

## CHURCH LAW COMMISSION

### 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 2017 the following legally qualified members continued as members of 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) (Chair)  
Ms Emma Riggs (Adelaide)  
Mr Eric Ross-Adjie (Perth)  
Dr Robert Tong AM (Sydney)

Resolution GS36/17 requested the Primate, when appointing members to the Commission, to give active consideration to the appointment of at least one member of the Clergy. The Rev'd Gillian Moses was appointed to the Commission on 12 May 2018. Justice Croft resigned on 27 August 2018. Mr Ian Dallas resigned on 17 January 2020. Both Professor the Hon Clyde Croft AM SC and Mr Dallas had been long term members of the Commission and their considerable contribution to the work of the Commission is acknowledged.

The term of each current member of the Commission had been due expire on 23 November 2019, but the Standing Committee at its meeting on 31 May – 1 June 2019 extended the appointment to the first Standing Committee meeting of 2021. Because of the further postponement of the 18<sup>th</sup> General Synod, the Standing Committee at its April 2021 meeting extended the terms of the members of the Commission until the first full Standing Committee meeting after the 18<sup>th</sup> General Synod. The membership of the Commission presently complies with the policy for gender balance in membership of General Synod bodies.

### MEETINGS

Since General Synod 2017 the Commission has had one face to face meeting on 8 September 2018 at St Andrew's House, Sydney. For the purpose of drafting the Safe Ministry bills proposed for the 18<sup>th</sup> General Synod, there was a joint face to face meeting of the Commission with members of the Safe Ministry Commission at the General Synod office in Sydney on 1 February 2020. 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, debate the matters where there are differing opinions or perspectives, and build relationships that facilitate email exchanges on drafts of reports and bills for canons.

### **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.

The Commission had previously 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 had generally been implemented for the 17th General Synod and continues to be observed.

Significant drafting was required for the legislation to be promoted by the Safe Ministry Commission for the 18<sup>th</sup> General Synod. Dr Gibson took the primary responsibility for the numerous drafts that were submitted to the Safe Ministry Commission and Standing Committee for consideration and that substantial contribution to the work of the Commission is acknowledged.

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:

- Preliminary Report on Impediments under Church Law with respect to same sex marriage dated 4 October 2018;
- Report on Canon 9 of 2010 dated 18 April 2019;
- Final Report on Impediments under Church Law with respect to same sex marriage dated 3 May 2019;
- Report on Revision of Episcopal Standards Commission – Protocol for approving expenditure for counsel's fees dated 2 October 2019;
- Report on Defence Force Ministry Canon 1985 - Proposed amendment to appointment term and retirement age dated 2 October 2019;
- Report on a Bill for the Special Tribunal (Removal from Office) Canon 2020 dated 9 March 2020;
- Report on Possible Legislative Changes to Enable the National Aboriginal Bishop and the National Torres Strait Islander Bishop to be Licensed by the Primate dated 13 October 2020;
- Report on Episcopal Standards Commission – Reporting Obligations dated 15 October 2020;
- Report on Amendments to the Episcopal Standards Canon 2007 dated 16 October 2020.
- Report on a Bill for the Long Service Leave (Sabbatical Allowance Amendment) Canon 2022 dated 22 October 2021
- Report on a Bill for the Strategic Issues, Commissions, Task Forces and Networks Amendment Canon 2022 dated 10 February 2022

- Report on the Revision of the Principles of Canon Law Common to the Churches of the Anglican Communion dated 20 February 2022
- Report on a Bill for the Eighteenth General Synod Participation Canon 2022 dated 21 February 2022
- Report on a Bill for a Rule to Amend Rule III – Rules for the Conduct of Elections (Nominations and Balloting) 2022 dated 21 February 2022
- Report on a Bill for the General Synod Presence Canon 2022 dated 21 February 2022

## **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. It is also important that a good balance is achieved between stability of membership to gain from the experience of long term members of the Commission and turnover of membership to allow for renewal and the training of the next generation of advisers.

Debra Mullins AO  
Chair, Church Law Commission

28 February 2022