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Covenant and Communion

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This article considers some of the controversies that have troubled the Anglican Communion during the past 25 years, and some of the approaches that the Churches and central Instruments of the Communion have used to maintain communion in the face of threatened division. In particular, it looks in detail at the terms of the proposed Anglican Covenant, its provenance and its legal significance. It points out the usefulness of the Covenant as a mechanism for resolving disputes between the Churches of the Communion, but questions the assumption that its adoption as, in effect, a contract between the Churches would of itself turn the Communion into a 'two-tier' body, or change in a fundamental way the nature of the relationships between the Churches. Finally, it notes that communion between the Churches of the Anglican Communion, with or without the Covenant, consists (as it always has done) in a wide range of relationships at very many different levels, far beyond the central structures of the Communion as they have developed during the last 150 years.

INTRODUCTION

Three Lambeth Conferences have taken place during the lifetime of the Ecclesiastical Law Society.[1] Each of them has engaged in at least some anguished ecclesiological discussion within the bishops' gathering for fellowship and more routine deliberations.[2] During the period we are considering, the most anguished discussions have arisen out of controversial decisions made by some of the Churches concerning gender and ordained ministry. In 1988, the focus was on women as priests and bishops.[3] In 1998, it had shifted to ministers

1 The full text of all the Conference resolutions is available online at <http://www.lambethconference.org/index.cfm>, accessed 13 February 2012. For a printed copy of the resolutions from 1867 to 1988, accompanied by a masterly assessment by Owen Chadwick, see R Coleman (ed), *Resolutions of the Twelve Lambeth Conferences 1867 to 1988* (Toronto, 1992). The fuller reports of the Conferences are also available in a number of different published series now long out of print, and should be consulted for valuable background reports of the discussions that led to the resolutions themselves.

2 It should be remembered that relatively few bishops in the Anglican Communion attend more than one Conference. The result is that the pattern of resolutions is more kaleidoscopic than in most provincial or diocesan synodical structures or in secular parliamentary affairs.

3 In this article, resolutions will be identified as 'LC', prefixed with the year and suffixed with the relevant resolution and paragraph number. Most LC resolutions are lengthy and nuanced. The footnotes will quote only those extracts that focus most sharply the approach that the bishops took on each occasion to the controversies that have served to threaten communion between the

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in homosexual partnerships.[4] By 2008, the emphasis was on finding a response to controversies on these and related issues, which had grown so strong that a significant number of the bishops who had been invited to attend the Conference refused to do so.[5] Not that previous Conferences had been free of controversy: the first Conference was called in 1867 to address doctrinal divisions in South Africa,[6] and subsequent Conferences have met amid controversies ranging from artificial methods of birth control to the unity of the churches in the Indian sub-continent.[7] The nature of the communion between the

Churches. On the issue of women bishops, the 1988 Conference (1988 LC 1) resolved:

1. That each province respect the decision and attitudes of other provinces in the ordination or consecration of women to the episcopate, without such respect necessarily indicating acceptance of the principles involved, maintaining the highest possible degree of communion with the provinces which differ.

2. That bishops exercise courtesy and maintain communications with bishops who may differ, and with any woman bishop, ensuring an open dialogue in the Church to whatever extent communion is impaired …

5. Recognises the serious hurt which would result from the questioning by some of the validity of the episcopal acts of a woman bishop, and likewise the hurt experienced by those whose conscience would be offended by the ordination of a woman to the episcopate. The Church needs to exercise sensitivity, patience and pastoral care towards all concerned.

4 At the 1998 Conference, the bishops committed themselves 'to listen to the experience of homosexual persons and … to assure them that they are loved by God and that all baptised, believing and faithful persons, regardless of sexual orientation, are full members of the Body of Christ' and called on all Anglicans 'to minister pastorally and sensitively to all irrespective of sexual orientation'; but they made clear that they 'cannot advise the legitimising or blessing of same sex unions nor ordaining those involved in same gender unions' (1998 LC 1.10). The bishops attending the 1988 Conference had taken a rather more open approach: building on a 1978 resolution that had sought for 'deep and dispassionate study of the question of homosexuality' (1978 LC 10.3), they had urged that such study 'take account of biological, genetic and psychological research being undertaken by other agencies, and the socio-cultural factors that lead to the different attitudes in the Provinces of our Communion' (1988 LC 64.2).

5 The intensity of the controversies that had arisen over the previous decade was such that another group of Anglican bishops had met in Jerusalem a month or so earlier for the Global Anglican Futures Conference (though a significant number of the bishops attended both Conferences). The 2008 Conference departed from the traditional pattern of passing resolutions, and (partly in response to issues raised after 1988 and 1998 about the problems facing bishops unfamiliar with Western patterns of parliamentary debate) was instead designed to emphasise listening rather than speaking. As the official report stated: 'This conference has taken on a new form – the form of *indaba* – based upon an African ideal of purposeful discussion on the common concerns of our shared life. It is a process and a method of engagement as we listen to one another. An indaba acknowledges first and foremost that there are issues that need to be addressed effectively to foster ongoing communal living. It enables every bishop to engage and speak his or her mind and not to privilege the articulate or the powerful' (2008 LC Reflections, para 14).

6 See A Stephenson, *The First Lambeth Conference* (London, 1967); Stephenson's longer history of the Conferences, *Anglicanism and the Lambeth Conferences* (London, 1978), is very valuable as a reflection on the significance of the Conferences written in preparation for the 1978 Conference. There is an understandable propensity for authors to publish in anticipation of forthcoming Lambeth Conferences: see, for example, S Platten, *Augustine's Legacy* (London, 1997); W Jacob, *The Making of the Anglican Church Worldwide* (London, 1997); M Hassett, *Anglican Communion in Crisis* (Princeton NJ, 2007) and M Hill (ed) *Communion, Covenant and Canon Law,* special issue of the *International Journal for the Study of the Christian Church* (2008), vol 8, issue 2.

7 On contraception, the flexibility of Anglicanism as compared with other approaches in western catholicism may be illustrated by contrasting 1908 LC 41 ('The Conference regards with alarm the growing practice of the artificial restriction of the family, and earnestly calls upon all Christian people to discountenance the use of all artificial means of restriction as demoralising to character

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Churches has been a recurrent theme, and running through every Lambeth Conference from 1867 onwards there has been a thread of agonised and agonising discussion on the nature of authority, in the absence of any central jurisdiction in Anglicanism.[8]

In advance of the Conference in 1998, the Society's learned editor (Chancellor Michael Goodman) asked me to write a piece on the Anglican Communion, which I entitled 'The Anglican Communion – does it exist?'[9] I looked in some detail at the four Instruments of Unity in the Communion, noting the pivotal role of the Archbishop of Canterbury in relation to all of them: his personal occupancy of the primary See of Canterbury, his role as convener of both the Lambeth Conference and the Primates' Meeting, and his presidential patronage of the only lay-participatory body, the Anglican Consultative Council. I concluded then that there was no simple juridical formula to determine conclusively which Churches were in and which were out of the Anglican Communion. Rather, in my view, the Communion subsisted as a network or gathering of Churches that share a common history and DNA.[10] As Archbishop Desmond Tutu famously put it on one occasion, the Anglican Communion exists because 'we meet'. In addition to the personal encounter to which he was referring, that 'meeting' is a matter of mutual recognition, interchangeability by each of one another's ministries, and reception by each of one another's members.[11] Without a central jurisdiction, each Church decides these issues for itself, in a classic expression of Anglican dispersed authority.

and hostile to national welfare') with 1958 LC 115 ('The Conference believes that the responsibility for deciding upon the number and frequency of children has been laid by God upon the consciences of parents everywhere; that this planning, in such ways as are mutually acceptable to husband and wife in Christian conscience, is a right and important factor in Christian family life and should be the result of positive choice before God. Such responsible parenthood, built on obedience to all the duties of marriage, requires a wise stewardship of the resources and abilities of the family as well as a thoughtful consideration of the varying population needs and problems of society and the claims of future generations').

8 There is no shortage of academic reflection on the nature of authority in Anglicanism, among the most interesting in the period we are considering being S Sykes (ed), *Authority in the Anglican Communion* (Toronto, 1987); W Sachs, *The Transformation of Anglicanism* (Cambridge, 1993); I Douglas and K Lui-Lan (eds), *Beyond Colonial Anglicanism* (New York, 2001) and E Radner and P Turner, *The Fate of Communion* (Grand Rapids, MI, 2006). The proliferation of websites during this period has provided a multiplicity of platforms for comment, academic or otherwise. Most are highly partisan on the issues that divide the Churches (eg those that can be found under the names of David Virtue, Anglican Mainstream or Thinking Anglicans), while others are more obviously rigorous and reflective – though nevertheless remaining distinctive in their theological outlook (for example, the comments of the Anglican Communion Institute on its website). All should be treated with caution.

9 J Rees, 'The Anglican Communion – does it exist?', (1998) 5 Ecc LJ 14–17.

10 The concept of DNA in relation to the mission of churches has become common coin during the period we are considering (it underpins much of the mission thinking around the Fresh Expressions movement in the Church of England – see, for example, the Archbishops' Council, *Mission-shaped Church* (London, 2004)), and seems to this writer to have particular resonance in relation to a network of Churches whose relationships are essentially genetic and historical in the absence of a central jurisdiction.

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The question for this article is the extent to which those characteristics of the Communion would survive if a significant number of the Churches we now think of as belonging to this decentralised communion network were to endorse the Anglican Covenant they have each been asked to consider. Would the result be that a contractual relationship would supplant the present essentially genetic relationship; if so, what would be the consequences?

SOME RECENT HISTORY

While issues about women's ministry continue to cause anxiety within individual Churches of the Communion – not least in the Church of England itself[12] – from 1998 onwards the primary neuralgia has moved to the ministry of partnered homosexuals. Two defining moments stand out. In 1998, strong alliances developed between socially and theologically conservative elements taking part in the debates at the Lambeth Conference,[13] resulting in the passage of Resolution 1.10 on the issue of homosexuals in Christian ministry.[14] After five years of uneasy tension, during which a number of other traditional patterns of Anglican life were challenged,[15] in 2003 the election of Canon Gene Robinson to be Bishop of New Hampshire in the Episcopal Church brought matters to a head.[16]

11 For more detail, see J Rees, 'Some legal and constitutional considerations' (prepared for the Primates' Meeting in 2003), <http://www.acclawnet.co.uk/docs/2003_pm.pdf>, accessed 13 February 2012.

12 At the time of writing (January 2012), the Church of England is in the process of an 'Article 8' reference of the issue of women in the episcopate to the dioceses of the Church, with a view to making a decision on specific draft legislation on the issue in July 2012.

13 See the insightful and apparently well-informed account given by S Bates in *A Church at War* (New York, 2004). The best account in print of this alliance between socially and theologically conservative elements (which need not, and probably do not, otherwise share common views either socially or theologically) is Hassett, *Anglican Communion in Crisis*.

14 See above, n 4.

15 During this period, a number of cross-diocese interventions occurred, in which bishops from Africa or elsewhere were invited by American or Canadian parishes to have oversight of their life, seeking in effect to supplant the jurisdiction of the diocesan bishop, in contravention of historic LC resolutions (from 1867 LC 12 onwards, and during our period notably 1988 LC 72 and 1998 LC V.13). The consecration of bishops for ministry in the Unites States as part of a movement called 'The Anglican Mission in the Americas' (AMiA) by the Archbishops of Rwanda and South East Asia in 2000 (Singapore) and 2001 (Denver) brought matters to a head, and was followed by the creation of further connections with North American parishes by the Province of Nigeria (associated with the Convocation of Anglicans in North America – itself not to be confused with the Anglican Church in North America, a separate but related co-ordinating group headed by the former Episcopal Church bishop of Pittsburgh, now Archbishop Robert Duncan). In a recent development, AMiA itself appears to have divided over the issue of women's ordination, and the majority of its membership appears to have disassociated itself from the original sponsoring diocese of Rwanda (see <http://www.theamia.org/new/news/>, accessed 13 February 2012).

16 Robinson was elected by the Diocese on 7 June 2003. Those who appeared before the Lambeth Commission in 2004 argued strongly that it would have been improper for the General Convention or the House of Bishops to have overridden the democratic decision of the local electoral college (a colourful account of the proceedings at the General Convention is given in Bates, *A Church at War*, ch 11).

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Dr Rowan Williams, then newly installed as Archbishop of Canterbury, called the Primates of the Communion together shortly before the date fixed for Canon Robinson's consecration. The Primates issued a warning that his consecration was likely to 'tear the fabric of our Communion at the deepest level'.[17]

Meanwhile, in a prophetic article in the Anglo-Catholic journal *New Directions*, which surprised and alarmed many who were not familiar with the longer history of the issues, the Archbishop had described the outlook for the Anglican Communion as 'messy'. In the light of subsequent events, what he said at the time deserves to be set out in full:

> I suspect that those who speak of new patterns, of the weakening of territorial jurisdiction and the like are seeing the situation pretty accurately . . . I don't expect the next few years to be anything other than messy as far as all this is concerned. The question is not whether we can afford mess, but whether we can hang on to common convictions about divine grace and initiative . . . The danger to avoid is an entirely modern or post-modern map of church identity in which non-communicating and competing entities simply eradicate the very idea of a communion of churches.[18]

It is important to note at this point that the role of the Primates' Meeting itself had been changing for a decade or more by 2003. What had begun as an initiative of Archbishop Donald Coggan, to bring together the senior episcopal leadership of the Communion for 'leisurely thought, prayer and deep consultation'[19] was increasingly being regarded during the 1990s as the sounding board for determining direction on controversial issues. It was to members of the Primates' Standing Committee that the Archbishop turned in the first instance in relation to his controversial interventions in Rwanda and Sudan,[20] and there were calls both at the Lambeth Conferences[21] and in separate

17 The warning was expressed in the strongest possible terms: 'If his consecration proceeds, we recognise that we have reached a crucial and critical point in the life of the Anglican Communion and we have to conclude that the future of the Communion itself will be put in jeopardy. In this case, the ministry of this one bishop will not be recognised by most of the Anglican world, and many provinces are likely to consider themselves out of communion with the Episcopal Church (USA)' (Primates' Meeting, 'Communiqué', 2003). There is an interesting disregard in this statement of the fact that at this point there was already (and still remains) a significant degree of impaired communion between those Churches that recognised and welcomed the ministry of women bishops, and those that did and do not.

18 R Williams, 'The structures of unity', 100 *New Directions* (September 2003), <http://trushare.com/0100Sep03/TR100COVE.htm>, accessed 1 February 2012; quoted in R Shortt, *Rowan's Rule* (London, 2003), p 287.

19 1978 LC Report, p 123.

20 This may be seen, for example, in relation to Rwanda in the resolution of the (subsequent) meeting of the Anglican Consultative Council (ACC), in 1996 (ACC-10, Resolution 15.5): 'we offer our continued support and encouragement . . . to take such future initiatives as they think necessary, consulting where possible the Primates of the Communion'.

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publications[22] for the increasing profile of the Primates' Meeting to be formalised. There were emphatic pleas at the 2003 Primates' Meeting and subsequently for the Episcopal Church to be excluded from the Communion, and they were reminded that the nature of the Communion was such that they had no power collectively to make such a decision.[23]

In the event, the 2003 Primates' Meeting called on the Archbishop to give effect to a resolution passed by the bishops at Canterbury in 1998, to establish a commission to examine his powers of intervention in matters of mutual concern.[24] In response, Dr Williams established an international group of theologians, lawyers and ecclesiologists, chaired by Archbishop Robin Eames. This group, named the 'Lambeth Commission', in due course produced the Windsor Report.[25]

The Report made a number of recommendations, some of which were implemented,[26] some tried in modified ways[27] and others not attempted.[28] The most far-reaching of them, however, was the concept of the Anglican

21 A fascinating and instructive study could be made of the development (and tensions and undercurrents) of the Primates' Meeting during our period, evidenced by: 1988 LC 18.2(a), which 'urges that encouragement be given to a developing collegial role for the Primates' Meeting under the presidency of the Archbishop of Canterbury, so that the Primates' Meeting is able to exercise an enhanced responsibility in offering guidance on doctrinal, moral and pastoral matters'; 1988 LC 52 ('This Conference requests the Primates' Meeting and the Anglican Consultative Council to give urgent attention to implementing the hope expressed at Lambeth 1978 (and as confirmed by recent provincial responses) that both bodies would work in the very closest contact') and 1998 LC 3.6, which 'reaffirms Resolution 18.2(a) of Lambeth 1988 . . . asks that the Primates' Meeting, under the presidency of the Archbishop of Canterbury, include among its responsibilities positive encouragement to mission, intervention in cases of exceptional emergency which are incapable of internal resolution within provinces, and giving of guidelines on the limits of Anglican diversity in submission to the sovereign authority of Holy Scripture and in loyalty to our Anglican tradition and formularies; [and] recommends that these responsibilities should be exercised in sensitive consultation with the relevant provinces and with the Anglican Consultative Council (ACC) or in cases of emergency the Executive of the ACC and that, while not interfering with the juridical authority of the provinces, the exercise of these responsibilities by the Primates' Meeting should carry moral authority calling for ready acceptance throughout the Communion, and to this end it is further recommended that the Primates should meet more frequently than the ACC'.

22 Notably in D Gomez and M Sinclair (eds), *To Mend the Net* (Carrollton, TX, 2001).

23 Rees, 'Some legal and constitutional considerations'.

24 See 1998 LC IV.13, and Rees, 'Some legal and constitutional considerations', para 8.4.

25 The full terms of reference of the Lambeth Commission are set out on page 13 of the Windsor Report.

26 Several of the recommendations in Appendix 1 regarding the operation of the Instruments have been put into effect, notably with regard to the integration of the Primates Standing Committee into the Standing of the ACC. See Windsor Report, Appendix 1, para (2), and the official report of the subsequent ACC Meeting (2005, ACC 13.4).

27 The proposal for a 'Council of Advice' (Windsor Report, para 111) was never fully explored in the terms in which the proposal was made. However, over the years 2005–2007 a group was called together by the Archbishop of Canterbury to consider various complaints laid by disaffected parishes and other groups concerning episcopal oversight. This group worked in pairs to investigate and report on the causes of the problems brought to them, and issued a series of reports and recommendations. However, its work was highly controversial and in some cases lacked the forensic rigour that such investigation demands. After 2007, it faded quietly away.

28 For example, the proposal that the Primates' Meeting be restructured to become the 'Standing Committee of the Lambeth Conference' (Windsor Report, para 104 and Appendix 1, para 5).

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Covenant. A first version of this concept was appended to the Report, but its heavily legal formulation did not attract much support.[29] However, a series of consultations about the Windsor Report ensued, resulting in the formation of the Windsor Continuation Group. After several years of discussion and (largely) electronic debate,[30] a version emerged that seemed to command widespread support. It was presented to the Anglican Consultative Council (ACC) in May 2009, where its first three sections were approved without significant challenge; but its fourth section did not commend itself to those who were present in Jamaica, and a further small editorial group was convened to take supplemental soundings around the Communion. The amendments resulting from this further round of consultation were accepted by the ACC's Standing Committee in December 2009, and it is this final draft of the Covenant that has been under consideration by the Churches of the Communion since then. To date, five Churches have endorsed the Covenant as it stands, others have expressed support for it in a more qualified manner, and most are still considering it.[31] The ACC is expected to be considering its progress when it next meets, in New Zealand in late 2012.

WHAT IS IN THE ANGLICAN COVENANT?

The Introduction to the main text of the Anglican Covenant emphasises the divine origin and gift of communion and covenant relationship.[32] It makes clear that underpinning this Anglican expression of covenanted relationship is the overwhelming generosity of a God who calls the whole of His creation into a relationship of communion with Himself. The Anglican Covenant sets out to be a properly humble but nevertheless determined attempt to respond to the generosity of God, recognising both the strengths and the limitations of

29 The first draft of a text for the Covenant is set out in the Windsor Report, Appendix 2; but the Report emphasises that 'This is only a preliminary draft and discussion document, and it would be premature at this stage for any church to adopt it' (Windsor Report, para 118). There was real concern among the members of the Commission that there might be Churches that would misconstrue the purpose of the text and sign up to it prematurely, simply as an expression of their solidarity with the Communion, but without having considered the wider issues of mutuality and before some of the necessary components envisaged in that draft were in place (eg the Council of Advice – see draft Article 26, and the reference to this proposed body (see above, n 27)).

30 Many of the submissions made in response to the Windsor Report can still be found on the ACC website; a great deal of the material initially gathered as part of the response to the Report went on to be used in the continuing consultations leading to the formulation of successive editions of the draft Covenant, which may also be found there.

31 Mexico, Burma, West Indies, Papua New Guinea and the Southern Cone have all endorsed it in full, Ireland has 'subscribed' to it and South East Asia has 'acceded' but on a conditional basis. Dioceses of the Church of England are currently considering it, ahead of debate in the General Synod as soon as it can be brought on to the agenda. At the time of writing, four dioceses have approved it and four have voted against its adoption. A majority of dioceses must vote in favour for it to proceed to adoption by the General Synod.

32 Although the Introduction is not an operative part of the Covenant text it 'shall always be annexed to the Covenant … [and] be accorded authority in understanding the purpose of the Covenant' (Anglican Covenant, Art 4.4.1).

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the understanding of God and His purposes that Anglicans have inherited. It acknowledges the mystery of God's self-disclosure, but is frank in acknowledging the ways in which humanity has misunderstood His purposes and that Christian witness throughout the ages has been marred by partiality and division. Nevertheless, it celebrates the 'particular charism and identity [of the Anglican Communion] among the many followers and servants of Jesus' and recognises the 'wonder, beauty and challenge of maintaining communion in this family of churches'.[33] It is against this background that the Introduction calls on the Churches of the Communion to 'recognise in a solemn way our commitment to one another, and the common understanding of faith and order we have received so that the bonds of affection which hold us together may be re-affirmed and intensified'.[34]

This Introduction leads on to four substantive sections, which each affirm distinctive elements of the Anglican tradition.

Section One: 'Our inheritance of faith'

At the core of the first section is an affirmation of Anglican distinctiveness drawn essentially from the formula that appears in Canon C 15 of the Church of England's canons.[35] It speaks of the 'catholic and apostolic faith uniquely revealed in the Holy Scriptures and set forth in the catholic creeds, which faith the Church is called upon to proclaim afresh in each generation'. It goes on to emphasise the Reformed character of this Catholicism,[36] stating firmly that 'the historic formularies of the Church of England … bear authentic witness to this faith'.[37]

In a deliberate echo of the Lambeth–Chicago Quadrilateral,[38] this section revisits that historic portmanteau of insights that has served as a brief unifying statement for Anglicans through a century and more of the Communion's history: not only the Holy Scriptures and catholic creeds, but also the dominical sacraments and the historic episcopate.[39] All four of these elements are taken as

33 Anglican Covenant, Introduction, para 4.

34 Ibid, para 5. 'Bonds of Affection' is a phrase with particular resonance within the Communion, emphasising its historic and genetic heritage, on the analogy of a 'family' of churches. It was the title of the ACC meeting in Capetown, 1993 (ACC-9).

35 Interestingly, the Church of England formulation is itself not ancient, deriving from controversy about subscription to the 39 Articles in the mid-twentieth century. It was drafted by a clergyman and a lawyer who were both at the time members of the General Synod. See C Podmore, 'The Church of England's Declaration of Assent', (1999) 5 Ecc LJ 241–251.

36 There is a very specific reference to the fact that the historic formularies were 'forged in the context of the European Reformation'.

37 Anglican Covenant, Art 1.1.2.

38 The 'Quadrilateral' is a summary of foundational commitments intended to be as much ecumenical as Anglican, if not more so, in keeping with Anglican self-understanding as being only a part of the whole catholic tradition. It dates from resolutions passed by the Convention of the American Episcopal Church in Chicago in 1886, endorsed by the bishops at the Lambeth Conference two years later (1888 LC 11) and subsequently expanded and reaffirmed in a more pronouncedly ecumenical vein after the end of the First World War, this being the first Lambeth Conference following the great ecumenical conference held in Edinburgh in 1910 (1920 LC 9.VI).

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central to the Anglican inheritance of faith. At the same time, it is made clear that the Communion's calling is not to preserve a mere deposit of past insights but to 'live out this inheritance of faith together in varying contexts'.[40] There are characteristic emphases here on intellectual rigour,[41] pastoral engagement[42] and ecumenical awareness.[43]

Section Two: 'The life we share with others: our Anglican vocation'

This section opens with a ringing restatement of the mystical communion to which God calls His whole Church

> so that God's people from east and west, north and south, may together declare the glory of the Lord and be both a sign of God's reign in the Holy Spirit and the first fruits in the world of God's redemption in Christ.[44]

This rousing affirmation is filled out with a series of commitments drawn from work undertaken at or against the background of the Lambeth Conference 1998 and the ACC's meetings in 1996 and 1999, known as The Five Marks of Mission: aspirations to proclaim the Gospel, teach and nurture disciples of Christ, serve humanity in all its need, address the unjust structures in society and 'safeguard the integrity of creation'.[45]

Section Three: 'Our unity and common life'

The third section is the most dense in its constitutional content, summarising and affirming the roles of the 'four particular Instruments at the level of the Anglican Communion which express this co-operative service in the life of communion'.[46] Interestingly, the Covenant also mentions in this context the other

39 Henry Chadwick has described the Quadrilateral as providing 'an iron-ration ecclesiology … a minimum starting-point for an approach to Christian reunion': H Chadwick, 'Introduction', in J Draper (ed) *Communion and Episcopacy*, (Oxford, 1988), p 1. This series of essays, compiled to celebrate the centenary of the Quadrilateral, is an accessible introduction to its significance for Anglicans and for issues of wider church reunion.

40 Anglican Covenant, Art 1.2.

41 Ibid, Art 1.2.4: '… attentive and communal reading of … Scripture by all the faithful, by the teaching of bishops and synods, and by the results of rigorous study by lay and ordained scholars …'.

42 Ibid, Art 1.1.6: '… the varying needs of the nations and peoples called of God into the unity of the Church'.

43 Ibid, Art 1.2.7: '… as we strive under God for the fuller realisation of the communion of all Christians'.

44 Ibid, Art 2.1.1.

45 Ibid, Art 2.2.2; for further background on the provenance of the 'Five Marks', see the summary report of MISSIO (an ACC Network), *Anglicans in Mission* (1999). See below for a brief consideration of a very recent and highly creative illustration of the way that Churches around the Communion are informing each other and the wider world of the work they are doing in social action around the world through the Anglican Alliance.

46 Anglican Covenant, Art 3.1.4 sets out in some detail the nature and operation of the four Instruments, noting that 'each may initiate and commend a process of discernment and a direction for the Communion and its Churches'.

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'many and varied links which sustain our life together',[47] to which we shall return below.

However, the overarching theme in this section is interdependence at every level in Anglican thinking. It speaks of the roles of the bishop in synod, the linkage of the universal and the local, and the mutuality in ministry of clergy and laity, as well as the relationship between the Churches and the Instruments, living and working together 'in communion with autonomy and accountability'.[48]

The section seeks to strike the traditional sensitive and nuanced balance between respecting 'the constitutional autonomy of all the Churches of the Anglican Communion, while upholding our mutual responsibility and interdependence in the Body of Christ, and the responsibility of each to the Communion as a whole'.[49] This involves a profound commitment to patient discernment of the will of God in one another's very varied cultural contexts, 'caution in respect of any action which may provoke controversy, which by its intensity, substance or extent could threaten the unity of the Communion',[50] and, if such caution were not to prevail and conflict to arise, 'to participate in mediated conversations'.[51]

Section Four: 'Our covenanted life together'

It is the final section of the Covenant that has caused most anxiety, and from a legal point of view carries most significance. Its content has been widely misunderstood and frequently misrepresented. In particular, it is often said that its effect as part of the Covenant would be to create a 'two-tier' Communion. Its content cannot be understood without giving some consideration to its origins.

At a meeting of the Primates in 2001, the possibility was considered that 'the canon law of each church should reflect and promote global communion'.[52] The Lambeth Commission deliberated over this proposal with some care, alongside the suggestion that a Covenant be adopted between the Churches of the Communion. It concluded that it would be impracticable to expect all the Churches to incorporate 'an elaborate and all-embracing canon defining inter-Anglican relations' and rejected this as a way forward on the basis of the 'lengthy and almost impossible difficulty of steering such a canon unscathed

47 Ibid, Art 3.1.4, introductory paragraph (before itemising the Instruments, each of which has a separate sub-paragraph).
48 Ibid, Art 3.1.2.
49 Ibid, Art 3.2.2. It should be remembered that a worldwide Anglican Congress of laity and clergy, as well as bishops, was convened in 1963 (only the second of its kind during the lifetime of the Communion), under the theme 'Mutual responsibility and interdependence'. A further Congress, scheduled to take place in 2008, was actively considered for several years between 1998 and 2004, but had to be put to one side for financial reasons.
50 Ibid, Art 3.2.5.
51 Ibid, Art 3.2.6.
52 Before 2003, Primates' Meetings were treated as private and minutes are not available. But see the brief report of this discussion in the Windsor Report, para 115.

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through the legislative processes of 44 churches, as well as the possibility of unilateral alteration of such a law'.[53]

Nevertheless, the Commission was unanimous in its support for a Covenant between the Churches, and envisaged that it should 'carry the weight of an international obligation so that, in the event of a church changing its mind about the covenantal commitments, that church could not proceed internally and unilaterally'.[54] This was a startling departure from traditional understandings of provincial autonomy, though the members used language about the adoption process that was intended to draw something of the sting from the proposal, and distance it from the one that the Primates had originally discussed. It recommended a process that would provide 'legal authorisation by each church' for its Primate to sign the Covenant, and spoke of a 'brief law' to that effect.[55]

The difference between the Primates' original discussion and the proposal put forward by the Commission is significant: the 'law' (here used to indicate whatever legal mechanism might be needed to authorise adherence to the Covenant) would not be the detail of the covenanted Communion relationship itself but a legal step behind it. Consequently, the text of the 'Communion law' would not be a piece of legislation to be hammered out in full in every provincial legislature around the world, and the Covenant would stand apart from the legal process that was needed to adhere to it. It would be more in the nature of an international treaty, with individual legislatures simply required to vote for its adoption. But, as was pointed out at the time, the final legal effect would still be much the same, and would depend entirely upon the terms of the Covenant itself (for example, as to its own changeability) and upon the terms in which authority was given for its adoption by each legislature. Moreover, although the internal impact of the Covenant on each Church's affairs would depend entirely on the legal mechanism used to give effect to its adoption,[56] if it turned out to have the weight and apparent irrevocability mentioned in the Windsor Report, its effect would still be startling.[57] However, as will be seen,

53 The Windsor Report, para 117; as Legal Consultant to the Commission, the present writer had drawn attention to the difficulty (to be seen, for example, in Canons B 43 and B 44 of the Canons of the Church of England) that arises when attempts are made to insert detailed provisions into the Canons, which are normally lapidary in nature.

54 Ibid, para 119.

55 Ibid, para 117, speaks of 'the adoption by each church of its own simple and short domestic "communion law", to enable and implement the covenant proposal'.

56 Some mechanisms carrying greater weight than others See, for example, the Church of England's decision to deal with the adoption of the Covenant by an Act of Synod (2010 GS 1809); an Act of Synod is a formal resolution of the General Synod, which is solemn and binding but falls short of having the force of a Measure or Canon (though in this case it was nevertheless decided that it should be referred to the diocesan synods for majority approval as 'Article 8 business' under the Synod's constitution). Other Provinces and Churches will have their own mechanisms under their own constitutions for dealing with the process of adoption. These will have different levels of binding force and permanence, depending both on the terms of the relevant resolution and on the terms of the constitution in question.

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the Covenant that has emerged over the subsequent years is far from proposing such radical changes to Anglican ecclesiology.

Turning to the detail of the section as it now appears, its opening contains an acknowledgement by each of the covenanting Churches for itself that the statements about faith, mission and interdependence set out in the three preceding sections reflect or are compatible with its own doctrine and practice. Although this acknowledgement is, on the face of it, no more than a statement of present fact, it is elaborated into an intentional recognition that these elements are 'foundational' for the life of the Anglican Communion and for relationships between the covenanting Churches.[58]

At the same time, it is made clear that the commitment and submission that each Church makes by adopting the Covenant is made freely in relation to the other Churches of the Communion, and as part of their calling to commitment and submission to the will of God. It is not a matter of external obligation or submission to a legal jurisdiction beyond themselves. Emphatically, 'Nothing in this Covenant of itself shall be deemed to alter any provision of the Constitution and Canons of any Church of the Communion, or to limit its autonomy of governance.'[59] This cannot be overstated. Legal autonomy is retained by all the Churches, and the degree of irrevocability and binding force envisaged by the Commission as part of this 'weighty international obligation' is significantly toned down.

Only to a very limited extent do the Churches bind themselves in any novel way, namely in relation to finding a practical solution for threatened and actual breakdowns in communion relationships between the Churches. The overall thrust of the second part of the final section continues in very much the same vein as the first, emphasising provincial autonomy but at the same time articulating the need (which it characterises as a duty) for covenanting Churches to resolve questions arising about the compatibility of their policies with the Covenant by applying the principles of interdependence set out in Section Three. If the way ahead does not become clear through internal reflection on the Anglican inheritance set out in the previous sections, through dialogue with another Church or through reference to one of the Instruments of the Communion, then (and only then) is the issue to be referred to the 'Standing Committee of the Anglican Communion'.[60]

57 See above, n 54. It should be noted that the members of the Commission were very aware that this would represent a major departure from traditional understandings, however presented in legal terms. Nevertheless, it was considered important in the immediate context in the Communion in 2004 to ensure that this proposal was put squarely before the Churches of the Communion as an option that they should consider.

58 Anglican Covenant, Art 4.1.2.

59 Ibid, Art 4.1.3.

60 Ibid, Arts 4.2.3 and 4.2.4. See below for discussion of the nature of this body.

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As will be clear from this summary, the emphasis is on the Churches deciding for themselves to pursue policies of self-restraint, to consider carefully the impact of their policies on the life of others in the Communion, and to act in ways that not only accord with their inherited tradition but promote the interests of Anglicans living in very different cultural settings. Only if matters cannot be resolved through dialogue (in the event of a two-way tension) or by reference to the Archbishop, the ACC or the Primates' Meeting for informal advice (for multilateral issues) does anything remotely approaching an external intervention come into play.

Even then, it is for the Church or Churches or Instrument concerned to decide what each should do. The way that this final stage works is as follows: in the event of major and unresolved difficulty, the matter is referred to the Standing Committee for consideration. The Standing Committee's first course of action may be to request deferral of the controversial action in question;[61] it will no doubt make this request only if there is a grave and urgent reason for doing so. If such a request is ignored, the Committee's recourse is to recommend to any one or more of the Instruments (in practice, probably in the form of a request to the Archbishop in relation to attendance at the Lambeth Conference and the Primates' Meeting, and a separate request to the ACC) 'relational consequences which may specify a provisional limitation of participation in, or suspension from, that Instrument'.[62]

During that period of limited participation, the Standing Committee is to take advice from the ACC and the Primates' Meeting, and on the basis of that advice may make a declaration that the matter in question is 'incompatible with the Covenant'.[63] It is then likely to make a firm recommendation about the 'relational consequences', which would no longer be provisional, nor limited in extent to the Instruments of Communion: this recommendation might also extend to 'the Churches of the Anglican Communion' and 'address the extent to which the decision of any covenanting Church impairs or limits the communion between that Church and the other Churches of the Communion'.[64] However, it would be for each Church or Instrument to decide how it should respond to such a declaration or recommendation.[65]

As is clear from this summary, the traditional emphasis on the autonomy of the Churches of the Communion (and its Instruments) remains intact. Whether Churches have signed up to the Covenant or not, it is for each one individually

61 Ibid, Art 4.2.5.
62 Ibid, Art 4.2.5. In practice, this is what happened on a voluntary basis at the ACC Meeting in Nottingham in 2005 (when American and Canadian representatives withdrew from attendance as members, but were present as observers, and made presentations to delegates about their respective Churches in relation to the Robinson ordination and issues around same-sex blessings).
63 Ibid, Art 4.2.6.
64 Ibid, Art 4.2.7.
65 Ibid: 'Each Church or each Instrument shall determine whether or not to accept such recommendations'.

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to decide how to respond to any recommendation of the Standing Committee in the circumstances of dire breakdown presaged in this section of the Covenant. That autonomy is not infringed by the operation of the Covenant. In the last resort, a Church that has endorsed the Covenant may withdraw voluntarily from it without thereby automatically ceasing to participate in future Lambeth Conferences, Primates' Meetings or meetings of the ACC. Nor would such a withdrawal in and of itself 'imply … a repudiation of its Anglican character'.[66]

Having said that, it should be noted that, in any discussion by the Standing Committee or by the Instruments of issues referred under this section, 'participation in the decision making … shall be limited to those members of the Instruments of Communion who are representatives of those Churches who have adopted the Covenant or who are still in the process of adoption'.[67] This formulation has aroused some concern, but it should be noted that it does not exclude either the representatives of Churches that have yet to make up their minds (the majority, as things stand at the time of writing) or of those who have signed up but whose actions or decisions are under consideration, provided they have not been provisionally suspended after having disregarded a request to defer a controversial action or decision. Further, there is some ambiguity about what is embraced in the 'decision making', whether this includes only the final decision or also comprehends participation in preliminary discussion, or even membership of the body that is deliberating the issue. For the time being, of course, this is not an issue, as no Church has yet determined either that it rejects the Covenant or that it has reached an end of its discussion of it without making a decision.

Finally, it should be noted that there has been some confusion about the nature of the 'Standing Committee of the Anglican Communion' referred to in section 4.2.2. This expression has been seized on by some critics of the Covenant as a new and undefined body that has yet to be brought into existence, and whose constitution is not provided for in the Covenant itself. That is not the case. It is a shorthand expression for the Standing Committee of the Anglican Consultative Council, established under its constitution and made up of a mix of elected representatives of the ACC, the members of the Standing Committee of the Primates' Meeting, some co-opted members and the Archbishop of Canterbury *ex officio*.[68] While the role assigned to it may be novel, the fact that it is a body with a clear structure and an honourable tradition of service to the Communion suggests that it would be a better and more broadly representative body to consider dilemmas of the sort envisaged in the Covenant

66 Art 4.3.1.
67 Ibid, Art 4.2.8.
68 Articles of Association of the ACC (Company Number 07311767), Art 7.3.

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than any more *ad hoc* group convened for the purpose. Having said that, the Standing Committee itself is permitted by the Covenant to take such advice as it thinks fit from other bodies, including the plenary sessions of both the ACC and the Primates' Meeting.[69]

As can be seen, this fourth section does not introduce any novel departure from the traditional ecclesiology of the Anglican Communion beyond seeking to provide a practical means for addressing threatened or actual breakdowns in communion relationships between the Churches. It is essentially a provision for dispute resolution.

THE SIGNIFICANCE OF THE COVENANT

The most obvious and immediate significance of the Covenant has been educational. At many different levels throughout all the Churches of the Communion (and beyond) there has been intense and informed discussion of what it means to be Anglican. Relationships that have simply been taken for granted in the past have been taken out and examined, and difficult questions have been asked about whether the Churches wish to continue to walk in step with others in the Anglican family, to quicken the pace, to slow it, to go their own way or to let others go their own way.[70] The difficulties in the Communion provided the subject matter for a Conference of our own Society in 2007, and both the discussions and the papers[71] presented at it were themselves a contribution to the wider debate on the content of the Covenant.[72] The learned editor of this *Journal*, Professor Mark Hill QC, was invited by the editors of the *International Journal for the Study of the Christian Church* to edit a special edition of that journal, under the title *Communion, Covenant and Canon Law.*[73] Several members of the Society contributed articles or reviews to this special edition, and the Society sponsored 1,000 extra copies for distribution to the bishops attending the Lambeth Conference. At the Conference itself, over 60 bishops attended a meeting to discuss the Covenant (then still in early draft form) organised by the Society as part of the official Conference programme. It was one of the only 'opt-in' meetings to attract such large numbers – an indication of the extent to which the question of legal

69 Anglican Covenant, Art 4.2.4.

70 The Windsor Report ended on a stark and graphic note: 'There remains a very real danger that we will not choose to walk together ... [if so] we shall have to begin to learn to walk apart' (para 157).

71 Which included addresses by two notable participants in the Lambeth Commission and Windsor Continuation Group, Canon (now Bishop) Gregory Cameron and Professor Norman Doe. See I Faulds, Report on 'Anglican Communion: crisis and opportunity' Conference, (2007) 9 Ecc LJ 222–224.

72 See G Cameron, 'Ardour and order', (2007) 9 Ecc LJ 288–293; N Doe, 'The contribution of common principles of canon law to ecclesial communion in Anglicanism', (2008) 10 Ecc LJ 71–91.

73 Hill, *Communion, Covenant and Canon Law.*

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relationships between the churches had become a topic to catch the imagination of participants, as a consequence of the Covenant discussion over previous years.

By definition, the Covenant will have little or no impact during the initial period when Churches around the globe are making up their minds about adopting it. For many, their legislatures or other decision-making bodies work to a cycle of up to five years (and, in some cases, practical political or communication difficulties may make the date of the next meeting of the key body highly unpredictable). During that initial period, it is out of the question for the Covenant to have any direct bearing in its own terms on relations between the Churches: a Church that carries all the hallmarks of traditional Anglicanism will not cease to be 'Anglican' simply because its legislature cannot meet to endorse the Covenant that articulates those hallmarks. The question remains, however, what will happen when a critical mass is achieved in terms of numbers of Churches adopting the Covenant;[74] and a subsidiary but related question is what would constitute a critical mass of adopting Churches, especially if one or more of the larger Churches such as the Church of England or some of those Churches that currently associate together as part of the Global Anglican Futures Conference chose not to adopt the Covenant, or prolonged its adoption indefinitely?

It is premature to speculate on the second of those questions, but we can give some thought to the first. It has been suggested that adoption of the Covenant will result in a two-tier (or more) Communion, with its 'full members' being those who have signed up to the Covenant and continued in conformity with it,[75] and its 'also-rans' being those who chose not to adopt the Covenant for themselves. Inevitably, the situation is not so simple.

In all likelihood, what will happen is that the Covenant will become a major touchstone of Anglican orthodoxy, whether or not Churches sign up to it. Its first three sections seem likely to be widely consulted in relation both to the admission of new members to the Instruments[76] and to developments within the life of individual Churches now forming part of the Communion. Part of its purpose was to help identify what Anglicanism is about, for the benefit of our ecumenical

74 Notwithstanding all that is said in this article about the legal essence of the Covenant being a dispute-resolution mechanism for those Churches that sign up, politically it is bound to count for more.

75 Noting that this includes the possibility that the Covenant identity they signed up to might itself change over time, with or without their consent – see Anglican Covenant, Art 4.4, which provides for alteration of Covenant provisions by a three-quarter majority of the adopting Churches.

76 Ibid, Art 4.1.5: 'The Instruments of Communion may invite other Churches to adopt the Covenant using the same procedures as set out by the Anglican Consultative Council for the amendment of its Schedule of Membership . . .'. Despite some speculation at the time when the Covenant draft was finalised, the Anglican Church in North America (see above, n 15) seems unlikely to apply, as many of the conservative Churches with which it has had close association have expressed misgivings about what they see as the weakness of the Covenant's disciplinary provisions.

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partners in other parts of Christendom,[77] and it is also likely to become a fundamental resource for deciding with which other Christian communities we should enter into or remain in ecumenical dialogue in the years ahead.

Meanwhile, the Covenant's impact on relations between the existing Churches of the Communion is likely to depend on the political and diplomatic relationships between those Churches as they develop in the years ahead. As noted above, the resource will exist for those Churches that have adopted the Covenant to seek the exclusion from decisions of the Standing Committee or the Instruments of those who have chosen to stand apart from the Covenant. Those decisions might include exclusion or restriction from participation in the future life of those Instruments – though in the last resort such decisions would be for the Instruments themselves to make, in the light of the Standing Committee's recommendation after widespread consultation. Similarly, the Churches might receive a recommendation from the Standing Committee that a particular step taken by one of the covenanting Churches is incompatible with the Covenant, and so should carry implications that would prejudice communion between it and the other Churches. It would, as at present, be for each of the Churches to make its own decision about the existence or extent of such impairment, the difference being that it would not be making its decision in isolation (though it could still do so at an earlier stage) but with the benefit of guidance from the wider covenanting community.

Without doubt, those who are determined to make mischief around the Communion will find additional opportunity to do so by manipulating the terms of the Covenant (if their Churches have signed up to it). It is not difficult, for example, to foresee a determined complainant protesting that respondent Churches had failed to

> put in place ... mechanisms, agencies or institutions ... [to] undertake to oversee the maintenance of the affirmations and commitments of the Covenant in the life of that Church, and to relate to the Instruments of Communion on matters pertinent to the Covenant.[78]

It is to be hoped that any such complaint would be dealt with by the Standing Committee and (if need be) the Instruments with a proper sense of proportion.

Meanwhile, relationships between the Churches of the Communion, and between them and its Instruments, will continue to be governed primarily by their own internal constitutional and legal arrangements. Those internal

77 Bishop Stephen Sykes put the dilemma for some ecumenical partners succinctly in his Foreword to *Communion, Conflict and Hope: the Kuala Lumpur Report of the third Inter-Anglican Theological and Doctrinal Commission* (London, 2008): 'the diversity of Anglican churches is prominently displayed – to the extent that they appear to be virtually incoherent as a world-wide Christian body' (p 5).

78 Anglican Covenant, Art 4.2.9.

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legislative arrangements will remain in place as they are at present, no doubt influenced – but not controlled – by the recommendations made by the Standing Committee in matters where no mutually acceptable way forward has been found on difficult issues. In the last resort, to take a far-fetched example, a decision of the Church in Wales to break off communion relationships with the Anglican Church of South Africa, or of either to do so with the Anglican Church in Aotearoa, New Zealand and Polynesia, would still be a decision for each to make in accordance with its own constitution. It is to be hoped that neither would take such a step 'lightly or wantonly', but it may be instructive to consider how such a situation might be dealt with either without or within the structures envisaged by the Covenant.

As things stand at present, it is to be hoped that whatever issues were causing anxiety would have been discussed informally between representatives of the Churches concerned, but in the last resort it would be for the bishops or archbishops of those Churches to refuse to license ordained or lay ministers of those other Churches to function in their parishes, and for their legislatures to alter their rules (as necessary) for admission to communion of lay people at their Eucharistic services, or more widely for those people to be members of their parish rolls without taking some further step of admission into their fellowship.[79] Again, as things stand at present, it is likely that (depending on the gravity of the offence caused) one or more of the Churches concerned would raise with the Archbishop of Canterbury the possibility that the bishops of the censured Church be excluded from future Lambeth Conferences and its Primate from future Primates' Meetings, and with the Secretary-General of the ACC that its representatives be excluded from the Council's further activities. It would then be for the Archbishop and the ACC (each of which would no doubt consult the other, and each would also be likely to consult more widely) to decide how to respond, and to act accordingly, but none would be bound to take the action requested. It would still be for each Church and each Instrument to decide for itself what it should do in relation to the others.

If each of those Churches had adopted the Covenant, the process under Section Four might lead to much the same outcome. Assuming that no informal resolution had been reached, the issues between the Churches would be channelled through the Standing Committee in a more structured way, though without prejudice to the possibility that any of the Churches or Instruments might pre-empt the outcome by taking unilateral action – but by doing so might put itself in jeopardy in relation to a complaint that it had itself acted in a manner incompatible with the Covenant. However, at certain key points

79 At its most basic, the fact that clergy may serve in other Churches of the Communion without being re-ordained, and that lay members may receive communion without being reconfirmed, is the bedrock of our communion with one another within the Anglican Communion.

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in the process, if one of the Churches made clear that it had rejected the Covenant for itself, its Primate or ACC representatives might be unable to participate in any decision-making with regard to the issue of compatibility with the Covenant. The essential difference between operating under the Covenant process and all that has gone before would be the greater moral and persuasive authority that would flow from the participants having signed up to a formal process for resolving their differences on key matters affecting their communion with each other. Those factors (often lost on mere lawyers) are of considerable weight in matters of diplomacy and realpolitik.

To return to the question posed at the outset, the impact of the Covenant would seem to be that it introduces, for those Churches that adopt it for themselves, a more complete and rounded statement of their doctrinal foundation, mission and commitment to interdependence in the Communion, and a more structured way of dealing with controversial internal changes and intractable external tensions with other Churches. In the last resort, however, decision-making still rests with the Church or Instrument concerned; failure to adopt the Covenant does not deprive any Church of its Anglican heritage, or of mutual recognition as Anglican by other Churches (whether they have adopted the Covenant or not), nor (without a decision made by the Instrument concerned, which may in any event be made under present arrangements) may they be deprived of participation in the deliberations of the Instruments.

To sum up, the 'contract' that will come into existence between the Churches that adopt the Covenant is a contractual commitment to a structured process for dispute resolution, but it does not and need not affect the underlying powers and DNA of the Churches that adopt it. In legal terms, it is only to that extent that it creates a two-tier Communion. The underlying arrangements that presently exist will continue to exist unless and until they are altered by the constitutional and legislative processes that already belong to each of the Churches and Instruments.

OTHER INSTRUMENTS AND INSTRUMENTALITIES

It has been conventional to speak of the Communion as having only four 'Instruments', but it should be remembered that these (with the exception of the Archbishop of Canterbury himself) are relatively late arrivals on the scene. As Bishop David Hamid put it some years ago, 'Does anyone imagine that the Anglican Communion did not exist before the first Lambeth Conference?'[80] It

80 At a meeting of the Anglican Communion Legal Advisers' Network in Canterbury, 2002, later published as 'Church, communion of Churches and the Anglican Communion', (2002) 6 Ecc LJ 352–374. Bishop Hamid takes up a theme that was more prominent in the ministry of both Archbishop Michael Ramsey and Archbishop Robert Runcie, about the 'provisionality of Anglicanism'. Partly because of the growth in numbers of Anglicanism worldwide, and partly because of the controversies

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is a salutary question. There are many other marks of Anglican identity than its current international superstructures.

In 2002, the Primates' Meeting considered a report of the Anglican Communion Legal Advisers Network, offering the results of a preliminary investigation into the existence of a body of underlying principles of canon law common to all the Churches. The Network had been established at the request of Archbishop George Carey, and had met in Canterbury earlier in 2002.[81] In the course of debate on the report, Bishop John Paterson (then Presiding Bishop of the Anglican Church in Aotearoa, New Zealand and Polynesia and Chair of the ACC) commented that this body of legal principles might itself constitute a fifth Instrument of Communion. The Primates encouraged the Network to press on with its consideration and analysis, and after several meetings of key lawyers widely representative of the varied histories and cultures around the Communion[82] its Report was published and put into the hands of all the bishops attending the Lambeth Conference in 2008.[83]

The Report has attracted relatively little formal response, though it has been quoted in litigation in Canada[84] and is used in many parts of the Communion as an introduction to canon law for new bishops and clergy. The Ecclesiastical Law Society's Chairman presented a helpful analysis of the Principles at a recent London Lecture, which is due to be published in this *Journal* later this year.[85] Its significance, however, is the testimony that it bears of there being deeper levels of shared life and communion between the Churches than might appear obvious from examination of its public meetings. Meanwhile, Professor Norman Doe has for a decade or more been working on the Anglican *Ius Commune* project, latterly seeing it as a helpful tool in ecumenical convergence.[86]

Beyond these legal and structural manifestations of communion, however, the Churches of the Communion relate to one another at many other levels.[87] A striking recent example is the establishment of the Anglican

that have beset the Communion, this theme has receded somewhat in the last two decades, and the emphasis has been rather more on the structures needed for maintaining and managing worldwide Anglicanism.

81 See J Rees, report on the Anglican Communion Legal Advisers' Consultation, (2002) 6 Ecc LJ 399–401.

82 The present writer is the convener of the group. Its website (<http://www.acclawnet.co.uk>, accessed 14 February 2012) gives the names of its founder members, who were all senior legal advisers recommended to the Archbishop of Canterbury by the archbishops, presiding bishops or moderators of the Churches of the Communion.

83 Anglican Communion Legal Advisers' Network, *Principles of Canon Law Common to the Churches of the Anglican Communion* (London, 2008).

84 *Synod of the Diocese of Huron v Delicata et al.*, (2011) ONSC 4403 Ontario Superior Court.

85 C Hill, 'The principles of Anglican canon law: an ecclesiological perspective', Ecclesiastical Law Society London Lecture, 16 November 2011.

86 See Doe, 'The contribution of common principles'; M Hill *et al*, 'A decade of ecumenical dialogue on canon law', (2009) 11 Ecc LJ 284–328 (a report of the work of the Colloquium of Anglican and Roman Catholic Canon Lawyers).

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Alliance, an essentially web-based operation that draws together information from Churches around the world, each posting details of the development and advocacy work that it is undertaking in its own communities.[88] It remains the case that many of the most valuable expressions of common life and ministry in the Anglican Communion result not from the formal decisions made by the Instruments but from the local initiatives undertaken by dioceses, deaneries, parishes, mission agencies and individuals. The significance of these links tends to be overlooked in formal analyses of Communion relationships, and of course it might become more difficult (though even then probably not impossible) for such relationships to flourish if formal breakdowns of communion were to take place between the Churches, with or without the Covenant.

Thus those who are involved in the more formal structures of the Communion dare not forget that, Covenant or no Covenant, the Instruments can at best provide only the skeleton on which the flesh of our relationships with one another in the Body of Christ will grow strong.[89] Earlier generations had little doubt about 'the genius of Anglicanism'[90] even if they tended to avoid over-defining or formalising it. Perhaps the last word on our current travails with covenanting and communion should go to the Archbishop of Canterbury, reviewing the work of a dozen or more very different Anglican bishops and scholars over four centuries in a collection of essays that he published shortly after his appointment and named, aptly in the plural, *Anglican Identities*.[91] Each of those about whom he wrote lived in times that were just as challenging as our own, and in some cases rather more so. He notes the common thread running through all their endeavours as being their awareness that 'as Christians they live … in the wake of a divine action which defies summary explanation'.[92] That is a humbling but ultimately hopeful vision for all those who in their turn seek to maintain communion in our own day among the Churches of the Anglican Communion.

87 See above, n 47, Anglican Covenant, Art 3.1.4. Another body that has been identified as an Instrument of Communion in recent years is the Mothers' Union, and anyone familiar with Anglican meetings on the continent of Africa will attest to the formidable influence of the 'white-robed army' of the MU in the most unlikely places.

88 See <http://www.anglicanalliance.org>, accessed 14 February 2012.

89 As David Edwards and Grace Davie put it, in another context: 'To serve the world and the gospel, the Church will need to unlearn the fatal mistake of the early centuries when it was seduced by the Roman army. The metaphor of the Body, as Paul used it, slid almost imperceptibly into a metaphor of the Roman army, with its hierarchical chain of command' (D Edwards and G Davie, 'Zeal for reform as numbers slide' in H Chadwick (ed) *Not Angels but Anglicans* (Norwich, 2000), p 284).

90 The title of an influential work by the Most Revd Cyril Foster Garbett, Archbishop of York in the 1950s.

91 R Williams, *Anglican Identities* (London, 2004).

92 Ibid, p 7. This book should be read in conjunction with R Williams, *Why Study the Past? The quest for the historical Church* (London, 2004), as a corrective to the somewhat bleaker contemporaneous interview mentioned above, n 18.

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