

General Synod - Constitution Alteration (Special Tribunal) Canon 2001 Assenting Ordinance 2002

Explanatory Statement

Introduction

1. The Constitution Alteration (Special Tribunal) Canon 2001 ("2001 Canon") amends the provisions in the Constitution relating to the Special Tribunal.
2. The Special Tribunal is currently comprised of 3 members, namely the Primate who is the president and 2 diocesan bishops appointed in the manner prescribed by or under canon of the General Synod. The Special Tribunal Canon and the Board of Assessors 1962 makes provision for the appointment of the 2 diocesan bishops appointed to the tribunal.
3. Currently the Special Tribunal has jurisdiction to hear and determine charges against any member of the house of bishops.

Membership and jurisdiction of Special Tribunal

4. Under the 2001 Canon, the Special Tribunal is to consist of 3 members being -
 - (a) a person qualified to be a lay member of the Appellate Tribunal who is the president of the Special Tribunal; and
 - (b) a diocesan bishop; and
 - (c) a priest of at least 7 years standing.
5. Members of the Special Tribunal are to be elected or appointed from a panel of persons elected by General Synod as prescribed by canon. Until the General Synod by such canon otherwise prescribes the members of the Special Tribunal are to be appointed by the Primate on the nomination of General Synod's Standing Committee to hold office for up to 5 years. The Primate may appoint a person as an acting member in the absence of the member from Australia or in the event of the inability of the member to act provided the acting member possesses the requisite qualifications.
6. The 2001 Canon extends the jurisdiction of the Special Tribunal to include any bishop assistant to the Primate in his capacity as Primate.

Other matters

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7. The 2001 Canon also -
- (a) deletes the provisions in the Constitution requiring that the Special Tribunal consult a Board of Assessors before determining any charge heard by the tribunal,
 - (b) provides that appeals from determinations of the Special Tribunal to the Appellate Tribunal are to be limited in the manner prescribed by a canon of the General Synod,
 - (c) removes deprivation of rights and emoluments from the range of sentences that a tribunal can recommend,
 - (d) inserts a new section 61A providing that where a charge is being promoted against a bishop of a diocese, the president of the Special Tribunal with the concurrence of the diocesan council meeting when the bishop is not present, may, after considering any submission from the bishop, suspend the bishop from the duties of office until a determination of such charge or some lesser time.
8. Under section 67(1)(c) of the Constitution, the 2001 Canon will not come into effect unless at least $\frac{3}{4}$ of the diocesan synods, including all of the metropolitan sees, have assented to it by ordinance with all such assents to be in force at the same time.

Recommendation

9. The Standing Committee recommends that the Synod pass the bill as an ordinance.

For and on behalf of the Standing Committee

ROBERT WICKS
Legal Officer

14 August 2002