

Act of Uniformity (Section 10) Repeal Ordinance 2003

Explanatory Statement

1. On 27 October 2001 the Synod resolved as follows –

“Synod noting its own frequently expressed desire for lay and diaconal administration of Holy Communion and the Archbishop’s comments that he wishes to find a constitutionally legal way to proceed, requests that the Standing Committee appoint a committee to investigate the options, if any, consistent with law, that are available and report back to the next ordinary session of the Synod together with any appropriate legislation. (25/01)”
2. A report from the committee appointed by the Standing Committee to consider this matter is printed separately.
3. In its report (at paragraph 18) the committee identified the provisions of Section 10 of the Act of Uniformity of 1662 as an impediment to the practice of lay and diaconal administration of the Lord’s Supper. Section 10 provides as follows –

“10. Persons administering the sacrament before they are ordained priests; penalty £100 and disability for one year. – And... no person whatsoever shall thenceforth [that is, after the feast day of St Bartholomew, 1662] be capable to bee admitted to any parsonage vicarage benefice or other ecclesiastical promotion or dignity whatsoever nor shall presume to consecrate & administer the holy sacrament of the Lords Supper before such time as he shall be ordained preist according to the forme and manner in and by the said booke prescribed unlesse he have formerly beene made preist by episcopall ordination upon pain to forfeit for every offence the sum of one hundred pounds one moyety thereof to the Kings Majesty the other moyety thereof to be equally divided betweene the poore of the parish where the offence shall be committed and such person or persons as shall sue for the same by action of debt bill plaint or information in any of his Majesties courts of record wherein no essoine protection or wager of law shall be allowed and to be disabled from taking or being admitted into the order of preist by the space of one whole yeare then next following.”
4. The committee concluded (at paragraph 27) that the best way forward would be to promote an ordinance which repeals section 10 thereby removing this as an impediment to administration of the Lord’s Supper by persons who have not been made priest by episcopal ordination. The committee considered it prudent to put beyond doubt any question as to the continuing application of Section 10 to the Anglican Church of Australia notwithstanding the opinion of the Appellate Tribunal in 1976, that the Act of Uniformity does not now apply to this Church.
5. The committee recommended (at paragraph 30) that the Standing Committee promote the form of bill for the Administration of Holy Communion by Deacons and Lay Persons Ordinance 2003 annexed to its report. In addition to providing for the repeal of Section 10 of the Act of Uniformity, the form of bill recommended by the committee made specific provision for lay persons and deacons to be authorised or licensed by the Archbishop to administer Holy Communion.
6. On 29 September 2003 the Standing Committee requested that –
 - (a) the form of bill annexed to the committee’s report be redrafted –
 - (i) to deal only with the repeal of Section 10 of the Act of Uniformity 1662, and
 - (ii) to provide for the commencement of the ordinance on a date to be determined by the Archbishop-in-Council, and
 - (b) the redrafted bill, suitably retitled, be promoted to the forthcoming session of Synod “by request of the Standing Committee”.
7. In accordance with Standing Committee’s request, the operative provisions of the redrafted bill have been confined to the repeal of Section 10 of the Act of Uniformity of 1662 insofar as the provisions of that section remain in force in the Diocese as part of any consensual compact (clause

- 2). The provisions of the previous form of bill for lay persons and deacons to be authorised or licensed by the Archbishop to administer Holy Communion have been removed.
8. Under the redrafted bill the repeal of Section 10 is to commence on a date to be determined by the Archbishop-in-Council (clause 3). As such, the repeal will not take effect unless and until both a majority of the Standing Committee and the Archbishop are willing for this to occur.

Recommendation

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

For and on behalf of the Standing Committee

ROBERT WICKS

Legal Officer

9 October 2003