant with Scripture. But at the time of Elizabeth I the concern was with the first four Councils' teaching on faith rather than on order. Clearly Anglicans do not regard canon 6 of Nicea (on who has authority to make bishops) as binding for the Church of England. To be Anglican means, in part, to reject the Metropolitan authority of the Bishop of Rome.

The position of the legal working party is summed up in its quote from David Hope that episcopal ministry by women means that 'extended' episcopal oversight will no longer work. 'Any ... arrangements ... must surely be at least "alternative" rather than merely "extended" and ... these same arrangements [must] be in respect of "oversight" rather than "care".' So the goal is 'an alternative oversight, where those opposed would be

under another jurisdiction, entirely separate from that of the diocesan bishop' (pp 116-7).

The Third Province would retain the existing legal framework of the Church of England, with clergy, parishes and dioceses opting in or out. Nor are these things unheard of. Provinces, dioceses and parishes can and do emerge and change. The creation of the autonomous province of Hong Kong in 1988 was 'to cater for differing views on women's ministry' (pp 120-121). Southwell diocese used to be in the Province of Canterbury - in 1935 it came to York. The parish of Edmundbyers with Muggleswick was transferred from Durham diocese to Newcastle diocese in 1990 (p 124).

A new Third Provincial synod could, once established, alter and emend existing law and pass Measures. It could adopt Measures of the General Synod with appropriate modifications in the way the Diocese in Europe, the Isle of Man, and the Channel Islands do (p 127).

Nearly every contingency is covered by the working party, from pensions to patronage, from pastoral reorganization to schools. 'The new province would be in communion with the See of Canterbury, but neither the Archbishop of Canterbury nor the Archbishop of York would have jurisdiction over the province' (p 127). This was written before the Church of Nigeria decided to write out of its constitution, and its definition of Anglicanism, 'communion with the see of Canterbury'. The legal working party is capable of rethinking if there are future developments. Its Measure is, after all, only 'draft'.

Certainly this report must be read.

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HUMAN RIGHTS & RELIGION: A READER, edited by LIAM GEARON, Sussex Academic Press, Brighton, 2002, xi + 404 pp (£17.95 paperback) ISBN 1-902210-95-6

In a prospective evaluation of the consequences for religious organisations of the incorporation into English domestic law of the European Convention on Human Rights,¹ I forecast 'a litany of unintended consequences'. Events have not proved me wrong as is borne out by the litigation reported in the Recent Ecclesiastical Cases of this Journal. There is no sign of this abating. Turning the spotlight on specific cases - parochialism in its most pejorative sense - can cause us to lose sight of the broader picture, not merely jurisprudentially but from a deeper theological and sociological viewpoint as well. For this reason, amongst others, *Human Rights &*

¹ M Hill, 'The Impact for the Church of England of the Human Rights Act 1998' (2000) 5 Ecc LJ 431.