

CANON EIGHT – DISCIPLINE

Interpretation

- 1 In this Canon,
 - (a) "Canon XVIII" means [Canon XVIII](#) of the General Synod which Canon is set out in Schedule A to this Canon,
 - (b) "Court" means The Ecclesiastical Court for the Diocese of Fredericton;
 - (c) "ecclesiastical offence" means an offence defined in Part III of Canon XVIII,
 - (d) "member of the clergy" means a priest or deacon licensed in the Diocese,
 - (e) "member of the laity" means a communicant lay member of the Church residing in the Diocese,
 - (f) "penalty" means a penalty prescribed in Part IV of Canon XVIII.

Duty to seek Resolution of Differences

- 2 It is the duty of the Bishop and of every other party in a discipline matter to canvass every possibility to settle differences, in consultation and counselling, before resorting to legal procedures.

The Bishop's Initial Disciplinary Jurisdiction in respect of Lay Persons

- 3 The Bishop may exercise the initial jurisdiction described in section 2 of Canon XVIII in respect of the discipline of such lay persons as are described in section 4 of Canon XVIII.

Constitution of the Court

- 4(1) There shall be a court called The Ecclesiastical Court for the Diocese of Fredericton.
- 4(2) The Court shall be composed of five members.
- 4(3) On the trial of a priest or deacon, or on review of the Bishop's exercise of initial jurisdiction with respect to a priest or deacon, three members shall be members of the clergy, and two shall be members of the laity.
- 4(4) On the trial of a lay person, or on a review of the Bishop's exercise of initial jurisdiction with respect to a lay person, two members shall be members of the clergy, and three shall be members of the laity.
- 4(5) On an inquiry under Canon Six, three members shall be members of the clergy and two shall be members of the laity.
- 4(6) On a case stated under section 5 one member shall be the Bishop or another bishop holding episcopal office in the Church, two shall be members of the clergy, and two shall be members of the laity.
- 4(7) The Diocesan Council shall, at its first meeting following each regular meeting of the Synod, determine
 - (a) the names of ten members of the clergy, and
 - (b) ten members of the laity,who shall be eligible for appointment to the Court.
- 4(8) The persons whose names are determined under subsection (7) shall continue to be eligible for appointment to the Court until the Diocesan Council determines the names of persons to replace them.

- 4(9) When a case is to be heard by the Court the Diocesan Council shall appoint the members of the Court from among the bishops holding episcopal office in the Church and the members of the clergy and laity determined under subsection (7).
- 4(10) If, for any reason, a vacancy occurs among the members of the Court before the hearing commences the vacancy shall be filled in the same way.
- 4(11) If a vacancy occurs after a hearing has commenced the remaining members of the Court may continue the hearing and give judgment or may direct that a new Court be appointed and the hearing be recommenced.
- 4(12) No one who is or has been involved, or who has an interest, in the case to come before the Court shall be a member of the Court.
- 4(13) The Diocesan Council shall designate one member of the Court to be the President of the Court.

Jurisdiction

- 5 The Court has
 - (a) the jurisdiction conferred on it by sections 3 and 4 of Canon XVIII,
 - (b) jurisdiction to conduct an inquiry under Canon [Seven], and
 - (c) jurisdiction upon a case stated by
 - (i) the Synod, or
 - (ii) the Diocesan Council,to determine the validity or interpretation of any provision of the Constitution or of any Canon of the Synod.

Charges

- 6(1) Any person may file with the Bishop a charge in writing alleging that a person with respect to whom the Bishop and the Court have ecclesiastical jurisdiction has committed an ecclesiastical offence.
- 6(2) The Bishop, when a charge is filed, shall provide a copy to the person who is alleged to have committed the offence and that person may inform the Bishop whether he or she denies or admits committing the offence.
- 6(3) If the person admits committing the offence, the Bishop may
 - (a) refer determination of the penalty to the Court, or
 - (b) determine the penalty to be imposed if the Bishop is not involved and does not have an interest in the matter.
- 6(4) If the person against whom a charge is filed does not admit committing the offence and does not waive the appointment of a Committee of Inquiry the Bishop, or if the Bishop is or has been involved in the matter the Diocesan Council, shall appoint three members of the Council as a Committee of Inquiry to determine whether there is sufficient evidence to warrant a trial of the charge.
- 6(5) The Chancellor or Vice-Chancellor shall advise the Committee of Inquiry on matters of law and procedure.
- 6(6) If the Committee of Inquiry determines that there is insufficient evidence to warrant a trial, the Bishop shall dismiss the charge.

- 6(7) If the person against whom a charge is laid waives the appointment of a Committee of Inquiry or if the Committee of Inquiry determines that there is sufficient evidence to warrant a trial, the Bishop, if he or she is not and has not been involved in the matter,
- (a) with respect to a bishop, priest or deacon who is subject to the Bishop's jurisdiction, may exercise the initial jurisdiction conferred by section 2 of Canon XVIII, or
 - (b) with respect to a lay person described in section 4 of Canon XVIII, may exercise the initial jurisdiction conferred by section 3 of this Canon, or
 - (c) in the case of a coadjutor, suffragan, assistant or retired bishop, may refer to The Court of Appeal for the Ecclesiastical Province of Canada the determination of whether an ecclesiastical offence has been committed or the determination of a penalty for the commission of the offence, or
 - (d) in the case of a priest, deacon or lay person, may refer to the Court the determination of whether an ecclesiastical offence has been committed or the determination of a penalty for the commission of the offence.
- 6(8) If the person against whom a charge is laid waives the appointment of a Committee of Inquiry or if the Committee of Inquiry determines that there is sufficient evidence to warrant a trial the Bishop, if he or she is or has been involved in the matter, shall
- (a) in the case of a coadjutor, suffragan, assistant or retired bishop, refer to The Court of Appeal for the Ecclesiastical Province of Canada the determination of whether an ecclesiastical offence has been committed and the determination of a penalty for the commission of the offence, or
 - (b) in the case of a priest, deacon or lay person, refer to the Court the determination of whether an ecclesiastical offence has been committed and the determination of a penalty for the commission of the offence.
- 6(9) When exercising initial jurisdiction, the Bishop shall
- (a) be advised by the Chancellor or the Vice-Chancellor, and
 - (b) follow the same rules and procedures as would be followed by the Court including the principles and general procedures prescribed by section 14 of Canon XVIII.

Sittings

- 7 The Court may sit at such place in the Diocese at such time as the President of the Court directs.

Judgment

- 8(1) The Court shall hear and dispose of a matter within one year from the date on which the Diocesan Council appoints the members of the Court.
- 8(2) Before delivering judgment on a question of doctrine the Court shall refer the question to the bishops mentioned in paragraph 1(1)(a) of the Constitution of the Provincial Synod and shall consider the opinions of the bishops who reply within two months after the question is referred to them.
- 8(3) Subject to any right of appeal conferred by the Canons of the Provincial Synod or the General Synod, the judgment of the Court is final and conclusive in respect of all matters in question in the proceeding.

Rules of Procedure

- 9(1) The Diocesan Council may make rules with respect to the appointment and duties of officers of the Court, the practice and procedure of the Court including the procedure for the hearing of interlocutory matters, and all other matters necessary to give effect to the provisions of this Canon.
- 9(2) Until such rules have been made the Rules of The Supreme Court of Appeal for The Anglican Church of Canada shall be followed to the extent that they are applicable.

Costs and Expenses

- 10(1) The Synod shall pay any expenses incurred by the Court, the Bishop, or a Committee of Inquiry or by anyone acting under their authority with respect to any proceedings under this Canon.
- 10(2) The Court, or the Bishop in the exercise of initial jurisdiction, may determine to whom and by whom and in what amount costs incident to any proceeding shall be paid and may, without restricting the generality of the foregoing, order costs to be paid by the Synod or by the person who files a charge that gives rise to a proceeding hereunder.