
(APPENDIX—No. IX.)

ORDINANCE.

An Ordinance for accepting and adopting a certain Determination of the General Synod, entitled "Resolutions for the Constitution of an Appellate Tribunal."

WHEREAS a certain Determination being Determination No. II., was made by the General Synod of the Dioceses in Australia and Tasmania on the 28th

day of October, 1872, entitled Resolutions for the Constitution of an Appellate Tribunal a copy of which is contained in the Schedule annexed to this Ordinance. And whereas it is expedient that the said Determination shall be accepted by the Church in this Diocese. The Synod of the Diocese of Sydney in pursuance of the powers in that behalf conferred upon it by the Constitutions for the management and good government of the United Church of England and Ireland within the Colony of New South Wales ordains and rules that the said Determination and the Resolutions and Provisions therein contained and each and every of them shall be and the same are and is hereby accepted and adopted and shall so far as the same are applicable be applied to the management and government of the Church in this Diocese in like manner as if the said Determination and the Resolutions and Provisions therein contained and each and every of them had been ordained and ruled by the Synod of this Diocese.

SCHEDULE.

DETERMINATION No. II.

[Made Monday, October 28th, 1872.]

Resolutions for the Constitution of an Appellate Tribunal.

1. That an Appellate Tribunal be constituted under the name of "The Committee of Appeal of the General Synod."
2. That such Committee shall consist of five Members—the Primate, a Bishop to be elected by the House of Bishops, a Clergyman to be elected by the Clerical Representatives, a Layman to be elected by the Lay Representatives, and a Layman to be elected by the General Synod voting collectively and not by orders. All such Members being Members of the General Synod shall be elected by ballot and by an absolute majority of each body of electors then present. And each Candidate shall be nominated by a proposer and seconder one day previous to the day of election. And the elections shall take place at each ordinary meeting of the General Synod.
3. No Bishop Clerical or Lay Representative of the Diocese from which an appeal shall be brought shall be capable to sit on the hearing of such appeal.
4. In the event of the death absence or incapacity of any Member of the Committee the Primate shall nominate a successor or a substitute for the matter of that particular appeal only as the case may be.
5. If the appeal be brought from the Diocese of the Primate the senior Bishop shall act or appoint another Bishop to act in the matter of that appeal in the place of the Primate.
6. The Committee shall have power to make rules for regulating its proceedings the time and mode of conducting appeals the requiring security for costs and for the due prosecution of appeals and the terms on which execution of any decision appealed from may be stayed or carried out

and all such other rules as may be necessary for giving effect to these Resolutions. And all such rules shall be laid before the General Synod at its next meeting and shall be valid and effectual until and unless disallowed by the General Synod.

7. The Committee shall have power to appoint all necessary officers.

8. The defendant in any matter or either party in a matter of Doctrine or of discipline involving any matter of doctrine tried by any Diocesan Court or Bishop may appeal to the Committee but there shall be no appeal for mere error or defect of form in any proceeding or judgment.

9. The Diocesan Court or Bishop shall transmit a report of the proceedings to the Committee. And the facts as stated in such report shall be taken as correct. If in the opinion of the Committee the facts are not legally sufficient to support the decision the Committee may reverse it. Or if in the case of an appeal by the Defendant the facts though legally sufficient to support the decision ought in the opinion of the Committee to be further investigated the Committee may in its discretion direct a rehearing by the Diocesan Court or Bishop.

10. The parties may appear in person or by their Counsel or Agents. The Committee shall hear and determine the appeal with power to adjourn as it may deem necessary. The decision of the majority shall be the decision of the Committee provided that any decision which concerns a matter of doctrine or of discipline involving a matter of doctrine must have the concurrence of one of the two Bishops and unless such concurrence shall have been obtained the decision appealed from shall stand but no costs of appeal shall be allowed.

11. If in the opinion of the Committee the matter of appeal concerns a question of doctrine or discipline involving a question of doctrine the Committee may at its discretion state a case for the opinion thereon of a body in England to be called the Council of Reference. Such Council of Reference shall consist of the Archbishops of Canterbury and York, and the Bishop of London, together with four Laymen learned in the law the first four such Laymen being Lord Hatherley, Lord Chelmsford, Lord Cairns, and Lord Penzance. The General Synod shall have power to fill up vacancies as they shall from time to time occur but in the event of a vacancy or vacancies existing when a Case shall be before the Council the Archbishops and Bishop shall fill up the same for the purpose of disposing of that particular case. The opinion of the Council shall be binding on the Committee and pending the obtaining of such opinion the Appeal shall stand adjourned with liberty to either of the parties to set the Appeal down to be disposed of upon the opinion when obtained. If from any cause it shall be impracticable to obtain an opinion from the Council of Reference within a time to be limited by the rules to be made under these Resolutions the Committee of its own motion may or at the instance of either of the parties shall determine the Appeal but in such case the concurrence of one of the two Bishops shall be requisite in any decision.

12. Provided always that nothing in these Resolutions contained shall prevent the General Synod from substituting any other arrangement that it may see fit for carrying out the several objects contemplated by these Resolutions.

I certify that this Ordinance was passed by the Synod on the 19th day of June, A.D. 1873.

H. A. PALMER,

Secretary to the Synod.

I hereby signify my assent to this Ordinance. Assented to June 20th, A.D. 1873.

F. SYDNEY.
