

General Synod – Special Tribunal Canon 2007 Declarations Ordinance 2009

Explanatory Statement

1. The Special Tribunal Canon 2007 makes provision for the handling of complaints against bishops and for the operation of the Special Tribunal.

2. The Canon establishes the Episcopal Complaints Commission (ECC) which, among other functions, may prosecute matters before the Special Tribunal.

3. The Canon provides that a charge may be brought by the ECC, another bishop, or in respect of a bishop holding office or a licence in a diocese, in accordance with the provisions of an ordinance of the synod of that diocese. Under section 43(2) of the Canon, the synod of a diocese may declare by ordinance that the ECC may not bring a charge against the bishop of the diocese.

4. The Standing Committee has declared its opinion that the Canon affects the order and good government of the Anglican Church of Australia in our Diocese. The Standing Committee therefore considers that the Canon must be adopted by ordinance of the Synod before it has force and effect in our Diocese.

5. It is recommended that the Synod declare the same opinion by ordinance and not adopt the Canon.

6. The General Synod Standing Committee is yet to consider the Standing Committee's order and good government declaration under section 30(c) of the 1961 Constitution. It is possible that the General Synod Standing Committee will not agree with the opinion declared by the Standing Committee. In which case the matter will be referred to the Appellate Tribunal. However, for the avoidance of doubt, it is recommended that a declaration be made by ordinance of the Synod under section 43(2) of the Canon that, should the Canon ever have force and effect in this Diocese, section 43(1)(a), the provision enabling a charge to be brought by the ECC, shall have no effect with respect to the Archbishop of Sydney.

Recommendation

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

For and on behalf of the Standing Committee.

STEVE LUCAS
Manager, Legal Services

2 September 2009