

**2009 REFERENCE TO THE APPELLATE TRIBUNAL CONCERNING THE
ADMINISTRATION OF HOLY COMMUNION AND THE LORD'S SUPPER BY
PERSONS OTHER THAN A PRIEST OR PRESBYTER**

**RESPONSE OF THE REV'DS KEITH DALBY, STEVEN SALMON, ADRIAN
STEPHENS AND MR ROBERTSON WRIGHT**

1. The case in favour of the position adopted by the synod of the Diocese of Sydney in 2008 rests largely on the interpretation of the use of the words "administer" and "administration" in various canons and authorised services.

Construction To Be Based On Form, Context and Purpose

2. Much play is sought to be made of the circumstance that these words could be interpreted in a manner that allows for the conclusion that Diaconal (and even Lay) 'presidency' of the Lord's Supper. However, while it may be the case that legislation may have consequences and implications different from its original intention, in accordance with well established principles of construction the form, context and purpose of the legislation cited make it plain in the present case that such an interpretation should not be adopted in respect of the canons in question.
3. The meaning of "administer" and "administration" in the services of Baptism, the Lord's Supper and the Ordination services and General Synod canons cited in the Reference must be determined having regard to their context and purpose. The context and purpose of the relevant canons make it plain that in all cases "administration" and "ministration" are to be understood in the sense of "delivery" or "provision". In the one case it is the administering of water with the baptismal formula in Baptism. In the other it is the administration or distribution of the *consecrated elements*.
4. An authority to assist in the delivery of the consecrated elements does not confer an authority to consecrate the elements. The Administration of the Lord's Supper actually involves many people in different roles. This is made clear in recent Prayer Books and other liturgical revisions, but it was already assumed in the Book of Common Prayer and Ordinal ("BCP"). This is demonstrated by referring to the authority of deacons to read the scriptures, preach if authorised and assist in the distribution of the Holy Communion in the BCP. It is not in dispute that this role of assisting the priest in the BCP does not authorise a deacon to preside over the service of the Lord's Supper.

Relation Between the Rubrics for the Lord's Supper and A Revised Ordinal

5. To argue that because the provisions in a revised ordinal may possibly bear a meaning (among other possible meanings) that would alter or supersede the

rubrics of the order for the Lord's Supper, begs the whole question of the meaning of "assisting in its administration" and is not relevant. It is suggested that changes in the 1985 Canon giving authority to deacons to baptise others than infants and preaching as integral to the deacon's ministry are fundamental alterations of the nature of the diaconate. This, however, exaggerates or misunderstands the extent to which these changes are novelties. If (as in the BCP) a deacon may only normally baptise infants, they are still normal ministers of baptism. If a deacon may only preach if licensed by the bishop, they are still given authority to preach when this is the case. And indeed, it is the case of any ordained minister, whether deacon or priest, that they may only licitly preach with the bishop's license or permission.

6. It is submitted that the 1985 Canon was not intended nor was its purpose to change the nature or role of the order of deacon. Rather, it was to express a renewed understanding of its importance in the life of the Church consistent with ancient tradition and contemporary needs. Furthermore, the assertion (Dr Davies's Submission para. 6) that deacons who are ordained under the 1985 service are the only deacons who may preside at the Lord's Supper, assuming this is what the 1985 Canon authorises, introduces the novelty and absurdity of two classes of deacon, authorised to do fundamentally different things dependent only upon which order of service was used when they were made. Not only is such an absurdity contrary to common sense, it is also contrary to the fundamental declarations of the Constitution of the Anglican Church of Australia, amongst which is the express requirement to maintain the threefold order of bishops, priests and deacons together with an implied prohibition on creating a new order of "super-deacons".

"Assistance"

7. Dr Davies points out that assistance is something that is done by a subordinate and can include acting in the absence of the superior if it is done under the supervision of the superior. But we are concerned here with "assistance in" and not "assistance by". There is a fundamental difference between a child assisting his or her father in washing the car and the child assisting by washing the car. In the present case the assistance spoken of is "assistance in" that is, *within the context* of an order of service. This sets the parameters of where and how the assistance takes place. It is a false analogy to equate assistance in the administration of Holy Communion in the Lord's Supper by distribution with delegating an entire ministry and office.

Matters of Doctrine and Scandal Indirectly Assist Interpretation

8. While the parties to the Reference agree that the Reference is a matter of law and not a question of doctrine, if it were found that the 1985 Canon did authorise diaconal presidency of the Lord's Supper, that would have been an alteration in the ritual or ceremonial of this Church. The Appellate Tribunal in its opinion of 1997 assumed that this was not the case and that a Canon of General Synod would

be required to make this the case. This is a further reason for rejecting such an interpretation.

9. Moreover, there has been an acknowledged consensus in the Anglican Church of Australia and throughout the Anglican Communion that the consecration of the elements in the Lord's Supper properly is reserved to priests and bishops. For a diocese or even province unilaterally to implement practically a change to this part of our Anglican identity and practice offends the consciences of a huge number of people. It severely tests the bonds of unity and fellowship and undermines the partnership in mission of the various parts of the Church.
10. It would be a scandal if matters affecting the order, ritual and ceremonial of the Church were determined by unintended consequences and tendentious interpretations of words in legislation intended for quite different purposes. General Synod, not individual dioceses, needs to clarify what is authorised by its canons and what legislation is required to authorise changes in order, ritual and ceremonial. There is an onus on those bringing, seeking or promoting such a change to exercise restraint and respect in their claims and tactics. Such godly restraint is to be found in the deliberations of the Apostles, for example in the question of food sacrificed to idols (see 1 Cor 8. 1-13 and Acts 21.25). Not doing so places stumbling blocks in the way of brothers and sisters and causes scandal to tender consciences in a matter that at this stage has not been explicitly determined one way or the other by General Synod.

Conclusion

11. All of these matters support a construction or interpretation of the various canons the subject of this Reference which would not permit lay or diaconal consecration of the elements of Holy Communion.

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