

**PROVINCE OF CANTERBURY**

**Canon C12 Paragraph 5**

**In the matter of an appeal against the revocation of Licence**

**BETWEEN:**

**The Reverend RICHARD COEKIN**

**Appellant**

**-and-**

**THE LORD BISHOP OF SOUTHWARK**

**Respondent**

**SKELETON ARGUMENT ON BEHALF OF THE RESPONDENT**

**THE ORIGINAL LICENCE**

1.1 The Appellant was licensed to the office of “Assistant Minister of the Chapel of Emmanuel Wimbledon” on 7 January 1996. Emmanuel is a Proprietary chapel within the geographical boundaries of the parish of St Mary Wimbledon. This is the only licence the Appellant has held from the Respondent. It is the subject matter of this appeal.

1.2 The licence was granted on the nomination of the Reverend Jonathan Fletcher who was, and continues to be, the Minister of Emmanuel and it was as his assistant, with specific responsibility for the congregation meeting at Dundonald school, that the Appellant was licensed. The Minister of Emmanuel specifically stated that he wanted the Appellant licensed by the Bishop of Southwark because: “Despite our anomalous position as a Proprietary Chapel we are anxious not to be

outside the structures of the Church of England” and it was on that basis – i.e. that the Appellant and the Dundonald congregation were not to be outside the structures of the Church of England - that the Appellant was licensed by the Bishop of Kingston-upon-Thames exercising area jurisdiction on behalf of the Bishop of Southwark.

*(Licensed ministers of a proprietary chapel also require the permission of the incumbent of the parish to exercise their ministry Canon C4, such permission does not bind succeeding incumbents Richards v Fincher (1874) LR 4 A & E 255 and the Bishop can at any time revoke the licence Sedgwick v Bishop of Manchester (1869) 38 LJ Eccl 30)*

## THE APPELLANT’S MINISTRY UNDER THE LICENCE

2.1 The Appellant’s church planting activities, against the wishes of incumbent clergy (mostly evangelical) set out in paragraphs 9-19 were in breach of the Appellant’s licence as assistant minister of the Emanuel Church and **Canon C4**. The esteem the Appellant claims for himself [4] is not shared by the majority of clergy in the diocese of Southwark – not even the majority of evangelical clergy [*see Pleadings 78*] – **The whole of the appellant’s case totally ignores the rest of the diocese of Southwark and the Bishop as a focus of unity and the fact that other clergy – evangelical clergy had been complaining about the appellant and expecting the bishop to act** [*See pleadings 59, 61 Canon Downey*]

2.2 The whole question of whether the Appellant should continue to be licensed in the Diocese of Southwark was raised by the Respondent in his letter of 25 July 2003, in which he made it quite clear that that question arose because the Appellant was no longer exercising ministry in accordance with that licence. The Respondent also made it clear, as Ordinary of the diocese, that the ordination of the candidates subsequently ordained in the unauthorised ordination, should not proceed until the Appellant’s position and the disputed church planting issues had been resolved. Nevertheless, the Respondent subsequently agreed that the two candidates should meet with the Diocesan Director of Ordinands so that their ordination in the Diocese could be considered in the regular way. See Canons C3, C4, C6 and C7.

## THE APPELLANT'S THREATENED CANONICAL DISOBEDIENCE

- 3.1 In his letter of 16 September 2005, without cause, the Appellant threatened that if the Respondent failed to comply with unwarranted demands that the Appellant was not entitled to make, he and his congregation would seek alternative episcopal ministry from the wider Anglican Church, for the assessment of candidates, the ordination of candidates and the oversight of existing ordained staff, none of which he was entitled to do. In all the circumstances amounted to a threat of serious canonical disobedience.
- 3.2 The Respondent in his response of 12 October 2005, referred to the Overseas and Other Clergy (Ministry and Ordination) Measure 1967 specifically because the Appellant had referred to the Anglican Church and because the Appellant was licensed to a congregation that was “very anxious not to be outside the structures of the Church of England”. That Measure regulates how valid ordination within the Anglican Church and the structures of the Church of England can take place by bishops from other parts of the Anglican Communion or by a bishop from a Church not in communion with the Church in England, but whose orders are recognised by the Church of England. It is disingenuous now and was deceitful at the time for the Appellant to have arranged ordinations of ministers for the Dundonald congregation that were not Church of England ordinations by a bishop who was not part of the Anglican Communion. If, which is not accepted, there were any errors of law or fact on the part of the Respondent they were induced by the Appellant.
- 3.3 In fact, if it is now being asserted that the orders of Bishop Martin Morrison are recognised by the Church of England, then he could have conducted a valid ordination in accordance with the Measure if the appropriate consents had been obtained. Furthermore, at no stage did the Appellant inform the Respondent, notwithstanding the voluminous correspondence on this subject, that a bishop had expressed himself ready willing and able to conduct this ordination, or the name, identity or status of that bishop, or that a provisional ordination date had been arranged; although others from a narrow grouping within the Church of England

had clearly been so informed. Nor, having made these arrangements with Bishop Martin Morrison did he or the appellant seek the appropriate authorities from the Archbishop of Canterbury or the Respondent. In fact as far as the Archbishop of Canterbury, the bishops of the diocese of Southwark and the rest of the Church of England within and without the diocese of Southwark, was concerned, apart from a minority in thinking with this inappropriate behaviour, the ordinations were a deliberately clandestine and secret affair to prevent the sort of action from being taken that was taken in **Gill v Davies** –*See para 3.8 below*

3.4 It is also disingenuous for the Appellant to affect unawareness of what the “serious consequences” for him might be if he went ahead with the ordinations. Since he is paid for, and housed by, the Dundonald congregation, the only control the Respondent had over the Appellant was his licence. In the face of such defiance and deceit, the Respondent had no appropriate disciplinary course open to him at that time other than to revoke the Appellant’s licence. In any event see 3.6 below.

3.5 Notwithstanding that response from the Respondent, the Appellant replied on 25 October 2005 that he intended to proceed with arranging the ordination of staff, who had not been approved for ordination in accordance with the canons or the procedures of the Diocese of Southwark, by a “visiting Anglican Bishop”, which continued to imply that the ordinations were to be an attempt at Anglican ordination and therefore in breach of the Overseas and Other Clergy (Ministry and Ordination) Measure 1967. At no stage prior to the event did the Appellant make it clear that the ordinations would not be by a bishop from outside the Anglican Communion or mention the identity or status of the bishop involved or that a date (and possibly venue) had been arranged.

3.6 After taking proper legal advice, the Respondent made it quite clear in his letter of 28 October 2005 Date point taken by Appellant bad that he was revoking the Appellant’s licence: a) because the Appellant had told the Respondent he was no longer prepared to accept his Episcopal oversight and b) because the Appellant intended to go ahead and arrange an ordination of “eligible”, (but not duly selected and presented) staff by a “visiting Anglican Bishop”. The Respondent

invited the Appellant to show cause within seven days or voluntarily surrender his licence since he no longer accepted the Respondent's Episcopal authority. 44(2) words threatening deeds – revocation only happened after threat carried out.

3.7 There were many canonically obedient courses of action open to the Appellant in this situation. The most obvious ones being: cancelling the ordination [which the Respondent could have procured by court action had the arrangements not been made in secret [*See: Gill v Davies Q.B.D. 19 December 1997, Smith, JJ.*]

Alternatively, an ordination under the provisions of the Overseas and Other Clergy (Ministry and Ordination) Measure 1967 could have been sought. The Appellant could also have indicated that if he wished, as now appears to be the case, to retain his licence, he would accept the episcopal oversight of the Respondent or that he would wait for the diocese of Southwark selection procedures to take their course. It is perverse in the extreme for the Appellant to want to hold the licence of a bishop whose Episcopal authority he has rejected. The most honourable thing to have done in that situation would have been to surrender his licence.

3.8 The Appellant did nothing in response to this opportunity given to him by the Respondent to avoid having his licence revoked, notwithstanding the fact that he must have known when he wrote his letter of 25 October 2006 that the arrangements for these ordinations were in place, but went ahead and did the one thing he had been told gave the Ordinary of the diocese no option other than to revoke his licence, namely: went ahead and organised the ordinations and only afterwards replied to the Respondent.

3.9 If the ordinations were not carried out under the provisions of the Overseas and Other Clergy (Ministry and Ordination) Measure 1967 or the Church of England (Ecumenical Relations) Measure 1988 then there was no legal provision for the services to take place in a Church of England church and the Appellant was in breach of canon law for arranging a service in such circumstances. Use of C of E churches (as opposed to halls or schools) regulated by canon law uses for anything other than authorised C of E worship requires specific authorisation. A denomination not covered by Canon 43 not entitled to use C of E church to do so

in diocese of Southwark clear infringement of Respondent's Episcopal authority. E.g. in 52(9) would involve breach of canon law by any C of E minister arranging such an ordination on C of E church without Episcopal permission.

## THE REVOCATION

4.1 It appeared to the Respondent that he had cause which was good and reasonable namely the rejection of his episcopal ministry and the carrying out of illegal ordinations and/or ordinations into a church other than the Church of England, the Church from which the Appellant held his licence. The Respondent gave the Appellant more than sufficient opportunity – given the protracted history of the matter – to show reason to the contrary. The Respondent not the one acting precipitately, it was the Appellant for proceeding with the ordination before resolving his so called impaired communion. Ludicrous idea to take no action for 2 months for new measure to come into force in view of history and threats. Especially the “first of many”.

4.2 Arranging an uncanonical ordination and/or ordination into a church not in communion with the Church of England, for ministers to serve in a purportedly Church of England congregation, is a serious matter. In the Anglican Church in Australia, [“ACA”], the acceptance of consecration as a bishop in the Anglican Catholic Church in Australia [“ACCA”] (a church that is part of the Traditional Anglican Communion [“TAC”] but is not in communion with the Church of England or ACA) was held to be so serious as to justify deprivation. *See: Enquiry in relation to the Reverend David Edward Chislett (Diocese of Brisbane 17May 2005).*

4.3 The term “impaired communion” has no application to the relationship between a diocesan bishop and a minister holding his licence who owes him canonical obedience. If the so-called “impairment” was temporary it should have been resolved before such decisive steps as an ordination took place. *See Gill v Davies above*

The whole of the appellant's case is expressed solely in terms of the Appellant of his congregations and totally ignores the Bishop's position as a focus of unity and the position of the rest of the diocese including the vast majority of evangelical parishes let alone other traditions or the collegiality of the House of Bishops and the rest of the Church of England. Appellant was effectively declaring UDI not just from Diocese of Southwark but C of E – and that is the lawful authority NOT the Anglican communion.

### THE DUNDONALD CHURCH

5.1 It is now clear from a copy of the most recent trust deed in respect of Dundonald Church, that Dundonald may not constitutionally be part of the Church of England at all. Nowhere in the objects declared in the trust deed of the Dundonald Church Charitable Trust is the Church of England mentioned. Indeed, the Church of England is only mentioned once in the trust deed and that is in paragraph 11.1 of the Third Schedule which provides that “**ideally**” the minister of Dundonald Church should be ordained into the Church of England and licensed by an appropriate Bishop thereof; but in fact pursuant to paragraph 11.2 the Council of reference may select for presentation to the trustees for appointment as minister “suitably qualified candidates from any denomination”. So the trust deed specifically contemplates a situation in which the minister does not hold a Bishop's licence.

5.2 Further, the trustees are the only people who may remove the minister, **not** the bishop, so the revocation of his licence does not prevent the Appellant from continuing under the terms of the trust.

### FUTURE ACTION IN RESPECT OF THE LICENCE

Footnote 20 [17 page 13] is specifically rejected. Like the Sec of state in a planning appeal free to reject Inspectors report.

Much of [17] not accepted [19] not accepted – overriding principle is for Archbishop/Commissary to do what is considered just and proper. I.E. even if there

has been procedural unfairness – which is not accepted but it would not be just or fair to restore the license or vary it it should remain revoked.

[38 ] not accepted. Not a theological difference of opinion; minister of an ostensible C of E congregation – although it would now appear is no such thing – organising for ministers for that congregation to be ordained outside the C of E and thereby not ministers of C of E and accountable to bishop of diocese.

Appellant requiring Respondent to dissociate himself from rest of Bishops and C of E.

Consider original form of licence what is now going on relationship with the whole hierarchy of diocese bishops and archdeacons and with the rest of clergy especially evangelical clergy and nature of Dundonald church.

6.1 The Archbishop may confirm, vary or cancel the revocation of the licence as he considers just and proper. The Respondent submits that due process was followed and there was a reasonable cause to revoke the licence in all the circumstances of this case and the proper order for the Archbishop is to confirm the revocation.

6.2 It is respectfully submitted that simply cancelling the revocation is not a realistic option as the licence is to be the assistant to the Minister of Emmanuel, which the Appellant has effectively not been for many years and that is accepted by the Minister the Reverend Jonathan Fletcher. In addition, given the avowed and demonstrated attitude of the Appellant to the Episcopal authority of the Respondent, it would be entirely inappropriate to restore the previous licence. Furthermore, given that the reason for the Appellant's behaviour purported to be the Respondent's refusal to distance himself from the House of Bishops' statement on the Civil Partnership Act and given that the other bishops in the Diocese of Southwark support the Respondent there would be no Episcopal authority over the Appellant if the licence were restored.

6.3 It is further submitted that to vary the licence would also be inappropriate. The Appellant has rejected the Episcopal authority of the Bishop of Southwark who

would be the Licensor. The Appellant and his congregation have no relationship with the rest of the Church of England in the Diocese of Southwark and do not contribute financially to the diocese. The congregation to whom the Appellant ministers appears not to be a Church of England congregation, nor does the Appellant need to be a licensed Church of England minister to be the minister of that congregation. The Appellant arranged that the recently ordained staff for the congregation were not ordained as ministers of the Church of England but into a church not part of the Anglican Communion nor in communion with the Church of England. In the circumstances it is entirely inappropriate for the Appellant to hold a licence from a Church of England Bishop, especially the Bishop of Southwark.

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