

ANGLICAN CHURCH OF AUSTRALIA - DIOCESE OF TASMANIA

TRIBUNAL ORDINANCE 1966

AN ORDINANCE to provide for the establishment of a Diocesan Tribunal under and in accordance with the Constitution of the Anglican Church of Australia; for the repeal of the Ecclesiastical Offences Act 1947 and for other purposes.

BE IT ENACTED by the Bishop, Clergy and Laity of the Anglican Church in Tasmania in Synod assembled, as follows:

1. This Ordinance may be cited as the Tribunal Ordinance 1966.
2. The Ecclesiastical Offences Act 1947 is hereby repealed.
3. The Diocesan Tribunal established under Chapter IX of the Constitution of the Anglican Church of Australia shall consist of the President, who shall be the Bishop, or a Deputy President appointed by him; and four other members elected as hereinafter provided.
4. Of the four elected members two shall be clergymen and two lay-men, who shall be elected by Synod voting collectively immediately after the passing of this Ordinance and thereafter at the first session of every Synod. Such members shall hold office until the election of their respective successors by a subsequent Synod. Provided that a member who has entered upon the consideration of any matter shall continue to be a member of the Tribunal until the matter is concluded notwithstanding that his successor may have been appointed.
5. If during the hearing of any matter a member attending the Tribunal should die or become unable to continue with the hearing the matter may proceed so long as the President or Deputy President and two members be present, provided further, that should the Tribunal be evenly divided on any question of evidence or procedure the President or Deputy President shall have a casting as well as a deliberative vote.
6. The appointment by the Bishop of a Deputy President of the Tribunal shall be by writing under seal and shall be lodged with the Registrar: such appointment shall, unless specified therein to be with respect only to the hearing of a particular charge or for a limited period, operate until revoked by writing under seal.
7. A vacancy on the Tribunal shall occur
 - [i] When a member thereof dies, resigns, is declared by a competent court incapable of managing his affairs, or ceases to reside permanently in the Diocese; or
 - [ii] When the Bishop declares in writing the seat of a member to be vacated by reason of his refusal, neglect or inability to perform his duties as a member, or for such other reason therein stated.
8. In the event of a vacancy occurring in the elected members of the Tribunal such vacancy shall be filled by the Diocesan Council by the appointment of a clergyman or layman as the case may be.
9. An elected member of the Tribunal shall be disqualified from hearing any charge which concerns himself or to the prosecution of which charge he has been a party and for any such charge his place on the Tribunal shall be deemed to be vacant and shall be filled as provided in Section 8.
10. The Tribunal shall in respect of a person licensed by the Bishop, or any other person in Holy Orders resident in the Diocese, have jurisdiction to hear and determine charges of breaches of faith, ritual, ceremonial or discipline; of offences specified by Canon No. 4. of the General Synod of 1962; and of such offences as may be specified by any ordinance of General Synod or the Synod of the Diocese of Tasmania.

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11. A person appointed by the Bishop or any five adult communicant members of this Church resident within the Diocese may promote a charge before the Tribunal provided that if the charge be preferred against an incumbent of a Parish with respect to an offence alleged to have been committed within that Parish the aforesaid communicants shall be bona fide Parishioners of that Parish.
12. Before any charge be heard by the Tribunal it shall be referred to a Board of Enquiry appointed under Section 13, and the Tribunal shall not proceed to a hearing of the said charge unless the said Board allows it to be a charge proper to be heard.
13. When any charge has been promoted before the Tribunal the Diocesan Council shall appoint a Board of Enquiry consisting of three members, who need not be members of that Council, but of whom one at least shall be a clergyman and one at least shall be a layman.
14. The Board of Enquiry may inform itself of the matters in question in such manner as it sees fit; but shall give to the person against whom the charge is promoted an opportunity to be heard, in person by counsel or by written statement if he so desires.
15. The Board of Enquiry shall report in writing to the President or Deputy President of the Tribunal whether or not the charge is allowed as one proper to be heard.
16. Synod may by resolution appoint a barrister or solicitor to be Church Advocate of the Diocese and he shall hold his office during pleasure. The person holding the office of Advocate at the time of the passing of this Ordinance shall continue in such office. The Advocate of the Diocese, shall, saving as next hereinafter provided, have the conduct of charges before the Tribunal under this Ordinance. The Complainants and Respondent shall be at liberty respectively to prosecute and defend any charge in person or they or either of them may be represented at any stage by Counsel or Solicitor.
17. When a charge is allowed it shall be heard and determined by the Tribunal under such rules as may be prescribed from time to time by the Tribunal which shall as far as possible and convenient follow the procedure contained in any Canons relating to Tribunals of the General Synod which may be appropriate.
18. The Hearing of any charge under this Ordinance for any offence shall be in camera provided that the Tribunal may direct the hearing to be in public.
19. The Tribunal shall not convict on an offence unless a majority of its members be in favour of conviction.
20. The Registrar shall have the custody and control of all documents in every case and either party to the cause shall on giving reasonable notice and paying the specified charges and fees be entitled to obtain inspection or a copy of all or any such documents in any case after the Board of Enquiry has allowed the charge as one proper to be heard.
21. Nothing in this Ordinance shall derogate from or be taken to repeal any part of the Incumbents' Removal Ordinance 1947.