

## **First Australian Provincial Council, 10-12 September 1844**

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*This is the first of several articles examining the seven previous particular councils held in Australia between 1844 and 1937. An understanding of these councils may help to prepare for the 5<sup>th</sup> Australian Plenary Council to be held in 2020.*

### **Convening the 1844 Provincial Council**

On 3 September 1844, on the occasion of the consecration of Francis Murphy as first Bishop of Adelaide, Archbishop John Bede Polding OSB, Metropolitan of the new Province of Sydney, convoked the First Provincial Council of Australia. It would be celebrated at St Mary's Cathedral, Sydney, on 10-12 September 1844, when all three bishops and most of the priests of the Province would be present.

The aims of the Council were to have unity among the bishops, uniformity of ecclesiastical policy and discipline across the whole mission, worthy Eucharistic and sacramental liturgies, clear guidance to priests on living blameless lives, an effective catechesis, conversion of unbelievers to the Catholic faith, and the correction of abuses.

### **Particular Councils in 19<sup>th</sup> century mission territories**

In English-speaking countries then designated as "mission territories" by the Apostolic See, particular councils (provincial and plenary) and diocesan synods were strongly encouraged by the Pope and the Sacred Congregation de Propaganda Fide ('Propaganda') charged with directing missionary activity throughout the world. Before 1900, the Catholic Church in England, Wales and Scotland held 5 provincial councils, Ireland held 7 provincial and 2 plenary councils, Canada held 11 provincial councils, the United States of America held 31 provincial and 3 plenary councils, and Australia held 2 provincial and 2 plenary councils, as well as at least 61 diocesan synods.

Australia's 1<sup>st</sup> Provincial Council in 1844 was one of the first in mission territories worldwide, preceded by the 1<sup>st</sup> Diocesan Synod of Baltimore (USA) in 1791, the Provincial Council of Tuam (Ireland) in 1817, and the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Provincial Councils of Baltimore between 1829 and 1843.

### **Social, political and religious condition of the Australian Colonies in 1844**

From 1788 to 1844 the Colonies of New South Wales and Tasmania were essentially dumping grounds for convicts transported from England and Wales (70%), Ireland (24%) and Scotland (5%). By 1844 the bulk of the 162,000 male and female convicts who would

eventually be shipped to Australia, had already arrived, with over 83,000 in NSW, some 60,000 in Van Diemen's Land, and 2280 at the Moreton Bay Settlement (Queensland).

Hard labour was the usual method used to reform male convicts and to develop the colonies. From 1810 many were 'assigned' to free settlers and small land holders, which later became the major form of employment. However, from 1821 many convicts were freed or pardoned and granted land, so that by the mid-1830s only 6 per cent of all convicts were imprisoned or in chains.

Though free settlers had begun arriving in 1793, until 1823 the colonial population was primarily convicts, with only a small number of soldiers and their wives. Most convicts were kept at Sydney and its surrounds, but some were sent to harsher settlements at Norfolk Island, Van Diemen's Land (Tasmania), Port Macquarie and Moreton Bay. In the early years, 20 per cent of all convicts were female. They were usually sent to female factories as 'unassigned' women, but later viewed to be more useful as wives and mothers and, if married, could be freed from servitude.

By 1844 the movement to end transportation was well afoot, led principally by the Catholic clergy. It was suspended in NSW in 1840 and terminated in 1850. It was terminated in Queensland in 1839, in Victoria in 1849, in Tasmania in 1853 and in WA in 1868.

In 1844, supreme civil authority in the Australian Colonies resided in the Governor, who was responsible to the King via the Colonial Secretary. He was assisted by a Lieutenant Governor, a judge advocate and deputy, and magistrates appointed by himself. The military were at his command. The Colonies of Tasmania and South Australia were established in 1825 and 1836 respectively.

The colonial population in 1844 consisted of three distinct groups: 1) the 'free settlers', made up of the military, civilian servants, and traders; 2) the 'emancipists' or 'freed convicts' who had served their prison term and become colonists; and 3) the 'convicts', including 'ticket-of-leave' men assigned to free settlers, and others working in the chain gangs. Many of the ticket-of-leave convicts, male and female, were treated as slaves by the settlers to whom they were assigned, and their religious liberties often restricted. Tensions and open warfare between the groups frequently erupted, with the free settlers resenting any favour shown to the emancipists, especially those appointed to public office. The military had monopoly control on the sale of alcohol which they used for their own advantage and to bring immorality, misery and disorder to the whole society.

Extra-marital cohabitation and female prostitution were widespread, while bigamy and bushranging were not uncommon. The local aboriginal tribes, whose lands had been seized without compensation, lived on the outskirts of the settlements and, although treated well by some authorities, felt justified in plundering property and killing livestock. For this, they were inflicted with severe reprisals by the colonists.

The religious state of the early settlement was appalling. The official Protestant chaplains had little influence and compulsory attendance at Protestant services was part of the penal discipline. The convicts identified religion with cruelty and suppression, especially Catholics.

Three Catholic convict priests lived in the colony for only short periods, and a bungled attempt to send a permanent priest failed miserably. The first official and permanent Catholic chaplains only arrived in 1820.

Bad feeling and competition among the three main Christian denominations - Anglicans, Catholics and Presbyterians – was often intense. However, the *Church Act* of 1836 put all denominations on an equal footing and authorized the Government to subsidize clergy salaries, church buildings, clergy residences and denominational schools. It could also provide land grants for churches and schools. This assistance was later extended to Wesleyans, Baptists and Jews.

In 1844, the European population in Australia numbered 264,287, with the vast majority living in NSW (178,460), which included the Port Phillip and Moreton Bay Settlements. Tasmania had a population of 62,478 (many still convicts), while the Colony of SA and the Swan River Settlement (WA) had much smaller populations of 18,999 and 4,350 respectively. Everywhere, but especially in NSW and Tasmania, there was a huge imbalance between males (165,034) and females (99,253), causing serious social and moral problems. The effects of transportation and the convict system were still strong, there were conflicting theories about settlement, the local economy was weak, immigration was being exploited, and there was a strong underlying current of bigotry and sectarianism.

### **The Catholic Church in Australia in 1844**

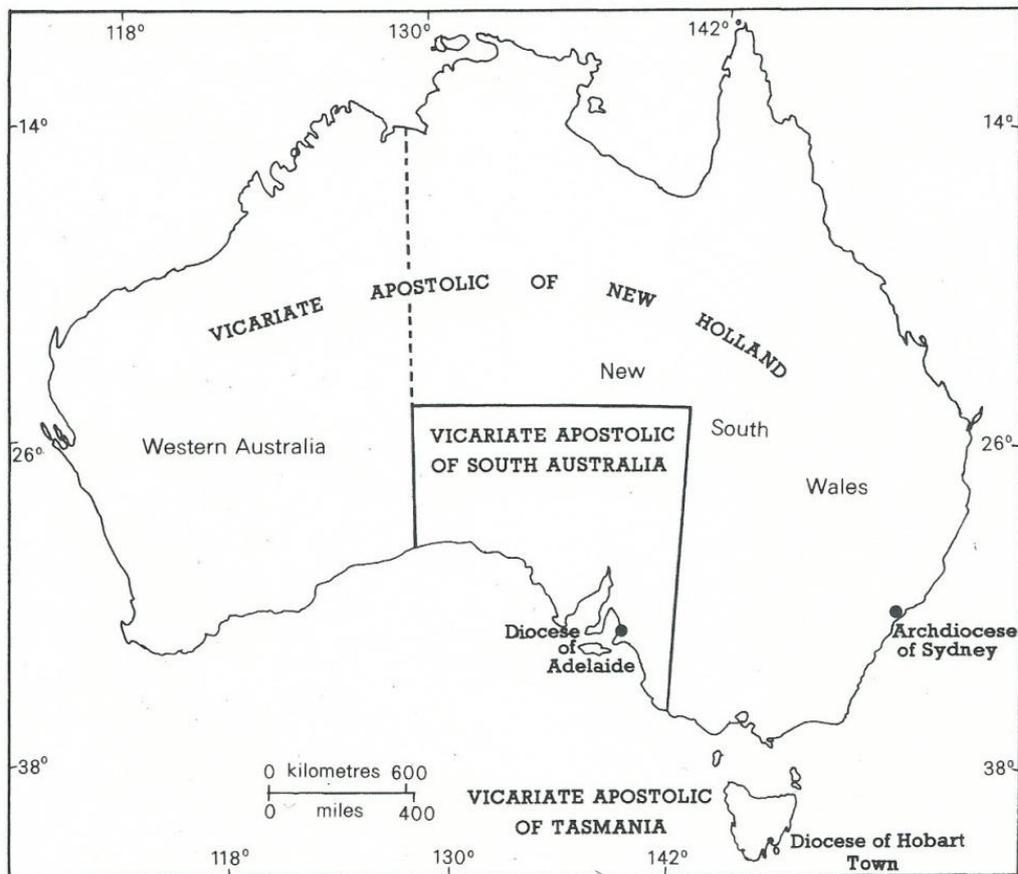
When Fr William Ullathorne OSB arrived at Sydney in 1833 as Vicar General of New Holland, the Australian mission was *ad hoc*, disorganized and without a clear strategy. Some 20,000 Catholics were scattered throughout the colonies with just 5 priests to provide pastoral care. While the early chaplains had worked hard to care for their mostly Irish convict flock and the Aborigines, had opposed unjust legislation, and established the first Catholic schools, Ullathorne's priorities were to abolish transportation, establish better relations with the civil authorities, and give structure to the nascent church.

The first needed structural elements were a local ecclesiastical identity and a resident bishop. In 1834, Pope Gregory XVI established the Vicariate Apostolic of New Holland and Van Diemen's Land, and appointed the English Benedictine, John Bede Polding, its first bishop. On his arrival at Sydney, Polding had 6 priests to minister to some 26,000 Catholics, a quarter of the total European population.

By 1840, Catholics numbered around 40,000 with Polding and 26 priests ministering in 20 'districts'. It was time for an enhanced structure, so Polding and Ullathorne petitioned Pope Gregory XVI to establish an Australian hierarchy within an ecclesiastical province to ensure uniformity of discipline and unity of direction. In April 1842 Pope Gregory erected a Metropolitan Archdiocese at Sydney, with two suffragan dioceses in Hobart and Adelaide, but in an unusual arrangement where all three dioceses were enclaves within vicariates apostolic (Figure 1). The new Province of Sydney covered the whole mission, with Polding as Archbishop of Sydney and Robert Willson and Francis Murphy the Bishops of Hobart and Adelaide respectively. However, without consulting Polding, the Pope also established on 12

June 1842 – and outside the provincial structure – a separate Prefecture Apostolic for a Mission to the Aborigines and placed it in the hands of 4 Italian Passionist priests.

**Figure 1: The Province of Sydney approved by Pope Gregory XVI, 10 April 1842**



Source: Wiltgen, Ralph M., *The Founding of the Roman Catholic Church in Oceania, 1825 to 1850*, Pickwick Publications, Eugene, Oregon, 2010, p. 353

By 1844, to care for some 42,000 mostly Irish Catholics, the three bishops had 48 priests, mostly Irish, with many based in the Sydney area and the rest scattered thinly across the vast territory. Polding also had 5 seminarians, 10 Irish Sisters, and 3 Irish Christian Brothers. Over 44 churches and chapels had been erected or were under construction, and 31 Catholic denominational schools with over 1000 students, were in operation in NSW.

### **Polding's vision for the Church in Australia**

From the outset, Polding had a medieval vision for the Church in Australia – a Benedictine abbey-diocese centred in Sydney, led by an English abbot-bishop and assisted principally by Benedictine missionary monks. Polding would reside at the monastery-cathedral, exercise pastoral leadership with daily monastic liturgies, and send his monks out to wherever they were most needed. He and his monks would have effective control over the abbey-diocese,

with the monastic community electing a new abbot-bishop whenever required. The abbey-diocese's extensive territory would be dotted with smaller monastic communities and monk-missioners would be assisted by a few secular clergy, Benedictine nuns and other religious all working together in harmony, pooling resources, and bound to the abbot-bishop personally by religious allegiance. Their vows of poverty, chastity and obedience would shield them from greed, sexual misbehaviour and insubordination.

It was an unrealistic and unrealizable vision which would have serious and deleterious consequences.

**Table 1: Total population in the Australian colonies, 1844 (Catholic population and other data for 1841)<sup>1</sup>**

Colony	Total Population	Male/Female Population	Catholic Population	Catholic Clergy	Churches & Chapels	Catholic Schools	School Students
NSW	178,460 (145,303) <sup>2</sup>	108,810/69,650	(35,690) <sup>3</sup>	34	(16 + 26)	(30)	(>827)
Port Phillip	(11,738) <sup>2</sup>		(2,441)	3	1	(1)	41
Moreton Bay				6	2		
South Australia	18,999	10,733/8,266	2000 (est.)	2			
West Australia	4,350	2,622/1,728	1,090 (est.)	2			
Tasmania	62,478	42,869/19,609	6,200 (est.) <sup>4</sup>	4 (incl. 1 deacon)	1		
<b>Australia</b>	<b>264,287</b>	<b>165,034/99,253</b>	<b>(42,000 est.)</b>	<b>51</b>	<b>(18 + 26)</b>	<b>(31)</b>	>1000

Source: ABS, Catalogue No. 3105.0.65.001 Australian Historical Population Statistics; *Australasian Catholic Directory* for 1841. Notes: 1. The first official Catholic Directory was published in 1841. A second edition did not appear until 1847 and no copy is extant. 2. 1841 Census. As Victoria was not established as a separate colony until 1854, the population numbers for Port Phillip until then were included in the figures for NSW. 3. This figure includes Catholics in Victoria, South Australia and West Australia. 4. Estimate only. The majority of Catholics were 'free'.

### The pressing issues in 1844

The most pressing problems in 1844 were insufficient priests for the scattered Catholic population, Irish Catholics wanting Irish priests, the British colonial government wanting only English priests, the English Benedictines unable to supply extra personnel, and Polding wanting his seminary to produce Benedictine priests when most of his seminarians wanted to be secular priests.

Polding wanted his seminary, attached to his monastery, to produce Benedictine priests. He also wanted all priests and seminarians coming to Australia to join the Benedictine order and live in community. He would allow the Irish seminarians to complete part of their studies in Ireland, but on arriving at Sydney were expected to join the Benedictine order. This attempt to Benedictinize newly-arrived secular clerics, especially the Irish, proved counter-productive, and was not helped by the unstructured nature of the Australian mission, which compelled the missionaries to be always on the move and unable to reside in

fixed abodes. But against all advice, even from his brother Benedictines, Polding persisted with his vision.

On the eve of the first provincial council, Catholic morale was rising, with hopes for new dioceses in Perth, Melbourne and Maitland, as well as plans for Brisbane. What was needed was more efficient organisation and coordination, more precise legislation to stimulate and protect the clergy in their pastoral activities, and proper decorum for the Eucharistic and sacramental liturgies. The time for a provincial council had arrived.

### **First Australian Provincial Council, 10-12 September 1844**

In 1844, the canonical rules required a metropolitan bishop to convene a provincial council every three years. Failure to do so would expose him to censure. He had to call all suffragan bishops (even if not consecrated), including vicars apostolic, apostolic administrators, and abbots nullius to attend with a deliberative vote, and two-thirds had to be present for the council to be legitimate. Other clergy could also be invited, but only with a consultative vote. The council had ordinary power to legislate, administrate and exercise judicial authority within the province. The metropolitan would normally preside, and draw up the decrees of the council in collaboration with his suffragans, after discussion in special commissions and general sessions, and solemn approbation in a public assembly. The metropolitan could only close the council with the consent of his suffragans.

Before promulgating the council's decrees, they had to be examined by the Holy See and approved. On promulgation, the decrees became the perpetual law for the province unless revoked by a subsequent council. No provincial bishop could dispense from a council decree except in his own diocese.

The 1<sup>st</sup> Australian Provincial Council opened on 10 September with a solemn liturgy. Present were the 3 bishops, their 7 priest theological advisors - including one acting as council secretary - and 27 other invited priests of the Province, including 5 'Synodal Witnesses'. Another 14 priests were absent, including 4 belonging to the Prefecture Apostolic of the Mission to the Aborigines who were outside Polding's jurisdiction.



Archbishop Polding, Bishops Willson and Murphy, and other clergy (and laity?) at the 1<sup>st</sup> Australian Provincial Council, Sydney, 10-12 September 1844. There are 46 persons in the photo.

The Council drew up 48 decrees framed in two sections: 4 general and 44 specific. The general decrees urged the bishops to maintain a permanent bond of charity and unity, defend church institutions, and visit all parts of their diocese every two years; while the priests were urged to be mindful of their priestly office, strive for holiness, and provide good example to others. Six decrees focused exclusively on the discipline and life of priests, especially their prayer life, study, dress, recreation, annual retreat, frequent confession, and conferences. Other specific decrees dealt with the administration of the sacraments in general and individual sacraments, particularly Baptism, Mass and Eucharist, Penance and Matrimony (with much detail and strict record keeping). Other decrees addressed the 'Churching' of women, the reservation of sins, preaching and catechetical instruction, the erection and visitation of schools, devotional practices, a local liturgical calendar, the obligation of regular Mass '*pro populo*', and a register of deceased faithful.

The Council wanted the Eucharist to be the central feature of the Australian mission, with priests carrying the consecrated host when travelling, and encouraging frequent confession and communion. The Council also legislated that priests were not to lend, borrow or mind money without written permission, and that church property was to be held in trust and managed by a board of trustees. It saw priestly ministry in Australia to be essentially itinerant and missionary, and wanted all priests to be of equal status, a stance that both reflected and significantly influenced clerical life thereafter.

While the council emphasised the sanctity of marriage, and the need to avoid clandestine marriages, it also called for compassion and tact where marriages has been contracted without a priest. It made no mention of 'mixed' marriages, for Polding considered a mixed marriage to be better than no marriage at all. This would become a major issue at later councils.

The Council closed on 12 September 1844 with a solemn public approbation at which some lay witnesses were present. A final decree convoked the next council in Melbourne on 8 September 1847.

Due to an accident - Bishop Pompallier of New Zealand, when visiting Sydney, packed the only copy of the decrees in his luggage by mistake and took them to New Zealand - the Council's decrees did not reach Rome until early 1847, when Polding presented them to Propaganda in person. He emphasized that they contained nothing new, but simply reflected the general law of the Church and the decrees of earlier councils, especially those presided over by the 16<sup>th</sup> century Bishop of Milan, St Charles Borromeo. He also stated that they were intended to be flexible enough to allow for local differences and to permit the bishops, facing common problems, to develop uniform policies to solve them. Many of the decrees underwent some modification or amendment at the request of Propaganda, but the official *recognitio* was not given on 31 March 1852, 8 years after the Council had ended. On promulgation they became Church law throughout the Australian mission.

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Note: The author wishes to acknowledge the assistance of the research carried out on this council by the Australian priest scholars: James R Knox in his (unpublished) doctoral thesis, *The Historical and Juridical Importance of the First Council of the Australian Province held in Sydney 1844*, Rome 1949, and Ian Benjamin Waters in his (unpublished in English) doctoral thesis, *Australian Conciliar Legislation Prior to the 1917 Code of Canon Law: A Comparative Study with similar Conciliar Legislation in Great Britain, Ireland and North America*, Ottawa, 1990.