CANON XVIII

Discipline

I. Episcopal Jurisdiction

1. Preservation of Episcopal Jurisdiction Regarding Discipline

a) It is hereby acknowledged that the bishop of a diocese of The Anglican Church of Canada has by virtue of the office of bishop, ecclesiastical jurisdiction, authority and power of discipline over bishops, priests, deacons and lay members of The Anglican Church of Canada within the diocese or otherwise under the jurisdiction of the bishop.

b) Nothing in this Canon shall be interpreted as impairing, diminishing or affecting in any way the pastoral or disciplinary aspects of the authority and jurisdiction of:

i) a metropolitan who has jurisdiction with respect to a bishop
ii) a bishop who has jurisdiction with respect to a bishop, priest or deacon, or a lay person who is a member of The Anglican Church of Canada;

except only in relation to:

iii) the determination of whether the bishop, priest or deacon has committed an ecclesiastical offense established by this Canon,
iv) the determination of whether a lay person who has been appointed, elected or commissioned to an office, appointment or responsibility in a parish, a diocesan synod, a provincial synod, or the General Synod, has committed an ecclesiastical offense established by this Canon, and
v) the determination of the penalty appropriate for the commission of an ecclesiastical offense established by this Canon.

2. Initial Disciplinary Jurisdiction

a) Where it has been alleged that a bishop, priest or deacon subject to the jurisdiction of a bishop, or a bishop subject to the jurisdiction of a metropolitan, has committed an ecclesiastical offense established by this Canon, the bishop or metropolitan, as the case may be, shall have initial jurisdiction with respect to the determination of whether an ecclesiastical offense has been committed and the penalty for the commission of the offense.

b) The bishop or metropolitan may refer the determination of whether an ecclesiastical offense has been committed or the determination of a penalty to the court having jurisdiction with respect to the discipline of the person charged with the commission of an ecclesiastical offense without exercising the initial jurisdiction described in section 2 a).

c) The procedures to be used in the exercise by the bishop or metropolitan of the initial jurisdiction described in this section shall be those established by the synod of which the bishop or metropolitan is the president; however, such procedures shall be subject to the principles set out in part V of this Canon.

d) A diocesan synod may provide for the exercise of the initial jurisdiction of the bishop described in this section in respect of the discipline of such lay persons as are described in section 4 of this Canon.

3. Review by the Court

a) A person convicted of an ecclesiastical offense by a bishop or metropolitan may require the determination of the bishop or metropolitan that an ecclesiastical offense was committed by the person, or the penalty imposed by a bishop or metropolitan, to be reviewed by the court having jurisdiction with respect to the discipline of the accused person, which court may either confirm or overturn the determination of the bishop or metropolitan.

b) The Executive Council of the diocese, on its own motion or on the petition of the person or persons who made the allegation of an ecclesiastical offense which was tried by the bishop or metropolitan, may require the determination of the bishop or metropolitan that an ecclesiastical offense was committed, or the penalty imposed by the bishop or metropolitan, to be reviewed by the court having jurisdiction with respect to the discipline of the accused person, which court may either confirm or overturn the determination of the bishop or metropolitan.

c) Where a review by the court pursuant to this section is of a determination by a bishop or metropolitan that an ecclesiastical offense has been committed, the review shall be conducted as if it were an original trial held in the court.

d) Where a review by the court pursuant to this section is of a determination by a bishop or metropolitan of the penalty appropriate for the commission of an ecclesiastical offense, only evidence relevant to the question of the appropriate penalty shall be considered by the court.

II. Court Jurisdiction

4. Diocesan Courts

The diocesan court of a diocese shall have ecclesiastical jurisdiction with respect to the discipline of:

i) priests and deacons who carry out their ministry in the diocese and who are registered on the register of the diocese, for any ecclesiastical offense, wherever committed,

ii) subject to section 16, priests and deacons of The Anglican Church of Canada not registered on the register of the diocese, in respect of any ecclesiastical offense committed in the diocese,

iii) lay persons who have been appointed, elected or commissioned to an office, appointment or responsibility in a parish of the diocese or the diocesan synod, for any ecclesiastical offense which they may commit in the diocese,

iv) lay persons who have been appointed, elected or commissioned to an office, appointment or responsibility in a provincial synod, or the General Synod, for any ecclesiastical offense which they may commit in the diocese, and

v) priests, deacons and lay persons of any other diocese when a direction is made pursuant to section 17 of this Canon.

5. Provincial Courts of Appeal

The provincial court of appeal of a province shall have ecclesiastical jurisdiction with respect to the discipline of:

i) the bishops of the province,
ii) the bishops residing in the province, and
iii) the bishops of any other province of The Anglican Church of Canada when a direction is made pursuant to section 17 of this Canon, for any ecclesiastical offense which they may commit.

6. Supreme Court of Appeal of The Anglican Church of Canada

The Supreme Court of Appeal of The Anglican Church of Canada shall have ecclesiastical jurisdiction with respect to the discipline of:

i) the Primate,
ii) the Bishop Ordinary, and
iii) the National Indigenous Anglican Bishop,

for any ecclesiastical offense which they may commit.

III. Ecclesiastical Offenses

7. Disciplinary Action Regarding Offenses

All persons who are subject to ecclesiastical jurisdiction in the Church shall be liable to discipline for any of the following offenses:

i) conviction of an indictable offense;
ii) immorality;
iii) disobedience to the bishop to whom such person has sworn canonical obedience;
iv) violation of any lawful Constitution or Canon of the Church, whether of a diocese, province or the General Synod by which the person is bound;
v) wilful or habitual neglect of the exercise of the ministry of the person without cause;
vi) wilful or habitual neglect of the duties of any office or position of trust to which the person has been appointed or elected;
vii) teaching or advocating doctrines contrary to those accepted by The Anglican Church of Canada;
viii) contemptuous or disrespectful conduct towards the bishop of the diocese in matters pertaining to the administration of the affairs of the diocese or a parish.

IV. Penalties for Ecclesiastical Offenses

8. Penalties Generally

Where it has been determined that a person has committed an ecclesiastical offense, the following penalties may be imposed against the person:

i) admonition;

ii) suspension from the exercise of ministry or office;
iii) deprivation of office or ministry;
iv) deposition from the exercise of ministry if the person is ordained.

9. Admonition

a) Admonition shall be delivered by the bishop, metropolitan or the president of the Court which shall have determined the penalty, as the case may be.

b) Admonition may be in public or private as the bishop, metropolitan or president delivering it may determine.

10. Suspension

a) When a penalty of suspension is imposed, the bishop, metropolitan or court imposing it shall fix the duration of the suspension and may impose such other conditions on the suspension as are considered appropriate.

b) During the term of a suspension, the person suspended from the exercise of ministry or office shall not exercise the function of his or her ministry anywhere in Canada.

c) If a person suspended from the exercise of ministry exercises his or her ministry contrary to section 10 b) hereof, or otherwise violates the conditions of the suspension, the bishop, metropolitan or court which imposed the penalty may, after a further hearing, impose the penalty of deprivation of office.

d) During the term of a suspension, the bishop may deprive the suspended person of the whole or part of any stipend, income or emoluments associated with the ministry or office from which the person stands suspended and may authorize the application of the whole or part of such stipend, income or emoluments to the payment of a substitute.

e) During the term of a suspension of a bishop, the metropolitan, or the executive council of the synod of the diocese in which the bishop serves, may deprive the bishop of the whole or part of any stipend, income or emoluments associated with the office of the bishop and may authorize the application of the whole or part of such stipend, income or emoluments to the payment of the person performing the duties of the bishop during the term of the suspension.

11. Deprivation

a) Upon the penalty of deprivation of office or ministry being pronounced, the connection between the person deprived and his or her parish, mission, congregation, diocese or office is severed and all revenues to which the person was entitled by virtue of the office or ministry shall wholly cease and determine.

b) A person who has been deprived of office or ministry shall be incapable of holding any office or performing any function in any diocese in The Anglican Church of Canada until restored pursuant to subsections c), d) or e) hereof.

c) Any person so deprived shall be and remain deprived until restored by the bishop of the diocese in which the office from which the person was deprived is located.

d) Any bishop so deprived shall be and remain deprived until restored by the metropolitan of the province of which the deprived bishop's diocese is part, or by the Primate in the case of the Bishop Ordinary.

e) Any metropolitan so deprived shall be and remain deprived until restored by the House of Bishops of the Province, in the case of a provincial metropolitan, or by the House of Bishops of The Anglican Church of Canada, in the case of the Primate.

f) Restoration pursuant to subsections c), d) or e) may be to any office or ministry in the diocese whether or not it be the specific office from which the person was deprived.

12. Deposition

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

13. Notices

a) Where the penalty of suspension is imposed, the court shall cause notice thereof to be given to all the clergy of the diocese and all bishops of The Anglican Church of Canada.

b) Where a penalty of deprivation of office or ministry or of deposition is imposed, the court shall cause notice thereof to be given to all the clergy of the diocese, all bishops of The Anglican Church of Canada and all metropolitans of the Anglican Communion.

V. Principles and General Procedures to be Observed in Discipline Proceedings in The Anglican Church of Canada

14. Fundamental Principles of Natural Justice

a) All trials of persons charged with offenses under this Canon shall be conducted according to the principles of natural justice.

b) Without limiting the generality of the foregoing section, all persons tried for offenses under this Canon are entitled to be:

i) given full and complete written notice of the charge against them and the particulars of the charge,
ii) presumed innocent until the commission of the offense by them is proved beyond a reasonable doubt,
iii) heard in their own defense,
iv) represented in their defense by counsel of their own choice,
v) present, accompanied by their counsel, when any evidence or argument concerning the allegations against them is received by the bishop, metropolitan or court inquiring into the charges,
vi) given opportunity to cross-examine, or have their counsel cross-examine under oath, witnesses who have given evidence against them,
vii) tried by persons who are not biased against them, and

viii) tried within a reasonable time.

c) No person tried for an offense under this Canon is required to give evidence in the proceedings.

d) Disciplinary proceedings arising out of the alleged commission of an offense under this Canon shall be commenced within:

i) 12 months from date of the alleged offense in the case of offenses under section 7 i), iii), vii), and viii), and
ii) 12 months from the time when the facts giving rise to the charge became publicly known in the case of an offense under section 7 ii).

e) No proceedings shall be taken in respect of an alleged offense under section 7 v) or vi) unless six months' notice of intent to take proceedings have been given to the bishop, priest or deacon against whom it is intended proceedings will be taken.

f) Disciplinary proceedings arising out of the alleged commission of an offense under section 7 v) or vi) shall be commenced within 12 months of the date of the notice of intent given, pursuant to section 14 e).

g) All persons found to have committed an offense under this Canon are entitled to have the penalty imposed against them within 30 days of the determination that they committed an offense, subject to a stay of the imposition of a penalty in the event of an appeal.

h) No person who has been acquitted of an offense under this Canon may be tried for the same offense a second time.

i) No person who has been found guilty of and punished for an offense under this Canon may be tried or punished for the same offense again.

15. Inhibition

a) If it appears to the bishop that great scandal is likely to arise if a priest, deacon or lay person continues to perform the duties of his or her office while a charge is under investigation or trial and that the person's ministry will be seriously impaired while a charge is pending, the bishop may inhibit the person charged from performing any of the duties of his or her office, either in the diocese of that bishop or elsewhere, pending such investigation or until the bishop withdraws the inhibition, or until the end of the trial.

b) During such inhibition the person inhibited shall not be deprived of the stipend, income or emoluments associated with the person's office.

c) Where it is alleged that a bishop has committed an ecclesiastical offense, inhibition may be ordered or withdrawn by the metropolitan in consultation with the executive council of the diocese.

d) Where it is alleged that the Bishop Ordinary has committed an ecclesiastical offense, inhibition may be ordered or withdrawn by the Primate in consultation with the Officers of the General Synod.

e) Where it is alleged that a metropolitan other than the Primate has committed an ecclesiastical offense, inhibition may be ordered or withdrawn by the

provincial house of bishops in consultation with the executive council of the metropolitan's diocese.

f) Where it is alleged that the Primate has committed an ecclesiastical offense, inhibition may be ordered or withdrawn by the provincial metropolitans in consultation with the Officers of the General Synod.

16. Priest or Deacon from Another Diocese

a) In the event of an offense being alleged against a bishop, priest or deacon who is not on the register of the diocese, but who is on the register of another diocese, for an offense alleged to have been committed in the diocese, proceedings with respect to such an offense shall not be instituted until notice of the allegation has been given to the bishop of the diocese in which the priest or deacon is registered and that bishop has given consent for proceedings to be instituted by the bishop of the diocese in which the offense is alleged to have been committed.

b) A bishop who receives a notice under subsection a) shall forthwith respond either by consenting or refusing consent to the institution of proceedings in the diocese from which notice was received.

c) Where a bishop consents, proceedings shall be taken in the diocese where the allegation has been made.

d) A bishop who refuses consent shall, within six months of receipt of notice pursuant to subsection a) hereof, institute proceedings with respect to the alleged offense in accordance with the canons of the diocese in which the priest or deacon is registered.

17. Transfer of Jurisdiction

a) On the application of a person charged with an offense under this Canon to the president of the court having ecclesiastical jurisdiction over that person, that ecclesiastical jurisdiction may be transferred to another court, where it appears to the president of the court to which the application is made, that such transfer is necessary to ensure that the fundamental principles of natural justice are respected and where the court to which the transfer is to be made consents to the transfer.

b) Where an application under subsection a) is made to the president of a diocesan court, the transfer may be made to another diocesan court of the same ecclesiastical province.

c) Where an application under subsection a) is made to the president of a provincial court of appeal, the transfer may be made to another provincial court of appeal.

d) Where an application under subsection a) is made to the president of the Supreme Court of Appeal of The Anglican Church of Canada, the transfer may be made to a provincial court of appeal.

VI. Rights of Appeal in Disciplinary Proceedings

1. An appeal to the provincial court of appeal may be taken from any judgment or order of a diocesan court or the president thereof.

2. An appeal to the Supreme Court of Appeal of The Anglican Church of Canada may be taken from a judgment or order of a diocesan court or the president thereof, or a provincial court of appeal or the president thereof, in the circumstances and pursuant to the procedures established by Canon XX.

3. All appeals shall be commenced according to the procedure of the court to which the appeal is to be made within 30 days of the date of pronouncement of the judgment or order appealed from.

4. No limit or restriction on the rights of appeal granted by this Canon, imposed by a bishop or diocesan or provincial synod shall be of any effect.