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CASE NOTES

EDITED BY JUSTIN GAU
Barrister, Deputy Chancellor of the Diocese of Lincoln
AND RUTH ARLOW
Barrister, Deputy Chancellor of the Diocese of Chichester

doi: 10.1017/S0956618X07000233

Re David Edward Chislett

Tribunal of Enquiry: Diocese of Brisbane, May 2005
Australia – unlawful consecration – discipline

On 25 February 2005, the Most Revd Dr Phillip Aspinall, Archbishop of Brisbane (the Archbishop) referred a matter to the Commissioners of Enquiry under the Benefices Avoidance Canon (the Canon). The Archbishop informed the Commissioners that it had been reported that the Revd David Edward Chislett had been consecrated a bishop and was now a suffragan bishop in the Anglican Catholic Church in Australia (ACCA), which is part of the Traditional Anglican Communion (TAC), and that that was a circumstance that appeared to the Archbishop to be of so serious a nature as to raise the question of the expediency of removing Mr Chislett from the benefice of Rector of All Saints, Wickham Terrace, in Brisbane. Pursuant to section 7 of the Canon, the Archbishop instituted a formal inquiry into that circumstance and directed the Commissioners to inquire into such circumstance and report to him and advise him thereon. Mr Chislett made written and oral submissions to questions asked by the Commissioners in the context of the events which had occurred in the Anglican Church of Australia (the Anglican Church) relating to the ordination of women. The Commissioners made the following findings: that Mr Chislett submitted to consecration and was consecrated as bishop in the ACCA on 16 February 2005; that Mr Chislett had not been appointed a suffragan bishop in the ACCA; that the ACCA, which is a separate church from the Anglican Church, is not in communion with the Anglican Church nor with the See of Canterbury; and that Mr Chislett was consecrated as bishop in the ACCA in full knowledge that he was acting without the approval of the Archbishop. Mr Chislett took two sets of oaths and declarations: one set relating to the TAC and another relating to the Anglican Church. The latter were required by the Bishop of The Murray of the Anglican Church, the Rt Revd

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Ross Owen Davies, before the service of consecration, in anticipation of the public act of licensing in episcopal orders by the Bishop of The Murray at the conclusion of the service. Further, the Bishop of The Murray, and the Bishop of Ruvuma, the Rt Revd Dr Maternus Kapinga (Anglican Church of Tanzania), participated in the consecration of Mr Chislett as a bishop. The Commissioners' opinion was that the co-consecration by Anglican bishops does not negate or change the fact that the consecration of Mr Chislett as a bishop proceeded under the auspices of the TAC and was intended to be, had the appearance of being, and was a consecration as bishop in the ACCA. The constitution of the ACCA states that it is a church 'derived from the Church of England and the Anglican Catholic Church of Canada' that 'retains and approves the doctrine and principles of the Church of England as found in Australia on the thirty-first day of December 1961, embodied in the Book of Common Prayer together with the Form and Manner of Making, Ordaining and Consecrating of Bishops, Priests and Deacons and [in the] Articles of Religion sometimes called the Thirty-Nine Articles', but that its doctrine and principles also extend to the Affirmation of Saint Louis made in 1977. The feature of doctrine that distinguishes the ACCA from the Anglican Church is part of one of the fundamental declarations of the ACCA that the three orders of bishops, priests and deacons in the sacred ministry shall be reserved to adult males (sub-clause 2.3 of the ACCA constitution). Section 6 of the Constitution of the Anglican Church provides:

> This Church will remain and be in communion with the Church of England in England and with churches in communion therewith so long as communion is consistent with the Fundamental Declarations contained in this Constitution.

The Commissioners found that the distinguishing feature between the fundamental declarations in the constitution of the ACCA and those set forth in the Constitution of the Anglican Church prevents the Anglican Church from being in communion with the ACCA in the sense in which that expression is used in the Constitution. It follows from the terms of the Concordat of the TAC that the churches which are members of the TAC are not churches that are in communion with the Church of England in England. Despite the informality of recognition by some members of the ACCA and the Anglican Church of both churches, the ACCA is not in communion with the Anglican Church nor with the See of Canterbury. The Commissioners then considered whether Mr Chislett's conduct in being consecrated a bishop in the ACCA is grave cause within the meaning of section 7 of the Canon. While accepting that there is much in common between the Anglican Church and the ACCA, the fact remained, however, that the ACCA was established and continues as a

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separate church from the Anglican Church, in order to preserve the orders of bishops, priests and deacons for men only. They were also unreserved in accepting that Mr Chislett had acted genuinely to heal the pain and sorrow suffered by Anglican catholics and in a way which he saw as necessary to initiate a solution for the perceived lack of alternative episcopal oversight provided to Anglican catholics within the Anglican Church. However, as Mr Chislett's conduct was fundamentally inconsistent with his position within the Anglican Church, the Commissioners found that that was sufficiently serious to fit within the characterisation of 'grave cause' under section 7 of the Canon. The Commissioners concluded and advised the Archbishop that the removal of Mr Chislett from the benefice of Rector of the Parish of All Saints, Wickham Terrace, was expedient, in view of the seriousness of his conduct in being consecrated a bishop in the ACCA, which is a church not in communion with the Anglican Church. On 24 May 2005, the Archbishop came to the conclusion that, for the good of the Parish and of the wider Church in the Diocese and beyond, he should act on the advice of the Commissioners. Accordingly he handed Mr Chislett an Instrument of Deprivation as provided for in the Canon, which removed him from his position as Rector of the Parish of All Saints, Wickham Terrace.

Case summary kindly provided by Garth Blake SC

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Harries v Bishop of Chester
Appeal to the Archbishop of York, October 2005
Licence – summary revocation – appeal

H appealed to the Archbishop of York against the summary revocation of his licence by the Bishop of Chester on grounds that his ministry constituted an unsafe risk in relation to children, such risk arising from three incidents in public swimming baths and also from the fact that H had failed to disclose criminal proceedings arising out of those matters on his child protection form when applying for his current appointment. The Bishop of Durham (hearing the appeal in the place of the Archbishop of Canterbury during the vacancy in the see of York) found that, although the evidence disclosed examples of sexually inappropriate behaviour in public places, he could find no reason to suspect H of being a serious risk to children. Nevertheless, he found that the failure to make the relevant disclosure on H's child protection form was deliberately dishonest and constituted strong prima facie grounds for the summary

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