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This is a privately prepared
copy of the

Clergy Discipline Ordinance (1966-84)

currently in force
in the Anglican Church,
Diocese of Newcastle

together with
extracts from the Constitution
and General Synod's Offences Canon

Sources;
Diocesan Year Books,
Diocesan Law Book
General Synod Law Book

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INCLUDED FOR CONVENIENCE

FROM THE CONSTITUTION ANGLICAN CHURCH OF AUSTRALIA

[Diocesan Tribunal]

54. (1) A diocesan tribunal shall be the court of the bishop and shall consist of a president, who shall be the bishop, or a deputy president appointed by him and not less than two other members as may be prescribed by ordinance of the synod of the diocese.

The members other than the president and deputy president shall be elected in such manner, hold office for such period, have such qualifications and be subject to such disqualifications, and vacancies shall occur and be filled in such manner, as may be prescribed by ordinance of the synod of the diocese.

In any province the provincial synod if so requested by the synod of a diocese may by ordinance of the provincial synod prescribe any matter directed or permitted by this section to be prescribed by ordinance of the synod of the diocese, provided that the synod of the diocese may at any time otherwise prescribe.

- (2) A diocesan tribunal shall in respect of a person licensed by the bishop of the diocese, 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

and of such offences as may be specified by any canon ordinance or rule.

- (3) A person appointed by the bishop of a diocese or any five adult communicant members of this Church resident within the diocese may promote a charge against any person licensed by the bishop of the diocese or against any other person in holy orders resident in the diocese in respect of breach of faith ritual or ceremonial either before the diocesan tribunal or before the provincial tribunal in its original jurisdiction. Provided that if a charge be preferred against an incumbent of a parish with reference to an offence alleged to have been committed within that parish the aforesaid communicants shall be bona fide parishioners of that parish.

Provided further that before any charge relating to faith ritual or ceremonial be heard by the tribunal it shall be referred to a board of enquiry appointed by ordinance of the diocesan synod and may proceed to a hearing if the said board allows it as a charge proper to be heard.

- (4) In matters involving any question of faith ritual ceremonial or discipline an appeal shall lie from the determination of a diocesan tri-

bunal to the Appellate Tribunal, provided that in any province in which there is a provincial tribunal and an appeal thereto is permitted by ordinance of the diocesan synod, an appeal may lie in the first instance to the provincial tribunal, and provided that in any such case an appeal shall lie from the determination of the provincial tribunal to the Appellate Tribunal.

In other matters an appeal shall lie in such cases as may be permitted by ordinance of the diocesan synod from a determination of the diocesan tribunal to the provincial tribunal, if any, or to the Appellate Tribunal, and from a determination of the provincial tribunal to the Appellate Tribunal.

[Provincial Tribunal]

55. (1) A provincial tribunal shall consist of a president who shall be the metropolitan, or a deputy president appointed by him, and not less than two other members as may be prescribed by ordinance of the synod of the province.

The members other than the president or deputy president shall be elected in such manner, hold office for such period, have such qualifications and be subject to such disqualifications and vacancies shall occur and be filled in such manner, as may be prescribed by ordinance of the synod of the province.

- (2) A provincial tribunal shall have

jurisdiction to hear and determine appeals from any determination of any diocesan tribunal of the province in any case in which an appeal lies therefrom to the provincial tribunal.

Every appeal to a provincial tribunal shall be by way of rehearing.

- (3) A provincial tribunal shall, in respect of a person licensed by the bishop of a diocese within the province, have original jurisdiction to hear and determine charges of breaches of faith ritual ceremonial or discipline, and of such offences as may be specified by any canon ordinance or rule, provided that such original jurisdiction shall not be exercised except as prescribed by ordinance of the synod of the diocese.

- (4) An appeal shall lie to the Appellate Tribunal from a determination of a provincial tribunal in its original jurisdiction.

[Special Tribunal - charges against Bishops]

- 56 (1) The Special Tribunal shall consist of a president and not less than two diocesan bishops as hereinafter appointed.

- (2) The Primate shall be the president, or if he is not entitled to act, the metropolitan or bishop who would exercise the authorities powers

rights and duties of the Primate, if the office were then vacant, shall be the president.

No person by or against whom the charge is brought shall be a member of the tribunal.

- (3) The Special Tribunal shall have jurisdiction to hear and determine charges against any member of the House of Bishops of breaches of faith ritual ceremonial or discipline and of such offences as may be specified by canon.

- (3) Before determining any charge the tribunal shall consult a board of assessors, being bishops, priests and laymen, as hereinafter appointed.

The members of the Special Tribunal (other than the president) and the members of the board of assessors shall be appointed in such manner hold office for such period and be subject to such disqualifications and vacancies shall occur and be filled in such manner as may be prescribed by or under canon of General Synod.

- (4) An appeal shall lie from the determination of the Special Tribunal to the Appellate Tribunal.

See also:

§ 57 - Appellate Tribunal
§ 58-63 regarding the Appellate Tribunal

Special Tribunal Procedure Canon
1992

General Synod OFFENCES CANON 1962- 1981(-1992)

Canon 4, 1962

Canon 7, 1981

Canon 12, 1992

A Canon to specify offences under sections 54, 55 & 56 of the Constitution

The General Synod prescribes as follows:

- 1.¹ A diocesan tribunal and a provincial tribunal in its original jurisdiction in addition to their respective powers under section 54(2) and section 55(3) of the Constitution may hear and determine charges made in respect of the following offences alleged to have been committed by persons licensed by the bishop of the diocese and by persons in Holy Orders resident in the diocese:

1. Unchastity.
2. Drunkenness.
3. Habitual and wilful neglect of ministerial duty after written admonition in respect thereof by the bishop of the diocese.
4. Wilful failure to pay just debts.
5. Conduct disgraceful in a clergyman and productive or likely to be productive of scandal or evil report.
6. Any other offence prescribed by an ordinance of the synod of the diocese.

- 2.² The Special Tribunal in addition to its powers under section 56(2) of the Constitution may hear and determine charges against any mem-

ber of the House of Bishops made in respect of the following offences:

1. Unchastity.
2. Drunkenness.
3. Wilful failure to pay just debts.
4. Conduct disgraceful in a clergyman and productive or likely to be productive of scandal or evil report.
5. Wilful violation of the Constitution or of the canons made thereunder or of the ordinances of provincial synod or of his diocesan

synod.

6. Any conduct involving wilful and habitual disregard of his consecration vows.

3. This canon may be cited as the "Offences Canon 1962".

¹ Amended by Canon 7, 1981

² Amended by Canon 7, 1981; sub section (2) repealed by Canon 12, 1992

Synod of the Diocese of Newcastle AN ORDINANCE

Providing for the Trial of Clergymen for Ecclesiastical Offences.

PREAMBLE

WHEREAS it is expedient to provide for the trial for ecclesiastical offences of persons in holy orders licensed by the Bishop of Newcastle and of other persons in holy orders resident in the Diocese of Newcastle

BE IT THEREFORE ORDAINED by the Bishop Clergy and Laity of the Diocese of Newcastle in Synod assembled as follows:

PART I— PRELIMINARY

1. (1) This Ordinance may be cited as the "Clergy Discipline Ordinance 1966"
 - (2) The Tribunal Ordinance 1934 is in this clause referred to as the former Ordinance
 - (3) The former Ordinance is hereby repealed
 - (4) The repeal effected by sub-clause (3) of this clause shall not affect any investigation trial proceeding or remedy in respect of any right privilege obligation liability penalty forfeiture sentence or punishment and any such investigation trial proceeding or remedy may be instituted continued or enforced and any such penalty forfeiture sentence or punishment may be imposed as if this Ordinance had not been made
- 1A. (added 1976) This Synod adopts in its entirety the Offences Canon No. 4 of 1962 of General Synod

1B. (added 1994) This Synod adopts in its entirety the Offences Amendment Canon no. 7 of 1981 of General Synod.

2. This Ordinance is divided into Parts as follows:

- Part I — Preliminary (Clauses 1-3)
- Part II — Charges (Clauses 4-9)
- Part III — The Board of Enquiry (Clause 10)
- Part IV — Procedure as to Charges (Clauses 11-18)
- Part V — Diocesan Tribunals (Clauses 19-20)
- Part VI — The Trial (Clauses 21-28)
- Part VII — Decision, Recommendation and Sentence (Clauses 29-38)
- Part VIII — Appeal (Clause 39)
- Part IX — Records (Clauses 40-42)
- Part X — Miscellaneous (Clauses 43-46)

3. (1) In this Ordinance (including this clause of this Ordinance) unless the context or subject matter otherwise requires or indicates: "*accused*" means a clergyman to whom this Ordinance applies against whom a charge is made

"*accuser*" means a person who makes a charge and where a charge is made by more than one person "*the accuser*" means "each of the accusers"

"*the Advocate*" means the Advocate of the Diocese appointed pursuant to this Ordinance

"*the appellate tribunal*" means the appellate tribunal constituted by and under the Constitution of the Church of England in Australia

"*the Bishop*" means the Bishop of Newcastle

"*the Board*" means the Board of Enquiry constituted as provided by this Ordinance

"*the Chancellor*" means the Chancellor of the Diocese

"*ceremonial*" includes ceremonial according to the use of the Church and also the obligation to abide by such use

"*charge*" means a charge made pursuant to this Ordinance

"*the Church*" means the Church of England in Australia

"*clergyman to whom this Ordinance applies*" means a person licensed by the Bishop or any other person in holy orders resident in the diocese

"*diocesan tribunal*" or "*tribunal*" means a diocesan tribunal constituted as provided by this Ordinance

"*the Diocese*" means the Diocese of Newcastle

"discipline" includes the rules of the Church and the rules of good conduct

"doctrine" means the teaching of the Church on any question of faith

"faith" includes the obligation to hold the faith

"licence" means a licence under seal of the bishop and *"licensed"* has a meaning corresponding with that of licence

"member of the Church" means a baptised person who attends the public worship of the Church and who declares that he is a member of the Church and not a member of any other church

"offence" means any of the following:

- (a) breach of faith ritual ceremonial or discipline
- (b) unchastity
- (c) drunkenness
- (d) habitual or wilful neglect of ministerial duty after written admonition in respect thereof by the Bishop
- (e) bankruptcy
- (f) wilful failure to pay just debts
- (g) conduct disgraceful in a clergyman and productive or likely to be productive of scandal or evil report
- (h) any offence punishable by law being a malum in se

"parish" means parish provisional or mission district as defined by the Parochial Ordinance of the Diocese as amended from time to time or by any ordinance (as amended from time to time) replacing that Ordinance

"parishioner" means a member of the Church who is entitled to vote at a meeting of a parish for the election of church wardens or who if no such meeting is provided for is at least twenty-one years of age

"the Registrar" means the Registrar of the Diocese

"ritual" includes rites according to the use of the Church and also the obligation to abide by such use

"the Synod" means the Synod of the Diocese

- (2) In this Ordinance a reference to faith includes a reference to doctrine
- (3) In this Ordinance a reference to a Schedule is a reference to a Schedule to this Ordinance and a reference to a clause is a reference to a clause of this Ordinance

PART II — CHARGES

- 4. (1) A charge that he has committed an offence may be made as provided by this Ordinance against any clergyman to whom this Ordinance applies

- (2) Every charge so made shall be dealt with as provided by this Ordinance
5. (1) If a clergyman to whom this Ordinance applies is convicted in a criminal court of an offence which is punishable by law a charge against him that he has committed that offence may not be made at any time after the lapse of six calendar months after he has been so convicted
- (2) Subject to sub-clause (1) of this clause no charge that an offence has been committed may be made more than two years after that offence has been committed
- (3) For the purposes of this clause the presenting to the Registrar of a charge which in all respects complies with the requirements of this Ordinance as to the making of charges shall constitute the making of that charge
6. (1) A charge of breach of faith ritual or ceremonial may be made:
- (a) against an incumbent of a parish with reference to an offence alleged to have been committed within that parish only by
- (i) a person appointed by the Bishop or
- (ii) any five adult communicant members of the Church who are both resident within the diocese and also bona fide parishioners of that parish
- (b) in any other case — only by
- (i) a person appointed by the Bishop or
- (ii) any five adult communicant members of the Church who are resident within the diocese
- (2) A charge of an offence other than breach of faith ritual or ceremonial may be made by
- (a) the Bishop of his own mere motion or
- (b) a person appointed by the Bishop or
- (c) any other adult member of the Church resident within the diocese
7. (1) Every charge shall be made by written instrument in or to the effect of the form set forth in Schedule A signed by the accuser Accusers may sign separate instruments and the separate instruments shall be read together
- (2) Every charge shall be accompanied by all documents therein referred to as attached
- (3) Every charge shall be presented by the accuser to the Registrar and every charge not made by the Bishop shall forthwith be presented (together with all documents attached thereto) by the Registrar to the Bishop
8. (1) This clause shall apply only where the charge is a charge of breach of faith ritual or ceremonial and is not made by a person appointed by the Bishop

- (2) When the charge is presented to the Bishop he shall by whatever means he shall in his absolute discretion think fit determine whether the charge is made is made by persons who in number and qualification fulfil the appropriate requirements of sub-clause (1) of clause 6
 - (3) If the Bishop determines that the charge is not so made he shall cause the charge to be returned to the person who presented it to the Registrar and shall cause each of the persons who made the charge to be given notice in writing of his determination and of the reason therefor and no further action shall be taken under this Ordinance with respect to that charge unless and until it is made by persons who in number and qualifications fulfil the appropriate requirements of sub-clause (1) of clause 6 and within the time specified by Clause 5
9. A charge shall on its mere production before the Board (or a diocesan tribunal) be prima facie evidence of the truth of the declarations made in it in accordance with paragraph 5 of the form set forth in Schedule A

PART III — THE BOARD OF ENQUIRY

10. (1) There shall be a Board of Enquiry constituted as hereinafter provided
- (2) The Board shall consist of seven members — namely a chairman three clergymen and three laymen all of whom shall be members of the Synod
 - (3) On the passing of this Ordinance and thereafter at the first session of every Synod the Bishop shall appoint one member of the Synod to be the Chairman of the Board and from among the members of the Synod one clergyman and one layman to be members of the Board and the Synod shall elect from among its members two clergymen and two laymen to be members of the Board
 - (4) Subject to sub-clause (5) of this clause a member of the Board shall hold office until the conclusion of the first session of that Synod which next follows his election or appointment as a member of the Board
 - (5) The office of a member of the Board shall ipso facto be vacated if he
 - (a) ceases to be a member of Synod or
 - (b) resigns his office or
 - (c) refuse (*sic*) or neglects to act in his office or
 - (d) becomes in the opinion of the Bishop incapable of acting in his office and is given notice accordingly in writing by the Bishop or
 - (e) is charged under this Ordinance with an offence
 - (6) If a member of the Board dies or if the office of a member of the Board is vacated pursuant to sub-clause (5) of this clause the Bishop may appoint a

member of the Synod to be a member of the Board in his place (but may appoint only a clergyman in place of a clergyman and only a layman in place of a layman)

(7) A quorum of the Board shall be three members namely—

- (a) the chairman
- (b) a clergyman
- (c) a layman

Provided that each of the two members other than the chairman shall (to the extent to which the operation of any of sub-clause (5) and (6) of this clause does not otherwise require) be a member elected by the Synod

PART IV—PROCEDURE AS TO CHARGES

11. (1) The Bishop shall refer to the Board every charge of breach of faith ritual or ceremonial and all documents attached thereto and the Board shall without the necessity of hearing any person decide whether or not to allow it as a charge proper to be heard and shall inform the Bishop of its decision

(2) The Bishop shall as to every charge which is neither

- (a) a charge of breach of faith ritual or ceremonial nor
 - (b) a charge made by the Bishop of his own mere motion
- without the necessity of hearing any person decide whether or not to allow it as a charge proper to be heard

12. If the Board or the Bishop as the case may be decides pursuant to clause 11 not to allow a charge as a charge proper to be heard the Bishop shall cause the accuser to be given notice in writing accordingly the charge shall be returned to the Registrar and no further action shall be taken under this Ordinance with respect to that charge

13. (1) A charge which the Board or the Bishop as the case may be decides pursuant to clause 11 to allow as a charge proper to be heard shall be dealt with as provided in the clauses of this Ordinance which succeed this clause and those clauses shall apply only to such a charge

(2) A charge made by the Bishop of his own mere motion shall be deemed to be a charge which the Bishop decides pursuant to clause 11 to allow as a charge proper to be heard

14. The Bishop shall cause to be served on the accused within one month of a charge being presented to the Registrar—

- (a) a copy of the charge and of each document attached thereto and

- (b) a notice in writing requiring the accused to reply in writing to the charge within twenty-one days from the date of the notice

15. (1) If he so desires the accused may in his reply

(Case A): Where one offence only is charged — admit the commission of that offence and submit as prescribed

(Case B): Where two or more offences are charged — admit the commission of each of those offences and submit as prescribed

- (2) In sub-clause (1) of this clause “submit as prescribed” means “submit himself without further proceedings to such judgment and sentence in respect of the offence (or offences, as the case may be) the commission of which he admits as the Bishop shall think fit to pronounce”

16. (1) This clause shall apply in the following cases only:

- (a) Case A of clause 15
(b) Case B of clause 15

- (2) The Bishop shall cause the accused and the accuser to be given notice in writing

(a) that the accused having admitted the commission of the offence (or as the case may be of each of the offences) charged and having submitted as provided by clause 15 the Bishop intends to pronounce judgment and sentence at the time and place specified in the notice.

(b) that all persons who so desire may then be present

(c) that the accused will then be given opportunity to show cause and if he so desires to be heard in excuse or mitigation or both before judgment and sentence are pronounced and may in the meantime make to the Bishop written representations in excuse or mitigation or both.

- (3) Subject to his giving the accused opportunity to show cause and to his hearing the accused at the time and place specified in the notice if he wishes to be heard in excuse or mitigation or both the Bishop shall pronounce judgment and sentence either then or there or subsequently at a time and place of which he shall cause the accused and the accuser to be given notice beforehand orally or in writing.

- (4) The Bishop may in addition to pronouncing sentence suspend the operation of the sentence. If he does so and if the operation of the sentence remains suspended for a period of two years that sentence shall thereafter have no operation. Every sentence shall if its operation is not suspended commence to operate immediately it is pronounced.

- (5) When in a case to which this clause applies the action prescribed by this clause has been taken no further action other than that which may be required by clauses 38 40 and 41 shall be taken under this Ordinance with

respect to the charge

17. (1) Subject to clause 16—
- (a) the accused shall be tried by a diocesan tribunal and
 - (b) the Bishop shall appoint an Advocate of the Diocese to prosecute the charge and shall send to the Advocate the charge all documents therein referred to a copy of the notice referred to in Clause 14 and the reply (if any) of the accused and the Advocate shall thereupon prepare Articles of Accusation and send them and the charge to the Registrar
- (2) Articles of Accusation shall (in a separate Article for each offence if more than one offence is charged) with reasonable particularity specify every offence charged and the time place and circumstances thereof
18. On receiving the Articles of Accusation the Registrar shall cause to be served
- (a) upon the accuser and the accused — copies of the Articles of Accusation
 - (b) upon the accused—a citation to appear (at such time not less than fourteen nor more than forty days from the date of the citation and at such place as shall be specified in the citation) before a diocesan tribunal to answer the Articles of Accusation
 - (c) upon the accuser—a copy of the citation
 - (d) upon the accuser and the accused—notices in writing requiring them to procure the attendance before the tribunal of such witnesses as they may severally desire for the purpose of accusation or defence

PART V—DIOCESAN TRIBUNALS

19. (1) On the passing of this Ordinance and thereafter at the first session of every Synod eight members of the Synod shall be elected either by ballot or otherwise as the Synod shall then determine, to be a Panel of Triers
- (2) Of the said eight members four shall be clergymen elected by the members then present of the House of Clergy and four shall be laymen elected by the members then present of the House of Laity
- (3) No member of the Board of Enquiry shall be eligible to be a member of the Panel of Triers
- (4) Subject to sub-clause (5) of this clause a member of the Panel of Triers shall hold office until the conclusion of the first session of that Synod which next follows his election as a member of the Panel of Triers
- (5) The office of a member of the Panel of Triers shall ipso facto be vacated if he
- (a) ceases to be a member of the Synod or

- (b) resigns his office or
- (c) refuses or neglects to act in his office or
- (d) becomes in the opinion of the Bishop incapable of acting in his office and is given notice accordingly in writing by the Bishop or
- (e) is charged under this Ordinance with an offence

(6) Any vacancy occurring in the Panel of Triers shall be filled by the House which elected the member whose place has become vacant electing one of its members in his place at the next following session of the Synod provided that if at any time so many vacancies have occurred that a diocesan tribunal cannot be duly constituted for a trial which in the opinion of the Bishop should be commenced before the next following session of the Synod the Bishop-in-Council may from among the members of the Synod fill any or all of the vacancies for the purposes only of that trial by appointing clergymen in the place of clergymen and laymen in the place of laymen to hold office for the duration only and for the purposes only of that trial

20. (1) A diocesan tribunal shall be duly constituted for the trial of an accused so long as it consists of the following members:

- (a) either
 - (i) the President and a Deputy President or
 - (ii) a Deputy President and
- (b) not less than two of the clerical members of the Panel of Triers and
- (c) not less than two of the lay members of the Panel of Triers

(2) The President shall be the Bishop

(3) The Deputy President shall be appointed by the Bishop but the Bishop may appoint as Deputy President only the Chancellor or some other barrister or solicitor who is not a member of the Panel of Triers or of the Board

(4) The President shall preside over the trial if he is present If the President is not present the Deputy President shall preside over the trial and shall and may do all things which this Ordinance requires or permits the President to do

(5) If after the commencement of a trial a member of the tribunal ceases to hold office by reason of subclause (4) of clause 19 and otherwise than by reason of sub-clause (5) of clause 19 and is not reselected to the Panel of Triers, he shall nevertheless continue to be a member of that tribunal (but for the purposes only of that trial) and the tribunal shall not by reason of his ceasing to hold office be deemed not to be duly constituted for those purposes

(6) If after the commencement of a trial a member of the tribunal ceases to hold office by reason of sub-clause (5) of clause 19 he shall ipso facto cease to

be a member of the tribunal

PART VI — THE TRIAL

21. (1) A diocesan tribunal shall assemble at the time and place appointed in the citation Each member shall make the declaration set forth in Schedule B The trial shall then be commenced by the President causing the accused to be summoned to appear before the tribunal
 - (2) The accused may appear in person or by counsel or solicitor or (if charged with breach of faith ritual or ceremonial) by a person in holy orders
 - (3) If the accused does not appear the trial may upon proof of due service of the citation upon the accused proceed in his absence to hearing and decision and the Bishop may pronounce sentence
 - (4) If the accused appears or if the trial proceeds as aforesaid in his absence the President shall then read or cause to be read the Articles of Accusation
 - (5) If the accused appears he shall then be called upon to plead to each Article and his plea or pleas shall be recorded If he neglects or refuses to plead to any Article a plea of not guilty to that Article shall be entered on his behalf
 - (6) If the accused does not appear and the trial proceeds as aforesaid in his absence a plea of not guilty to each Article shall be entered on his behalf and the trial shall proceed as far as possible in the same manner as if the accused had appeared and had so pleaded
22. The tribunal may during the trial permit amendment of the Articles of Accusation upon such terms (if any) as it thinks fit.
23. (1) Witnesses shall be examined on oath or affirmation and each before giving evidence shall make the declaration oath or affirmation set forth in Schedule C The evidence of each witness shall be reduced to writing and signed by him
 - (2) The rules of evidence prevailing and in force in the Supreme Court of New South Wales, including provisions relating to judicial notice proof and admissibility contained in State or Federal Acts of Parliament shall so far as is practicable apply in a trial and for the purposes of the application of those rules and provisions a tribunal and a trial shall be taken to be respectively a court and a legal proceeding
24. (1) The Bishop and the Chancellor may from time to time in writing signed by them make and alter rules for the conduct of trials before diocesan tribunals All rules and alterations so made shall be laid before the next succeeding session of the Synod and shall unless and until disallowed by

the Synod have the force of an Ordinance of the Synod

(2) Subject to any rules so made and to the provisions of this Ordinance the tribunal shall so far as is practicable follow the procedure of the Supreme Court of New South Wales

25. The case against the accused shall be conducted before the tribunal by the Advocate

26. The Deputy President shall determine all questions arising during the trial which are questions of law or questions of the admissibility of evidence

27. In any trial where an issue is whether there has been a breach of doctrine—

- (a) the opinion of experts shall be admissible as to
 - (i) the principles of the doctrine
 - (ii) whether on the facts there has been a breach of the doctrine
- (b) The President shall determine what are the principles of doctrine that are applicable
- (c) The tribunal shall determine whether on the facts there has been a breach of the principles so determined by the President

28. The proceedings of a tribunal shall be attended by the Registrar as an officer of the tribunal and shall be open to the public provided that the President at any stage of the proceedings may order they shall be held in private by reason of their subject matter or the misconduct of the audience or for any other reason he may in his absolute discretion think fit

PART VII — DECISION, RECOMMENDATION AND SENTENCE

29. After due examination and hearing of the case and after due deliberation the tribunal shall decide the issue as to each offence alleged and if it decides that the accused is guilty of any offence shall make such recommendations as it thinks just in the circumstances but shall not recommend any sentence other than one or more of the following that is to say monition suspension from office deprivation of rights and emoluments appertaining to office deposition from holy orders

30. Each member of the tribunal shall have one vote as to its decision. If the votes of the tribunal on an issue are equally divided, the issue shall be deemed to have been decided in favour of the accused.

31. A recommendation made by the tribunal shall be that recommendation (if any) which is supported by the greatest number of votes of members The Bishop if

he has presided over the trial may be present at and take part in the deliberations of the tribunal as to its recommendation but shall have no vote as to its recommendation Each other member of the tribunal shall have one vote and the Deputy President shall in addition to his vote as a member have a casting vote

32. If the Bishop has not presided over the trial the Deputy President shall forthwith give him notice in writing of the decision and the recommendation (if any) of the tribunal.
33. Upon the decision and the recommendation (if any) of the tribunal becoming known to the Bishop he shall forthwith
 - (a) if every issue has been decided in favour of the accused—cause the accused and the accuser to be given notice in writing of the decisions and if the accused so requests issue a certificate in an appropriate form under his hand and seal
 - (b) in every other case—cause the accused and the accuser to be given notice in writing of the decision and recommendation (if any) of the tribunal and cause the members of the tribunal the accused and the accuser to be given notice writing
 - (i) that the Bishop intends to pronounce sentence at the time and place specified in the notice
 - (ii) that all persons who so desire may then be present
 - (iii) that the accused will then if he so desires be heard in mitigation of sentence before sentence is pronounced and may in the meantime make to the Bishop written representation in mitigation of sentence
34. (1) This clause applies where notice is given in accordance with paragraph (b) of clause 33
 - (2) Subject to his hearing the accused at the time and place specified in the notice if he wishes to be heard in mitigation of sentence the Bishop shall pronounce sentence either then and there or subsequently at a time and place of which he shall cause the accused and the accuser to be given notice beforehand orally or in writing
35. If the tribunal makes no recommendation as to sentence the Bishop shall pronounce such sentence as he thinks fit and may in the exercise of his prerogative of mercy suspend the operation of a sentence
36. (1) The Bishop shall give effect to any recommendation made by the tribunal provided that if a sentence is recommended he may consult with the tribunal and in the exercise of his prerogative of mercy
 - (a) mitigate the sentence or

- (b) suspend its operation or
- (c) mitigate the sentence and suspend its operation

(2) If a sentence is recommended the Bishop shall pronounce that sentence even though he mitigates it or suspends its operation and shall also pronounce any mitigation or suspension

37. (1) If the operation of a sentence or mitigated sentence has been suspended and remains suspended for a period of two years that sentence or mitigated sentence shall thereafter have no operation

(2) Every sentence or mitigated sentence shall if its operation is not suspended commence to operate immediately it is pronounced

38. (1) The Bishop shall by writing under his hand and seal certify every sentence and every mitigation or suspension

(2) The certificate shall be lodged with the Registrar and a copy shall be sent to the accused

(3) This clause shall apply both where sentence is pronounced after a trial and where sentence is pronounced pursuant to clause 16

PART VIII — APPEAL

39. An appeal will lie to the appellate tribunal from every decision recommendation or sentence of a diocesan tribunal but in no case shall an appeal lie from any determination of a diocesan tribunal to any provincial tribunal constituted by the Constitution of the Church of England in Australia

PART IX — RECORDS

40. (1) The Registrar shall keep a Register of Ecclesiastical Offences in which there shall be entered in respect of every charge which within the meaning of clause 13 the Board or the Bishop decides pursuant to clause 11 to allow as a charge proper to be heard—

- (a) the name of the accused
- (b) the date on which the charge was made
- (c) the names of the accusers
- (d) the nature but not the particulars of each offence charged and the date on which it was alleged to have been committed
- (e) whether the accused was tried by a diocesan tribunal or dealt with under clause 16
- (f) if the accused was tried by a diocesan tribunal — the date of the trial and the names of the members of the tribunal
- (g) the judgment of the Bishop or (as the case may be) the decision of the

tribunal as to each offence charged

(h) the recommendation (if any) of the tribunal

(i) the sentence (if any) and any mitigation or suspension of sentence and the date of pronouncement thereof

(2) No person other than the Bishop and the Registrar shall have access to the Register of Ecclesiastical Offences except with the permission of the Bishop previously given in writing

41. (1) Whenever a charge has been returned to the Registrar pursuant to clause 12 the Registrar shall as soon as is practicable seal up in a suitable container indorsed with the name of the accused the charge and every document attached thereto

(2) Whenever a trial has been held under this Ordinance the President shall cause to be delivered to the Registrar and the Registrar shall as soon as is practicable seal up in a suitable container indorsed with the name of the accused the charge and every document attached thereto the reply (if any) of the accused the Articles of Accusation the transcript of evidence the record of proceedings every exhibit not directed by the tribunal to be handed back to the party who tendered it and all records of the tribunal

(3) The Registrar shall subject as hereinafter provided preserve intact in the Diocesan Registry every container sealed up pursuant to this clause

(4) No person other than the Bishop shall have access to the contents of any container sealed up pursuant to this clause except with the permission of the Bishop previously given in writing

(5) The Registrar shall as soon as is practicable after the death of the accused destroy every container and the contents of any container sealed up pursuant to this clause and indorsed with the name of the accused

42. If access to the Register of Ecclesiastical Offences or to the contents of any container referred to in clause 41 is bona fide required for the purposes of a trial under this Ordinance or an appeal or other legal proceedings the Bishop shall give the necessary permission and every person permitted access may at his own expense take or be provided by the Registrar with copies of (as the case may be) any relevant entry in the Register or any of the contents of the container but in every other case the Bishop may in his absolute discretion give or refuse the necessary permission

PART X — MISCELLANEOUS

43. A certificate in writing signed by the Registrar that a person is within the meaning of this Ordinance a person in holy orders

- (a) licensed by the Bishop or
 - (b) not licensed by the Bishop but resident in that diocese
- shall be prima facie evidence of the matters therein stated

44. A document certified in writing signed by the Bishop to be a true copy of a written admonition in respect of ministerial duty given by him to a person and or a date specified in the certificate shall be prima facie evidence that written admonition was given by the Bishop to that person on that date in the terms appearing in the document
45. Any document produced before a diocesan tribunal purporting to be sealed or signed by the Bishop or signed by the Registrar shall in the absence of evidence to the contrary be deemed to be duly sealed or signed by the Bishop or signed by the Registrar as the case may be
46. (1) Whenever it is provided by this Ordinance that any notice or other document shall be, or that anyone shall cause any notice or other document to be given, sent or presented to or served on any person that provision shall be deemed to have been complied with if the notice or document is given presented to or served on that person personally or sent by prepaid registered or certified post or otherwise addressed to him at his usual or last-known address
- (2) A notice or other document sent to any person addressed as aforesaid by prepaid registered or certified post shall be deemed to have been received by him on the day on which he would have received it in the ordinary course of post
- (3) A certificate in writing signed by the Registrar that a notice or other document has been given presented to or served on any person personally or sent to any person addressed as aforesaid by prepaid registered or certified post shall be conclusive as to the matters therein stated including any matters therein stated relating to time date or place of posting

SCHEDULE A

FORM OF CHARGE

1. I (or: We) (insert name or names) of (insert address or addresses) do hereby make charge that the Reverend (insert name) of (address) (if appropriate add incumbent of the parish of (name)) being a person in holy orders licensed by the Bishop of Newcastle (as the case may be; being a person in holy orders not licensed by the Bishop of Newcastle but resident

in the Diocese of Newcastle) has committed the offence of (here describe the offence in accordance with the appropriate words in the definition of "offence" Clause 3 (1) of the Ordinance) in that he (here give particulars of the time, place and circumstances of the offence)

2. I (or: We) have attached hereto a list showing the names and address of witnesses now known to me (or: us) who can give evidence relating to the said charge
3. I (or: We) have attached hereto the documentary evidence now in our possession relating to the said charge
(or)
I (or: We) have no documentary evidence in our possession relating to the said charge
4. I (or: We) desire that the said charge be dealt with in accordance with the Constitution of the Church of England in Australia and the Clergy Discipline Ordinance 1966 of the Diocese of Newcastle
5. I do (or: Each of the undersigned does) hereby solemnly and sincerely declare as follows:
 - A. I have been duly appointed by the Bishop of Newcastle to make the said charge
 - B. (if the offence charged is breach of faith ritual or ceremonial and declaration A is not appropriate) :
I am
 1. over the age of twenty-one years
 2. within the meaning of the said Constitution a communicant member of the Church of England in Australia and am not a member of any other Church and am resident within the Diocese of Newcastle (if appropriate add: and a bona fide parishioner of the parish of (name))
 - C. (if the offence charged is not a breach of faith ritual ceremonial and declaration A is not appropriate:
I am
 1. of the age of twenty-one years
 2. within the meaning of the said Ordinance a member of the Church of England in Australia
 3. not a member of any other church
 4. resident within the Diocese of Newcastle
 - D. I do not make the said charge from any private ill-will towards the the said Reverend (name) or from any improper motive
 - E. I believe the said charge to be substantially true

Signature (s):

Date:

SCHEDULE B
DECLARATION OF MEMBER OF TRIBUNAL

I do solemnly and sincerely declare that I will well and truly try the (several) article(s) of accusation now to be exhibited before me and that I will to the best of my judgment and ability find according to the evidence

SCHEDULE C

OATH OF WITNESS

The evidence which I shall give before this tribunal will be the truth the whole truth and nothing but the truth So help me God

AFFIRMATION OF WITNESS

I do solemnly and sincerely affirm that the evidence which I shall give before this tribunal shall be the truth the whole truth and nothing but the truth

I HEREBY CERTIFY the Ordinance as printed is in accordance with the Ordinance as reported.

S. C. WHITE
Chairman of Committees.

PASSED BY SYNOD on the 6th day of June, 1966
L. STIBBARD
Clerical Secretary of Synod

F. JARVIS
Lay Secretary of Synod

THE ASSENT of the Lord Bishop of the Diocese was given to the above Ordinance on the 6th day of June, 1966, in the Nineteenth Year of our Consecration and of our Translation the Eighth.

+ JAMES NEWCASTLE,
President.

Synod of the Diocese of Newcastle
"The Clergy Discipline Ordinance of 1966 Amending Ordinance 1976".

AN ORDINANCE

To Amend "The Clergy Discipline Ordinance 1966" in One Particular.

PREAMBLE

Whereas it is expedient to adopt by Ordinance of the Synod of the Diocese of Newcastle the "Offences Canon No. 4 of 1962" a Canon of the General Synod.

The Bishop Clergy and Laity of the Diocese of Newcastle in Synod assembled Ordains Directs and Rules as follows :-

CLAUSE 1

There shall be a new clause renumbered 1A inserted under Part 1 - PRELIMINARY to read as follows:

"This Synod adopts in its entirety the Offences Canon No. 4 of 1962 of General Synod".

SHORT TITLE

This Ordinance may be cited for all purposes as "The Clergy Discipline Ordinance of 1966 Amending Ordinance 1976".

I HEREBY CERTIFY the Ordinance as printed is in accordance with the Ordinance as reported.

F. JARVIS
Chairman of Committees

PASSED BY SYNOD on the Twenty-Ninth Day of May, 1976

B. J. McATEER
Clerical Secretary of Synod

A. B. POOLE
Lay Secretary of Synod

THE ASSENT of the Lord Bishop of the Diocese was given to the above Ordinance on the Twenty Ninth Day of May, 1976 in the Twenty Fourth year of our Consecration and of our Episcopate in this See the Third.

+ IAN, NEWCASTLE
President

Synod of the Diocese of Newcastle
"The Clergy Discipline Ordinance of 1966 Amending Ordinance 1984"

AN ORDINANCE to amend "The Clergy Discipline Ordinance 1966" in one particular.

WHEREAS it is expedient to adopt by Ordinance of the Synod of the Diocese of Newcastle the Offences Amendment Canon No. 7 of 1981 passed by General Synod on 27th August, 1981.

The Bishop Clergy and Laity of the Diocese of Newcastle in Synod assembled Ordains Directs and Rules as follows:

CLAUSE 1

The Clergy Discipline Ordinance 1966 is amended by inserting a new clause numbered 1B under PART 1 - PRELIMINARY to read as follows:

- 1B. This Synod adopts in its entirety the Offences Amendment Canon No. 7 of 1981 of General Synod.

SHORT TITLE

This Ordinance may be cited for all purposes as **"The Clergy Discipline Ordinance of 1966 Amending Ordinance 1984"**

I HEREBY CERTIFY the Ordinance as printed is in accordance with the Ordinance as reported.

F. Jarvis
Chairman of Committees

PASSED BY SYNOD on the Thirteenth day of October, 1984.

N. E. Sauber
Clerical Secretary of Synod

R. J. Jackson
Lay Secretary of Synod

THE ASSENT of The Lord Bishop of the Diocese was given to the above Ordinance on the Thirteenth day of October, 1984 in the Fifteenth year of our Consecration and of our Episcopate in this See the Seventh.

+ ALFRED NEWCASTLE
PRESIDENT

Synod of the Diocese of Newcastle
"The General Synod Special Tribunal Procedure Canon
Adopting Ordinance 1994".

AN ORDINANCE to adopt Canon No. 12, 1992 passed by the General Synod of the Anglican Church of Australia

WHEREAS it is expedient that the Diocese of Newcastle should adopt Canon 12, 1992 passed by the General Synod of the Anglican Church of Australia BE IT THEREFORE ordained and ruled by the Bishop Clergy and Laity of the Diocese of Newcastle in Synod assembled as follows:

CLAUSE 1

The Special Tribunal Procedure Canon 1992 passed by the General Synod of the Anglican Church of Australia on 10 July, 1992 a copy of which is set out in the schedule hereto shall be and is hereby adopted by the Synod of the Diocese of Newcastle

CLAUSE 2

This ordinance may be cited as the **"General Synod Special Tribunal Procedure Canon 1992 Adopting Ordinance 1994"**

THE SCHEDULE

has not been printed here due to lack of space:

it is set out in the Diocese of Newcastle Year Book for 1994, pp105-109.

The Canon is also found pages 217-220 of The General Synod Constitution and Canons book, 1992 edition.