

Constitution and Canons

CANON 12 DISCIPLINE

The Synod of the Diocese of Quebec accepts the Canons of the General Synod of the Anglican Church of Canada and the Provincial Synod of Canada concerning Discipline of the Bishops, Clergy and Laity, and the Disciplinary Rubrics of the Book of Common Prayer, Canada, 1962 saving the rights of this Synod to make such regulations as established by Act 19-20 Victoria, chapter 141, paragraph 1, and by this Canon establishes procedures for their implementation with respect to the Clerics of this Diocese.

1. ECCLESIASTICAL OFFENCES

Offences liable to disciplinary action are those set forth in Part 3 of General Synod Canon XVIII, provided that every charge laid against a Cleric in respect of section 8. g), must be certified by not fewer than three communicants of at least one year's standing who are members of the congregation served by that Cleric.

2. TIME LIMITATION

Proceedings under this Canon must be commenced within one year after the Bishop becomes aware of the alleged offence; or of a conviction in a criminal court; or after six months notice of intent to take proceedings with respect to willful or habitual neglect of the duties of office or the exercise of ministry.

3. ADVOCATES

- A. The Bishop appoints a Church Advocate to conduct all prosecutions. The Church Advocate is a Priest attached to the Diocese, or a lawyer of not less than seven year's standing who is also a member of the Church.
- B. The accused is entitled to be represented by counsel of their own choice.

4. PROCEDURE

- A. The Bishop summons a Cleric if:
 - i. he or she believes there may have been an offence which requires investigation by trial; or
 - ii. he or she receives, from a Member of the Church, a complaint which he or she considers well founded; or
 - iii. a charge has been made under section 2

Diocese of Quebec

Constitution: Approved 1st reading Synod 1997, Adopted Synod 1999
Canons: Amended by Synod 2009

Constitution and Canons

- B. If the Bishop believes that there are not sufficient grounds for trial, he or she rejects the charge.
- C. If the Cleric admits guilt, the Bishop pronounces sentence. The admission and the sentence are set forth in writing and signed by the guilty person.
- D. If the accused person does not admit guilt, but the Bishop, after inquiry, determines that sufficient evidence exists to warrant further action, the Bishop has the charge set forth clearly in writing by the Church Advocate, and a copy of it served on the accused, together with a notice announcing the time and place of trial.
- E. The Bishop determines when and where the trial will be held.

5. PROCEDURE FOR TRIAL

- A. Ten licensed Clerics of at least five years' standing in this Diocese, shall be elected by ballot of the Clerics at each Ordinary Meeting of Synod, from whom the Board of Triers shall be selected.
- B. When the Bishop serves notice on the accused of the time and place of the trial, he or she also serves on the accused the names of the ten Clerics. Within thirty (30) days of receiving the said names, the accused selects five (5) of them to form the Board of Triers, and advises the Bishop as to the choice. If the accused does not so advise the Bishop, the Bishop selects the five (5) Clerics who must not be related by blood or marriage to any of the parties involved.
- C. Four members of the Board constitute a quorum; trial may proceed if a quorum is present.
- D. The Bishop appoints an Advocate to attend all meetings of the Board of Triers who acts as an assessor to the Board.
- E. The Board appoints its own President and its own Secretary. The Secretary keeps an accurate record of all proceedings held before the Board. All members shall sign the record of proceeding.
- F. If, on the day fixed for trial, the accused appears, a plea of guilty or not guilty is entered. If the accused does not appear, or refuses or neglects to plead, a plea of not guilty is entered and the trial proceeds.
- G. The Board hears all evidence filed. This evidence must be submitted in writing and signed by the witnesses submitting it.
- H. If it is made evident to the Bishop that a material witness cannot attend the trial, the Bishop, upon application by the Church Advocate or the accused, appoints a Commissioner to hear the testimony of that witness as follows:

Diocese of Quebec

Constitution: Approved 1st reading Synod 1997, Adopted Synod 1999
Canons: Amended by Synod 2009

Constitution and Canons

- i. The Commissioner may be a priest or a lay person.
- ii. The applicant advises the other party at least six days before the testimony is heard.
- iii. Both parties may attend, and may examine the witness.
- iv. The questions and answers are set forth in a statement signed by the witness.
- v. The statement is certified by the Commissioner over his or her signature and received by the Board as evidence.

- I. Every witness, before examination, must make a declaration in the following form, or in such other form as he or she considers or declares to be most binding on his or her conscience:
 - J. "I, A.B., a witness in the trial of C.D., solemnly promise and declare, in the presence of Almighty God, that the evidence I am about to give is the truth, the whole truth, and nothing but the truth."
 - K. Any member of the Church may attend the proceedings, unless a majority of the Court decides that the trial should be private.
 - L. The accused is entitled to be heard in his or her own defence but is not required to give evidence in the proceedings.
 - M. After the Board considers the evidence, it sets forth its decision in writing, signed by every member in attendance, clearly stating whether or not the accused is guilty, and recommending a sentence if found guilty.
 - N. All matters are decided by a majority of the Board.
 - O. Before its decision is made public, the Board shall transmit its findings, and all proceedings, to the Bishop.
 - P. If the accused is found guilty, the Bishop pronounces an appropriate Canonical Sentence which must not be more than that recommended by the Board.

6. SENTENCE

Offences are punishable by:

- A. Public or private admonition.
- B. Suspension (See General Synod Canon XVIII, article 10)
 - i. When suspension is pronounced, an indication must be given of how and when it will terminate.
 - ii. No Cleric who has been suspended may exercise the functions of his or her ministry, on pain of dismissal.

Diocese of Quebec

Constitution: Approved 1st reading Synod 1997, Adopted Synod 1999
Canons: Amended by Synod 2009

Constitution and Canons

- iii. The Bishop may appoint another Cleric to replace the one suspended, and may allocate all or part of any stipend, income or emoluments of the person suspended to the payment of the replacement.
- iv. The Bishop may give notice of the suspension to the Clerics and laity of the Diocese.

C. Deprivation (See General Synod Canon XVIII, article 11)

- i. This sentence severs all connection between the Cleric and the parish or congregation.
- ii. All benefits of the office cease.
- iii. When the Bishop sentences a Cleric to be removed from office, he or she immediately notifies the Clerics of the Diocese and all Bishops of the Anglican Church of Canada.

D. Deposition - The penalty of deposition shall include all of the consequences of deprivation and at the same time will have the same effects as if the person had relinquished the exercise of the ordained ministry pursuant to Canon XIX of the General Synod.

7. INTERIM PROVISIONS

- A. If the Bishop decides that a scandal will arise if the Cleric continues to minister while the charge is under investigation, the Bishop may inhibit that Cleric from performing any clerical functions until the matter is settled.
- B. The Cleric so inhibited shall not be deprived of the stipend, income or emoluments of office during such inhibition.

8. FAILURE TO ANSWER

- A. If the Cleric fails to answer the summons after due notice, unless for a good reason, the Bishop is advised of the failure and the Bishop then pronounces the Cleric to be in contumacy and suspends him or her from ministry.
- B. If within six months after the sentence is handed down the Cleric agrees to stand trial, the suspension may be revoked.
- C. If within that period the Cleric does not agree to stand trial, the Bishop removes him or her from office.

Diocese of Quebec

Constitution: Approved 1st reading Synod 1997, Adopted Synod 1999
Canons: Amended by Synod 2009

Constitution and Canons

9. NEW EVIDENCE

- A. If it is shown after the trial that new important evidence has been developed, the Bishop may order a new trial if the accused so requests.
- B. If a new trial is ordered, a new Board of Triers is appointed. The Bishop may order the original Board of Triers re-appointed if the accused requests this within eight days of receiving notice of the new trial.
- C. The new trial is conducted in the same manner as the first.

10. RECORDS

The proceedings of the Court, and the sentence rendered, are kept on record in the office of the Diocesan Registrar.

11. COSTS

All necessary expenses incurred in proceedings under this Canon, authorised by the Board of Triers, shall be paid out of Synod Funds.

12. SERVING OF NOTICE

Service of any document under this Canon is made in person, or by leaving a copy of the document at the last known address of the person for whom it is intended, or by a Registered Letter sent to that address.

13. RIGHT OF APPEAL

Any Cleric found guilty under the provisions of this Canon, may within 30 days, make an Appeal to:

- A. the Provincial Court of Appeal under Canon 5 of the Provincial Synod of Canada
- B. the Supreme Court of Appeal of the Anglican Church of Canada in the circumstances and pursuant to the procedures established by General Synod Canon XX.