

CONSTITUTION ALTERATION BILL 1987
ASSENTING ORDINANCE 1990
NO. 4 OF 1990

AN ORDINANCE

To Assent to the 'Constitution Alteration Bill 1987' being a General Synod Bill to alter the Constitution with respect to alteration of the Constitution.

PREAMBLE

Whereas it is desirable that the Constitution Alteration Bill 1987 of The General Synod of the Anglican Church of Australia should be assented to by the Diocese of Grafton.

Therefore the Bishop, Clergy and Laity of the Diocese of Grafton in Synod assembled decree and enact as follows:-

SHORT TITLE

- 1. This Ordinance may be cited as the 'Constitution Alteration Bill 1987 Assenting Ordinance 1990.'

ASSENT

- 2. The Constitution Alteration Bill 1987 as set out in the schedule hereto is hereby assented to.

THE SCHEDULE

No. 1, 1987

A Canon to alter the Constitution with respect to alteration of the Constitution

The General Synod prescribes as follows:

- 1. The Constitution is altered to the extent provided by this Canon and the Schedule to this Canon.
- 2. Notwithstanding any provision of this Canon or of the Constitution in the event that three-quarters of the diocesan synods including the metropolitan synods of this Church shall have assented by ordinance to an instrument mentioned at the foot of this clause, all such assents being in force at the same time, the President shall appoint a date being not earlier than three months nor later than six months from the date upon which he so appoints on which that instrument shall come into effect and upon the day so appointed this Constitution shall be altered as provided by that instrument; the date appointed and sufficient particulars to identify the instrument shall be notified in the Commonwealth of Australia Gazette and in the Government Gazette of each State.

The instrument entitled "A Bill to Alter the Constitution of the Church of England in Australia with Respect to the Mode of Appointment of the Appellate Tribunal" and numbered in the Official Report of the Proceedings of the Sixth General Synod "No. 2, 1981".

3. The amendments to the Constitution that are made by this canon shall come into force on a date to be appointed and declared by the Primate who shall follow mutatis mutandis, the notification procedure prescribed by Rule XX.
4. This Canon may be cited as "Constitution Alteration Canon 1987".

SCHEDULE

1. Section 28(1) is altered by the insertion after "bill" where first appearing of the following expression -
"(not being a bill for a canon to alter this Constitution)".
2. Section 28(2) is altered by
 - (a) substituting for the words
"in the case of other bills"
the following:
"in the case of any other bill (not being a bill for a canon to alter this Constitution)", and
 - (b) substituting for the words "a bill"
the following:
"the bill".
3. Section 29 is repealed and the following inserted in its place -
 29. (1) For the purposes of this section -
 - (a) "Act" means a canon, provisional canon, rule, resolution or statement made by general synod notwithstanding that the canon, the provisional canon, the rule, the resolution or the statement is or may be in whole or in part void; and
 - (b) "Proposal" means any proposal that general synod make a canon or a rule or a statement or that general synod pass a resolution, being a proposal of which notice has been given to the general synod in accordance with any requirements applicable thereto (notwithstanding that consideration may or may not have been given to the proposal by general synod) but does not include an Act.
 - (2) A reference under this Section to the appellate tribunal may be made by -
 - (a) twenty-five members of the general synod; or
 - (b) one third of the members of the house of bishops; or
 - (c) one third of the members of the house of clergy; or

- (d) one third of the members of the house of laity; or
 - (e) the Primate.
- (3) A reference under this Section to the appellate tribunal shall
- (a) be in writing addressed to the President of the appellate tribunal;
 - (b) identify the Act or Proposal to which the reference relates;
 - (c) state the question which is or the questions which are to be considered by the appellate tribunal;
 - (d) be signed by the Primate or the other persons making the same; and
 - (e) except in the case of a reference by the Primate, be delivered to the Primate.
- (4) The questions which may be stated in a reference under this Section to the appellate tribunal are:
- Is any part of the Act or Proposal identified in the reference inconsistent with the Fundamental Declarations or the Ruling Principles?
- Does any part of the Act or Proposal identified in the reference deal with or concern or affect the ritual ceremonial or discipline of this Church?
- (5) If a reference is made under this Section to the appellate tribunal in relation to a Proposal, the Proposal may become an Act thereafter but the Act shall have no effect prior to the date on which the appellate tribunal delivers to the Primate its answer to the question or questions in the reference.
- (6) Subject to sub-section (7) the appellate tribunal shall -
- (a) give its opinion or determination with respect to a reference made to it under this Section;
 - (b) where a question is answered in the affirmative -
 - (i) incorporate in the answer particulars of each part of the Act or Proposal which caused the question to be so answered, and
 - (ii) where the question concerns inconsistency identify the part or parts of the Fundamental Declarations and Ruling Principles with which that part of the Act or Proposal is inconsistent;
 - (c) provide reasons for its decision; and
 - (d) deliver to the Primate its answers and the reasons for its decision;

- (7) (a) The appellate tribunal shall in no case provide an answer in the negative except with the concurrence of at least four members, and where the question involves any question of faith ritual ceremonial or discipline shall not provide an answer in the negative except with the concurrence of at least two bishops and two laymembers of the tribunal; and
- (b) if the appellate tribunal is unable to provide an answer to a question in either the affirmative or the negative the President shall so report to the Primate and advise him in writing of the reasons for that inability.
- (8) The appellate tribunal may, with its answers and reasons:
- (a) where it provides an answer in the affirmative, specify a change or changes to the Act or Proposal which, if adopted or incorporated therein, as the case may require, would permit a similar question or similar questions relating thereto to be answered in the negative, and
- (b) add such comment or opinion as the members deem may be of value to the general synod.
- (9) Notwithstanding the provisions of sub-section (10) and sub-section (11) of this Section and sub-section (2) of Section 73, a decision of the appellate tribunal given in an answer pursuant to this Section shall be final.
- (10) An Act which is inconsistent with the Fundamental Declarations and an Act, other than a canon to alter the Ruling Principles, which is inconsistent with the Ruling Principles shall to the extent of the inconsistency, be void.
- (11) An Act which deals with concerns or affects the ritual ceremonial or discipline of this Church and which has not been made in accordance with the requirements of this Constitution shall, to the extent to which it so deals concerns or affects, be void.
4. Section 30 is altered by the insertion after paragraph (d) of the following additional paragraph:
- "(e) This section shall not apply and shall be deemed never to have applied to a canon to alter this Constitution."
5. Section 31 is repealed.
6. Section 67 is repealed and the following inserted in its place -
- "67. (1) Subject to the provisions hereinafter mentioned other Sections of this Constitution may be altered by canon of general synod subject to the following conditions:-
- (a) the bill for the canon shall be submitted for its first reading by leave of general synod, the three houses thereof voting together.

- (b) (i) A bill for a canon to alter the provisions of this Constitution mentioned at the foot of this clause which does not deal with or concern or affect the ritual ceremonial or discipline of this Church shall be a canon duly made if it has been passed at each of its second and third readings by a vote of at least two thirds of the members of each house and it has been assented to at each of those readings by a majority of all dioceses of which at least two shall be metropolitan sees. For the purposes of this sub-paragraph (b)(i) a diocese shall be deemed to have assented to a bill at a reading if a majority of its lay representatives and a majority of its clerical representatives and the bishop thereof have voted in favour of the reading.
- (ii) Any other bill for a canon to alter the provisions of this Constitution mentioned at the foot of this clause shall be a canon duly made if passed at its second and third readings by a vote of a majority of the members of each house but the canon shall not come into effect unless and until at least three quarters of the diocesan synods of this Church including all the metropolitan sees has assented to it by ordinance and all such assents be in force at the same time.
- (iii) A bill of the kind referred to in sub-paragraph (i) shall be a canon duly made if it is passed and assented to in the manner prescribed by sub-paragraph (ii).

Sections 11-14, inclusive; 18-25, inclusive; 27; 32-35, inclusive; 64(1)(2) and (3); 67(1)(a), 67(2); 68-70, inclusive; 75.

- (c) A bill for a canon to alter the name of this Church or the provisions of this Constitution mentioned at the foot of this clause shall be a canon duly made if passed at its second and third readings by a vote of a majority of the members of each house but the canon shall not come into effect unless and until every diocesan synod of this Church has assented to it by ordinance and all such assents be in force at the same time.

Section 64(4)(5); 67(1)(c).

- (d) A bill for a canon to alter the provisions of this Constitution mentioned at the foot of this clause or to add a new section to this Constitution (not being a new section that alters a provision referred to in paragraph (b) or paragraph (c) of this sub-section) shall be a canon duly made if passed at its second and third readings by a vote of a majority of the members of each house but the canon shall not come into effect unless and until at least three-quarters of the diocesan synods of this Church including the synods of all of the metropolitan sees has assented to it by ordinance and all such assents be in force at the same time.

Sections 4-10, inclusive; 15-17, inclusive; 26; 28-30, inclusive; 36-63, inclusive; 65; 67(1)(b) and (d); 71-74, inclusive: the Table annexed to the Constitution.

- (2) Upon a canon to alter the Constitution being duly made in accordance with this Section and upon the President determining that there is no condition, or that no condition remains, to which the coming of the canon into effect is subject the President shall appoint a date, being not earlier than three months nor later than six months from the date upon which he so determines, on which the canon shall come into effect; the date appointed shall be notified in the Commonwealth of Australia Gazette and in the Government Gazette of each State.

I hereby certify that the Ordinance as printed is in accordance with the Ordinance as passed.

John Barnett

Chairman of Committees

I certify that this Ordinance was passed by Synod on the 8th day of September, 1990.

B. H. Bates

Registrar

I assent to this Ordinance.

+ *Kevin Grafton*

Bishop