

APPENDIX M

Confidentiality

Statement on the Issue of Confidential Information Imparted to Members of the Clergy

1. It is the historic obligation of the members of the clergy of The Anglican Church of Canada to regard as a sacred trust all confidential information imparted to them either under the seal of the confessional or revealed to them in their capacity as pastors.
2. However, in certain circumstances, this historic obligation of confidentiality is subject to specific legislation in many jurisdictions.
3. It is also subject to the obligation to give evidence under compulsion of a court of law or other legally authorized body.
4. The priest/penitent relationship enjoys no privilege under the various federal and provincial *Evidence Acts* except for Newfoundland and Quebec. The general rule of law is that a person testifying in a court or other tribunal is required to answer all questions relating to confidential information. A person who refuses to testify is in contempt and could be penalized accordingly.
5. A priest compelled to testify must always have in mind the historic obligation of confidentiality and should declare that obligation to the tribunals. If the priest is requested to break this obligation, the judge should decide whether compelling disclosure of the communication would be a greater benefit in the administration of justice than excusing the priest from testifying.
6. If the judge requires that the priest so testify, the priest should seek permission to consult the diocesan and chancellor and to be represented by legal counsel.
7. There are a number of other circumstances where the sacred obligation of confidentiality imposes a serious moral dilemma for the priest concerned. On these occasions the priest ought to consult with his or her diocesan and chancellor.

[Adopted by the National Executive Council in November 1986]

[Note: See the 1991 Supreme Court of Canada decision in *R v Gruenke* (1991) 3 SCR 263, <http://canlii.ca/t/1fsjh>.]