

CHURCH OF THE PROVINCE OF SOUTH AFRICA

Provincial Synod 1979

by Ron Nicolson

It is impossible, in this critical period of South African history, for the Church to meet without having one eye turned towards the events and circumstances of our time. God will not allow us to remain blinkered. It is impossible for significant numbers of black and white Christians to engage each other in debate without becoming aware of enormous differences in perspective and attitude towards these events and circumstances.

So in a Synod with an Agenda paper filled largely with legislation about Church administration, even such apparently exclusively ecclesiastical issues as the role of the Archbishop had, as one reason for a proposed clarification of his role, the need for him to speak in the Church's name on socio-political issues. A proposed form for admitting Church wardens to office had them promising to witness against exploitation and racial discrimination, and a proposed new Canon on Church Discipline made "support of unjust discrimination" an offence liable to lead to excommunication.

None of these particular proposals were eventually passed at the meeting of the Church of the Province of South Africa's Provincial Synod in Grahamstown in early December. Synod soon set its face against what some critics called trying to enshrine prophecy and preaching in law. But at almost no stage in any debate could South Africa's agony be forgotten.

If any delegates had hoped for a non politically-oriented Synod, these hopes were dispelled right at the start with the arrival of the Revd. David Russell, parish priest in Crossroads, who had been duly elected as one of the clergy representatives of the Diocese of Cape Town. A warm-hearted, pastoral, caring, if sometimes perhaps disingenuous person, seemingly untouched by bitterness at his treatment over the years by government and police authorities, his presence at the Synod posed immediate legal problems, forced Synod into something of a confrontation with unjust laws, and focussed the attention of the national Press as never before in recent years on the Synod proceedings.

As a banned person, Fr Russell was not allowed to leave his own magisterial district, nor to attend large meetings or at least the meals and social gatherings attached to such meetings. Any motion of his on the agenda paper, or any quotation of amendments proposed by him recorded in the

minutes, could be construed as breaking the law by which banned persons may not be quoted. By accepting him at the Synod— which was never for a moment in question — the assembly committed itself to something of a confrontation course.

Newspaper reporters hoped for dramatic scenes. One reporter, it was rumoured, hid for two nights in the bushes around the residence hoping to photograph the police arriving to arrest Fr Russell. In fact, despite continual and provocative press enquiries to local and national police headquarters, the police did nothing until Fr Russell returned to Cape Town, where he was duly charged with contravening his banning order.

Awareness of the possibility of police surveillance spilled over into the debate on a motion declaring it "inappropriate and undesirable that a member of the Security Police should hold any office in the Church of the Province of South Africa." The motion was amended, and in its final form only asked officers and informers of the Security Police to "consider their witness before Our Lord Jesus Christ". There were inconsistencies in the debate. It seemed for instance illogical to focus only on Security Police without equally condemning and excluding from office members of, or even supporters of, the political party and government which gave the Security Police their role. It seemed even more illogical, in a Synod which included representatives from Lesotho and Transkei, to focus only on South African Security Police. These inconsistencies were probably why the motion was amended. But the debate engendered so much fear and hostility that visiting clergy dressed in secular clothes and sitting in the public gallery were assumed to be Security Police in disguise. In the evening session of the same day two dominees who came to sit quietly at the back as a gesture of ecumenical friendship were in veiled terms accused to their faces of being policemen, and soon left in embarrassment.

The presence of press reporters was perhaps a mixed blessing. It says something for the Church's role in South Africa that they were there at all. There are not many countries where the national press would send journalists to cover a Church Synod. Publicity is welcome, and no-one would want Synod to meet in secret. The reporters present reported what they heard accurately. But inevitably newspapers must

be selective and summary in what they report, which can lead to oversimplification and misrepresentation. This became particularly relevant in the debate over the obtaining of permits for Church meetings.

Although in recent years permits have been fairly readily granted for Church meetings of different race groups to take place, there is a strong body of opinion in the Church which says that to even ask for permission is to concede to the State the right to determine whether Christians of different races may meet for worship, fellowship and the ordering of the Church's life.

The original motion called on the Church to refuse to apply for permits. Perhaps the originators of the motion had not looked carefully enough at their wording. Subsequent debate and amendments considerably changed the motion. In its final form, the motion called on Church authorities, only in cases where they deemed it "theologically inappropriate" to apply for permits, to first seek to negotiate with the government authorities to persuade them to withdraw the requirement for permits; and only if such negotiations were unsuccessful, to consider whether it would not then be best to refuse to apply for permits.

In its final form the motion was thus hardly a confrontative one. The amended motion passed just before mid-morning tea. In the few minutes before the Synod rose for its break, the Archbishop made an off-the-cuff statement to the effect that he hoped we realized that this motion would seriously undermine and endanger the institutional life of the Church. He himself neither feared nor regretted this, but he wished us to be clear about what were the implications of the decision we had taken.

His remarks seemed to many delegates to be hardly applicable to the amended wording, and Synod members went to tea in a buzz of confusion and uncertainty as to what he meant. It was soon forgotten as the next debate began.

There is little time at Synod to read, listen to the radio or watch television. Few members of Synod were at first aware, therefore, that the Archbishop's remarks had caught the attention of press and television news to an extraordinary degree. In the summarized news snippets, the context of his remarks was lost and distorted. It was only some days later, after considerable national coverage and debate, that the Archbishop issued a second, more clearly thought out statement. In his second statement he reiterated his view that if the church were now to refuse to apply for permits, its right to hold title deeds to properties, its ability to function as a large institution within society, its right to meet in peace under the protection of the law, would be threatened. He said again that he was personally unafraid of this, and that if the 'institutional' church were to grow less, God's Spirit might help the Church as a spiritual entity to grow more.

These were brave words, and true — but to me at least they still bore little relationship to the actual declarations made in the carefully and cautiously worded final motion!

In the course of all these debates tension between black and white delegates grew. This is not to pretend that there was ever a single view held by all whites or all blacks. Black differences of opinion became clear, for example, in the decision to regard 'customary union' as having much the same status in the Church's eyes as a marriage in the Magistrate's Court, i.e. to be a valid if less than desirable form of marriage if both parties were or subsequently, became, baptised, so that those who had been thus united did not need, after baptism to be remarried in Church. Some black women

delegates feared that this endorsed unfair male privileges enshrined in the rules for customary union.

In the growing tension there was a beautiful moment when after a long and difficult debate it was agreed to allow the Order of Ethiopia, an African evangelistic "church within the church" which employs its own priests and orders its own congregations, the right to have their own bishop. The aged Canon Hopa, Provincial of the Order, came to embrace the Archbishop. With tears running down his face, he spontaneously knelt to kiss the Archbishop's ring and to receive his blessing, and then rose to ask delegates to share with him in a hymn of joy and hope.

Human moments like these were precious and necessary, for Synod had begun to debate two opposed motions on the deeply divisive issues of the World Council of Churches' Programme to Combat Racism, "terrorist" activity, and conscientious objection. Both motions acknowledged some injustice in the present South African situation, both motions stopped short of endorsing all the actions of the Programme to Combat Racism. But one motion reflected the view of what was clearly the majority of black delegates — that the W.C.C. were justified and to be commended in making financial grants to the patriotic Front and Swapo; the other roundly condemned the grants and called for the Church of the Province of South Africa to terminate its membership of the W.C.C.

White delegates did not necessarily support the second motion, but were in the main anxious that both motions be dropped and sleeping dogs allowed to stay sleeping. Initially this group had their way. Discussion on both motions was suspended as Synod agreed, by a slender majority, to "proceed to the next business", without voting on either motion.

Many whites felt that this was the most responsible course of action. Membership of the W.C.C. would be maintained, but the Church would have avoided either supporting or attacking the W.C.C.'s actions. We were reminded of the fierce and fearfilled hatred which many white parishioners felt about the W.C.C., and urged to avoid any course of action which would drive either them or blacks who felt quite differently, out of the Church. It would be best to let sleeping dogs lie.

Many blacks felt angry, hurt and disillusioned at what they saw as a white procedural ruse to avoid hearing uncomfortable things. In the face of this discontent, both motions were revived.

It was at this stage that God showed His sense of humour. The W.C.C. motions now went to the end of the agenda, and were only rediscussed on the final Saturday afternoon. Synod was due to end on Sunday morning. In the reopened debate, deadlock immediately ensued, and feelings ran as high as ever.

Before Synod had even started, there had been controversy over the right of Bishop Desmond Tutu, Secretary General of the S.A. Council of Churches, to attend. The Diocese of Johannesburg had wished to elect him as one of their clergy representatives. But, in one of those cases where the law appears to be an ass, it appeared that as a "retired bishop" he was ineligible. The Archbishop of Cape Town had understandably refused to set a precedent by inviting him to attend or even address Synod as an unelected individual, but had agreed that he should be invited to address Synod on the last Saturday night when the debates would all be over and no one could be unduly influenced by anything he said.

In the changed circumstances, Bishop Tutu arrived to give his scheduled speech right in the middle of the most controversial debate of the whole Synod. He rose splendidly to the occasion, urged delegates to "begin to act like God's children" and to realize that they belonged to one family. His speech, and the Archbishop's sermon at the Eucharist next morning, gave God His breakthrough, and in an amazing show of unity, the resumed Synod, with hardly any further debate, passed almost unanimously a motion which, while avoiding giving approval to the W.C.C., nevertheless declared that we shared with them in their aim for a nonracial, just society in South Africa, and recognized that

guerilla, S.A. soldier and conscientious objector might each be trying, in the best way that he knew, to serve God obediently.

And so Synod ended — and it ended, as it began, with a focus on Fr Russell. At the final Eucharist, the Archbishop invited any who wished to come forward and share with him in prayer and the laying on of hands over David Russell as he returned to Cape Town to face the consequences of his attendance at Synod.

In His own way, God had showed that He was still Father, and Jesus Christ the Lord. □

THE IMPULSE TO PUNISH: SOME RECENT CASES

By J.G. Riekert

'Mistrust all in whom the impulse to punish is strong!
They are people of a bad breed and a bad descent
Mistrust all those who talk much about their justice!
Truly, it is not only honey that their souls lack.'
—Nietzsche, Thus Spoke Zarathustra : Of the Tarantulas

State-sanctioned punishment of criminal offenders would seem to have at least five purposes, namely retribution, individual deterrence, general deterrence, the protection of society (prevention) and rehabilitation.¹ Two of these objectives, retribution and rehabilitation are potentially antithetical, and much of the controversy among penologists centres around the proper weight to be given to each in the sentencing process.

In Western societies there has been a clearly discernible trend away from retributive punishment and toward rehabilitative considerations. It would be mistaken, however, to maintain that retribution can be totally disregarded. Some penologists and many members of society insist on the retention of a vestigial *Lex Talionis*. South Africa has not been spared this controversy.

In a fairly recent case the court opined that:

' both counsel for the applicants are losing sight of a fundamental fact — that rehabilitation is not the only issue. It has long been debated whether prisons protect society most effectively by being operated primarily for custody and punishment or for custody and rehabilitation. The two theories, the punitive versus the rehabilitative theory, run counter to each other and both are recognised in general

terms in the legislation with which we are concerned (the Prisons Act and Regulations).²

The official attitudes of both the courts, which impose sentences of imprisonment, and the Department of Prisons, which executes them, can be gleaned from official written sources like the reports of criminal trials and the Annual Reports are also a source of another type of information. On rare occasions, usually at the instance of a prisoner, the courts are called upon to review the actions of prison officials who must act within the framework of the Prisons Act and Regulations.

If one only looks at the former sources one gains the impression that the South African judges and the South African prison authorities are, generally speaking, and within the distorted parameters of the apartheid system, in touch with current trends. Particularly since the introduction of the 1977 Criminal Procedure Act, there seems to have been a concerted effort to make punishment fit not only the crime, but also the criminal.

However, if one looks at the latter sources, one soon discovers that there is a special class of prisoner who, principally because of statutory intervention, but also because of judicial