



PRIMATE OF AUSTRALIA

26 June 2009

The Hon Mr Justice Peter Young AO
President, Appellate Tribunal
Anglican Church of Australia
Judges' Chambers
Supreme Court NSW
Queen's Square SYDNEY NSW 2000

Dear Peter

Reference to the Appellate Tribunal of the Anglican Church of Australia.

By a letter dated 17 June 2009 addressed to the Primate, and in accordance with Section 63(1) of the Constitution of the Anglican Church of Australia, twenty-eight members of the General Synod request the following questions be referred to the Appellate Tribunal for determination:

GIVEN THAT:

- A. The opinion of the majority of the Appellate Tribunal, expressed in its opinion given on 24 December 1997, was that --
- (1) It is consistent with the Constitution of the Anglican Church of Australia to permit or authorise, or otherwise make provision for -
 - (a) deacons to preside at, administer or celebrate the Holy Communion; or
 - (b) lay persons to preside at, administer or celebrate the Holy Communion;and
 - (2) It is not consistent with the Constitution of the Anglican Church of Australia for a diocesan synod, otherwise than under and in accordance with a Canon of General Synod, to permit, authorise or make provision as mentioned in paragraph (1);
- B. The Synod of the Diocese of Sydney in 2008 by resolution No 27.08 passed on 20 October 2008 -
- (a) accepted the report concerning legal barriers to lay and diaconal administration of the Lord's Supper which was submitted to the 3rd session of the 47th Synod; and
 - (b) affirmed again its conviction that lay and diaconal administration of the Lord's Supper is consistent with the teaching of Scripture; and
 - (c) affirmed that the Lord's Supper in this diocese may be administered by persons other than presbyters
- and requested the Diocesan Secretary to send a copy of The Lord's Supper in Human Hands to all bishops who attended the GAFCON;

- C. The *Lay Assistants at Holy Communion Canon 1973* of General Synod provides in section 1 that “Lay persons being communicants may be authorised by the bishop to assist the priest in the ministering and distribution of the Holy Communion”;
- D. By the *General Synod – Lay Assistants at Holy Communion Canon 1973 Adopting Ordinance 1973*, the Synod of the Diocese of Sydney adopted the *Lay Assistants at Holy Communion Canon 1973* of General Synod;
- E. The *Authorized Lay Ministry Canon 1992* of General Synod provides-
- (a) in section 3(1)(c) that a lay person who is a communicant member of this Church maybe authorised by the bishop of a diocese to exercise within and for this Church in that diocese one or more of the following ministries: ...
“(c) assistance to the priest in the ministrations and distribution of the Holy Communion;” and
 - (b) in section 6 that “The Lay Assistants at Holy Communion Canon 1973 ceases to have effect in a diocese that adopts this canon by ordinance of the synod of the diocese.”;
- F. The Synod of the Diocese of Sydney has not adopted the *Authorized Lay Ministry Canon 1992* of General Synod; other dioceses have done so;
- G. The *Canon Concerning Services 1992* of General Synod provides in s5-
- (1) The minister may make and use variations which are not of substantial importance in any form of service authorised by section 4 according to particular circumstances.
 - (2) Subject to any regulation made from time to time by the Synod of a diocese, a minister of that diocese may on occasions for which no provision is made use forms of service considered suitable by the minister for those occasions.
 - (3) All variations in forms of service and all forms of services used must be reverent and edifying and must not be contrary to or a departure from the doctrine of this Church.
 - (4) A question concerning the observance of the provisions of sub-section 5(3) may be determined by the bishop of the diocese.
- H. By the *General Synod - Canon Concerning Services 1992 Adopting Ordinance 1998*, the Synod of the Diocese of Sydney adopted the *Canon Concerning Services 1992*

THE FOLLOWING QUESTIONS arise under the Constitution of the Anglican Church of Australia:

1. Does the *Lay Assistants at Holy Communion Canon 1973* of General Synod constitute an alteration in the ritual or ceremonial of this Church for the purposes of s71(1) of the Constitution of the Anglican Church of Australia in conformity with which a synod of a diocese may make an alteration in the ritual or ceremonial of the Church so as to permit, authorise or make provision for a lay person to preside at, administer or celebrate the Holy Communion?
2. Does the *Authorized Lay Ministry Canon 1992* of General Synod constitute an

alteration in the ritual or ceremonial of this Church for the purposes of s71(1) of the Constitution of the Anglican Church of Australia in conformity with which a synod of a diocese may make an alteration in the ritual or ceremonial of the Church so as to permit, authorise or make provision for a lay person to preside at, administer or celebrate the Holy Communion?

3. Does the *Ordination Service for Deacons Canon 1985* of General Synod constitute an alteration in the ritual or ceremonial of this Church for the purposes of s71(1) of the Constitution of the Anglican Church of Australia in conformity with which a synod of a diocese may make an alteration in the ritual or ceremonial of the Church so as to permit, authorise or make provision for a deacon to preside at, administer or celebrate the Holy Communion?

4. Does the *Canon Concerning Services 1992* of General Synod constitute an alteration in the ritual or ceremonial of this Church for the purposes of s71(1) of the Constitution of the Anglican Church of Australia in conformity with which a synod of a diocese may make an alteration in the ritual or ceremonial of the Church so as to permit, authorise or make provision for a deacon or lay person to preside at, administer or celebrate the Holy Communion?

5. Does any other canon of General Synod constitute an alteration in the ritual or ceremonial of this Church for the purposes of s71(1) of the Constitution of the Anglican Church of Australia in conformity with which a synod of a diocese may make an alteration in the ritual or ceremonial of the Church so as to permit, authorise or make provision for a deacon or a lay person to preside at, administer or celebrate the Holy Communion?

6. Is resolution No 27.08 of 2008 of the synod of the Diocese of Sydney in affirming that the Lord's Supper in the diocese may be administered by persons other than presbyters consistent and in accordance with the Constitution of the Anglican Church of Australia and the canons made thereunder?

I append the original letters from twenty-six members of the General Synod and two facsimile copies which I have subsequently received.

I now formally refer the questions raised to the Appellate Tribunal for its determination pursuant to Section 63 (1) of the Constitution.

Yours sincerely



The Most Rev'd Dr Phillip Aspinall
Primate

CC Martin Drevikovsky
Encl.