

26/03 Lay and Diaconal Administration of Holy Communion Legal Impediments

(A report from the Standing Committee.)

Introduction

1. In response to the withdrawal of a motion containing a Declaration on the Administration of the Lord's Supper at the 2004 synod (see Appendix A) the Standing Committee of the Diocese of Sydney on 27 March 2006 made the following resolution –

“Standing Committee –

- (a) agrees to appoint a committee to seek written expressions of opinion by 20 June 2006 on the following question –

What is the nature of any legal barrier(s) that would make unlawful the practice of a lay person or deacon administering the Lord's Supper in this Diocese?;

- (b) authorises from 2006 Synod Fund Contingencies the expenditure necessary for the committee to place a suitable advertisement in *Southern Cross*;
- (c) appoints Mrs Claire Smith, Canon Bruce Ballantine-Jones, Bishop Glenn Davies and Canon John Woodhouse as members of the committee, with power to co-opt; and
- (d) asks the committee to prepare a report of the opinions received for the meeting of Standing Committee on 28 August 2006 with recommendations, with a view to Standing Committee making a recommendation on this matter to the 2006 session of Synod.”

2. Mrs Claire Smith subsequently declined to join the committee owing to other commitments. The committee agreed on the wording of the advertisement to be published in the May edition of *Southern Cross*. It read as follows –

Administration of the Lord's Supper by lay persons and deacons

Following a resolution of the Sydney Diocesan Synod in 2004 that the Standing Committee give “further consideration” to the administration of the Lord's Supper

by lay persons and deacons, the Standing Committee has appointed a committee to seek written expressions of opinion by 20 June 2006 on the following question:

What is the nature of any legal barrier(s) that would make unlawful the practice of a lay person or deacon administering the Lord's Supper in this Diocese?

Any person interested in assisting the Standing Committee in this way should forward their opinion, by 20 June 2006, to:

Mr Robert Wicks
Diocesan Secretary
PO Box Q190
QVB Post Office NSW 1230
OR rjw@sydney.anglican.asn.au

3. The committee also agreed to ask the Diocesan Secretary to write to all known qualified lawyers who are members of the Diocesan Synod and to the members of the General Synod Church Law Commission, drawing their attention to the advertisement.
4. Written opinions were received from the following five persons –
Judge Chris Armitage
Mr Neil Cameron¹
Ms Susan Hooke
Mr David Morrison
Mr Mark Payne.
5. The committee is grateful to these persons for their generous assistance in the matter under consideration.
6. The committee met on 20 July 2006 to consider the submissions. It was recognised that there could be difficulty in meeting the timetable for a report to Standing Committee by 28 August 2006. Subsequent events prevented the committee from meeting again in 2006 and fulfilling the proposed timetable. However, this report will be available for Standing Committee to make recommendations, if it sees fit, for the 2007 session of Synod.

¹ Mr Cameron also submitted a paper, written in September 1998, being a critical examination of the Opinion of the Appellate Tribunal on the 1996 References concerning lay and diaconal administration of the Lord's Supper.

The Opinions

7. The expressions of opinion covered a number of topics related to the particular question asked. This report will present a summary of these opinions. References in square brackets are to paragraphs or pages of the relevant opinion. The order in which the opinions are considered reflects the case for the existence of legal impediments followed by the case against.

Mr Mark Payne

8. Mr Payne is of the opinion “that the rule that only a priest may administer the Holy Communion is part of the law of the Anglican Church of Australia in the dioceses of the Church in the Province of New South Wales.” [1.4]

9. Where is this rule? “The rule is part of the consensual compact in force in the dioceses in New South Wales which continues following the establishment of the Anglican Church of Australia under section 71(1) of the Constitution” and “by virtue of section 71(2) which preserves a law of the Church of England in force on the date [of] the Constitution until varied or dealt with in accordance with the Constitution.” [1.4]

10. “[D]ivergent views have been expressed about whether the rule is part of the doctrine and principles of the Church of England embodied in the Book of Common Prayer, the Ordinal and the 39 Articles of Religion”. [1.5]

11. The question as to who may administer the Lord’s Supper “is one which relates to the Church *as a whole*, and not solely to the Church in a particular diocese ... because it affects the relationship of the Anglican Church of Australia to other churches of the Anglican Communion.” [1.7] For this reason, only the General Synod may legislate on the matter.

12. The above conclusions are based, at least in part, on the opinions of the members of the Appellate Tribunal on a number of matters. If the opinions of the Appellate Tribunal are binding, then the matter is settled; if the opinions of the Tribunal are not binding, then “a definitive response” could only be made by a secular court, which “in all probability would follow the opinion of the Appellate Tribunal. [1.12]

13. From 1 January 1962 the rule that only a priest could administer the Holy Communion continued to be part of the consensual compact in each diocese of the Church of England in Australia, by virtue of section 71 of its Constitution. [4.30-31] Accordingly the Act of Uniformity (Section 10) Repeal Ordinance 2003, made by the synod of the diocese of Sydney, cannot have the effect of amending the consensual compact because it is beyond the legislative power of the synod. [5.88]

14. In the *Book of Common Prayer* the rubric before the Prayer of Consecration, when read in the context of the Act of Uniformity 1662, “has the effect of prescribing that a priest is to administer the Holy Communion”. [3.4] Furthermore section 10 of the Act prescribes similarly and this has been restated in the Church of England’s new canons of 1974 (Canon B12). [3.9] There is no common law rule (in addition to the statutory prohibition) that only a priest could administer the Holy Communion”. [3.35]

15. The opinion of the Appellate Tribunal (in a majority of 4 to 3 and the requisite majority of two bishops and two laymen) is that the rule that only a priest may administer the Holy Communion is not enshrined in the Fundamental Declarations of the Constitution. [4.46]

16. The members of the Appellate Tribunal have expressed divergent views on the question as to whether the rule that only a priest may administer the Holy Communion is a “principle of doctrine and worship” embodied in the *Book of Common Prayer* and the Thirty-nine Articles of Religion. Therefore further consideration by the Tribunal is needed before a definitive response can be given to the question whether the rule is included in the Ruling Principles (Chapter 2) of the Constitution. [4.68-69]

17. The General Synod has the power to alter the rule that only a priest may administer the Holy Communion [5.8], but has not done so. [5.10] Neither the Lay Assistants at Holy Communion Canon 1973, the Authorised Lay Ministry Canon 1992, the Australian Prayer Book Canon 1977, nor the Prayer Book for Australia Canon 1995 had altered the rule. [5.11-30]

18. The synods of the Dioceses of New South Wales have the power, by virtue of the 1902 Constitutions to alter the rule that only a priest may administer the Holy Communion, but “sections 47 and 51 of the 1961 Constitution, and clause 3(1) of the 1902 Constitutions, expressly state that the legislative powers of a diocesan synod in New South Wales are subject to the 1961 Constitution.” [5.43] The question remains as to the extent to which the width of the powers of a diocesan synod is constrained or limited by the 1961 Constitution.” [5.43]

19. Whether or not a change in the rule that only a priest may administer the Holy Communion is “an alteration in the ritual and ceremonial of this Church”, the third paragraph of section 71(1) of the Constitution is not necessarily an impediment to the power referred to in the preceding paragraph. [5.48-49]

20. However, the majority of the Appellate Tribunal held that the rule concerning who may administer the Holy Communion affects the Church as a whole. “It was said that a proper understanding of the 1961 Constitution showed that matters which affect the Church as a whole (even in respect to discipline) are properly for the General

Synod to legislate upon, and are not within the legislative competence of an individual diocesan synod.” [5.50]

21. This view is supported by a minority of the members of the Appellate tribunal in relation to a reference concerning the power of a diocesan synod to authorise the ordination of women to the order of priests. [5.53-75] However, this view was subsequently accepted and adopted by a majority of the Appellate Tribunal in relation to lay and diaconal administration of the Holy Communion. [5.65]

22. One member of the Appellate Tribunal asserted that the question of who may administer the Holy Communion affects the order and good government of the Church as a whole because it affects the relationship of the Anglican Church of Australia with other churches of the Anglican Communion [5.68-69] Since the majority of the Tribunal has concurred with this assertion, the Appellate Tribunal has expressed the view “that an alteration of the rule as to who may administer the Holy Communion is a matter which relates to the order and good government of the Church as a whole and, accordingly, is a matter upon which the General Synod must legislate.” [5.71]

23. In brief Mr Payne’s opinion consists of the following points –

- (a) The rule that only a priest may administer the Lord’s Supper is found in the rubric before the Prayer of Consecration in the *Book of Common Prayer* and in section 10 of the Act of Uniformity 1662.
- (b) This rule still exists in this Church by virtue of section 71 of the 1962 Constitution.
- (c) This rule may only be changed by a canon of General Synod because the person who administers the Lord’s Supper is a matter that affects the order and good government of the Church as a whole.
- (d) This matter has been settled by the requisite majority opinion of the Appellate Tribunal.

Judge Chris Armitage

24. Judge Armitage considers that “the proviso to section 71(1) of the Constitution is an insuperable barrier to direct or indirect legislation of lay or diaconal administration of the Lord’s Supper by the Synod of this diocese, either by ordinance or the proposed Declaration.” [p. 17]

25. He considers that the opinion of the Appellate Tribunal is correct in expressing the view that a diocesan synod may not, otherwise than in accordance with a canon of General Synod, legislate for lay or diaconal administration of the Lord’s Supper. Despite the expression of other views to the contrary, “only one remains legally binding, and that is the majority opinion in answer to question 2 on the 1997 Reference in the Appellate Tribunal.” [p. 17]

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26. This majority opinion rested in part on one or more of the following –

- (a) The view that a provision for lay or diaconal administration of the Lord's Supper would be "an alteration in the ritual or ceremonial of the Church" which cannot be achieved by a diocesan synod alone (1961 Constitution, section 71(1)); [p.3]
- (b) The view that the requirement that only a priest may administer the Holy Communion is a principle embodied in the *Book of Common Prayer* and therefore a ruling principle of this Church (1961 Constitution, chapter 2); [p.4] and
- (c) A proper understanding of the relative powers of the General and diocesan synods conferred by sections 26 and 51 of the 1961 Constitution [pp. 4-5], along with the view that an alteration as to who may administer the Lord's Supper is a matter which affects the Church as a whole, one reason being that it is a matter which affects the relationship of the Church with other member churches of the Anglican Communion. [p. 5]

27. The arguments against this majority opinion of the Appellate Tribunal involve –

- (a) The view that who administers the Lord's Supper is a matter of "discipline" rather than "ritual" or "ceremonial", and therefore the powers of a diocese are unaffected by section 71(1) of the 1961 Constitution. This is incorrect because ritual, referring to the words of the rite, must include "*who is to perform an act as well as the form of the act itself*". [pp. 7-9, 12-13]
- (b) The view that the requirement that only a priest may administer the holy communion is not a ruling principle of this Church. [p.8]
- (c) The view that the Synod of the Diocese of Sydney has the power, independent of the 1961 Constitution, to alter this requirement. This view was unanimously held to be wrong in the 1990 opinion of the Appellate Tribunal in the matter of the ordination of women to the priesthood. [pp.10-11]

Ms Susan Hooke

28. Ms Hooke provides her own summary of her opinion.

"I am of the opinion that there are legal barriers that would make unlawful the practice of a layperson or deacon administering the Lord's Supper in this Diocese. The legal barriers are –

- (a) The practice would require an enabling instrument authorised by the Anglican Church of Australia, there is presently no such instrument;
- (b) The only body of the Anglican Church of Australia which may have power to enable lay administration is the General Synod but I am of the opinion that General Synod does not possess the power to pass an enabling canon; and
- (c) in the absence of a canon of General Synod, the Synod of the Diocese of Sydney has no legal power to pass an ordinance to enable lay administration. [p. 2]"

29. Lay or diaconal administration of the Lord's Supper would be contrary to the Fundamental Declarations of the 1961 Constitution (section 3). Therefore General Synod does not have the power to legislate for lay or diaconal administration, despite the majority opinion of the Appellate Tribunal. Nonetheless, if it were established that General Synod did have the power, a canon would be required to effect lay or diaconal administration of the Lord's Supper. [pp. 2-3]

30. The 1662 Act of Uniformity "was not a source of the elements of the consensual compact; it was declaratory statement of the law considered necessary by reason of many lapses. Section 10 (or 14 in some prints) was a penal provision for non-compliance with the law." Therefore, in Ms Hooke's opinion, the Act of Uniformity (Section 10) Repeal Ordinance 2003 as passed by the Sydney Synod did not change the law in this matter. [p.4]

Mr Neil Cameron

31. Mr Cameron summaries his opinion in his opening paragraph [1] –

- (a) there is a legal barrier to a deacon or a layperson conducting the whole of a service of The Lord's Supper on church trust property in the Diocese of Sydney (the "Diocese");
- (b) there may be an indirect legal barrier to a deacon conducting the whole of a service of The Lord's Supper on property in the Diocese which is not on church trust property; and
- (c) there is no legal barrier to a layperson conducting the whole of a service of The Lord's Supper on property in the Diocese which is not on church trust property.

32. Neither the 1961 Constitution nor the 1902 Constitutions, nor any ordinance in force in the Diocese permit or prohibit lay or diaconal administration of the Lord's Supper. [4-5]

33. The rubrics of the *Book of Common Prayer* only allow presbyters to conduct a service of the Lord's Supper in its entirety. However, the *Book of Common Prayer* also only allows ordained persons to read Morning or Evening Prayer. Yet in 1922 the Synod of the Diocese of Sydney passed the Women's Work in the Church Ordinance 1922, which authorised a licensed deaconess, with the approval of the minister, to read Morning and Evening Prayer including the Litany and to address the congregation. It is clear from this ordinance that "the Synod has consistently acted on the assumption that what [it] was doing was changing the law so as to regularise what had been happening in practice or to allow a new practice." [6] In other words, in the absence of any General Synod canon the Synod considered itself competent to change the law of the Church of England in Australia, within the Diocese of Sydney, by ordinance.

34. In 1976 the Synod passed the Readers and other Lay Assistants Ordinance 1976. This ordinance authorised laymen to read Morning and Evening Prayer and certain other services (such as the ministration of baptism and the burial of the dead) when the minister was unavailable. [6] It is to be noted that this ordinance was passed without the existence of any "authorising" legislation having been passed by General Synod at the time.

35. Accordingly Mr Cameron is of the opinion that it is within the competency of the Synod of the Diocese of Sydney to pass an ordinance authorising lay and diaconal administration of the Lord's Supper, as it was within the competency of the synod to pass the Act of Uniformity (Section 10) Repeal Ordinance 2003. [5, 11]

36. The only proviso with regard to deacons or lay persons administering the Lord's Supper is that they only do so in their capacity of assisting the presbyter, in conformity with the Ordinal of AAPB (as authorised by the Australian Prayer Book Canon 1977) and the Lay Assistants at Holy Communion Canon 1973. [8, 11]

Mr David Morrison

37. Mr Morrison wrote a brief letter to the committee in which he acknowledged that he was not a lawyer, but expressed the view that "there is no good reason why we should not have lay administration so long as it is done 'decently and in order'."

38. Mr Morrison also made the following observations:

- (a) Certain laws may become "dead-letters".
- (b) Any laws which may exist preventing lay administration are "dead-letters", in the same way as laws which prohibit extended communion are ignored in some places.

Comment

39. The opinions received by the committee identify a number of issues that are matters of some dispute. To the extent that these matters are uncertain, there is doubt as to whether there is a legal barrier to the practice of a lay person or deacon administering the Lord's Supper. In what follows the main points of dispute are identified.

Is the practice of the Lord's Supper being administered by a priest (presbyter) a custom or a rule?

40. The rubrics in the Order for the Holy Communion in the *Book of Common Prayer* designate the priest as the person who is to say and do various parts of the service (for example, the Bible readings and the Prayer of Consecration). While this may have once been merely a custom, by virtue of the 1662 Act of Uniformity it became law that only an ordained priest may "consecrate and administer ... the Lord's Supper".

What is the effect of the repeal of section 10 of the Act of Uniformity 1662 by an ordinance of the Synod of the Diocese of Sydney?

41. It is commonly recognised that the 1662 Act of Uniformity never had any force in the colony of NSW nor the Church of England in Australia, as the Act was an English law for the Church of England. However, it is also commonly believed that the substance of the Act, and specifically its prohibition against anyone other than a priest administering the Lord's Supper, was part of the consensual compact of the Church of England in Australia.

42. Clause 2 of the Act of Uniformity (Section 10) Repeal Ordinance 2003 states that the relevant section of the Act, "in so far as it continues to have force in this diocese as part of any consensual compact, is repealed."

43. The report accompanying the ordinance cites section 71(1) of the 1961 Constitution as the basis of the synod's power to amend the consensual compact.

44. Those who consider that the Sydney Diocesan Synod does not have the power to change the consensual compact in regard to who may administer the Lord's Supper, generally argue in one of two ways –

- (a) the matter is one of ritual and ceremonial and the 1961 Constitution does not empower diocesan synods to make changes in ritual or ceremonial (section 71(1) of the 1961 Constitution); or
- (b) the matter is one that affects the Church as a whole and therefore can only be changed by a canon of General Synod.

45. The response to both of these objections is –
- (a) the matter is one of discipline, pertaining to the order and good government of the Diocese and even if it were a matter of ritual or ceremonial, section 71(1) only states what the Constitution does not authorise; and
 - (b) the matter does not affect the Church as a whole, as argued below.

46. Nonetheless, these are disputed opinions and it is likely that a definitive answer will only be found in the judgement of a secular court.

Is there a “principle of doctrine and worship” laid down in the Book of Common Prayer or the Thirty-nine Articles of Religion to the effect that only a presbyter may administer the Lord’s Supper?

47. The implicit answer provided by the Appellate Tribunal is that no such “principle of doctrine and worship” exists, otherwise it would be contrary to the Ruling Principles, and therefore unable to be changed except by Act of Parliament.

Is the question of who administers the Lord’s Supper a matter of “ritual or ceremonial” of this Church or a matter of “discipline”?

48. This distinction is relevant, because if it is only a matter of discipline (as Bishop Chiswell argued in his minority opinion of the Appellate Tribunal), then diocesan synods have the power under the 1961 Constitution to make lawful changes to the existing practice of restricting the administration of the Lord’s Supper to presbyters.

49. If it is a matter of ritual or ceremonial, then the 1961 Constitution provides no power to diocesan synods to make any changes. Nonetheless, it is a matter of dispute as to whether a diocesan synod may have other powers, not derived from the 1961 Constitution that enable it to make changes to practices affecting either ritual or ceremonial. This is the view of Mr Cameron, who argues that such powers exist in the Province of NSW under the 1902 Constitutions.

50. However, the Appellate Tribunal argued that, regardless of whether the question is a matter of “ritual and ceremonial” or of “discipline”, to make a change in the law concerning who may administer the Lord’s Supper is a matter that affects the Church as a whole, and therefore any changes to such a practice would require General Synod legislation.

Is the question of who administers the Lord's Supper a matter that affects the order and good government of "the Church as a whole"?

51. The Appellate Tribunal held that it did, although it is difficult to know the reasons for this opinion as no supporting evidence or reasoning was provided.²

52. However, although there was no place for a lay person's participation in reading or leading any of the services in *Book of Common Prayer* when the Diocese of Sydney passed the Women's Work in the Church Ordinance 1922, it was not considered to be a matter that affected the Church as a whole. Similarly when the Readers and other Lay Assistants Ordinance 1976 was passed, this did not affect the Church as a whole. While there were other legal impediments to lay persons or deacons administering the Lord's Supper (viz., the 1662 Act of Uniformity being part of the consensual compact)³ the changes in the liturgy and specifically the inclusion of lay people *per se* did not require a canon of General Synod, as the legislation in the Diocese of Sydney arguably did not affect the Church as a whole.

53. It is the view of the committee that the person who administers the Lord's Supper in a particular congregation in the Diocese of Sydney does not affect the Church as a whole. This was not the case when the Diocese of Sydney passed legislation allowing non-ordained persons to read services of Morning and Evening Prayer, or conduct services of baptism, or to preach sermons. The matter affects the diocese, where the licence is issued, but it has no effect upon other diocese where there would be no implied authority to administer the Lord's Supper.

² Reasons were supplied by Tadjell J (with which Handley J and Young J also concurred) on the question of the powers of the Synod of Canberra and Goulburn to pass the Ordination of Women to the Office of Priest Ordinance 1989. Tadjell J argued that the matter clearly crossed diocesan boundaries in as much as a women ordained priest in Canberra and Goulburn would have legitimate claim to be considered a priest in another diocese. The order and good government of the Church as a whole was therefore affected by the ordinance in question. However, it should be noted that the views of the majority of the Appellate Tribunal on this question failed to constitute the requisite majority under Section 59(1) of the 1961 Constitution.

³ Mr Payne cites Phillimore's *The Ecclesiastical Law of the Church of England* (1873) restating the author's claim at pages 132-33) that "in general, a deacon may perform all the offices in the liturgy which a priest may do, except consecrating the sacrament of the Holy Communion and pronouncing the absolution. Section 10 of the Act of Uniformity 1662 is cited as the authority for such exceptions." [3.33]

Is the opinion of the Appellate Tribunal (by the requisite majority) definitive for the question?

54. The Appellate Tribunal expressed the opinion that the administration of the Lord's Supper by deacons or lay persons was consistent with the 1961 Constitution, in particular the Fundamental Declarations and Ruling Principles.

55. The Appellate Tribunal also expressed the opinion that any change to the current practice of who may administer the Lord's Supper would require a General Synod canon authorising such a change.

56. However, intrinsic to the Appellate Tribunal's majority opinion is the reality that there are opposing legal views, indicated by the minority report on both of the above matters. While the Appellate Tribunal's opinion is not binding (which itself is a matter of dispute)⁴, the very existence of various well respected legal opinions makes it difficult to believe the matter is clear cut. Thus Ms Hooke considers that lay or diaconal administration of the Lord's Supper is inconsistent with the Fundamental Declarations of the Constitution, while Mr Cameron considers that diocesan powers in NSW are able to pass ordinances authorising such a practice.

57. The committee considers that one reason for the variety of legal opinion on this matter is that in this case the legal questions cannot be separated from theological questions. For example the question of whether or not the Fundamental Declarations of the 1961 Constitution constitute a barrier to the administration of the Lord's Supper by persons who are not priests depends in part on what is understood to be essential to the office of priesthood. Similarly the question of whether who administers the Lord's Supper is a matter of "ritual or ceremonial" or a matter of "discipline" depends largely on the theological significance that is seen in the person of the one administering. Furthermore, the view that a change in the practice of some churches in the Diocese of Sydney would affect "the Church as a whole" probably rests on a particular understanding of church and sacrament. Whether or not there is any legal barrier to a lay person or deacon administering the Lord's Supper may finally depend on theological questions.

The Way Forward

58. The existence or otherwise of legal barriers to the Administration of the Lord's Supper by lay persons or deacons is a matter of debate. If, in fact, there is no legal barrier to the Administration of the Lord's Supper by lay persons or deacons, then

⁴ See Keith Mason, *Believers in Court: Sydney Anglicans going to Law* (The 2005 Cable Lecture, published by the churchwardens, St James' King Street, Sydney, 2006).

no diocesan legislation may be necessary. If there is a legal barrier the members of this committee are of the view that it could be overcome by diocesan legislation. However not all agree with these contentions.

59. It is notable that the Appellate Tribunal does not agree that diocesan legislation is sufficient to achieve the express desire of the Synod of the Diocese of Sydney for more than two decades, based on theological, pastoral and mission concerns, to make provision for lay and diaconal administration of the Lord's Supper.

60. One way forward may be to pass diocesan legislation that would enact the desired outcome. The risk of such a course of action would be a likely referral to the Appellate Tribunal concerning the validity of such an ordinance or even a challenge in the secular courts. The synod would need to be aware of the risks of pursuing such a course of legislative action.

61. However, if we were to assume that the Appellate Tribunal opinion is correct, and that General Synod legislation is required to achieve the desired outcome, it is the view of the committee that several General Synod canons may already exist which authorise or provide for the authorisation of lay persons or deacons to administer the Lord's Supper, namely the Ordination Service for Deacons Canon 1985, the Canon Concerning Services 1992, and the Lay Assistants at Holy Communion Canon 1973.⁵ A brief explanation of the committee's view with regard to each of these canons follows.

Ordination Service for Deacons Canon 1985

62. In 1662 the duties of the deacon were to assist the priest when he administered the holy communion and to help him in the distribution thereof. The deacon was also authorised to baptise infants when the priest was absent. The 1985 service, on the other hand, expanded the duties and responsibilities of the deacon and, in particular, authorised the deacon to assist the priest in the administration of the sacraments.

63. While no specific mention is made of either baptism or the holy communion, a plain reading of the ordinance indicates that whatever assistance the deacon may render in the administration of one sacrament would also pertain to the other. No hierarchy of sacraments is expressed in describing the deacon's role of assisting the presbyter. In particular, there is no dispute that the deacon is authorised to administer the sacrament of baptism in its entirety as a means of assisting the presbyter. In like manner, the deacon is similarly

⁵ The General Synod has passed the Authorised Lay Ministry Canon 1992, by which the Lay Assistants at Holy Communion Canon 1973 ceases to have effect in a diocese that adopts the 1992 canon. The Synod of the Diocese of Sydney adopted the 1973 canon, but has not adopted the more recent canon. Therefore the 1973 canon is still in force in the Diocese of Sydney.

authorised to administer the Lord's Supper in its entirety as a means of assisting the presbyter.

64. A fuller argumentation for this view, prepared by Bishop Davies, is contained in Appendix B.

Canon Concerning Services 1992

65. This canon provides, "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." The canon further states, "All variations in forms of service and all forms of service used must be reverent and edifying and must not be contrary to or a departure from the doctrine of this Church."

66. A form of the Lord's Supper which did not require any particular part to be said or conducted by a presbyter would seem to be allowed by this canon, since even the Appellate Tribunal opinion implies that lay and diaconal administration of the Lord's Supper would not be contrary to or a departure from the doctrine of this Church.

Lay Assistants at Holy Communion Canon 1973

67. This canon provides, "Lay persons being communicants may be authorised by the bishop to assist the priest in the ministering and distribution of the Holy Communion."

68. The canon does not define or limit the extent to which the lay person may "assist" the priest. Limitations beyond the fact that the lay person must "assist" the priest are left to diocesan synods. This would seem to allow for the authorisation of lay persons to assist the presbyter by administering any part or all of the Lord's Supper.

69. It would appear, therefore, that the canon of General Synod, deemed by the Appellate Tribunal opinion to be required, may already exist. Notably the 1985 Deacons Canon has been passed into legislation in all dioceses of the Anglican Church of Australia. Hence for diaconal administration of the Lord's Supper, at least, there is a way forward by simply licensing deacons to administer the sacraments in accordance with their ordination responsibilities.

Recommendations

70. That the Archbishop be encouraged to include in the licences of deacons their authorisation to assist the presbyter in administering the sacraments of baptism and the Lord's Supper (consistent with the terms of the Ordination Service for Deacons Canon 1985).

71. That the Synod request that, in accordance with the Canon Concerning Services 1992, an order for the Lord's Supper be prepared and authorised for use in the diocese which does not require a presbyter to say or conduct any particular part thereof.

72. That the Archbishop be encouraged to include in the licences of suitable lay persons their authorisation to assist the presbyter in the ministrations and distribution of the Lord's Supper, (consistent with the terms of the Lay Assistants at Holy Communion Canon 1973).

Standing Committee's response

73. At its meeting on 23 July 2007, the Standing Committee encouraged the Archbishop –

- (a) to include in the licenses of deacons their authorisation to assist the presbyter in administering the sacraments of baptism and the Lord's Supper (consistent with the terms of the Ordination Service for Deacons Canon 1985), and
- (b) to include in the licenses of suitable lay persons their authorisation to assist the presbyter in the ministrations and distribution of the Lord's Supper (consistent with the terms of the Lay Assistants at Holy Communion Canon 1973).

74. Standing Committee also –

- (a) requested that the following motion be moved at the forthcoming session of the Synod "by request of the Standing Committee" –

"That Synod –

- (a) receives the report concerning lay and diaconal administration of holy communion, and
- (b) agrees to consider this report and its recommendations as a matter of priority at the 2008 session of the Synod.", and
- (b) approved of the printing of this report for the forthcoming session of the Synod along with a suitable extract from earlier reports to the Synod, indicating the reasons that lie behind this approach.

75. For the purposes of printing the "suitable extract" referred to in 74(b), a copy of a report from the Diocesan Doctrine Commission printed at pages 459-469 of the 1994 Yearbook has been reproduced in Appendix C. Other reports subsequently received by the Synod on this subject are –

- "16/94 Lay and Diaconal Administration of The Lord's Supper" – a report from a committee appointed by the Standing Committee 1995 Year Book, pages 427-444

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- “Lay and Diaconal Administration of the Lord’s Supper” – a report from the Diocesan Doctrine Commission 1996 Year Book, pages 422-430
- “Lay and Diaconal Administration of the Lord’s Supper” – a report from the Diocesan Doctrine Commission 1998 – 1999 Year Book, pages 449-459
- “34/98 Lay and Diaconal Administration of Holy Communion” – a report of the Standing Committee – 2000 Year Book, pages 490-492
- “25/01 Lay and Diaconal Administration of the Lord’s Supper” – a report from a committee appointed by the Standing Committee 2004 Year Book, pages 392 – 401.

For and on behalf of the Standing Committee.

JOHN WOODHOUSE
Chairman of the subcommittee

26 July 2007

Appendix A

The following motion appeared on the Business Paper for the first day of Synod on Monday 18 October 2004, as a motion moved at the request of Standing Committee. However, Canon John Woodhouse indicated that he did not think that the motion should be moved at this session of synod and subsequently moved that the matter be referred back to Standing Committee for further consideration.

Declaration of the Synod of the Diocese of Sydney concerning the Administration of the Lord's Supper

WHEREAS -

(A) With deep conviction under Almighty God, this Synod believes that holy Scripture contains all things necessary to salvation, so that whatever is not read therein, nor may be proved thereby, is not to be required of any person, that it should be believed as an article of the Faith, or be thought requisite or necessary to salvation.

(B) With deep conviction under Almighty God, this Synod believes that Jesus Christ, in his death on the cross for our redemption, made there (by his one oblation of himself once offered) a full, perfect and sufficient sacrifice, oblation, and satisfaction, for the sins of the whole world.

(C) This Synod thanks Almighty God for the participation of all Christian people in the ministry of the gospel of our Lord Jesus Christ, and in particular the participation of lay persons in the public ministry of the Word of God and prayer.

(D) This Synod believes, with deep conviction under Almighty God, that there is no prohibition or restriction in the holy Scriptures, or in Christian doctrine, on the administration (sometimes referred to as 'presidency') of the Lord's Supper by a suitable person, but who is not a bishop or an episcopally ordained priest.

(E) This Synod has actively considered and debated this subject since 1977, receiving reports from committees and commissions in 1978, 1983, 1984, 1985, 1986, 1987, 1993, 1994, 1998, 2002, 2003 and 2004. After due consideration this Synod has consistently endorsed the principle that, for theological, pastoral and evangelistic reasons, suitable lay persons and deacons should be permitted to administer the Lord's Supper.

(F) The Sydney Diocesan Doctrine Commission concluded in 1993 that –

“... there are no sound doctrinal objections to, and there are significant doctrinal reasons for, lay presidency at the Lord's Supper. There are also sound reasons based on our received Anglican order for allowing lay presidency. In the light of this the continued prohibition

of lay presidency at the Lord's Supper does not seem justifiable theologically. Since church practice should conform to sound doctrine, practical problems related to the introduction of lay presidency ought to be dealt with, but should not constitute an obstacle to reform motivated by theological truth."

(G) The Appellate Tribunal of the General Synod of the Anglican Church of Australia in its opinion of December 1997 on the Primate's reference concerning diaconal and lay presidency, by majority, advised that –

"[it is] consistent with the Constitution of the Anglican Church of Australia to permit or authorize, or otherwise make provision for

- (a) deacons to preside at, administer or celebrate the Holy Communion; [and]
- (b) lay persons to preside at, administer or celebrate the Holy Communion."

(H) The same opinion advised, by majority, that it is not consistent with the Constitution of the Anglican Church of Australia for a diocesan synod, otherwise than in accordance with a canon of General Synod, to permit, authorise or make provision for these ministries.

(I) Both opinions of the Appellate Tribunal were opposed by a minority within the Tribunal and have been opposed by others since 1997. Some consider that there is in fact no legal impediment to the authorisation of lay and diaconal administration.

(J) Differing opinions have been, and continue to be, expressed as to whether there is a law of this Diocese that needs to be changed and, if so, as to the means whereby it may be changed, in order to allow diaconal and lay administration of the Lord's Supper.

(K) The Synod believes that law should allow that which holy Scripture allows and for which there are sound theological, pastoral and evangelistic reasons.

THE SYNOD OF THE DIOCESE OF SYDNEY DECLARES THAT -

(1) This Synod respects the consciences both of those who support the introduction of diaconal and lay administration of the Lord's Supper and those who oppose it.

(2) This Synod commits itself to the continuing investigation and implementation in due course of such processes as may be necessary to formally effect a change in the law of this Diocese to remove any conflict in this matter between what holy Scripture allows and what the law may prevent.

(3) This Synod believes and urges that, until such time as any necessary change in the law can be effected by an appropriate process (or it can be determined by an appropriate process that no change in the law is needed), no disciplinary or other action should be taken against any person merely because the person, in accordance with this Declaration –

- (a) authorises or permits, or purports to authorise or permit, a deacon or lay person to administer the Lord's Supper, or
- (b) being a deacon or lay person, administers, or purports to administer, the Lord's Supper, or
- (c) is involved in the administration, or purported administration, of the Lord's Supper by a deacon or lay person.

(4) This declaration is intended to have application only to the administration of the Lord's Supper by a deacon or layperson and not to any other area of doctrine or worship, or of faith, ritual, ceremonial or discipline, applicable to and in force within this Diocese.

Appendix B

THE AUTHORISATION OF A DEACON TO ADMINISTER THE HOLY COMMUNION

Introduction

1. On 8 March 1996 the Most Rev Dr Keith Rayner, in accordance with Section 63 of the Constitution, referred the following questions to the Appellate Tribunal.

“1. Is it 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?*

2. If the whole or any part of the answer to Question 1 is YES, is it 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 Question 1?”

2. By majority the Appellate Tribunal answered questions 1(a) and 1(b) in the affirmative, and question 2 in the negative. In other words, the Appellate Tribunal declared the administration of the holy communion by deacons was consistent with the constitution of the Anglican Church of Australia, and specifically its Fundamental Declarations. However, in order for this practice to be lawful in any diocese, a canon of General Synod authorising such practice would be required.

3. It is the contention of this paper that such a canon already exists, namely, the General Synod Ordination Service for Deacons Canon 1985, which authorises deacons to administer the holy communion.

The 1985 Ordination of Deacons Service

4. In 1985 the Ordination Service for Deacons Canon was passed by General Synod and has since been adopted by every diocese in Australia. In essence this canon authorised a new service for the making of deacons, as set out in the Schedule. The new service was introduced on the basis of the changing shape of the diaconate and the perception that the 1978 service in *An Australian Prayer Book* was inadequate for setting out the responsibilities of a deacon at the end of the twentieth century. The 1985 canon, introduced into General Synod by the chair of the Liturgical Commission, was deemed an important

step in revision of the ordinal, which came to full expression in the 1995 canon authorising *A Prayer Book for Australia*.

5. Two notable changes occur in the service. First, the restriction upon the deacon, who could previously only baptise infants in the absence of the priest,⁶ is removed so that the deacon may baptise a candidate of any age and do so, if appropriate, in the presence of the priest. Second, the authority to preach, which was previously dependent upon the bishop's permission is replaced with the bishop's instruction: "to preach the word of God in the place to which you are licensed." In other words, the licence to preach, which was not inherent in the *BCP* service, is now constitutive of the order of deacon.⁷

6. Under the 1985 canon, both of these changes are highlighted in the words of the bishop when he gives the deacon a copy of the New Testament: "Receive this sign of your authority to proclaim God's word and to assist in the administration of the sacraments."

7. These changes have been universally recognised as an authorisation of the deacon to preach God's word and to administer baptism to candidates of any age. In many ways this represented a liturgical catch up as many deacons had baptised candidates other than infants, and the recognition that there are occasions when it is appropriate for a deacon to baptise, notwithstanding the presence of a priest. However, what is curious about the wording of the 1985 service is the explicit inclusion of the holy communion in the deacon's responsibilities. On three occasions the term "administration" of the sacraments is used in the service, whereas the word "baptism" does not occur at all.

8. From the bishop's instruction –

You are to be faithful in prayer, and take your place with bishop, priest and people in public worship and at the administration of the sacraments.

9. In the bishop's questions –

Will you take your part in reading the holy scriptures in the church, in teaching the doctrine of Christ, and in administering the sacraments?

10. In the bishop's authorisation –

⁶ "It appertaineth to the office of a Deacon...in the absence of the priest to baptize infants." *BCP* Ordinal.

⁷ The bishop's charge in the Ordinal of *BCP* states: "Take thou authority to read the Gospel in the church of God, and to preach the same, if thou be thereto licensed by the Bishop himself."

Receive this sign of your authority to proclaim God's word and to assist in the administration of his holy sacraments.

11. What pertains to the authority to administer baptism pertains to the authority to administer holy communion. There is no differentiation in the service between the deacon's authority to administer either sacrament. In both cases the deacon is assisting the priest, whether it be in administering baptism or in administering holy communion.

Objections to Deacons' Administering Holy Communion

12. Three objections immediately arise concerning the above interpretation that administration of holy communion is included in the responsibilities of a deacon. First, the term "administration" does not imply "celebration" or the recital of the prayer of consecration. It merely means distribution of the consecrated elements. Second, the service only speaks of the deacon taking his or her "part" in the administration, so that even if administration means "celebration", the part of the deacon is to assist the priest, not to take the place of the priest, as is the custom of diaconal ministry. Third, it was not the intention of the General Synod to authorise deacons to administer the holy communion, because the law of the Anglican Church of Australia, as expressed in the 1662 Act of Uniformity, prohibits anyone other than an episcopally ordained priest to administer holy communion.

First Objection

13. The use of the term "administration" has had a particular reference in the history of Anglicanism to the conduct of the service of the Lord's Supper since the first English Prayer Book of 1549.⁸ Moreover, the title of the service in the 1662 Book of Common Prayer bears the same wording as that of 1552 service: The Order for the Administration of the Lord's Supper or Holy Communion

14. In Anglican formularies the use of the word "celebration" is somewhat of a novelty, the historically preferred word being "administration". However, as the aforementioned Reference of the Primate to the Appellate Tribunal indicates, both "celebrate" and "preside" act as synonyms for "administer".

15. In Canon 71 of the 1604 Canons, there is a particular reference to the "administration of the holy communion".⁹ In Canon 56, in reference to the duties of stipendiary Preachers and Lecturers, administration is equally applied to both sacraments –

⁸ The titles of the first two English Prayer Books are: "The Booke of the Common Prayer and Administracion of the Sacraments, and Other Rites and Ceremonies of the Church after the Use of the Church of England" (1549); and "The Boke of Common Prayer and Administracion of the Sacraments, and Other Rites and Ceremonies in the Church of England" (1552).

⁹ See also Canons 56, 57, 58.

[they] shall likewise as often every year administer the Sacraments of Baptism, if there be any to be baptized, and of the Lord's Supper, in such manner and form, and with the observation of all such rites and ceremonies as are prescribed by the Book of Common Prayer in that behalf...

16. Richard Hooker refers to the term when discussing the objections of those who "allow no invention of man to be mingled with the outward administration of sacraments".¹⁰ Similarly, in reference to the sacrament of the body and blood of Christ, Hooker states:

...they [the apostles] being the first that were commanded to receive from him, the first which were warranted by his promise that not only unto them at the present time but to whomsoever they and their successors after them did duly administer the same, these mysteries should serve as conducts of life and conveyances of his body and blood unto them, was it possible they should hear that voice, 'take, eat, this is my body; drink ye all of this, this is my blood'...¹¹

17. By citing the words of Jesus, Hooker unmistakably includes the prayer of consecration within the act of administration.

18. The language of administration continues to be used to this day in the Revised English Canons of 1969, where the heading of Section B is entitled: "Divine Service and the Administration of the Sacraments". The term is also specifically used of the Holy Communion (B12) and of Holy Baptism (B21). Moreover, the distinction is made between "administer" and "distribute". On the one hand, "no person shall consecrate and administer the holy sacrament of the Lord's Supper unless he shall have been ordained priest by episcopal ordination"; on the other hand, only an ordained person (including deacons) or a "specially authorized" layperson may distribute the Lord's Supper to the people (B21). Clearly the "administration" includes the prayer of consecration and the service proper, while the distribution refers to that part of the service where the bread and wine are offered to communicants.

19. In the Form and Manner of the Making of Deacons (*BCP*), it is very clear that the administration of the Lord's Supper is not part of the duties of a deacon. The deacon assists, but it is the priest who administers the sacrament and the deacon also helps in the distribution of the consecrated elements.¹² It is not possible therefore,

¹⁰ *Ecclesiastical Polity* V.lxv.3.

¹¹ *Ecclesiastical Polity* V.lxvii.4.

¹² "It appertaineth to the office of a Deacon, in the church where he shall be appointed to serve, to assist the priest in Divine Service, and specially when he [the priest] ministereth the holy Communion, and to

to reinterpret the language of “administration” when referring to the sacraments as other than the conduct of the rite, whether it be baptism¹³ or holy communion. This is the language of the Prayer Book and of the Canons of 1604, which continues to be used in the English Canons of 1969.

Second Objection

20. The language of “assistance” or of deacons’ taking their part in the administration of the holy communion has been construed by some to indicate that the whole service is not in the hands of the deacon, this being the established custom of the Anglican Church. However, there is nothing in the canon to indicate this. Rather, the canon is undifferentiated in its description of the deacon’s part in baptism and the deacon’s part in holy communion.

21. It was the established custom of the Anglican Church to restrict deacons to baptising only infants, in accordance with the *BCP* Ordinal. Yet this restriction is plainly removed by the new canon. In other words there is a new part for the deacon to play. Significantly there is no other church law, other than the words of the Ordinal that describes such a restriction. Likewise, there is nothing in the new service, which prevents deacons from baptising a candidate in the presence of the priest. The absence of this *BCP* restriction is not accidental but deliberate, as it seeks to redefine the role of the deacon in baptism. This new role is still seen as assisting the priest, but such assistance may now be rendered in the presence as well as the absence of the priest. The concept of “assistance” does not preclude the deacon’s administering the rite of baptism in its entirety.

22. Since the canon is undifferentiated in its reference to the deacon’s assistance in the administration of the sacraments—noting that neither baptism nor holy communion are explicitly mentioned in the canon—the expanded role of the diaconate may properly be seen in the deacon’s assistance to the priest in holy communion as well as in baptism. The words of the canon are capable of being interpreted as a change in custom in the role of the deacon, superseding the role assigned to the deacon in the *BCP*. If the deacon is now authorised to assist the priest by administering baptism to adults as well as infants in his absence (let alone his presence), then there is no justification for reading the canon as restricting the deacon’s assistance to the priest by administering the holy communion in his absence (or even in his presence). The language of the canon plainly authorises the deacon

help him in the distribution thereof, and to read holy Scriptures and Homilies in the Church...” *BCP* Ordinal.

¹³ The title of the service in the *BCP* is “The Ministration of Publick Baptism of Infants to be used in the Church”. However, the alternating use of the verb “administer” and “minister” in the opening rubric indicates that the two words were used synonymously.

to assist the priest in the administration of both sacraments, not baptism only. The canon provides no qualification of this assistance and no indication that the administration of either sacrament cannot be undertaken by the deacon. Significantly there is no church law, other than the 1662 Act of Uniformity, that prohibits deacons from administering the Lord's Supper, and according to the majority opinion of the Appellate Tribunal, such administration is consistent with the Constitution of the Anglican Church of Australia.

Third Objection

23. As indicated above, there is no law in the Anglican Church of Australia that prohibits deacons from administering the Lord's Supper. While the use of the term "priest" in the Holy Communion Service in *BCP* might suggest otherwise, it is to be noted that in the Baptismal Services of *BCP* it is the priest who administers the rite. Yet it was in full accordance with church law for a deacon to take his part in administering the rite when the candidate was an infant and the priest was absent. Accordingly, the 1985 ordination service of deacons authorises the deacon to administer the sacrament of holy communion (at the very least, in the absence of the priest).

24. Nonetheless it may be argued that Section 10 of the 1662 Act of Uniformity, which prohibits any person other than an episcopally ordained priest to administer the Lord's Supper, is still operative in Australia.

No person...shall presume to consecrate and administer the holy sacrament of the Lord's Supper, before such time as he shall be ordained priest according to the form and manner in the said book prescribed [*Book of Common Prayer*], unless he have formerly been made priest by episcopal ordination...¹⁴

25. The Act of Uniformity was repealed in England in 1974, but it was still the law of the Church of England in 1961, when the Constitution of the Anglican Church of Australia was passed. In the Red Book Case it was held that although the Act of Uniformity was part of the consensual compact and a necessary part of the trust on which property was held for the use or benefit of the Church of England in Australia, it was never in force in NSW as a Public Act.¹⁵ It has been a moot point for several decades, therefore, as to the nature of the force of the 1662 Act of Uniformity in NSW.

26. In order to settle this matter of the extent to which the Act of Uniformity is in force by virtue of the consensual compact, the Synod

¹⁴ Act of Uniformity, 1662 (14 Car.2, c.4), s.10

¹⁵ Latham CJ, *Attorney General v Wylde* (NSW) [1948] 78. CLR 224 at 262.

of the Diocese of Sydney repealed Section 10 of the Act in 2003,¹⁶ thereby negating its effect as part of the consensual compact, in accordance with section 71(1) of the Constitution. The 2003 Ordinance thereby effectively removed all legal obstacles to the administration of the Lord's Supper by a deacon.

27. Of course, it could still be argued that it was not the intention of the General Synod in its 1985 Canon to authorise deacons to administer the holy communion. Yet the history of the General Synod indicates that from time to time canons lawfully made have had unintended consequences. For example, when The Use of the Surplice Canon 1977 was passed, it was apparently not the intention of the General Synod that the Canon could be used to dispense with the surplice altogether. However, when it was recognised that this was the case,¹⁷ the General Synod moved to repeal the 1977 Canon and replace it with the Canon Concerning Vesture of Ministers 1992. This latter canon effectively empowered the bishop to require ministers to comply with such standards of vesture as prescribed by diocesan ordinance or, in the absence of such ordinances, by his own determination. It is not without interest, however, that in 1995 when General Synod authorised *A Prayer Book for Australia*, which included a revised service of Ordination of Deacons, it did not repeal the 1985 Canon. This is especially surprising given the fact that the APBA service appears to be more restrictive in the deacon's role of assisting the priest.¹⁸

Conclusion

28. The Appellate Tribunal has expressed the opinion that the administration of the holy communion by deacons is consistent with the Constitution of the Anglican Church of Australia. However, for a change in the law of this Church to become effective, they expressed the view that a canon of General Synod would be required to authorise such a practice. It is the contention of this paper that such a General Synod canon exists. The Ordination Service for Deacons Canon 1985 expressly authorises the deacon to assist the priest in the administration of the sacraments. Such assistance it is argued equally applies to holy communion as it applies to baptism; and there is no

¹⁶ Act of Uniformity (Section 10) Repeal Ordinance 2003.

¹⁷ The passing of the General Synod—The Use of the Surplice Canon 1977 Adopting Ordinance Amendment Ordinance 1988 by the Diocese of Sydney, which allowed for universal surplice relief in public worship (by resolution of a vestry meeting), no doubt prompted the General Synod to change the canon.

¹⁸ The bishop's exhortation reads: "Together with your bishop, priest and people you are to take your place in public worship, assist in the administration of the sacraments..." The bishop's examination reads: "Will you take your part in reading the holy Scriptures in the church and in assisting the priest to teach the doctrine of Christ and administer the sacraments?"

dispute that a deacon can administer baptism. The only possible impediment to a deacon administering the holy communion is section 10 of the 1662 Act of Uniformity, which in the Diocese of Sydney has been repealed.¹⁹ It is therefore competent for the Archbishop of Sydney to license a deacon to assist the priest in the administration of holy communion as well as baptism, if the deacon has been ordained in accordance with the schedule of the 1985 Canon.

Glenn N Davies

16 June 2007

¹⁹ It is arguable that the General Synod Canon establishes the law of this Church, regardless of the existence of the Act of Uniformity and of the consensual compact, as long as it is consistent with the Constitution, which, of course, is the opinion of the Appellate Tribunal.

Appendix C

Lay Presidency at the Lord's Supper

(A report from the Diocesan Doctrine Commission of the Anglican Diocese of Sydney.)

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1. A Brief History

- 1.1 In 1983 the Synod of the Diocese of Sydney received a report from the Diocesan Doctrine Commission which was a response to the General Synod Doctrine Commission Report, *Towards a Theology of Ordination*. The Sydney report drew the following conclusion –

"Since the [General Synod] Report, in our judgement, is in error regarding (a) 'the nature of ministerial priesthood', it can also be shown its conclusions are incorrect regarding (b) 'the relationship between ordination and presidency at the Holy Communion', (c) 'lay presidency at the Holy Communion', and (d) indelibility."

The report then examined the question of lay presidency at the Lord' Supper in the light Biblical, historical, theological and contemporary considerations. This part of the report concluded –

"If the Christians of the sixteenth century rediscovered [the] biblical doctrine of the *Priesthood* of all believers, Christians of the twentieth century are rediscovering the *Ministry* of all believers. Fundamental to that ministry of all believers is the word-ministry of the pastors and teachers in the congregation which equips the other members for their ministries (Eph. 4: 11-12). One of these ministries is leadership to be exercised by those members whose gifts of experience and maturity commend them to the

congregation. Presiding at the Eucharist is a proper expression of such gifts, and one which is thoroughly in keeping with the 'body members' gifts' pictures of church life within the New Testament."

- 1.2 The 1983 Synod resolved (37/83) that a committee be set up –
"to explore the desirability and constitutional aspects of lay presidency at the Holy Communion."
- 1.3 1985 Synod received the report of the committee which affirmed the desirability of lay presidency at Lord's Supper in certain circumstances, and noted that –
"A person should not be given authority to preside at the Lord's Supper unless he or she is authorised to preach *and vice versa*." (emphasis added)

and recommended alterations to the Deaconesses, Readers and Other Lay Persons Ordinance 1981 to give effect to the proposal.

- 1.4 That Synod resolved (18/85) that it –
"endorses the principle of lay presidency and requests the Standing Committee to investigate ways the possible legal and other difficulties in enacting this principle could be overcome."
- 1.5 The 1986 Synod received the report of the committee which stated –
"the committee accepts that there exist no doctrinal objections to lay presidency in the context contemplated by Synod. This context includes the authorisation by the bishop of suitable and duly prepared persons in situations where the regular ministry in the local congregation of an episcopally ordained priest is not available. The reason for stressing this context is that we see difficulties if lay presidency became the norm as there are some who would argue that it could alter the role of the priest whom they would see as a focus of leadership and unity."

The report further stated –

"We do not think that there would be a threat to the concept of the three orders if the Church allowed lay presidency as contemplated."

"The majority of the committee believes that lay presidency as contemplated does not contravene any 'principle of worship' of the Book of Common Prayer envisaged in Section 4 of the 1961 Constitution."

- 1.6 The 1987 Synod received the report of a Legal Committee which declared –

"There is no principle of worship involved, nor any principle of doctrine, in having a lay president ... in situations where the rector (archdeacon or bishop) is obviously the president of the congregation, but the particular service, at the president's direction, is carried out by a lay person."

"... a majority of the members ... are of the view that there is no legal impediment to lay presidency ... and that the view of the 1985 committee and the majority of the 1986 committee is correct in law." (There was a minority report.)

- 1.7 In 1992 the Synod referred to Standing Committee a notice of motion –

"In the light of Synod resolution 18/85 endorsing the principle of lay presidency and the further report to the 1987 Synod, Standing Committee is requested to bring to the next session of Synod legislation to enable lay persons to preside at the Lord's Supper."

- 1.8 In 1993 Standing Committee referred to the Doctrine Commission for its comment the above notice of motion.

2. Theological Assumptions

- 2.1 The Doctrine Commission accepts the finding of the 1983 report that the arguments against lay presidency at the Lord's Supper, such as those expressed in the General Synod Doctrine Commission Report *Towards a Theology of Ordination*, are incorrect, and that "there is no Scriptural or doctrinal barrier to lay presidency".

- 2.2 Moreover there do exist positive reasons, theological, historical and practical, for allowing lay presidency at the Lord's Supper.

- (a) The welcome development of lay preaching ministry over many years has resulted in a distortion of our Anglican order which has, in effect, elevated the Sacrament above the Word in that those authorised to preach are not necessarily authorised to preside (note

the words "vice versa" in the 1985 report quoted above). To preserve the balance of Anglican order there is a need for lay ministry of the Sacrament to develop in a way corresponding to lay ministry of the Word.

- (b) On the grounds that Jesus Christ alone was the proper *sacramentum* given us by God (1 Tim 2:3-7; 3: 14-16), the 16th century Reformers worked to heal the split between Word and Sacrament endemic to medieval theology and practice. Anglican writers of the period when the formularies were being composed "regarded the ministry of the word and that of the two sacraments as closely bound up together, and were, generally speaking, entirely free from those sacerdotal conceptions which put the ministry of the eucharist in a class by itself"ⁱⁱⁱ While the question of lay presidency at the Lord's Supper hardly arose in this period, this was because lay ministry was generally only envisaged in cases of necessity or "highly remote theory".ⁱⁱ Normally a layman could neither preach nor administer the sacraments. Where opposition to lay presidency was expressed, it was in terms of the general argument propounded by Calvin, which was based on the concept of those "called and authorised" to each and administer the sacraments.ⁱⁱⁱⁱ The main stream of Anglican writers did not apply Calvin's argument narrowly, as can be seen in their views of lay baptism, and, at least theoretically, of lay preaching. The development of Anglican lay ministry generally in more recent times has likewise not accepted a restricted application of Calvin's principles of order to modern church life. We have recognised that lay people too may be "called and authorised" for various ministries. However the separation we now see between preaching and sacraments was inconceivable to the Reformers. This separation has developed in the climate created in Anglicanism by the theology of the 19th century Tractarian movement which reverted to pre-Reformation views of Church and ministry.^{iv}
- (c) It follows that the role of presiding at the Lord's Supper should not be elevated above the role of presiding when the congregation of God's people gathers for prayer and the hearing of God's Word. This is not a diminution of the importance of the Lord's Supper: it is, rather, a recognition of the importance of every gathering of God's household. At the centre of every such assembly must be the word of Christ, the gospel of Jesus Christ and him crucified. We have rightly recognised that the headship of Christ over his household allows for any suitably

mature and gifted member of the congregation to be authorised to preside at Morning and Evening Prayer (see the conclusion to the 1983 Doctrine Commission Report, 1.1 above). It follows that the prohibition of lay presidency at the Lord's Supper is today a serious inconsistency, which has distorted Anglican order as envisaged in our formularies (see (d) below).

- (d) The anomaly of churches, schools, colleges which have regular Anglican ministry, but must bring in an outside priest on certain occasions in order to conduct the Lord's Supper suggests the "Mass priest" concept rightly rejected by our forebears.
- (e) When lay people are permitted to share in every form of ministry except one in the regular meetings of the congregation, except one, the impression can be given that the prohibited thing is the essence of ordained ministry. A sacerdotal view of the priesthood is difficult to avoid. Again this is a distortion of Anglican order due to the welcome developments in lay ministry which have not however been matched in the ministry of the Sacraments.

3. Ordering Ministry in the New Testament

3.1 Ministry is exercised in the New Testament by two principles –

- (a) A "charismatic" principle whereby the members of a congregation exercise various and diverse gifts for its edification (e.g. 1 Cor 12:4-13; 14:1-38; Rom 12:3-8).
- (b) An "official recognition" principle whereby some persons called "elders"/"bishops" and "deacons" appear to have had an accepted "role" or "office" within congregations (e.g. Acts 14:23; 15:2; 20:17, 28; 21:18; Phil 1:1; 1 Tim 3:1-13; 5:17-22; Tit 1:5-9; Ja 5:14; Heb 13:17; 1 Pet 5:1-4; 2 Jn 1; 3 Jn 1; (cf. e.g. Rev 4:10)).

These "elders"/"bishops" are to be found across the New Testament writers - Paul, Peter, James, John, Luke-Acts - and must be regarded as well established roles within the New Testament.

Other references include "those who lead", "him who catechises", "pastor-teachers," "teacher", "those who are ... over you in the Lord" (Heb 13:7; Gal 6:6; Eph 4:11; Ja 3:1; 1 Thess 5:12).

Hints of the principle of "official recognition" are seen in the practice of "the laying on of hands" (e.g. Acts 6:6; 13:3; 1 Tim 1: 18; 4: 14; 5:22; 2 Tim 1:6) and the show of hands/voting hence electing (Acts 14:23; cf. 2 Cor 8: 19).

- 3.2 There appears to be considerable fluidity implied between "charismatic" and "official recognition" in the New Testament references; clear cut definitions do not easily emerge from the relevant texts.
- 3.3 Nonetheless it seems likely that the "official recognition" principle applied where ministry was exercised in the congregation on an ongoing basis, including where a minister was remunerated (Gal 6:6; 1 Tim 5: 17). This may account for the weight given in the New Testament to qualifications for "elders"/"bishops" and "deacons" (1 Tim 3:1-13; Tit 1:5-9) and the duties of "elders" (1 Pet 5:1-4; Acts 20: 17-36).
- 3.4 It should be further noted that we have no New Testament statements as to who "presided" at the Lord's Supper.. The question of Lay Presidency at the Lord's Supper today involves more than the direct application of explicit New Testament teaching to modern church life.
- 3.5 The Doctrine Commission affirms a high view of the Lord's Supper and the presidency at the supper. It is a *koinonia* in the blood of Christ/the body of Christ; a sharing in the cup of the Lord/the table of the Lord. In hearing watching and eating/drinking "in remembrance" of the Lord, his people participate in an eschatological occasion, which to misuse is to profane the body and blood of the Lord and risk illness or even death (see 1 Corinthians 10-11).
- 4. Anglican Order**
- 4.1 Questions of order in Christian ministry and church life are often not settled by direct Biblical prescriptions, and a certain liberty is recognised in such matters (Article 20). However order must reflect and express sound theology. The biblical doctrines of justification by faith alone, of the atoning death of Christ, and of the Word of God led to the rejection of sacerdotalism and insistence on the unity of word and sacrament seen in the ordering of ministry in the Book of Common Prayer and The Thirty Nine Articles (e.g. Articles 2, 6, 11, 19, 25 - 31).
- 4.2 The Anglican formularies, as defined by the Book of Common Prayer and the Thirty Nine Articles –
- (a) joined together word and sacrament, and
 - (b) made the ministry of the sacraments secondary to (and dependent upon?) the ministry of the word.
- 4.3 In the Ordination of Priests the Bishop "shall deliver to every one of them .., the Bible" and say –
- "Take thou authority to preach the Word of God,
and to minister the Holy Sacraments in the

Congregation where thou shall be lawfully appointed thereunto."

A Priest is ordained –

- (a) to "preach", and also
- (b) to "minister the Holy Sacraments in the Congregation."

- 4.4 On the other hand the Deacon is handed only the New Testament and given "Authority to read the Gospel in the Church of God, and to preach the same," if he is "thereto licensed by the Bishop". This is a diminished authority as compared to the Priest who is given a Bible and who solemnly agrees to "teach the people committed to [his] Cure and Charge." The difference between Priest and Deacon in the Ordinal is seen most clearly in terms of the responsibility and authority taken by the former for "the Congregation where [he] shall be lawfully appointed thereunto", rather than in terms of specific actions he is authorised to perform. The Deacon is to assist the Priest in Word and Sacrament. (It therefore appears to be inconsistent that a Deacon may in the absence of the Priest baptise and preach (if admitted thereto by the Bishop) and yet have no authority to preside at the Lord's table.) See the Doctrine Commission's paper on Diaconal Presidency.
- 4.5 According to the Ordinal, and the New Testament which in this respect it accurately reflects, the priest/presbyter's identity consists in the responsibility he takes for "the people committed to your charge", "all within your care", "the flock of Christ", "those who are committed to your care". The authority he takes for this task is the authority "to preach the word of God, and to administer the holy sacraments in the congregation". Ordination is therefore more than a license to perform certain actions (preach, administer). Ordination confers responsibility for and authority in the congregation.
- 4.6 In our received order, therefore, on the one hand we reject the notion of a sacerdotal priesthood, and on the other hand we do not separate the ministry of word and sacrament; those licensed to preach also preside at the table; those who preside also preach. This principle was recognised in the 1985 Report (#7).
- 4.7 However with the subsequent development of lay ministry of the Word in the Anglican Church our inherited order has been distorted. We now have many persons licensed to preach who are not permitted to preside at the Lord's Supper.
- 4.8 It is important to note that while the principle of not separating Word and Sacrament may have been expressed in the Ordinal by authorising the one person to perform both functions, the same principle is also expressed liturgically in the Lord's

Supper in the Book of Common Prayer, where the Sacrament must be accompanied by a sermon. It is relevant to note that this is a concept applied to the theology of the Sacraments (i.e., the Sacrament must be accompanied by the Word preached), but not to the theology of the Word (i.e. the Word need not be accompanied by the Sacrament).

- 4.9 Although the situation may not have been envisaged in the 16th century, the principle of the unity of Word and Sacrament does not seem to be compromised simply by virtue of their being conducted by different persons. When one priest presides at the Lord's Supper while another priest preaches the sermon (a common Anglican practice), or when a lay person reads the Bible in the Lord's Supper service, it would be difficult to argue that Word and Sacrament had thereby been separated.
- 4.10 To preside at the Lord's Supper one would need to be a person of good repute, respected in the congregation, a mature Christian with an adequate grasp of Christian truth and able to lead the service acceptably. But the question arises whether only those authorised to preach should be authorised to preside. Here the members of the Commission took different views.
- 4.11 Some held that the qualifications for presiding at the Lord's Supper should be precisely the same as the qualifications for presiding at Morning or Evening Prayer (see 2.2(c) above). To preach the Word, one needs at least those qualifications, but preaching has additional demands, and requires additional gifts. Therefore it seems reasonable to say that anyone who is authorised to preach, should also be authorised to preside, but, at least in principle, some may be authorised to preside who should not be authorised to preach. In other words anyone who is competent to preach will be competent to preside, but not necessarily vice versa. Our current practice is the reverse of this.
- 4.12 Others took the view that presiding at the Lord's table should be limited to those licensed to preach. This view maintains that since in the Ordinal authority "to minister the Holy Sacraments" is secondary to (and dependent upon) authorisation "to preach the Word of God" in the congregation (see 4.1,2 above), the same principle should apply to lay presidency. A high view of the Lord's Supper (see 3.5) demands a high view of those qualified to preside at the meal on behalf of the congregation. Furthermore, in the absence of the rector the possible need for the president to exercise discretion and discipline of communicants, as envisaged by our Order, means that the president must be of sufficient maturity and standing in the congregation. Since the teaching of the Word should only be

permitted to individuals on the most stringent of qualifications, it is held that the Lord's Supper and the presidency at the Lord's Supper is best secured by requiring that only those who are authorised to teach should be authorised to preside.

- 4.13 In any case the Doctrine Commission agrees that the theological principles behind the ordering of ministry in the Anglican formularies have the following implications.
- (a) Those authorised to preach should be authorised to preside at the Lord's Supper.
 - (b) Since there should be no distinction between qualifications required to preside at the Lord's Supper and qualifications required to preside at Morning or Evening Prayer, the present requirements for presiding at Morning and Evening Prayer may need to be reconsidered.

5. Qualifications

- 5.1 Lay persons who are to be authorised to preside at the Lord's Supper (and Morning and Evening Prayer) should have demonstrated educational, theological, personal and pastoral fitness to do so. Appropriate externally established educational and personal qualifications for such ministry are desirable.

6. Safeguards

- 6.1 To protect congregations from the imposition of persons unsuited for this task it is desirable that –
- (a) lay persons who will preside must first be approved by
 - (i) nomination by the incumbent, and
 - (ii) resolution of the Parish Council; and
 - (b) a lay person may not preside at the Lord's Supper unless licensed to do so by the Archbishop or Assistant Bishop.

7. Some Implications of Lay Presidency

- 7.1 Some concern was expressed in the 1986 report that -

"... we can see difficulties if lay presidency became the norm as there are some who would argue that it could alter the role of the priest whom they would see as a focus of leadership and unity."

It is unlikely that lay presidency will become the "norm" (in the sense of more usual than clergy presiding) any more than lay preaching has. On the other hand the suggestion that lay presidency should be perceived as a departure from "the norm" (in the sense that it should be thought of as "abnormal") must

be opposed on theological grounds. Therefore to allow lay presidency only "where the regular ministry in the local congregation of an episcopally ordained priest is not available" (as envisaged in the 1986 report) is unacceptable, unless we are going to insist on the same principle for lay preaching, and for lay presiding at Morning and Evening Prayer. The position expressed in the 1987 report (which is consistent with the 1983 report) is preferable. That report declared there to be no problem with a lay president "in situations where the rector (archdeacon or bishop) is obviously the president of the congregation, but the particular service, at the president's direction, is carried out by a lay person".

- 7.2 The introduction of lay presidency must not be interpreted as reflecting a low view of the Lord's Supper, but rather of a high view of the ministry of lay people.
- 7.3 Our current practice encourages both a perception of a "Mass Priest" when a congregation brings in an outside priest in order to share the Lord's Supper, and a sacerdotal view of the priesthood, when the one thing that only the priest can do is preside at the Sacrament. The introduction of lay presidency is bound to diminish both of these aberrations of Anglican polity.
- 7.4 To this point the paper has discussed the question of lay Presidency without specific gender reference. In the light of contemporary debates, it is appropriate to ask how the proposal to allow lay presidency applies to the general question of how women may appropriately exercise their ministries. Is there any barrier to lay women presiding at the Lord's Supper? If there is no difficulty with lay women taking this ministry, it may be asked what further barrier remains to the ordination of women to the priesthood?
 - (a) On biblical and theological grounds the Synod of the Diocese of Sydney has declined to ordain women to the priesthood. These grounds have included New Testament texts indicating that gender does make a difference to human relationships and therefore to ministry. Arguments against the ordination of women have not been based on a supposed sacramental function of the priest, or the view that women are excluded from performing such a function for some reason, but on the New Testament concept of "headship" in the family and the church, and on New Testament texts based on this or a related concept. Anglican priesthood, as defined by the Ordinal has to do with responsibility for, and therefore authority within, the congregation (the "cure of souls"), not with capacity to dispense sacramental grace.

- (b) If gender makes a difference to ministry, then (in addition to the ordination question) it is right to ask whether lay presidency is equally appropriate for both lay women and lay men. This question arises in connection with lay preaching as well lay preaching and lay presidency for women may not be appropriate in all circumstances, but would be appropriate in many contexts. The arguments of this paper would lead to the conclusion that it is appropriate for lay women to preside at the Lord's Supper only in those circumstances in which it is theologically and biblically appropriate for lay women to preach.

8. Conclusion

- 8.1 In summary, there are no sound doctrinal objections to, and there are significant doctrinal reasons for, lay presidency at the Lord's Supper. There are also sound reasons based on our received Anglican order for allowing lay presidency. In the light of this the continued prohibition of lay presidency at the Lord's Supper does not seem justifiable theologically. Since church practice ought to conform to sound doctrine, practical problems related to the introduction of lay presidency ought to be dealt with, but should not constitute an obstacle to reform motivated by theological truth.

For and on behalf of the Diocesan Doctrine
Commission of the Anglican Diocese of Sydney

P.W. BARNETT
Chairman
27 September 1993

Endnotes

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- ⁱ R.T. Beckwith, *Priesthood and Sacraments*, Latimer Monographs 1 (1964), pp. 44.
ⁱⁱ C. Buchanan, Some Anglican Historical Perspectives on T. Lloyd, *Lay Presidency at the Eucharist?*, Grove Booklet 9 (1977), p. 12.
ⁱⁱⁱ Cf. C.J. Cocksworth, *Evangelical Eucharistic Thought in the Church of England* (1993), pp. 222-4.
^{iv} Cf. Buchanan, p. 13.