



CANONS

**DIOCESE OF NIAGARA
ANGLICAN CHURCH OF CANADA**

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CANON 1.1

Composition of Synod

1. The Synod of the Diocese of Niagara shall consist of:
 - (1) The Bishop of the Diocese, who shall be the head of Synod;
 - (2) Any Suffragan or Coadjutor Bishop thereof;
 - (3) The Priests, Deacons and Lay Workers thereof, duly licensed;
 - (4) The Director of Deacons, the Deputy Director of Deacons (if any), and up to three deacons (who have been granted a Bishop's Permission) elected annually by the College of Deacons from among its members, *(amended 2015)*
 - (5) The Chancellor;
 - (6) The Vice-Chancellor, if any;
 - (7) The Treasurer;
 - (8) The Secretary of Synod; *(amended, 1991)*
 - (9) The Lay Representatives duly elected in accordance with Canon 4.1(17);
 - (10) Anyone not otherwise designated above who is a member of the Synod Council; *(new, 2001)*
 - (11) Not more than 10 Lay Representatives who shall be appointed by the Bishop of the Diocese in each year in consultation with the Synod Council, such Lay Representative serving for a one-year term.

2. Lay Workers who are members of Synod shall be considered members of the Order of Laity for purposes of voting.

3. Clergy who receive a pension from the Anglican Church of Canada and who are currently in good standing with the Bishop of Niagara shall be entitled to a seat on the floor of the Synod, and shall have a right to take part in discussion, but shall not be entitled to vote. *(revised, 2015)*

CANON 1.2**Meetings and Organization of Synod**

1. The Synod shall meet annually, or oftener at the discretion of the Bishop. The Bishop shall appoint the time and place of meeting, and shall adjourn or dissolve the Synod, as appears to be expedient.

Convening Circular

2. A convening circular summoning the Synod shall be issued by the Secretary to all members of Synod at least fourteen days prior to the date fixed for the meeting. Together with the convening circular shall be sent the list of Clergy and Lay Representatives and all notices of motion, proposed amendments or new Canons and reports of Committees.

(revised, 2005)

Prayer for Divine Blessing on Synod

3. On the receipt of the notice of a meeting of the Synod, all clergy shall use at Divine Service, the form of Prayer for the Divine Blessing on the proceedings of the Synod as provided in the Prayer Book.

President of Meeting

4. When the Bishop is not present, the Bishop Coadjutor (if any) or any Deputy appointed by the Bishop, shall preside in their place, and if there be no Bishop Coadjutor, or Deputy present, then the Senior Dignitary or member of the clergy of the Diocese present shall preside.

Credentials Committee

5. A Committee of two, to be appointed by the Bishop, shall meet at least five days before the meeting of Synod, to examine the credentials of Lay Representatives, and shall prepare a report thereon, to be placed in the hands of the Honorary Lay Secretary on the opening of Synod.

Objection to Qualification of Delegate

6. It shall be competent for any member of the Church, resident in the Diocese, to object to the right of any person whose name appears on the list of Lay Representatives accompanying the circular convening a meeting of Synod to take a seat in the Synod. The objection, together with the grounds thereof in writing, shall be transmitted to the Secretary at least one week before the meeting of Synod. The Secretary shall forthwith forward a copy of the objection to the person whose name is objected to. The objection may, however, be taken at any time during the Session of the Synod to any delegate whose name shall not have been entered upon the published Synod list.

Court on Contested Seats

7. The Chancellor of the Diocese, or the Vice-Chancellor, or in the absence of both, any Barrister-at-law being a member of Synod, who is appointed by the Bishop, together with two Clerical and two Lay members (whose title to seats have not been disputed) also to be appointed by the Bishop under the Bishop's hand and seal, shall be a Court to consider such objections and to adjudicate thereon; and to them shall be referred for final adjudication all cases of doubtful certificates that may be mentioned in the Report of the Committee on the Certificates of Lay Representatives. The decision of a majority of the Court shall be accepted as the decision of the Court and shall be immediately reported to the Synod for its information, and shall be final.

Quorum of Synod

8. To constitute a quorum of the Synod for the transaction of business, one-fourth of the whole number of the Clergy on the Synod list must be present, and one-fourth of the Parishes on the said list must be represented. Each Parish may be represented by one Lay representative.

Requisites to Concurrence

9. No act or resolution of the Synod shall be valid unless it receives the assent of the Bishop and a majority of the votes of the members present; such majority to be a majority of the Clerical and of the Lay Representatives voting collectively. A vote by Orders may be demanded by not less than two members, and in that event such majority shall be a majority of each Order voting separately. If a difference should be found to exist between the Orders after the vote is taken, the subject under consideration shall stand over to the ensuing Synod. This section, so far as it requires the concurrence of the Bishop shall not apply to the election of a Bishop.

Appointment of Committees

10. All Committees of Synod shall be named by the Bishop, unless their nomination be otherwise provided for.

Auditors

11. The Synod shall appoint an Auditor, or Auditors, who shall be chartered accountants, for the purpose of auditing the Synod accounts.

Honorary Secretaries

12. There shall be two Honorary Secretaries of the Synod, one clergy and the other lay both members of the Synod, the former to be elected by the Clergy and the latter by the Lay Representatives; and such elections shall be held and made on the first business day of the annual meeting of the same.

Duties of Honorary Secretaries

13. It shall be the duty of the Honorary Secretaries to keep regular minutes of all proceedings of the Synod to see that they are correctly recorded.

Vacancies in Office of Honorary Secretaries or Auditors

14. If any vacancy occurs in the office of Honorary Clerical Secretary, or Honorary Lay Secretary or in the office of Auditor or Auditors, by death, resignation or otherwise, the Bishop and the Synod Council shall have power to fill such vacancy, but such appointment shall only have force until the next meeting of the Synod.
15.
 - (a) Before each session of the Synod, a report shall be provided to the Synod by, or through, the Financial Advisory Committee, as to whether any money proposed to be spent as a result of motions to be brought before the Synod is available, or, if not, what steps should be taken to provide such money should such motions be adopted.
 - (b) A committee of three members of Synod, to be appointed by the Bishop, shall review any motion involving the spending of money put forward during the course of Synod for a report as to whether the money proposed to be spent is presently available, or, if not, what steps should be taken to provide such money should such motion be adopted.

(new, 1990)

CANON 1.3**Order of Proceedings**

1. At least one month prior to a meeting of the Synod, the Bishop shall appoint an Agenda Committee. The Committee shall determine that all essential matters are presented at Synod, and recommend to Synod the order in which reports and resolutions should be considered, which shall include the report of the Synod Council.
2. The Synod Council shall be elected in accordance with Canon 1.9 "Synod Council".
3. Delegates to General Synod and Provincial Synod shall be elected as provided in Canon 1.4, "The Election of Delegates to General and Provincial Synods."
4. The auditors' report shall be presented and auditors elected for the following year.

CANON 1.4**Election of Delegates to General and Provincial Synods**

1. The prescribed number of clerical and lay delegates to General Synod shall be elected at the session of the Diocesan Synod held in the year preceding the year in which the General Synod is to be convened. *(amended, 1989)*
2. The prescribed number of clerical and lay delegates to Provincial Synod shall, so far as it possible to do so, be elected at the session of the Diocesan Synod immediately preceding each meeting of the Provincial Synod. *(amended, 1989)*
3. The clerical delegates shall be elected by the order of clergy at the Diocesan Synod and the lay delegates shall be elected by the order of laity, at the Diocesan Synod, provided that no person shall be eligible for election by an order unless that person is a member of such order and a member of the session of Diocesan Synod when the voting is held. *(amended, 1989)*
4. Those of each order thus elected having the highest number of votes shall be the delegates to such Synods; and a similar number of those of each order whose names shall be next on the ballot, having the next highest number of votes, shall be substitute delegates to attend the said Synods whenever from sickness or other cause, any of the first elected delegates shall be unable to attend.
5.
 - (1) A Nominations Committee for Provincial and General Synod delegates will be appointed by the Synod Council to prepare the ballot for the Diocesan Synod. Regulations concerning the securing of names for the ballot will be determined by the Nominations Committee and approved by the Synod Council.
 - (2) Nothing in subsection (1) of this section shall be deemed to prohibit nominations from the floor of the Diocesan Synod, provided that any such nomination is moved and seconded and the nominee assents to being nominated.
 - (3) Members of the Diocesan Synod shall indicate a preference for the prescribed number of delegates to each of the General and Provincial Synods from those nominated pursuant to subsection (1) of this section. *(revised, 2016)*
6. In publishing or printing the lists of the delegates to the General and Provincial Synods, the names of the clerical and lay shall be printed in the order of their election. *(new, 1989)*

7. No person shall be eligible for election to a General or Provincial Synod if that election would result in that person serving a fourth consecutive term as delegate at such Synod, provided that this section shall not apply to any person who holds office as Prolocutor or Deputy Prolocutor of either General Synod or Provincial Synod or Vice-Chancellor of General Synod. *(revised, 2016)*

CANON 1.5**Seal**

1. The seal shall be the common seal of the Incorporated Synod of the Diocese of Niagara; and the Bishop shall, on behalf of the Synod, have the care and custody thereof.
2. The Bishop, or in the event of the Bishop's absence from the Diocese or the bishop's inability to act, the Commissary duly appointed under the Bishop's Episcopal Seal, and in case of vacancy in the See, the Dean, is hereby authorized to execute all deeds and documents which require to be sealed, and which, from time to time, require to be executed on behalf of the Synod, pursuant to any resolution of the Synod, or of the Synod Council or of any sub-committee having jurisdiction in that behalf.
3. The production of the Commissary's appointment executed in manner aforesaid shall be sufficient evidence of the Bishop's absence or disability, and of the power of the Commissary to execute such deeds and documents.

CANON 1.6**Rules of Order**

1. When the Bishop or other person presiding has taken the chair, no member shall continue standing.
2. When any member is about to speak for the information of the Synod, the member shall rise and introduce oneself to the chair.
3. No motion or amendment shall be considered as before the Synod (excepting such as is proposed by the Bishop or by a Committee) unless seconded and reduced to writing. To prevent surprise, no motions, except motions in course, shall be considered until all motions already before the Synod shall be disposed of.
4. No member shall speak more than once on the same question without asking and receiving permission from the chair, except the mover and seconder.
5. When a question is under consideration, no other motion shall be received, unless to adjourn, to move the previous question, to lay it on the table, to postpone it to a certain time, to postpone it indefinitely, to commit it, to amend it, or to divide on it; and motions for any of these purposes shall have precedence in the order here named.
6. When any motion or amendment is under discussion, which contains more than one distinct proposition, it shall be divided at the request of any member.
7. Motions to adjourn and to lay on the table, shall be decided without debate.
8. When a motion has been read to the Synod by the Secretary, it may not be withdrawn by the mover without the consent of the chair.
9. Any member may require at any period of the debate that the motion under discussion be read for their information.
10. When a member has been called to order by the Chair while speaking, the member shall sit down and shall remain seated until the point of order has been decided, unless the speaker is permitted by the Chair to explain. If the point of order is decided in the speaker's favour, the speaker shall have the right to continue the address.
11. All questions of order shall be decided by the Chair, subject to an appeal to the House, to be decided without debate; and when a decision upon a point of order is called for, the rule applicable to the case shall be stated, without argument or comment.

12. An amendment to an original motion shall take precedence over such motion when the question is being put. An amendment to an amendment shall be first put, then the amendment to the motion, and lastly the motion itself.
13. No more than one amendment to a proposed amendment to a motion shall be in order; but a substitute for the whole matter may be proposed, and received, provided it deals directly with the subject in hand.
14. When a question is finally put - either an original motion, or an amendment, or a substitute - no further debate shall be allowed, it being first declared from the Chair that the question is finally put. Whilst the question is being put from the Chair, the members shall remain in their seats and keep silence. Every member present when a question is put, shall be required to vote on the same unless excused by the House; and no member shall retire until the vote has been taken.
15. On a question being put by the chair, it shall be determined by the sound of voices for or against it, or at the request of the Chair or three members, those who vote in the affirmative shall rise first, and then those who vote in the negative - unless a division is required as provided in Rule 16.
16. When a division takes place, the Votes of the Clergy and Laity shall be counted without distinction and the motion shall be determined by the majority of votes. Afterwards, however, the Bishop or two of the members of either order may require that the vote shall be taken by orders whereupon it shall be so taken. A vote by orders shall supersede the open vote previously taken.
17. A question being once determined shall not again be brought into discussion in the same Session without the consent of the Bishop and of two-thirds of each order present.
18. No protest or dissent shall be entered on the minutes of the proceedings, but when required by any three members, the number of those voting in the affirmative and negative shall be recorded.
19. An address from the Bishop shall be in order at any time.
20. When the Synod is about to rise, every member shall keep their seat until the Bishop or other person presiding has left the Chair.
21. Every Speaker, except in moving or seconding any motion or amendment, shall be limited to ten minutes, and all speakers shall be timed by an assessor or assessors, to be appointed by the Bishop, to aid in the maintenance of order and obedience to the rules of the Synod.
22. Every report of a Committee shall be in writing, shall be signed by the Chair, and shall be received, unless a motion be made for its re-committal.

23. The Chair of the Committee, or some member deputed by the Chair, shall explain to the Synod the significance of any portion of the report, if requested by any member of the Synod.
24. A motion to suspend the rules of order shall take precedence of all other motions, and shall be decided without debate. No order of proceedings or rule or order shall be suspended, except upon the vote of two-thirds of the members present.
25. Petitions, memorials, and other papers addressed to the Synod shall be presented by a member in their place, who shall endorse their name thereon, and be answerable to the Synod that they do not contain improper or impertinent matter.
26. In any case unprovided for, resort shall be had to the Rules of Order of the House of Commons of Canada for guidance.

CANON 1.7**Amendments to Canons and By-Laws**

1. No Canon or By-law shall hereafter be repealed or amended, and no new Canon or By-law of Synod shall be enacted, unless the resolution containing the proposed repeal or amendment, or the proposed new Canon or By-law, shall have been first considered at a meeting of the Synod Council, and shall have been duly passed at the next ensuing meeting of the Synod by the votes of not less than two-thirds of each Order present, and assented to by the Bishop. The proposed repeal, amendment or new Canon, shall thereupon become effective without further confirmation by the Synod.
2. When a proposed Canon or By-law or Repeal or Amendment of an existing Canon or By-law has failed to secure this two-thirds majority, it shall not be re-introduced at any subsequent session of the Synod, nor shall similar legislation be proposed for three years, unless the Synod Council by a majority vote consents to or advises its re-introduction.
3. The Synod shall, by Standing Order, regulate the formalities to be observed in the making of Canons and By-laws. *(revised, 1993)*
4. Provisions of this Canon shall not apply to changes that are solely of an editorial or grammatical nature, and that a report of such changes be given to Synod Council. *(new, 1995)*

CANON 1.8**To Provide for the Election of Members of the
Council of Trinity College**

Whereas by the Statute of the University of Trinity College, the Synod of the Diocese of Niagara has the right to elect three clerical and three lay members of the Council of such University;

The Synod, at each annual meeting, shall elect no more than three clerical members and no more than three lay members to the Council of Trinity College, and the members so elected shall each hold office for two years or until their successors are appointed. *(amended, 1995)*

CANON 1.9**Synod Council**

1. There shall be a Synod Council of the Diocese of Niagara consisting of the following members:
 - (a) The Diocesan Bishop who shall chair, unless the Bishop appoints an alternate chair;
 - (b) The Coadjutor or Suffragan Bishop, if any;
 - (c) The Chancellor;
 - (d) The Vice-Chancellor, if any;
 - (e) The Dean;
 - (f) The Treasurer;
 - (g) The Executive Officer, if any;
 - (h) The Secretary of Synod;
 - (i) Any person holding a director-level position with the Synod office;
 - (j) Any regional archdeacon duly licensed;
 - (k) One lay representative from each of the regions elected for a two-year term in such manner as determined by the Synod Council;
 - (l) One representative, either clergy or lay, from each of the regions elected for a two-year term in such manner as determined by the Synod Council;
 - (m) One representative elected by each of the Diocesan Vision groups as defined by Synod Council, at its first meeting following the conclusion of the Diocesan Synod, for a one-year term;
 - (n) One representative elected by the Canterbury Hills Board of Directors, for a one-year term, at its first meeting following the conclusion of the Diocesan Synod, provided that the Board of Directors may elect an alternate representative who may attend, and vote at, meetings of the Synod Council should the Board's elected representative be compelled to be absent;
 - (o) One representative elected by the Financial Advisory Committee, for a one-year term, at its first meeting following the conclusion of the Diocesan Synod, provided that the Financial Advisory Committee may elect an alternate representative who may attend, and vote at, meetings of the Synod Council should the Committee's elected representative be compelled to be absent; and
 - (p) Four individuals appointed by the Diocesan Bishop annually, at least two of whom are members of Synod.

2. An alternate representative may be elected from each of the regions who shall serve as a member of the Synod Council in the event of an elected member's resignation or inability to attend the meetings of the Council. Such alternate representative shall serve out the balance of the member's term and shall have voting privileges.

3. There shall be standing committees of the Synod Council, as follows:
 - (a) The Coordinating Team of Synod Council, consisting of the Diocesan Bishop and the Secretary of Synod, one of whom shall chair the Coordinating Team, and not less than five of its members to be elected annually by the Synod Council at its January meeting.

The Coordinating Team shall meet between sessions of the Synod Council at the call of the Secretary of Synod.

- (b) The Financial Advisory Committee, consisting of the Treasurer, and not less than seven members, to be elected by the Synod Council for a two-year term, renewable once.
 - (c) The Audit Committee, consisting of the Treasurer, and not less than six and not more than ten members, to be elected by the Synod Council for a two-year term, renewable twice.
 - (d) The Human Resources for Ministry Committee, consisting of the Bishop, the Treasurer, the Secretary of Synod, the Director of Human Resources, not less than three and not more than five members appointed by the Bishop, and up to three members elected by the Synod Council for a two-year term, renewable twice.
 - (e) Other standing committees as mandated by Synod Council.
4. The Synod Council shall, between sessions of the Diocesan Synod, exercise generally the executive powers of the Diocesan Synod conferred by An Act to Incorporate the Synod of the Diocese of Niagara, 1876, and amendments thereto, except those of a legislative character.
 5. The Synod Council shall submit to each Annual Session of the Diocesan Synod a report of its proceedings since the last Annual Session of the Diocesan Synod.
 6. The Synod Council may delegate to the Financial Advisory Committee the right to appoint a financial institution in Canada as the custodian of the funds of the Synod and all securities, except mortgages, upon such terms as may be agreed upon by such financial institution and the Financial Advisory Committee, provided that the accounts of the Synod shall be kept in the name of the Synod of the Diocese of Niagara.
 7. The Synod Council shall, at its first meeting following the conclusion of the Diocesan Synod, appoint signing officers for the Diocese, such signing officers to include the Bishops of the Diocese, the Secretary of Synod, the Treasurer, the Assistant Treasurer, and any other individuals as shall be designated at that time by the Synod Council, provided that two signatures shall be affixed to all cheques and bills of exchange, one of which must be that of the Treasurer, Assistant Treasurer, or one other person appointed by Synod Council, and provided further that such signing officers as appointed pursuant to this section shall be authorized, in the name of the Synod of the Diocese of Niagara, to
 - (a) draw, accept, sign and make all or any bills of exchange, promissory notes, cheques and orders for the payment of money;
 - (b) pay and receive all moneys and to give acquittance for the same;
 - (c) assign and transfer to the financial institution acting as custodian all or any stocks, bonds and other securities and from time to time to borrow money from such financial institution either by overdrawing the account or otherwise; and
 - (d) generally for and on behalf of the said Synod to transact with the said bank any business.

8. The Synod Council, through the Financial Advisory Committee, shall be responsible for the management of all the funds held by or under control of the Synod, and all lands vested in the Synod, and shall take charge of and administer such funds and the proceeds arising from the sales of all such lands in accordance with the trusts upon which they are held, and the provisions of any Canons or By-Laws which the Synod may lawfully enact; and shall invest and take up and re-invest in such securities as are authorized under the Insurance Companies Act, all monies coming into their hands for investment or re-investment, and shall keep or cause to be kept separate and distinct accounts of each and every trust, showing the capital of same. The income received and accruing from the several investments so made of the whole of the said general trust fund shall be divided amongst the several trusts as foresaid pro rata in the proportion borne by each separate trust fund to the general trust fund, after deducting from such receipts, not more than 10% thereof for the expenses of management, investment and administration.
9. The Synod Council shall meet at least six times between each annual session of the Diocesan Synod on such dates and at such places as the bishop shall determine, provided fourteen days notice of any meeting being given. The Secretary of Synod may, upon the written requisition of at least ten members of the Synod Council call a meeting of Synod Council provided fourteen days notice of any meeting being given.
10. A quorum for each meeting of Synod Council exists if and only if there is:
 - (a) a majority of the members present; and
 - (b) fifty percent of those members elected pursuant to Subparagraphs k and l of Section 1 of this Canon. *(replaced, 2014)*

CANON 1.10**Regional Councils**

1. In each region of the diocese, there shall be a Regional Council consisting of the following members.
 - (a) The Regional Archdeacon;
 - (b) One outreach lay representative from each congregation in the region, such representatives to be elected at the annual vestry meeting of the congregation and to hold office for a three year term, provided that no such representative shall be eligible for election at the conclusion of that representative's term;
 - (c) Four clerical representatives to be elected from all regional clergy at their first meeting following the conclusion of the Diocesan Synod who shall hold office for a three year term, provided that no such representative shall be eligible for election at the conclusion of that representative's term; and
 - (d) Two individuals appointed by the Regional Archdeacon annually.

2. Each Regional Council shall, at its February meeting, elect a chairperson, secretary and treasurer and, together with the past chairperson of the Regional Council will form that Regional Council's Coordinating Team. *(replaced, 2001)*

3. Each Regional Council shall, by the 30th of June, submit nominations to the Secretary of Synod for election to Synod Council. *(replaced, 2001)*

4. Each Regional Council shall meet not less than four times each year, provided that the first meeting of each Regional Council shall be held not later than the last day of February in any year.

5. Each Regional Council may:
 - (a) support, encourage and facilitate the mission of the church in response to local and regional needs;
 - (b) respond to requests from parishes groups and individuals regarding support for local activities;
 - (c) refer individual, parish and regional concerns to the appropriate diocesan body (Synod, Synod Council, Division, etc.);
 - (d) research, debate and prepare resolutions to be forwarded to Synod or Synod Council. *(replaced, 1997)*

6. Each Regional Council should, where possible:
 - (a) administer the expenditure of an annual outreach budget with a total amount to be set by Synod;
 - (b) enable appropriate inter-parish and ecumenical activities;

- (c) support the Regional Coordinating Committee in events and activities to enable parishes to share information on programs and problem-solving, and arrange an annual meeting of parishes' leadership for a specified workshop experience; and
- (d) assist the appropriate Diocesan Division in arranging and leading congregational development and projects in the community as requested by the Division concerned.

(new, 1997)

CANON 2.1**The Election of Bishops**

The Appointment of an Assistant Bishop

1. Upon the death, retirement, or resignation of the Diocesan Bishop, the Bishop Coadjutor shall become the Diocesan Bishop.
2. If, upon the death, retirement or resignation of the Diocesan Bishop, there be no Bishop Coadjutor, the Suffragan Bishop, if there be one, the Dean, or if absent, the senior Archdeacon of the Diocese, shall forthwith notify and request the Metropolitan or Acting Metropolitan to summon a meeting of the Diocesan Synod within 75 days of the death, retirement or resignation of the Bishop for the purpose of electing a Diocesan Bishop.

If there be no Bishop Coadjutor, the Diocesan Bishop shall, whenever possible, give six months notice of his or her retirement or resignation.

Election of a Coadjutor or Suffragan Bishop

3. If the Synod agrees to elect a Coadjutor or a Suffragan Bishop, the Diocesan Bishop shall forthwith notify and request the Metropolitan or Acting Metropolitan to set the date for and to preside at the Electoral Synod.

Appointment of an Assistant Bishop

4. The Diocesan Bishop may appoint an Assistant Bishop from time to time with the approval of both the Synod Council and the Metropolitan or Acting Metropolitan, provided that such appointee be already in episcopal orders.

Procedure for the Election of a Bishop

5. The Chair, failing whom the Vice-Chair of the Synod Council, shall summon a meeting of the Council to be held at least 30 days before the election of a bishop for the purpose of choosing the names of those eligible persons to be placed before the Electoral Synod as candidates for the episcopate.
6. Those entitled to vote at the election of the Bishop shall be the priests, deacons and lay workers of the Diocese in active service and holding the Bishop's license; the Chancellor, Vice-Chancellor, Treasurer, Controller, Secretary of Synod, and Lay representatives duly elected as provided in Canon 4.1 as well as the lay representatives duly appointed according to the provisions of subsection 10 of section 1 of Canon 1.1.

Retired clergy of the diocese and clergy from other dioceses present in the diocese and holding the Bishop's "permission to officiate" may attend the Electoral Synod but are not permitted to vote. The holders of the offices of Chancellor, Vice-Chancellor, Treasurer, Controller, and Secretary of Synod (unless they be a priest or deacon of the diocese in active service and holding the Bishop's license, in which case they shall be a member of the order of clergy for voting purposes) and lay workers of the diocese in active service and holding the Bishop's license pursuant to Canon 3.2 shall be deemed a member of the order of laity for voting purposes.

7. Voting at the election of a bishop shall be by Orders.
8. Providing two-thirds of both Orders entitled to vote are present and vote, a majority of votes in each Order shall determine the choice of the new bishop, provided, however, if two-thirds of each Order are not then present, two-thirds of the votes of each Order then present shall be required to determine the choice of the new bishop.
9. The Regulations hereinafter set out shall be deemed to form part of this Canon.

SUBDIVISION OF DIOCESE

10. In the event of a subdivision of the diocese, the Bishop shall elect the part to be presided over, and another bishop shall be elected by the clergy and lay representatives of parishes and missions with the boundaries of the district set apart to form a separate diocese. The separated diocese shall be bound in all its public proceedings by the Constitution of the Diocese of which it formed a part, until the said separated diocese be fully organized by the election and Consecration of Bishop, the adoption of a constitution and the incorporation of a Synod.
(new, 1994)

**THE ELECTION OF BISHOPS
THE APPOINTMENT OF ASSISTANT BISHOP**

Regulations

1. At a meeting of the Synod Council acting as the Nominations Committee, the following procedure shall be followed.

Each member of the Synod Council shall nominate by secret ballot three eligible persons representing more than one gender identity, the first choice of each member to receive three points, the second two points, and the third choice one point. The ten with the largest number of points shall be the nominees of the Nominations Committee. In the event that two or more persons receive the same number of points for the position of the nominee with the tenth largest number of votes, the Synod Council shall determine the exact number of nominees to be nominated.

The names of the nominees so chosen shall be disclosed to the Council in alphabetical order and disclosed to the members of Synod after they have individually consented to allow their nominations to stand. To ensure a wider distribution of points, ballots containing less than three nominations shall be disqualified.

2.
 - (a) A committee of seven persons chosen by the Synod Council and known as the Electoral Synod Nominations and Planning Committee shall choose its own Chair and recruit other members, if necessary, and shall secure from the aforesaid nominees their consent to the inclusion of their names as nominees. The Committee shall prepare biographical material on the nominees giving their age, education background, and general experience and other information which in their opinion would be helpful to the members of Synod.
 - (b) Biographical material prepared on the aforesaid nominees shall be provided to that nominee to ensure its accuracy, after which the material on all nominees shall be mailed to the members of Synod not later than eight days prior to the Electoral Synod.
 - (c) Other forms of communication techniques authorized by the Electoral Synod Nominations and Planning Committee may be provided to the members of Synod.
 - (d) The committee shall cooperate with the regular officials of the Synod to organize the Electoral Synod.

3. Further nominations in writing by ten members of Synod, and with the consent of the nominee, may be placed before members of Synod as follows:
 - (a) By delivering the nomination to the Chair of the Electoral Synod Nominations and Planning Committee at least twelve days prior to the date of the Electoral Synod, in which case biographical material will be sent out with that provided for in 2 (a) and (b) above, or
 - (b) By delivering the nomination to the Chair of The Electoral Synod Nominations and Planning Committee prior to or during the Electoral Synod. The Chair of the Committee will address the Synod, and may give biographical material of any further priest or bishop so nominated.

4. The Synod to elect a bishop shall commence with the Holy Eucharist. A common collect and the prayers of the people bidding God's presence and spirit, will be said in all diocesan parishes, and thereafter the Metropolitan or Acting Metropolitan, or their designate, shall be the Chair of the Synod and preside at the election. Prior to the calling of each ballot, the Chair shall be satisfied as to further nominations.

When there are no further nominations, the Chair shall call for the first ballot and subsequent ballots shall be taken as necessary until a bishop has been elected.

(revised 2017)

CANON 2.2

Secretary and Treasurer

1. The Synod Council shall appoint a Secretary of the Synod, a Treasurer of Synod, and a Controller of Synod and, if deemed necessary by the Synod Council, assistants. *(revised, 1993)*

2. The Secretary, Treasurer, Controller, and any assistants therein shall serve until the first of the following shall occur:
 - (i) Resignation or retirement;
 - (ii) Withdrawal of appointment by the Synod Council; or
 - (iii) The appointment of a successor. *(revised, 1993)*

3. The duties of the Secretary shall be:
 - (i) To record, in a book provided for that purpose, the regular minutes of all proceedings of the Synod as furnished by the Honorary Secretaries; to preserve all papers, memorials and other documents except such as are required to be kept by the Registrar or Archivist, and attend to all of the business of the Synod, when not in session, under the direction of the Bishop and the Synod Council. *(revised, 1993)*
 - (ii) To enter and record in separate books, the minutes of the proceedings of the Synod Council; *(revised, 1993)*
 - (iii) To cause the proceedings of each session of Synod to be distributed to its members within two months from the close of the session; *(revised, 2014)*
 - (iv) To issue, under the direction of the Bishop, a circular fourteen days at least before the meeting of Synod to the clerical and lay members thereof; and *(revised, 2005)*
 - (v) Generally, to perform such functions as are assigned by Canon or by resolution of the Synod, or by the Synod Council, or by any of the standing subcommittees. *(revised, 1993)*

4. The duties of the Treasurer shall be:
 - (i) To have charge of the Synod office, and of all business to be transacted therein, and to review and duly account for all monies payable to, or securities receivable by, the Synod, and to make all expenditures authorized by the Synod, or the proper committees thereof, and to keep all necessary and proper books of accounts and records of securities and property as shall be approved by the auditor, and to perform all such other duties as are now or shall be, from time to time, assigned by the Constitution, Canons, By-Laws, Orders or Regulations of the Synod or by the Synod Council or by the Financial Advisory Committee; *(revised, 1993)*
 - (ii) Generally, to perform such functions as are assigned from time to time by Canon or by resolution of the Synod, or by the Synod Council; *(revised, 1993)*

- (iii) To be the proper custodian of all grants, conveyances, probates or certified copies of wills or parts thereof, in any way relating to land or property granted, conveyed or devised for the benefit or use of the Anglican Church in the Diocese;
 - (iv) To send in January, to every parish, the requirements for filing annual parish reports, properly filled out by the cleric and churchwardens, as required, which shall be submitted, with a copy of the parish vestry report including the previous year's financial statements, to the Synod Office not later than the second Monday of March; and
(revised, 2014)
 - (v) To negotiate with, deposit with, or transfer to the financial institution acting as custodian of the funds of the Synod and its securities, but for the credit of the said diocesan account only, all or any bills of exchange, promissory notes, cheques or orders for the payment of money and other negotiable paper, and for the said purpose to endorse the same or any of them on behalf of the said diocese, and also from time to time to arrange, settle, balance and certify all books and accounts between the said diocese and financial institution, and to receive all paid cheques and vouchers, and to sign the said financial institution's form of settlement of balances and release.
5. The duties of the Controller shall be:
- (i) Generally to assist the Treasurer in the performance of the duties as set out in section 4 herein; and
 - (ii) To fulfil all duties of the Treasurer during the Treasurer's absence, or during a vacancy in the office of Treasurer.
6. The Treasurer, Controller, and such other members of staff as the Synod Council shall designate from time to time, shall be bonded for such amounts as the Synod Council shall determine.
(revised, 1993)
7. Any vacancy in the office of Secretary, Treasurer or Controller shall not be deemed to impair in any way the function of Synod or its jurisdiction or to void or to render voidable any of its actions or the actions of the Diocese.

CANON 2.3**Appointment of Church Dignitaries**

1. There may be in the Diocese the following dignitaries and other officers, namely: one Dean together with Canons to constitute the Chapter; one or more Archdeacons, and such number of Regional Deans as may be required; one Chancellor; one Vice-Chancellor; one Registrar, and, when necessary, one Commissary.
2. The appointment of these dignitaries and officers shall be vested in the Bishop, and the offices of Chancellor, Registrar and Commissary, shall be held during the Bishop's pleasure.
3. The Chancellors shall be communicants of the Church, and Barristers-at-law of at least ten years' standing.
4. The Chancellor and one Vice-Chancellor shall be members of the Synod ex-officio and shall be entitled to sit therein and to vote or otherwise take part in the proceedings of the Synod.

CANON 2.4**The Registrar**

It shall be the duty of the Registrar to see that the following records be kept at the Synod Office.

1. Such official acts of the Bishop or of the Synod as require record or registration.
2. A list of the Clergy of the Diocese from time to time, with their academic standing and the respective dates of their admission as deacons and priests, and of their licences on admission to the Diocese, and a record of the different parishes, missions, or stations in which they have served or of any Diocesan position which they have filled.
3. The election or appointment of clergy or laity to any office in the Diocese.
4. All letters of orders, licences, institution, induction and other official instruments issued by the Bishop from time to time.
5. A record of consecration of churches and burial grounds and of the revocation of the Sentence of Consecration.
6. A record of all churches, church buildings and memorials dedicated by the Bishop.
7. The Registrar shall record the election, confirmation, consecration and installation of the Bishops of the Diocese and shall provide that such records be counter-signed by the responsible witnesses, who have themselves been present at such ceremonies.

(amended, 1991)

CANON 2.5**Concerning a Solicitor for the Synod**

1. There shall be a Solicitor for the Synod who shall be appointed by the Synod Council and shall hold office during its pleasure. The person so appointed shall be resident at the City of Hamilton and shall not be a member of the Financial Advisory Committee.

CANON 2.6**Archives and Archivist**

1. The Diocese shall maintain an Archives to acquire and preserve records of historical significance in the life of the church in the Diocese, and where appropriate, to make these records available. The Archives shall be located at the Division of Archives and Research Collections, McMaster University Library in accordance with a memorandum of agreement between McMaster University Library and the Executive Committee of the Synod of the Diocese of Niagara 1975.
2. There shall be an Archivist of the Diocese who shall be appointed by the Diocesan Bishop and remain in office during the pleasure of the Bishop.
3. The expenses necessary for the purpose of this Canon shall be provided for in the Diocesan Budget and discharged by the Treasurer.
4. The Archivist shall receive and have charge of all documents, minutes, records and papers of the Diocese and its officers, committees, organizations and agencies connected and associated therewith, having continuing value for historical use or as a matter of record, hereinafter called the Archives.
5. The Archivist shall receive from each congregation completed Parish registers, minute books and records of Parish committees, organizations and officers, having continuing value for historical use or as a matter of record, for transfer to the Diocesan Archives unless the Parish has satisfied the Archivist that its records are being persevered in a secure environment.
6. It shall be the duty of the Archivist:
 - (a) to establish and administer a continuing program for the management of current records created by the officers, committees and other bodies of the Diocese and, in consultation with the Diocesan officials, to select non-current records of historical interest to transfer to the Archives.
 - (b) to appraise and acquire for purposes of preservation and research, manuscripts, private papers, printed documents, audio-visual materials and other documentation relating to the history of the Diocese.
 - (c) to appraise and acquire for purposes of preservation and research, Parish registers and other Parish records.
 - (d) to access, arrange and describe the holdings of the Diocesan Collection according to Archival principles and in conjunction with the Director of Archives and Research Collections at McMaster University.
 - (e) to be a liaison person between the Diocesan and parochial officials and the Division of Archives and Research Collections of McMaster University Library.

- (f) to provide mutually acceptable regulations for access to Diocesan and parochial Archival material at McMaster University.
- (g) to respond to enquiries by mail, telephone, or in person, and conduct research when possible.
- (h) to provide an Archivist's report to each regular session of the Synod of the Diocese.
(new, 1990)

CANON 2.7**Auditors' Duties**

The Auditors shall make an examination of the books, records and financial affairs of the Synod to the extent that they deem necessary to permit them to report whether, in their opinion, the financial statements presented annually to Synod, reflect fairly the financial position of the Synod and the results of its operations for the year under review.

The Auditors shall in particular include in their report such statements as they consider necessary -

- (a) if the accounting records, routines and procedures are inadequate in their opinion;
- (b) if they have not received all the information and explanations that they require;
- (c) if the guarantee bond of the Treasurer has not been kept in force; and
- (d) regarding any other matter concerning the financial affairs of the Synod.

Canon 2.8

Diocesan Loan Funds

Whereas various funds have been set up and established in this Diocese or have been given to the Diocese for the purpose of providing moneys to assist congregations in the Diocese in the erection, extension or alteration of buildings belonging to any such congregation;

And whereas it is desirable that the operation, control and management of all such funds and of any other such funds hereafter given or established in this Diocese shall be entrusted to the Finance Subcommittee of the Financial Advisory Committee of the Diocese and shall hereafter be designated as Diocesan Loan Funds.

1. The operation, control and management of the following funds of money now or hereafter in the hands of the Diocese, namely:
 - (a) The moneys of the Fund known and designated as The Bishop Clark Church Extension Fund;
 - (b) The moneys of the Fund known and designated as The Isabelle Laidlaw Fund for Church Extension;
 - (c) The moneys of the Fund known and designated as The Minnie Easter Fund;
 - (d) The moneys of any other Funds now or hereafter from time to time established or given to the Synod by will or otherwise and expressly designated by the Synod Council of the Synod as Diocesan Loan Funds. Any such funds shall retain their original identity if any.

Shall be and the same is hereby given and entrusted to The Finance Subcommittee of the Financial Advisory Committee and any and all such funds shall hereafter be known and designated as Diocesan Loan Funds.

2. The Finance Sub-Committee of the Financial Advisory Committee shall be and are hereby empowered from time to time to loan moneys from Diocesan Loan Funds to any congregation in this Diocese for the purpose of assisting any such congregation in the erection, extension or alteration of any buildings belonging to such congregation. The terms of repayment of such loans and the rate of interest thereon and the security to be taken therefore shall be fixed and determined from time to time by such Subcommittee.
3. The said Finance Sub-Committee shall report to the Financial Advisory Committee with respect to loans made from such Diocesan Funds.

CANON 2.9**Diocesan Budget**

1. The budget of the diocese for each calendar year shall be presented for approval by the Synod of the Diocese at its session in the previous calendar year.
2. The budget of the diocese as approved by Synod shall be presented annually to each congregation in the diocese.
3. There shall be a Diocesan Parish Budget Assessment established for each congregation in the diocese.
4. Guidelines and prescribed forms shall be supplied to each parish in the diocese to be followed by them in preparing their annual reports to be submitted to Synod.
5. There shall be established a Diocesan Assessment Committee which:
 - (a) shall consider concerns and appeals raised and filed by parishes regarding assessments;
 - (b) shall ensure consistent and accurate financial reporting from all parishes of the diocese;
and *(amended, 2000)*
 - (c) shall, from time to time, review the guidelines and prescribed forms as established pursuant to Section 4 of this Canon. *(amended, 2000)*
6. The Synod may assess interest on outstanding parish payroll and assessment balances owed to the Synod at a rate to be set by the Synod Council. *(replaced, 2001)*

CANON 2.10**The Louisa Parke Estate**

There shall be a decreasing fund of the Diocese known as the Louisa M. Parke Estate Fund (referred to in this Canon as "The Fund").

The capital and interest of The Fund shall be utilized to provide grants to supplement the retirement income paid to retired clergy of the Diocese and their widowed spouses.

The Fund shall be administered, according to the directions of this Canon, by the Financial Advisory Committee.

The capital and income from the fund shall be applied as follows:

to clergy who retired from the Diocese of Niagara on or before December 31, 1989 an annual amount equivalent to that which they received from the Louisa Parke Estate Fund in the year 2000;

to clergy who retired between January 1, 1990 and December 31, 2000 an annual amount equivalent to that which they received from the Louisa Parke Estate Fund as of December 31, 2000 adjusted downwards by any increase to their pension through the General Synod Pension Plan effective January 1, 2001. An appropriate cost of living increase will be applied prior to any adjustment; and

the spouse of any deceased retired clergy shall receive 60% of the amount which would have been paid to the spouse based on the above criteria, provided this does not conflict with the policy of the General Synod Pension Plan.

Should the income from the remaining fund be depleted before the death of any clergyperson who retired before 1990 or their spouse, the remaining payments shall be paid out of diocesan funds.

(new, 2001)

CANON 3.1**Appointment of Incumbents**

1. There shall be in every parish (not being an assisted parish) a Committee (hereinafter called "The Parochial Committee"), which shall consist of the lay representatives to the Synod and the Churchwardens of the parish. Such Committee shall have full power in conference with the Bishop, to represent the Parish in the selection of an incumbent.
2. Whenever there are two or more congregations forming one parish, the Parochial Committee shall consist of the Lay representatives and the Churchwardens from each congregation.
3. Whenever a vacancy occurs in any parish (not being an assisted parish), the Bishop shall, as soon thereafter as convenient, call together the Parochial Committee of such Parish at such time and place as the Bishop shall see fit, and as often as shall be deemed necessary, and after conference with them, shall proceed to appoint a member of the clergy to such vacancy.
4. Diocesan Clergy holding the Bishop's License for full-time ministry shall be entitled to annual vacation periods as set by the Bishop in consultation with the Diocesan Synod Council, provided that in all cases, the expenses of providing for the conduct of services of the Parish during the absence on vacation of the member of the clergy shall be borne by the Parish.
(amended, 1990)
5. When appointments or exchanges of clergy are made under this Canon, the expenses incurred by the clergy for their removal from one parish in this Diocese to another parish in this Diocese shall be paid by that parish to which the clergy member is newly appointed.

CANON 3.2**Licensed Lay Workers**

1. Lay persons professing a vocation to career ministry, and who upon qualification, licensing and commissioning obtain an employment contract with a parish or an appropriate affiliate to a particular ministry or undertaking of the diocese, shall be recognized as licensed lay workers. Such ministry may be exercisable within the diocese, in fields including education, social and community work, pastoral care, administration, mission, and liturgy.
2. A person who holds an appropriate post-secondary degree or diploma, or possesses an adequate combination of education and experience for the field in which the vocation is to be exercised, shall be qualified for recognition as a licensed lay worker.
3. A qualified lay worker, having received the approval of the Hiring Committee and the Bishop, shall be licensed by the Bishop and commissioned at an appropriate liturgical event. The lay worker shall take oaths of subscription, and shall express willingness to be accountable in life and ministry to duly constituted diocesan and parish authority.
4. Licensed lay workers and the Hiring Committee shall enter into an employment contract, which shall conform to the current guidelines for fair employment practices adopted by the General Synod of the Anglican Church of Canada.

(new, 1987)

Footnote

- (a) Canons 13, 18, 19, 20 and 22 of the General Synod of the Anglican Church of Canada shall apply, with necessary modifications, to all lay workers recognized, licensed and employed within the diocese.
- (b) The provisions of Canon 3.3 of the Diocese of Niagara plus all appendices and schedules to this Canon shall apply, with necessary modifications, to all lay workers recognized, licensed and employed under this Canon.

(Footnote new, 1987)

CANON 3.3**Discipline**

Part 1 - Episcopal Jurisdiction

Preservation of Episcopal Jurisdiction regarding Discipline

1. It is hereby acknowledged that the Bishop of the Diocese 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.
2. Nothing in this Canon shall affect the obligation of both the bishop and any other party in matters of discipline to canvass every possibility to settle differences, in consultation and counselling, before resorting to legal procedures.
3. 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:
 - (a) 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:
 - (b) the determination of whether the Bishop, priest or deacon has committed an ecclesiastical offense established by this Canon,
 - (c) the determination of whether a lay person who has been appointed, elected or commissioned to an office, appointment or responsibility in a parish or the Diocesan Synod, has committed an ecclesiastical offense established by this Canon, and
 - (d) the determination of the penalty appropriate for the commission of an ecclesiastical offense established by this Canon.

Initial Disciplinary Jurisdiction

4. (a) Where it has been alleged that a Bishop, priest or deacon, subject to the jurisdiction of the Bishop, or a lay person as described in Section 5 of this Canon, has committed an ecclesiastical offense established by this Canon, the Bishop 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 may refer the determination of whether an ecclesiastical offense has been committed or the determination of a penalty to the Diocesan 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 4 (a).
- (c) The procedures to be used in the exercise by the Bishop of the initial jurisdiction described in this Section shall be those established by the Synod of which the Bishop is the president; however, such procedures shall be subject to the principles set out in Part 5 of this Canon.

Review by the Court

- 5. (a) A person convicted of an ecclesiastical offense by the Bishop may require the determination of the Bishop that an ecclesiastical offense was committed by the person, or the penalty imposed by the Bishop to be reviewed by the Diocesan Court having jurisdiction with respect to the discipline of the accused person, which Court may either confirm or overturn the determination of the Bishop.
- (b) The Synod 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, may require the determination of the Bishop that an ecclesiastical offense was committed, or the penalty imposed by the Bishop, 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.
- (c) Where a review by the Court pursuant to this Section is of a determination by the Bishop 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 the Bishop 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.

Part 2 - Court Jurisdiction

Diocesan Courts

- 6. The Diocesan Court shall have ecclesiastical jurisdiction with respect to the discipline of:
 - (a) 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,

- (b) subject to Section 25, 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,
- (c) 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 an ecclesiastical offense which they may commit in the Diocese.
- (d) lay persons who have been appointed, elected or commissioned to an office, appointment or responsibility in a Provincial Synod, or the General Synod, for an ecclesiastical offense which they may commit in the Diocese, and
- (e) priests, deacons and lay persons of any other Diocese when a direction is made pursuant to Section 26 of this Canon.

Part 3 – Ecclesiastical Offenses

Disciplinary Action Regarding Offenses

- 7. All persons who are subject to ecclesiastical jurisdiction in the Church shall be liable to discipline for any of the following offenses:
 - (a) conviction of an indictable offense;
 - (b) immorality;
 - (c) disobedience to the Bishop to whom such person has sworn Canonical obedience;
 - (d) violation of any lawful Constitution or Canon of the Church, whether of Diocese, Province or the General Synod by which the person is bound;
 - (e) wilful or habitual neglect of the exercise of the ministry of the person without cause;
 - (f) wilful or habitual neglect of the duties of any office or position of trust to which the person has been appointed or elected;
 - (g) teaching or advocating doctrines contrary to those accepted by the Anglican Church of Canada;
 - (h) 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.

Part 4 - Penalties for Ecclesiastical Offenses

Penalties Generally

8. Where it has been determined that a person has committed an ecclesiastical offense, the following penalties may be imposed against the person:
 - (a) admonition;
 - (b) suspension from the exercise of ministry or office;
 - (c) deprivation of office or ministry;
 - (d) deposition from the exercise of ministry if the person is ordained;

Admonition

9. Admonition shall be delivered by the Bishop or the president of the Court which shall have determined the penalty, as the case may be.
10. Admonition may be in public or private as the Bishop or president delivering it may determine.

Suspension

11.
 - (a) When a penalty of suspension is imposed, the Bishop 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 8 (b) hereof, or otherwise violates the conditions of the suspension, the Bishop 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.

Deprivation

12. (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) or (d) 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) Restoration pursuant to Subsections (c) may be to any office or ministry in the Diocese whether or not it be the specific office from which the person was deprived.

Deposition

13. 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 the Canons of the Anglican Church of Canada.

Notices

14. (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 clergy of the Diocese, all Bishops of the Anglican Church of Canada and all Metropolitans of the Anglican Communion.

Part 5 - Principles and General Procedures to be Observed in Discipline Procedures

Fundamental Principles of Natural Justice

15. All trials of persons charged with the offenses under this Canon shall be conducted according to the principles of natural justice.
16. 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 on a balance of probability;
 - (iii) heard in their own defence;
 - (iv) represented in their defence 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 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.
17. No person tried for an offense under this Canon is required to give evidence in the proceedings.
18. Disciplinary proceedings arising out of the alleged commission of an offense under this Canon shall be commenced within:
- (a) 12 months from date of the alleged offense in the case of offenses under Section 7 (a), (c), (g) and (h), and
 - (b) 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 (b).
19. No proceedings shall be taken in respect of an alleged offense under Section 7 (c) or (f) unless 6 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.
20. Disciplinary proceedings arising out of the alleged commission of an offense under Section 7 (e) or (f) shall be commenced within 12 months of the date of the notice of intent given, pursuant to Section 19.
21. 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.

22. No person who has been acquitted of an offense under this Canon may be tried for the same offense a second time.
23. 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.

Inhibition

24. (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 Synod Council.

Priest or Deacon from another Diocese

25. (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.

Transfer of Jurisdiction

26. (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 applicant 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.

Part 6 - Rights of Appeal in Disciplinary Proceedings

27. An appeal to the Provincial Court of Appeal may be taken from any judgement or order of a Diocesan Court or the president thereof.
28. 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 judgement or order appealed from.
29. No limit or restriction on the rights of appeal granted by this Canon, imposed by a Bishop or Diocesan Synod shall be of any effect.

Part 7 - General

Preferment of Charge

30. A charge may be preferred against any person set forth in Section 6 of this Canon for any of the offenses mentioned by three members of the Church in the Diocese, or by any Archdeacon of the Diocese, and such charge shall be in writing and shall be delivered to the Bishop of the Diocese, or the Bishop of the Diocese may prefer such a charge.
31. Upon a charge being preferred, the Bishop shall communicate the contents of the charge to the person accused and after consideration the Bishop of the Diocese may deny the complaint and notify the complainant and the respondent of decision of the Bishop.

Admission of Charge and Summary Hearing

32. If any respondent admits the truth of the charges or the complaint and requests the Bishop to deal with the same in a summary way, the Bishop shall thereupon adjudge the party to be guilty, and shall award such punishment under this Canon as in the Bishop's judgement and discretion may be considered adequate to the offense and shall attach the Bishop's sentence and the **3.3**

answer of the respondent against whom the charge or complaint is made to a memorial, and file the same of record with the Registrar of the Court, who shall forthwith transmit to the complainant(s) and the party charged a copy of such decision or sentence.

Investigation of Charge

33. If the Bishop does not deny the complaint pursuant to Section 30, the Bishop may request by commission the Court or some members thereof to investigate the charges in which case the Diocesan Court shall inform the respondent of the nature of the charges and after consideration and investigation shall advise the Bishop either that a prima facie case has been established or that no case has been established. Service by any member of the Diocesan Court in the investigation of any complaint or any other preliminary matter involving a complaint shall not prevent such member sitting as a member of the Diocesan Court in any other hearing with respect to the said complaint.

Submission to Court

34. If a prima facie case has been established the Bishop of the Diocese may submit the complaint to the Diocesan Court with the Bishop's commission that the Court try the matter and report to the Bishop on its findings, and its recommendations as to sanction.

Submission as to Sentence

35. Upon a plea of guilty, or submission to the Bishop, or after receipt of the decision of the Diocesan Court, and any recommendations that it may make, the Bishop may hear submissions as to sentence, along with such persons as the Bishop considers proper, and after hearing such submissions may proceed to pass sentence.

Part 8 - Diocesan Court

Interpretation

36. In this part:
- 1) "accused" shall refer to any person charged with an offense under any Canon on Church Discipline;
 - 2) "applicant" shall refer to any party in the position of plaintiff with respect to any matter referred to the Court by the Bishop other than under the Canon of Discipline;
 - 3) "Bishop" shall refer to the Bishop of the Diocese and shall include an Administrator of the Diocese or Bishop's Commissary;
 - 4) "Canons" shall include the Canons of the Diocese as well as Canons of Provincial Synod and General Synod;
 - 5) "cause" includes any matter referred to the Court;
 - 6) "charge" is an accusation of any breach of discipline under the Canons;

- 7) "commission" shall refer to the commission of the Bishop requiring the Court to deal with a cause;
- 8) "complainant" shall include any person who instigates a charge or complaint;
- 9) "complaint" shall refer to the document upon which a charge is based;
- 10) "Court" shall mean the Diocesan Court;
- 11) "party" shall include any party to the proceedings;
- 12) "proceeding" shall include any cause or matter referred to the Court;
- 13) "Provincial Court of Appeal" shall mean the Provincial Court of Appeal of the Ecclesiastical Province of Ontario'
- 14) "Registrar" shall mean the Registrar of the Court;
- 15) "respondent" shall include any party responding to any other matter referred to the Court by the Bishop
- 16) "rules" shall mean the rules passed from time to time by the Court;
- 17) "Supreme Court of Appeal" is the Supreme Court of Appeal for the Anglican Church of Canada;
- 18) "Supreme or Superior Court" is the Ontario Court (General Division) in the Province of Ontario.

Court

37. (a) There shall be a Court for the trial of causes to be known as the "Diocesan Court" and which shall be composed of the Chancellor of the Diocese and three clergy and three lay members of Synod to be appointed by the Bishop annually at the annual session of Synod and to hold office until their successors have been appointed.
- (b) No member of the Court shall be disqualified by reason of that member dealing in any way with a charge or preliminary investigation, but no member of the Court may sit on any charge or complaint preferred by such member, or on any charge or complaint in which such member may have an interest.
- (c) Any vacancy which may occur in the membership of the Court during the year, by death, resignation or otherwise, shall be filled by the Bishop, and the appointment of any new member shall be announced by the Bishop at the next ensuing meeting of the Synod Council, which shall report the appointment to the Synod at its next session.
- (d) The Court shall be presided over by the Chancellor, or by some other member thereof commissioned in writing by the Bishop.
- (e) The Court shall from time to time appoint a Registrar or acting Registrar, and such other officers as may be found necessary.
- (f) The Court may sit in any place in the Diocese and at such time as the President of the Court may order and direct.

- (g) No objection shall be effective as to the constitution, or appointment of any members of the Court or any other officers appointed to assist or advise the Bishop in the exercise of the Bishop's power, authority and jurisdiction.
- (h) No objection shall be effective in any proceedings under this Canon that the offense, cause, breach or charge arose outside of the Diocese in which proceedings are taken or arose outside Canada.

Jurisdiction

- 38. (a) The said Court shall have cognizance and may try any member of the church within the Diocese, clerical and lay, for offenses against the provisions of the constitution or Canons of the Diocese or of the Provincial Synod of Ontario, or of the General Synod of Canada.
- (b) The Court shall also determine any question which may be referred to it by the Bishop as to the sufficiency of the Bishop's reasons for refusing a Bene Decessit or Letters Testimonial to a cleric on removal from the Diocese.
- (c) The Court shall also have jurisdiction to determine any other question which may be referred to it by the Bishop.

Procedure

- 39. (a) Notwithstanding anything in this Canon and unless the Court otherwise directs, any proceedings may be disposed by:
 - i) agreement;
 - ii) consent order; or
 - iii) decision of the Court given,
 - a) without a hearing, or
 - b) without compliance with any other requirement of this Canon, where the parties have waived such hearing or compliance.
- (b) It shall be the duty of the President of the Court to see that all of the proceedings of the Court as well as any sentence, or any action of the Bishop thereon, are duly recorded by the Registrar and retained with all proceedings in the matter, and the decision of the Court and any sentence of the Bishop shall be in writing.
- (c) All decrees, citations, orders and other instruments under seal, shall be issued by the Registrar of the Court and shall bear date on the day on which they are respectively issued.

- (d) The seal of the Court shall bear the device of the seal of the Synod.
- (e) No member of the Court shall divulge the sentence recommended by it until such time as it has been approved and confirmed by the Bishop, and further, no member of the Court will disclose the vote of any particular member of the Court.

Appeals Regarding Hearings

40. Every person whose case may have been disposed of and decided adversely to such person, and who shall feel aggrieved by such decision, or who shall make it appear that new evidence, having an important bearing on the case has been discovered since the hearing of the existence of which was unknown by such person at the time of the hearing, may within six months petition the Bishop for a rehearing of the case, either upon objections to be taken to the decision upon the facts, or because the judgement is not sustained by the laws and Canons of this Ecclesiastical Province, or of the Diocese, or for other cause or causes; or such person may apply by petition to the Bishop for an arrest of sentence of judgement, upon causes to be shown; and in either case the Bishop shall, upon receiving such petition, refer the same with or without comment to the Court and the Court's decision on the above questions, being approved by the Bishop, shall be final insofar as this Diocese is concerned.

Rules

41. The rules of the Court are the rules set out in the schedule of this Canon. The Court may from time to time make such rules and regulations as to the Court may seem expedient for regulating the practice and procedure of the Court, and every matter deemed expedient for carrying out the objects of this Canon; and the Court may, from time to time, suspend, repeal, vary or revive any such rules and regulations, but no order made by the Court shall have the effect of altering any matter defined by this Canon. Matters not provided for by the rules of the Court shall be regulated by analogy to the rules of the Ontario Court (General Division).

Costs and Expenses

42. (a) All expenses necessarily incurred by the Court or by anyone acting under its direction in any investigation or hearing pursuant to this Canon shall be paid by the Synod.
- (b) The costs including counsel fees of and incidental to any proceedings authorized to be dealt with by the Court are in the discretion of the Court. The Court has full power to determine by whom, or to what extent, costs shall be paid including the legitimate costs of any party out of the Synod, and in any proceeding the Court may fix the amount of costs awarded or may in its discretion deal with the question of costs separately.

SCHEDULE TO CANON 3.3

Rules of the Diocesan Court

Style

1. Any proceedings in the Court shall be styled in the Diocesan Court with the names of the complainant(s) and the name of the respondent, or a short description of the cause or matter.

Preliminary Investigation

2. Where the Court has been requested by the Bishop to conduct a preliminary investigation, the investigation may be conducted by two or more members of the Court, as determined by the Court or by the Bishop.

Form of Charge and Hearing by Court

3. The Court may appoint two of its members to determine the sufficiency or insufficiency of the form in which the charge is presented, and of the answer thereto, and of any matter connected with the practice or procedure of the Court, subject to an appeal to the Court in all matters in which either party may be dissatisfied; provided however, that the evidence to be taken on which the Court is to act, and the hearing and adjudication of the subject matter of the complaint, must be given, heard and made before and by the Court.

Notice of Hearing

4. A notice of hearing by the Court shall include a statement of the time, place and purpose of the hearing and a reference to the authority under which the hearing will be held, and shall also include a statement that if any party notified does not attend at the hearing, the Court may proceed in the absence of such party who will not be entitled to any further notice in the proceedings.

Service of Notice of Hearing

5. Notice of hearing shall be served upon the respondent and other parties, or such service may be accepted by any party and a party shall be given reasonable notice of the hearing, the question of reasonableness in any case to be solely determined by the Court.

Procedure on Failure to Attend After Notice

6. Where notice of hearing has been given to a party and the party does not attend, the Court may proceed in the absence of the party and who will not be entitled to any further notice in the proceedings.

Furnishing Information to Party Where Character or Conduct in Issue

7. Where the good character, propriety of conduct or competence of a party is an issue in any proceedings, the party is entitled to be furnished prior to the hearing with reasonable information of any allegations with respect thereto.

Representation by Counsel

8. A party to the proceedings may be represented by counsel or an agent; may call and examine witnesses and present arguments and submissions, and may conduct cross-examination of witnesses, at a hearing reasonably required for full and fair disclosure of the facts, and where any person is not so represented the Court may appoint a representative when the Court determines that such representation may be required in the interest of justice, and where any party is charged with any offense the Court may appoint counsel to prosecute the charge.

Witness's Rights

9. A witness at a hearing is entitled to be advised by counsel or agent as to such witness's rights, but such counsel or agent may take no other part in the hearing without leave of the Court, and where a hearing is in camera, a counsel or agent for witness is not entitled to be present except when that witness is giving evidence.

Open Hearings

10. A hearing shall be open to the public except where the Court is of the opinion that matters involving intimate, financial or personal matters may be disclosed at any hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure in any interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Court may hold the hearing in camera.

Oaths

11. Any member of the Court has power to administer oaths and affirmations with respect to any of its proceedings, and the Court may require evidence before it to be given under oath or affirmation.

Power to Summon Witnesses

12. The Court may summon and examine witnesses, including any party, viva voce and in open Court to give evidence under oath or by affirmation and to produce in evidence documents and things so specified by the Court, and may for sufficient reason order any particular fact or facts to be proved by statutory declaration or allow the affidavit or statutory declaration of any witness to be read in evidence at the hearing, or may direct any witness to be examined before

an examiner or commissioner or the Registrar of the Court or other person authorized by the civil law of the Province to examine witnesses or take statutory declarations.

Service of Summons

13. The summons herein referred to shall be served personally in accordance with the rules of the Ontario Court (General Division). If personal service cannot be reasonably effected, the Court may make such order for substituted or other service as it deems fit.

Inferences

14. The Court shall be entitled to draw inferences from evidence accepted by it whether of fact or law which might have been drawn therefrom if proved at a trial.

Canada Evidence Act

15. A witness at a hearing shall be deemed to have objected to answer any question that may be asked of such witness on the ground that it may tend to incriminate or be deemed to establish liability to civil proceedings, and no answer given by a witness shall be used or be receivable in evidence against that witness at any hearing or trial or other proceedings against such witness thereafter taking place other than a prosecution for perjury, and a witness shall be informed by the Court of the provisions of the Canada Evidence Act.

Affidavit Evidence

16. A witness at a hearing shall be examined viva voce but the Court may at any time by sufficient reason order particular evidence or facts to be proved by affidavit, or that the affidavit of a witness may be read at the hearing.

Dispositions and Commission Evidence

17. The Court may, whenever it appears necessary, make an order for the examination before a member of the Court or any other person at any place and permit such deposition to be given in evidence, or the Court may order the issue of a commission to take such testimony as approved in the form of the Ontario Court (General Division) and such testimony may be given in evidence.

Admission of Evidence

18. The Court may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in Court, any oral testimony or document or other thing relevant to the subject matter of the proceedings, but nothing is admissible in evidence that may be inadmissible in a Supreme or Superior Court by reason of any privilege under the law of evidence, or which would be inadmissible by statute.

Copies of Document

19. A copy of a document may be admitted as evidence where the Court is satisfied as to its being a certified true copy, and where the document may be filed as evidence the Court may authorize a copy to be filed in evidence when certified to be a true copy by a member of the Court.

Judicial Notice

20. The Court may take notice of facts that may be judicially noticed, and take notice of any generally recognized scientific or technical facts, information, or opinions within its scientific or specialized knowledge.

Decision in Writing

21. The Court shall give its final decision or order, if any, in writing, and shall give reasons in writing thereof if requested by any party.

Service of Decision

22. The Court shall send by first class mail addressed to the parties to any proceedings at their last known address a copy of the final decision or order, together with reasons where reasons have been given, and each party shall be deemed to have received a copy of the decision on the fifth day after the day of mailing unless a party acting in good faith did not receive the decision or order through absence, accident, illness or other cause beyond the control of such party.

Filing of Decision with Ontario Court (General Division)

23. A certified copy of a final decision or order may be filed by the Court of any party in the office of the Registrar of the Ontario Court (General Division), and it may be enforced at the instance of the Court, or of such part in the name of the Court, in the same manner as a judgement of the Ontario Court (General Division).
24. Where any decision or order is made rescinding or varying a decision or order previously made by the Court that has been filed with the Registrar of the Ontario Court (General Division), the decision or order rescinding or varying a former decision or order shall also be filled.

Record

25. The Court shall compile a record of any proceeding before it which shall include the complaint, notice of hearing, the answer, if any, any intermediate or interlocutory orders, all documentary evidence, transcripts if any of oral evidence, the decision of the Court and reasons where reasons have been given.

Maintenance of Order

26. The Court may make such orders or take such proceedings as it considers necessary for the maintenance of order at the hearing.

Abuse of Process

27. The Court may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes.

Exclusion of Agents

28. The Court may exclude any person acting as agent from the hearing other than a barrister and solicitor qualified to practise in the Ontario Court (General Division), if it finds that such person is not competent to properly advise or represent a witness or a party.

Limitation of Cross-Examination

29. The Court may reasonably limit further cross-examination of a witness where it is satisfied that the cross-examination of a witness has been sufficient to disclose the facts.

Adjournment

30. Any hearing may be adjourned from time to time by the Court.

Notice of Order by Publication

31. Where the Court is of the opinion that because the parties to any proceedings are so numerous, or for any other reason, it is impracticable to send its decision and the material to all or any of the parties individually, the Court may cause reasonable notice of the decision or order to be given to such parties by public advertisement, or otherwise as the Court may direct.

Amendments

32. Amendments to any proceeding or document may be made by order of the Court at any time.

Addition or Deleting Parties

33. The Court may at any stage of the proceedings order that the name of any complainant or respondent improperly added be struck out and may also order that any persons who ought to have been joined, or whose presence is necessary be added.

Application to Ontario Court (General Division)

34. The Court may apply to the Ontario Court (General Division) for such directions as it deems necessary or to enforce its orders with respect to evidence or for any other purpose, and the Court may state a case to the Ontario Court (General Division) where permitted by law

Matters not Provided For

35. As to all matters not provided for in these rules, the practice shall be regulated by analogy thereto and to the rules of practice of the Ontario Court (General Division).

(new, 1993)

CANON 3.4**On the Appointment of Archdeacons and Regional Deans
and Their Duties**

1. The Archdeacon or Archdeacons, on their appointment by the Bishop, shall perform such duties as pertain to their office or shall be assigned them by the Bishop and are responsible to the Bishop alone. The Archdeacon shall examine from time to time all Parish and Vestry registers and records of the Archdeaconry, in order to see that they are legibly, properly and neatly kept, and to report thereon to the Bishop.

The Archdeacon shall from time to time, and especially during a vacancy, ascertain the condition of the rectory of a parish and make recommendations, if necessary, to the churchwardens regarding redecoration, repairs or improvements.

2. The nomination of a Regional Dean shall be vested in the clergy of the Region, and the appointment shall be subject to the approval of the Bishop and for a term of three years.
3. It shall be the duty of each Regional Dean:
 - (a) To convene regular meetings of the Clergy in the Region for conference in spiritual and ecclesiastical affairs; and the Chapter duly convened may adopt, subject to the approval of the Bishop, such rules and regulations for their own government, and for the increase and promotion of Church work within their Region as they may deem best.
 - (b) To visit any Assisted Parish requiring a grant from the Diocesan Assessment Committee and arrange with the several congregations thereof as to the amount to be contributed by them towards the maintenance of a resident Cleric.

CANON 3.5**College of Deacons**

1. There shall be a College of Deacons whose purpose is to provide communal support and encouragement to deacons exercising their ministries throughout the Diocese of Niagara.
2. The diocesan Bishop shall appoint a Director of Deacons and may appoint both a Deputy Director of Deacons and a Chaplain to the College of Deacons. The Director and Deputy Director, if any, shall serve at the Bishop's pleasure and assist the Bishop in the placement and supervision of deacons. The Bishop's Chaplain to the College will function as a pastor to the deacons on behalf of the Bishop.
3. The College of Deacons shall be composed of:
 - (a) all deacons in good standing and holding a Bishop's Permission
 - (b) the Director of Deacons;
 - (c) the Deputy Director of Deacons, if any; and
 - (d) the Bishop's Chaplain to the College of Deacons, if any.
4. There shall be an Executive Council of the College of Deacons whose purpose is to advise and assist the Bishop, Director of Deacons and Deputy Director of Deacons, if any, in seeking and promoting the vitality of diaconal ministries in the Diocese of Niagara.
5. The Executive Council of the College of Deacons shall be composed of:
 - (a) the Director of Deacons, who shall serve as Chair;
 - (b) the Deputy Director of Deacons, if any;
 - (c) three delegates duly elected from the membership of the College of Deacons;
 - (d) the Bishop's Chaplain to the College of Deacons, if any; and
 - (e) the Bishop or his/her designate.

(replaced, 2015)

CANON 4.1

Vestries and Churchwardens

1. (a) In every congregation within the Diocese of Niagara there shall be a Vestry composed of all the baptised members of such congregation of the full age of 16 years, who for at least six months preceding the holding of a Vestry meeting have been identifiably involved with that congregation, through worship, fellowship, and financial support to that congregation, subject to the certification and appeal procedures outlined in 1. (b), (i) and (ii). *(amended,1986)*

- (b) At the discretion of the Rector and Churchwardens or at the request of the Bishop of the Diocese, the procedure for a Vestry will be:-
 - (i) A Certification Committee composed of the Rector, the Churchwardens and Lay Representatives to Synod, shall determine, on the basis of their best pastoral judgement, in the light of subsection (a) above, eligibility of those who are to be voting members of the Vestry. Each voting member attending the meeting shall sign a statement to the effect that he or she has not voted as a member of any other Vestry during six months preceding the meeting. The Vestry Chairperson may invite non-voting members to speak at a Vestry meeting at his or her discretion, with the approval of the said meeting.

 - (ii) A list of those eligible to vote at a Vestry meeting shall be displayed in a prominent place for at least 30 days before the date of any Vestry meeting. If a person's name does not appear on the roll, that person may appeal to the Certification Committee no later than 72 hours before the time of the opening of the Vestry meeting, to have his or her name added to the certified list of Vestry members. Individuals who still feel unjustly excluded, may further appeal to a committee of the Archdeacon, Regional Dean, and Chancellor or Vice-Chancellor. However, if the Archdeacon or Regional Dean be the Rector, the Bishop shall appoint a substitute for this purpose. Should there be more than a dozen people making such an appeal, the tribunal may order the Vestry meeting postponed until the appeal has been heard and a decision rendered. *(amended,1986)*

 - (iii) A voter's card may be issued to each eligible voter. *(amended,1986)*

2. If a congregation newly formed desires to organize a Vestry without delay, a meeting of the said Congregation shall be held for such purpose after notice thereof has been given during Divine Service on the previous Sunday; and the members of such Vestry shall consist of those who make the declaration required in the next preceding section as to age and Church membership, and also declare their intention to worship habitually in such Congregation. The Vestry so

constituted shall be a lawful Vestry for all the purposes mentioned in this Canon for not longer than one year from the date of its formation.

3. At all Vestry meetings the Priest or Deacon in charge shall preside, and in the priest's or deacon's absence the Assistant Clergy, or in the absence of both, such member of the Vestry as the majority, duly qualified to vote and present at such Vestry meeting, namely; and the Vestry Clerk, or in case there be no Vestry Clerk, then such person as the Chairperson names, shall be Secretary of such Vestry meeting; and the proceedings of such Vestry meeting shall be entered in a book kept for that purpose, and preserved in the custody of the Churchwardens.
4. An Annual Vestry Meeting shall be held by the 1st of March each year, or on such day as may be fixed by the Synod, notice of the said meeting shall be given during Divine Service on the two Sundays immediately preceding the said meeting. The said meeting shall be for the purpose of receiving the audited accounts of the Vestry, and subsequently of electing and appointing Churchwardens and Lay Representatives and for the transaction of other business connected with the temporalities of the Church.

(revised, 2014)

5. The Cleric in charge may call a special Vestry meeting whenever is proper to do so, giving notice thereof during Divine Service on the two Sundays next preceding on which Service is held in the Church; and also specifying the business for which such Vestry meeting is called. And the said cleric shall call such meeting upon application made to the cleric in writing by at least six members of such Vestry; and in case, upon such written application being made aforesaid, such person refuses or neglects to call such meeting or to give such notice, then one week after such demand is made, the said six members may notify the Bishop and request the Bishop's action thereon.
6. The members of Vestry, at such Vestry meetings as aforesaid, may pass resolutions or make by-laws for the regulation of their proceedings and for the management of the temporalities of the Church, Parish or Mission to which they belong, and may alter and repeal the same; provided that at such special Vestry meetings no business shall be transacted other than that specified in the notice calling the same.
7. (a) At the annual Vestry meeting or any adjournment thereof, after the accounts of the past year have been audited and reported upon, one Churchwarden shall be nominated by the Cleric in charge, and one other shall be elected by a majority of those present and entitled to vote at such Vestry meeting as aforesaid. If the Cleric being present at such Vestry meeting declines or neglects to nominate a Churchwarden, or if the said Cleric being absent from such meeting neglects by writing under their hand to appoint a Churchwarden, then both the Churchwardens for the current year shall be elected by the members of the Vestry present; and if the members of such Vestry neglect at such Vestry meeting to elect a Churchwarden, both such Churchwardens for the current year shall be nominated by the Cleric.

- (b) At such meeting, a deputy Churchwarden may be elected to assist the Churchwarden elected at such meeting; and the Cleric may nominate a deputy Churchwarden to assist the Churchwarden nominated at such meeting.

(added, 1980)

8. No person shall be eligible for the office of Churchwarden except a member of such Vestry and a duly qualified voter of the full age of 18 years and a communicant, and the Churchwardens shall hold office for one year from the time of their election or appointment, or until the nomination and election of their successors. *(amended, 1976)*
9. If any Churchwarden declines to accept office, or to act when called on by the Cleric or Vestry, or is deprived of their office, or tenders their resignation in writing to the Cleric or becomes incapable to act, or ceases to be a member of the Anglican Church of Canada or of the Church or Congregation for which the Cleric has been elected, or ceases to attend public worship in such Church or Congregation for the space of six months, or dies, that office shall become vacant, and a Vestry meeting shall be called within one month in the manner provided for in this Canon for the nomination by the Cleric or for the election by the said Vestry, as the case may be, of a new Churchwarden in place of the one whose office was vacated from any of the causes aforesaid provided always, that in any case of such new appointment by the Cleric, such Cleric may, if appropriate, instead of a Vestry meeting being called for the purpose, nominate and appoint another Churchwarden during Divine Service on any Sunday within the time specified for making such appointments. *(amended, 1981)*
10. All Churchwardens shall yearly render in writing an accurate account at the annual Vestry meeting, fairly entered in a book or books kept for that purpose, signed by the said Churchwardens (which book or books shall be the property of the Vestry) of all sums of money by them received and of all sums rated or assessed by the Vestry and remaining unpaid, or otherwise due and not received, and also of all goods, chattels and other property of said Church or Parish in their possession as such Churchwardens, and of all monies paid by such Churchwardens, so accounting and of all other things concerning their said office, which said account and book or books shall have been referred to two or more auditors appointed by the annual Vestry meeting.
11. In the case of the appointment of a new Churchwarden or Churchwardens, the Churchwardens then retiring from office shall pay and deliver over unto such succeeding Churchwardens the book or books and all sums of money, goods, chattels, and other things which are the property of the Church, and are in their possession; and the said book or books shall be carefully preserved by such Churchwardens, and they shall permit any member of such Vestry as aforesaid to inspect the same at all reasonable times. In case such Churchwardens make default in yielding such accounts as aforesaid, or in delivering over such monies, goods or other things as aforesaid, the succeeding Churchwardens shall take measures to procure such account or to recover such monies or property.

12. No Churchwarden or Churchwardens shall permit the Church or Churches in any Parish or Mission to be used for Divine Service or any other public purpose, or the Churchyard or burial ground to be used for the purposes of internment, without the consent of the Incumbent of the Parish, or, in the Incumbent's absence, the Bishop of the Diocese.
13. No sales of pews by the Churchwardens shall take place in any Church in this Diocese.
14. The Organist, the Vestry Clerk and the Sexton shall be appointed by the Churchwardens with the concurrence of the Incumbent; and their salaries and wages shall be brought into the general account to be rendered as aforesaid by such Churchwardens.
15. The provisions of the Church Temporalities Act, and of all other Acts passed subsequently thereto, are hereby abrogated, so far as the same are inconsistent with provisions of this Canon.
16. It shall also be the duty of the Churchwardens of each Parish of the Diocese to insure Parish buildings and all other property of the Parish of every description for at least 90% of the replacement value of such buildings and property, and the Diocesan Treasurer shall report annually to the Chair of the Financial Advisory Committee as to the status of each Parish's insurance.
17. LAY REPRESENTATIVES
- (a) No person shall be eligible for election as Lay Representative to Synod, except a member of such Vestry and a duly qualified voter of the full age of 16 years and a communicant.
- (b) (i) Each congregation, at every second annual Vestry Meeting commencing in the year 1978, shall elect Lay Representatives to Synod for a two-year term; the number of such Representatives to be elected shall be determined according to the number in the congregation eligible to vote at a vestry meeting as follows:
- | | | |
|--------------|---|------------------------|
| 100 or less | - | 1 Lay Representative |
| 101 to 400 | - | 2 Lay Representatives |
| 401 to 1,000 | - | 3 Lay Representatives |
| Over 1,000 | - | 4 Lay Representatives; |
- (ii) Each congregation, at every Annual Vestry Meeting, may elect, as an additional Lay Representative, one person who shall be between the ages of 16 and 25 as of the date of his or her election, and who shall serve for a one-year term.

(new, 1992)

- (iii) Each congregation, at every Annual Vestry Meeting, may elect a substitute Lay Representative, who shall be between the ages of 16 and 25 as of the date of his or her election, and who shall serve for a one-year term. *(new, 1997)*
- (c) There shall be elected by each congregation one substitute Lay Representative and, where the rector deems it necessary, a second substitute may also be elected.
- (d) Each incumbent shall, without delay after each election, send to the Secretary of the Diocese a certificate (or certificates if more than one congregation) according to the following form, provided that nothing in this subparagraph shall prohibit the use of electronic certification being used in a form as prescribed by the Secretary of Synod. *(amended, 2004)*

NAME OF CONGREGATION _____

I hereby certify that at the Annual Vestry Meeting of the Congregation of _____ the following were elected to represent this Congregation in the Synod of the Diocese of Niagara for the ensuing two-year period.

| NAME | ADDRESS |
|-------|---------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

SUBSTITUTE

ADDITIONAL LAY REPRESENTATIVE (between ages of 16 & 25) (for one-year term)

SUBSTITUTE LAY REPRESENTATIVE (between ages of 16 & 25) (for one-year term)

Date _____ Signed _____

- (e) On the receipt of such certificate, the Secretary shall enter the names of the Lay Representatives on the Synod list prepared by the Secretary. At the foot of this list, he/she shall indicate any member of the clergy or Lay Representative who have not the right to vote in the Synod.
- (f) If any lay representative (other than a lay representative pursuant to paragraph (b) (ii) of this section) declines to serve, or at any time resigns his or her seat in the Synod, or

removes from the diocese, the said seat shall be filled by the duly elected substitute automatically, provided that this paragraph shall not apply to a temporary absence of a delegate from any Synod other than an Electoral Synod permitting temporary substitution by an alternate for voting purposes only.

- (g) If any substitute lay representative declines to serve when a vacancy occurs, dies, resigns that seat, moves from the Diocese or has ceased to habitually attend public worship and be a contributor towards the support of the parish by which they were elected at the time a vacancy occurred which would entitle them to sit as a lay representative, the Vestry at its next annual meeting, or special canonically called Vestry Meeting, shall elect a lay representative to serve the balance of the unexpired term of the Representative.
- (h) If at any time a congregation is entitled to have representatives for whom there has been no substitute lay representatives elected, the congregation at its next annual meeting may elect a lay representative to serve until the next regular Vestry Meeting at which an election would normally take place.

Note 1: The following form of declaration shall be signed at each vestry meeting in a book kept for this purpose.

DIOCESE OF NIAGARA

Parish of _____

Congregation of _____

"I do solemnly declare that I am a baptised Christian of the full age of 16 years, who for at least six months preceding the holding of this Vestry meeting, has been identifiably involved with this congregation, through worship, fellowship, and financial support. Further, I declare that I have not voted as a member of any other Vestry within the said six months."

CANON 4.2**Parish Councils**

1. At the Annual Meeting of the Vestry of each congregation of the Diocese, a Committee shall be constituted to be known as the Parish Council, and composed of:

- (1) The Rector or Incumbent
- (2) The Churchwardens, and Deputy Churchwardens, if any
- (3) The Lay Representatives to the Synod and the substitute Lay Representatives
- (4) Such other members of the Congregation as may be elected at the Annual Vestry Meeting, not less than two in number and
- (5) Such members of the Vestry as may be appointed by the Rector or Incumbent not to exceed the number elected under (4) above

(amended, 1980)

2. The Parish Council should hold regular meetings, at least quarterly, and its functions should be to consider whether and to what extent the Church in the Parish or Mission is fulfilling its purpose among its own members, in the community at large and as part of the Church as a whole, and to recommend such steps as will further these ends, the following being particularly recommended:

- (a) To consult with, advise and assist the Rector or Incumbent and Churchwardens and to co-ordinate the activities of the various local Church organizations.
- (b) To assist the Churchwardens in securing the funds required for the purposes of the Church.
- (c) To make recommendations in regard to insurance and maintenance of Church property.
- (d) To assist the Rector or Incumbent and Churchwardens in informing the Congregation fully of the plans, activities and needs of the whole Church.
- (e) To assist the Churchwardens in preparing for the Annual Vestry Meeting estimates of receipts and expenditures for the coming year.
- (f) To assist in organizing the Congregation for visiting the sick and poor, calling on newcomers, making surveys and canvasses and promoting generally the welfare and progress of the Congregation and the Church at large.

CANON 4.3**Differences Between Clergy and Parishioners**

1. Whenever it has been represented to the Bishop, that any Parish is suffering through the inability of the Incumbent through age, infirmity or any other cause, or from neglect by the Incumbent to discharge his or her duties, or that a controversy has arisen between the Incumbent and any members of the congregation, which cannot be settled by the parties themselves or that in any respect the condition of the Parish is such as to injure its peace and prosperity, the Bishop may at the Bishop's discretion notify the said Incumbent of such representation and that such representation will be referred to a Board of Enquiry to be appointed and to act in the manner hereinafter provided.
2. The said Board shall be appointed by the Bishop and shall consist of two clergy in Priest's orders and two laity (one of whom shall be either the Chancellor of the Diocese or some other member of the Synod, being a barrister of at least ten years' standing, and who shall be the Chair of the Board).
3. The Board shall meet at such time and place within the Diocese as the Bishop may decide and due notice of such meeting and the names of the members of the Board shall be given by the Bishop to the Incumbent, the Churchwardens, Lay Delegates and other parties of the Parish in question interested.
4. After the first meeting of the Board, all notices shall be given by the Chair, and the Board shall have power to suspend its proceedings and to adjourn from time to time and from place to place as it may deem necessary.
5. The Incumbent respecting whom the representation is made, may answer the same, either orally or in writing, and may appear in person or be represented and heard by a communicant of the Anglican Church of Canada, and shall have the right to produce such pertinent evidence as may be desired; and other parties in the parish concerned shall have like privilege and the Board may call for such evidence as it may deem necessary.
6. If after due notification to both parties, either party fails to appear or to answer the representation, the Board shall proceed ex parte.
7. The Board shall take written notes of the evidence produced and at the close of investigation, the Chair shall transmit the same to the Bishop, together with the Board's recommendation and a minute of the proceedings.
8. The proceedings and the recommendation of the Board shall be subject to the Bishop's approval; and in case of the Bishop confirming the same, the Bishop shall without delay notify the Synod Council, the Incumbent interested, and Churchwardens and Lay Delegates of the Parish, by furnishing them with copies of the said recommendation and confirmation.

9. Whenever such recommendation so confirmed by the Bishop requires the retirement of the said Incumbent, the Incumbent shall, unless there is resignation within six weeks from the date of receiving the last mentioned notice, be removed by the charge, which shall thereupon be and be held to be vacant and the Cleric shall no longer be competent to perform the duties nor be entitled to any of the rights, privileges or emoluments thereof.
10. Provided always that in case of inefficiency through age or infirmity, the right of the Incumbent to any entitled annuity or retiring allowance, shall not be affected by anything herein contained.
11. This Canon shall not apply to any case arising out of or involving a question of doctrine, practice or ritual, and shall not be construed so as to conflict with any rights and privileges of the Clergy under a Canon on Discipline.

CANON 4.4**Duties of Incumbent and Churchwardens in Respect to Rectories**

1. Where there is more than one congregation in a Parish, it shall be the duty of each to bear its proper share in the repairs and maintenance of the Rectory property.
2. The family of a deceased Incumbent shall be allowed to occupy the Rectory for three months from the date of the Incumbent's decease.

CANON 4.5**Parishes: Their Establishment, Amalgamation, Disestablishment and Trusteeship**

1. Application

In any proceedings under this Canon, the provisions of Canon 4.7 and the provisions of an act to simplify the sales of property held in trust for the Church of England in Canada in the Diocese of Niagara (13-14 George V, Ch. 102) shall not apply.

2. Commission of Investigation

Whenever the word "Commission" is used in this Canon, it shall denote a Commission appointed by the Bishop, consisting of an Archdeacon and two clerical and two lay members of Synod, who shall report to the Bishop in writing. Such report, after approval by the Synod Council by resolution, and by the Bishop under the Bishop's hand and seal, shall be deemed to be confirmed, and shall be final.

3 Establishment of a new Parish

(1) Whenever a group of persons, not less than seventy-five of whom shall be communicants of the church, of the full age of sixteen years, residing in the Diocese, desire the establishment of a new parish, whether they reside

- (a) in an existing parish, or,
- (b) in a district not belonging to any one parish, or,
- (c) in adjoining parishes,

they shall present a memorial to the Bishop to that effect, stating their reasons and the proposed boundaries of such new parish.

(2) On receipt of this memorial the Bishop shall

- (a) Refer the matter to the Synod Council for study and report.
- (b) On approval of this report by the Bishop, the Bishop shall notify, in writing, the Incumbent or Incumbents and the Churchwardens of parishes affected, the particulars of new boundaries. If no objection to the proposal is raised within one month from the date of such notices, and the Bishop approves of the proposal and is satisfied that all applicable provisions of statutory legislation have been complied with, and that proper and sufficient means have been or will be provided for the maintenance of work in such new parish, the Bishop may proceed with the establishment of the parish.

- (3) If any of the parties notified as aforesaid objects to the proposed new parish, the party or parties shall, within the required time, state to the Bishop, in writing, the grounds of objection. The Bishop may thereupon refuse the prayer of the memorial, or the Bishop may appoint a Commission which shall confer with the Incumbent or Incumbents of the parish or parishes affected, and consider the objections made. The Commission shall then report its findings to the Bishop, and if such report is favourable to the establishment of the parish and is confirmed, the Bishop may proceed to the establishment thereof.

4. Amalgamation of Parishes

- (1) Whenever the Bishop shall consider it advisable to amalgamate or merge two or more existing parishes or congregations, and the Synod Council has expressed its approval by resolution, the Bishop shall seek voluntary consent to such amalgamation or merger by a conference of the Incumbent and Churchwardens of such parishes or congregations.
- (2) The Incumbents and Churchwardens of any adjoining parishes may confer regarding the boundaries which they have in common, and may memorialize the Bishop regarding any adjustment of such boundaries which they consider advisable. This shall be referred to the Synod Council for study and report, and if the report is approved by the Synod Council, the Bishop may proceed to effect such adjustment by declaration.
- (3) In any one of the following cases, namely:
- (a) where a diversity of opinion may prevent the action set forth in the two previous sub-sections;
 - (b) where the Bishop shall consider that the interest of the Diocese require it;
 - (c) where representation shall have been made to the Bishop by sixty-six percent of the members of the Vestry or Vestries of a Parish or of contiguous Parishes; or
 - (d) where a memorial shall have been presented to the Bishop by the clergy of the region in which the parishes or congregations are situated,
 - (i) the Bishop may give three months' notice to the Incumbents and Churchwardens that the Bishop will at the end of that time proceed to make arrangements as aforesaid. If within three months no objection be offered by the Incumbents and Churchwardens, then the Bishop shall proceed to separate the said portion or portions from the Parish or Parishes, and to make a new Parish thereof. If within the said three months a written objection to the proposed action of the Bishop be made to the Executive Officer of the Diocese, then the Synod Council shall, at its next Session, consider the said objection and give its opinion on it by vote, and, if the appeal be rejected, the Bishop shall proceed to make the said arrangement. The same course may be pursued in cases relating to the defining and rearranging of the boundaries of Parishes.
 - (ii)

- (iii) Alternatively, at the sole option of the Bishop, if a voluntary agreement cannot be reached, a Commission may be appointed to consider the objections of those opposed to the amalgamation or merger, and any other matters pertinent thereto, and to report to the Bishop. If such report is in favour of the proposed amalgamation or merger and has been confirmed, the Bishop may proceed to carry it into effect by disestablishing any one or more of the parishes or congregations and by erecting a new parish or parishes and/or congregations and/or by allotting the territory to one or more parishes or congregations. If the report of the Commission is unfavourable, further action shall be deferred for a period of not less than one year, from the date of such report.
 - (4) If a Parish thus formed or re-defined, consists of more than one congregation, and the distribution of the financial obligations to be borne by each cannot be agreed upon by the congregations themselves, the Bishop shall appoint a Commission to consider the matter. Their report, after confirmation, shall be carried into effect, but the matter may be reconsidered at the end of each three year period, if requested by the Churchwardens of any one of the congregations concerned.
 - (5) Where two or more existing parishes or congregations are merged under the provisions of this Canon, all assets and liabilities, including real property and trusts of the merged parishes and of the congregations involved, shall be amalgamated and merged into the new amalgamated parish which shall be named by the Bishop. All appointments of clergy or laity of the merged parishes or congregations, including the Incumbents, assistants in ministry, Churchwardens and other lay parish officials, shall terminate as of the date of the approval by the Bishop and the Synod Council of the merger, but the Bishop may in the Bishop's discretion continue any clerical or lay appointments on such terms as the Bishop deems fit, or make other appointments.
5. Disestablishment of a Parish or Congregation
- (1) The Vestry of any parish now or hereafter established may, by a resolution adopted by at least a sixty-six percent majority of those present at a special meeting thereof called for the purpose of considering the matter, (notice thereof being given by the cleric or Churchwardens during Divine Service on the two Sundays next preceding such Vestry meeting) resolve that it is expedient, for reason to be stated in the resolution, that the parish should be disestablished. Upon the said resolution being approved by the Bishop in writing under the Bishop's hand and seal, the Bishop shall thereupon disestablish the parish.
 - (2) (a) If the Bishop deems it advisable that any parish now or hereafter established in the Diocese should be disestablished, the Bishop shall, with the approval of the Synod Council, confer with the Incumbent and Churchwardens of such parish with a view to bringing about a voluntary disestablishment under the preceding subsection.

- (b) If voluntary disestablishment cannot be so arranged, the Bishop shall appoint a Commission to investigate and report on the advisability, or otherwise, of the proposed disestablishment. If its report recommends disestablishment, and is confirmed by the Synod Council, the Bishop may thereupon, declare in writing under the Bishop's hand and seal that the said parish is disestablished. If, however, the report be unfavourable to disestablishment, no further action shall be taken, and all interested authorities shall be notified to such effect.
- (3) Provided that before disestablishing a parish the Bishop shall require to be submitted to the Bishop a financial statement of the assets and liabilities of such parish. If the liabilities are found to be greater than the assets, the Bishop shall submit the statement to the Synod Council which shall take such action as seems necessary under the circumstances.
- (4) On disestablishment, the registers and other books, records and documents of the parish shall be surrendered forthwith to the Registrar of the Diocese.
- (5) On disestablishment, the capital assets of the parish, of every nature or kind, and the place or places of worship therein shall be conveyed forthwith to and be in the control of the Synod as trustee.
- (6) The Churchwardens of such disestablished parish shall continue in office for the purpose of winding-up only and shall, within a period of not more than three months after the declaration of disestablishment has been issued, discharge all current financial liabilities so far as the current assets at their disposal will allow, and shall then hand over to the Synod any balance remaining in their possession, together with an audited statement of receipts and disbursements of the said parish since the end of the last financial year.

In the event that the Churchwardens of such disestablished parish fail to transfer assets to the Synod, the Synod Council may by resolution remove Churchwardens of such disestablished parish and appoint others in their place for the purpose of the transfer of assets pursuant to this section, and in such event the provisions of Canon 4.1 shall not apply. *(amended 1995)*

- (7) Any assets or property real or personal resulting from such disestablishment may be dealt with by the Synod Council, and without limiting the generality of the foregoing, the Synod Council may sell, lease or otherwise dispose of any of the real or personal property, but apart from any necessary expenses of the disestablished parish or congregation, the proceeds of such property shall be held for a period of twelve months from the date on which the Bishop issued the Bishop's declaration and dealt with as provided in this Canon. Where disestablishment occurs as part of an amalgamation or merger of parishes or congregations, the proceeds of any such property may be used for the purposes of the amalgamated or merged parish or congregation with the approval of the Synod Council. *(amended 1995)*

- (8) If within the said period, a petition is presented to the Bishop by seventy-five members of the last vestry of the disestablished parish, expressing their desire to form a new parish elsewhere, to be known by the name of the disestablished parish, the Bishop may proceed to establish such new parish in the manner hereinbefore provided. *(amended 1994)*
- (9) If no such new parish be established within six months after the disestablishment has been declared, the said assets shall be dealt with and disposed of by and under a Commission, and the award of such Commission, when confirmed, shall be binding on all parties. Such commission is to be appointed by the Bishop and the award of such commission shall be confirmed by the Bishop with the approval of the Synod Council. *(amended 1994)*
- (10) A Congregation within a parish may be disestablished and the other provisions of this Section 5 shall apply mutatis mutandis, except that the territory and any assets shall be allotted at the discretion of the Bishop, after consultation with the Synod Council.

6. Adjustment of Boundaries (where applicable)

- (1) The Bishop may direct the Synod Council to report on the boundaries of any and all parishes or districts in the Diocese, whenever the Bishop and the Synod Council consider it necessary. If the report of the Synod Council is confirmed by the Bishop, the Bishop may proceed to effect such adjustment by declaration.
- (2) Any recommendation regarding the allocation of the territory formerly occupied by a disestablished parish shall be reported to the Bishop. If the report of the Synod Council is confirmed by the Synod Council, the Bishop may proceed to effect such allocation by declaration.

7. Diocesan Administration of Parishes

- (1) Where it appears that it would be in the best interests of any parish or organization existing under the authority of the Diocese of Niagara, because of:
- (a) a request by the parish or organization involved, either in the form of a vestry resolution or request in writing from the incumbent and churchwardens, or
 - (b) a recommendation of a Bishop's Commission, or
 - (c) a situation determined by the Synod Council to require it, that an administrator should be appointed to carry on the function of receiver and manager of the affairs of such parish or other organization, the Synod Council being satisfied that no other reasonable action is available it may by resolution, with the approval of the Bishop, appoint an administrator to act as trustee, receiver and manager of any parish or other organization existing under the authority of the Incorporated Synod of the Diocese of Niagara or the Synod Council, for a period, and a copy of such resolution certified by the Executive Officer of the Diocese under the seal of the Diocese shall be evidence for all purposes of such appointment.

- (2) From the date of his/her appointment, the administrator shall conduct all the financial affairs of the parish or other organization, and without limitation of the foregoing shall have power to dismiss existing employees and to hire new employees and to receive and disburse funds of the parish or other organization. For the purpose of this Canon the Incumbent is not an employee.
- (3) The administrator shall make a monthly report to the Synod Council and to the Bishop and the Financial Advisory Committee and within thirty days of the end of the administration shall make a final report to the Synod Council, outlining the actions that have been taken and making recommendations as to the future of the parish or organization which may include, but are not limited to, the winding up of the affairs of the parish, or other organization, disestablishment of the parish, dismissal or employment of staff, financial and budgeting advice, limitation of expenditures, and such other steps as he/she considers advisable and the Synod Council on receipt of the report may take whatever steps it deems necessary including the reappointment of the administrator for a further period with the same powers as set out herein or as may be included in the resolution of reappointment.
- (4) The administrator may be appointed for any period not exceeding one year and may be reappointed for successive periods, none of which shall exceed one year; provided that the Synod Council may terminate any such appointment or alter the period of such appointment or reduce the term thereof.
- (5) The administrator may engage auditors, accountants, assistants or managers with the approval of the Synod Council, and any expenses so incurred will be charged to the parish or other organization.
- (6) The Synod Council may appoint persons to assist the administrator in the performance of his or her duties.
- (7) All banking arrangements and financial powers of the parish or other organization shall be suspended during the period of the administration, and particularly the rights and powers of the incumbent and churchwardens and any Committees or persons engaged by them shall also be suspended insofar as those powers relate to the financial affairs of the parish or other organization.
- (8) Any question of interpretation shall be resolved by the Synod Council whose decision shall be final, and any question involving religious services shall be referred to the Bishop whose decision shall be final.
- (9) The administrator shall keep separate books of account and records for the period of the administration and shall submit a financial statement as part of the final report to the Synod Council.

- (10) The powers of the administrator shall be those powers set out in this Canon and/or as may be specified by the resolution of the Synod Council by which the administrator is appointed, and where there is any conflict with any other canon, the provisions of this Canon and/or of the resolution shall prevail during the period of administration.
- (11) If there is a meeting of Synod during the period of the administration the decision by the Synod Council may be revoked by Synod, in which case the appointment of the administrator shall thereupon be null and void and the administrator shall return all assets to the parish or other organization within thirty days following the resolution of Synod.
- (12) If at any time during the period of administration the Synod Council is satisfied that the parish or other organization is no longer in need of an administrator or should other procedures or proceedings be implemented, the administrator shall be recalled by the Synod Council.
- (13) Any administrator appointed under this Canon, his or her heirs, executors and administrators and estate and effects, shall from time to time and at all times, be indemnified and saved harmless out of the funds of the Incorporated Synod of the Diocese of Niagara from and against:
- (a) all costs, charges and expenses whatsoever which such administrator sustains or incurs in or about any action, suit or proceeding which is brought, commenced or prosecuted against him or her for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by him/her in or about the execution of the duties of the office of administrator; and
 - (b) all other costs, charges and expenses which he or she sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his or her own willful neglect or default.
- (14) The Synod Council shall report on any acts of administration the next following regular meeting of Synod.
- (15) Any person who is a member at the time the action is taken, of a parish or organization existing under the authority of the Diocese of Niagara, or of the Diocese, and who is affected by the appointment of an administrator pursuant to this Canon may appeal the decision to the Synod Council by letter addressed to the Executive Officer and delivered to him/her within fifteen days of the date of appointment. Upon receipt of such notice the Executive Officer shall place the matter on the agenda of the next meeting of the Synod Council at which time the question of the appointment will be reheard with all persons interested having an opportunity to attend and make representations. The decision of the Synod Council on a rehearing shall be final apart from the provisions of paragraph 9 of this Canon. *(new replacement, 1987)*

As directed by the 1987 Synod, a Policy Statement concerning Canon 4.5
is on file at the Diocesan Office.

CANON 4.6**On Erection or Alteration of Church Buildings**

No church building shall be erected or altered, and no new work commenced on any real estate belonging to or held by the parish church or diocese without the written permission of the Diocesan Bishop. Municipal building permits should not be applied for until this permission is received.

Specific regulations related to procedures for approval of parish building projects and financing shall be set by the Bishop and Synod Council in consultation with those named in the regulations. It shall be the duty of the Incumbent and Church Wardens to seek out, review and comply with current regulations governing the erection or alteration of church buildings, as well as complying with conditions contained within the Bishop's approval.

Any memorial gifts or donations of a permanent nature that affect the fixtures or fittings, fabric or structure of the church are considered to be alterations and will be subject to this Canon.

(amended, 2012)

CANON 4.7**As to Purchasing, Selling or Mortgaging Church Property**

1. In this canon, “property” is understood to mean land and/or premises.
2. Property shall not be purchased, sold, mortgaged, leased or otherwise encumbered except in accordance with the provisions of this Canon and Canon 4.1.
3. Where any conflict exists between the provisions of this canon and legislation of the Province of Ontario, the provisions of such provincial legislation shall apply.
4. Where a parish intends to sell, purchase, mortgage or encumber property, it shall, prior to taking any other steps under this Canon, consult with the Bishop and Secretary of Synod.

Sale of Property

5. No property or premises shall be sold within the Diocese unless the Vestry of the parish affected by such sale authorizes, by a two-thirds majority at a special Vestry meeting called for such purpose, the corporation to place the property on the market at a specified asking price and accept an offer on conditions as set out in this Canon.
6. No sale agreements shall be effective that are not conditional on subsequent approval of the Vestry affected, the Bishop of the Diocese, and the Synod of the Diocese.
7. No sale shall be effective unless subsequent approval of a specific offer to purchase property, such offer to set out the property purchaser, purchase price, closing date, terms of payment, plus any other details the rector and wardens set out, is given by the Vestry of the parish affected by a simple majority at a second special Vestry meeting.
8. Provided that sections 5 through 7 of this Canon are completed, the Bishop and Synod shall be requested to give consent to such sale.
9. The proceeds realised from the sale of property shall be paid to the Synod to be held and invested by the Synod under the same trusts, uses, endowments or purposes as those for which the said property were acquired.

Purchase of Property by Parish

10. No offers to purchase property by a parish shall be effective that are not conditional upon the approval of the Vestry affected, the Bishop, and the Synod of the Diocese.
11. Provided that an offer to purchase property by a parish is accepted by a vendor in accordance with the provisions of section 10 above, the Vestry of such parish shall evidence its consent to

such offer by a two-thirds majority vote at a special vestry meeting called for such purpose. All terms of the offer must be disclosed to Vestry. Should the Vestry not provide its approval, the offer shall be deemed null and void.

12. Provided that sections 10 and 11 of this Canon are completed, the Bishop and Synod shall be requested to give consent to such purchase.

Purchase of Property by the Synod

13. Where the Synod intends to acquire property, it shall, prior to making any offer to purchase, consult with any parish with an interest in the ministry to be provided there.
14. No offers to purchase property by the Synod shall be effective that are not conditional upon the approval of Synod and the Bishop.
15. Provided that an offer to purchase property by the Synod is accepted by a vendor in accordance with the provisions of section 14 above, the Synod shall be requested to give its approval to such offer. All terms of the offer must be disclosed to Synod. Should Synod not provide its approval, the offer shall be deemed null and void.
16. Provided that sections 13 through 15 of this Canon are completed, the Bishop and Secretary of Synod are authorized to sign all purchase documentation connected with such acquisition.

Mortgage of Property by a Parish

17. No agreements to mortgage property by a parish shall be effective that are not conditional upon the approval of the Vestry affected, the Bishop and Treasurer, and the Synod of the Diocese.
18. Provided that where a parish intends to mortgage property or where a line of credit is to be registered against parish property, the Vestry of such parish shall evidence its consent to such agreement by a two-thirds majority vote at a special vestry meeting called for such purpose. All terms of the agreement must be disclosed to Vestry. Should the Vestry not provide its approval, the agreement shall be deemed null and void.
19. Provided that sections 17 and 18 of this Canon are completed, the Bishop and Synod shall be requested to give consent to such mortgage.

Leases and Other Encumbrances

20. No parish in the Diocese shall grant a right of way, an easement for utility or other purposes, enter a heritage designation agreement, establish a cemetery, scattering garden or columbarium enter into a development agreement, apply for a demolition permit, or grant a restrictive covenant without consent of the Vestry by a two-thirds majority vote at a meeting called for that purpose, and approval by the Bishop and Synod. *(amended, 2015)*

21. Provided that Vestry approval has been given in accordance with section 20 of this Canon, the Bishop and Synod shall be requested to give consent to such other encumbrance.
22. Where a parish intends to offer a lease of property for a term in excess of three years, inclusive of all renewals, consent is required by the Vestry affected, the Bishop, and the Synod of the Diocese.
23. Leases and licensing agreements for terms of three years or less, inclusive of all renewals, may be approved by parishes and Synod in accordance with regulations, policies, and guidelines as established from time to time by Synod.
24. Nothing in this Canon shall be deemed to prohibit a parish to offer a lease or license for property for a term less than three years, provided that before such offer, the Vestry of the parish affected authorizes, by a majority vote at a meeting called for such purpose, the rector and wardens to execute all documentation necessary therein.

(replaced, 2002)

Canon 4.8
Cemeteries

1. Every parish of the Diocese with a cemetery, scattering garden or columbarium (hereafter referred to in this Canon as a cemetery) adjacent to or affiliated with such parish shall have a Cemetery Board, referred to in this Canon as “the Board”.
2. Synod Council shall serve as the Board for any cemetery adjacent to or affiliated with a parish that has been disestablished, where such cemetery has not been conveyed to a third party.
3. The Board (save and except for a Board serving pursuant to section 2 of this Canon) shall be elected annually at the vestry meeting of any parish to which this Canon applies.
4. Should any parish to which this Canon applies fail to elect a Board, then the Corporation of such parish shall serve as the Board.
5. Synod Council may approve policies and guidelines for the operation of cemeteries that are subject to the provisions of this Canon.
6. The Board shall administer the cemetery in accordance with provincial legislation pertaining to cemeteries, any regulations promulgated in accordance with said legislation, this Canon and any guidelines and policies approved by Synod Council concerning the operations of cemeteries.
7. In any conflict in interpretation between the provisions of this Canon, any and guidelines approved by Synod Council concerning the operations of cemeteries, and provincial legislation, the provisions of the legislation shall prevail.

(New, 2015)

**Acts of the Province of Ontario incorporating the Synod
of the Diocese of Niagara, and Amendments Thereto**

(39 Vic. Chap. 107)

An Act to Incorporate the Synod of the Diocese of Niagara

(Assented to 10th February, 1876)

Preamble. WHEREAS the Synod of the Church of England, of the Diocese of Niagara, have petitioned for an Act for the Incorporation of the said Synod, and whereas it will greatly facilitate the objects for which the said Synod was established to grant the prayer of the said petitioners;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:--

Incorporation . 1. The Synod of the Church of England, of the Diocese of Niagara, tbe, and the same is, hereby incorporated by the name of "The Synod of the Diocese of Niagara."

**Synod, of
whom composed** 2. The said Incorporated Synod shall consist of the Bishop of the said Diocese, who shall be the head of the Synod, and any suffragan or coadjutor bishop thereof, the priests and deacons of the same, licensed by the bishop or suffragan, and the lay delegates or representatives elected, or to be elected according to the constitution of the said Synod, as the same exists, at the time of this Act, or as it may from time to time be altered by the said Synod.

(N.B.--Section 2 was amended by 55 Vic., Cap. 106, Sec. 1, and as so amended was repealed by 61 Vic., Cap. 72, Sec. 5, and new section substituted. See Page 9.)

**Property
held for
Church
purposes may be
conveyed
to the Synod.** 3. All property of what nature or kind soever now held by the Synod of the Diocese of Toronto, or by the Lord Bishop of Toronto, or which may hereafter be acquired by the said Synod or by any person, or corporation, and of right belonging, or which may hereafter belong to the Diocese of Niagara, may by such person or corporation, be conveyed to the Synod of the said Diocese, and thenceforth the said Synod shall perform the trusts relating thereto, if any there be, and the person or corporation so conveying such property, shall be discharged from such trusts.

(N.B.--See 61 Vict., C. 72, S. 7.)

**To be held
on certain
trusts.**

4. All lands, moneys, mortgages and securities, which, under the authority of this Act, shall be vested in the Incorporated Synod of the Diocese of Niagara, shall by the said Incorporated Synod be held upon, to and for the uses, trusts, interests and purposes for which the same was heretofore held by the person or corporation holding the same; and the said Incorporated Synod may sell and dispose absolutely of any such lands, mortgages and securities, as in this Act mentioned, or any other lands, mortgages and securities, which shall, after the passing of this Act, be received, held or acquired by the said Incorporated Synod, and shall have and hold the proceeds of such lands, mortgages and securities upon the same trust, as the said lands, mortgages and securities had been before held, and no purchaser shall be liable for the application of any moneys paid by him, on any sale under the provisions of this Act.

**Powers of
Synod.**

5. The said Synod shall have all the powers, rights, privileges and franchises conferred upon Synods under the Act passed in the session held in the nineteenth and twentieth years of Her Majesty's reign, intituled, "An Act to enable Members of the United Church of England and Ireland to meet in Synod," as well as those conferred upon the late Incorporated Church Society, by the several Acts of the Legislature of the Provinces of Upper Canada and of Canada, relating to the said Church Society, and to enforce all rights and claims which either said Synod or Society could enforce against any person or persons whatsoever, body or bodies, corporate, or otherwise howsoever.

**Powers to
make
canons,
by-laws, etc.**

6. The said Synod shall have full power and authority to make such canons, rules, regulations and by-laws, and from time to time, as necessity may require, to alter and amend the same, as by the said Synod may be considered necessary in the exercise of the powers conferred upon said Synod under the said Acts, or any of them, and also for the conduct of their proceedings, regulations of their members, and all such other matters as may pertain to the proper and orderly discharge of their business; and also, notwithstanding anything contained in an Act of the Parliament of the Province of Upper Canada, passed in the third year of the reign of her Majesty Queen Victoria, chaptered seventy-four, and known as the "Church Temporalities Act," or in an Act of the Parliament of the Province of Canada, passed in the session held in the twenty-ninth and thirtieth years of the reign of Her said Majesty, chaptered fifteen, and known as "The Church Temporalities Amendment Act," the said Synod shall have full power and authority to make rules, regulations and by-laws, for the management of all the affairs of the said Diocese of Niagara.

Power to hold land.

7. And it is hereby enacted, that the Incumbent and churchwardens appointed under the rules and regulations of the said Synod, may hold such real estate as may be given, granted or devised to them for the use of their Church, as a site for a Church or parsonage or schoolhouse, and may from time to time, with the approval of their vestry signify by a resolution passed at a meeting of such vestry, specially called for that purpose, mortgage such real estate for the purpose of raising money to be expended in the erection thereon of a church, a parsonage or a schoolhouse, as the case may be: Provided, however, that such resolution be confirmed at a vestry meeting called not less than a fortnight after such meeting of vestry specially summoned to consider such resolution.

Boards, and Committees of Synod.

8. The said Synod may exercise all its powers by and through such boards or committees as the said Synod may from time to time appoint by by-law or by-laws, for the management of all or any of the affairs or property of the said Synod.

Appointment and removal of Officers.

9. The said Synod may appoint and remove all such officers as may be found necessary for the management of the affairs and business of the said Synod, and provide for their remuneration, and may remove the same and appoint others in their stead.

Investment of Funds.

10. The said Synod shall invest all or any of the funds intrusted to its care, including those derived from the sale of Rectory lands, only in Government securities, or municipal debentures, with power to vary any such investments from time to time, for others of like nature but nothing in this Act contained shall be construed to give the said Incorporated Synod power or authority to apply the income derived from any such investments, otherwise than in strict accordance with the special trusts relating to such funds respectively.

(N.B.--This section was repealed by 54 Vic., Cap. 100, Sec. 1, and a new section substituted.)

(54 Vic. Chap. 100)

**An Act to Amend the Act Incorporating the Synod of
the Diocese of Niagara**

(Assented to 4th May, 1891)

Preamble.

WHEREAS the Synod of the Diocese of Niagara has by its petition prayed that an Act may be passed to amend in certain respects the Act passed in the 39th year of Her Majesty's reign and chaptered 107, incorporating the said Synod; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**39 V.,c.107, s.10,
repealed**

1. Section 10 of the "Act to incorporate the Synod of the Diocese of Niagara" is repealed and the following substituted therefor:

**Investment
of funds of
Synod.**

(10) All the funds belonging to the Synod or entrusted to its care, including those derived from the sale of Rectory lands shall be invested only in government securities or in municipal debentures or mortgages forming the first charge upon real estate in Ontario, or upon such other securities as trustees are or shall be authorized to invest trust funds by any Act of the Province of Ontario or upon such other securities as are now or shall hereafter be recognized by the High Court of Justice

Proviso.

of the Province of Ontario, or any division thereof, as proper for the investment of trust funds by trustees, with power to alter and vary such investments from time to time by substituting others of a like nature; provided that nothing in this Act contained shall be construed to give the said Synod power or authority to apply the income derived from any such investments otherwise than in strict accordance with the special trusts relating to such funds respectively.

**Consolidation
of trust
funds of
Synod.**

2. It shall be lawful for the Synod of the Diocese of Niagara to declare and enact by by-law, that all personal property, securities and moneys now, or which may hereafter become vested in or held by the said Synod in trust shall be held, managed and invested as one general trust fund, and to make such lawful investments of the same in such sums, and at such rates of interest as the said Synod may from time to time determine; but nothing herein contained shall authorize the said Synod to alter the trusts upon which the said personal property, securities or moneys are now vested in or held by the said Synod, except as heretofore authorized so to do.

Separate account of each trust to be kept.

3. Separate and distinct accounts of each and every such trust property, securities or moneys, showing the capital of the same, shall be kept by the said Synod and the interest and profits received or accruing from the several investments so made of the whole of the said general trust fund shall be divided among the several trust funds as aforesaid pro rata equally in the proportion borne by each separate trust fund to the whole general trust fund after deducting from such receipts the expenses of management, investment and administration, and the payment of such pro rata sum shall be a full discharge of the said Synod in respect of the said trust.

Mode of exercising powers conferred by Act.

4. The said Synod may exercise the powers hereby conferred (other than the making of by-laws) by and through such boards or committees as the said Synod may from time to time appoint.

Lands divided or granted to incumbent and churchwardens, now held.

5. Any real estate which may be granted or devised to the incumbent and churchwardens appointed under the rules and regulations of Synod, under section 7 of the said Act, may be conveyed to the incumbent and churchwardens as a corporation with perpetual succession in the name of "the incumbent and churchwardens of the Church of in the parish ofin the Diocese of Niagara":
said corporation shall and may sue and be sued and sue and be answered unto in all manner of suits, actions or proceedings whatsoever for and in respect of such real estate, and shall have all the powers, and shall be subject to the provisions declared and set forth in the said section.

**An Act to amend the Act incorporating the Synod of the
Diocese of Niagara and to authorize the
Sale of Certain Lands**

(Assented to 14th April, 1892)

**39 V., c. 107,
s.2,
amended.**

1. Subject to the provisions of section 3 of this Act section 2 of the Act passed in the 39th year of Her Majesty's reign, chaptered 107, intituled "An Act to incorporate the Synod of the Diocese of Niagara," is amended, by adding thereto after the word "suffragan" in the fourth line thereof the following words, viz., "and any disabled or superannuated clergymen of the Diocese in good standing, and under the jurisdiction of the Bishop of the Diocese, or deriving any income from the funds of the Diocese, or who has held a license in the said Diocese and has not left the said Diocese".

(N.B.--See 61 Vic., C. 72, s. 5.)

**Vestries in
churches
where seats
are free.**

2. Subject to the provisions of section 3 of this Act the said Synod shall have full power and authority to make by-laws or canons for creating vestries in Churches where the seats are free and where no pews or seats are let, and for regulating and declaring who shall be entitled to vote at all vestry meetings for the election of churchwardens, the appointment of Lay Delegates or representatives and of other matters upon which it is competent to vote at vestry meetings, and also to provide for qualification and disqualification for the office of churchwarden and for the resignation of any churchwarden or churchwardens, for the appointment or election of a successor or successors, whenever a vacancy shall occur by resignation or other cause, and also for declaring and defining the duties and powers of vestries and of churchwardens both in pewed and free seated churches and for providing that a pewed church with the consent of the pewholders may become a free-seated church, or to enable a free-seated church to be converted into a pewed church and the churchwarden elected or to be elected by a vestry formed or to be formed in the manner authorized by this Act shall have all the estate and power which churchwardens would have if elected under The Church Temporalities Act, or under any amendment thereof.

**V. c. 74,
Sections 1**

3. Nothing contained in sections 1 and 2 of this Act shall have any force or effect unless and until the said sections shall be

**and 2 not to
apply until
approved
by Synod.**

respectively approved of by the Bishop and a majority consisting of two-thirds of both Clergy and Laity at a meeting of the Synod at any session of which notice has been previously given that the question of adoption of said sections 1 and 2 would be submitted for its approval in the same way that notice of the alteration of any canon is required to be given by the constitution of the said Synod.

(Note:--By resolutions passed at the session of 1892, sections 1 and 2 were approved. See Journal 1892, page 68.)

(61 Vic. Chap. 72)

An Act Respecting the Synod of the Diocese of Niagara

(Assented to 17th January, 1898)

**Power to
acquire and
hold lands for
See House.**

1. The Synod of the Diocese of Niagara shall have power to acquire and hold lands situate within the limits of the said Diocese for a See House or residence of the Bishop of the said Diocese for the time being, and the said Synod may also acquire and hold lands within the said limits for the actual use of the Synod in the management of its affairs, and the Synod, with the consent of the Bishop of the said Diocese for the time being, may from time to time sell and dispose of the lands referred to in this section or any part thereof and acquire other lands instead thereof for the same purpose.

**Purchasing
lands sold
for debts
due to
Synod.**

2. The said Synod may purchase any lands or real property offered for sale under execution or in insolvency or under the order or decree of any court, as belonging to any debtor to the Synod or exposed to sale by the Synod under a power of sale given to it for that purpose in any cases in which under similar circumstances an individual could so purchase without any restriction as to the value of lands which it may so purchase, and may acquire a title thereto as any individual purchasing at a sheriff's sale or under a power of sale in like circumstances could do, and may take, have, hold and dispose of the same at pleasure.

**Acquiring
absolute title
to lands
mortgaged
to Synod**

3. The said Synod may acquire and hold an absolute title in or to lands mortgaged to it as security for a debt due or owing to it, either by obtaining a release of the equity of redemption in the mortgaged property or by procuring a foreclosure or by other means whereby as between individuals an equity of redemption can by law be barred and may purchase and acquire any prior mortgage or charge on the said lands, provided always that the said Synod shall sell any real estate acquired under the provisions of sections 2 and 3 of this Act, within twelve years after it has been so acquired, otherwise it shall be forfeited to Her Majesty for the uses of the Province, but no such forfeiture shall take effect or be enforced until the expiration of at least six calendar months after notice in writing to the said corporation of the intention of Her Majesty to claim such forfeiture.

**Power to
sell lands
used for
church**

4. The said Synod shall from time to time have power to sell, alien and transfer any lands within the limits of the said Diocese, which may have been used for any church or mission or congregation or church purpose, in full communion with the Church of England in

purposes.

Canada, within the said Diocese and which may become vacant or disused or unsuitable for such purpose, and the proceeds of such sale after deducting the costs, charges and expenses of and incidental to the said sale or the interest or income derived from such proceeds as the Synod shall in their discretion decide, shall be applied by the said Synod for such church purposes as nearly as may be as the purpose for which the lands so sold were originally held, and no purchaser shall be liable to see to the application of the purchase money.

**55V., c. 106,
c. 6, repealed**

5. Subject to the provision of section 6 of this Act, section 1 of said Act passed in the 55th year of Her Majesty's reign, chapter 106, is hereby repealed and section 2 of the Act passed in the 39th year of Her Majesty's reign, chapter 107, is hereby repealed, and the following words are substituted for said section 2:

**Synod, how
constituted.**

"The said incorporated Synod shall consist of the Bishop of the said Diocese, who shall be the head of the Synod, and any Suffragan or Coadjutor Bishop thereof, the Priests and Deacons of the same, licensed by the Bishop or Suffragan and the Lay Delegates or representatives elected or to be elected according to the constitution of the said Synod, as the same exists at the time of this Act, or as it may from time to time be altered by the said Synod. Provided always that the said Synod shall have hereafter full power and authority to declare and determine from time to time in their discretion whether disabled or superannuated clergymen of the Diocese shall be members of the said Synod and what, if any, rights or privileges shall be granted to them either to sit or vote or otherwise to take part in the proceedings of the said Synod".

**Approval of
provisions of
s. 5 by
Synod.**

6. Nothing contained in the said section 5 of this Act, shall have any force or effect unless and until the said section shall be approved of by the Bishop and a majority consisting of two-thirds of both Clergy and Laity at a meeting of the Synod, of which notice has been previously given that the question of the adoption of said section 5 would be submitted for its approval in the same way that notice of the alteration of any canon is required to be given by the constitution of the said Synod.

(N.B.--Section 5 was duly approved by the Bishop and Synod. See Journal 1898.)

**39 V. c. 107,
s. 3, re-
pealed.
Property**

7. All property of what nature or kind soever referred to in section 3 of said Act, 39 Victoria, chapter 107, which has not heretofore been conveyed under the provisions of that section to the Synod of the Diocese of Niagara is hereby vested in the said Synod of the

**held by
Bishop and
Synod of
Toronto for
Diocese of
Niagara**

Diocese of Niagara without the necessity of any conveyance thereof by the Synod of the Diocese of Toronto (otherwise called the Incorporated Synod of the Diocese of Toronto) or by the Lord Bishop of Toronto and the said Synod of the Diocese of Niagara shall perform the trusts relating thereto if any there be, and the said Synod of the Diocese of Toronto and the Lord Bishop of are hereby discharged from such trusts.

(2 Edward V11., Chap. 110)

An Act Respecting the Synod of the Diocese of Niagara

(Assented to 17 March, 1902)

Preamble. WHEREAS the Synod of the Diocese of Niagara (hereinafter called the Synod) has by its petition prayed that an Act may be passed confirming and declaring valid a Canon, called a "Canon on Differences," passed at the session of said Synod held in the year 1901, said Canon relating to the settlement of differences between Clergymen of the Diocese of Niagara and their parishioners: and whereby it is desirable that such Canon should be confirmed and declared valid and no one has appeared to oppose the said petition: and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- Canon on differences confirmed.**
1. The Canon of the Synod adopted at the session thereof held in the year 1901, and set out in the Schedule to this Act, is hereby ratified, confirmed and declared to be valid and all the powers and provisions in the said Canon contained shall be valid and binding as fully and as effectually and shall in all respects have the same force and effect as though the same and every one of them were expressly embodied in this Act.
- Powers of Bishop as to suspending or removing incumbent, etc.**
2. The Bishop of the Diocese of Niagara for the time being may, at any time, suspend or remove from his benefice the incumbent of any rectory, parish or mission within the Diocese of Niagara, as provided by the said Canon or by any amendment thereof adopted by the Synod.
- Enforcing orders of Bishop.**
3. Every order of the Bishop of said Diocese as aforesaid made under the said Canon, or any amendment thereof, adopted by the Synod, shall be enforceable as provided by the said Canon after the proceedings therein prescribed or which may be prescribed by any Canon adopted by the Synod, have been taken.
- Canon may be repealed or amended.**
4. The Synod may repeal, alter or amend the said Canon.

(N.B.--The Canon ratified by this Act was repealed and Canon XXV1. was passed in 1926.)

**An Act to Simplify the Sales of Property Held in Trust
for the Church of England in Canada in the
Diocese of Niagara**

(Assented to May 8th, 1923)

Preamble. WHEREAS the Synod of the Diocese of Niagara have by their petition represented that property held in trust for the benefit of churches, parishes, missions or congregations of the Church of England or Church of England in Canada or United Church of England and Ireland in the said Diocese has been conveyed to or otherwise vested in various corporations, trustees or individuals, and that difficulties have been experienced in disposing of the same, owing to a want of uniformity of procedure for the sale and conveyance of such property; and have prayed that an Act may be passed for the several purposes hereinafter set forth, and it is expedient to grant the prayer of the said petition;

THEREFORE His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Synod and persons may sell land and personalty vested in them on certain trusts.

1. Any lands or personalty which now are or shall be vested in (1) the Synod of the Diocese of Niagara, (2) the Bishop of Niagara either by his individual name or official title, and either separately or jointly with others, (3) the rector, or incumbent, or parson, or missionary of the rectory, church, parish or mission, either by his individual name or official title, and either separately or jointly with the churchwardens of such rectory, church, parish or mission, or with the trustees or others, (4) the churchwardens of the parish, church, rectory or mission, either by their individual names or corporate title, or (5) certain persons named as trustees for the church, rectory, parish or mission, congregation or living, or for the rector, parson, incumbent or missionary, or (6) held by or vested in any other corporation, person or persons under any other title, trust or designation, either jointly, severally or otherwise, in trust for the general or special use or benefit of the members of the Church of England, or Church of England in Canada, or United Church of England and Ireland in the said Diocese of Niagara, or for or in connection with any church, rectory, parish, mission, congregation, locality or living in the said Diocese, or in trust for the use, benefit or endowment of any church, parish, mission, living or rectory, or for the use, benefit, support or endowment of any parson, incumbent, missionary or rector, or in trust for a parsonage, school or any other object or purpose or use in connection with any such church, parish, mission, congregation, locality, living or rectory; may,

notwithstanding anything in the deed or conveyance under which the same is vested or held (other than is provided in section 6 of this act), be sold, aliened and conveyed by the said Synod, bishop, corporation, trustee or trustees, churchwardens, rector, incumbent, missionary or official or other persons, or individuals or the successors or heirs of any of the aforesaid in whom the title of such lands or personalty is then held or vested in trust as aforesaid.

Consent of vestries in certain cases.

2. But no sale of such lands or personalty shall be made unless the vestry or vestries having the right to appropriate or dispose of the rents, issues, profits or income thereof do, by a resolution passed for that purpose, authorize and consent to the sale of the same, nor unless such sale is approved of by the said Synod of the Diocese of Niagara; and, if there be no vestry in existence, or no vestry having the right to appropriate or dispose of the rents, issues, profits or income of the said lands or personalty, the said Synod may consent to and approve of the said sale, and all proper and necessary parties shall join in conveying the same to the purchaser thereof.

Disposition of proceeds

3. The proceeds of such sale shall be paid to the said Synod, which shall hold the same under the same trusts, uses, endowments or purposes as those for which the said lands or personalty were given and held as aforesaid, and may invest or apply the same for the benefit of the said trust, use, endowment or purpose; or, if desired by the vestry (having the right as described in section 2) and approved of by the said Synod, in the purchase of other lands or personalty for the said trust, use, endowment or purpose, as may be approved of by the said Synod, or in case of a change of circumstances, it becomes impossible or inadvisable to carry out the original trust, use, endowment or purpose, such proceeds may, if so desired by the said vestry (having the right as prescribed in Section 2), be applied for other church purposes for the benefit of the church, parish, mission, or congregation on whose behalf the said trust, use, endowment or purpose was created, with the consent of any person or persons having a pecuniary or life interest in such trust property for the time being; Provided that the consent and approval of the Synod to the appropriation of such proceeds to such other church purposes shall have first been obtained, and if there be no vestry in existence, or no vestry having the right as in section 2 described, the said Synod may determine the other church purposes to which such proceeds may be applied.

Right to sell to include right to

4. The term "sale" in this Act shall include an exchange, and the persons, trustees, officials and corporations authorized to sell, alien and convey lands and personalty as aforesaid, may, subject

- exchange.** to the conditions in section 2 of this Act, exchange the said lands or personalty for other lands or personalty, and shall acquire, hold and possess such exchanged lands or personalty under the same trusts, uses, endowments and for the same purposes as those for which the original lands or personalty were given and held as aforesaid; or in trust for other church purposes as provided in section 3 of this Act, and subject to the conditions therein prescribed.
- Mode of exercising powers; execution of deeds.** 5. The said Synod may exercise the powers conferred upon it by this Act by and through such boards or committees thereof as the said Synod may from time to time appoint by resolution, by-law or by-laws, and the act, consent or approval by the said Synod or the Board or Committee thereof under this Act shall be exercised by resolution and the said resolution or resolutions, by-law or by-laws attested by the seal of the said Synod, and the execution of the deed by the Bishop of Niagara as President of the said Synod and by the Honorary Secretaries of the Synod, or a memorandum of consent endorsed on said deed and signed by them and attested by the seal of the said Synod shall in favor of the purchaser and his heirs and assigns, be conclusive evidence of the said act, deed, consent or approval of the said Synod under the powers conferred upon it by this Act.
- Resulting trusts not affected.** 6. Nothing in this Act shall alter or affect any condition or provision for a resulting trust in favour of any grantor of any such lands, his heirs or assigns, which may be contained in any deed conveying such lands in trust as aforesaid to any of the parties named in section 1 of this Act, or which may otherwise arise in respect of said lands.
- Inconsistent Acts or parts of Acts repealed.** 7. All Acts or part of Acts relating to the sales of lands, or personalty held in trust for the Church of England in Canada in the said Diocese of Niagara inconsistent with the Act are hereby repealed.

THE SYNOD OF THE DIOCESE OF NIAGARA ACT 1945

(Assented to May 1945)

- Preamble.** WHEREAS the Synod of the Diocese of Niagara has by its petition prayed that an Act may be passed to amend its powers with respect to the investment of its funds; and whereas it is expedient to grant the prayer of the said petition;
- 1875-76 c107, s10 (1891, c100, sl) amended.** Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:
1. Section 10 of the Act entitled An Act to Incorporate the Synod of the Diocese of Niagara, being chapter 107 of the Statutes of Ontario, 1875-76, as re-enacted by section 1 of the Act entitled An Act to amend the Act incorporating the Synod of the Diocese of Niagara, being chapter 100 of the Statutes of Ontario, 1891, is amended by inserting after the word "trustees" in the eleventh line the words "or upon such other securities as are now or shall hereafter be authorized investments for joint stock insurance companies and cash-mutual insurance corporation under the provision of The Companies Act", so that the said section shall now read as follows:
- Investment of funds of Synod.** 10. All the funds belonging to the synod or entrusted to its care, including those derived from the sale of rectory lands shall be invested only in government securities or in municipal debentures or mortgages forming the first charge upon real estate in Ontario, or upon such other securities as trustees are or shall be authorized to invest trust funds by any Act of the Province of Ontario or upon such other securities as are now or shall hereafter be recognized by the High Court of Justice of the Province of Ontario, or any division thereof, as proper for the investment of trust funds by trustees, or upon such other securities as are now or shall hereafter be authorized investments for joint stock insurance companies and cash-mutual insurance corporations under the provisions of The Companies Act, with power to alter and vary such investments from time to time by substituting others of a like nature provided that nothing in this Act contained shall be construed to give the said Synod power or
- Rev. Stat., c. 251.** authority to apply the income derived from any such investments otherwise than in strict accordance with the special trusts relating to such funds respectively.
- Proviso.**
- Short title.** 2. This Act may be cited as The Synod of the Diocese of Niagara Act, 1945.