



# Anglican Church of Australia

## Appellate Tribunal

### REFERENCE CONCERNING THE ADMINISTRATION OF HOLY COMMUNION AND THE LORD'S SUPPER BY PERSONS OTHER THAN A PRIEST OR PRESBYTER

#### Report on Preliminary Conference and Directions Hearing held at the General Synod Office at 5:00 p.m. on 20 August 2009

#### 1. Constitution of the Tribunal

Pursuant to Rule 16, the powers of the Tribunal were exercised by:

- Justice P.W. Young, President
- Bishop P.R. Brain, Episcopal Member.

#### 2. Persons in attendance and Parties

Two of the members of the General Synod who requested the Reference, Dr M. Porter and the Rev'd Canon C. O'Reilly, attended, represented by Mr M. Hines, Barrister. The President noted that the 28 Members of General Synod who requested the Reference appear as Applicants in the proceeding as of right.

The Rev'd A. Stephens, The Rev'd K. Dalby, the Rev'd S. Salmon and Mr R. Wright SC attended and sought leave to appear to make submissions supporting negative answers to the questions put in the Reference.

Bishop G.N. Davies attended and sought leave to appear to make submissions supporting an affirmative answer to the principal question in the Reference.

The President noted that the Diocesan Secretary of the Diocese of Sydney had informed the Registrar by letter dated 17 August 2009 that the Diocese of Sydney does not wish to participate in the Reference.

No Diocese having indicated that it wishes to make submissions to support affirmative answers to the questions in the submission and there being no objection from the other persons present, the President granted leave to Bishop Davies to appear in the proceedings and to make submissions.

There being no objection to the Rev'd Mr Stephens, the Rev'd Mr Dalby, the Rev'd Mr Salmon and Mr Wright SC ("the First Supporting Party") being a party to the proceedings, the President granted them a limited right to appear, comprising the following:

1. The Tribunal would receive the written submissions already lodged on their behalf,
2. The right to receive the submissions of other parties at their own expense,
3. The right to reply to submissions made by other parties.

### **3. Directions**

There was discussion as to the order in which the parties should make submissions.

Bishop Davies indicated that he would limit his submissions to supporting the right of Deacons to administer Holy Communion.

The other parties' representatives expressed concern that the resolution of the Synod of the Diocese of Sydney which triggered the Reference contemplates the administration of Holy Communion by lay persons.

Bishop Davies informed the Tribunal that the Archbishop of Sydney has stated that he has no intention of authorising lay persons to administer Holy Communion.

There was agreement between the parties that the questions for determination were legal questions and provisionally agreed that no issue of doctrine arises.

The President noted that there is no contradictor in relation to that part of the Reference relating to lay persons and, in the circumstances, would allow a contradictor to lodge written submissions at the same time as Bishop Davies' submissions are due.

The President directed as follows:

1. The Applicants to lodge written submissions on or before 20 November 2009.
2. The President indicated that the Tribunal would be favourably disposed to an application by a contradictor on the question of administration of Holy Communion by lay persons to be joined as a party, provided that the application is made promptly.
3. Bishop Davies and any contradictor on the question of the administration of Holy Communion by lay persons lodge written submissions by 20 January 2010.
4. Submissions in Reply by the Applicants and the First Supporting Party be lodged by 20 February 2010.
5. Thereafter, the Tribunal will determine whether or not there is a need for an oral hearing. It was noted that the provisional view of the Tribunal and the parties is that no oral hearing is necessary.
6. Parties making submissions must lodge an electronic copy and seven (7) paper copies with the Registrar.
7. The President requested the Registrar to write to the Diocesan Secretary of the Diocese of Sydney noting the intention of the Diocese not to participate in the proceedings, informing him that the Tribunal will accept a submission from the Diocese of Sydney provided that the submission is lodged on or before 20 November 2009 and informing him that the Diocese of Sydney will be bound by the decision of the Tribunal.

8. The Registrar was requested to report on this hearing to the General Synod Standing Committee.