

## 12/88 Communion with other dioceses of Australia and overseas

(This report was received by the Synod of the Diocese of Sydney in October 1989.)

### Referral

1. The text of Synod resolution 12/88 is as follows.
 

"Synod notes observations recently expressed by His Grace the Archbishop concerning the relationship of communion between this Diocese and other dioceses of Australia and overseas. Synod requests the Standing Committee to have a report prepared for the next session of Synod which deals with the following matters.

  - (a) The principles upon which and the procedures whereby communion between dioceses is defined and established.
  - (b) The conditions or circumstances in which communion is breached and the procedure whereby communion may be terminated.
  - (c) The consequences which may ensue if a diocese is no longer in communion with other dioceses in Australia and in the Anglican Communion.
  - (d) The principles upon which and the procedures whereby communion, if breached or terminated, may be restored."
2. A report from the Legal Committee (with papers from Mr Justice P.W. Young and Mr G.R. Christmas) and various writings of the Archbishop were used as resource papers in writing this report.
3. In the context of Synod resolution 12/88, the word "communion" is an abstract term which has different meanings to different people and no less than five different meanings according to the Macquarie Dictionary. In these circumstances, it is not possible to provide "firm" answers in terms of the Synod resolution.

### The 1961 Constitution

4. Section 6 of the Anglican Church of Australia Constitution Act 1961 ("the 1961 Act") provides –
 

"This Church will remain and be in communion with the Church of England in England and with Churches in communion therewith so long as communion is consistent with the Fundamental Declarations contained in this Constitution."
5. The expression "This Church" means the Anglican Church of Australia (see Section 74(1) of the 1961 Act) which came into existence on a date appointed pursuant to Section 68(1) of the 1961 Act. It follows that communion between "This Church" and other Churches could not have existed prior to 1961.
6. Section 6 is ambiguous. It may mean that the Anglican Church of Australia will remain in communion with –
  - (a) the Church of England in England, and
  - (b) Churches in communion therewith so long as communion is consistent with the Fundamental Declarations,
 or it may mean that the Anglican Church of Australia will remain and be in communion with-
  - (a) the Church of England in England so long as communion is consistent with the Fundamental Declarations, and
  - (b) other Churches in communion therewith so long as communion is consistent with the Fundamental Declarations.

It is not necessary in the present context for this ambiguity to be resolved.

7. Section 6 does not define or give any indication of what constitutes "communion". The word "communion" also appears in Section 69(3). In that context, there is an implication that "communion" is somehow different from "fellowship" and that one can have either or both of these without any "association" between the two relevant bodies. From the writings drawn to the attention of the Committee it is clear that which is constituted by "communion" is still a matter of debate and it is possible that the word, at this point of time, is incapable of precise definition.
8. It is reasonable to assume that communion involves reciprocity of some sort. If this is so, Section 6 does not of itself result in "communion" with any other Church until there is equivalent action by the other Church. In other words, if this assumption is correct, Section 6 is more in the nature of an irrevocable offer which may or may not be accepted. Once "communion" exists by operation of Section 6, the relationship is something which members of the Anglican Church of Australia are obliged to accept.

9. The operation of Section 6 also gives rise to difficulties. The Section is self-executing in the sense that if, for any reason, communion with another Church ceases to be consistent with the Fundamental Declarations, communion ceases immediately. However, this leaves open the question as to who can say authoritatively that this has occurred. The 1961 Act is silent on the subject. It may well be that, as with the case of questions concerning other legislation, the matter is one for declaration by the secular courts.

10. Section 6 is also silent as to the relationship between dioceses which are part of the Anglican Church of Australia. Of course, all dioceses are bound by the 1961 Constitution and, in particular, the Fundamental Declarations and the Ruling Principles but "communion" is likely to be more extensive than these. There is no canon made by the General Synod on the subject. Thus, if it is assumed that "communion" exists at present, change in the legal rules embodied in that relationship in a particular diocese will depend upon –

- (a) those rules embodied in the notion of communion,
- (b) the extent to which the consensual compact in force in the diocese embodies those rules, and
- (c) the extent of the respective powers of the Bishop and Synod of the diocese to change those rules without the aid of the General Synod,

and the consequences of "communion" will depend in all probability on the nature and extent of the changes.

#### **Another View**

11. Mr Justice Young argues that, on the proper construction of the 1961 Constitution and in the light of canon law principles, it is not legally possible for one diocese of the Anglican Church of Australia to cease to be in communion with another diocese or other dioceses unless that diocese secedes from the Anglican Church of Australia. Any secession would raise property questions.

#### **Worldwide Communion**

12. Mr Christmas seeks to answer the questions in the Synod resolution by discussing "What is the Anglican Communion?", "What is Anglicanism?" and "What is meant by communion?". This involves reliance on the writings of individuals which might not necessarily reflect the law but which do reveal what others think.

13. The Anglican Communion is seen as a world wide communion of churches engaged in a "consultative process, not a legislative process", and its decisions only possess "authority" which might be "derived from voluntary acceptance of its conclusions". Those matters held in common by member churches are described in the Lambeth Quadrilateral of 1888 which matters are broadly referred to in the Fundamental Declaration contained in the 1961 Constitution. Within these parameters there is a wide diversity of faith and practice to such extent that the unity and cohesiveness of the Anglican Communion is nevertheless called in question and, if not broken, the relationship of communion may be described as "impaired" (as in one Lambeth resolution of 1988). Membership of the Communion has customarily been determined by a list maintained by the Archbishop of Canterbury. However some would see a stricter doctrinal criteria to be more acceptable, and hence, the search for a more objective test continues.

14. Mr Christmas maintains that it is possible for a diocese to be "out of communion" with another diocese and that the question of communion is distinct from assent to the 1961 Constitution. He anticipates the following consequences for a diocese when that diocese is no longer in communion with other dioceses or ecclesial units in the Anglican Communion.

- (a) The diocese may or may not continue to assent to the 1961 Constitution.
- (b) The acts of the bishop may not be recognised in other dioceses of the Anglican Communion.
- (c) The bishop may not attend bishops meetings of the Anglican Communion or participate in other organs and structures of communication which normally are available between bishops of the Anglican Communion.
- (d) Bishops, priests or deacons of other dioceses will not be able to exercise liturgical functions in churches of the diocese and vice versa.
- (e) The bishop of the diocese may not be able to participate in consecrations of other persons as bishops.
- (f) The performance of the sacraments may not be recognised by other dioceses.

#### **Writings of the Archbishop: Another Shade of Meaning**

15. The Archbishop has expressed the following views.

16. The argument that all Anglican churches are in communion with each other and are bound to recognise each others orders is mistaken. Unity is indeed the *esse* in a theological sense of the church, but individual churches are not defined by unity but by faith and order. Until we have a body defined by faith and

order, we do not have a visible church of which we can predicate unity. Where faith and order are defective or not agreed on, there is no assurance or promise of unity.

17. The 1961 Constitution apparently allows a person, ordained as a minister in one diocese, to be not recognised as a minister of another diocese. This means that our dioceses in Australia are no longer in full communion with each other since mutual recognition and acceptance of ministries has always been one of the tests of full communion between churches and dioceses.

18. There may not be much practical disadvantage in being out of communion on small matters while we remain in communion in other respects.

19. For good or ill, the individual diocese, and not the General Synod, is the final authority in our Anglican Church of Australia where any change relating to our inherited faith, ritual, ceremonial or discipline is concerned.

20. There is a communion of the saints, a reality we confess in the Creed, which is the fellowship in Christ existing among all who are spiritually united to him as head. It does not depend upon ecclesiastical affiliation, though churches exist to foster and encourage its expression. But this experience of spiritual communion among individuals does not override the question of ecclesial faith and order which provides the, basis of communion between churches.

21. While the Anglican Communion lacks a constitution or doctrinal basis, membership of the Anglican Communion should not be used as an objective test of communion between churches.

For and on behalf of the Standing Committee

W.G.S. GOTLEY  
*Diocesan Secretary*

10 August 1989