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**IN THE APPELLATE TRIBUNAL
ANGLICAN CHURCH OF AUSTRALIA**

IN THE MATTER OF questions referred by the Primate under section 63(1) of the Constitution

AND IN THE MATTER OF the Blessing of Persons Married According to the Marriage Act 1961 Regulations 2019 of the Synod of Wangaratta

SUBMISSIONS BY GAFCON AUSTRALIA

Introduction

1. These are the submissions of Gafcon Australia Limited ABN 604 064 315 (**Gafcon**) with regard to the questions posed by the Primate regarding the *Blessing of Persons Married According to the Marriage Act 1961 Regulations 2019* (**Regulation**) in the reference made on 5 September 2019.
2. Gafcon reserves the right to add to these submissions following receipt of submissions from other interested parties, including at any oral hearing set down by the Tribunal.
3. Gafcon's interest and concern in this reference, as a representative of over 350 members of the Anglican Church of Australia (**Church**) from all of the twenty-three Australian dioceses, is the question of unity in the Church, relationships with Anglican Churches and Dioceses both in Australia and overseas, and the potential disenfranchisement and exclusion of faithful Anglicans if the Regulation is considered to be validly made. Disenfranchisement and exclusion has been the experience in many overseas cases where actions similar in nature to the Regulations have been adopted.

Summary of these submissions

4. Question 1 raises a matter relating to the Doctrine of the Church in the Constitution. We submit that if the Tribunal is not unanimous as to the doctrine of the Church in regard to marriage, then this question of doctrine should be referred to the House of Bishops and the board of assessors for advice, under Section 58 of the Constitution.
5. In the matter of question 1, we submit that the regulation *Blessing of Persons Married According to the Marriage Act 1961 Regulations 2019* made by the Synod of the Diocese of Wangaratta is not consistent with the Fundamental Declarations and Ruling Principles in the Constitution of the Anglican Church

of Australia, in that it assumes a doctrine of marriage that cannot be sustained by any of the ruling principles, and is inconsistent with the doctrine of marriage set out in the Book of Common Prayer and thereby is inconsistent with the Ruling Principles. We urge the Appellate Tribunal to answer “no”.

6. Question 2 raises two distinct but related questions.
 - 6.1. Does the Canon Concerning Services provided a source of legislative power for the making of the Regulations? If the Canon provides a source of power, it is qualified in all cases by the requirement that such Regulations as to services “must not be contrary to or a departure from the doctrine of this Church” [*Canon Concerning Services 1992, Clause 5(3)*]. We submit that the regulation is contrary to the Fundamental Declarations (see paragraphs 14-19 below) and is therefore contrary to the doctrine of this church, and therefore, the answer to the question number 2, is “no”.
 - 6.2. Can the form of blessing specified for use by the Regulations be said to be consistent with the discretion given to ministers and the Bishop by section 5 of the *Canon Concerning Services*, and more specifically, whether the form of blessing is “reverent, edifying, and not contrary to doctrine”? If the doctrine of the Church in regard to marriage is that marriage is between a man and a woman to the exclusion of all others for life, then Question 2 clearly must be answered “no”.

“Blessing” - A threshold Question

7. In Anglican liturgy a blessing is more than just a thanksgiving or a prayer for goodwill. It endorses God’s good purpose for a forgiven individual or congregation. This high view of blessing is demonstrated by the fact that only a Priest/Presbyter can offer a blessing.
8. A blessing approves, endorses and sanctifies in the name of the Triune God. It follows that anything that is blessed must be approved, endorsed and sanctified by God in His Word. In the scriptures, “blessing” is counterposed with “cursing” where the nature of curses are declarations against what God does not approve, endorse or sanctify. For example, see Deuteronomy 28.
9. It therefore follows that the only appropriate subject for Anglican liturgical blessing are those behaviours which God approves, endorses or sanctifies. In Constitutional terms, that means those behaviours that are consistent with the Fundamental Declarations.

Is the Regulation about Marriage or not?

10. One way for the Tribunal to avoid having to answer the questions in the reference is to conclude that the Regulation and the proposed liturgy in Appendix A to the Regulations have nothing to do with marriage as understood by the Church and that they are about something different (e.g. love, companionship or friendship) which are outside the Church's understanding of marriage, and therefore can stand alongside the Church's accepted doctrine of marriage.
11. It is submitted that this avoidance approach is not available because the liturgy proposed in Appendix A to the Regulation, on its own terms, makes the proposed liturgy about marriage.
12. The title of the Regulation is: "A Service of Blessing for persons who have been *married* according to the Marriage Act 1961", and the service contains the words "We have come together to ask God's blessing on *N* and *N* as they continue their *married* life together" and "As you have entered into a civil *marriage* and now seek God's blessing ..." (emphasis added). These words make it clear that the Service of Blessing is for the blessing of a marriage, not some other form of relationship.
13. It is not in dispute that marriage according to the Anglican Church is only between a man and a woman. This is accepted even by Bp Parkes himself, in his open letter to the New Cranmer Society of 15 August 2019, in which he writes: *The resolutions of the 2004 General Synod make it clear that marriage in the church – Christian marriage, if you will - is between a man and a woman, voluntarily entered into to the exclusion of all others for life. This is the doctrine of holy matrimony which I uphold. I accept that the marriage of two persons of the same sex cannot take place within the Anglican Church of Australia.*¹

Doctrine or merely Faith Ritual Ceremonial

14. Whether the Regulation deals with "doctrine" or "faith, ritual and ceremonial", is the gravamen of the reference and of these our submissions. Traditionally and historically, Anglicans have understood marriage to be a doctrine emerging from the scriptures and the teaching of Christ. This is clear in reading Matthew 19:1-12 and Mark 10:1-12, alongside Lambeth Resolution I.10 1998, General Synod Resolutions 62.04, 156.10, R51/17, R48/17 and General Synod Standing Committee resolution 5.1B of November 2018, which all present marriage as a doctrine. Any liturgy which purports to vary or to act

¹ Rt Rev A John Parkes AM open letter to New Cranmer Society dated 15 August 2019.

inconsistently with that doctrine or assumes a different doctrine of marriage must be invalid.

15. The Fundamental Declarations in Chapter 1 of the Constitution are crucial to the consideration of this question.
16. “The Christian Faith as professed by the church of Christ from primitive times” (Section 1) refers to the ancient faith of the church. This ancient faith is not confined to the Creeds, which are a particularization of the ancient Christian faith but are not exhaustive, as is clear from the qualifying words in the Constitution, “and *in particular* as set forth”. The ancient faith of the church universal has expressed a doctrine of marriage since those primitive times both in word and by action. That ancient doctrine of marriage is that marriage is an exclusive life-long relationship between a man and a woman. To vary the definition of marriage as proposed in the Regulation would put the Church outside of, and at odds with, the One Holy Catholic Apostolic Church of Christ, and at odds with the majority of other Anglicans and other churches worldwide.
17. Section 2 of the Constitution indicates that any understanding of “marriage” that is blessed by the church must be in accordance with the canonical scriptures of the Old and New Testaments, which are “the ultimate rule and standard of faith” for our church. The scriptures of the Old and New Testament provide no other rule or standard for marriage other than a life-long commitment between a man and a woman. The sustaining of a definition of marriage between persons of the same sex, or any support of same-sex sexual activity, can only be achieved if significant passages of scriptures are deemed not to apply today. These include texts which describe same-sex sexual activity as sin, including: Genesis 19, Judges 19; Leviticus 18:22 and 20:13; Romans 1:26-27; 1 Corinthians 6:9-10; and 1 Timothy 1:8-11. Such a definition also requires the setting aside of scriptures that teach marriage is only between a man and a woman, not least of which are Jesus’ own words in Matthew 19:1-12 and Mark 10:1-12, which appeal, not to any cultural norms, but to creation. There is no passage of scripture which supports a definition of marriage as being between two persons of the same sex, or which supports same-sex sexual activity, in any context. We therefore submit that a regulation to bless marriages, including same-sex marriages, under the Marriage Act is contrary to the Fundamental Declarations of our Church.
18. Section 3 of the Constitution commits our church to “obey the commands of Christ.” Our General Synod in Resolution R51/17 has already affirmed “the doctrine of our Church and the teaching of Christ that, in marriage, “a man will leave his father and mother and be united to his wife, and the two will become

one flesh” (Matt 19:6)” (emphasis added). This position was reiterated by the General Synod Standing Committee in Resolution 5.1B, in November 2018. We submit that the blessing of any marriage not in accordance with this command of Christ, which has been repeatedly affirmed by our church, is therefore contrary to the Fundamental Declarations of our Church.

19. At stake in this reference is whether or not the canonical Scriptures have or retain any authority or relevance to doctrine of the Church other than perhaps as advisory or indicative. The Tribunal must uphold the authority and relevance of the canonical Scriptures. Scripture becomes essentially irrelevant if it is determined that the Scriptures are so confusing and unclear as to be open to contradictory interpretations on an issue as substantial as this one. It becomes meaningless to say that as a church we submit to the authority of Scripture if the Scriptures lack the clarity to guide our Church in the formulation of doctrine.
20. The consideration of the questions posed in paragraphs 12 to 18 above raises a “point of doctrine”. In those circumstances, if the Tribunal is not unanimous upon the point of doctrine, the opinion of the House of Bishops and the board of assessors should be obtained. (Section 58(1) of the Constitution).

Faith Ritual Ceremonial and Discipline

21. The first Ruling Principle in Section 4 of our Constitution retains and approves the doctrine and principles of the Church of England as expressed in the Book of Common Prayer (BCP) for our Church. This expresses the principle of *lex orandi, lex credendi* that “the rule of prayer is the rule of belief”, i.e. as Anglicans “we believe what we pray”. Prayer is not merely devotional, but also declarative and educative. The BCP clearly defines marriage and its purposes in the preamble to the marriage service². We submit that a regulation to allow

² DEARLY beloved, we are gathered together here in the sight of God, and in the face of this Congregation, to join together this man and this woman in holy Matrimony; which is an honourable estate, instituted of God in the time of man's innocency, signifying unto us the mystical union that is betwixt Christ and his Church; which holy estate Christ adorned and beautified with his presence, and first miracle that he wrought, in Cana of Galilee; and is commended of Saint Paul to be honourable among all men: and therefore is not by any to be enterprised, nor taken in hand, unadvisedly, lightly, or wantonly, to satisfy men's carnal lusts and appetites, like brute beasts that have no understanding; but reverently, discreetly, advisedly, soberly, and in the fear of God; duly considering the causes for which Matrimony was ordained.

First, It was ordained for the procreation of children, to be brought up in the fear and nurture of the Lord, and to the praise of his holy Name.

Secondly, It was ordained for a remedy against sin, and to avoid fornication; that such persons as have not the gift of continency might marry, and keep themselves undefiled members of Christ's body. Thirdly, It was ordained for the mutual society, help, and comfort, that the one ought to have of the other, both in prosperity and adversity. Into which holy estate these two persons present come now to be joined. Therefore if any man can shew any just cause, why they may not lawfully be joined together, let him now speak, or else hereafter for ever hold his peace.

the blessing of a marriage which is inconsistent with the doctrine and principles expressed in the Book of Common Prayer contradicts this Ruling Principle.

Conclusion

22. The Tribunal should answer the questions as follows:

1. Whether the regulation **Blessing of Persons Married According to the Marriage Act 1961 Regulations 2019** made by the Synod of the Diocese of Wangaratta is consistent with the Fundamental Declarations and Ruling Principles in the Constitution of the Anglican Church of Australia. **No.**
2. Whether the regulation is validly made pursuant to the Canon Concerning Services 1992. **No.**
