

RESPONSE OF THE PROVINCE OF AUSTRALIA TO S4 OF THE COVENANT DESIGN GROUP'S RIDLEY-CAMBRIDGE DRAFT OF AN ANGLICAN COVENANT

Introduction

In response to Resolution 14.11 of the Anglican Consultative Council, the Secretary General of the Anglican Communion, the Rev'd Canon Kenneth Kearon, invited each Province to respond to the working group appointed by the Archbishop of Canterbury on the provisions of Section 4 of the Ridley Cambridge Draft. In particular the Provinces were invited to identify issues of unclarity or ambiguity in the text. The Province of Australia has considered the full text of Section 4 in accordance with this invitation. The suggested amended Section 4 is attached to this report.

In adopting a relational rather than a juridical approach, the Covenant aims to intensify relationships between covenanting churches of the Anglican Communion and to define how those relationships are to be lived out. This is a positive development in the life of the Communion. It would be unrealistic, however, to expect that the covenant itself will create unity where the Instruments of Communion have not been able to do so. The Communion is first and foremost an expression of relationship, not an administrative structure. The common commitments encapsulated by a document such as the Covenant cannot of themselves create Communion. They can, however, clarify, nurture or sustain the relationships which already exist across the Communion.

While a covenant has the potential to clarify and sustain relationships within the Communion, its purpose and functioning still seems ambiguous. How will the Covenant function in the life of the Anglican Communion? Will entering into the Covenant become the identifying marker/defining condition as to what makes a church Anglican? Which churches may be considered to be members of the Anglican Communion? At present, is it only those Churches which are included in the Schedule to the Constitution of the ACC? Or is the test of membership the Archbishop of Canterbury's invitation to participate in the Lambeth Conference? It is clear that being in full communion with the Church of England is not a sufficient test, as this would include, for example, the Porvoo Lutheran Churches.

Section 4 seems to express a belated assumption that the Covenant might function as a vehicle for future ecumenical dialogue. While we recognise that such a Covenant may be a useful focus for ecumenical discussions, we suggest that, at this stage, its primary function of supporting the internal relationships within the Anglican Communion must take priority over this ecumenical agenda, which should be deferred.

Preliminary notes

The following suggested revisions propose changing the language from ‘adoption of’ the Covenant, to ‘entering into’ the Covenant.

Section 4 is structured differently to Sections 1-3. This does not seem warranted. Each of the previous Sections consists of affirmations followed by commitments. Section 4 could and should follow the same structure, thereby ensuring consistency. The revised Section 4 proposed in this report does not take that step.

There is a need for clarity about the subject matter of Section 4. Is it referring to matters involving the whole Communion, or only to matters affecting the covenanting churches? There seems to be a lack of clarity about this throughout the Section and it raises the question of whether and how the provisions of the Covenant may be applied even to those Provinces which choose not to enter into the Covenant. There is a further ambiguity about which bodies may enter into the Covenant. Is it limited to provinces, or will dioceses or other bodies also have the opportunity to become signatories? How might this affect relationships between provinces and across the Communion?

The Joint Standing Committee

There is some unease with the proposed role of the Joint Standing Committee, or as it is called following ACC-14, simply the “Standing Committee” (SC). Several areas of concern may be highlighted.

First, it appears that in delegating the role of overseeing and administering the Covenant to the SC, the ACC is creating, de facto, a fifth Instrument of Communion. The Covenant proposal is a derogation of powers which properly belong to the existing four instruments, not to another body. If this is the intention, it needs to be explicit.

Secondly, it can be argued that there are already challenges in managing and balancing the relationships between the Provinces and the existing four Instruments. This network of relationships may become more complex and difficult should the SC also take on a role of oversight.

Thirdly, through the power which Section 4 appears to delegate to it, the SC may in effect accrue greater authority than the existing four Instruments. This may result in the SC acting like a curia, which would represent a significant change to existing Anglican polity.

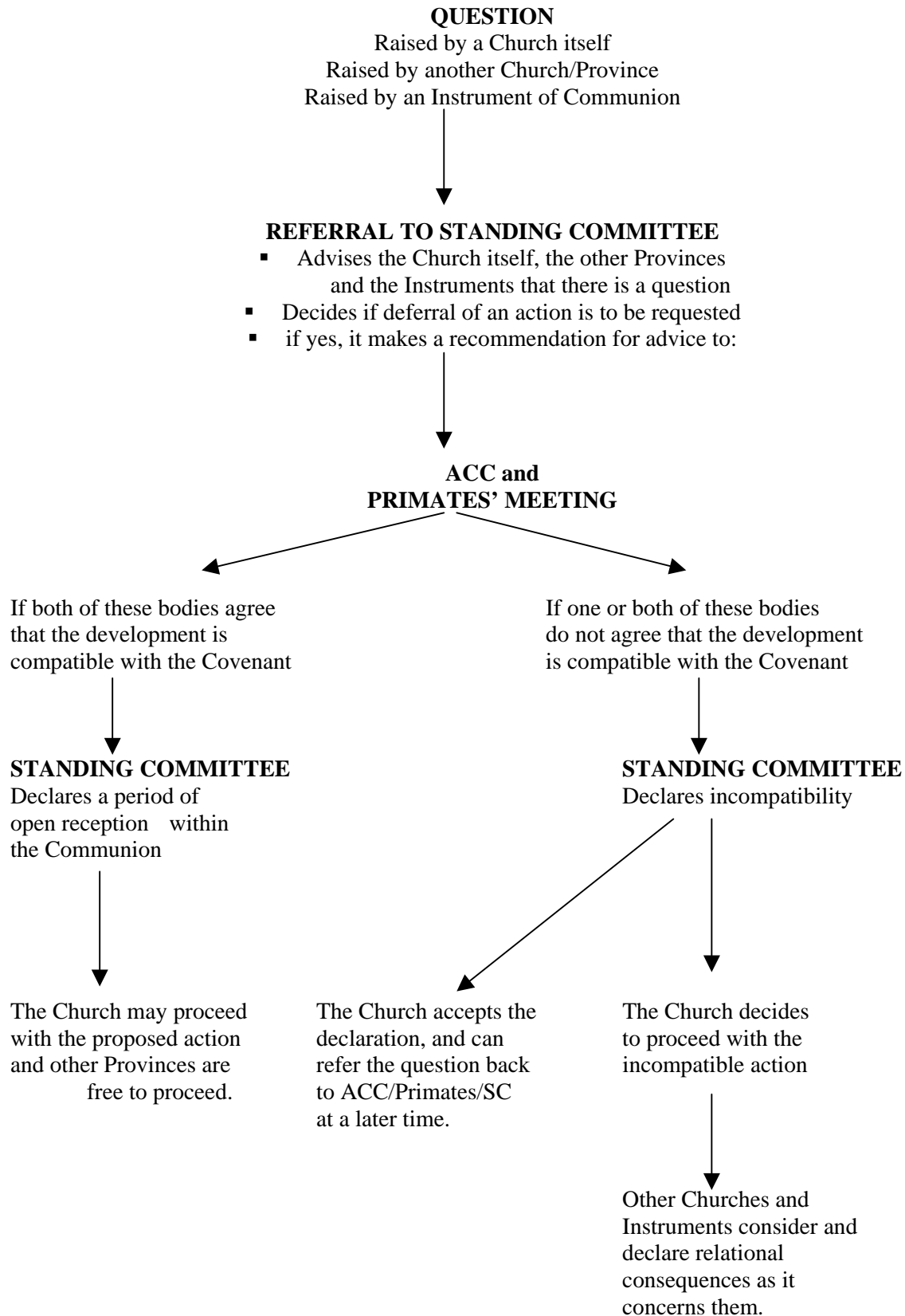
Finally, the powers of the SC appear to have been delegated by the ACC through the terms of the Covenant without reference to the other Instruments. As the four existing Instruments are the current

vehicles for unity within the Communion, it would be preferable that one of the Instruments does not appear to be acting unilaterally.

Clearly there is a need for a body to act in some of the roles proposed for the SC. In particular there needs to be a body which meets more regularly and can therefore respond more quickly than the ACC, the Primates' Meeting and the Lambeth Conference. However any decision-making powers should remain with the existing four Instruments. The SC should not usurp the proper authority of the existing Instruments. Further, any such body should represent all four Instruments. The membership of this body would preferably reflect a balance between episcopal, clergy and lay membership.

The following diagram represents the process we envisage might be followed based on the changes to Section 4 proposed here. The object of these proposed changes is to retain the existing polity of the Anglican Communion while reflecting the need for a more efficient and timely process to address controversial matters.

Proposed Covenant Process



Section Four: Our Covenanted Life Together

Each Church affirms the following procedures, and, reliant on the Holy Spirit, commits itself to their implementation.

4.1 Entering into the Covenant

(4.1.1) Each Church entering into this Covenant affirms that it does so as a commitment to relationship in submission to God. Participation in the covenant expresses a loyalty grounded in mutuality that one Church freely offers to other Churches, in whom it recognises a common faith and order, a common inheritance in worship, life and mission, and a readiness to live in an interdependent life, but does not represent submission to any external ecclesiastical jurisdiction.

(4.1.2) In entering into the Covenant for itself, each Church recognises in the preceding sections a statement of faith, mission and interdependence of life which is consistent with its own life and with the doctrine and practice of the Christian faith as it has received them. It recognises these elements as fundamental to the relationships among the covenanting Churches.

Are the elements referred to really fundamental to the life of the Anglican Communion? If they are, then all Anglican churches need to sign the Covenant. If a Church can not enter into the Covenant and remain Anglican, then perhaps the elements are not after all fundamental?

(4.1.3.a) The Covenant expresses the common commitments which hold each Church in the relationship of communion one with another. Recognition of, and fidelity to, the text of this Covenant, expresses mutual recognition and communion.

(4.1.3.b) This Covenant does not alter any provision of the Constitution and Canons of any Church of the Communion, nor does it limit any Church's autonomy of governance. Under the terms of this Covenant, no one Church, nor any Instrument or agency of the Communion, can control or direct the internal life of any other covenanted Church.

The break-up of s4.1.3 into two subclauses reflects the change of tone in the two halves of the original clause, from the statements of affirmation in the first part, to the statements about structure in the second part.

(4.1.4) Every Church of the Anglican Communion, as listed in the Schedule of the Constitution of the Anglican Consultative Council, or as recognised by any one of the Instruments of Communion is invited to enter into this Covenant according to its own constitutional procedures. Entry into the Covenant by a Church does not in itself imply any change to its Constitution and Canons, but implies a recognition of those elements affirmed within this Covenant which must be maintained in its own life in order to sustain the relationships established by this Covenant.

The issue of who might be able to enter into the Covenant is one of the pressing questions of the document. Perhaps the hope that this might in future be used as a tool in ecumenical dialogues has led to an overly broad phrasing which needs to be more closely defined in the first instance. We have therefore suggested a formula for determining which churches are able to enter into the Covenant.

(4.1.5) Entry into this Covenant does not bring any right of recognition by, or membership of, the Instruments of Communion. Such recognition and membership are dependent on the satisfaction of those conditions as may be required by each of the Instruments.

The bulk of this clause is struck out. This affirms that the primary function of the covenant is on the internal relationships of the communion and not on ecumenical relationships or dialogues.

(4.1.6) This Covenant becomes active for a Church when that Church enters into the Covenant through the processes of its own constitution and canons.

4.2 The Maintenance of the Covenant and Dispute Resolution

(4.2.1) The Joint Standing Committee of the Anglican Consultative Council and of the Primates' Meeting, or any body that succeeds it, shall have the duty of facilitating the functioning of the Covenant in the life of the Anglican Communion. The Joint Standing Committee may nominate or appoint another committee or commission to assist in carrying out this function and to advise it on questions relating to the Covenant.

We propose that the Joint Standing Committee, or subsequently the Standing Committee, should be more representative of all four Instruments of Communion. The change of language from "overseeing" to "facilitating" is intended to convey the intention to retain authority in the existing Instruments of Communion and to resist any devolution of authority to this body.

(4.2.2) If a question relating to the meaning of the Covenant, or of compatibility to the principles incorporated in it, is raised by a Church itself, by another Church, by an Instrument of Communion or by the Standing Committee, the Standing Committee may request any covenanting Church to defer action until the processes set out below have been completed. The Standing Committee will also inform the Provinces and Instruments that a question has been raised and that a recommendation for deferral has been made. It shall further take advice from such bodies as it thinks appropriate on the nature and relational consequences of the matter. The Standing Committee will then make a recommendation for advice to both the Anglican Consultative Council and the Primates' Meeting.

It is envisaged that a Church contemplating a controversial course of action should be able to refer the matter for consideration to the Standing Committee of its own accord, and not be restricted to a reactive response to a referral by another province or instrument. It is also desirable that the Standing Committee informs the Church contemplating the action, the other Provinces and the four Instruments that a question has been raised. The raising of a question should imply a request for deferral in order for the Instruments to have an opportunity to consider the question.

(4.2.3) If a Church declines a request to defer a controversial action, the Standing Committee may recommend to any Instrument of Communion relational consequences which specify a provisional limitation of participation in, or suspension from, that Instrument until the completion of the process set out below.

Under existing Anglican polity the responsibility for making a decision remains with the Instruments of Communion, although the Standing Committee has a role in declaring the decision, and of investigation and consultation on behalf of the instruments.

(4.2.4) If either the Anglican Consultative Council or the Primates' Meeting advises that such an action or decision of a Church would be incompatible with the Covenant, then the Standing Committee will make a declaration of incompatibility. A declaration of incompatibility with the Covenant shall not have any force in the Constitution and Canons of any covenanting Church unless or until it is implemented by the canonical procedures of the Church in question.

(4.2.5) On the basis of the advice received, the Standing Committee may make recommendations as to relational consequences to the Churches of the Anglican Communion or to the Instruments of the Communion. These recommendations may address the extent to which the decision of any

covenanting Church to continue with an action or decision which has been found to be “incompatible with the Covenant” impairs or limits the communion between that Church and the other Churches of the Communion. It may recommend whether such action or decision should have a consequence for participation in the life of the Communion and its Instruments. It shall be for each Church and each Instrument to determine its own response to such recommendations.

This amendment seeks to clarify that a covenanting church implements the effects of a declaration rather than receiving them. It is acknowledged that a diocese within a Province may choose to act in a controversial manner independently of the will of the Province. Such an action, however, cannot be the subject of a question to the Standing Committee, or of a declaration of incompatibility. It remains a matter for the internal life of the Province in question, although a question may be raised concerning the response of the province to the action in question.

(4.2.6) Each Church undertakes to put into place such mechanisms, agencies or institutions, consistent with its own Constitution and Canons, to uphold the affirmations and commitments of the Covenant in the life of that Church, and to relate to the Instruments of Communion on matters pertinent to the Covenant.

S 4.2.7 is deleted altogether. It would be unworkable to exclude non-covenanting churches which remain members of the Instruments from any discussions by the Instruments of matters concerning the covenant. This represents something of the difficulty in managing the post-covenant Communion, depending on the take up of the covenant by eligible churches within the Communion.

4.3 Withdrawing from the Covenant

(4.3.1) Any covenanting Church may decide to withdraw from the Covenant. Such withdrawal does not imply an automatic withdrawal from the Instruments or a repudiation of its Anglican character.

4.4 The Covenant Text and its amendment

(4.4.1) The Covenant consists of the text set out in this document in the Preamble, Sections One to Four and the Declaration. The Introduction to the Covenant Text, which shall always be annexed to the Covenant text, is not part of the Covenant, but shall be accorded authority in understanding the purpose of the Covenant.

(4.4.2) Any covenanting Church or Instrument of Communion may submit a proposal to the Standing Committee to amend the Covenant. The Standing Committee shall send the proposal to the Anglican Consultative Council and to the Primates' Meeting for decision, and to any other body it may consider appropriate for advice. If either the Anglican Consultative Council or the Primates' Meeting declines to approve a proposed change, then it shall not proceed. The Standing Committee shall make a recommendation on the proposal in the light of advice offered, and submit the proposal with any revisions to the constitutional bodies of the covenanting Churches. The amendment is operative when ratified by three quarters of such Churches. The Standing Committee shall promulgate the amendment.

The process for amendment of the Covenant reflects the process for dealing with questions raised under the provisions of S4. The Standing Committee may provide advice and support to the ACC and Primates' Meeting but those instruments must approve any suggested change before it goes to the covenanting churches for ratification. It should be noted that there is potential in this process for a covenanting church to find itself excluded from the covenant by a future amendment, if sufficient other covenanting churches ratify the proposal.

Our Declaration

With joy and with firm resolve, we declare our Churches to be participants in this Anglican Communion Covenant, offering ourselves for fruitful service and binding ourselves more closely in the truth and love of Christ, to whom with the Father and the Holy Spirit be glory for ever. Amen.

“Now may the God of Peace, who brought again from the dead our Lord Jesus, the great shepherd of the sheep, by the blood of the eternal covenant, make you complete in everything good so that you may do his will, working among us that which is pleasing in his sight, through Jesus Christ, to whom be the glory forever and ever. Amen.” (Hebrews 13.20, 21)