

## Saint John's University

Collegetown, Minnesota 56321

August 6, 1986

AUG 1986

To the Members of ARCIC-II:

In November 1986 Mgr. Richard L. Stewart asked ARC-USA for material which might assist ARCIC-II in its work on the general theme of "Growth in Reconciliation." Mgr. Stewart encouraged the United States ARC to continue work on Apostolicae Curae and to make suggestions about what might be done to further reconciliation both of Churches and ministries in the light of new research on Apostolicae Curae.

Since November 1984 ARC-USA has discussed Apostolicae Curae at three meetings and heard two papers on the topic. ARC-USA now transmits to ARCIC-II the paper enclosed as a short summary of our work to date. The purpose of the paper is to bring to light the positive interpretations of four members of the papal Commission, charged in 1896 to study Anglican ordinations, whose opinions were passed over when Pope Leo XIII and the Cardinals of the Holy Office based the historical arguments of Apostolicae Curae upon an interpretation of sixteenth century documents that were said to require absolute re-ordination of Anglican clergy during five years of Roman Catholic restoration in England, 1553-1558. ARC-USA has concluded that determining the accuracy of historical argument in the bull of 1896 is crucial to any contemporary evaluation of Apostolicae Curae.

ARC-USA requests that this paper be read with four articles by Giuseppe Rambaldi, S.J., a Roman Catholic scholar who has reached similar conclusions concerning the handling of historical materials in Apostolicae Curae. The four articles of Giuseppe Rambaldi are:

1. "Leone XIII e la Memoria di L. Duchesne sulle Ordinazioni Anglicane," Archivium Historiae Pontificae, 19(1981), 333-345.
2. "Il Voto del Padre Emilio de Augustinis sulle Ordinazioni Anglicane," Archivium Historicum Societatis Jesu, 50(1981), 48-75.
- 3-4. "La Bolla 'Apostolicae Curae,' di Leone XIII sulle Ordinazioni Anglicane -I, II," Gregorianum, 64/4(1983), 631-667; 66/1(1985), 54-88.

ARC-USA requests that the historical dimension not be neglected in any contemporary evaluation of Apostolicae Curae and that new documents and interpretations based on material in the Vatican Archives, not available twenty years ago when John Jay Hughes completed the most recent historical evaluation of Apostolicae Curae, now be presented from time to time to ARCIC-II.

Yours sincerely,

R. W. Franklin

R. W. Franklin  
Associate Professor of History  
St. John's University  
Episcopal Church Representative  
to ARC-USA

The Christian Humanism Project

612:363-2417

612:253-8071

RWF/cp enclosure

ARC-USA Resolution on New Historical  
Research Concerning Apostolicae Curae

Whereas, in the fall of 1984 Mgr. Richard Stewart and Bishop Raymond Lessard transmitted a request for ARC-USA to assist ARCIC-II on the general theme of "Growth in Reconciliation" by sponsoring research on the question of Anglican ordinations and Apostolicae Curae, and

Whereas, publication in March 1986 of Jan Cardinal Willebrands' correspondence of July 1985 with the two ARCIC co-chairmen on Apostolicae Curae has raised new hopes for Anglican-Roman Catholic reconciliation by stating that the negative judgement of Pope Leo XIII in Apostolicae Curae against the validity of Anglican ordinations is still the "most fundamental" issue that hinders the mutual recognition of ministries of the Roman Catholic Church and the Anglican communion and that the Vatican may be prepared "to acknowledge the possibility" that Apostolicae Curae may no longer pertain today, and

Whereas, the historical issues involved in Apostolicae Curae, while not the whole basis for the Roman Catholic Church's judgement on the validity of Anglican orders, did play a crucial role in that decision;

RESOLVED, that this ARC-USA meeting commends and transmits the new documentation for and interpretation of the historical basis for Apostolicae Curae presented by Professors R. W. Franklin and Guiseppe Rambaldi, S.J., to Cardinal Willebrands and ARCIC-II with a view to the recognition of Anglican orders by the Roman Catholic Church.



The Historical Foundations of Apostolicae Curae

R. W. Franklin  
St. John's University  
Collegeville, Minnesota  
ARC-USA  
June 1986

## The Historical Foundations of Apostolicae Curae

### I. Introduction

In January 1896 Pope Leo XIII appointed a Commission to re-examine the question of the validity of Anglican orders and report its findings to him. The Commission met for twelve sittings between March and May 1896, and its work was very precise: to investigate the existing practice of treating Anglican orders as null and void and to determine if there were any compelling reasons for a change in the Roman policy. The ultimate outcome of the investigation was the promulgation of the Litterae Apostolicae Apostolicae Curae with its judgment that Anglican orders are "absolutely null and utterly void." Apostolicae Curae laid out the doctrinal basis for ninety years of Roman Catholic rejection of Anglican ministry; and it is the theological background of the current practice which admits Anglicans to holy communion in Roman Catholic churches in only very limited circumstances. A recent letter of Jan Cardinal

Willebrands states that Apostolicae Curae is still the "most fundamental" issue that hinders the mutual recognition of ministries of the Roman Catholic Church and the Anglican Communion, and that the Vatican may be prepared "to acknowledge the possibility" that Apostolicae Curae may no longer pertain today.<sup>1</sup>

The purpose of this paper is to bring to light the positive interpretations of four members of the papal Commission whose opinions were passed over when Leo XIII and the Cardinals of the Holy Office based the historical arguments of Apostolicae Curae upon an interpretation of sixteenth century documents which were said to require absolute re-ordination of Anglican clergy during the five years of Roman Catholic restoration in England, 1553-1558. The accuracy of historical argument is crucial to any contemporary evaluation of Apostolicae Curae. Nineteen hours of the Commission sessions were devoted to historical debate about the treatment of Anglican orders in the the Marian restoration

as null and void. Historical arguments take up sixteen sections of Apostolicae Curae. Here it is asserted that the Holy See has not always treated Anglican orders as null and void whenever the question has arisen in practice, and that this policy of non-recognition can be traced back to the period of the Marian restoration in England (1553-1558) and is explicitly stated in two papal letters:

1. Julius III - *Si ullo unquam tempore* (1554)
2. Paul IV - *Praeclara carissimi* (1555)

(Those ordained according to the ordinals of 1550 and 1552 must be absolutely reordained).<sup>2</sup>

These two documents are identified as the foundation of the unbroken practice of non-recognition and of the theological defense of the established tradition of non-recognition put forward in Apostolicae Curae. And yet one-half of the members of the Commission of 1896 clearly doubted that the bulls of Julius III and Paul IV supported a policy of non-recognition.



## II. The Sixteenth Century Background of the Case

The historical precedents of Apostolicae Curae center upon the instructions and actions of Cardinal Reginald Pole, papal legate and Archbishop of Canterbury 1554-1557. When Pole arrived in England in 1554 he absolved the whole realm from schism and began the work of reconciling the Church of England to Rome under powers granted to him for this purpose by two bulls of Julius III, the most important *Si ullo unquam tempore* of March 1554. On 20 June 1555, Paul IV, Gianpietro Carraffa, the great reformer and founder of the Theatines, sent Pole a second letter, *Praeclara carissimi*, which was further papal recognition of the Cardinal Legate's entire procedure of reconciliation. But Paul IV, a Neapolitan filled with a burning hatred of all Spaniards, grew to detest English friends of Spain, such as Reginald Pole, and in 1557 Cardinal Pole found his legatine commission revoked and he himself was summoned to Rome to be tried for heresy.<sup>3</sup>

III. The Interpretation of the Letters of Julius III and Paul IV in  
Apostolicae Curae

For Leo XIII the letters of Julius III and Paul IV were the solid rock on which a custom had been established and constantly observed for more than three centuries "of treating ordinations according to the Edwardine rite as null and void. . . . a custom which is abundantly testified by many instances, even in this City, in which such ordinations have been repeated unconditionally according to the Catholic rite."<sup>4</sup> There was thus no real question of how the documents of Julius III and Paul IV were to be interpreted: both make it clear that the absolute re-ordination of clergy ordained according to the Edwardine rite, of 1550 and 1552, goes back to the beginning of the reign of Queen Mary.

IV. The Opening of the Vatican Archives Raises New Questions  
About the Certainty of these Conclusions

The opening of the Vatican Archives through the reign of



Pope Leo XIII (1903) by Pope John Paul II on December 28, 1978, and the publication of other documents has made available much new information which bears on how the question of Anglican Orders was presented to Leo XIII.<sup>5</sup>

The drafts and reports of the papal Commissioners had remained unknown until 1978 because they were kept secret with other papers in the Vatican bearing on the question of Anglican orders. Now the preliminary reports are available to scholars in a recently opened section of the Vatican Archives. New documents confirm the existence of two distinct groups among the original eight members of the Commission charged by Leo XIII to study Roman practice in regard to Anglican orders. One group was favorable and the other group was opposed to the validity of Anglican orders. Above all the two groups varied in their comprehension of and acknowledgment of the historical circumstances in which the ordinal of Edward VI came about. There was clearly a differing appreciation of the historical data at hand,

and a contrasting understanding of the use and the implications of historical knowledge in the formulation of theological principles. Giuseppe Rambaldi has shown concretely that John Jay Hughes' surmise about the existence of the positive party of Commissioners is now proved by the Vatican documents, and this is also the conclusion of my research.<sup>6</sup>

As an example of how the new documents may shape future interpretations of Apostolicae Curae, I discuss here the attitude of the positive Commissioners to the sixteenth century papal missives which serve as the historical foundation of Apostolicae Curae.

V. Members of the Papal Commission Who Were Positive Toward Anglican Orders

A. Abbé Louis Duchesne was a Church historian, a professor at the Institut Catholique in Paris, and a theologian with a European reputation. Duchesne came to believe that the practice of regarding Anglican orders as null and void did not derive from

"an ecclesiastical sentence" given in full knowledge of all the facts in the case. The letter of Julius III to Cardinal Pole of 8 March 1554, did not declare Anglican orders invalid, and it is impossible to prove from this document that the practice of re-ordination was explicitly recommended to Cardinal Pole.

Duchesne studied the registers of ordination of many English dioceses to look for traces of re-ordination, and he found no examples of re-ordination before 1570. "The registers of ordination preserved in divers dioceses of England have been studied in view of finding any traces of re-ordination. Not one case has been uncovered."<sup>7</sup> Finally Duchesne maintained that the decree of absolute re-ordination arrived at in the Gordon case of 1704 was not based on precedents of one hundred and fifty years before, but upon "very suspect documents."<sup>8</sup>

B. Mgr. Pietro Gasparri was a distinguished canonist and also a professor at the Institut Catholique in Paris. For Gasparri "neither the validity nor the nullity of Anglican



ordinations is clearly affirmed by Julius III in his bull of March 8, 1554." In addition Gasparri concluded that the bull of Paul IV was not intended to be a definitive decision of the question but merely "a practical rule for the time being." He found that Paul IV recognized the sufficiency of the Edwardine ordinal for priests and deacons and rejected it only for the episcopate; "deacons and priests ordained according to the [Edwardine] ordinal . . . by an heretical or schismatical bishop who was himself consecrated according to Catholic rites . . . would be validly ordained." Thus for Gasparri the material succession of Anglican orders was intact.<sup>9</sup>

C. A. M. De Augustinis

A. M. De Augustinis was a professor of dogmatic theology and rector of the Gregorian University in Rome. He made the strongest arguments brought to the Commission that the historical documents of the sixteenth century proved the validity of Anglican orders. De Augustinis had previously been charged to prepare and had in

fact presented in August 1895 an opinion on the subject to Leo XIII which held that Anglican orders were valid. De Augustinis was convinced that Anglican ordinations were valid by reason of their being effected by a competent minister, with a valid rite, who had the intention of doing what the Church does at an ordination. The Jesuit theologian judged that Cardinal Pole regarded as "illicit but valid" the ordinations conferred under the Anglican rite, and that the bull of Paul IV did not say explicitly or implicitly that the ordinations conferred with the Edwardine ordinal were not "*in forma Ecclesiae*." In the interpretation of De Augustinis, the phrase *forma Ecclesiae* in the bull of Paul IV referred not to the previous Pontifical rite but to the *forma essentialis* which might be found in the Anglican rite.<sup>10</sup>

D. The Rev. T. B. Scannell

Father T. B. Scannell was an English Roman Catholic parish priest from Sheerness in Kent. He argued that the bulls of Julius III and Paul IV were not pronouncements on the validity of

Anglican orders, but that these documents left Cardinal Pole *in loca* to judge if the Anglican rites preserved "the essential forms of the Church" sufficient to transmit valid ministry.

Scannell also based his arguments on a distinction between *forma*

*Ecclesiae* - "the form of the Church" - and *forma Ecclesiae*

*consulta* - "the accustomed form of the Church," that Paul IV had

insisted merely on the necessity of Pole finding the irreducible

minimum of "the form of the Church" for a valid ordination in the

Edwardine ordinal. The papal tradition of prudent reserve in not

pronouncing on an issue until an agreed consensus had emerged, of

proceeding "with true Roman caution," afforded Scannell the best

reason to believe that Julius III and Paul IV were not making a

definitive judgment in their letters on Anglican orders.<sup>11</sup>

E. Conclusions of the Four Positive Members of the Commission

1. None of the papal documents contain an explicit and unequivocal condemnation of Anglican orders.
2. Not one sentence from Rome states categorically and



explicitly that all orders conferred by the Edwardine ordinal were null and void.

3. The vague nature of the sixteenth century evidence leads to the conclusion that on the basis of historical knowledge Rome is not justified in asserting that Edwardine orders were consistently rejected by the Holy See during the Marian restoration.

#### VI. The Four Commissioners Who Were Negative

Four members of the papal Commission argued that the historical evidence supported a consistent policy of papal non-recognition of Anglican orders. They were the English Benedictine Francis Aidan Gasquet, the English canonist James Moyes, the English Franciscan Dr. David Fleming, and the Dominican Calasanzio de Llaveneras. Gasquet, Moyes, and Fleming were all appointed to the Commission on the nomination of Cardinal Vaughan, the Roman Catholic Archbishop of Westminster. They had been leading members of Cardinal Vaughan's committee to

prepare a case against the validity of Anglican orders, a project on which the three had been engaged since September 1895. Since their arguments carried the day, are reprinted in Apostolicae Curae, and are therefore well known to us, I only summarize here the essential points of the group that made a negative judgment on validity:

A. Julius III and Paul IV regarded ordinations conferred with the Edwardine rite as invalid. Cardinal Pole proceeded to re-ordain Anglican clergy based on the papal judgment of Edwardine invalidity.

B. There was a consistent policy with regard to the invalidity of Edwardine orders under Queen Mary.

C. Julius III and Paul IV are the foundation of a continuing papal policy.

D. The Holy See would not have left a decision about the vital matter of the validity of orders to the discretion of a legate. Pole had submitted a description of the Edwardine

ordinal to the Holy See so that a judgment might be rendered on it. The Holy See gave a clear decision on this matter when it was necessary to do so, and this decision was negative.<sup>12</sup>

VII. Summary of Commission by Pierotti

The chairing of the Commission and the summation of its work was placed into the hands of the Dominican Father R. Pierotti, a friend of Mgr. Merry del Val. In May 1896 Pierotti put the vote to the Commission on the meaning of the letters of Julius III and Paul IV in this way:

Validitas aut invaliditas ordinum secundum  
ritum novum tunc temporis in Anglia exaratum,  
certo eruit possit necne?

Duchesne, Gasparri, De Augustinis, and Scannell voted for validity because for these four the case for invalidity was far from certain. Gasquet, Moyes, Fleming, and De Llaveneras voted for invalidity.<sup>13</sup>

But Pierotti reported the results of the Commission to the Holy Office in this way:



Then it is clear and evident that all the ordinations conferred with the new ordinal . . . are declared absolutely invalid . . . . Thus the question of the validity or invalidity of Anglican orders, is no longer open, and is not able to be entered into with free discussion by Catholic theologians, because the absolute invalidity of these orders has been stated solemnly and declared by the Supreme Authority of the Church since the year 1555.<sup>14</sup>

VIII. Preparation and Writing of *Apostolicae Curae* by Mgr.

Merry del Val

The interpretation of the documents of Julius III and Paul IV in *Apostolicae Curae* was the work of a thirty-one year old ecclesiastic Raphael Merry del Val. In writing *Apostolicae Curae* he did not go to the sources but relied entirely on texts, interpretation, and arguments set before him by Francis Aidan Gasquet. From the material provided by Gasquet, Merry del Val claimed in *Apostolicae Curae* that the language of the letters of Julius III and Paul IV constituted a clear condemnation of orders conferred by the Edwardine ordinal. Merry del Val's resulting draft was then submitted to the Cardinals of the Holy Office who made a few minor changes in it, and then placed *Apostolicae Curae*

before the eighty-six year old Pope Leo XIII for his signature.

The historian must ask many questions about the way Merry del Val handled history to support his arguments. Only one example will suffice here, however, the question of the word *concernentia*.

The text of the letter of Paul IV which Gasquet had published in 1895 contains the word *concernentia*. This word is omitted in the citation of Paul IV in Apostolicae Curae. This is an important point, for the word concerns the question of dealing with clergy who had received dispensations and orders invalidly but *de facto* during schism; or of clergy who had invalidly but in fact received dispensations concerning (*concernentia*) orders as the original text of *Praeclara carissimi* published by Gasquet in 1895 had said. In the latter case it was merely the dispensations to receive orders (necessary in case of an impediment) which would have been received invalidly.

The implication of the 1895 version was that the orders

themselves were valid. By omitting the word "concerning" Apostolicae Curae not merely introduced an inaccuracy. A fundamental argument of the letter depends on this inaccuracy.<sup>15</sup>

IX. Summary: Responses of Anglican Archbishops

The 1897 *Responsio* of the Anglican Archbishops to Leo XIII sums up well questions a historian still must ask today:

Although the Pope [Leo XIII] writes at some length, we believe that he is really as uncertain as ourselves. . . . he quotes and argues from an imperfect copy of the letter of Paul IV *Praeclara carissimi*. . . . The principle of [Pole's] work appears to have been to recognize the state of things which he found in existence on his arrival. . . . No definite directions are given with regard to Anglican ordinations, and conclusions favorable to Roman Catholic practice can only be arrived at by aid of theoretical considerations. The complete silence of other documents on this subject gives one the right to conclude that Pole did not re-ordain all unconditionally and definitely expressed full powers to do so were not given him.<sup>16</sup>

The opening of the Vatican Archives now confirms that one-half of the papal Commissioners in 1896 were "as uncertain" of the historical foundations of Apostolicae Curae as were the Anglican Archbishops. Public revelation of this uncertainty in the 1980s, now that the Archives are open, is another new



development of our own day that should lead to a possible  
reconsideration of the nineteenth century papal judgement on  
Anglican orders.

There are precedents for the withdrawal of papal letters  
when the circumstances of church history have changed. After  
Pope Clement XIV in 1773 had abolished the Society of Jesus by a  
bull expressed to be "forever valid, firm and effective," Pope  
Pius VII restored that order in 1814. In 1296 Pope Boniface VIII  
issued the bull *Clericis Laicos* which forbade the clergy of any  
state to pay taxes to their prince without the consent of the  
pope. The king of France replied by placing a ban on the export  
of gold and silver from his realm, thus cutting off the flow of  
money from France to the papal court. Faced with this and other  
threats, Boniface VIII gave way completely and withdrew the bull  
*Clericis Laicos*.<sup>17</sup>

## Notes

<sup>1</sup> For commentary on Cardinal Willebrands' letter and a background summary of the 1896 decision see my article, "Apostolicae Curae of 1896 Reconsidered: Cardinal Willebrands' Letter to ARCIC II," Ecumenical Trends, Vol. 15, no. 5, May 1986, pp. 80-82.

<sup>2</sup> Apostolicae Curae argues that the unbroken practice of the Holy See in the sixteenth century is continued in two further test cases of 1684 and 1704. On the basis of the historical documentation the letter presents a theological defense of the established tradition of non-recognition, that the English ordinal in use from 1552 to 1661 was defective in form and intention. The text of Si ullo unquam tempore may be found in M. A. Tierney, Dodd's Church History of England II (London, 1839), pp. cviii-cxvii. Praeclara carissimi was printed first in The Tablet, 54 (1895), 499-503, and then in the Church Historical Society's Treatise on the Bull Apostolicae Curae (London, 1896), pp. 55-61.

<sup>3</sup> The classic biography of Pole, and the source of material for all subsequent biographies, is Lodovico Beccadelli's contemporary account of Pole found in Vol. I of Quirini's edition of Pole's letters. Of more recent studies the most reliable are J. Gairdner in Vol. XVI of Dictionary of National Biography, and W. Schenk's Reginald Pole, Cardinal of England, 1950. A warm appreciation of Pole appears in an unexpected place, Nikolaus Pevsner, Studies in Art, Architecture, and Design (London, 1968), pp. 11-33.

<sup>4</sup> Apostolicae Curae, trans. by G. D. Smith (London: Catholic Truth Society, 1956), p. 13.

<sup>5</sup> Owen Chadwick, "The Opening of the Vatican Archives,"



Catholicism and History (Cambridge: Cambridge University Press, 1976), pp. 72-109.

<sup>6</sup> G. Rambaldi, "La Bolla 'Apostolicae Curae,' di Leone XIII sulle ordinazioni Anglicane - I, II," Gregorianum 64/4 (1983), 631-667; 66/1 (1985), 54-88. John Jay Hughes, Absolutely Null and Utterly Void (Washington, 1968), pp. 258-275.

<sup>7</sup> L. Duchesne, MS Memoire sur les ordinations anglicanes, Vatican Archives, Epist. ad Princ., 142, pp. 740-744. Giuseppe Rambaldi includes analysis of Duchesne's activity on the papal Commission in "Leone XIII e la Memoria di L. Duchesne sulle Ordinazioni Anglicane," Archivium Historiae Pontificae, 19 (1981), 333-345.

<sup>8</sup> Duchesne, MS Memoire, Vatican Archives, Epist. ad Princ., 142, p. 740.

<sup>9</sup> P. Gasparri, De la valeur des Ordinations Anglicanes (Paris, 1895), pp. 9-18.

<sup>10</sup> E. De Augustinis, MS Sulla validita delle ordinazioni Anglicane, Vatican Archives, Epist. ad Princ., 142, pp. 57-58, 74. Giuseppe Rambaldi includes analysis of the background of De Augustinis' positions on the Commission in "Il Voto del Padre Emilio de Augustinis Sulle Ordinazioni Anglicane." Archivium Historicum Societatis Jesu, 50 (1981), 48-75.

<sup>11</sup> T. B. Scannell in The Tablet, 27 August 1895, p. 305, see also The Tablet 10 September 1895, 29 October 1895.

<sup>12</sup> A. Gasquet, Leaves from my Diary, 1894-1896 (London, 1911).

<sup>13</sup> R. Pierotti, MS Relazione e voto del P.R. Pierotti Sulle Ordinazioni Anglicane, Library of La Civiltà Cattolica, Rome, note 16, p. 364. Vote also noted in Vatican Archives, Epist. ad Princ., 142.



14 Idem.

15 MS of Apostolicae Curae, Vatican Archives, Lettere Latine 1896, positions and minutes, containing copies of correspondence on preparation of letter and marginal notations on the first drafts. See also Vatican Archives, Epist ad Princ. Posizioni e minute, 142. This point is also made by Hughes, pp. 271-275, but without confirmation of the drafts in the Vatican Archives.

16 Saepius officio: The Reply of the Archbishops of Canterbury and York (London: The Church Literary Association, 1977), pp. 26ff., 40ff.

17 Three other recent articles on the historical foundations of Apostolicae Curae are Giuseppe Rambaldi, "A proposito della bolla Apostolicae Curae di Leone XIII," Gregorianum, 61 (1980), 682-684; a note on the work of Llevaneras appears in C. Snider, I tempi di Pio X (Milan, 1982); also E. Fouilloux, Les catholiques et l'unite chretienne du XIX au XX Siècle (Paris, 1982).