

(APPENDIX.—No. 6.)

SESSION, 1868, No. 2.

ORDINANCE FOR CONSTITUTING A TRIBUNAL FOR THE
ADMINISTRATION OF ECCLESIASTICAL DISCIPLINE
IN THE DIOCESE OF SYDNEY.

Preamble.

WHEREAS it is desirable to establish a Tribunal for the trial of offences by Clergymen licensed by the Bishop within the Diocese of Sydney as well those involving breaches of discipline as questions of Doctrine and the Ritual of the Church and to frame rules for the initiation and conduct of trials before and the mode of proceeding under such Tribunal: The Synod of the Diocese of Sydney in pursuance of the powers in that behalf conferred upon it by the 18th Section of the Constitutions for the management and good government of the United Church of England and Ireland within the Colony of New South Wales and of all other powers conferred upon it by the said Constitutions ordains and rules as follows:—

Synod to elect Panel of Triers.

1.—At every Session of the Synod of the Diocese twelve Clergymen and twelve Laymen being respectively members of the Synod shall be elected to be a Panel of Triers for the purposes of this ordinance and such Panel shall continue in existence until a fresh Panel shall be elected.

Clergymen may be charged by Bishop or other person.

2.—A clergyman may be charged with an Ecclesiastical offence either by the Bishop of his own mere motion or by some person making a complaint to the Bishop such complaint being in writing and signed by the person making the same; and if in the opinion of the Bishop there is sufficient *prima facie* ground for such charge, and that the matter is of sufficient importance to warrant such proceeding, the Bishop shall cause to be served on the accused Clergyman a copy of the charge.

Clergyman may submit himself to judgment of Bishop.

3.—If the Clergyman shall admit the charge and thereupon submit himself without any further proceedings to such judgment and sentence as the Bishop shall think fit to pronounce, the Bishop shall deal with the case accordingly.

Clergymen not submitting shall be cited before Tribunal and may be suspended.

4.—If the accused Clergyman shall not so submit himself as hereinbefore mentioned then the Bishop shall cause to be issued and to be served on the Clergyman a Citation in writing under the Episcopal Seal calling upon him to

appear before the Tribunal to be constituted in conformity with this Ordinance to try the matter of the charge on a day not less than fourteen days after the service of such Citation and at a place and hour to be specified in such Citation. And the Bishop may at any time after any such charge shall have been made and pending the trial of the accused Clergyman suspend the Clergyman from the exercise of his ministerial functions or any of them without however depriving him of any stipend attached to the exercise of such functions.

Constitution of Tribunal.

5.—The Tribunal before which the accused Clergyman shall be so cited to appear as hereinbefore mentioned shall be constituted of a President who shall be the Bishop of the Diocese or a Commissary specially appointed by him in writing a Barrister or Attorney to be appointed by the Standing Committee and of six Triers three Clergymen and three laymen who shall be selected in manner following that is to say:—Immediately after the citation shall have so issued as hereinbefore mentioned and before service of the same on the accused Clergyman the Standing Committee of the Synod shall select by lot from such of the Panel of Triers as shall be resident in the Colony and capable of acting six Clergymen and six Laymen and the names of the Triers so selected shall be served on the accused Clergyman together with the citation and the Clergyman shall out of the names so served on him select three Clergymen and three Laymen to be members of the Tribunal as Triers and in default of the accused Clergyman notifying in writing his selection to the Chancellor of the Diocese within ten days after service on him of the citation the Chancellor shall select three Clergymen and three Laymen by lot out of the Panel. Provided always that * any of the six Triers selected as members of the Tribunal shall fail to be in attendance, the Chancellor may in the place of such person choose by lot from the Panel another person of the same order to be a member of the said Tribunal. And the President or Commissary may postpone the trial as occasion may require.

Tribunal may proceed in the absence of Clergyman.

6.—If in any case the accused Clergyman shall refuse or neglect to appear either in person or by Council or Agent in obedience to the citation so issued and served on him as hereinbefore mentioned the Tribunal may proceed to hear the cause in his absence.

Bishop may order new trial.

7.—If in any case the Bishop shall be satisfied that justice requires it he may instead of pronouncing sentence grant to the accused Clergyman a New Trial and thereupon a fresh Tribunal shall be constituted for the purpose of such New Trial in the same manner as hereinbefore prescribed for the constitution of the first Tribunal.

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Clergyman being found guilty Bishop to pronounce sentence.

8.—If in any case on the hearing of the cause a majority of the Triers shall find the accused Clergyman guilty, the Bishop shall give notice in writing to the said Clergyman of the time and place when and where he will be required to appear and shew cause if he desires to do so why sentence should not be pronounced against him, and shall in pursuance of such notice, and after having heard such observations as the Clergyman may offer proceed to pass sentence accordingly. Provided that an appeal shall lie to any higher Ecclesiastical tribunal of appeal when such shall have been constituted. But no such appeal shall lie against any sentence which shall have been pronounced before such tribunal of appeal shall have been constituted.

Limitation of time for making charge.

9.—No charge shall be entertained under or in pursuance of this Ordinance against any Clergyman for or in respect of any offence committed or alleged to have been committed by such Clergyman unless the copy of such charge shall have been served as hereinbefore directed within one year after the commission of the alleged offence. Provided always that whenever any such charge shall be made against a Clergyman in respect of any offence for which a conviction shall have been obtained against him in any Court of competent jurisdiction such charge may be entertained if the copy of the charge shall have been so served as aforesaid at any time within six calendar months after such conviction although more than one year shall have elapsed since the commission of the offence in respect of which such charge shall be made.

Short Title.

10.—This Ordinance may be cited as the "Tribunal Ordinance of 1868."

I certify that this Ordinance as printed is in accordance with the Ordinance as reported, the words "one year" in the ninth line of the ninth clause having been substituted for the words "two years" in conformity with the alteration made by the Committee in the fourth line of the same clause.

19th August, 1868.

WM. BARKER,

Chairman of Committees.

I certify that this Ordinance was passed by the Synod on the 20th day of August, 1868.

H. A. PALMER,

Secretary to the Synod.

Assented to—this twentieth day of August, 1868.

F. SYDNEY.