

# CHURCH LAW COMMISSION

## 1. WHO WE ARE

The Church Law Commission has the following functions:

- (a) to examine questions of Church law referred to it by the Primate, the Standing Committee or the General Synod, and to report thereon to the referring party and the Standing Committee;
- (b) to make recommendations to the Standing Committee on matters of church law which are of importance to this church.

After General Synod 2014 the following legally qualified members were appointed to the Commission:

The Hon Justice Clyde Croft (Melbourne)  
Mr Ian Dallas (Bendigo)  
Ms Rachel Ellyard (Melbourne)  
Dr Ian Gibson (Melbourne)  
Mr Steve Lucas (Sydney)  
Mr Michael Meek SC (Sydney)  
The Hon Justice Debra Mullins (Brisbane) (Chairperson)  
Ms Emma Riggs (Adelaide)  
Mr Eric Ross-Adjie (Perth)  
Dr Robert Tong AM (Sydney)

There have been no changes to the membership of the Commission since those appointments.

## 2. MEETINGS

The Commission has had two face to face meetings since General Synod 2014: 7-8 March 2015 and 12 March 2016. These meetings were held at St Andrew's House, Sydney. The work of the Commission has otherwise been undertaken by email exchanges among the members of the Commission.

The Commission has continued the pattern of undertaking the tasks required of it by one or two members assuming primary responsibility for a particular task and the other members then reviewing the work of those members with primary responsibility.

The face to face meeting remains the ideal form of meeting when there are sufficient references and matters being considered by the Commission to warrant the additional cost involved in such a meeting. The face to face meeting has the advantage of giving members the opportunity of time to discuss issues at length and debate the matters where there are differing opinions or perspectives.

### **3. THE MAJOR WORK OF THE COMMISSION**

The Commission's main business between General Synods is the preparation and review of legislation for the next General Synod. Since the General Synod 2014, the Commission prepared the first two bills that circulated among dioceses under section 28A of the Constitution. That provision only came into effect on 1 July 2014 and it has the potential of facilitating the passing of canons on non-contentious matters without waiting for a General Synod, such as the ratification of the alteration to a provincial constitution.

The Commission has recommended to the Standing Committee that it is preferable where bills for General Synod are not drafted by the Commission, the Commission should be given an opportunity to examine the bills before General Synod for consistency in drafting with existing canons and matters such as whether a bill should be dealt with as a special bill or include a declaration that it affects the order and good government of the Church in a diocese. That practice has generally been implemented for the 2017 General Synod.

Apart from the Commission's role in drafting and checking legislation, the other business undertaken by the Commission is preparing reports on, and responding to, questions referred by the General Synod, the Primate or the Standing Committee.

The Commission prepared the following reports for Standing Committee:

- Seal of the Confessional – Canon Concerning Confessions 1989 Amendment Canon 2014 dated 18 March 2015
- Appellate Tribunal Membership – Conflicts of Interest dated 7 April 2016
- Section 56(6) of the Constitution (relating to GS49/14) dated 7 April 2016
- Episcopal Standards and Retired Bishops dated 12 April 2016
- Elements of the Eucharist – Holy Communion Canon 2001 dated 3 February 2017

### **4. OTHER MATTERS**

There were four resolutions passed at the 2014 General Synod which resulted in references to the Commission.

Resolution GS30/14 concerned preparation of a circular canon pursuant s 28A of the Constitution for ratification of the proposed change to the New South Wales Provincial Synod Constitution Ordinance 1907-1970 which resulted in circulating Bill No 1 of 2015.

Resolution GS48/14 asked the Commission to review the provisions of the Offences Canon 1962 and to report to the next session of the General Synod with respect to any proposed amendments. That arose out of the report of the Episcopal Ministry Task Force to the 2014 General Synod which noted in relation to its term of reference on the system of ecclesiastical charges that "some reform is possible and is desirable in the prescription of offences presently contained in section 2 of the *Offences Canon*". That was a question that was not addressed by the Episcopal Ministry Task Force which recommended that the review of the Offences Canon 1962 be referred to the Commission.

As it has turned out, there have been other developments relating to the issue of offences since the 2014 General Synod which also have a bearing on the review of

offences. A review without parameters, however, involves more than the legal expertise of the members of the Commission and should ordinarily involve the expertise available through other Commissions. When a matter is identified by General Synod for review, there may be benefits in referring the matter to the Standing Committee to coordinate the work of all relevant Commissions and Task Forces.

With respect to Resolution GS49/14 concerning a proposal for the removal of the Aboriginal and Torres Strait Islander bishops from the operation of section 56(6) of the Constitution, the Commission reported on that topic to the Standing Committee and recommended an alternative approach.

The subject matter of Resolution GS50/14 concerning the repeal of the Episcopal Standards Canon 2007 and related episcopal standards matters has been overtaken by developments since the 2014 General Synod.

## **5. THE FUTURE**

The Commission has been fortunate that its members are willing to undertake complex drafting tasks and advices and consider the work undertaken by other members. The model is a good one for undertaking tasks relevant to the national Church and General Synod legislation, subject to the time constraints that apply to members who are volunteers. The Commission anticipates continuing to perform its function in a similar manner into the future.

Debra Mullins  
Chair, Church Law Commission

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