

## LAISSEZ-FAIRE LITURGY?

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'Where the Spirit of the Lord is, there is liberty.'

'The rigidity imposed on the BCP through being enforced by Act of Parliament is against the nature of worship and the practice of Church law. This rigidity contributed a good deal to the separation of Independents from the Church of England in the seventeenth century and of the Methodists in the eighteenth. Again, towards the end of the nineteenth century, when enforcement to a great extent broke down, a situation arose in which many of the directions of the Prayer Book were disregarded without permission or protest from authority.'

The first of these quotations is from the Bible; the second from an official Church of England Report in 1944.

I intend first to sketch the position of the Liturgical Commission and then to indulge in a personal digression which will in the end bring us back to a number of ways in which we can distinguish those things about which we need to be rigid from those things about which we need to be flexible.

The Liturgical Commission's position on the relationship between uniformity and common prayer is set out both in *Patterns for Worship* (CHP 1995), in the introduction (pp. 5, 6) and a commentary section on the Law and Common Prayer (pp. 238–241), and at greater length in *The Renewal of Common Prayer: Essays by the Liturgical Commission* (SPCK & CHP 1993). 'The Church needs to reflect on what are the proper limits of liturgical diversity', the Commission's Chairman, Colin James, then Bishop of Winchester, said in his Foreword. It is that task which is at the centre of our debate today: what are the proper limits of liturgical diversity, and what are the proper mechanisms by which such limits might be set?

Why are the texts we use for worship in the Church of England so important and so hotly debated? It is because they establish the doctrinal norms of our Church. It is not simply a matter of 'lex orandi, lex credendi', but that there really is not much else: we have little in the way of doctrinal statements, and only a comparatively small body of specifically Anglican Canon Law. Canon A5 *Of the doctrine of the Church of England* is very short:

'The doctrine of the Church of England is grounded in the Holy Scriptures, and in such teachings of the ancient Fathers and Councils of the Church as are agreeable to the said Scriptures. In particular such doctrine is to be found in the Thirty-nine Articles of Religion, the Book of Common Prayer and the Ordinal.'

Instead of reading the Thirty-nine Articles, new ministers now affirm their loyalty to the Articles, the Book of Common Prayer and the Ordering of Bishops, Priests and Deacons as their inspiration and guidance, and declare their belief in:

'the faith revealed in the Holy Scriptures and set forth in the catholic creeds, and to which the historic formularies of the Church of England bear witness.'

Hence the importance of their promise:

'in public prayer and administration of the sacraments (. . . to) use only the forms of service which are authorized or allowed by Canon.'

Ask where you can find the doctrine of the Church of England on, say, marriage, and Canon B 30, para 2, succinctly replies:

‘The teaching of our Lord affirmed by the Church of England is expressed and maintained in the Form of Solemnisation of Matrimony contained in the Book of Common Prayer.’

*Patterns for Worship* reproduces Canon A5 in a page taken from the *Code of Practice to the Ecumenical Canons*, which also quotes section 4(1) of the Church of England (Worship and Doctrine) Measure 1974:

‘. . . every form of service . . . approved by the General Synod . . . shall be such as in the opinion of the General Synod is neither contrary to, nor indicative of any departure from, the doctrine of the Church of England in any essential matter.’

Section 4(2) states:

‘The final approval of the General Synod of any such Canon or regulation or form of service or amendment thereof shall conclusively determine that the Synod is of such opinion as aforesaid with respect to the matters so approved.’

It then says:

‘In considering whether any rite is contrary to or indicative of any departure from the doctrine of the Church of England in any essential matter, reference should be made to the Holy Scriptures, . . . teachings of the Fathers and Councils of the Church . . . agreeable to the Scriptures, the Thirty-Nine Articles, the Book of Common Prayer and the Ordinal of 1662 . . . and such forms of service, Canons and regulations as have received the final approval of General Synod.’

It is this apparent possibility of doctrinal change which some find alarming. Change the worship and you change the doctrinal stance of the Church of England.

The response of some people to this is to cling to the Book of Common Prayer. The response of others is to claim that the worship of almighty God is too important a subject for regulation, and that they should be free to worship in whatever way the Spirit leads. The Liturgical Commission, along with most members of the Church, occupies a *via media* between these two positions. Worship must both be Spirit-led and respect the tradition, not just of the Book of Common Prayer but of the early Church too. Some regulation of our worshipping life is important, not only to secure some doctrinal norms but also to reflect our link with the tradition, to safeguard the laity from clerical inventions, and to promote a shared spirituality. The Commission talks not about uniformity but about Common Prayer. *Patterns For Worship* asserts ‘“Common Prayer” does not in fact exist in a sense of being able to walk into any church in the land and find exactly the same words to follow.’

Among other principles explicitly stated by the Commission are:

**1. Ecclesiology**—the link with worship and the whole life of the Church, which cannot be determined by experts—*The Renewal of Common Prayer* under the heading ‘Liturgy provides a recognisable structure for church life’ says:

‘Common patterns affirm common life. They enable Christians from different congregations to recognise each other as part of one Church. The common patterns in the liturgical life of the Church originate at different levels. Some are simply part of the given of God’s revelation: Baptism, Sunday

assembly, public reading of Scripture, and Eucharist. Some are venerable and appropriate structures that respond to these divine givens, for example the traditional shape of the Sunday assembly Word-Prayer-Eucharist. . . . The evolution of patterns of worship (cannot) simply be manipulated by experts; popular response and intuition play an important part in the establishment of patterns of common prayer` (p. 86).

**2. Spirituality.** In listing, in *Patterns for Worship* (p. 5), some of those things which might be regarded as works of Anglican worship,

- a clear structure for worship
- an emphasis on reading the word of God and on using Psalms
- using responsive forms
- liturgical words repeated by congregation, some of which would be known by heart.

the Commission also recognises the importance of these things, especially liturgical memory, for individual spiritual growth. This has resulted in a continuing process of providing liturgy, some of which can be used at home as well as in church (e.g. in *The Promise of His Glory*), and of helping the Church to recognise and define a liturgical 'core', in terms of patterns and structures, and familiar texts. The Commission has encouraged and monitored the plans for the publication of *The Anglican Companion* (edited by Alan Wilkinson and Christopher Cocksworth, SPCK and Church House Publishing, 1996) which is a compilation of such core material including a form of Daily Prayer and texts relevant to various stages of life, prayers, psalms, canticles and other liturgical texts.

**3. Inculturation.** 'To accept a variety of forms, dictated by local culture, is part of our Anglican heritage, spelt out by Cranmer in his 1549 Preface: "It often chanceth diversely in divers countries"' (*Patterns for Worship*, p. 5). The importance of having liturgy which resonates with local culture is an accepted international Anglican principle, following the approval by the Anglican Consultative Council of the report of the 1989 York statement of The International Anglican Liturgical Consultation on Inculturation.<sup>1</sup> The needs of radically different sub-cultures within a national culture had been pressed home on the Liturgical Commission here by the *Faith in the City* report, and part of our work since then has been to enable the voice of the inner city to be heard in our liturgy. Following the Inculturation principle has important implications for the integrity of liturgy in the local context, and also for evangelism: people hear in their own cultural language the mighty works of God and their lives are changed.

**4. Context.** Liturgy is more than texts. Authorised texts account for less than 20 per cent of what happens in worship. The Canons recognise the need for regulation in some matters in this aea, e.g. the choice of hymns. The Liturgical Commission has had added to its terms of reference the promotion of liturgical formation, and in conjunction with PRAXIS, which it co-sponsors, provides programmes of liturgical education and training: this work is likely to expand as the Commission is encouraged by the *In Tune with Heaven* report to explore links with musicians and with those responsible for church buildings.

Some, but not all, of the Commission's concerns reflected in these principles contribute, if not to uniformity, at least to common prayer in the church. Some of them indicate that the Commission is not pursuing a laissez-faire policy, but it is not always easy to see the relationship between the pursuit of such policies and the law. It is no longer possible – nor is it desirable – to enforce law about liturgy in

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<sup>1</sup> Entitled *Down to Earth Worship*, the Statement is published with background essays in *Liturgical Inculturation in the Anglican Communion* edited by David Holeton. Aleuin GROW Liturgical Study 15, Grove Books 1990.

the apparently draconian way they did it in the sixteenth century: The Act of Uniformity 1548 (2 & 3 Edw 6 c 1) provided that:

'If any manner of person, vicar, or other . . . minister, that ought or should sing or say common prayer mentioned in the said book . . . shall after the said Feast of Pentecost next coming refuse to use the said common prayers . . . or shall use wilfully and obstinately . . . any other rite, ceremony, order, form or manner of mass . . . , or matins, evensong . . . ' he should for the first offence forfeit one year's income from one of his benefices, for the second be imprisoned for six months and for the third be deprived of his living (s 1).

Such a discussion of principles raises the question about how much can effectively be regulated by law—the words of the service, the rubrics and instructions, the dress and position of the minister, the posture of the people. All have been to some extent de-regulated since 1662. The alternative canticles provided in the Book of Common Prayer have multiplied into the many alternatives and options of the ASB. The reductions in length, and possibility of alternatives provided in the Act of Uniformity Amendment Act 1872 (35 & 36 Vict c 35) led via the Third Service and Family Services (see the Chapter on this in *The Renewal of Common Prayer*) to that most reduced service of all, *A Service of the Word*, consisting of just one page of rubrics. But how do we decide on the extent of regulation? What are the parameters? Who sets them? It is important to recognise that we do not start with a clean sheet—rather a messy one. The Church of England (Worship and Doctrine) Measure 1974 had a go at cleaning up, and its list of repeals is impressive: the Act of Uniformity 1548; the Act of Uniformity 1558 (1 Eliz 1 c 2) the Act of Uniformity 1662 (14 Cha 2 c 4) except sections 10 and 15; and the Act of Uniformity Amendment Act 1872. And yet the word and mythical ideal of 'Uniformity' lives on, persisting beyond the abolition of the law which enshrined it, part of our tradition whether we like it or not.

Now for the personal digression, away from the individual business of the Liturgical Commission and into the realm of the interpretation of Canon Law.

Buried somewhere in the study of every vicar in the Diocese of Exeter is a battered loose-leaf volume of Diocesan Regulations, unchanged during the eleven years of the episcopate of Hewlett Thompson, the present Bishop of Exeter, and providing a snapshot of the diocese as it was fifteen years ago. It does not represent the mind or the will of the present Bishop, who is averse to the slightly legalistic and authoritarian implications of having 'Diocesan Regulations'. So how does a new vicar know what the Bishop prefers when he comes for Confirmation? Over the years he has written a large number of Ad Clerum letters, and from these have been culled paragraphs with suggestions or episcopal opinions on all manner of things, from Confirmation to the media. Photocopies of these paragraphs find their way into the hands of new clergy who, knowing the Bishop's views, can then make their own minds up about the actions they need to take, rather than blindly obeying regulations. There are currently moves to codify, reconcile and publish these decrees and opinions.

It seemed to me that this is a lovely contemporary parallel of the activity of Gratian in the Convent of St Felix in Bologna in 1151, finishing his *Concordantiam Discordantium Canonum*. The title reveals his aims, taking the chronologically-organised and sometimes contradictory collections of Canons which had served the Church until the tenth century, organising them under subject headings, reconciling discordances and determining which were more binding than others, as well as adding his own commentary. His *Decretum* was to form the first part of the *Corpus Juris Canonici* until its revision in the early years of this century, led almost immediately to the establishment of professorships in Canon Law in Bologna and Paris (those were the days!), and is the reason for our existence today. It is good

for us to be reminded that, in its origins and still to some extent today, Canon Law is very different from secular law. In our own society, how many lawyers spend most of their time practising in Canon Law or ecclesiastical law, rather than in secular law? Diocesan Registrars and Chancellors are often busy people with major secular legal practices. They inevitably bring to their interpretation of Canon Law a mind-set which sees it not as a theological, pastoral, missiological discipline capable of flexible interpretation, but as a branch of secular law. This is why we need the revival of Doctors' Commons, and if indeed the article by Paul Barber in the January 1996 *Ecclesiastical Law Journal* (p. 462) is a proposal to that effect, I think we should support it, as providing a forum more thorough than this for continuing interpretation at the interface of Canon Law and secular legislation. This is all the more necessary now, since the Measure procedure has imported into the Canon Law whole sections which are the equivalent of statute law. Chancellor Elphinstone, in a speech in the York Convocation in 1976, spoke of the problem of having two different kinds of law within the same corpus of Canons, and laid the blame on the Worship and Doctrine Measure two years earlier:

'The result is that you get entirely new sorts of Canons . . . which lay down the way that new forms of service can be introduced in conformity with the Measure—and these read exactly like Acts of Parliament. They are a new sort of law . . . for the first time a canon is becoming a sort of general originating legislation for the Church, and the result is that the canon as a whole is getting a sort of piebald effect—it is a hybrid creature.'

A glance at the Canons shows that Elphinstone is substantially correct, with some Canons clearly full of good pastoral advice on which it would be difficult to take legal action (for example Canon B 20, para 3, about the need to choose words and music appropriate not only to the solemn act of worship but also to the needs of the congregation—a good canonical example of inculturation—while other canons directly echo the legal phrases of a measure—and not only the Worship and Doctrine Measure: Canon B 17A about alms at Holy Communion refers directly to the Parochial Church Councils (Powers) Measure 1956). But does this apparently unsatisfactory state of affairs mean that we need a wholesale re-appraisal of Canon Law? I want to argue that that is unnecessary, and that we already have the tools we need to continue in a process of de-regulation and the recovery of the pastoral nature of Canon Law, at least in relation to worship.

How do you accommodate and provide for change and variety in worship, within a framework of law which secures the continuity of Anglican doctrinal and liturgical norms and patterns? I want to suggest four possibilities.

### **First, change the law, and do it frequently.**

In our current industry of continually revising the Canons and promoting Measures through the Synod, this would seem to be one line the Church is pursuing. I want to suggest that it would be cheaper and less time-consuming to slow down this process, and allow for some decisions to be taken more locally rather than through national legislation. Perhaps the General Synod should debate trends in Canon Law and other legislation, to set some general parameters and expectations. Legislation about worship frequently raises the question as to whether the law is being changed to accommodate existing (currently illegal) practice, or whether the law has any enabling function in making provision for handling future change. In 1964, the Bishop of London, introducing the Vestures of Ministers Measure in the House of Lords, estimated that 90 per cent of the clergy wore stoles and 25 per cent of parish churches used the alb and chasuble—figures disputed later by others in the debate—despite the Privy Council judgment in *Ridsdale v Clifton* (1877) 2 P D 276 on the interpretation of the Ornaments Rubric.

He said:

'There is no doubt that the present practice of the vast majority of the clergy of the Church of England is at one point or another at variance with the Privy Council Judgment . . . This variance between the practice of so many of the clergy and the existing interpretation of the law is obviously undesirable, and the clergy who desire to be law-abiding feel it a great strain on their conscience when the interpretation of the law seems to make them law-breakers. It has been suggested that since no legal actions to enforce the ruling of the Privy Council have been taken since 1881, there is no need to have a Measure now, because no one would proceed on the basis of that ruling. But simply to rely on this would be to evade an issue which is a matter of conscience.'

So we change the law to accommodate illegal practice, and in doing so encourage others to see that the way to get the law changed is to advocate breaking it.

**Second, encourage a view of canon law which exalts custom and long usage to the status of a kind of common law.**

It is this which would not satisfy the consciences of the law-breaking friends of the Bishop of London in 1964. The fact that no sanctions are invoked for a long time does not remove a statute from the book, and leaves consciences troubled. Perhaps this highlights the difference between statute and common law. The Ornaments Rubric was enforced by section 25 of the Act of Uniformity 1558, repeated in the Act of Uniformity 1662: it was not simply part of the Prayer Book or of Canon Law. It is difficult to imagine people being troubled in their consciences for failure to observe parts of the 1604 Canons Ecclesiastical, for example Canon 19 which must be about evangelism (churchwardens finding idle persons in the churchyard during divine service to 'cause them either to come in or depart'), or Canon 15 about delegated attendance at the litany 'whereunto we wish every householder dwelling within half a mile of the Church to come, or send one at least of his household'. The very words 'we wish' indicate a different kind of law. And yet we find that, within our own modern Canons, some explicit allowance is made for local customs, for example in cathedral worship (Canon B 13) or in posture (Canon B 6, para 5) or language (Canon B 42).

**Third, allow for a system of dispensations from the law.**

I am indebted to my friend Michael Vasey for digging out a copy of a report of a Church of England Commission entitled *Dispensation in Practice and Theory* (published by SPCK in 1944) which contains a very thorough review of the history and issues concerning dispensation. The Ecclesiastical Licences Act 1533 (25 Hen 8 c 21) gave to the Archbishop of Canterbury throughout the realm, and to Bishops in their dioceses, wide powers of dispensation from the law in things which did not contradict the Holy Scriptures or the Law of God. In practice this has now largely been reduced to the power to dispense with the calling of banns in issuing licences for marriage.

The recommendations of this commission in relation to worship, though dated, are relevant to us today:

'The common understanding of what is said and done unites the worshippers, and their familiarity with it all provides a well-used and well-loved road along which devotion of heart and mind and spirit moves easily. Such are the general objects for the rules of rites and ceremonies. The natures of men, however, differ in their reaction to such rules. In generations when there is much spiritual activity and fervour men will wish for prayers or whole ser-



vices more definitely corresponding to the spiritual movements of their own time. This need can be partly met by sanctioning the use of prayers not prescribed in the Prayer Book at certain points. . . . But this will sometimes seem not to be sufficient. Men may demand the substitution of other forms, old or new. This could be done by dispensation given in accordance with agreements reached by the Bishops in their Synod' (p. 154).

Control in the nineteenth century ceased 'Because dispensation, the natural means of exercising it, was incompatible with the existing statute law. Yet dispensation would be more proper than condonation both for the Bishops to give and the clergy to accept.' They add in Recommendation 5 that 'in this manner alone can the effects of condonation and dissimulation be avoided which are unbecoming in the relations of fathers-in-God with their sons in the gospel.' Yet how frequently today do we hear of bishops saying to clergy 'Please do not ask me for permission to do that—I would rather not know . . .'. The 1944 Report, had it been acted on, would have eliminated this nod and a wink approach. But was it in fact entirely ignored? Recommendation 3 says 'the prescription of an authorised Book of Common Prayer should, wherever possible, be accompanied by canons directing that certain of its directions may be varied by dispensation'. And the Church of England (Worship and Doctrine) Measure 1964 gave to the General Synod the power to make provision for any matter (except banns) to which the rubrics of the Book of Common Prayer relate (s 1 (1) (b)).

But, more than that, an examination of our present Canons reveals that we are writing into Canon Law some discretionary and dispensatory powers, and going much further than the 1944 Report envisaged. So we have for instance:

- (a) an explicit power of discretion such as that in Canon B 5 given to the minister or in Canon B 4 to the Archbishop, ordinary and convocations;
- (b) a non-explicit power of discretion conveyed by the insertion of a word such as 'normally', for example Canon B 8, para 4, and Canon B 21, or the word 'may' in Canon B 11, para 1 or in Canon B 12, para (4);
- (c) an explicit power of dispensation given to a whole variety of people: the minister (Canon B 23, para 4, to dispense with the requirement of confirmation for Godparents); the minister and PCC jointly (Canon B 14A: the requirement to hold services every Sunday); the Bishop (Canon B 18, para 1: the requirement for sermons to be preached every Sunday in parish churches); even the Archdeacon has a power of dispensation under Canon B 20 para 1, to dispense with the requirement for the agreement of the PCC to the termination of the appointment of an organist.

**Fourth, frame the law in such a way that it provides for discretion and dispensation.** This provision should allow for local interpretation based on the old canon law dispensation principles of dispensing with the strict requirements of the law only in cases of pastoral necessity or promoting greater spiritual benefit (the mediaeval *necessitas et utilitas* of Ivo of Chartres in 1090 echoed 25 years later by Gratian). As I have just noted, our Canons are already moving in this direction. Canon B 11, para 2, for instance explicitly states that daily Morning and Evening Prayer may take place elsewhere than in the parish church 'as may best serve to sustain the corporate spiritual life of the parish'. Here the norm of worship taking place in the parish church is dispensed with for the sake of greater spiritual benefit, a classic example of mediaeval dispensation, but with the minister and PCC as the dispensing authority: no bishop, no formal documentation, no lawyers and no fee: a pattern to be encouraged?

But framing the law to provide for discretion and dispensation does not just

affect the framing of Measures and Canons, but other legal instruments as well:

**1. Rules**, which are normally laid before Parliament. The only liturgical ones are the Rules to order the service, which in the case of the Book of Common Prayer are explicitly defined in Section 5 (2) of the Church of England (Worship and Doctrine) Measures 1964 as rubrics and therefore open to amendment by Canon and regulation by the Synod. Canon B 1, para 3 (iv) and (v), appears to redefine them as a 'form of service'. Perhaps the opportunity should be taken, alongside the Synod debates on Calendar and Lectionary, to make provision by Canon for the Synod to simplify the Rules, to make regulations to reconcile the Prayer Book calendar and the proposed new calendar, and to provide an authorised annual calendar with pastoral guidelines.

**2. Regulations**, which may be made solely by the Synod (Church of England (Worship and Doctrine) Measure 1964, s. 1(1) (b)). Synod has not made much use of this power in relation to liturgy. The only regulations made are the Regulations concerning Marriage and Divorce 1957 and the Regulations on the Administration of Holy Communion 1969. Perhaps there should at least be some debate as to whether the power to make regulations under Canon might be used in preference to other heavier legal instruments.

**3. Codes of Practice**. Though the Synod has been prolific in producing Codes of Practice, only one, that relating to the Ecumenical Canons, contains significant material about liturgy, and is an excellent example of the kind of interpretative and commentary material that ideally might be regarded as part of a Canon Law corpus. Would it be helpful to have a Code of Practice for other liturgical matters? Initiation, Marriage, Funerals, Family Services, or *A Service of the Word* would all lend themselves to such treatment.

**4. Lastly and most importantly, the forms of service themselves**. The least flexible option is to provide every word and instruction needed in the service, with few choices to be made. The most flexible option is to provide a set of rubrics or instructions, as in *A Service of the Word*. One advantage of this is that it enables the use of prayers, canticles and other material from the Book of Common Prayer or other ancient language forms, to be used alongside modern English forms within the same overall structure. *A Service of the Word* used a convention, outlined at the start of the authorised text, to determine the extent of regulation. 'Authorised' means approved by General Synod in accordance with the provisions of Canon B 2, while 'suitable' means a form used at the discretion of the minister conducting the form of service on any occasion, but such that the material so used shall be neither contrary to nor indicative of any departure from the doctrine of the Church of England in any essential matter. This was also a way of testing the mind of Synod as to the extent of regulation required, by moving items from one category to the other.

In the work currently being done on the texts for the Sunday Service Book and other volumes which will replace the ASB after the year 2000, a pattern in line with the Commission's principles enunciated earlier as well as with a policy of framing the law in such a way as to allow discretion where that is possible may be discerned. So rubrics are shorter, more descriptive than prescriptive. Notes to the services are longer, containing advisory as well as regulatory material. And devices familiar from the ASB such as the provision of alternatives and phrases such as 'or other suitable words' or 'if occasion demands' indicate areas of local discretion.

This is not laissez-faire but an attempt to provide that amount of control and encouragement which have the general support of the Church.