

Ordination of Women to the Priesthood

(A Report to Synod)

Introduction

1. The Standing Committee of the General Synod has asked the diocesan synods to comment on a proposal that, if the General Synod does not pass a canon in 1989 authorising the ordination of women to the priesthood, the General Synod should make a statement under Section 4 of the 1961 Constitution (page 80 of the Fifth Handbook) to the effect that such ordination is within the jurisdiction of a diocesan synod, subject to the constitution of that diocese.
2. It has been requested that a report on the proposal be made from our Synod to the General Synod by February 1989.

Documentation

3. An explanatory paper (with four appendices) from the Standing Committee of the General Synod has been printed at the end of this report.

1985 Consideration

4. On the last occasion the ordaining of women to the priesthood was discussed, Sydney Synod, through resolution 5/85, recorded its opinion that it "supported the present practice of ordaining only male persons to the priesthood". However, it should be remembered, that the matter now to be addressed is the use of the proposed "statement" procedure by the General Synod.

Comments by the Standing Committee

5. The use of the statement procedure permitted by Section 4 of the 1961 Constitution appears to be an attempt to gain some form of implied General Synod endorsement for a diocese to proceed on the ordination of women to the priesthood in the event that the General Synod again declines to enact its own legislation in 1989.
6. The question arises - why a statement and not a resolution? The implied intention from the papers circulated is that a statement will attract an aura of authority or respectability (in this case) that would not attach to an ordinary resolution.
7. Because a statement needs only a simple majority of votes in the General Synod, by-passes the safeguards required for canons and has no provision for diocesan review, any argument that it is entitled to an aura of authority or respectability should be entirely discounted. It would be improper to give a statement any authority beyond the wording or merits of the propositions it contains.
8. As proposed, the statement is simply advice to the Church on how to behave in the event that the ordination of women to the priesthood takes place outside the scope of a canon of the General Synod. While it is competent for the General Synod, subject to the 1961 Constitution, to offer advice on any matter it likes, any such advice would have no legal force. However, it may have some persuasive or moral force, depending upon the degree of consensus it receives.
9. The proposed statement does not endorse the proposition that women should be ordained to the priesthood or that dioceses should act unilaterally. Instead it purports to make declarations about the law, it expresses opinions about the consequences for the unity of the Church and it suggests ways which the foreshadowed unilateral actions should be regulated.
10. While a statement made by the General Synod does not create any legal rights or obligations, it is conceivable that it could be referred to the Appellate Tribunal under Sections 31 or 63 of the 1961 Constitution.
11. Given that one diocese has publicly indicated that a canon is not necessary before they take action on the ordination of women to the priesthood, it could be argued that the proposed statement is a responsible and helpful procedure to salvage some degree of unity and goodwill in the national church.
12. Equally, it could be argued that it is unwise for the General Synod to offer advice on some eventuality, the exact nature and effects of which are not known. It is not possible to predict with certainty what will follow if some dioceses authorise the ordination of women to the priesthood and, therefore, it is presumptuous to give advice.
13. The proposed wording of the statement appears to be neutral on the substantive issue but is possible that the final shape of the statement could be very different from the document referred to each diocesan synod for comment.

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14. The substantive issue is the ordination of women to the priesthood. The Sydney Synod has stated that it is not convinced the ordination of women to the priesthood is consistent with scripture. If an unbiblical view is adopted in this Church, Sydney may have to look to its options.

15. Some may welcome the precedent of unilateral action because in future it will be easier for dioceses to act unilaterally on matters that are important to them. To put it another way, some may see the flow of events as contributing to a diminution of the powers and the standing of the General Synod and contributing to a fragmenting of the approach of the Church to national issues.

16. If it is taken as endorsement of unilateral action in this case, one consequence of the use of the statement procedure could be to destroy a major basis of unity, namely the mutual recognition of orders. Another major basis of unity will be weakened, if not destroyed, namely the legislative role of the General Synod.

17. Sydney entered into the framework of the 1961 Constitution in good faith and has endeavoured to adhere to the spirit and letter of it. The constitutional safeguards were considered sufficient to protect the existing doctrine and practice of the Church and the federal nature of the denomination. Any change to fundamentals, it was felt, should require wide constitutional consensus. The use of the statement procedure in the present circumstances is contrary to the spirit of the 1961 Constitution as it seeks to impart an aura of authority or respectability to a course of action which twice failed to gain approval by canon and is intrinsically controversial and divisive.

18. The effect of using a procedure needing only simple majorities will be to alienate those dioceses who oppose the ordination of women to the priesthood and to encourage a retreat from the concept of the national Church. The use of a simple majority to gain approval for major changes has its own in-built discrimination.

19. In the circumstances, the Standing Committee has arranged for a notice of motion to be given to the effect that the use of the statement procedure is inappropriate on this occasion.

For and on behalf of the Standing Committee

W.G.S. GOTLEY
Diocesan Secretary

16 September 1988



Paper Received From the General Synod Ordination of Women to the Priesthood

This paper has been prepared at the request of the Standing Committee of General Synod for circulation among the dioceses.

A sub-committee was established by the Standing Committee in 1987 "to explore all ways by which this Church might both preserve its national unity under the Constitution, and protect individual and diocesan consciences, while allowing the ordination of women to the priesthood in particular dioceses."

The members of the sub-committee are -

Bishop O.D. Dowling	Bishop E.D. Cameron	Mrs M.L. Porter
Mr D.J. Bleby Q.C.	Mr N.M. Cameron	Mr J.F. Patrick

The sub-committee considered various options open to the Church but ended by favouring the circulation throughout the Church of a proposal that general synod make a statement under section 4 of the Constitution. The proposal for a statement rather than a canon was made upon the basis that no legislation by general synod is necessary. In some cases diocesan legislation is not necessary either, but it seemed to the sub-committee that, whether or not diocesan legislation is *necessary*, it is in all cases desirable.

The sub-committee prepared a draft which was considered in February this year by the Bishops' Conference. The Bishops' Conference prepared a further draft which it invited the Standing Committee to circulate for possible adoption by general synod. That draft is annexed to this paper as Appendix D.

At its meeting in April this year Standing Committee considered the report of the sub-committee it had appointed together with the draft proposed by the Bishops' Conference. The final conclusion of Standing Committee was that it commend for consideration by diocesan synods this year, 1988, as a statement which might be made by general synod in the following year, 1989, the "Draft Statement" which is set out in Appendix A.

It is the request of the Standing Committee that diocesan synods consider this proposal in 1988, and diocesan bishops are requested to ensure that a report of the result of such consideration be made to the General Secretary by February 1989.

Standing Committee recognises that such a draft may need alteration in different circumstances, including, of course, the responses of diocesan synods. It would need amendment, too, if general synod were to pass a canon providing for the ordination of women to the priesthood. It may need amendment in the light of developments arising from the proposal endorsed by the "Council of the diocese of Melbourne that its synod enact legislation providing that, within that diocese, women may be ordained to the priesthood, but providing also that the legislation will not come into operation until after it has been held by the Appellate Tribunal to be valid *and* until after the 1989 general synod."

In recognition, in part, of the possible need for such changes Standing Committee has authorised its sub-committee named above to monitor developments in the matter; that sub-committee would greatly appreciate early and progressive reports by dioceses to the General Secretary.

Among the many and diverse factors taken into account at different stages in the processes outlined above are some which may be found in the propositions which are set out in Appendices B and C to this paper.

April 1988



Appendix A

Statement on Ordination of Women to the Priesthood

Preamble

- A. Section 4 of the Constitution of the Anglican Church of Australia ("the Constitution") provides that this Church has plenary authority at its own discretion to make statements as to the faith ritual ceremonial or discipline of this Church and to order its forms of worship and rules of discipline and to alter or revise such statements, forms and rules, provided that all such statements, forms, rules or alteration or revision thereof are consistent with the Fundamental Declarations contained in Chapter I of the Constitution ("the Fundamental Declarations").
- B. General Synod on the 29th day of August 1977 passed the following resolution -
 - That this general synod, having taken note of the report of its Commission on Doctrine entitled "The Ministry Of Women", endorses the conclusion of the Commission that the theological objections which have been raised do not constitute a barrier to
 - (a) the Ordination of Women to the Priesthood, and
 - (b) the Consecration of Women to the Episcopate,
 in this Church.
- C. On the 8th day of February 1980 the Appellate Tribunal of this Church, pursuant to section 63 of the Constitution, unanimously advised the Primate of this Church as follows -
 - Question 1: Would the admission of women to Holy Orders be consistent with the Constitution of the Church?
 - Opinion: The answer is Yes, subject to the answers to questions 3 and 4(i) and (ii).
 - Question 2: Does chapter I, Section 3 of the Constitution preclude the ordaining of women into the sacred ministry as bishops, priests or deacons?
 - Opinion: The answer is No.
 - Question 3: Is there any doctrine or principle of the Church embodied in the Book of Common Prayer together with the Ordinal and the Thirty Nine Articles with which the ordination of women would be inconsistent?
 - and

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Question 4:

Opinion: The answer to the above question is -

There is no doctrine of the kind referred to in question 3 with which the ordination of women would be inconsistent, but there may be a principle of the Church of England in Australia embodied in the Book of Common Prayer together with the Ordinal with which it is inconsistent. On that latter question the Tribunal does not find it necessary to express a final view

- D. In August 1985 the Appellate Tribunal in the course of answering certain questions referred to it pursuant to section 63 of the Constitution held by a majority of 6 to 1 that the admission of women to any of the three Holy Orders would not be inconsistent with the Fundamental Declarations, and further by a similar majority that the admission of women to any of the three Orders, insofar as it may constitute or require an alteration in or variation from the Services or Articles contained in the authorised standard, would not contravene any principle of doctrine or worship laid down in the authorised standard.
- E. On the 27th day of February 1987 the Appellate Tribunal, in the course of determining a reference pursuant to section 31 of the Constitution of the question of the validity of the Ordination to the Office of Deacon Canon 1985 found by a majority that the Law of the Church governing eligibility for admission to Holy Orders does not involve a question of doctrine or worship and is within the legislative competence of this Church.
- F. The advice given by the Appellate Tribunal on the 8th day of February 1980 and in August 1985 was an expression of opinion. That advice warrants the respect which should be accorded to the highest tribunals of this Church.
- G. It follows from what the Appellate Tribunal has held that the admission of women to any of the three Orders is consistent with the Fundamental Declarations and does not contravene any principle of doctrine or worship laid down in the authorised standard.
- H. At a special session of the general synod held in August 1987 a majority of the members of the synod and a majority of the members of each house voted in favour of a special bill for a Canon to provide for the Ordination of Women to the office of Priest. The voting figures for the Third Reading of the Bill were -

	No. Present	Required Majority	For	Against
House of Laity	92	62	62	30
House of Clergy	96	64	60	36
House of Bishops	23	16	17	6

but the majorities were not sufficient for the bill to pass the Third Reading as a Special Bill in accordance with section 28 of the Constitution.

- I. A large number of members of this Church and, as evidenced by resolutions adopted by them, a number of Diocesan Synods sincerely and in conscience believe that women should be admitted to the three Holy Orders.
- J. A significant number of members of this Church sincerely and in conscience believe that women cannot or should not be admitted to Holy Orders.
- K. In matters of ritual, ceremonial and discipline there are, and the constitution recognises that there will be, different rules applicable in the dioceses of this Church, either because -
- (a) In the absence of an appropriate canon of the general synod, one or more diocesan synods have enacted such rules and others have not; or
- (b) In a number of cases a canon of general synod affecting the ritual ceremonial or discipline of this Church, duly passed by the general synod, has been adopted in some dioceses and not in others and accordingly only has force and effect in those dioceses in which it has been adopted.
- L. While in many areas of ritual ceremonial and discipline there may be advantages in uniformity of practice within this Church, there are areas where it has not been attained, and seems not likely to be attained, but lack of such uniformity has not in the past, and should not in the future, destroy the bonds which hold the members of this Church together.

M. Just as there are many areas of ritual ceremonial and discipline where the general synod of this church has made no prescription, so there are many such areas which have been left to diocesan regulation, resulting, in some cases, in significant differences between one diocese and another.

NOW in humble recognition of the foregoing and in the knowledge and assurance of the continuing revelation to this Church and its members of the will of God for His Church, THIS CHURCH STATES -

1. The question whether women should be eligible to be ordained as priests or consecrated as bishops is a matter within the legislative competence of this Church.
2. In the absence of a canon of general synod the question is, subject to the constitution of the individual dioceses, a matter within the jurisdiction of the diocesan synods.
3. Notwithstanding that the ordination of women in some dioceses may result in a diversity of practice and approach in this Church with respect to the ordination of women as priests and their consecration as bishops (a diversity which could occur even if general synod were to pass a canon authorising such ordination and consecration) this Church nevertheless continues to affirm its common unity in Jesus Christ.
4. In the spirit of St Paul's teaching in Romans 14:3, all members of this Church should respect the consciences of others on the issue, neither despising nor condemning those whose convictions differ from their own.
5. This Church urges its members to demonstrate the love of Christ within the Church, to pursue a deeper unity in Christ and to participate in and to provide opportunities for further study and understanding of the theological issues relating to the ordination of women and the nature of the ordained ministry.
6. A person is not a disloyal member of this Church if he or she on the one hand abstains from or opposes, or on the other hand encourages or participates in, implementation of the ordination of women to Holy Orders in this Church, or if he or she continues to be convinced it is an error to admit or not to admit women to Holy Orders.
7. A bishop should not ordain a woman as a priest or consecrate a woman as bishop unless the diocese in which the ordination or consecration is to take place and any diocese in which it is intended such person should serve as a priest or bishop has by ordinance of its synod authorised or approved the ordination of women as priests or their consecration as bishops as the case may be.
8. A woman ordained priest or deacon or consecrated bishop should not exercise the functions of any such office, and a bishop of a diocese should not license a woman to such office in a diocese which has not by ordinance of its synod authorised or approved the ordination of women as deacons or priests or the consecration of women as bishops, as the case may be, or has not authorised or approved the exercise of such functions in that diocese.
9. A diocesan bishop in licensing a person to a particular office in his diocese should be sensitive to the wishes of those directly affected by the appointment.
10. This Church affirms that no bishop, priest, deacon or lay person should be coerced or penalised in any manner or suffer any canonical disabilities as a result of his or her conscientious objection to or support of the action of any diocesan synod with regard to the admission of women to any of the three Holy Orders.



Appendix B

The Powers of Individual Diocese to Legislate

1. Impediments and Prohibitions

As regards any diocese, an impediment or prohibition in the way of diocesan legislation might be found in-

- a. The constitution of the diocese,
- b. The ordinances of the synod of the diocese,
- c. The consensual compact,
- d. The constitution of the province,

- e. A stature of the State or Territory in which the diocese is located or of the Commonwealth,
- f. The trusts on which church property in the diocese is held, or
- g. The Constitution.

(a) ***The Constitution of the diocese***

Each diocese will need to check its own constitution. The Committee is satisfied that no impediment exists in some such constitutions but has not had the opportunity to check them all. In some cases it may be necessary that action be taken to enable appropriate legislation to be made.

(b) ***Ordinances of diocesan synods***

If there is an impediment in a diocesan ordinance it is assumed that it will be a simple matter to repeal or amend the legislation containing the impediment. If there is any doubt whether an existing ordinance constitutes an impediment a new ordinance should remove that doubt.

(c) ***Consensual compact***

In this context "consensual compact" means the implied acceptance into the law of the Church in Australia in its early days of certain elements of the law of the Church in England, including the terms of some (though not all) of the Canons of 1603, but especially those which deal with eligibility for Holy Orders (see the reasons for their opinion given by Mr Justice Cox and Mr Handley QC in the determination of the Appellate Tribunal in 1985).

It is thought that any impediment from this source could certainly be negated by a canon of general synod and, subject to the terms of its constitution, by ordinance of a diocesan synod.

(d) ***Constitution of the province***

Each diocese will need to check the constitution of the province in which it is included. The committee is satisfied that no impediment exists in some such constitutions but has not had the opportunity to check them all.

(e) ***State and Federal Acts***

The likelihood of there being anything outside a "Church" act is remote.

(f) ***Trusts***

It is conceivable that there may be a restriction in the trusts (or some of them) on which diocesan property is held; each diocese will need to satisfy itself on this question. It is noted that some dioceses have an express power to vary trusts which may possibly be useful.

(g) ***The Constitution***

If none of the possible impediments mentioned above apply in a particular diocese, then on the basis of the 1985 and 1987 opinions of the Appellate Tribunal there is nothing in the Constitution that would prevent a bishop from acting now.

The Constitution contains disabilities for women clergy in relation to the membership of general synod but it is considered that no inference can be drawn from this fact except that the possibility of there being ordained women was not considered by those who drafted the Constitution.

If the synod of a diocese needs or wishes to pass an ordinance to affirm its decision that the bishop of the diocese may ordain women the implications of section 71 must be considered.

The first is the restriction in the third paragraph of S. 71 (1) which prevents a diocese from making any alteration in "ritual or ceremonial of this Church" except in conformity with an alteration made by general synod - presumably by canon under S. 26 or S. 28. However authorising a bishop to do something which he has not done before, or expressing a wish that the bishop do such a thing, does not in itself involve a change in the form of order used or in the "ceremonial" associated therewith and therefore it is difficult to see how an ordinance, appropriately drafted, will fall foul of the third paragraph of S. 74(1).

The second is what may be a restriction in S. 71(2). There may be considerable difficulty in ascertaining the meaning of "ritual or ceremonial of this Church". The definitions in S. 74(1) do not assist except to suggest that "ritual" and "ceremonial" are distinct (and also distinct from "discipline") and are referring to what is done and to how it is done. It is considered that while S. 71(2) may, in some dioceses, preclude the ordination of women until a change in diocesan law is made, the sub-section itself contains no restriction on the making of such a change. The section affirms that the law in each diocese (in force on the Constitution's coming into effect) will remain in force until it is changed; any necessary change could come from general synod (under Ss. 26 and 28) or a diocesan synod (under S. 51).

2. Observations

If the foregoing analysis is correct, no action at general synod level is needed to enable a bishop to ordain a woman.

It may be that in some dioceses no action is *necessary* but there are sound reasons why the synod of the diocese should make an ordinance which at least affirms that the bishop of the diocese should regard himself at liberty to act, namely -

- (a) Such an ordinance will negate any restriction other than one which requires diocesan constitutional amendment.
- (b) Such an ordinance may be needed to repeal any restriction in a prior ordinance.
- (c) Other matters may need to be attended to, for example ordinances dealing with superannuation, married persons' allowances, use of rectory and so on.
- (d) The bishop will have the assurance that at least a majority of clergy and laity support him.



Appendix C

Actions Open to General Synod

Out of a range of possible actions open to general synod, two which were considered in depth by the committee which reported to the Standing Committee are the making of a canon and the making of a simple statement.

A Canon of General Synod

There are two advantages to the canon procedure.

First: a canon, duly made and adopted would deal with all (or most) of the possible sources of impediment referred to above.

Second: if a canon were referred to the Appellate Tribunal under S. 31 and its validity upheld, that determination could not be departed from by a differently composed tribunal at some future time.

It should be noted that no canon of general synod can ensure uniformity of practice in the Australian Church unless it is adopted in all dioceses.

A Simple "Statement" by General Synod

Considerations in favour of making a statement

- (1) It has the ability to be descriptive rather than precise and legislative; it can merely indicate what is legally permissible at present but, and more importantly, it can indicate synod's view of what further steps ought to be taken if the ordination of women proceeds.
- (2) It can afford greater recognition to different points of view.
- (3) With the qualifications that can be written into a statement, and its recognition of different points of view, it is more likely to be accepted by a substantial majority in general synod.

[NOTE - A statement does not require more than a simple majority of the general synod, or, in the case of a vote by houses, a simple majority of each house. It does not require subsequent assent or adoption by diocesan synods.]

Considerations against making a statement

- (1) A statement may attract the comment that it has no binding legal effect and may well be disappointing to the supporters of the ordination of women looking for positive action by general synod. It may also disappoint those who oppose the ordination of women on any basis other than under the authority of national legislation, but to whom it would be acceptable if expressly authorised at the national level.

A response to such comment is that the statement is a positive step, that it is made on the basis that national legislation is not necessary, and that it can express positively the mind of synod on

action which ought to be taken where ordination of women proceeds in a diocese of this Church.

- (2) It may be said that a statement is a device to avoid the protection against change embodied in the special bill procedure of S. 28.

A response to such comment is, again, that general synod legislation is not necessary to provide for the ordination of women. The ordination of women can proceed without general synod legislation and setting out in a canon the kind of material proposed in the draft statement, so that it is required to go through the procedures prescribed by S. 28, can serve no useful purpose.



Appendix D

Statement Proposed by the Bishops' Conference 1988

Recognising that

1. our Constitution may permit each diocese to decide to ordain or not to ordain women to the priesthood and
2. if the constitutional validity of such ordination is established, some dioceses may proceed then to ordain women to the priesthood,

this General Synod

- (a) nevertheless continues to affirm our common unity in Jesus Christ as the Anglican Church of Australia,
- (b) acknowledges that our communion with each other both within and between dioceses may be tested and strained and, at the point of recognition and acceptance of ministries, diminished,
- (c) therefore calls upon all members of the Church to demonstrate the love of Christ within our national communion as we seek to pursue a deeper unity in Christ despite a new set of differences between us.