

COMMISSIONER'S RULING
ON
MR. MACLENNAN'S APPLICATION FOR STANDING/FUNDING

ON JULY 6, 2006, MR. KEN MACLENNAN, ACTING ON HIS OWN BEHALF AS A PRIVATE CITIZEN, FILED AN APPLICATION FOR "SPECIAL STANDING AND FUNDING". ON JULY 26TH, HE FILED SUPPLEMENTARY WRITTEN MATERIAL AND MADE A BRIEF ORAL SUBMISSION.

MR. MACLENNAN WISHES TO BE GRANTED STANDING BEFORE THIS COMMISSION IN RELATION TO MY DECISION TO RECOMMEND FUNDING FOR THE LEGAL FEES TO BE INCURRED BY THE DIOCESE OF ALEXANDRIA CORNWALL. HE SUGGESTS THAT NO REASONS WERE GIVEN FOR THAT RECOMMENDATION.

IN THE ALTERNATIVE, THE APPLICANT STATES THAT HE WILL WITHDRAW HIS APPLICATION, IF I WERE TO MEET THREE CONDITIONS, NAMELY...

- A) TO ADVISE WHETHER I ADOPTED CANON LAW IN COMING TO MY DECISION**
- B) ENSURE THAT HIS APPLICATION IS POSTED ON THE COMMISSION WEBSITE; AND**
- C) THAT I MAKE RECOMMENDATIONS TO THE ATTORNEY GENERAL TO CHANGE THE TEST USED IN DECIDING TO RECOMMEND FUNDING**

ON NOVEMBER 17, 2005, I ISSUED THE RULING ON STANDING AND FUNDING IN RELATION TO A NUMBER OF APPLICATIONS.

IN THAT RULING, I GRANTED FULL STANDING TO THE DIOCESE OF ALEXANDRIA CORNWALL BUT NOTED THAT IF THE DIOCESE WISHED TO AVAIL ITSELF OF PUBLIC FUNDS, IT HAD TO REVEAL ITS FINANCIAL STRUCTURE AND EXHAUST ANY MEANS OF FUNDING AVAILABLE TO THEM.

I ALLOWED THE DIOCESE AN OPPORTUNITY TO MAKE SUPPLEMENTARY SUBMISSIONS ON FUNDING. WRITTEN SUBMISSIONS WERE RECEIVED ON DECEMBER 1, 2005 WITH FURTHER ORAL SUBMISSIONS HEARD ON DECEMBER 6, 2005.

I ISSUED MY DECISION ORALLY ON THE SAME DAY, RECOMMENDING FUNDING FOR THE DIOCESE OF ALEXANDRIA CORNWALL. IN ISSUING MY DECISION, I NOTED THAT I HAD CONSIDERED THE FURTHER MATERIAL SHOWING THAT THE RELIGIOUS DUTIES OF THE CHURCH WERE CLEARLY SEPARATED FROM THAT OF ITS FINANCIAL ARRANGEMENTS.

WITH GREAT RESPECT TO MR. MACLENNAN, I DID GIVE REASONS SUPPORTING MY DECISION BOTH IN WRITING ON NOVEMBER 17, 2005 ON THE INITIAL APPLICATION WITH AN ORAL DECISION ON THE SUBSEQUENT MATERIAL FILED ON DECEMBER 6, 2005.

FURTHER, THE ATTORNEY GENERAL HAS ACTED ON MY RECOMMENDATION AND AS SUCH THE APPLICANT'S REQUEST IS MOOT.

AS WELL, AS A COMMISSIONER OF INQUIRY, IT IS NOT PERMISSIBLE FOR ME TO COMMENT OR EXPLAIN FURTHER MY DECISION AND REASONS WHICH STAND LEGALLY AND PUBLICLY UNLESS OF COURSE OVERTURNED BY A HIGHER COURT.

ACCORDINGLY, WITH THE GREATEST OF RESPECT TO THE APPLICANT, HIS APPLICATION CANNOT SUCCEED.

THE REASON FOR THIS IS SIMPLE... IN MY ORIGINAL RULING ON STANDING, I OUTLINED THE TESTS FOR STANDING. I NOTED THAT MERE CONCERN ABOUT THE ISSUES TO BE CANVASSED AT THE INQUIRY, HOWEVER DEEP AND GENUINE, WAS NOT ENOUGH TO JUSTIFY GRANTING STANDING, NOR WOULD THE FACT THAT A PERSON HAD A USEFUL PERSPECTIVE THAT MIGHT ASSIST THE COMMISSIONER.

THUS, EVEN IF MR. MACLENNAN COULD RAISE A POINT WITH RESPECT TO THE ISSUANCE OF REASONS AND THE NEED FOR TRANSPARENCY AND ACCOUNTABILITY, THOSE ARE, AT BEST, CONCERNS ABOUT COLLATERAL ISSUES, WHICH IN THE END, DO NOT JUSTIFY THE GRANTING OF STANDING.

FINALLY, I RETURN TO MR. MACLENNAN'S TRUE CONCERNS.

WHILE I CANNOT ACCEDE TOTALLY TO HIS REASONS, I DID TAKE THE STEP ON JULY 26, 2006, OF REASSURING MR. MACLENNAN THAT I HAD NOT CONSIDERED OR APPLIED CANON LAW IN COMING TO MY DECISION.

AS FOR POSTING HIS APPLICATION ON THE WEBSITE, WHILE I AM OF THE VIEW THAT THE APPLICATION LACKS SUBSTANCE, AND WHILE IT WAS MADE IN GOOD FAITH, MR. MACLENNAN'S COMMENTS THIS MORNING THAT HE USED THE APPLICATION FOR STANDING AND FUNDING TO RAISE HIS ISSUE, I AM WEARY OF PEOPLE TAKING THE APPLICATION FOR STANDING AS A METHOD TO RAISE CONCERNS THAT ARE CLEARLY OUTSIDE THE SCOPE OF THIS INQUIRY NOR AM I IMPRESSED THAT SOMEONE WOULD TAKE THE OPPORTUNITY TO ATTEMPT TO USE THE INQUIRY AND ITS WEBSITE TO PERHAPS PROMOTE ITS OWN AGENDA.

HOWEVER, IN ORDER TO ENSURE TRANSPARENCY, I WILL PERMIT HIS APPLICATION TO BE POSTED ON THE WEBSITE IN DUE COURSE BECAUSE IN THE END, I FEEL THAT MR. MACLENNAN DID ACT IN GOOD FAITH, HOWEVER HAVING ERRED IN JUDGEMENT, I SUPPOSE, IN THE MANNER IN WHICH IT SHOULD PROCEED.

FINALLY, I DECLINE TO MAKE ANY RECOMMENDATION TO THE ATTORNEY GENERAL ON THIS MATTER. I NOTE THAT MR. MACLENNAN HAS MADE HIS VIEWS KNOWN TO THE ATTORNEY GENERAL.

ACCORDINGLY HIS APPLICATION IS DISMISSED.

DATED THIS 10TH DAY OF AUGUST, 2006

G. NORMAND GLAUDE
COMMISSIONER