

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.

Since General Synod 2007 the Commission has comprised:

- Mr I B Walker (Brisbane), Chair
- The Honourable Justice D J Bleby (Adelaide)
- Dr (later the Honourable Justice) Clyde Croft SC (Melbourne)
- Mr Ian Dallas (Bendigo)
- Mr Richard Dennis (Adelaide)
- Ms Rachel Ellyard (Melbourne)
- The Honourable Justice Debra Mullins (Brisbane)
- Mr Mark Payne (Sydney)
- Mr Eric Ross-Adjie (Perth)
- Mr Robert Tong AM (Sydney)
- The Honourable Mr Justice P W Young AO (Sydney)

At this General Synod, Justices Bleby and Young will retire from the Commission – each having spent more than 30 years as a member. Their combined contributions, including Justice Bleby's term as chair of the Commission, have been exceptional and their fellow Commission members salute them for their dedication, skill and care in carrying out their work in this field for the benefit of our Church.

Since the last General Synod, the following members of the Commission were honoured by the community:

- (1) Mr Justice Young was elevated to the Court of Appeal of New South Wales;
- (2) Dr Clyde Croft SC became a Justice of the Supreme Court of Victoria;
- (3) Mr Robert Tong was appointed a Member of the Order of Australia for his service to the Anglican Church.

2. MEETINGS

At the time of writing this report (April 2010), the Commission has met 4 times since the last General Synod. One of the meetings was by videoconference and we hope that further meetings can take place in this form so as to save cost to the General Synod.

Mr Mark Payne and Ms Rachel Ellyard have acted as secretaries to the Commission.

3. THE MAJOR WORK OF THE COMMISSION

The Commission resolved early in its term to respond to 2 obvious concerns of the General Synod:

- (1) That esoteric matters of Church Law were of little interest to the General Synod and that the Commission should ensure that it dealt with matters that were clearly relevant to the mission of the Church;
- (2) Legislation brought to General Synod should, as far as possible, have been discussed with other interest groups (particularly other General Synod Commissions) so that there was not a division of opinion on the floor of General Synod as to matters of drafting etc.

The Commission's main business between General Synods is the preparation of legislation for the next General Synod, and the term of this Commission has been no different.

Because a significant amount of the proposed legislation came from the Professional Standards Commission, the Church Law Commission and that Commission arranged for concurrent meetings in Melbourne in September 2009 and the Commissions met in joint session at that time.

The Church Law Commission used its best endeavours to ensure that the amount of legislation which came to General Synod was kept to a minimum and only included those matters of real necessity for the advancement of the mission of the Church.

At its meeting in February 2010, the Church Law Commission reviewed pieces of legislation which at that time appeared likely to come to General Synod, and provided its report to the April meeting of Standing Committee.

Some 7 items of further legislation were proposed by Standing Committee at that meeting, which meant that the ideal of the Church Law Commission's having examined all legislation before it went to printing with the General Synod papers was not able to be achieved.

4. OTHER MATTERS

In addition to General Synod legislation, the Church Law Commission has dealt with the following:

- (1) Ensuring that the minutes of Church Law Commission meetings since its inception are now held in the General Synod archives;
- (2) Commenced a programme to standardise bequest clauses to assist people who wish to make provision in their Will for the national Church, any national Church organisation, or any Diocese of the Church;

- (3) Provided advice to the Standing Committee regarding the costs of the Primate's assistant;
- (4) Settled a procedure for Standing Committee to deal with matters by way of "flying minute";
- (5) With the significant assistance of former Commission member Ms Rowena Armstrong QC, prepared a pro forma template for General Synod legislation to ensure that all legislation which comes to General Synod is in a standard form;
- (6) Considered the issue of private international law and deposition from Holy Orders of clergy ordained in Australia. This was designed to turn our minds to the issue of clergy who may be deposed from orders in a Diocese outside Australia as to the status such a deposition would have in this country;
- (7) Considered the developments in the formation of the Anglican covenant during the term of the Commission and advised the Standing Committee on a number of matters relating to that issue;
- (8) Considered various proposals relating to the Bishop to the Defence Forces and the ministry to Defence Force chaplains – including their place within the organisational structure of the National Church;
- (9) Proposed to Standing Committee that a central repository of disciplinary decisions from around the dioceses be compiled to ensure consistency in decision-making;
- (10) Gave advice to the Standing Committee as to opinions expressed by the Diocese of Sydney as to whether certain General Synod legislation affected the order of good government within that Diocese;
- (11) Considered the issue of gender neutral language in Canons of the General Synod and decided that there was no utility in doing this in a retrospective and "omnibus" way but that sensitivity to gender issues should be taken into account when drafting new legislation;
- (12) Received a report from Mr Tong and Mr Justice Young as to a proposed series of Canon Law lectures;
- (13) Advised Standing Committee that no bill would be prepared for the 2010 General Synod with respect to the issue of amalgamation of Dioceses, but that instead Mr Justice Young would be preparing material for consideration at General Synod;
- (14) Reviewed proposed amendments to the model for Professional Standards Ordinance and reported to the Chairman of the Professional Standards Commission;

- (15) At the request of the Standing Committee is drafting a response to the publication "The Principles of Canon Law Common to the Churches of the Anglican Communion" which was distributed to the bishops at Lambeth 2008 (via a committee of Bleby/Young/Tong).
- (16) Entered into correspondence with the Diocese of Sydney regarding proposals for liaison to try to ensure open dialogue between the Diocese of Sydney and the Commission with respect to the proposals being taken to General Synod.

5. THE FUTURE

Unlike some other Commissions, the Church Law Commission does not have a brief which is related to specific issues. We anticipate that the future of the Commission will be to continue to perform its historical function, but always with an eye to the understandable concern of General Synod that it does not wish to be weighed down with legal matters any more than may be absolutely necessary.

Ian Walker
Chair, Church Law Commission

April 2010