

Anglican Church of Canada
Diocese of Edmonton

**REPORT OF THE LEGISLATIVE COMMITTEE
TO THE 61st SYNOD**

October 17 and 18, 2008

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**REPORT OF THE LEGISLATIVE COMMITTEE
TO THE 61st SYNOD OF THE
DIOCESE OF EDMONTON
October 17 and 18, 2008**

Members of the Legislative Committee

The members of the Legislative Committee since the last Synod have been: Bishop Victoria Matthews (to 30 November 2007), Bishop Jane Alexander (since May 2008), Chancellor D. P. Jones, Q.C. (chair), Rev. Dan Van Alstine, Rev. Bryson Randall (resigned in August 2008 due to retirement), Ven. Chris Pappas (resigned in April 2008 on moving from the Diocese), Ms. Mary-Kay Brook, Mr. Bruce Hughson, Mr. Scott Watson, Q.C., Ms. Margaret Unsworth, Q.C., and Mr. David Connell (Executive Officer).

Meetings

The Legislative Committee met on 8 September 2008.

Recommendations and Materials

The Legislative Committee:

- recommends that Synod adopt the motions contained in Parts A and B, and
- reports the corrections and alterations contained in Part C, and
- asks for comment on the issue identified in Part D.

All of which is respectfully reported to Synod on behalf of the Legislative Committee by:

David Jones, Q.C., Chair
9 September 2008

PART A: CLERGY LICENCES

(a) Background

Canon 3.2 states the items which must be included in a clergy licence, as well as certain additional items which may be included in the licence:

Contents of Licence

3.2 A licence issued by the Bishop shall specify:

- a. the position to which the licensee has been appointed;
- b. the parish or territory or community in which the ministry is to be exercised;
- c. the person or persons, if any, under whose supervision the ministry performed pursuant to the licence is to be carried out; and
- d. the party responsible for payment of any stipend or other compensation payable to the licensee in respect of the licensed ministry; and
- e. any other matter the Canons of the Diocese, the Ecclesiastical Province of Rupert's Land or the General Synod require;

and may specify:

- f. a term at the end of which the licence shall expire;
- g. the time after which the licensed ministry may be reviewed or assessed; and
- h. any other matter the Bishop deems appropriate.

(b) Proposed Amendment

In order to make the current practice conform to canon, the Legislative Committee recommends amending Canon 3.2 to add the following provision at the end thereof:

The items referred to in paragraphs (a) through (h) may be contained in a separate document.

PART B: REVOCATION OF CLERGY LICENCE WITH NOTICE

(a) Background

Under our constitutional structure, General Synod has responsibility for determining “structural uniformity in relation to the episcopal prerogative of licensing clergy”. Our diocesan canons need to be consistent with the General Synod canon.

In 2007, General Synod amended Canon XVII about the Licensing of Clergy.

As a result, it is necessary to amend the corresponding provisions of our diocesan canon 3.18.

(b) Proposed amendment

The proposed amendment:

- divides paragraph (a) into (a) and (b), and rewords the latter to replicate the General Synod wording.
- adds a new paragraph (c) to require the for-cause provisions to be used where cause exists, rather than these provisions permitting revocation with notice.
- re-letters the provisions as required.
- amends the wording of paragraph (i) to replicate the General Synod wording.
- capitalizes “Bishop” in paragraphs (e) and (f) of the amended version.

The proposed amendments are shown below in **bold**.

Current

Revocation of Licence with notice

3.18(a) The Bishop may revoke a licence in any circumstances other than those mentioned in sections 3.14 and 3.15.

These circumstances may include parish dysfunction, differences between the licensee and the people to whom the licensee ministers, financial exigency, or any other matter.

- (b) Before revoking a licence under this section, the Bishop shall confer with the licensee
 - i. to review the reasons for the proposed revocation, and
 - ii. to consider possible alternatives to revocation, or
 - iii. to agree on terms, including the length of reasonable notice or the amount of pay and benefits in lieu of notice, upon which the licence may be revoked.

Proposed amendment

Revocation of Licence with notice

3.18(a) The Bishop may revoke a licence in any circumstances other than those mentioned in sections 3.14 and 3.15.

(b) Although it is not possible to set out all the circumstances in which the bishop might make such a decision, they include financial difficulties in a parish, decline in parish membership, redeployment of human resources, the licensee’s inability to carry out the licensee’s ministry, and any other matter.

(c) Where the bishop is aware of circumstances that may establish that a licensee has committed an ecclesiastical offense under General Synod Canon XVII, the bishop may not use this canon 3.18 to terminate a licence with notice instead of making, or referring to the court having jurisdiction, a determination of whether an ecclesiastical offense has been committed.

- (d) Before revoking a licence under this section, the Bishop shall confer with the licensee
 - i. to review the reasons for the proposed revocation, and
 - ii. to consider possible alternatives to revocation, or
 - iii. to agree on terms, including the length of reasonable notice or the amount of pay and benefits in lieu of notice, upon which the licence may be revoked.

(e) Where, as a result of the conference between the **Bishop and the licensee, terms of**

(c) Where, as a result of the conference between the bishop and the licensee, terms of revocation are agreed to, paragraphs (d) to (h) of this section do not apply.

(d) If the bishop, after conferring with the licensee, intends to proceed with the proposed revocation, the bishop shall appoint a Commission of one or more persons to consider the circumstances surrounding the proposed revocation and to advise the Bishop. Within 30 days of its appointment the Commission shall confer with the Bishop and the licensee and provide both with its advice.

(e) If the Bishop is not in a position to provide the licensee with another appointment, the Bishop shall offer the licensee reasonable notice of the revocation or reasonable pay and benefits in lieu of notice.

(f) If the licensee is not satisfied with the length of notice or the amount of pay and benefits offered by the Bishop, the licensee may notify the bishop in writing of his or her desire to submit the matter to arbitration, and the notice shall contain the name of the licensee's appointee to the arbitration board. The Bishop shall, within seven days, appoint a person to the arbitration board and inform the licensee of that arbitrator's name. The two arbitrators so selected shall, within seven days after the Bishop's appointee has been named, name a third person who shall be the chair of the arbitration board. If the Bishop fails to appoint an arbitrator, or if the two arbitrators fail to agree upon a chair, the appointment shall be made by the Metropolitan (or, if the Bishop is the Metropolitan, by the diocesan bishop in the province senior by consecration other than the Metropolitan). The licensee and the Bishop shall be responsible for paying any costs of their appointees, and shall each pay half of the cost of the chair and any other costs of the hearing. If the licensee and the Bishop agree, the arbitration board may consist of a single arbitrator rather than a three-member arbitration board, with the single

revocation are agreed to, paragraphs (f) to (j) of this section do not apply.

(f) If the **Bishop**, after conferring with the licensee, intends to proceed with the proposed revocation, the bishop shall appoint a Commission of one or more persons to consider the circumstances surrounding the proposed revocation and to advise the Bishop. Within 30 days of its appointment the Commission shall confer with the Bishop and the licensee and provide both with its advice.

(g) If the Bishop is not in a position to provide the licensee with another appointment, the Bishop shall offer the licensee reasonable notice of the revocation or reasonable pay and benefits in lieu of notice.

(h) If the licensee is not satisfied with the length of notice or the amount of pay and benefits offered by the Bishop, the licensee may notify the bishop in writing of his or her desire to submit the matter to arbitration, and the notice shall contain the name of the licensee's appointee to the arbitration board. The Bishop shall, within seven days, appoint a person to the arbitration board and inform the licensee of that arbitrator's name. The two arbitrators so selected shall, within seven days after the Bishop's appointee has been named, name a third person who shall be the chair of the arbitration board. If the Bishop fails to appoint an arbitrator, or if the two arbitrators fail to agree upon a chair, the appointment shall be made by the Metropolitan (or, if the Bishop is the Metropolitan, by the diocesan bishop in the province senior by consecration other than the Metropolitan). The licensee and the Bishop shall be responsible for paying any costs of their appointees, and shall each pay half of the cost of the chair and any other costs of the hearing. If the licensee and the Bishop agree, the arbitration board may consist of a single arbitrator rather than a three-member arbitration board, with the single arbitrator either being mutually agreed to by the licensee and the Bishop, or in default of

arbitrator either being mutually agreed to by the licensee and the Bishop, or in default of agreement being selected by the Metropolitan (or, if the Bishop is the Metropolitan, by the diocesan bishop in the province senior by consecration other than the Metropolitan).

(g) The arbitration board shall provide an opportunity to the licensee and the Bishop to make submissions in writing and orally and to respond to the submissions of the other party. It shall determine the length of notice or the amount of pay and benefits to be given to the licensee. The decision of the arbitration board is final and is binding on the licensee and the Bishop.

(h) The arbitration board has no authority to review or change the Bishop's decision to revoke the licence.

(i) Where a licence is revoked under this section, the Bishop shall endeavour to assist the licensee to obtain employment.

agreement being selected by the Metropolitan (or, if the Bishop is the Metropolitan, by the diocesan bishop in the province senior by consecration other than the Metropolitan).

(i) The arbitration board shall provide an opportunity to the licensee and the Bishop to make submissions in writing and orally and to respond to the submissions of the other party. It shall determine the length of notice or the amount of pay and benefits **in lieu of notice** to be given to the licensee **including, where appropriate, financial and vocational counselling, and shall take into account prevailing practices in the secular community**. The decision of the arbitration board **shall be in writing and** is final and is binding on the licensee and the Bishop.

(j) The arbitration board has no authority to review or change the Bishop's decision to revoke the licence.

(k) Where a licence is revoked under this section, the Bishop shall endeavour to assist the licensee to obtain employment.

**PART C:
CORRECTIONS AND ALTERATIONS MADE TO THE
CONSTITUTION AND CANONS**

(a) Background

Sections C133 and C137 of the Constitution authorize the Legislative Committee to make non-substantive corrections and alterations to the Constitution and the Canons:

... the Legislative Committee may make such corrections and alterations to the Constitution [C 137]; or Canons [C133] as it considers necessary provided that such corrections and changes relate only to matters of form and not to matters of substance and provided further that any such correction or alteration shall be reported to the next following regular meeting of Synod and may be set aside by a majority of those members present and voting.

(b) Report of corrections and alterations made by Legislative Committee

The Legislative Committee reports to Synod that it has made the following 11 corrections and alterations to the Constitution and Canons:

Number 1

Adds parentheses around the phrase “(other than the Bishop, and the Lay and Clerical Recorders)”

Previous

Appointments and Terms of Office of Officers

C26. The Officers of Synod other than the Bishop, and the Lay and Clerical Recorders shall be appointed by the Bishop, and shall hold office at the Bishop’s pleasure.

Correction or alteration

Appointments and Terms of Office of Officers

C26. The Officers of Synod (other than the Bishop, and the Lay and Clerical Recorders) shall be appointed by the Bishop, and shall hold office at the Bishop’s pleasure.

Number 2

Renames the “Clerk of the Executive Council” to “Recording Secretary”

Previous

Clerk of the Executive Council

C59. The Bishop shall appoint a Clerk of the Executive Council who shall keep the Minutes of the proceedings and Resolutions of all meetings of Executive Council.

Correction or alteration

Recording Secretary of the Executive Council

C59. The Bishop shall appoint a **Recording Secretary** of the Executive Council who shall keep the Minutes of the proceedings and Resolutions of all meetings of Executive Council.

Number 3

Removes spent provisions for the appointment of members of the
Administration and Finance Committee

Previous

C71 (a) Subject to the transitional provisions contained in subsection (d) of this section, the 12 appointed members of the [Administration and Finance] Committee shall each hold office for a period of three years from the date of their respective appointments.

...

(d) In order to put this system of staggered terms of office into effect, the Bishop, with the concurrence of the Executive Council, shall establish the terms of office of each of the members of the Committee appointed in 1991 as follows:

- i. the terms of office of 4 members shall expire no later than June 30, 1993,
- ii. the terms of office of a further 4 members shall expire no later than June 30, 1994,
- iii. the terms of office of a further 4 members shall expire no later than June 30, 1995.

Correction or alteration

C71 (a) ... **The** 12 appointed members of the [Administration and Finance] Committee shall each hold office for a period of three years from the date of their respective appointments **and which shall, as far as is possible, conform to a system of staggered lapsing of terms of office.**

...

(d) ***Spent.***

Number 4

Removes spent provisions for the appointment of members of the
Program Committee

Previous

82(a) Subject to the transitional provisions contained in subsection (e) of this section, the 24 appointed members of the [Program] Committee shall each hold office for a period of three years from the date of their respective appointments.

(b) The terms of office of no more than 6 of the members of the Committee, appointed by the Executive Council or the Bishop, shall expire in any year.

(c) The Executive Council or the Bishop, as the case may be, shall appoint members of the Committee to take the place of members whose term of office expires in any year no later than the 30th day of June in each year.

(d) The Committee may appoint members to take the place of additional members appointed by the Committee whose term of office expires, if the Committee determines that such additional members are required by it to carry out its functions, and upon such appointment shall establish the term of office of such additional members which shall be no more than 3 years and which shall, as far as is possible, conform to the system of staggered lapsing of terms of office established by this section.

(e) In order to put this system of staggered terms of office into effect, the Bishop, with the concurrence of the Executive Council, shall establish the terms of office of each of the 18 members of the Committee appointed by the

Correction or alteration

82(a) **The** 24 appointed members of the [Program] Committee shall each hold office for a period of three years from the date of their respective appointments.

(b) The terms of office of no more than 6 of the members of the Committee, appointed by the Executive Council or the Bishop, shall expire in any year.

(c) The Executive Council or the Bishop, as the case may be, shall appoint members of the Committee to take the place of members whose term of office expires in any year no later than the 30th day of June in each year.

(d) The Committee may appoint members to take the place of additional members appointed by the Committee whose term of office expires, if the Committee determines that such additional members are required by it to carry out its functions, and upon such appointment shall establish the term of office of such additional members which shall be no more than 3 years and which shall, as far as is possible, conform to **a system of** staggered lapsing of terms of office .

(e) ***Spent.***

Executive Council and the Bishop in 1991 as follows:

- i. the terms of office of 6 members shall expire no later than June 30, 1993,
- ii. the terms of office of a further 6 members shall expire no later than June 30, 1994,
- iii. the terms of office of a further 6 members shall expire no later than June 30, 1995,

and the Committee shall similarly establish the terms of office of any additional members it may appoint pursuant to section 80(d).

Number 5

Removes spent provisions for the appointment of members of the
Stewardship and Financial Development Committee

Previous

Correction or alteration

**STEWARDSHIP AND FINANCIAL
DEVELOPMENT COMMITTEE**

**STEWARDSHIP AND FINANCIAL
DEVELOPMENT COMMITTEE**

C91(a) Subject to the transitional provisions contained in subsection (e) of this section, and subject to subsection (d) of this section, the 12 appointed members of the Committee shall each hold office for a period of three years from the date of their respective appointments.

C91(a) **Subject to subsection (d)** of this section, the 12 appointed members of the Committee shall each hold office for a period of three years from the date of their respective appointments.

(b) The terms of office of no more than 3 of the members of the Committee, appointed by the Executive Council or the Bishop, shall expire in any year.

(b) The terms of office of no more than 3 of the members of the Committee, appointed by the Executive Council or the Bishop, shall expire in any year.

(c) The Executive Council or the Bishop, as the case may be, shall appoint members of the Committee to take the place of members, appointed by the Executive Council or the Bishop, whose term of office expires in any year no later than the 30th day of June in each year.

(c) The Executive Council or the Bishop, as the case may be, shall appoint members of the Committee to take the place of members, appointed by the Executive Council or the Bishop, whose term of office expires in any year no later than the 30th day of June in each year.

(d) The Committee may appoint members to take the place of additional members appointed by the Committee whose term of office expires, if the Committee determines that such additional members are required by it to carry out its functions, and upon such appointment shall establish the term of office of such additional members which shall be no more than 3 years and which shall, as far

(d) The Committee may appoint members to take the place of additional members appointed by the Committee whose term of office expires, if the Committee determines that such additional members are required by it to carry out its functions, and upon such appointment shall establish the term of office of such additional members which shall be no more than 3 years and which shall, as far

as is possible, conform to the system of staggered lapsing of terms of office established by this section.

as is possible, conform to **a system** of staggered lapsing of terms of office.

(e) In order to put this system of staggered terms of office into effect, the Bishop, with the concurrence of the Executive Council, shall establish the terms of office of each of the 9 members of the Committee appointed by the Executive Council and the Bishop in 1991 as follows:

(e) *Spent.*

i. the terms of office of 3 members shall expire no later than June 30, 1993,

ii. the terms of office of a further 3 members shall expire no later than June 30, 1994,

iii. the terms of office of a further 3 members shall expire no later than June 30, 1995,

and the Committee shall similarly establish the terms of office of any additional members it may appoint pursuant to section 89.1.

Number 6

Adopts gender-neutral language

Previous

- 2.5 At each regular meeting of Synod, the Bishop shall present a statement of the affairs of the Diocese since the last regular meeting of Synod which statement shall include:
- (a) the names of the congregations which he has visited, ...

Correction or alteration

- 2.5 At each regular meeting of Synod, the Bishop shall present a statement of the affairs of the Diocese since the last regular meeting of Synod which statement shall include:
- (a) the names of the congregations which **the Bishop** has visited, ...

Number 7

Capitalizes “Province” in “Ecclesiastical Province of Rupert’s Land”

Previous

Declarations and Oaths of Licensee

3.4 No licence shall be granted by the Bishop unless the proposed licensee has, in the presence of the Bishop or the Bishop's nominee, made, taken and subscribed the Declaration of Assent, the Oath of Canonical Obedience and the Declaration of Submission to the General, Provincial and Diocesan Synods set out in Canon VI of the Ecclesiastical province of Rupert's Land.

Correction or alteration

Declarations and Oaths of Licensee

3.4 No licence shall be granted by the Bishop unless the proposed licensee has, in the presence of the Bishop or the Bishop's nominee, made, taken and subscribed the Declaration of Assent, the Oath of Canonical Obedience and the Declaration of Submission to the General, Provincial and Diocesan Synods set out in Canon VI of the Ecclesiastical **Province** of Rupert's Land.

Number 8

Updates reference to General Synod Canon

Previous

3.17 The procedure to be applied by the Court in the case of an appeal pursuant to section 3.16 shall be established by canon or, in the absence of canonical provision, by the Court and shall conform to the Fundamental Principles of Natural Justice set out in Canon XX of the General Synod.

Correction or alteration

3.17 The procedure to be applied by the Court in the case of an appeal pursuant to section 3.16 shall be established by canon or, in the absence of canonical provision, by the Court and shall conform to the Fundamental Principles of Natural Justice set out in Canon **XVIII** of the General Synod.

Number 9

Inserts a comma after “Executive Council”

Previous

Non-Ecclesiastical Employment

3.21 The Bishop may grant permission to a member of the clergy of the Diocese to enter employment other than ecclesiastical employment without relinquishing clerical orders, where the Bishop, having consulted with the Executive Council is satisfied that the member of the clergy will have and use opportunities for the exercise of Christian ministry.

Correction or alteration

Non-Ecclesiastical Employment

3.21 The Bishop may grant permission to a member of the clergy of the Diocese to enter employment other than ecclesiastical employment without relinquishing clerical orders, where the Bishop, having consulted with the Executive **Council**, is satisfied that the member of the clergy will have and use opportunities for the exercise of Christian ministry.

Number 10

Clarifies cross-reference

Previous

- 7.18(a) The report of any committee shall be in writing and signed by the chair of the committee, who shall explain to the Synod the bearing of any portion of the report if required to do so.
- (b) Reports of committees shall be received and dealt with in course unless ordered to be reconsidered.
- (c) Substantive motions contained in committee reports shall be taken as notices of motion, and dealt with according to rule of order number 9.

Correction or alteration

- 7.18(a) The report of any committee shall be in writing and signed by the chair of the committee, who shall explain to the Synod the bearing of any portion of the report if required to do so.
- (b) Reports of committees shall be received and dealt with in course unless ordered to be reconsidered.
- (c) Substantive motions contained in committee reports shall be taken as notices of motion, and dealt with according to rule of order number **7.9**.

Number 11

Corrects the name of the Diocesan Development Fund
(the name was correct in the resolution passed by the 59th Synod,
but incorrect in the subsequent printed version of the Canons)

Previous

CANON 10A

DIOCESAN DEVELOPMENT TRUST

Correction or alteration

CANON 10A

DIOCESAN DEVELOPMENT **FUND**

PART D: CONSULTATION ABOUT CLERGY MEMBERSHIP IN SYNOD

As a result of a proposed change to the Constitution of the Ecclesiastical Province of Rupert's Land, the Legislative Committee wishes to consult with members of the diocese about whether it would in due course be appropriate for our diocese to consider amendments to the Constitution about which clergy are entitled to membership in Synod.

(a) The proposed change to the Provincial Constitution

Currently, section 7.01 of the Provincial Constitution (which governs Dioceses within the Province) provides that all clergy who hold the licence of the Bishop are members of the diocesan synod:

7.01 Every Diocese shall be organized into a Synod which shall be composed of

(b) those of the clergy who hold the licence of the Bishop....

In response to a request from the Diocese of Keewatin, the 2006 Provincial Synod gave first reading to an amendment which would allow each diocese to determine for itself which members of the licensed clergy would be members of the diocesan synod:

7.01 Every Diocese shall be organized into a Synod which shall be composed of...

(b) those of the clergy who hold the licence of the Bishop and who have been duly authorized under the Constitution of the Diocesan Synod to be members thereof....

It is contemplated that this amendment will come into effect at the June 2009 Provincial Synod (amendments to the Provincial Constitution must be approved at two successive Provincial Synods).

Currently, our diocesan Constitution contains two provisions about clergy membership in our diocesan Synod:

- (a) Section C2(c), provides membership to “all Clergy licensed by the Bishop to an office in the Diocese”.
- (b) Section C2(d) provides membership to “all retired Clergy *of the Diocese* who are resident *in the Diocese*” (regardless of whether they continue to hold a licence).

Over the years, a number of questions have been raised about clergy membership in our diocesan Synod:

- Should all honorary assistants automatically be members of our Synod? They all hold licences, so are members of Synod pursuant to Section C2(c). However, the number of honorary assistants has increased over the years. For many, being an honorary assistant is just that: an honour. Certainly, there is a wide variation in the degree of involvement and the nature of duties performed by different honorary assistants?
- If the number of vocational deacons increases, should they all automatically become members of Synod pursuant to Section C2(c)?
- Is it appropriate for (non-licensed) retired clergy to continue to be members of our Synod?
- Is there any concern about the size of the House of Clergy in our Synod?

Given the change being made to the Provincial Constitution, the Legislative Committee would like to receive comment from members of the Diocese (both clergy and lay) about whether any future amendment to these provisions should be contemplated.

Please direct any comments to the Legislative Committee in care of the Synod Office.