

The 1862 non-recognized Australian Provincial Council

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This second article in the series examining the particular councils held in Australia between 1844 and 1937, looks at the gathering of the Australian bishops at Melbourne in November 1862 which failed to satisfy the canonical rules and did not receive recognition by the Holy See.

Aborted Second Australian Provincial Council

The *Acta et Decreta* of the First Australian Provincial Council held at Sydney on 10-12 September 1844 concluded with a decree convoking the second Provincial Council to be held in Melbourne on 8 September 1847. This was in accord with the canonical rules requiring a provincial council to be held every three years.

However, the Holy See did not receive the decrees of the First Provincial Council until February 1847, and the amendments requested by the Sacred Congregation de Propaganda Fide ("Propaganda") were not sent to Archbishop Polding until October 1847, a month after the scheduled date of the follow-up council. The 1847 council was now put on hold at least until the official *recognitio* (approval) of the 1844 Council Decrees had been given, which did not occur until 31 March 1852. By this time other ecclesiastical developments had taken place in the Australian mission.

ACTA ET DECRETA

PRIMI CONCILII PROVINCIALIS
AUSTRALIENSIS

HABITI IN ECCLESIA CATHEDRALI S. MARIÆ,
SYDNEIENSI,

DIEBUS X., XI., ET XII. SEPTEMBRIS, 1844.

In 1843, in response to a plea from Catholics in Perth – part of the Sydney Archdiocese - Archbishop Polding had sent Irish priest, John Brady, to Western Australia as his Vicar-General who, soon after, travelled to Rome, and while there, without consulting Polding, put a proposal to Propaganda to have the whole of WA divided into three new ecclesiastical territories: a Diocese of Perth, and two Vicariates Apostolic - Essington (near Darwin), and King George Sound (near Albany) – whose focus would be on the evangelization of the Aborigines. All three territories were to be under the jurisdiction of the Bishop of Perth. Against the advice of Propaganda, and without consulting Polding, Pope Gregory XVI endorsed Brady’s proposal and appointed him first Bishop of Perth. Brady then recruited 28 new missionaries including several Irish religious sisters, 5 French Spiritan priests and brothers, and 4 Spanish Benedictines, and returned to WA in 1846. At that time, Catholics in WA numbered just 306 among 4600 Europeans, while the number of Aborigines – though grossly exaggerated by Brady to be around two million - was unknown.

Table 1: The development of Ecclesiastical Jurisdictions in Australia, 1787-1862

Ecclesiastical Jurisdiction	Territory covered	Erected	Suppressed (Elevated)
Vicariate Apostolic of London District	New Holland & Van Diemen’s Land (from 1787)	1688	1 Sept 1816 (Transferred)
Prefecture Apostolic of New Holland	New Holland	29 Jan 1804	4 April 1819
Vicariate Apostolic of Cape of Good Hope, Mauritius, Madagascar, New Holland & Adjacent Islands	New Holland & Van Diemen’s Land	5 April 1819	3 June 1834 (Transferred)
Vicariate Apostolic of New Holland and Van Diemen’s Land	New Holland and Van Diemen’s Land	3 June 1834	5 April 1842
Diocese of Sydney & VA of New Holland (Elevated to Archdiocese)	NSW, QLD, WA and VIC	5 April 1842	(22 April 1842)
Diocese of Hobart Town & VA of VDL	Van Diemen’s Land (TAS)	5 April 1842	
Diocese of Adelaide & VA of SA	South Australia	5 April 1842	
Prefecture Apostolic to Aborigines	Stradbroke Island (QLD)	12 June 1842	4 July 1847
Diocese of Perth	Western Australia (part only)	6 May 1845	
Vicariate Apostolic of Essington	Western Australia (part only)	6 May 1845	25 June 1847
Vicariate Apostolic of King George Sound	Western Australia (part only)	6 May 1845	25 June 1847
Diocese of Port Victoria (later Darwin)	NSW (part only) (NT)	25 June 1847	
Diocese of Melbourne	Australia Felix (VIC)	25 June 1847	
Diocese of Maitland	NSW (part only)	25 June 1847	
Diocese of Brisbane	Moreton Bay Settlement (QLD)	12 April 1859	
Diocese of Goulburn	NSW (part only)	28 Nov 1862	
Diocese of Armidale	NSW (part only)	28 Nov 1862	

Within a year, due largely to Bishop Brady’s failure to raise adequate financial support, the missions to the Aborigines at Essington and King George Sound, were struggling - as was the mission to the Aborigines on Stradbroke Island (QLD) - and the Diocese of Perth was in catastrophic financial difficulties. While in Rome in 1847, Polding convinced Propaganda and Pope Pius IX to suppress the Vicariates of King George Sound and Essington, and reset the boundaries of all dioceses so as to be co-terminus with the civil boundaries of the new Australian States.

In 1845 Propaganda had sent an Instruction titled *Neminem profecto* to the heads of all mission territories under its jurisdiction, urging them to advise the Congregation whenever they believed more bishops were warranted. In 1847, Polding proposed the erection of three new dioceses for the Australian mission: Melbourne, covering Australia Felix (State of Victoria from 1851); Maitland covering an undefined territory in NSW north of Sydney; and Port Victoria, the precursor of the Darwin Diocese. The Instruction also recommended that, when Episcopal candidates were being proposed, special regard be given to missionaries who had worked in and had experience of the proposed new diocese. Though Polding was already under increasing pressure to recommend Irishmen for the new bishoprics, his nominations included three English Benedictines, a Spanish Benedictine, and just two Irishmen (an Augustinian and a secular priest). Pius IX appointed the Irish Augustinian, James Goold, Bishop of Melbourne, the Spanish Benedictine, José Serra, Bishop of Port Victoria, and the English Benedictine, Henry Charles Davis, Bishop of Maitland and Coadjutor Bishop of Sydney.

By 1850, plans for a second provincial council had fallen into abeyance, with no date set. Nevertheless, Polding continued to exercise his metropolitan authority, mediating a dispute between Bishop Willson and Fr Therry over temporal goods in Hobart in 1844, asserting his metropolitan rights with Bishops Goold and Serra in 1850, officially suspending Bishop Brady in 1852, and keeping regular contact with his suffragan bishops by letter and occasional meetings. In 1851, Polding even petitioned the Holy See to make Sydney a Benedictine diocese 'in perpetuity' with the monastic community having a perpetual and exclusive right to elect the local bishop. He was firmly refused.

1851 Gold Rush and new challenges

A significant factor which may have distracted Poling from scheduling a second provincial council was the 1851 discovery of gold near Orange in NSW, and shortly after, at Ballarat and Bendigo in Victoria. The unprecedented rush of prospectors into the goldfields from across Australia and the world sent the general and Catholic populations of NSW and Victoria skyrocketing. Between 1851 and 1860 the general population of NSW grew from 197,265 to 348,546, while in Victoria it more than quintupled, from 97,489 to 538,234. By 1862, Catholics made up around 20 per cent of the total NSW population, and 26 per cent of the Victorian population. The pressure on the bishops to respond to the pastoral needs of their fast growing flocks, and the issues that followed, were immense. They needed churches, schools, welfare agencies, and above all priests and religious personnel.

But well before the decade was over, Propaganda was urging Polding to bring the Australian bishops together to discuss the fast emerging challenges and to develop a united policy for their pastoral ministry. But rather than convoke a provincial council, Polding called a meeting with Bishops Willson and Goold in Melbourne in June 1858. It did little more than issue a stern Pastoral Admonition to all the clergy, denouncing malcontents and seeking to 'prevent the simple faithful being led astray by demagogues'. Polding was already feeling a threat to his authority and the effects of an anti-Benedictine campaign in Sydney.

Around the same time Polding requested the Holy See to erect a new diocese at Brisbane, to coincide with the 1859 establishment of the new Colony of Queensland. It was also a part of

his response to the growing number of Anglican bishoprics. Pius IX erected the Diocese of Brisbane in April 1859, with the Irishman, James Quinn, as first bishop. Quinn was the first of twelve Irish bishops nominated by the Irish ecclesiastical powerbroker, Cardinal Paul Cullen, Archbishop of Dublin, and appointed by Pius IX. Prompted by Propaganda's concern over Episcopal unity in Australia, Quinn was quick to ask Polding to convene a meeting of all the Australian bishops, which Polding agreed to, setting February 1862 as the meeting date. However, on the day, only Polding and Quinn turned up.

Plans set for the 1862 Provincial Council

After years of procrastination, Metropolitan Archbishop Polding finally set the date and place for the 2nd Australian Provincial Council as 1 November 1862 at Melbourne. Those he called to attend were Bishops James Goold OSA of Melbourne, Patrick Geoghegan OFM of Adelaide, James Quinn of Brisbane, Robert Willson of Hobart, Rosendo Salvado OSB of Port Victoria, and Fr Martin Griver, Apostolic Administrator of Perth. Bishop Brady had been forbidden by the Pope to return to Perth, Bishop Serra had resigned on 7 January 1862, and Maitland had been without a bishop since 1854. No other clergy appear to have been invited to attend, which was in violation of the canonical requirements.

Table 1: Total and Catholic population in the Australian colonies, 1862 (other years)

Colony	Total Population	Male/Female Population	Catholic Population	Catholic Clergy	Districts/ Churches	Catholic Schools	School Students
NSW	366,099	203,872/162,227	72,800+	65	40/96	99	n/a
Victoria	551,388	322,298/229,090	139,916 (1861)	36 (1858)	26/52 (1858)	100 (1858)	5090 (1858)
Queensland	45,077	27,186/17,891	8,500	8	3/1	1	n/a
SA	136,562	70,502/66,060	16,000 (est)	14	10/21	22	480+
WA	17,676	11,175/6,501	3,200 (est)	3 ⁺	8/7	1+	30+
Tasmania	90,116	48,617/41,499	20,000	15	9/10	4	n/a
Australia	1,206,918	683,650/523,268	261,000 (est)	141+	96+/187+	226+	

Source: ABS, Catalogue No. 3105.0.65.001 Australian Historical Population Statistics; *The Catholic Almanac and Directory of Divine Service in the Archdiocese of Sydney for 1861 and 1862; Reports to Rome, 1858 (Melbourne)*
 Note: 1. Bishop Salvado OSB brought a 'large number' of Spanish Benedictine priests to New Norcia in 1853.

When the day for the opening of the Council arrived, however, only 4 of the 7 prelates with 'decisive' votes had turned up: Polding, Willson, Goold and Quinn. Salvado had decided to attend to his New Norcia mission, Geoghegan was in Europe, and Griver failed to arrive. As the number fell short of the 'at least two thirds of those called must be present' rule for a council to be legitimately convened, the meeting was never going to be recognized as a provincial council.

Nevertheless, the four bishops in attendance decided to go ahead with their meeting and to discuss three main and connected issues: education, seminaries, and priestly discipline. They deliberated in secret from 29 October to 13 November 1862, and produced 5 documents.

In 1862, though there were well over 200 Catholic primary schools operating in the mission, there were only 4 secondary schools for boys. Without sufficient Catholic secondary schools

to educate potential candidates for the priesthood and to foster vocations, local seminaries would not be viable. In 1838 Polding had established the first seminary at Sydney, which by 1862 had produced 51 priests, but just 12 Australian-born. Bishop Willson had opened a seminary in Hobart in 1854, but had closed it in 1860, partially educating 3 priests. Bishop Goold had opened a seminary in Melbourne in 1849, but it too had closed in 1862. The Jesuits operated a seminary at Sevenhill (SA) from 1856, but it also closed in 1862.

While Benedictine reinforcements from England had long dried up, and more and more priests were arriving from Ireland, especially from the newly opened All Hallows College in Dublin, the urgent question in 1862 was whether it was time to develop a local Australian diocesan priesthood, and if so, how? The only seminary still functioning was the Benedictine St Mary's College at Glebe in Sydney, but it too was on its knees with only a handful of seminarians in formation. In 1857, the Scottish convert, William Duncan, had called for the creation of a 'native priesthood' and the establishment of an 'ecclesiastical seminary' in Australia. At a clergy conference in Sydney in 1858 a resolution was passed calling for 'the introduction, upon equal terms, of clergymen of all orders, secular and religious'. Polding's prestige was ebbing, both in Australia and in Rome, but against all the evidence and the best of advice, he was still clinging to his fantasy dream of having Benedictine missionaries living in monastic communities scattered across the vast country.

The best the four bishops could do in these circumstances was to discuss the establishment of an Australian seminary in Rome. But believing it not to be urgent, they deferred a decision. More urgent was clerical discipline and how to deal with those priests who were fractious, given to alcohol, itinerants, ministering without faculties, avaricious, accepting farewell testimonials, and trafficking in property, money and other secular negotiations. To deal with them, the bishops drew up 15 decrees which were printed as a *Supplementum* to the *Acta et Decreta* of the 1844 First Provincial Council. The bishops also issued two joint pastoral letters, one to the laity and another to the priests. The priests ('missionaries') were admonished to live a 'frugal' life, to avoid getting caught up in personal land and stock acquisitions, to keep accurate records of all financial matters, to contribute to the Clerical Annuity Fund, and to stay out of politics. In their letter to the laity, the bishops, who had drafted no decrees on the still contentious issue of 'mixed marriages', referred to the evils arising from these marriages, reminded them of their obligation to provide financial support, emphasised the importance of Catholic schools, and denounced the National Education System' as 'corrupting' and would force Catholics to accept a defective system. Though In August 1862 state aid had been withdrawn from all NSW denominational schools, the bishops urged Catholics to fight to retain religious education. There was no mention of the evangelization of the Australian Aborigines.

No *recognito* (approval) and plans for the 1869 2nd Australian Provincial Council

Following the close of the 1862 meeting at Melbourne, the Australian bishops forwarded their decrees to the Holy See for its consideration, but in 1864 received an official reply stating that the Holy See would not grant a *recognitio* on the basis that the bishops had met alone (as a conference), not as a council and without all the participants and procedures required for a valid council. The usual acts and formalities were also absent, Propaganda was not properly backgrounded on some of the legislation, and many of the decrees were

written in English, not Latin. The bishops were instructed to start afresh and follow the procedures of the 1844 Provincial Council.

Despite promptings from Propaganda in 1864 and 1865 to convoke another canonical provincial council, Polding continued to procrastinate. Finally, in 1868, four of the Irish bishops prevailed on him to call a preliminary meeting to convene a provincial council. At that meeting in August 1868 the bishops of Hobart, Brisbane, Bathurst, Maitland, and Goulburn, together with Polding, prepared a council agenda and set the date and place for the 2nd Australian Provincial Council as 18-25 April 1869 in Melbourne.

Peter J Wilkinson
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Note: The author wishes to acknowledge the research carried out on this non-recognized council by the 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.