



# THE EVOLUTION OF A LIE

## Chapter 5

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Scott Dobbs and his family and friends refused to cooperate with the investigation.

*The problem of the PSU's lack of jurisdiction to receive the complaint.*

Almost as soon as Yvonne Gunning sent details of the complaint to the PSU, Phillip Gerber sent her his advice. This was that firstly, there was the problem of Emma's consent to everything that happened after she turned 16 (the age of consent which is only set aside if there has been sexual abuse which was not in this case); and, secondly, that there was a problem with jurisdiction because Scott may not be a 'church worker'.

When Scott drafted his statutory declaration responding to the complaint, he not only addressed each alleged incident but he told Phillip Gerber that the PSU had no jurisdiction because Scott was not a church worker. The Anglican Church Sydney diocese 'law', the Discipline Ordinance 2006 lists the persons who are 'church workers'. For Scott to have been a 'church worker', as Phillip Gerber was eventually forced to agree, Scott (1) would have to have been appointed by the Senior Minister, Rod Irvine or a person to whom he delegated the power of making that appointment (2) to a position of leadership in FAC.

There was no evidence of such an appointment, because there had been no appointment.

Also, Scott did not hold a 'position of leadership'. Only by the most distorted interpretation of that phrase could it refer to Scott's playing guitar in one of the worship bands for a short period (under the leadership of the FAC Music Minister), or with Mabelle assisting as a house parent at an annual kids' camp (under the leadership of the FAC Children's Minister) or making a cup of espresso coffee for parishioners and visitors on a machine he had donated (which he did alone apart from assistance from his son, when available, and separate from the FAC 'refreshment ministry' which was under the leadership of a FAC staff employee).

Scott made it clear that the issue of the lack of jurisdiction meant that the investigation was unlawful as far as the Ordinance was concerned and that until that was properly addressed he would not cooperate. He had already prepared and forwarded to Phillip Gerber his statutory declaration in response to that of Emma Nicholls, in which he denied and refuted all her trivial complaints. He felt that he had done enough to point out the absurdity of Emma's complaint – he did not at that stage know that Emma had not made a complaint and had not wanted to – and to clear his name.

*The lack of a process to challenge jurisdiction and a judge's bizarre 'decision'.*

Scott attempted to find a process for his challenge to the PSU's jurisdiction to be determined. Without consultation Phillip Gerber referred the question to the diocesan Chancellor, Acting Judge Peter Grogan. In what ranks as one of the most bizarre 'decisions' of an experienced judge of the Supreme Court of NSW Judge Grogan said he

was 'comfortable' that there was jurisdiction. This was in the absence of any evidence. He also said, per a file note Phillip Gerber made of his telephone conversation with the judge, that if Scott disagreed he could always challenge jurisdiction when the case went to the PSC and/or the Disciplinary Tribunal.

*The process of investigation and referral to the Professional Standards Committee (PSC).*

However, the diocesan process ground on and the investigator's report, in which the bulk of the complaints were rejected as unsustainable, was referred to the PSC which eventually produced a report of its' own. This rejected another of the complaints and downgraded the accusations from child and adult sex abuse to '*sexual harassment of an adult woman by a married man*' by unwelcome touching (to quote the Discipline Ordinance 2006) even if unintentional. This was in the teeth of the evidence that Emma Nicholls rapturously greeted the few occasions of actual contact and in the incident in Scott's study she admitted to stroking Scott's hand and running her other hand through his hair (before he ran from the room)! The committee recommended that Scott be '*admonished*' (for what was not stated) and undergo education about '*boundaries*'. On the question of its' jurisdiction it could only say that it was '*comfortable*' that it had jurisdiction, echoing diocesan Chancellor Peter Grogan's astonishing repudiation of the sound principle of judicial responsibility, that of requiring evidence.

*Regional Bishop Al Stewart's video.*

When the PSC handed down its recommendations, the regional Bishop Al Stewart made a video announcing this and commending FAC clergy and personnel for the way they had handled the complaint, thereby approving the 'excommunication' of children as young as 10 from FAC. He caused it to be shown at all FAC services one Sunday shortly after. Stunned friends of the Dobbs who saw it thought that the PSC had found Scott guilty.

*Scott rejected the recommendations of the PSC*

The diocese obviously hoped that that point - mid 2008 - would mark the end, but Scott rejected the PSC report and insisted that Archbishop Jensen appoint a person to bring the charges to a hearing of the Disciplinary Tribunal under the terms of the Discipline Ordinance 2006. Finally, the tide started to turn against the diocese and in favour of Scott, Mabelle and the family.

Almost immediately Phillip Gerber tried to get Scott to agree to the withdrawal of the charges. He refused. Then Philip Gerber tried to organise a mediation, but Scott refused that as well (he characterised attending a mediation with Phillip Gerber and FAC personnel as being akin to being a kitten thrown into a den of wild dogs). It was all too evident that Scott had called his bluff and that the PSU and FAC were on the back foot in bringing the complaint from the very first.

*Phillip Gerber and the Disciplinary Tribunal members are forced to recognise that they have no jurisdiction*

On the first hearing date Phillip Gerber and his barrister refused to proceed, acknowledging that they had never had the power even to accept the complaint.

A compromise of sorts was negotiated for the Tribunal to recommend to the Archbishop Jensen that the charges be withdrawn and dismissed, and that certain steps be taken to restore the reputation of the whole Dobb' family. It was recommended that Bishop Al Stewart and the present FAC Senior Minister Ian Barnett take steps to

publicise from the pulpit the fact that the allegations had no foundation to them (and Al Stewart was to make a video reversing his unwise comments in the first video, to be shown at all FAC services one Sunday) and to institute a reconciliation process between the Dobbs family and the parish. The announcement was to publicly withdraw the terms of the letter dated 22 March 2007 laying onerous conditions on Scott and Mabelle if they were to attend FAC.

By implication the 'ban' on the Dobbs children resuming attendance at FAC was to have been withdrawn.

Archbishop Jensen duly acted as recommended. But all these things the now former Assistant Bishop (for Wollongong) Al Stewart and FAC Senior Minister Ian Barnett have refused to do. Even when Archbishop went personally to the parish and asked that these things be done he was met with humiliating stubborn disobedience by these clergy in breach of their ordination vows and by FAC staff and other personnel challenging his authority.

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