

RANKIN & NATHAN

SOLICITORS NOTARIES

Our Ref: RNC:rs:31301
Reply to: Newcastle
 Your Ref:



9 May, 1997

Bishop R Herft
 Anglican Diocese of Newcastle
 PO Box 817
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Dear Bishop Roger

Thank you for your letter concerning your discussions with Father Robert Howell. I also refer to Father Robert Howell's letter dated 25 March, 1997 to you both and Archdeacon Hoare.

I have refrained from writing sooner as you were overseas and I felt that it was preferable to await your return rather than impose this concern on your Commissary.

I agree with Father Howell when he suggests that the words "*Those... likely to be affected by it*" are the operative qualifying terms. I have little doubt that within the Diocese a person having a legitimate reason to know who relieves a publication from the person providing the answer, results in an occasion of qualified privilege.

The area of my concern relates to the situation where a person leaves the Diocese who for some particular reason could be deemed unsuitable to work with particular members of the community elsewhere. In that situation, the question arises whether or not the Diocese of Newcastle has a right to publish a statement to another Diocese unsolicitedly.

I attach some pages 192-195 of Gatley on Libel and Slander (i.e., Defamation) which is the authoritative publication on this area of the law.

My impression is that the Church really wishes to stop the situation that one Diocese could allow an unsuitable person to go and start again in another Diocese. The thought had crossed my mind in discussion with Father Howell that some central databank could be compiled for the Church to access in appropriate situations. Such an unsolicited furnishing of information, concerns me, I believe it requires a detailed legal consideration of the status of the Anglican Church in Australia and I wonder whether you could provide me with the relevant constitutional legislation including whether

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each Diocese constitute a separate legal entity? If the Church is one legal entity this could be very helpful.

Once this information is to hand, I can then involve Stuart Littlemore.

With kind regards.

Yours sincerely


R N CADDIES

Encl.