

Anglican Canon Law Council report

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The ACLC held its third conference at the St Benedict's/St Peter's Place Centre (known as The Resurrection Way, Rosettenville, Johannesburg) from 22 to 24 January.

Structure of ACLC: In terms of Act XVIII, the ACLC is a faculty of ACSA, i.e. part of its body, not intended to be a cost centre of consequence (but some travelling expenses for Committee members are incurred), with its governing Committee elected at its annual conference (3 members) every three years and at each Provincial Synod (3 members), plus 2 *ex officio* members (Provincial Chancellor and Registrar).

Keynote Address:

An excellent paper on the relationship between Theology and Canon Law was delivered by the Revd Matt Esau. As Christians we seek to live in love as Christ loved us; the Church is our community, which seeks to convey an understanding of the divine mystery, i.e. its theology. Natural law applies within the community (the *ius commune*): the custodians of the faith formulate specific actions and laws necessary to sustain the community and the values that undergird it. Canon Law must reflect these values, failing which it becomes a destructive force. In sum, Theology speaks to the people: Canon Law guides the faithful. He quoted Ladislav M Orsy about the relationship between Theology and Canon Law who wrote that 'the relationship between theology and canon law' is focused on a specific issue; 'that is on the mutual interaction between the doctrine of faith (theory) that has to do with the community's beliefs, and the norms of action (practice) that have to do with the community's operations'.

Principal Paper at the Third Conference:

The Provincial Chancellor, Judge Ian Farlam, presented over two sessions a fascinating paper covering the history of and legal events concerning the establishment of the Anglican Church in South Africa and related developments to date. This gave the delegates a critical understanding as to how a number of

features in our Canon Law came about, thus enriching and deepening our understanding of them.

Matters Canvassed at the Third Conference:

Structure of ACSA and Roles of Chancellors and Registrars:

Henry Bennett, explained that ACSA is comprised of two bodies within a single founding set of documents (i.e. Constitution and Canons): an operational, pastoral body (i.e. dioceses and parishes, Bishops and clerics) and a property holding and conserving body (i.e. the Provincial Trusts Board), with Diocesan Trustees having delegated authority from the PTB. Chancellors and Registrars are both law officers, with Registrars generally being more “in-house” and “hands-on” and Chancellors being a little apart from those whom advice and guidance is sought in case of need. Very little is set out in the Canons, but Registrars do have occasional procedural functions and the Provincial Registrar is *ex officio* one of the trustees on the PTB: this allows for considerable flexibility, and the models actually in use vary from diocese to diocese.

Amended Disciplinary Canons:

Delegates were taken through the Chapter VII Canons, read with Act XV and the Pastoral Standards (Permanent Resolution 5) by Adv Ronnie Bracks. Adv Palesa Ncholo presented a case study in relation to a bishop.

Trustee Responsibilities:

The trustee levels of responsibility expected of provincial and diocesan trustees, boards, parish councillors and governors of Church institutions were explained by Adv. Ronnie Bracks.

Memoranda of Understanding with Independent Church Organisations:

Henry Bennett led the discussion on the proposal that independently funded and run organisations with ties to the Anglican Church (e.g. diocesan schools, homes and charitable bodies) should be required to enter into MoUs with ACSA to protect the Church’s reputation (i.e. its “brand”).

Discipline of Ministers of the Church:

Adv. Palesa Ncholo pointed out that Canon 21(3)(c) as amended by Provincial Synod 2013 provides for the suspension of bishops in dioceses in trouble. Whether or not further amendments were needed was discussed.

Restructuring of Provincial Synod:

A subcommittee led by Dean Andrew Hunter, had done much work on this. At this point in the inquiry and debate, the following are the main preliminary recommendations:

Regional meetings may lead to “group thinking”, and dilute broader, more diverse thinking and sacrifice the transformative experience of “being together in one place”. Representation can be reduced by one lay and one cleric without too much adverse impact on representivity, if conscientiously worked at by dioceses. Review again Synods held at universities or schools over holiday periods, to reduce costs, and over weekends, to assist working laity.

Extend synods by a day to avoid “rushing” important matters. Reduce “outside” presentations and group discussions of them to a necessary minimum for the same reason as in 4 above, and eliminate these from PSC altogether to save a day. Avoid the *en bloc* reception of reports, as (a) organisations reporting need to be seen to be taken seriously and as (b) such a change is in line with good governance. Use translators for the Portuguese contingent, as was done in 2013, with earphones for each delegate. Consider holding Provincial Synod every four years. Preparation of delegates for, and reporting back to, dioceses about Provincial Synod is a key ingredient. Both the PEO’s and the Provincial Treasurer’s office need an additional, professional staff member, at the level of administration/ “company” secretary/management support/communications officer.

Retirement Age of Bishops:

Henry Bennett led the discussion on behalf of the Revd. Prof. Barney Pityana, who had done the drafting of an amended Canon 14(3). There was unanimity that, in principle, the bishops should be retired in the same way as other clergy, but that existing expectations should be preserved (as had been the case with other clergy). The further drafting would now be taken up by the Committee.

Misuse of Canons 25(6) and (8):

Henry Bennett emphasised that the inclusion of medical reasons in the *causa* for the implementation of these Canons threw light on the meaning of “pastoral reasons”, given as the catch-all *causa* for implementation. It deals essentially with no-fault situations, the continuance of which threatens the work of the Church in particular pastoral charges. Fault situations are set out in Canon 37(1) and include, for example, a refusal to obey “reasonable and lawful instruction” and a “failure to perform required clerical duties adequately or competently”. These are to be handled in terms of Canons 37, 38 and 39. Canons 25(6) and (8) cannot be used to withdraw a licence unilaterally, outside of pastoral reasons or no-fault situations (e.g. redundancy or lack of funds) or outside the terms of the licence itself (i.e. specific conditions in a licence, such as the period for which it is given).

Responding to Cold Cases of Abuse:

Mr Lloyd Fortuin pointed out that statute law required all known instances of abuse to be reported, on pain of a possible 5 year gaol sentence. Even substantial suspicion of abuse is to be reported, and the reporter is exempt from all civil and criminal claims if the suspicion is genuine. Where the event in question is alleged to have happened years ago and the media or others are making an enquiry, the “no comment” reaction is potentially fatal to the Church’s reputation, as is a “closing of the ranks”. [Unfortunately, this presentation was cut short as the Conference’s time of closure had arrived, but it will be copied and circulated to members and all bishops.]

Report by Chairman, Henry Bennett, February 2015