

Solemn Promises Ordinance 2011

Explanatory Statement

Background

1. At its session in 2010, the Synod referred a bill for the Solemn Promises Ordinance 2010 to the Standing Committee for review and, if thought fit, to pass the ordinance in light of the proposed amendments and other comments made at the session.
2. At its meeting on 6 December 2010, the Standing Committee passed the Solemn Promises Ordinance 2010, being a modified form of the bill considered by the Synod. However the Archbishop declined to give his assent to this ordinance, indicating a preference to wait for the promotion of a revised form of bill to the next session of the Synod in 2011.
3. The bill for the Solemn Promises Ordinance 2011 (the bill) being promoted to the Synod differs from the bill promoted to Synod in 2010 in the following respects –
 - (a) a Preamble has been included,
 - (b) clause 2(c) has been extended to refer to the Archbishop's successors,
 - (c) a previous provision making it an offence for a person to willfully breach a solemn promise has been omitted,
 - (d) a previous provision providing that canons 36 and 37 of 1603 have no effect has been omitted,
 - (e) a previous provision authorising the liturgical resource known as Sunday Services (2001 Edition) has been omitted (with a view to such authorisation being undertaken in a separate ordinance),
 - (f) the order of solemn promises in the Schedule has changed,
 - (g) the solemn promises concerning doctrine and services have been revised.

Proposal to provide alternative framework of solemn promises

4. In this Diocese, clergy are required at various times to make an oath of canonical obedience, provide a declaration and assent to the doctrine and formularies of the Anglican Church of Australia and give certain undertakings concerning vestments and the administration of Holy Communion. These are required before ordination to the diaconate or presbyterate, before licensing by the Archbishop and before consecration as a bishop following appointment as an Assistant Bishop.

5. All dioceses require clergy to make an oath of canonical obedience and to provide a declaration and assent to doctrine and formularies. However it is understood that the two undertakings are unique to Sydney. The oath, declaration and assent reflect the Ordinal. The two undertakings reflect the BCP Communion Service, the General Synod – Canon Concerning Holy Communion 2004 Adopting Ordinance 2004 and the Announcement of Divine Service and Clerical Vestures Ordinance 1949.

6. The bill proposes that the current forms of oath, declaration, assent and undertakings be replaced by corresponding forms of solemn promise. The bill also proposes that the language used in the current forms be updated to reflect more contemporary language and recent developments, for example in the forms of divine service that may lawfully be conducted in this Diocese.

7. If passed, the bill would provide an alternative framework to that set out in the Oaths, Affirmations, Declarations and Assents Canon 1992. By resolution 14/93, the Synod strongly dissented from the Provisional Canon for the Oaths, Declarations and Assents Canon 1992. While the Oaths, Affirmations, Declaration and Assents Canon 1998 addressed some of the concerns expressed by the Synod about the provisional canon, the Canon still requires that a member of the clergy or the laity declare his or her assent to be bound by the Constitution of the Anglican Church of Australia. This goes beyond the effect of the Constitution itself which binds a person only to the extent that it affects church trust property. It is therefore considered that the approach taken in the bill is to be preferred to the Canon.

Declaration and assent

8. A declaration and assent is not an oath for the purposes of the civil law and therefore the form and substance of any declaration and assent is a matter for the internal ordering of the Diocese.

9. In this Diocese, the current form of declaration and assent is set out in the Schedule to the General Synod – Form of Declaration and Assent Canon 1973 Adopting Ordinance 1973 as follows –

“The Anglican Church of Australia, being an Apostolic Church, receives and retains the Catholic Faith, which is grounded in Holy Scripture and expressed in the Creed, and within its own history, in the Thirty-nine Articles, in the Book of Common Prayer and in the Ordering of Bishops, Priests and Deacons.

Accordingly, I..... do solemnly make the following declaration –

I firmly and sincerely believe the Catholic Faith and I give my assent to the doctrine of the Anglican Church of Australia as expressed in the Thirty-nine Articles of

Religion, the Book of Common Prayer and the Ordering of Bishops, Priests and Deacons; I believe that doctrine to be agreeable to the Word of God; and in public prayer and administration of the sacraments, I will use the form in the said book prescribed, and none other, except as far as shall be ordered by lawful authority.”

10. In place of the current form of declaration and assent, it is proposed that the following forms of solemn promise be given –

“I.....firmly and sincerely believe the Holy Scripture to be the Word of God, and assent to the doctrine of the Anglican Church of Australia, an expression of the Catholic and Apostolic Faith which is determined by the teaching of Scripture, confessed in the 39 Articles and given liturgical form in the Book of Common Prayer and in the Ordering of Bishops, Priests and Deacons, and I solemnly promise to teach and uphold the Word of God.

I.....solemnly promise to conduct only services in the Book of Common Prayer or –

- (a) services authorised by ordinance of the Synod for use in the Diocese, or
- (b) other services of public worship which are agreeable to the Word of God and consistent with the doctrine of the Anglican Church of Australia, pursuant to the General Synod – Canon Concerning Services 1992 Adopting Ordinance 1998.”

Oath of canonical obedience

11. By virtue of section 8 of the Anglican Church of Australia Constitution Act 1961, it is only lawful to administer and take oaths in the Anglican Church of Australia which were customarily used by the Church in NSW before the enactment of that Act. No other oaths may be used.

12. In this Diocese, the current form of oath of canonical obedience is as follows –

“I....., Clerk, do swear that I will pay true and canonical obedience to the Archbishop of Sydney and his successors in all legal and honest commands. So help me God.”

13. Although the meaning of the current oath is that clergy will obey such commands as the bishop may by law impose (*Long v Bishop of Cape Town* (1863) 1 Moo. PCCNS 411 and 448, 465), this meaning is not readily apparent from the form of words used. The wording of the

oath has therefore given rise to difficulties, particularly for some ordination candidates.

14. The requirement to give an oath as opposed, for example, to an affirmation has also given rise to difficulties for some.

15. In order to address these difficulties, it is proposed that the current form of oath of canonical obedience be replaced by a form of solemn promise in the following terms –

“I..... solemnly promise that I will obey all such directions as the Archbishop of Sydney and his successors are authorised by law to give.”

Undertakings

16. The undertakings currently required of clergy are as follows –

“I....., being desirous of obtaining a Licence to perform the office of a Minister in the Diocese of Sydney, hereby solemnly undertake that so long as I hold any such licence, I will neither by myself nor by others permit the use of the Chasuble or other vestment in any Church, Chapel or other place in this Diocese in which I may officiate.

I....., being desirous of obtaining a licence to perform the office of a Minister in the Diocese of Sydney, hereby solemnly undertake that so long as I hold any such Licence in the above Diocese I will administer the elements of bread and of wine separately in the Holy Communion.”

17. In place of these undertakings, it is proposed that the following forms of solemn promise be given –

“I.....solemnly promise that so long as I hold a licence to perform the office of minister in the Diocese of Sydney, I will neither by myself nor by others permit the use of the chasuble or other eucharistic vestment in any church or chapel or other place in the Diocese in which I may officiate.

I.....solemnly promise that so long as I hold a licence to perform the office of minister in the Diocese of Sydney, that I will administer the elements of bread and wine separately in the Holy Communion.”

18. The first of these promises expresses the law in the Diocese with regard to vesture of ministers. While the Reformation saw the end of priestly garments in the Church of England, the Anglo-Catholic revival reintroduced these medieval garments for the celebration of the sacraments, especially the Lord's Supper. In response to a ruling of the Privy Council, Archbishop John C Wright required all clergy licensed in

the diocese of Sydney to sign a declaration that they would not wear the chasuble. This was later codified in an ordinance of the Synod in 1949, which prohibited clergy from wearing the chasuble and other eucharistic vestments, namely the dalmatic and tunicle.

19. The second promise succinctly expresses the manner in which Jesus administered the bread and the cup to each of his disciples in the Last Supper. During the Middle Ages the cup was withdrawn from the laity, but it was restored during the Reformation, so that each recipient was given the opportunity of eating the bread and drinking the cup. This promise reminds clergy of the importance of administering each of these elements separately, rather than seeking to combine them or seeking to administer only bread.

Other matters

20. In order to implement the proposed framework of solemn promises, the bill provides that –

- (a) except for the solemn promises provided under the bill, no oath, affirmation, promise, declaration, assent, undertaking or similar assurance is to be required from a person by or on behalf of the Archbishop before the person is ordained, licensed or consecrated in the Diocese (clause 2(3)),
- (b) a person who fails or declines to make the solemn promises required by the bill is not to be ordained, licensed or consecrated as the case may be (clause 2(4)),
- (c) the Form of Declaration and Assent Canon 1973 is excluded (clause 3),
- (d) a member of clergy is not to exercise or hold themselves out as exercising any Anglican ministry in this Diocese without the permission of the Archbishop, such permission ordinarily being given by licence of the Archbishop (clause 4).

Recommendation

21. The Standing Committee recommends that the Synod pass the bill as an ordinance.

For and on behalf of the Standing Committee

ROBERT WICKS
Diocesan Secretary

15 June 2011